



# Industrial Report

October 2020

## MEMBERS' MONTHLY MEETINGS

Please note that monthly meetings will not be held in October due to necessary measures to combat the spread of the Coronavirus.

Members will be notified when monthly meetings recommence



**AMOU**  
Australian Maritime  
Officers Union

# Federal Report

Mark Davis

Executive Officer

## Offshore oil & gas industry enterprise agreements

Below is a table of the offshore EAs that need renegotiation in the next 12 or so months. We are acutely aware that some have expired already. Resources, logistics including COVID-19 have created delays in getting around the table. The priority is clearly the Solstad EA (Farstad below). Marshalling the joint AMOU/AIMPE delegates was problematic before COVID, hence the delay. We also need the membership to feed into the union the company-specific issues that require addressing and where there is no apparent delegate, suggestions would be welcome. We understand in this job market the reluctance of members to put themselves forward, but it is difficult for union negotiators to be without coal face workers to consult at the time of negotiations. Please make contact with via email with Glenn Andersen [glen@amou.com.au](mailto:glen@amou.com.au) or Glenn Walsh [g.walsh@amou.com.au](mailto:g.walsh@amou.com.au) in our Fremantle Office for input. Please also refer to reports from the Glenns below on the situation with companies with whom we have settled and progress in negotiations with others.

Name of Enterprise Agreement	Expiry Date
Farstad Shipping (Indian Pacific) Pty Ltd and Australian Maritime Officers Union Offshore Oil and Gas Enterprise Agreement 2015	10 <sup>th</sup> September 2019
DOF Management Australia Pty Ltd Deck Officers Maritime Offshore Oil and Gas Industry Enterprise Agreement 2016	14 <sup>th</sup> April 2020
Swire Pacific Ship Management (Australia) Pty Ltd Deck Officers Maritime Offshore Oil and Gas Industry Enterprise Agreement 2016	14 <sup>th</sup> April 2020
Australian Offshore Solutions Pty Ltd Maritime Offshore Oil & Gas Industry Deck Officers Enterprise Agreement 2016	30 <sup>th</sup> August 2020
Fugro TSM Pty Ltd Maritime Offshore Oil and Gas Industry Deck Officers Enterprise Agreement 2016	5 <sup>th</sup> January 2021
Programmed Marine Pty Ltd Maritime Offshore Oil and Gas Industry Deck Officers Enterprise Agreement 2017	20 <sup>th</sup> March 2021
MMA Offshore Vessel Operations Deck Officers Enterprise Agreement 2017	20 <sup>th</sup> April 2021
Go Offshore Pty Ltd Maritime Offshore Oil and Gas Deck Officers Enterprise Agreement 2017	1 <sup>st</sup> May 2021

## AMOU Housekeeping

### Overdue AMOU union fees

Reminders have recently been sent out to members who have paid no union fees so far this year and are therefore unfinancial and to those who risk having their membership suspended for non-payment of fees for a 2-year period. For those receiving the reminders please email [liz@amou.com.au](mailto:liz@amou.com.au) and advise that you are addressing the fees issue and how you are proposing to do this.

### Financial Year Rule Alteration

There was no objection, in fact there was no comment either way from the membership regarding the proposed AMOU rule amendments notified on the website and in the August and September Industrial Reports and as a consequence the following rules alterations have now been filed for certification by the Fair Work Commission:

#### 43 - MEETING FOR THE PURPOSE OF RECEIVING THE EXECUTIVE COUNCIL REPORT

(a) The President or the Executive Council may, if the President or the Executive Council determine it appropriate, requisition a General Meeting for the Executive Council report, which can be held in conjunction with the Annual General Meeting, for the purpose of:

- receiving the Full Report; and
- receiving the report of the Executive Council for the previous 12 months.

(b) At least five percent (5%) of the **financial** members may requisition a General Meeting by each signing a requisition, which may be in multiple copies, for the purpose of considering the Full Report.

(c) The President must promptly proceed to convene a meeting, and the meeting must be held as soon as reasonably practicable and no later than three (3) months from the date a requisition is provided to the President under sub-rule (b).

(d) At least seven (7) days' notice specifying the place, the day and the hour of the meeting and the nature of the business requisitioned, will be given to all the **financial** members.

(e) No other business, other than the business specified in the requisition, will be dealt with at the meeting, or any adjournment of the meeting.

#### 84 FINANCIAL YEAR

(a) The financial year of the Union commences on 1 **January** July in a year and ends on ~~31st December~~ 30th June in a year.

## Expressions of Interest for the position of AMOU President

There has been no expression of interest from any members in taking on the role of AMOU President following the recent resignation of Tim Higgs. We will keep the EOI open as advised until 3<sup>rd</sup> November and if there is still no interest the matter will be put before the Executive Council at its next meeting on 5<sup>th</sup> November to decide any next steps.

## Teekay Marine Resources & Teekay Shipping Australia vessels

Joint negotiation sessions with AIMPE have been held with Teekay for separate agreements to cover *MATV Sycamore* (Navy Multi-purpose Aviation Training Vessel) and *ADV Ocean Protector* (Customs Australian Defence Vessel). Progress was initially slow and the two major sticking points for AMOU involved monetary recognition of the substantial training burden falling on the deck officers on *Sycamore* and a percentage pay increase across the board for both vessels.

It became obvious that until the company has the Defence Maritime Support Services - Offshore Service Package contract in the bag, there was little possibility of them releasing funds to cover some of the officer unions' central claims. It was decided in consultation with the delegates from both unions to pursue a 12-month EA expiring 30<sup>th</sup> June 2021 and to consolidate the advances made in the negotiations up to this point. By July 2021 there should be certainty regarding the company's future with the DMSS contract and the potential freeing up of resources needed to address the withdrawn claims.

