



AUSTRALIAN MARITIME OFFICERS UNION

ABN 56 181 230 800

FEBRUARY 2018 INDUSTRIAL MONTHLY MEETING REPORT

Date: 27th February 2018

Locations: **EASTERN AREA:**
AMOU, Suite 1, Level 5, 377 Sussex St, SYDNEY NSW 2000
QLD Council of Unions, Level 5, 16 Peel St, SOUTH BRISBANE QLD 4101 - CANCELLED

SOUTHERN AREA:
Victoria Trades Hall Council, 4th Floor, 54 Victoria Street, CARLTON SOUTH VIC 3053

WESTERN AREA:
Navy Club Inc., 64 High Street, FREMANTLE WA 6160

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PRESIDENT'S REPORT

Welcome to the Industrial and Presidents Report for February 2018.

Last month I spoke about the union's new website. The website launch was scheduled for today's members meeting but unfortunately due to technical issues behind the scenes the site has not been able to go live. Each meeting has been provided with a URL link to log in and show the members the new site in its current format. We are in the final stages ready for the site to go live and this should be completed within the next week. Apologies for the delay but unfortunately this was something completely out of our control.

"Don't Abandon Australian Shipping" is the shipping campaign being put together in response to the continued attack on what is left of Australian coastal shipping. The *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017* is currently sitting at 44 on the notices for the lower house. Obviously given the recent publicity surrounding the ex-Minister for Infrastructure and Transport Barnaby Joyce it would seem the bill has slipped down the Coalition parties' agenda. Given yesterday's announcements we have another new Minister for Infrastructure and Transport in Minister Michael McCormack. We are in the process of seeking a meeting with the new Minister and will keep members updated on the progress.

Next week all members will receive a member's campaign pack *"Don't Abandon Australian Shipping"*. The pack has the required information for you to discuss the current state of Australian shipping with your family, friends, and work colleagues but most importantly within your community and with your local MP. The campaign will also be going live on the new website soon. With the recent change in the Minister and the numerous changes within the Senate we will be campaigning on behalf of the members in Canberra, but this will also need the backing of your input locally within your electorate.

As part of the new website and the coastal shipping campaign you will see a new look logo and branding for the union. This has come about from numerous calls in recent years from the membership to distinguish ourselves from other maritime unions. I have seen this myself first hand in Canberra when lobbying and MP's would see the union's logo and seem confused about who we were and who we represented within industry. Both the new website and the coastal shipping campaign have been massive projects and a large amount of work has gone on behind the scenes. Although not 100% complete yet I would like to take the opportunity to thank the staff and the members that have been involved so far.

Unfortunately again the INPEX training fund has not quite come to fruition this month. We are working with both INPEX and AMC Search to finalise the stages of rolling out the training. Throughout the proposal process we are required to meet the objectives of the training fund. As the first union to have a training proposal approved, we are making sure that every aspect of the training project is 100% correct and rolled out in compliance with all of the objectives putting us in a strong position for future funding. We will be calling for expressions of interest next month for trainee DPO positions. The process will be communicated to all members.

In the wash up of the January INPEX training committee meeting we were tasked with re-addressing some proposals put forward by an operator, as their request for training did not meet the fund's objectives. In response we are putting together a counter offer to their proposal that will see the objectives met and broaden opportunities for our members to better themselves within the OOG industry. Additionally, we have also finalised a proposal for 2 x deck officer cadets to be sponsored from the completion of pre-sea training through to completion of their studies and AMSA's Deck Watchkeeper. This is to be lodged with the training committee for approval by the end of this week.

The Fremantle office is about to be renovated and modernised to improve the working conditions and communication facilities for both the WA based staff and membership. This will also be one of the first locations where the members will see the AMOU and AIMPE working from the one office and building

efficiencies to support both organisations' members under the Nautilus Federation of Australia banner. During the renovation period the staff will be relocated to AIMPE's current office and I would request the members be patient with the situation.

Knowing your EA, being aware of your EA and what you are entitled to or required to fulfil is just as important as understanding your role and responsibilities as per a ship owner's safety management system or a port services operator's safety systems. Too often we are called upon to support a member who has in the confusion of not being aware of their coverage, requirements or entitlements agreed to something they shouldn't have. Yes, given the current climate you can understand why some members feel pressured to make a decision on the spot and then seek guidance and assistance later, making it difficult to gain a solution in the best interests of the member. Always remember to be aware of what you are covered by and employed under and seek advice and support as early as possible.

As always Stay Safe



Tim Higgs
President

EXECUTIVE OFFICER'S REPORT

Mark Davis
Executive Officer (Sydney)

Finance & administration

The departure of the union's Finance Officer and Administration Officer on 31st January has been only moderately unsettling for the National Office operation but we have had excellent cover from a specialist finance/administration consultant and the industrial staff has responded well to plug the gaps.

