



AUSTRALIAN MARITIME OFFICERS UNION

ABN 56 181 230 800

Re Exclusive dealing notification N10000453 lodged by the Gladstone Ports Corporation Ltd – Interested party consultation

Submission of the Australian Maritime Officers Union ('the AMOU')

1. The AMOU represents the professional and industrial interests of tug Masters in Gladstone and other ports throughout Australia. The AMOU is a registered organisation under the Fair Work (Registered Organisations) Act 2009
2. The AMOU is a party to the Smit Lamnalco Towage AMOU Gladstone Tug Masters Enterprise Agreement 2016
3. The AMOU is a party to towage enterprise agreements with other national and local towage operators throughout the country and to the successive Fair Work Commission registered enterprise agreements that cover Masters with Smit Lamnalco Towage (Australia) (SLTA) – the exclusive employer of tug crews in Gladstone.
4. The AMOU has a consistent thread of representing tug Masters in enterprise agreement negotiations in Gladstone and in all aspects of the employer/employee relationship.

Our Submission

5. The AMOU supports the Commission allowing exclusive dealing in the port provided the tender comprehensively ensures the following:
 - a. Full implementation of the principles of freedom of association and the right to freely collectively bargain as prescribed in International Labour Organisation (ILO) Conventions 87 and 98; and
 - b. Tugs are in command of Masters who are permanent full-time employees of the towage company; and
 - c. Tugs involved in gas vessel escort operations have two qualified, experienced, signed-off and current Masters on-board at all times; and
 - d. Expansion of the towage operation in the port is encouraged by flexibility within the licence terms to allow an increased number of tug hulls operating and the consequent number of tug Masters and crews engaged on a permanent basis; and

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- e. The successful tenderer has a proven record of establishing, maintaining and encouraging the highest possible safety and operational standards for its tugs and crews to ensure the safety of tugs, tows, crews, cargo, port and marine environment.
 - f. Self-serving risk assessments that reduce safety are eliminated from the terms of the licence.
6. ILO Conventions No. 87 and 98 enshrine:
- a. the right of workers to join the unions of their choice,
 - b. the employer's respect and encouragement of the worker's right to do this,
 - c. The employer's recognition of the union chosen by the workers to represent its members in all employment matters including collective bargaining
7. The towage industry has evolved in a negative fashion nationally during the term of the current exclusive dealing period in terms of the respect and encouragement of these rights and freedoms with some small anti-union tug operators commencing operation and others embracing the partnership model in the ports of Hay Point and Port Hedland and the provision of towage services to the Wheatstone and Gorgon gas projects. The effect of this model is the circumvention of the globally-recognised rights and freedoms that should flow from the employer/employee relationship and the undermining of the necessary social partner checks and balances that should flow from the representation of workers by trade unions effectively keeping the employer honest in terms of working and living conditions and operational safety.
8. Ports in which non-exclusive dealing environments have prevailed have witnessed competition stimulating a decline in certain standards in terms of the reduction of conditions of employment enjoyed by the workers, the undermining of permanency of employment of the workforce and the decline in the maintenance of safety standards. The result as evidenced in the ports of Melbourne, Botany, Newcastle and now Brisbane is that competitive towage in the port has evolved into a sole provider of the towage services to the ports' customers
9. Svitzer has ended up with a monopoly in the provision of towage services in these named ports that commenced with competitive services. To the AMOU this is not an intolerable situation as the company is a largely unionised operator; where the employment model has been maintained. This to some extent demonstrates that an exclusive licence arrangement represents some recognition of the commercial reality of the towage industry. In order to give effect to the principles of freedom of association and right to bargain collectively the tender and licence should prescribe the necessity for an employment relationship between operator and crew and permanency of employment of the crews to ensure continuity of professional experience and the maintenance of a safety-first culture.
10. The experience in the port of Gladstone during the existing licence period has been similar in terms of the reduction of employment conditions, permanency of employment and safety standards but for very different reasons. The licence system in place has effectively necessitated it. Commercial pressure has been an increasingly prevalent factor as the licence period gets closer to the end of its term. Statements have been made to Masters to the effect that unless there is some recognition of the need to cut corners in terms of safety and operational efficiency there will be no guarantee that the existing towage provider will secure the next licence. Additional to this has been the threat not just that everyone will be out of a job but that the existing provider will still be in business in the port but possibly only in terms of the provision of the hulls to a new operator; a somewhat sneering 'you won't have a job but I will' attitude that is very unhelpful.