The drafting of the 4 x EAs was completed as of 23<sup>rd</sup> October, documents will now be finalised and then submitted for the consideration of the membership this month prior to the usual voting process.

## Short-term jobs on foreign ships

Port State Control has tightened up on ensuring seafarers on foreign flagged vessels are paid off the ship when they have completed the maximum allowable tour of duty of 11 months (under the Maritime Labour Convention). This has meant that local ship's agents and foreign ship operators have been in contact with the AMOU to try to plug temporary gaps in Master & Deck Officer ranks by sourcing AMOU members seeking work.

We have managed to place a few members onboard but State border entry conditions, the unavailability for work of members even though registered on the employment roster, understandable apprehensions about contracting COVID in a foreign pay-off port, repatriation and quarantine on return have all made the task of filling these vacancies challenging.

***If you are genuinely seeking this kind of work and willing to fill vacancies at short notice please email me directly at [mark@amou.com.au](mailto:mark@amou.com.au) as I will be maintaining a separate register for those available at short notice for these positions.***

If you are genuinely seeking this kind of work and willing to fill vacancies at short notice please email me directly at [mark@amou.com.au](mailto:mark@amou.com.au) as I will be maintaining a separate register for those available at short notice for this kind of work.

Those in financial difficulties, in need of sea time to revalidate their certificates and young members seeking a variety of experiences and time at sea will be prioritised.

There is always a risk involved in accepting this kind of work but we have excellent contacts through the Nautilus Federation and the ITF and have some confidence that we can marshal any necessary support when required.

If any members are contacted directly by companies seeking officers to fill these positions please direct them to me so we can ensure some kind of central coordination. The AMOU needs to be in a position to maximise any opportunities for an ongoing Australian officer labour supply as well as ensuring the pay rates are competitive, quarantine expenses are covered, and repatriation is guaranteed.

Rank	RO/RO USD\$/day	Bulker USD\$/day	Tanker USD\$/day
Master	875	814	920
Chief Officer	703	675	751
2 <sup>nd</sup> Officer	631	605	685
3 <sup>rd</sup> Officer	582	536	636

The above table sets out the rates that AMOU is providing to agents that approach us with job opportunities.

## Trident LNG - EA

As reported last month the following were the issues to be settled in order to roll over the EA.

1. Remuneration, linkage, term
2. Treatment of leave when unable to join a ship
3. Swing lengths

A position was reached on each of these issues and the deal was commended to the members as the best that could be achieved in the circumstances. In a 31<sup>st</sup> August deadline Survey Monkey ballot in which all 48 Trident members voted, the proposed settlement was rejected by 26 votes against and 22 in favour. There has been no further dialogue with the company.

There has been no further discussion nor meetings on the EA and it appears that since the WA COVID directions have been unilaterally amended, the company has had to scramble to put in place contingencies to implement intended crew changes in accordance with the new directions... so the EA will not be progressed any time soon. It is worth noting that there is little appetite from the members to pursue this as there were seen to be fishhooks in the company's offer on each of the above core issues and no-one is stressing about missing out on a 0.75% increase.

The way the present COVID directions stand the 14 days on board prior to arrival port no longer count towards quarantine, the 14 days quarantine is mandatory prior to joining and there are barriers to the usage of charter flights. AMOU is encouraging the company to investigate Darwin crew changes to avoid the new inconveniences that actually stemmed from foreign registered ships with COVID cases on board and are now prejudicing the 4 Australian registered LNG tankers that have meticulously implemented COVID-19 plans.

# Western Area

## Glenn Andersen

### Western Area Secretary & Organiser

#### COVID-19

The Offshore Oil and Gas industry is surviving in the Covid-19 environment, although some projects have been delayed, the Covid-19 pandemic started just as a mini-boom was about to start up. Over the next six months work will gradually pick up. Numbers of companies are paying for isolations and temporary relocations, some will not: preferring to force employees to use up their accumulated leave whilst trapped in hotel isolation.

#### Offshore EBA Dispute Resolution

The manner in which dispute resolution clauses in most, if not all employment agreements are implemented is reflecting the reality of the deck officer/company power imbalance. Agreements prior to your current EBA included a clause whereby the union could initiate a Fair Work dispute if a company is seen to be breaking the agreement. Casual employees face the real risk of reprisal if they challenge a company denying them their EBA entitlements. Even some permanent deck officers are reluctant to make official complaints to the company for similar reasons. Companies know complainants are required to identify themselves before the union can go to the FWC. Unscrupulous companies can, and do, exploit this to frighten employees into silence.

#### Vessel Inspections and ship visits

Following the taking of some annual leave and the time-consuming effort required to regain my Right of Entry permit from the Fair Work Commission I will resume ship visits very soon

#### OSM EBA negotiations

During recent EBA negotiations OSM agreed to begin the 4.5% salary uplift, starting from the day of a successful EBA ballot. That did not happen. Some employees had been working continuously on the SIEM boats since 2016; *on 2013 rates of pay*. We think OSM waited until the EBA was approved by the FWC before paying the new rate. We think OSM has cheated deck officers out of hundreds of dollars. When will the Federal Government bring in the much talked-about *wage theft* laws?

#### Swire Pacific

A number of permanent masters and deck officers have chosen to take a voluntary redundancy from Swire Pacific, as far as we know there may only be one forced redundancy. This company has a poor record on Covid-19 related remuneration.

#### Beware: Medical Questionnaire Forms

Shipping companies provide medical questionnaire forms for employees to complete. The questions can be unremarkable and not too meddling.