We have also had the valuable services of AMOU member Ian Potterton who instantly volunteered to assist once he heard we were short-staffed. Ian is an unemployed member who has a clear affinity with those seeking work in this industry during the time of a downturn. We have deployed him in contacting members who have been un-financial for 2 or more years and discussing options for becoming financial again. It is a legal requirement of the Fair Work (Registered Organisations) Act to suspend or exclude members 2 years un-financial, on pain of penalties for failure to do so. The exercise has been rewarding for the AMOU with many members appreciating the direct contact and paying their dues again. The combination of this and Glenn Andersen's successful ship visit programme has seen a pleasing increase in membership numbers. It's not brain surgery that a lot of trade unionism is simply about communications.

Back to the administration and finance areas. It was determined that we not rush in to making any appointments without having developed an intimate appreciation of the task at hand, our future needs and a consequential reconfiguration of the position description. Prior to 1st September 2017 three staff members were employed in administration and finance, translating into 2.4 full-time equivalent positions. Having operated with one 50% consultant for the past month, and with some efficiencies already implemented and some streamlining yet to come, it has become clear that with the right appointment into an Office Manager-type roll these functions can be performed by 1 full-time person. There may well be the need for another part-time person but the majority of any position description would need to be non-administrative potentially with some website/Facebook page updating, writing and even campaigning skills.

Darwin Port Operations EA

Chinese-owned private company Landbridge Infrastructure Pty Ltd now operates Darwin Port which was previously in the hands of the Northern Territory government. The existing EA expires on 30th June 2018 and the wise decision was taken by the company to commence negotiations at a very early stage to manage the complicated transition for the employees from a public sector form of EA to one prescribing conditions of employment commensurate with their private sector employment. In such situations there is always a balancing act between reducing the size and complexity of the agreement, retaining all applicable conditions and giving recognition to the fact that the nature of the employment has changed. We are at an early stage in the negotiations having just last month tabled our claims to the company. The negotiating table is full. In addition to management and AMOU there is MUA and AMWU and around 10 individual employee bargaining representatives making about 30 persons in total. This is a very cumbersome forum and it will certainly make a difficult set of negotiations more complex and potentially drawn out. For this set of negotiations we are representing Harbour Control Officers and Pilot Cutter Masters.

Darwin Port Marine Pilots EA

The situation has the same impact on the Pilots but the negotiating forum is considerably more agile with 4 company representatives and 3 AMOU. We are at the same stage of negotiations having just tabled our claims. The all-important theme for this set of talks is retention of Pilots in the port.

INDUSTRIAL REPORTS

Glenn Andersen

Organiser (Fremantle)/Offshore Oil & Gas Delegate

Ship visits

Ship visits have resumed this month in Dampier with visits made to: *Skandi Singapore, SIEM Topaz, Far Stream and Fugro Etive*. We should also manage to visit: *Maersk Mariner, Mermaid Leeuwin, Far Sirius and Mermaid Vision* before returning to Fremantle. The running total is approaching fifty, since the start in last August. The impact of the ship visits is a steady flow of membership sign-ups, both new and ex-members returning. We are approaching the stage where shipboard meetings will include a show of membership cards. Offshore Oil & Gas members want all those officers benefiting from hard won conditions to share the load!

Labour Agreements, MP visits

Each of the recent OOG memos generated more and more reaction from members, and even member's partners. The DOF memo created a minor storm of emails from angry members. There has even been a reaction from DOF management with messages to employees using defensive words such as: *'misinterprets reassure, flexibility, confusion*. Take the fusion out confusion and see what you get.

Senator Murray Watt spent forty-five minutes meeting with one of our members earlier this month. That member was rapt with the friendly reception put on by the Senator's team. Those members who take the trouble to visit Senators and MP's are doing a great service for their fellow members, and the AMOU thanks them. Last Monday in Perth I met with advisors to Pauline Hanson's One Nation Party Senator, Peter Georgiou regarding foreign labour. Towards the end of the forty-minute meeting they asked me if those foreign officers were paid similar money to locals, I said "Yes" they then asked, "Well, then why are these companies doing it?" A meeting, with WA based AMOU members and both of those Senators, along with a newspaper photo opportunity is in the planning stage.

There has never been a better, more important time, to be an AMOU member. Defeating both the Labour Agreements and the proposed new shipping law is in every professional mariner's interest.

Once again, get in touch if you feel like contacting your local MP.

glen@amou.com.au or 0407 557 563

WA Pilots

In a small but important victory, the WA Transport Minister recently withdrew pilotage exemptions wrongfully issued to four 457-visa holders. After receiving information I wrote to the Minister and complained. The department has promised to undertake an audit of WA pilotage exemptions to ensure the relevant WA law is adhered to.

GO Offshore

The "GO KOI" will now take on a dedicated cook; the matter of an additional (second) officer position is making its way through the INPEX disputes procedure.

Westug

The second ballot attempt is now close; this version is almost a carbon copy of the one, which was voted down, last December. Management has put a lot of effort into frightening their workforce using phrases such as "Job security". How could you vote for an agreement which, for example effectively bans you from living in any part of the country except Dampier or Cape Lambert? Your alternative? Leave the job! The Westug negotiator, who appeared to warm to a change in that particular clause is no longer working for Westug. The AMOU will be recommending a NO vote.