11. The most distressing aspect of the present operation as far as a union representing maritime professionals is concerned is the blatantly commercially driven initiative to reduce the number of Masters on the gas vessel escort tugs. At the time of commencement of the gas escort operations there was unanimity amongst the stakeholders of the need for two qualified, signed-off, experienced and current Masters to be on-board during all outbound and inbound gas escort operations. This was the result of simulator trials and prudent safety management of the risks inherent to gas vessel towage and recognition of the extended periods of concentration involved in being in command of a tug with a line attached and escorting a ship with highly volatile cargo. Currently and despite the protestations of the Masters and the AMOU and the Pilots in the port of Gladstone, the original motivation for the second Master has been risk assessed adversely and in a manipulative manner and all gas vessel escorts now have a single Master and a Master fatigue and comfort break relief system involving vastly less experienced mariners.
12. The capacity for self-serving risk assessments to justify the reduction of safety and professional standards is one aspect in particular that the AMOU wishes to see eliminated from the tendering process and AMOU submits that the tender documents and licence needs to restore the manning of the escort tugs to include the second Master on all gas vessel escorts as was originally agreed and designed to promote the safety of the operation.
13. The collective bargaining process that precipitated the Master reduction process was again an exercise in relentless commercial pressure presumably motivated by the company's perception that there was insufficient room within the licence to maintain the costs associated with a safe operation. This lack of flexibility within the terms of the licence cannot be permitted to persist in the interest of safety and there should be independent oversight of the operation where there is a perceived conflict between cost and safety. This same collective bargaining process was also an example of the licence system constraining the license-holder to withhold remuneration increases that would have done little more than keep up with the Consumer Price Index.
14. Similarly provision needs to be made within the licence to allow for the natural expansion of the port. With shipping numbers anticipated to grow from in excess of 8000 at the commencement of the licence period to just sort of 10,000 at the end of the 8-year period, there has to be the capacity for the cost of the provision of towage services to be allowed to increase with the need for additional hulls and crews. Expansion within the constraints of a rigid cost model is a recipe for the erosion of conditions of employment of the tug crews, the undermining of permanency of employment by increased casualisation of the workforce and increasing downward pressure on the safety culture. This has been the experience within the current licence period as has been the flogging of the existing tugs to the extent that the lack of time alongside has meant that programmed maintenance has been neglected. Statements made by tug Masters that they put to sea anticipating having to deal with the loss of an engine during towage operations represents a nadir in the way in which the present exclusive licence has been allowed to impact upon the operation and the professionals that endeavour to make it work.
15. The incident on 11th June 2017 between two of the existing licensee's tugs engaging in gas vessel towage is a cautionary tale of the impact of the commercial pressure generated by the existing licence configuration. The frantic corporate backside-covering that immediately preceded the AMSA/MSQ investigation of the incident is a further indictment on the licensing system where the capacity for the introduction of further hulls and crews would at least have alleviated the planned maintenance

problem. It also would have potentially obviated the quick release malfunction and subsequent collision of the two tugs that could easily have resulted in the fatality of the aft tug's Engineer who was catapulted off the wheelhouse stairs and was cushioned by the second Master before hitting the floor.

16. It was hoped that the AMSA/MSG report into this incident would be completed and available as AMOU would expect that the findings would provide further evidence of the manner in which a poorly structured licence system that encourages downward pressure on costs and safety can lead to the kind of shortcuts that threaten lives.

Australian Maritime Officers Union

6th April 2018