The medical questionnaire Swire Pacific is pushing is quite staggering in both its degree of intrusiveness and entrapment. This questionnaire is a ticking time-bomb. There is no control on who has access to your privileged medical information; once provided your answers are recorded forever. Provide a false or inaccurate answer and you are liable to disciplinary action. Tomorrow's claim could be declined using the information you provided today. This form is all about insurance liability, and premiums. Swire Pacific is using completion of this form as a precondition to taking your AMSA medical examination. We have advised members to ignore the questionnaire and book their own AMSA medical.

#### Maersk Supply Services

It is still unclear as to whether one or both Maersk vessels will be leaving the coast. We have had meetings over redundancies. Voluntary redundancy has been offered to masters and deck officers. The disagreement we have with Maersk is they are currently unwilling to seriously consider the EBA listed options which should be exhausted before proceeding to compulsory redundancies. Those options are job-share, LWOP and half-rate accumulated leave payments. One offshore AMOU member has been on LWOP from his company for well over 12 months and still has a permanent spot. There are possibilities of new work such as a 50-day contract for 1 boat and a later 150-day contract for two boats. Our advice is to hang on to a permanent job for as long as you possibly can.

#### Toll Energy EA

This marathon negotiation is close to the ballot stage. In order to get this EA in place the AMOU conceded a few points. I am sure we can reclaim them next time around. We are recommending a Yes vote to members. The agreement will deliver the same dead-day payments for joining the vessel as we won for Maersk employees. The casual loading criteria doesn't include the words *and training* which means casuals will be paid dead-days for training. And for those in need of a good night's sleep: mattress toppers are available on request. The bad news for employees is Toll Energy lost the *Skandi Sotra* contract to Solstad. Those permanent employees affected could be transferred to the *Toll Provider* or possibly to other Toll-operated vessels. Despite our attempts to arrange a meeting sooner, Toll have only just contacted us with their plans for the de-manning of the *Skandi Sotra*. I do not agree with all of their intentions but will be contacting members to discuss a way forward.

## Go Offshore

At the instigation of the company we have started meeting over the renewal of the EA, even though its expiry date is May 2021 and we have more pressing offshore EAs to tackle. It is however imprudent to refuse to meet in these circumstances despite our competing priorities. Management has this idea that they operate in their own little part of the maritime industry and that nothing they do could or should affect the offshore industry as a whole. We certainly don't see it that way. Go Offshore is proposing a single agreement to cover the three maritime unions. This will not be easy to achieve.

## Westug & Rio Tinto

The reputation of giant multi-national iron-ore miner Rio Tinto has suffered recently. Last month the 45,000-year old Juukan Caves, a priceless example of Australia's cultural past, were blown up. Apparently, nothing could prevent those caves from being blasted to smithereens, railed to a port and shipped off to China as bits of iron-ore.

There exists within the psyche of most Australians the ideal, the culture of the fair go. It extends from the sports field to the workplace.

Rio Tinto contracts Westug to provide harbour towage for its bulk iron-ore ships. Over recent years Westug has been trying to convince employees to leave the protection of the Fair Work Act and enter into the partnership model of engagement. This involves no long service leave, no superannuation, no sick leave, and that's just the start. And it goes without saying... no union protection. Termination threats, workplace demotions, accommodation evictions and workplace transfers from one port to another are all strategies to place pressure on workers. Three workers were sacked for liking a Facebook page. How could you explain to your wife that you lost your permanent job because you liked a Facebook page?

Westug has two similar and interchangeable EBAs. If one set of employees employed under EBA no.1 vote to legally withdraw their labour as part of any EBA negotiation Westug may simply order employees employed under EBA no.2 to perform the work. Obviously, it can be used on either set of employees. This is a plan to pit workmate against workmate, friend against friend, family against family.

Rio and Westug are undermining our Australian culture in different but equally serious and disturbing ways.

# Western Area

## Glenn Walsh

### Industrial Officer (Fremantle)

#### Mackenzie Towage Bunbury EA

The Unfair Dismissal claim for our delegate unsuccessfully moved through 2 separate conciliation conferences in the Fair Work Commission and has now been listed for a 3-day hearing in December. With representation being ably provided by Hall Payne's Kristen Reid and Rachel Cosentino SC, we are confident of a reaching a suitable outcome.

The progress of the contractual benefits claim lodged in the WAIRC in March has been painfully slow and hampered by a range of factors beyond our control. We hope to have this matter resolved in the coming weeks.

We remain confident in achieving positive outcomes in both matters. Given the potentially significant effect this matter has for the future provision of marine towage in the Port of Bunbury, we expect that Southern Ports Authority will be interested in the outcome.

#### Southern Ports Authority Port of Albany EA

The parties have made significant progress towards finalizing negotiations for an enterprise agreement. Once approved, the agreement will provide significant gains for our member, and will also have a positive influence on future EA negotiations for the Southern Ports Authority Marine Pilots in Bunbury and Esperance.

#### Pilbara Port Authority General Staff EA

EA Bargaining continues with the self-appointed bargaining reps to submit their respective claims. The next meeting is scheduled in the coming weeks.

#### Montara EA Negotiations

Bargaining appears to be progressing but at a snail's pace. Perhaps this is to be expected given the large and diverse group of bargaining reps. We hope this can be wrapped up in the coming weeks.

#### Solstad

The company is seeking to survey employees on the preferred modes of operation moving forward. At this stage, it appears that work may only be available for 3 vessels early next year, which given the current roster of crews for 10 vessels, will need some creative solutions. We have committed to working with management to explore and develop a range of options in order to retain as many jobs as possible.

#### Argonaut Marine EA

We have lodged a General Protections claim in the FWC for the 2 Marine Pilots recently made redundant during the EA bargaining process. We are confident of a successful outcome for our members. No matter the outcome, the conduct of this company stands as a cautionary tale for all Marine Pilotage operations that allow this company to operate. Their business model is predicated on a race to the bottom for worker's entitlements and conditions of employment.