King Bay Tugs

Late last year KBMS was in a big hurry to start EA talks, a year early. They seem now to have lost that enthusiasm. Maybe they are waiting for the result of the Westug ballot. In the meantime the AMOU will continue to work closely with our members at KBMS as we slowly regain the membership density we once enjoyed.

INDUSTRIAL REPORTS

Jarrold Moran

Industrial Officer (Melbourne)

DMS Maritime (SERCO)

Western Port - As reported last month the Commonwealth have advised Serco that it would no longer need the company to provide services in Western Port or Jervis Bay. Serco has advised members affected in both ports that *Seahorse Standard* (Western Port) and *Seahorse Horizon* (Jervis Bay) will move onto demobilisation tasks with an end date of 19 February 2018. The end date for Western Port has been pushed out which will require a recalculation of redundancy amounts. I am meeting with members to discuss this situation.

Sydney - Serco has proposed new start and finish times for members employed at Garden Island (NSW). Members believe that the new arrangements would make their travel to work, their ability to secure parking near work and maintaining a quality work/life balance more difficult and have rejected the proposal. AIMPE members have similar concerns. We will meet with AIMPE and Serco to further discuss the issues.

WA - WA members have concerns about the amount of overtime they are expected to undertake without additional payments. Serco will brief the AMOU on Thursday about the WA situation and industrial arrangements for these members.

Svitzer

Adelaide - The Adelaide POPs have been the subject of more than 25 meetings between management and members. We have been in Fair Work a number of times to try and resolve our issues. Our meeting before

the FWC on the ability of Svitzer to schedule hours of work in excess of 12 hours each shift is subject to arbitration. We have lodged our outline of submissions and Svitzer has until 9 March to lodge theirs. A hearing is set for 5 April. Additionally we have on-going discussions with Svitzer about the POPs which are attended by Commissioner Hampton of the FWC.

Western Port - In October 2014 discussions commenced to renegotiate the Western Port POP's as shipping numbers in the Port had reduced. Svitzer estimated that there would be approximately 50 ship visits to the Port which equates to 100 days of towage. It was indicated that there was unlikely to be any weekend towage. On this basis a new POP's was agreed to which provided increased flexibility to the rosters.

It was agreed that the rosters would provide for 28 days of duty followed by 28 days of leave. Crews agreed to reduce the amount of predictable leave from 26 weeks to 12 weeks per year. Crews agreed that they would perform towage duties during their non-predictable leave periods. It was agreed that the weekends would be regarded as duty free days if and when the crews were notified by 1300 hours on the Friday that there was to be no towage. On these occasions crews would return to duty on Monday. If the crews were not notified that there was no towage on the weekend then the duty days would continue as per the 28 day roster. Svitzer has now sought to reinterpret the POP's document and undermine the integrity of the 28 day duty roster by treating the weekend as single days. It was always understood that in exchange for the increased flexibility of performing towage during periods of rostered leave that the weekends were either free of duty for two days or continued as part of the 28 day duty roster.

Crew members are seeking payment for the duty days worked in excess of the 182 duty days per year for 2016. Svitzer is seeking to reduce the number of duty days worked in the calendar year by applying a new interpretation retrospectively. Further meetings are planned.

Flinders Ports

Three Flinders Ports EAs need renegotiation in the first half of 2017: Flinders Ports, Pilots and the Supervisors at the container terminal (FACT). We have had 2 meetings with management for all three groups of members. Fatigue and rostering seem to be the common issues across all workplaces. If these matters can be fixed, a number of other issues will be resolved. The specifics on a number matters are still being developed and more information on the position of Flinders ports in all 3 negotiations will be available in coming weeks.

Port Lincoln Tugs

Two meetings have been held regarding the replacement of the PLT EA. PLT has been notified of members claims, none of which has been accepted by PLT. Discussions continue.

INDUSTRIAL REPORTS

Jan Thompson

Industrial Officer (Melbourne)

Tek Ocean

The draft will shortly be put out to vote once the new HRM gets settled into the job; after 10 years with Tek Ocean, Melissa Annells is leaving to take up residency in Queensland. We wish her well in the future.

Victoria International Container Terminal Limited

The bonus issue continues to sour the relationship at VICT. We met on 15th February to discuss the roster once again and are awaiting a formal response. It has been suggested that some classifications may soon get a more predictable roster once VICT concludes the current interviews.

Gippsland Ports

We still have not received an answer from Gippsland Ports regarding the outcome of the meeting they held with the department on 11th December. We have spoken to representatives from IR Victoria and they seem as frustrated as ourselves that this is still unresolved.

Tasports

You may recall that we waited months for a response from Tasports. Now they have issued a draft and are seeking a response yesterday!

In relation to our dispute regarding the VTS move to Launceston, we appeared before DP Barclay on 23rd February to advise that we had reached a settlement. We will prepare a MOU in the next week detailing the arrangement, but it was a mixed outcome for members with redeployment, change to roster and car-pooling. No doubt we will be arguing again in another 5 years when they decide to go back to Bell Bay.

