



## SEA FREIGHT COUNCIL OF WESTERN AUSTRALIA

### COMMENTS IN REPLY ON THE POSITION PAPER - ECONOMIC REGULATION OF HARBOUR TOWAGE AND RELATED SERVICES:

#### PRELIMINARY RECOMMENDATION 1:

*Subject to maintaining appropriate levels of safety, prescriptive regulations that stipulate tug use and/or tug size or type, should be modified to better encourage provision of required levels of service at minimum cost.*

*Relevant jurisdictions should also consider harmonising or, where appropriate, introducing a system of mutual recognition of minimum crew qualifications and standards, to minimise impediments to the movement of crews and tugs across Australian ports in different jurisdictions.*

The Sea Freight Council of Western Australia (Council) fully supports both aspects of Preliminary Recommendation 1.

Prescriptive regulation which hinders the provision of towage services at the required levels and, which interferes with the market so as to unnecessarily inflate costs, should be eliminated wherever practicable.

Council is fully cognizant of the difficulties which arise in respect of differing jurisdictional standards. However, given that the provision of harbour towage services is, in essence, about the safe and cost-effective movements of ships into and out of Australian ports, it is essential that every possible operational flexibility be exploited in that process.

#### PRELIMINARY RECOMMENDATION 2:

*Where port authorities currently do not have explicit discretion to license towage operators (on an exclusive or non-exclusive basis), the relevant jurisdiction should grant them that discretion.*

*This should be accompanied by procedures to ensure that a port authority, if and when exercising its discretion to licence towage providers:*

- *demonstrates the net benefits of proposed licensing arrangements;*
- *formally consults with towage users in a transparent manner prior to changing existing arrangements and the conditions that attach to any licences; and*
- *implements 'arm's length', transparent competitive-tendering processes.*

Council fully supports all aspects of Preliminary Recommendation 2.

The issue of whether the licensing of towage services should be carried out on the basis of an exclusive or non-exclusive license is one which should be decided by the individual port operators.

External influences which seek to dictate whether a license should be either exclusive or non-exclusive should not be permitted to interfere with the licensing process. The aim of the licensing process should be to provide the most appropriate service with the utmost safety and operational flexibility combined with the most cost effective pricing regime.

#### PRELIMINARY RECOMMENDATION 3:

*Declaration of harbour towage services at the ports of Melbourne, Sydney (Port Botany and Port Jackson), Newcastle, Brisbane, Fremantle and Adelaide under s.21 of the Prices Surveillance Act 1983 should not be renewed when the current declaration expires on 19 September 2002.*

Council does not fully support Preliminary Recommendation 3.

In our original Submission to the Productivity Commission our Council called for the strengthening of the Declaration Process whereby service providers would be obliged to seek approval from the Australian Competition and Consumer Commission (ACCC) before varying prices.

However, if periodic competitive tendering can be established in Australian Ports in combination with formalised licensing arrangements, then our Council will support that strategy.

Therefore, Council provides conditional support for Preliminary Recommendation 3.

#### PRELIMINARY RECOMMENDATION 4:

*Harbour towage services provided at ports where declarations currently apply should, as a transitional measure, be subject to limited monitoring of prices by the ACCC for a three-year period. Price data should be published annually.*

Council does not fully support Preliminary Recommendation 4.

Whilst price monitoring may have value in establishing the facts in respect of the current costs in the marketplace it does not prevent a repetition of the recent events which led to widespread price increases in the Declared Ports process.

Council will be interested in participating in any process which will deliver a more equitable and transparent outcome on pricing for all ports - not just those covered under the Declaration Process. However, Council is of the opinion that simply monitoring the

marketplace by collecting and publishing data will not of itself generate change in the recently demonstrated behaviour by service providers.

In respect of the Preliminary Findings listed in the Position Paper our Council makes the following observations:

#### CHAPTER 6 MARKET POWER IN HARBOUR TOWAGE AND RELATED SERVICES:

Council fully concurs with Preliminary Findings 6.1; 6.2 & 6.3

However, in respect of Preliminary Finding 6.4 this statement appears to ignore the significance of the market power which could reasonably be expected to be generated by very well organised industry groups such as Shipping Australia Limited (SAL).

SAL has demonstrated a high degree of organisational capacity and expertise in co-operating on a number of commercially sensitive and important issues in the recent past. It would seem reasonable to expect that this capability and expertise could also be brought to bear on harbour towage in order to facilitate an equitable outcome for all concerned.

The Association of Australian Ports and Marine Authorities (AAPMA) can also be expected to provide an enthusiastic and efficient organisational capability for its members to operate collectively given their abiding interest in this matter.

Preliminary Findings 6.5 & 6.6 deal with unnecessary cost additional - Council acknowledges that these have been recognised in the Position Paper and reinforces our position that such imposts need to be eliminated wherever they occur.

#### CHAPTER 7 ASSESSMENT OF PRICE NOTIFICATION OF HARBOUR TOWAGE SERVICES:

Council fully concurs with Preliminary Findings 7.1; 7.2 & 7.3.

#### CHAPTER 8 AN ASSESSMENT OF ALTERNATIVE ARRANGEMENTS

Council fully concurs with Preliminary Findings 8.1; 8.2; 8.3; 8.4; 8.5; 8.6 & 8.7