#### Mid-West Ports Authority General Staff & Maintenance, Operator & Marine Specialist EAs

The parties held the second joint EA bargaining meeting to present and discuss the respective bargaining positions of the parties. Unfortunately, MWPA's position lacked sufficient detail which suggests that they are unsure what they want. While the Unions have logged their claims, we have reserved our right to add to and/or vary our claims as required.

#### Mid-West Ports Authority Dispute

The Marine Operations restructure is dragging itself through myriad changes and proposals despite management's view that this process is not officially being part of the formal consultation process. Despite our member's best efforts, we suspect that management will probably still attempt to run with the same flawed restructure proposed 2 months ago. With several dispute triggers still in play, this matter is likely to be eventually argued in the FWC well into the new year.

#### IMarine Greenfields Agreement

Signed, sealed, and delivered despite a few hiccups with the approval process. We eagerly await the company's entry into the Oil and Gas Industry as it promises to advance employment opportunities for Aboriginal and Torres Strait Island seafarers.

#### Svitzer Lines and Launches Kwinana Rosters

Despite meeting with management a few weeks ago, we have yet to receive any update in relation to management's concerns about rosters/scheduling. We remain committed to resolving all concerns in collaborative manner.

#### Broome Marine and Tug - Koolan Island EA

Subsequent to Svitzer/OSM relinquishing the Koolan Island contract, Broome Marine and Tug have taken over the enterprise while retaining the Masters and Engineers. Despite being late to the development of the proposed EA, we are still seeking to amend the document and to be added as a party to the agreement.

# Southern Area

## Chris Neiberding Senior Industrial Officer (Melbourne)

### Svitzer National EA

As you are aware the AMOU put forward an offer to Svitzer for a rollover EBA for a period of 2 years and a wage freeze. This offer was a short-term solution to provide all parties a period of Industrial stability in these uncertain times. The offer would have hopefully provided enough time for the economy to recover from the effects of COVID and bounce back from the first recession Australia has seen in 30 years. This offer was rejected by Svitzer and they have made it clear that they are determined to continue negotiations with their new log of claims until an agreement has been reached. This decision was disappointing and short-sighted to say the least. Now the parties are faced with the Herculean task of achieving an EBA with a number of obstacles in the way that include:

- A new Svitzer lead negotiations team – you will all know by now that all Svitzer lead negotiators have now left the company and have not yet been replaced.
- EBA logs of claims – all items are now to be relitigated and additional items from all sides seem to be accumulating for expanded negotiation
- EBA fatigue and frustration
- COVID remains an issue as we still cannot meet face to face and even with the best technology it can never replace the benefits that brings.
- Industrial stability – we know from experience that the longer an EBA negotiations goes for the more hostile negotiations can get, which is generally counter-productive.
- Industrial stability is absent, a significant factor in winning tenders and company success is in everyone's interests

These reasons alone would be enough to think a rollover would be a sensible practicable solution for all.

### So where do we go now?

Recently the AMOU State delegates concluded that since the rollover offer was rejected and Svitzer continue to progress their new log of claims, the AMOU will now resubmit our original log of claims. The decision was made in the knowledge that Svitzer pressing their items provokes the need to maintain the counterbalance by reviving our claims.

### Could Svitzer seek to have the current EBA terminated and replaced with the towage award?

In short, our view was although not the easiest process Svitzer could certainly give it a shot and could very well have a chance of succeeding. Should Svitzer be successful in a termination order it would set back the conditions and wages years.

it was not currently their intention and they now wanted to progress the new log of claims they could never rule out any option available to them.

### Should the AMOU file for a Protected Action Ballot Order (PABO)?

We will never say never and the AMOU will continue to assess and reassess the situation as we progress in the negotiations. However, we are still of the belief that such a step could well provoke an EBA termination and in the current the economic environment this would not be in the members' interests.

### What is the Nautilus Federation of Australia (NFA) doing?

NFA is the strategic cooperation between AMOU & AIMPE. Because the Svitzer negotiations have become a 'Days Of Our Lives' drama, NFA has turned its attention to assisting where it can. This includes some joint communications to add weight to our position combined with Executive level discussions with Svitzer. This is fulfilling the original rationale behind the establishment of NFA. So far this has included some joint phone calls to Nicolaj Noes from both AIMPE Federal President Martin Byrne and AMOU Acting President Ken Blackband.

### In summation

The AMOU will proceed with EBA negotiations based on the original log of claims and try to work through this as diligently as possible. The AMOU delegate team has had multiple discussions as to which direction we should go and the pros and cons with each one; ultimately coming to the conclusion that we should continue down this path. Members must understand that this is not an easy decision and comes with a lot of frustration. The delegates have already done this task once before pre-COVID and are now asked to do the same task under much harsher conditions. This is not an enviable position and we thank them for all their time and dedication to the union and the interests of members.

Should you have further questions please talk to your local state delegate or email me [chris@amou.com.au](mailto:chris@amou.com.au)

### Svitzer Bowen

Since my last report the three Maritime Unions were still working through the Pops with Svitzer but unfortunately talks have come to an impasse and we are headed back to the FWC. There are still items relating to amenities, operational requirements, and entitlements outstanding. We are yet to have a date for conciliation.



## **Svitzer Melbourne**

The AMOU is currently in dispute with local Melbourne management around allocation of work. We believe that work allocation for PPTs has not been in accordance with the EA or the POPs. Although some grace was given to Svitzer during the peak of COVID and travel was an issue, we now ask that Svitzer return to normal procedures outlined in the EA and POPS. The 3 Maritime unions have had correspondence and teleconferences with local management and cannot resolve the issues, so we have now filed a dispute with the Fair Work Commission (FWC). The AMOU will let members know when the FWC gives us a date for conciliation.