Boskalis

Deputy President Bull has listed a hearing for 1st March to provide us an opportunity to cross examine the manager of Boskalis.

Rhode Neilsen

We are still awaiting a response from FWC regarding the RN application.

Svitzer Anatomia

To our surprise, Glencore requested a 2-month extension taking the last day for the *Anatomia* to 20th May 2018. The *Anatomia* will remain on the market. As this takes us past the nominal expiry date of the EA, we meet on the 20th February to discuss the arrangement for the period post 30th March 2018. In another twist, we also understand that Glencore gave United Maritime notice and the *Vitality* has ceased operations in Sydney. It is unclear if Glencore is getting out of bunkering altogether.

Teekay Tankers, Bulk, Sycamore and Ocean Shield

We meet on the 8th March to discuss Sycamore and Dampier Spirit. Jadestone still has not given them instructions! Therefore the response was basically 'don't expect too much'. We are to put back a formal response to the Sycamore Greenfields Agreement shortly.

INCO

Finally, we are meeting INCO to commence negotiations on 8th March.

Searoad Shipping

We are in discussion with Sarah Cerche from MIAL to finalise the paper work for the vote and FWC approval and are hopeful that it would be progressed shortly before we start the process again.

Toll Marine Logistics

We have agreed with the Company that there are some typos with the EA that was voted on and they have agreed to rectify them. We are now waiting for approval from FWC.

MODEC

We have received a revised draft that seems to address a number of our concerns. However the other issue that has concentrated our minds is the employment arrangements for the cyclone reliefs.

INDUSTRIAL REPORTS

Chris Neiberding

Industrial Officer (Sydney)

Ferries

Sealink - Recently employees of Sealink voted down the proposed EA. The unions requested that the voting process contain a section where employees could write their comments on why they voted the way they did and it seems the feedback is that the issues of a redundancy clause referencing 'first on last off' and the

pay increases were the main reasons for people rejecting the proposal. All three maritime unions and the company are currently looking for dates to meet again.

Brisbane Ferries - The AMOU has proposed a Masters only agreement to the company. Members may remember this was also a proposal at the last round of EA negotiations. We have indications that they may be more willing to agree to one this time around but we are not holding our breath.

Newcastle Ferries - The AMOU is currently going through the final documents for the new EA. We hope it will be able to go out to ballot soon. This will represent a big change for Newcastle Ferries going from the government to the private sector with the Downer group.

Svitzer

Bowen move to Abbot Point - The AMOU and AIMPE wrote to Svitzer last week outlining our willingness for Svitzer to propose a 3-man crew to BTS, if the MUA agrees to the change. The MUA rejected the proposal and Svitzer will be tendering with a 4 man crew. The tenders closed Friday 16th February.

Brisbane POPs - Svitzer's takeover of Smit Lamnalco in the port of Brisbane has meant there will be a 50% increase in work however Svitzer still refuse to adjust the manning adequately and Svitzer offering 6 hour breaks is also a highly contentious point. After a number of evening sessions with the FWC the parties have still not come to an agreement regarding these issues. All parties will meet again in Brisbane on the 5th and 6th March to try and come to a solution.

Darwin - POPs negotiations have started in Darwin. We hope this will not be yet another port where the union and the company cannot come to an agreement.

Newcastle POPs - Rosters are the main issues in Newcastle. After a series of roster meetings all three maritime unions have rejected the latest roster proposal by the company. We are now following the dispute settlement procedure and will meet at the national level.

Sydney - It seemed to the AMOU that before Christmas Svitzer was confident of getting a licence from the Sydney Port Authority to enable them to push crews into going captive. However the Christmas break finished and still no word until recently when we were cc'ed into an email to the FWC asking that the matter go to arbitration. We can only assume there was no gift from the Port Authority at Christmas.

Tourism

Quicksilver

The AMOU has started conversations with the delegates in Cairns regarding the upcoming EA negotiations. The first meetings will take place on the 8th and 9th March.

Pilots /Launch crew QLD

Last year the AMOU negotiated the Gladstone Pilots EA, Gladstone Pilot Launch Crew EA, Ports North Marine Pilots EA and the Port of Townsville Marine Pilots EA. These were all 'in principle' agreements before QLD state election. We are still waiting for the government to approve the agreements so they are ready for a vote. It seems Ports North has gotten government approval first and the EA will be put to a vote on 2nd March. The AMOU endorses this EA. We expect the other Pilot and launch crew EAs will soon follow.

North Queensland Bulk Ports Pilots EA

Bulk Ports was the only pilots EA that did not get 'in principle' agreement before the QLD state election. It seems we are still very much apart and not helped with half of the pilots in Bulk Ports being non AMOU. The union has greater strength with higher density.

Marine Authorities

MSQ

EA negotiations will start this year. We have already started talking about the process with MSQ in some of the consultative meetings.

Port Authority of New South Wales

The Port Authority of New South Wales Sydney Enterprise Agreement was voted up late last year with a very small majority. There was further consultation with members regarding the vote and whether the AMOU should object to the outcome. This was not endorsed for various reasons and the AMOU signed the final document.

