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30 June 2010

Darrell Channing
Director
Adjudication Branch
ACCC
GPO Box 520
MELBOURNE VIC 3001

Dear Mr Channing

**BRISBANE MARINE PILOTS PTY LTD APPLICATION FOR
AUTHORISATION A91235**

Shipping Australia Limited (SAL) appreciates the ACCC's invitation to make a submission in respect of the above application.

SAL has no objections to the authorisation for a pilotage services agreement between Maritime Safety Queensland (MSQ) and Brisbane Marine Pilots Pty Ltd (BMP), whereby MSQ must acquire all pilotage services at the Port of Brisbane exclusively from BMP until 31 December 2013.

However, SAL does not concur with the statements in the 'Supporting Submission' - Executive Summary and Section 9 dealing with 'Public benefits and supporting facts'.

SAL is not privy to the financial arrangement between MSQ and BMP for the currency of the agreement and as such unaware of the cost implications on the provision of services. It must be noted that any cost increases to the shipping companies would naturally lead to higher costs to the consumers in Queensland. Without knowing the future plans for such cost escalations, SAL is not in a position to concur with the view that an exclusive agreement will 'continue to generate significant public benefits'.

We disagree with the statement '*where a competitive model has been attempted (such as the Great Barrier Reef and Torres Strait) it has been subject of considerable criticism or shown to be flawed*'.

The Navigation Act provides for regulations to be made with respect to the licensing of pilots and the manner in which they carry out their duties in the Great Barrier Reef (GBR). It also caters for the regulations with respect to the operations of pilotage providers.

In 2008 a review was conducted on the delivery of coastal pilotage services in the Torres Strait and Great Barrier Reef and it was agreed that greater attention should be paid to overseeing the activities of pilots and service providers through improved compliance, enforcement and incentive strategies, supported by appropriate amendments to Marine Order Part 54, to improve their effectiveness in dealing with procedural breaches that have the potential to put ship safety at risk.

The revision of Marine Orders Part 54 and strengthening procedural regulation, through improving the system of safety reporting by pilotage providers is to include:

- Increasing the frequency of safety reporting requirements, including the fatigue status of pilots, provision of incident reports by pilots and pilot boat crews, completed deep draught passage plans and the safety status of pilot boats.
- Regular safety reporting each month, including the status of pilot licensing and medical fitness, pilot training, safety equipment, the results of safety meetings, and training and safety drills conducted for pilot boat crews,
- Introduction of a mechanism for monitoring safety performance by tracking compliance with procedural requirements and other safety regulatory measures.
- Increased transparency in publicly demonstrating compliance with safety regulatory requirements.

AMSA is also to allocate additional resources to upgrade compliance monitoring in relation to Marine Orders Part 54 and to underpin a more rigorous approach to the auditing regime. If the assessment 12 months after the revised Marine Order comes into effect concludes that new coastal pilotage service delivery arrangements should be considered, then this will necessitate the seeking of policy approval from the Australian Government and any corresponding regulatory changes will be the subject of a Regulatory Impact Statement process.

The above remedial measures will assist in enhancing safety in this region. We await the publication of this important Marine Order.

Section 8 refers to the McCoy Review Report conducted in 2005. Previous studies on safety of pilotage services in the GBR have found that implementation of appropriate safety audits and control mechanisms were sufficient to maintain safety outcomes and that there has been no evidence to suggest that the absence of direct regulation of commercial aspects, affects safety.

The McCoy Report in paragraph 4.9 states: *"It is the assessment of this reviewer that the draft (now regulation) MO54 Marine Order, its Appendix and Annexes, contain the most comprehensive system of safety regulation of pilotage by a regulator in Australia."*

The 2008 AMSA Review panel report also found that there was no evidence to date that competitive environment has adversely affected safety outcomes.

The safety record of pilotage in the GBR is commendable since the introduction of compulsory pilotage on 1 October 1991. There have been eight incidents, four collisions (with fishing vessels) and four groundings. The risk of a serious incident on a piloted vessel in the GBR has been reduced by over 80% during the last decade.

The two vessel groundings in the Torres Strait GBR region this year involved unpiloted vessels.

The shipping industry is very pleased with the outcome of competition between pilotage service providers, which has resulted in keeping costs at reasonable levels, increased transparency, simplicity, and negotiability of charges. In our view this has not resulted in any safety issues. In the view of our members, the **scare** campaign being conducted by some pilots is in an attempt to achieve a 'monopoly service provider status', for these services, which no doubt would result in significant cost increases.

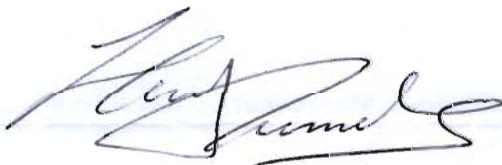
The failure of the Cairns tender process for provision of pilotage services, as the party who was successful in winning the tender was unable to perform the services required shows the monopolistic nature of pilotage services. This does not necessarily mean that there could not be a different outcome in the future.

Despite all the issues raised above SAL does not advocate trying to dismantle the existing arrangements.

The counter factual is that the submission has omitted to reference the possibility of MSQ engaging the pilots and administering the pilotage services in Brisbane. We are however, not advocating or supporting this measure, but are of the opinion that it should be mentioned in the discussion paper.

Shipping Australia would be pleased to provide any elaboration required in relation to the above comments or to assist the Commission in providing material in support of those comments. Any requests for clarification should be directed to my email at lrussell@shippingaustralia.com.au.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Llew Russell', is written over a light blue horizontal line.

Llew Russell AM
Chief Executive Officer
Shipping Australia Limited