## **TasPorts Towage Workplace Consultative Committee Meeting**

This meeting was postponed due to peoples unavailability and has now moved to 5<sup>th</sup> November. The AMOU has informed TasPorts delegates. If you are a TasPorts Tug Master and want something to be added to the meeting's agenda please get in touch with your local AMOU delegate or email [Chris@amou.com.au](mailto:Chris@amou.com.au)

## **Gippsland Ports**

It does not seem like Gippsland ports have much room to move outside of the parameters issued by the state government at the moment, Major issues like wage increases and super are tied to state government guidelines which is not unusual but make it very hard to move without losing or trading conditions. The AMOU has put forward a Masters indemnity clause which members may recall we are trying to make industry standard, Gippsland ports lawyers are hesitant to say the least issuing the AMOU with an 8 page letter as to why the port could not adopt the clause. We will be working through the document and providing a response. Unsurprisingly there is also no appetite for a separate marine agreement, but we are making some headway in consolidating a number of the marine specific clauses.

# Southern Area

## Jarrold Moran

### Senior Industrial Officer (Melbourne)

#### Serco - DMS

The Serco-DMS 2020 Enterprise agreement is now in place. It took a couple of goes by Serco to provide undertakings that were acceptable to the Fair Work Commission, but we finally got there. Our attention will now turn to the imminent announcement from Navy on the awarding for the on-going DMSS contract. The current tender process has split the Serco contract into three – inshore, offshore and towage. If Serco are successful in retaining part of the DMSS contract, the renegotiation of the EA starts in about 30 months.

#### Victoria International Container Terminal

The Union Single Bargaining Unit (AMOU, MUA and ETU) have had 2 meetings with VICT this month. The SBU have presented our Log of Claims and VICT have responded. The Unions are not in a position to agree to the VICT offer. Major issues are wage increases, manning and rostering. The SBU is attempting to get terms and conditions at this workplace up to industry standards. VICT had committed to at least a 25-year presence in Melbourne and are about to embark on major expansion. Meetings have been organised for each Friday in November.

#### DP World – Supervisors

DP World have made an offer to Supervisors that members are happy to accept. In essence the offer is a roll-over of the current EA with wage increases of 1.5% on 1 December 2019, 1.5% on 1 April 2020, 1.9% on 1 April 2021 and 1.9% on 1 April 2022. The EA will need to be altered due to changes in Fair Work Commission requirements and we are currently going through these with DPW. It is expected that voting on the EA will take place in coming weeks.

#### Toll Shipping

After a few months of limited contact Toll made an offer to settle EA negotiations. Toll has offered an EA to 31 August 2022 with 3.5% wage increases. All other matters remain unchanged. We suspect Toll have proposed that members not receive a performance bonus in 2021 and 2022. Toll has also confirmed that the extra manning currently in place will remain for the period of the replacement EA. This arrangement will be formalised via an MOU between us.

#### TT-Line (Shipwrights and Pursers)

We have had a little bit of backward and forward with TT-Line on a replacement EA for the Shipwrights and Pursers. Things have been complicated by COVID-19, but we are now on track to commence formal discussions which will start in coming weeks. The current EA expired on 30 June 2020.

#### SeaRoad Shipping

The new SeaRoad Shipping EA has now been in place since August. The EA provides for a Works Council of Employer/Employee reps to meet in March and September each year. We are in the process of determining which members will be on the Works Council and then requesting a meeting. The *SeaRoad Tamar* is due to go to drydock early next year and members are keen to discuss with management arrangements for this and a substitute vessel.

*In a COVID-19 environment Australians deserve better returns on taxpayer dollars than this potentially missed opportunity for employment and training that the AAD has delivered.*

#### RSV Nuyina

We continue to be updated every three weeks or so by Serco on the construction progress of the *RSV Nuyina*.

The construction in Romania and The Netherlands has been hampered by a number of issues not the least of which is COVID-19 conditions in Europe. Despite delays Serco think they are still on track to have the vessel arrive in Hobart in May 2021.

Members will leave for The Netherlands on 7 November and go directly to the vessel to commence Special Sea Trails on 9 November.

Matters to do with the *RSV Nuyina* and the *MPV Everest* (see following briefing note) were discussed by the Senate Environment and Communications Legislation Committee at Senate Estimates on Tuesday, 20 October 2020. The transcript of Senate proceedings will soon be available at: [https://www.aph.gov.au/Parliamentary\\_Business/Senate\\_estimates/ec/2020-21\\_Budget\\_estimates](https://www.aph.gov.au/Parliamentary_Business/Senate_estimates/ec/2020-21_Budget_estimates)

#### MPV Everest

The following is the text from our 3-maritime union briefing paper compiled for Senator Carol Brown's meeting with the Australian Antarctic Division:

“Since 1989 the Australian Antarctic Division (AAD) of the Australian Government has used the *Aurora Australis* to assist in fulfilling tasks under the AAD's Charter.

Importantly the *Aurora Australis* has resupplied the Australian bases in Antarctica and moved the approximately 500 scientists and other personnel on and off the bases.

Earlier this year the *Aurora Australis* was decommissioned and is now retired.

In 2017, in advance of the *Aurora Australis* decommissioning, the Australian Government funded her replacement vessel and construction of the *RSV Nuyina* commenced in Romania.

COVID-19 has set back the commissioning of the *RSV Nuyina* which is now expected in Hobart in early 2021. Usual weather conditions mean that only a limited travel period is available to get to the bases - November to March. Under pressure to relieve personnel on the Antarctic bases and to also ensure the bases were resupplied, the AAD have chartered the *MPV Everest* to conduct 3 voyages to Antarctica this summer season.

The *MPV Everest* is flagged in the Bahamas. AAD have a Charter Agreement with Maritime Construction Services (MCS), the operators of the vessel. MCS is headquartered in The Netherlands.