Smit Lamnalco Brisbane

On 5th December 2017 it was announced that Smit Lamnalco would be leaving the Port of Brisbane and Svitzer would take on the towage contracts on behalf of the company. The handover would take place on 14th February. Since the announcement, the 3 maritime unions have been meeting with Smit Lamnalco every second Tuesday up until the deadline to try and mitigate the fallout from the decision. This included EOI for redundancy, relocation, guarantee interviews for upcoming projects, as well as talking to Svitzer about job placements for some of those affected. This period has been hard for all involved and the AMOU has tried to make sure the process was done in the fairest way possible.

INDUSTRIAL REPORTS

Meghann Papa

Industrial Officer (Sydney)

Southern Ports Authority – Esperance, WA

Southern Ports – Port of Esperance Shift Superintendents Enterprise Agreement 2018

The AMOU met with Southern Ports on 14th and 15th February 2018 in the port of Esperance to continue negotiations for the proposed *Southern Ports – Port of Esperance Shift Superintendents Enterprise Agreement 2018*. The parties were able to reach an ‘in principle’ agreement at the conclusion of the second day. The agreement consists of a number of changes, including:

1. a three year term, with a nominal expiry date occurring on 31st December 2020;
2. a salary increase of \$1,000 per annum, or as per the WA Government *Public Sector Wages Policy Statement 2017*;
3. employees being placed on an annualised salary that takes into account all rostered hours worked;
4. an increase in the number of ordinary hours from 36 hours per week to 38 hours;
5. overtime penalty rates paid on all hours worked outside rostered shifts/hours;
6. outline of the current rostering arrangements that are currently in place, as well as a term stating that the rosters can only be changed by mutual agreement between the employer and the employees;
7. an increase in annual leave entitlements from 180 hours per annum to 271.5 hours;
8. introduction to a fair and reasonable process for the employer to manage employees’ excessive annual leave accruals;

9. improvements in paid parental leave entitlements by removing the gender specific entitlements to whether the employee is the primary or non-primary caregiver;
10. severance pay for existing employees will be uncapped at four (4) weeks per year of service for existing employees. New employees' severance pay will be capped at a maximum of 40 weeks;
11. introduction of voluntary redeployment procedures;
12. implementation of a consultative committee whose functions will include, among others, ensuring the terms of this Agreement are working adequately, reviewing the roster arrangements and being consulted on reviews and changes to a number of policies and procedures that have an effect on the employee's employment and entitlements;
13. change to the consultation procedure that promotes a fair and genuine consultation process in the event of workplace change; and
14. nominated delegates are entitled to reasonable paid time off work to perform their function and duties as a delegate. As well as an entitlement to 10 days paid leave that can be utilized in any two (2) year period for the purposes of attending union training and/or conferences.

The parties are in the process of finalising the terms of the agreement, which we hope will occur by the end of this week. Once the document has been finalised the voting process will commence.

Cleveland Cliffs Announces Mine Shut Down near Southern Cross

On Australia Day 2018 the American-based mining company Cleveland Cliffs announced that it will likely be ceasing mining operations in Australia later this year. This is the result of an increasing preference for 'higher grade' ores, which has impacted the non-core 'low-grade' operation near Southern Cross.

The announcement has come as a shock to employees at the Port of Esperance. Cliff's is one of the biggest iron ore exporters at the port, and makes up approximately 75% of the export tonnes handled through the port. Southern Ports has announced that it is expecting a loss of 30% of their trade once Cliff's closes down.

Esperance is a small regional community that has a population of approximately 14,236 people. Southern Ports is the second largest employer in Esperance, next to the local shire. In August 2017, Southern Ports made 28 positions redundant in Esperance. The impact upon Esperance, when there is a reduction in the workforce of a main employer is quite significant. Redundant employees and their families will generally move away in order to find alternative employment, which may have a flow on effect to other local businesses, schools, property prices and even the attractiveness for others to move to Esperance.

Cliff's has yet to provide Southern Ports with a formal termination notice so there is a high level of uncertainty as to what the impact is going to be and how many jobs are going to be lost.

Southern Ports Authority – Bunbury, Albany and Esperance, WA WA Ports Reform – Southern Ports Post Amalgamation Review

On Friday 25 August 2017, the Minister for Transport announced a post-implementation review of the Southern Ports Authority amalgamation. The purpose of the review was to evaluate the outcomes of the 2014 amalgamation of the Albany, Bunbury and Esperance port authorities, and the establishment of the Southern Ports Authority (trading as Southern Ports). The Review Panel sought written submissions and met with stakeholders in Albany, Bunbury, Esperance and Perth in order to gain a representative cross-section of views on the amalgamation.

The report was released on 22 February 2018, and found that the amalgamation has reaped benefits and that the disbenefits experienced have been the result of deficiencies in implementation, rather than amalgamation in and of itself. The Review Panel recommended for Southern Ports to remain in its amalgamated form, managing the ports of Albany, Bunbury and Esperance.

During the review a number of concerns regarding organisational culture of bullying and harassment were brought to the Review Panel's attention, especially from the employees in Albany and Esperance. The AMOU provided submissions to the Review Panel supporting the reversal of the Southern Ports amalgamation. Needless to say, the Review Panel's recommendation was not the news that our members were hoping for.

The full report is available on the WA Department of Transport website at:

https://www.transport.wa.gov.au/mediaFiles/rail-freight/PORTS_P_SPA_Review_Report.pdf

Fremantle Ports Authority – Fremantle, WA

Fremantle Ports Administration & Management Enterprise Agreement 2018

The AMOU has met with Fremantle Ports on two occasions since last month's report to progress negotiations on the proposed *Fremantle Ports Administration & Management Enterprise Agreement 2018*.

The parties have hit a stalemate on a number of matters, such as:

1. The term of the Agreement. The AMOU's position is for a three (3) year agreement, where Fremantle Ports want four (4) years.
2. Inclusion of the annual salary increases in the agreement. The parties have been able to reach an agreement in relation to the annual salary increases to apply to the employees (i.e. a base salary increase of \$1,000, or in accordance with the WA Government Public Sector Wages Policy as amended from time to time, whichever is greater).

Fremantle Ports, however, has proposed to outline the salary increases, among other key entitlements such as superannuation, in a Memorandum of Understanding (MOU) rather than the enterprise agreement.

The AMOU is strongly opposed to this proposal. An enterprise agreement is a legislatively sanctioned agreement between an employer and a group of employees that outlines working conditions and employee entitlements. Annual salary increases are an employee's entitlement that must be contained in an enterprise agreement.

In this particular circumstance, there are a large number of classifications covered by the agreement whose salaries and/or salary bands are not contained in the enterprise agreement. Therefore, to ensure the application and payment of the salary increases are made by the employer, the entitlement to the annual increase should be included in the agreement and not an MOU.

If Fremantle Ports decides not to pay the salary increases, the Fair Work Commission will not have jurisdiction to hear the matter if a dispute arises. The Fair Work Commission only has jurisdiction of a dispute if it is about 'a matter arising under the agreement'. If the entitlement to the annual salary increases is not in the agreement and the employer refuses to pay the salary increases, then there is no dispute of a matter arising under the agreement because the matter is not in the agreement. Secondly, Fremantle Ports has limited the ability for disputes to be resolved via arbitration in the Commission, unless they provide their consent. So if Fremantle Ports withholds their consent the FWC is not able to arbitrate the dispute, leaving employees with no other avenue, except to pursue a claim in a more arduous and expensive court.

Fremantle Ports' position is that the inclusion of entitlements like superannuation and annual salary increases are not necessary and would just be a waste of paper and ink.

3. A fair and genuine consultation process. The AMOU has been pursuing a claim for the consultation procedure outlined in the agreement to reflect the terms of the model consultation clause. The AMOU noticed that the current enterprise agreement was not adequate and did not promote a fair and genuine consultation process in the event of workplace change(s), where the employer has the duty to notify its employees of a workplace change in writing, discuss the change with the employees affected and provide all relevant information and material. However, Fremantle Ports once again are of the view that it is not necessary for these matters to be contained in the agreement.
4. A fair and legally compliant dispute resolution procedure. The AMOU noticed the dispute resolution process in the current enterprise agreement also was not adequate and had left employees extremely limited in the type of matters that could be put in dispute, as well as how the dispute can be resolved.

For instance, the dispute settlement procedure can only be utilised if it is about the “meaning and intention” of the Agreement and/or the NES. Firstly, this is in contravention of the Fair Work Act and anyone who has used the dispute resolution procedure before knows that disputes are not limited to the “meaning and intention” of an agreement (or NES), as it can be about ‘any matter arising under the agreement’ (or NES).

Fremantle Ports’ position is that employees will still have the right to pursue any breach of agreement or denial of contractual benefits claim in a court of competent jurisdiction; i.e. not the Fair Work Commission. Going through the state and federal court systems can be expensive and extremely arduous, which is a tactic used by employers to discourage employees from pursuing their matters in a court.

Fremantle Ports’ is currently in the process of restructuring their workforce, so it is evident as to why they are holding the position that they are in relation to a number of matters mentioned and limiting their employees’ rights to be consulted and/or lodge a dispute in the Commission.

Fremantle Ports are pushing this agreement out and wanting to commence the voting process. Considering the matters that are outstanding and the current environment at Fremantle Ports, the AMOU will be endorsing that members DO NOT approve this agreement.

Harbour City Ferries – Sydney, NSW

Harbour City Ferries Maritime Agreement 2018

Negotiations to replace the *Harbour City Ferries Maritime Agreement 2015* commenced on 6th February 2018.

The AMOU and AIMPE, jointly and severally, have notified HCF on a number of occasions their intention to pursue a claim for a separate enterprise agreement covering employees employed by Harbour City Ferries (HCF) as Masters and Inner Harbour Engineers, which would mean separating from the GPHs and shore based positions.

At the negotiation the AMOU and AIMPE reiterated to the bargaining committee that the claim regarding the scope of the Agreement would be included in our list of claims, which would be provided to the parties for their review and consideration prior to the next meeting.