**The AAD Charter Agreement with MCS does not place a requirement on MSC that:**

- **Australians must be employed to crew the *MPV Everest***
- **Australian cadet seafarers must be given opportunities for training and sea time experience on *MPV Everest*; or**
- **Australian terms and conditions of employment under an Enterprise Agreement registered with the Australian Fair Work Commission must be in place for work on *MPV Everest*.**

The AMOU, AIMPE and the MUA have asked MCS to employ Australians and to put an Enterprise Agreement in place. MCS has not taken up these suggestions.

**In a COVID-19 environment Australians deserve better returns on taxpayer dollars than this potentially missed opportunity for employment and training that the AAD has delivered.**

**Issues of concern with foreign seafarers on the *MPV Everest*:**

- Potential to bring COVID 19 to Antarctica
- Inability to do crew change leaving these seafarers on board for the duration of the charter
- Inexperience in Antarctica

**Response to AMOU**

From the correspondence the AAD advised us that they have a Charter Agreement with MCS, but they will not show us. They told us that Agreement leaves crewing up to MCS and advised us to contact them directly about who they employ and the conditions of employment. MCS advised they were happy to continue the international composition of the crew which they say is in line with the AAD-MCS Charter Agreement. They made no comment on our request to negotiate an Australian Enterprise Agreement.

**Response to MUA**

Under the Charter Agreement the AAD has entered into with Maritime Construction Services (MCS), the operators of the vessel, MCS is responsible for operating the vessel in line with all applicable International Maritime Organisation, Flag State and Australian Government rules and regulations, which includes the crewing of the vessel. MCS have engaged Kuiper International to assist in the recruitment of crew for the vessel during the AAD's charter and Australian seafarers are being afforded the opportunity to apply to work on the vessel under the recruitment processes being employed by Kuiper International. The AAD is working with MCS to ensure operations from the vessel whilst under charter to the AAD are conducted safely and efficiently, whilst also ensuring that both parties adhere to their compliance obligations under the Charter Agreement. This includes ensuring that the AAD's obligations, as the charterer of the vessel, under the *Fair Work Act* are met.

It is the strong view of all 3 maritime unions that this is Australian cabotage run and should be completed by skilled Australian seafarers that are experienced in the Antarctic environment."

## Eastern Area

### Marty McEvilly Industrial Officer (Sydney)

#### Teekay Shipping (Australia) – *Dampier Spirit*

At the time of writing, the *Dampier Spirit* remains off the Australian coast and is in the final stages of tank de-mucking and cleaning before her tow to Turkey. The process has taken significantly longer than was anticipated. She disconnected from the CALM buoy in late September and is at anchorage nearby. Jadestone has now started the process of using a fleet of offtake tankers to directly offload Stag crude oil, rather than using a FSO. Jadestone, the operators of the field, have claimed that this will result in savings of 20% over the current operations. This meant that the crew of the *Dampier Spirit* had to watch on while the first of these foreign flagged and manned tankers received cargo in early October. By all accounts, this exercise was poorly managed, and we are once again left wondering how the regulators can allow this to happen to Australian jobs in Australian waters. The timeline for the vessel to depart has not been finalized, though is expected to take place in November at this stage. Teekay has repeatedly reported that there is little to no opportunity for redeployment, so redundancies will be made from the time she departs.

#### Transdev Sydney Ferries

Although the Minister for Transport has announced that the first of the Freshwater class ferries is going to be retired in early 2021, little to no detail has been provided to the Unions from Transdev about the announcement. There have been discussions at recent MCCs where we have demanded information from management, but they have repeatedly said that they knew that the Manly vessels would leave at some stage during the life of their contract and they were waiting on the government to decide when. This is disappointing news, and our members can see obvious problems with the plan to replace the 1,100 pax capacity vessels with the 400 capacity Emerald class. We believe that there is still life in the vessels if the government and Transdev were willing to put in the effort but as usual with this government that appears to be the last thing on their agenda. Members are encouraged to speak to their local MPs and to get involved in action groups to save the Freshwater class if they wish, however are reminded to ensure they do not do or say anything that brings their employer into disrepute, which could very easily result in disciplinary action. For advice please feel free to contact me or any of your delegates.

With this news comes the discussions on what happens to displaced Engineers and deckhands, along with the company's desire to remove the Masters OH allowance. We have been getting prepared for these discussions for a long time and will be ready for when the discussions start.

In other vessel-related news, the first four new river vessels have arrived in Sydney after the final removal of asbestos from them was completed. They are currently in the process of undergoing acceptance trials and the final fit out from Balmain. Risk assessments will need to be completed and we have still to have proper manning discussions before training starts in what looks like it will be a busy summer for members, delegates and Union officials. As always, your delegates are doing a wonderful job of keeping on top of issues and will continue to keep you informed as things evolve.

#### Fantasea Cruising Masters, Coxswains and Deckhands EA 2019

On 09 September 2020, the Full Bench of the Fair Work Commission handed down its decision in the MUA led appeal against the approval of the Fantasea EA. They dismissed the appeal grounds, meaning that the EA remains in effect. The EA was voted up on 01 August 2019 and there have been significant legal battles going on in the background since then. The company also had another win in the FWC against the MUA, when Deputy President Sams refused to rule on a dispute application brought under the new JobKeeper amendments to the Act. This related back to the company's use of JobKeeper to pay backpay entitlements agreed to under the terms of the EA. This was a very disappointing and weak position for the Commission to take given the company clearly exploited a loophole to their benefit. Away from the Commission, the next Consultative Committee is due to take place in the coming weeks. If members have any items they would like discussed, please contact me or your delegates.