The AMOU & AIMPE wrote to HCF a joint letter outlining the reasons for a separate Officers agreement. One of those reasons was because of the unfairness in the negotiation process for the *Harbour City Ferries Maritime Agreement 2015*, which is currently in operation, where HCF proceeded to put the agreement to the vote knowing that the Officers would be overwhelmingly outvoted by the GPHs, who still had a number of matters in contention.

The AMOU & AIMPE received a response from HCF maintaining their position for a single enterprise agreement. The next meeting has been scheduled to occur on Tuesday, 13 March 2018.

PILOTAGE

Southern Ports Authority – Bunbury and Esperance, WA

Port of Bunbury and Port of Esperance Marine Pilots Enterprise Agreements

The *Southern Ports Authority – Port of Esperance Marine Pilots Agreement 2015* and *Bunbury Port Authority Marine Pilots Agreement 2014-2018* are both expiring on 30th June 2018. Therefore, negotiations will be commencing to replace these agreements very shortly. Southern Ports have approached the AMOU and proposed a single agreement covering the Pilots in Bunbury, Albany and Esperance. However, Albany's enterprise agreement does not expire until June 2019. The AMOU will be arranging meetings with the members in the three ports in the upcoming weeks to discuss their claims for the upcoming negotiations and Southern Ports' proposal of a single enterprise agreement.

INDUSTRIAL REPORTS

Dan Pearson

Industrial Officer (Fremantle)

Overview

The Offshore Oil and Gas Sector remains upon the rollercoaster with a bit of optimism for the forthcoming months and concern for the latter part of 2018 and the beginning of 2019. Longer term contracts are being issued by the clients but with day rates barely covering crew costs. One must wonder if this is last minute bargain hunting by the clients before an upswing in activity or whether the market players with deep pockets are muscling out the weak.

Whilst we have seen a rationalising of the market and the number of operators back to a core, you would have to think a further drop in the number of operators could result in a market that is a lot less competitive. What the ramifications of this would be is anybody's guess. Only time will tell.

Farstad

We have seen the Ocean Monarch finally depart from the anchorage off Fremantle. Farstad has had its vessels in support of this rig for some months now and I have had the opportunity to meet with our members on a number of occasions when the vessels have been alongside in Fremantle.

The MUA signed off on their Enterprise Agreement and whilst some of the conditions they sought have been achieved, those conditions do not come into force until just prior to the Officers Agreements expiry dates. In light of this, we sought to have an FCC meeting but changes to operations schedules meant this has been postponed until the 6th March. The agenda for this meeting is available on the Facebook portal and any Farstad officers wishing to have any items added to the agenda should put these up for inclusion.

In relation to the merger, the process is continuing with many vessels now coming under the Solstad management system. The changes appear to be going through relatively painlessly but our members have concerns as to what the future may hold. It will be sad to not see the vessels bearing the big white F on the side as it has been a part of the fabric of this industry for many years. Of the Operator group, it would appear that SolstadFarstad is trying to position itself with market share. Reports suggest that 16 vessels could be under management by the end of April; however it is noted that some of these contracts may only be short term and the potential to be back into the single digits is always present.

Maersk

In the lead up to Christmas, there were a number of meetings held with Maersk about the replacement EA. At the time, MUA was finalising the document with Farstad and the expectation from AIMPE and AMOU was that the MUA would pursue similar conditions with Maersk. We await developments but note recently

that a safety concern over possible legionella contamination sparked a complete walk-off by the ratings aboard the *Maersk Logger* and one can only draw a link between this type of action and an escalation of an industrial campaign particularly when the MUA had successfully balloted for protected action prior to Christmas. We will update when Maersk re-engages for ongoing negotiations.

Swire Pacific Offshore

Swires has in recent days sent through notification that the Pacific Hawk would be joining their fleet in Australia in the next month. We are currently looking for opportunities to visit the vessel upon its arrival in Australia. The MUA have recently lodged their agreement with the Fair Work Commission in almost identical terms to the Farstad agreement.

Atlas Programmed Marine

Programmed called for an urgent meeting to indicate their intention to carry out a redundancy process. We are currently eyeballing their workforce composition with particular reference to the fact that they are currently utilising s400 visas aboard the *Posh Arcadia*. You may remember that Programmed was the first company to seek a Labour Agreement from the Department of Immigration and Border Protection. To date they have not been successful in their attempts to achieve this agreement due to the pressure we have been applying in opposition. The fact they are seeking to make Australians redundant when they continue to utilise foreign labour is unpalatable to the AMOU and we will continue to pursue the rights for Australian Officers to have full and fair opportunity to secure work.

AOS

AOS has the majority of work of the labour hire companies with some 10 vessels currently under management in Australia. In a meeting with AOS, their representative suggested that whilst there is a flood of vessels at present, the remainder of the year was looking a little bleak. In recent days the *Southern Ocean* mobilised to replace the *Atlantis Dweller*, which is experiencing some technical issues with its crane. It was uncertain if the *Dweller* was de-mobilising to Singapore for repairs or whether the vessel would continue on project in a diminished capacity. The *Fugro Voyager* will be mobilising shortly for some geo-technical sampling. This is again expected to be a short-term contract. We are currently having an argument about the manning scale of this vessel, but other developments within the Fugro operated fleet may resolve this.