#### Port Authority of NSW – Newcastle

Our Newcastle Pilots refused to board a vessel, the bulk carrier *Divinus*, in mid-October as a result of information from NSW Health that there were sick crew on board. Health and Port Authority requested the vessel be brought alongside for Covid-19 testing to take place before any crew could disembark. Although the vessel was subsequently not deemed a heightened Covid risk by Health, and they referred to the testing as being precautionary only, the Pilots were rightly concerned that they were being asked to board a vessel that had the chance of containing Covid cases and having to stay in close proximity to the crew for a number of hours. The matter was ultimately resolved but not before it was made clear that the process for bringing in vessels that did have a heightened Covid risk needed to be reviewed. Following some excellent work by the delegates, we have settled on a position that means Pilots get access to better information in such scenarios, that requires self-testing to be done on board before any Pilot boards, that ensures that only those who volunteer will undertake such pilotages, and that isolation facilities are provided if that pilot chooses to use them. This area will likely evolve as the global pandemic evolves, but I would like to express my thanks to all Pilots for their unity and to the delegates for their tireless work in finding appropriate outcomes to these situations.

While on the topic of Pilots, the NSW Pilotage Code is due for review and Pilot representatives from each three areas of PANSW have been nominated to attend the upcoming discussions with management and Transport. Both myself and Mark Davis will be involved on behalf of the AMOU.

I have yet to be introduced to the new Harbour Master, but I am led to believe that he is eager to pick up and run with the VTS transition process. I am certain that consultation with the Unions will take place when this project starts to pick up speed.

## Port of Newcastle

Our most recent Consultative Committee was held on 20 October 2020. Although brief, business and WHS updates were provided but the primary purpose of the meeting was to enable PON to push through a new Agile Working policy that management wanted in place prior to allowing employees to return to the office. All non-operational employees (this excludes Dredge, Wharf Officers and Vessel Schedulers) will be asked to complete a form nominating whether they would like to return to work in the office on certain days of their nomination, or work from home or another location. There will be restrictions on those who can return to the office due to distancing requirements, but all members are asked to consider their circumstances and to pay close attention to the policy.

The Dredge is still at Yamba for dry dock. It is expected back in November, subject to everything going well after a number of snags and delays. Members have been kept busy with training courses while the Dredge has been away, to such an extent that it was revealed that PON is running out of training to provide for the next few weeks.

## Port Authority of NSW – Sydney

There have been no updates on the fleet review since the last monthly report. As mentioned, Birdon has been selected as the supplier of the new firefighting vessels and after the last consultation meeting, a list of questions and requests for further information have been sent to them. Port Authority have made the commitment that the vessel that has been agreed upon is not the lowest spec one they tendered, though we remain unconvinced and it seems apparent that the decision has already been made to go for the cheapest option despite some glaring flaws having been pointed out to them repeatedly. Hopefully when the answers to the questions come back, the process will become more transparent and the feedback of those who will be using the vessels will start to be genuinely heeded. We shall see. The remainder of the fleet review process appears to be on hold pending the fire tugs question.

In further news, the new drug and alcohol policy is in its final stages of consultation. A meeting was held with the consultative committee group along with the WHS committee to discuss the proposed policy in early October, with another scheduled at the time of reading.

Finally, the VTS fatigue meeting scheduled for 21 October was cancelled by management at the last minute and proposed to be rescheduled next month. Any members who have questions or concerns are asked to contact myself or your delegate.

## Port Authority of NSW – Port Kembla

A VTS transition meeting was held on October 13. It was confirmed that the final sign off from AMSA is outstanding due to delays resulting from the coronavirus pandemic. The upgrade of the VTS facility itself is currently taking place, with the team temporarily

relocated until it is finished, likely to be sometime late November. Also outstanding is the remuneration increase that has been agreed as a result of the transition to VTS from a VTIC. Port Authority has run into numerous obstacles, not least the restrictions in place from the government wages policy taskforce. Management appears confident that they have found a suitable alternative arrangement, though it may take an EA variation to achieve this. We are awaiting further correspondence from Port Authority with regards to this plan.

## Transport for NSW/RMS

We continue to engage in regular consultation with TfNSW with regards to Covid-19 and its ever-evolving impact, particularly on public transport. It's clear that there is a push to return people to office work, particularly in the city, so passenger numbers are continuing to rise. There have also been significant updates in the last few weeks as a result of the number of restructures and role transitions currently taking place. Employees of maritime are not impacted by these changes at this time.

## Captain Cook Cruises

Negotiations for the first modern Enterprise Agreement for Captain Cook Cruises are ongoing, but they are unlikely to go for much longer. We have reached an impasse and the company has provided a copy of a draft agreement and asked for final feedback, while putting the Unions on notice that they intend to put it out to a vote of employees. Although they have accepted a number of our claims, such as an indemnity clause and paid community services leave, the major sticking points are term, rates of pay, casual loading, dispute resolution clause and consultation. However, neither side is willing to budge much further. We have provided feedback to the company's draft and have not heard back. Unless there are improvements to the document we will have little option but to recommend a no vote. We will know more in the coming weeks as the company appears confident that they will persuade their employees to vote up this agreement without Union endorsement.

## Keolis Downer Hunter – Newcastle Ferries

Since the last update we have heard little from Keolis Downer with regards to their planned roster change to meet Transport for NSW's proposed timetable update in October. We have learned that the change is now not due until November, however the company have made no effort to respond to our letters of feedback or take into genuine consideration the views of their employees. With November fast approaching we are concerned that they may try to force a change, but we will likely find ourselves in dispute territory and with EA negotiations due in mid-2021 this is not going to be something that management want to end up in. Our position remains that Master's will assist the company in any way to improve the service offered to Transport and the public, but not at the cost of safety or by simply cutting down workers entitlements.