GO

GO emerged from the voluntary administration process late last year, and whilst still operating they do not appear to be successful in gaining any of the few contracts that are out there. Given the market rates and the fact the bigger players such as Maersk and Farstad are fighting for market share, margins are tight and one wonders if GO have the available funding to tender successfully. At this stage, no Officers have been slated for redundancy but this could eventuate if the situation does not turn around for GO. The AMOU listed an issue of having a Second Mate on the GO Koi in front of the conciliator for the INPEX project. The GO Koi has been contracted to support FPSO offtakes and some other guard and stand-by duties. Given the delays in relation to the commencement of operations in relation to the FPSO, the matter has been adjourned for the time being but we will continue to monitor the situation and will update as it develops.

State Skills List

I have been to several meetings during the past week to discuss the status of our members' jobs in relation to the Western Australian Skilled Migration Occupation List (WASMOL). As part of the election promise by the McGowan Government, the WASMOL was effectively torn up and the only occupations which remain on this list relate to the provision of visas for allied health professionals for public hospitals. However, there is a push from some sectors for a review of the settings and in particular the education sector for settings which encourage international students. The concern by this sector is this market in WA is effectively stagnating whilst other states, with more favourable visa provisions, were attracting an ever-growing market for international students. Whilst this should not affect the current status of the positions of Ship's Master and Ship's Officer, we must remain vigilant in order to prevent these categories entering the list

again. We have seen in the past where a change in policy can have an unintended consequence and participation in these stakeholder meetings is essential.

Western Australian Coastal Shipping Commission

More commonly remembered as Stateships (if you are not too old), the legislation for the provision of this service remains in force. Many of our members from the area would be acutely aware that the provision of the service was born from a need of access to reliable transport of goods independent of road transport which was prone to flooding during the wet season. Whilst the road network has drastically improved and flooding events are less likely to impact on this network, the recent dumping of 2 years' worth of rain in Kimberley last month has shown that road transport is still susceptible to weather events. With the science indicating these extreme events becoming more common, perhaps it is time to reignite this conversation with the State Government.

Trident

As was previously reported, the future of these contracts is set to come to an end. The question for our members is when. There was a meeting held between the stakeholders on 13th February and the maritime unions all put forth the same position; that the 4 Australian manned tankers should be the last to go. It has been put forth that some of the ships engaged in the Delivered Ex Ship (DES) contracts would begin to reduce in Q1 of 2019 with 3 ships leaving the run then a reduction of 2 more ships in 2021 and the remainder departing by 2026 with potentially 1 of those remaining until 2029. Commercial considerations will determine which ships will be selected but the contention of the unions is the hull is irrelevant, but the crew is part of the agreement which has successfully operated for the past 30 odd years and as such transferring of crews between ships should be on the table. There is another meeting set down to occur on the day of the monthly meeting and we should find out whether there is a commitment from the operators to support our call for the retention of the Australian manning.

Additionally, we sought a meeting with Trident to discuss the potential manning issues they face in light of a number of resignations over the last 18 months. Given the uncertainty of the future of the vessels, our concern is that Trident may struggle to back-fill positions given the sheer amount of time it takes to become endorsed for these vessels. We are currently awaiting some documents in relation to the skills and qualifications of the workforce in order to identify future opportunities for promotion and where the workforce requires an injection of suitably qualified Officers to maintain the operation of these ships. Needless to say, the inability to supply qualified Australian manning would not bode well for our arguments about retention of the Australian-crewed vessels.

Svitzer Towage

Fremantle and Kwinana - The saga over the Port Operations Procedures continues to drag on. As part of the concerns raised by the Officers in Fremantle and Kwinana about the implementation of the belt rosters, the Health and Safety representatives raised a Provisional Improvement Notice of the prospective changes in relation to fatigue with the State regulator WorkSafe. It took some time for the recommendations to be delivered by the Inspector. Whilst the Inspector decided to lift the PINs, the concerns raised in his report supported the arguments that the AMOU and AIMPE had raised throughout the process, and if not addressed prior to attempting the implementation of these rosters could result in the PINs being reissued. The company has sought from the Fair Work Commission directions in relation to progressing the matter. Given they have done nothing to address our, and now WorkSafe's concerns, we find it difficult to ascertain exactly what they expect to achieve particularly when the matter was specifically adjourned to allow for the delivery of the WorkSafe report.

Svitzer Line and Launch Kwinana - I have had the opportunity to meet with the members at this workplace twice in recent weeks to gather the items for inclusion in the log of claims in relation to the upcoming renegotiation of their EA. There is some concern that the port is issuing licences for other operators to work in areas which have traditionally only been serviced by this company and whilst this is consistent with competitive practices to which government operated entities must adhere, the members have raised that

there is inconsistency with the approach. We are currently seeking dates with management to discuss the replacement agreement.