# Eastern Area

## Tracey Ellis

### Organiser (Brisbane)

#### Ports North

##### Admin & Technical and Operations & Maintenance EAs

The AMOU reached in principle agreement on the Admin & Technical and Operations & Maintenance enterprise agreements. The agreements were good in providing a 9% pay rise over 3 years, extra fatigue reduction provisions and a commitment to maintaining a permanent workforce. Unfortunately, all of the time Ports North spent trying to prevent the AMOU from representing members ate up negotiation time we had before the Government went into caretaker mode before the election. In my opinion, that forced the employees to reach in principle agreement under duress instead of allowing them sufficient time to negotiate cost neutral claims such as recognising the employees under the agreements as maritime workers or providing a RDO package for salaried staff. Ports North has submitted the relevant paperwork to Government, and we are waiting for CBRC Approval before the Agreement goes to ballot.

##### Pilot EA

The Pilots reached in principle agreement on a rollover with 9% over three years as per the Government Owned Corporations Wages Policy without the need for a formal meeting. Ports North has submitted the relevant paperwork to Government, and we are waiting for CBRC Approval before the Agreement goes to ballot.

#### Australian Reef Pilots

The Enterprise Agreement was voted up 28-1 and the document has been filed in the Fair Work Commission for approval. This is a great result that came from the Pilots becoming fed up with being on individual contracts, some that included different conditions to their colleagues, getting unionised and showing the Fair Work Commission and ARP that the majority of the Pilots wanted to bargain for an enterprise agreement. The enterprise agreement gives them collective power in negotiations and the ability to take disputes to the Fair Work Commission.

#### Svitzer Bowen

The unions have advised the Fair Work Commission that there is still disagreement on the POPs issues and have asked for the Commission to facilitate a conference to resolve the issues. The outstanding items are internet provisions, essential maintenance on weekends and public holidays and breaks. More information about Svitzer can be found in Chris Neiberding's Industrial Report.

#### MSQ

##### VTSO review

The latest VTSO Working Group meeting was postponed because too many people were unavailable. Another date will be advised shortly.

#### MSQ Consultative Committee Meeting

The last Consultative Committee Meeting was postponed due to the lack of agenda items. Please let me know if there are any items you'd like raised.

#### MSQ Maritime Enforcement Team

The AMOU and AIMPE met with management to discuss the how the new MET will fit into the current Agreement and pay structures, noting that MET Officers are required to work more weekends than other roles. MSQ suggested they go under the Admin Agreement because they believe it has suitable provisions. Both unions insisted MSQ vary the current Marine Agreement to suit the MET officers. They have agreed to look into it and will get back to us.

#### Curtis Island Ferries

I stopped in to talk to Masters at Curtis Island Ferries while I was in Gladstone. EBA discussions are continuing and agreement was reached on how the banked leave will accrue around the end of the financial year. The company and the unions are not far apart on the wages claim with the unions asking for 3% and SeaLink offering WPI which is currently sitting at 2.6%. We were hoping to have the EA agreed and approved before the old one expires at the end of December but that doesn't look likely. The AMOU will press for backpay should we not meet the deadline.

#### Port of Townsville

##### Port Services

The Ballot for the Port Services Enterprise Agreement and the Administration, Technical, Supervisory and Professional Employees Enterprise Agreement will be held between 26 and 27<sup>th</sup> October. Management has already sent out the link for the online process.

##### Pilots

The Pilots are still working on agreement with that Port that allows Pilots to work part time as the transition to retirement. It appears that everything is in agreement except for how their entitlement for a car will be affected. POTL intend to come back to us with an updated draft document and a position on the car soon.

#### Pro Dive

We won our Appeal of the Fair Work Commission's decision to approve the Pro Dive Cairns Enterprise Agreement using the Professional Diving Industry (Recreational) Award instead of the Marine Tourism Award. The full bench determined that the Masters should be Better Off Overall Tested against the Marine Tourism Award and the Agreement has been remitted to Deputy President Asbury to determine whether it does pass the BOOT. The AMOU and MUA are confident that the Agreement won't pass the BOOT so it is likely the company will have to make some undertakings to ensure it does pass.

## Brisbane Ferries

It has been confirmed that Transdev and Brisbane City Council will share the cost of the Xmas Bonus. They have not indicated what date this will be paid yet but I will let members know as soon as I find out.

River City Ferries has confirmed that the ferries will be back on 15<sup>th</sup> November, except boat 4 and 7. It is likely that it will be the KittyCats and one monohull. RCF still intends to employ all of the Mono Masters when the company changes hands. When RCF takes over, the AMOU will start discussions around how Master 5s are going to get sea time for their Master 4 tickets without any 15 metre monohulls in the fleet. The Council has not announced what they will be doing with the wooden monohulls yet.

The new EBA has been filed in the Fair Work Commission for approval. It is a cut and paste from the old Agreement but has RCF as the employer instead of Transdev. Both unions will be party to the Agreement.

The Fair Work Commission has not made a decision about the Dual Duties dispute yet.

## Smit Lamnalco

### Smit Lamnalco Gladstone

Smit Lamnalco has notified the unions that they will accept the crews' proposed roster on the proviso that the split start times are replaced with sliding start times. The crews are currently considering the company's proposal.

The AMOU requested the company reconsider their position on whether the 30-minute recall in an emergency is timed when the crews walk through the gate or whether the crews must be steaming within 30 minutes of getting a call to return to work. Smit will get back to us with their official response in due course but, in the meantime, management has guaranteed that they will not discipline anyone on a primary or secondary shift if they arrive at the base within 30 minutes of the call. The date for the next EA meeting has not been set yet.

### Smit Lamnalco National EA

Smit has issued crews with a Notice of Representational Rights to begin the bargaining process for a new agreement but a date for the first meeting has not been set yet. Once the AMOU delegates have finalised their Log of Claims I will follow up with the company about a meeting date.

