

GOVERNMENT RESPONSE TO THE REPORT OF THE HOUSE OF
REPRESENTATIVES STANDING COMMITTEE ON TRANSPORT
AND REGIONAL SERVICES:

Ship Salvage

*Inquiry into Maritime Salvage in
Australian Waters*

September 2006

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1. INTRODUCTION

This document details the Australian Government Response to the recommendations made by the House of Representatives Standing Committee on Transport and Regional Services: *Ship salvage - Inquiry into Maritime Salvage in Australian Waters*. The Government thanks the Committee for its inquiry and the report, and agrees with the Committee's key findings and recommendations relating to the need for a national, strategic approach to the provision of maritime emergency response capability and the handling of emergency response situations around the Australian coastline.

The report complements the work that the Government has been progressing with the State and Northern Territory Governments through the Australian Transport Council (ATC) to address the public interest in the availability of emergency towage capacity to assist ships near the Australian coast.

In June 2005, the ATC agreed in-principle to the establishment of an integrated national approach to the provision of emergency response arrangements involving minimum levels of emergency towage capability in strategic regions around the Australian coastline and a regulatory framework for a co-ordinated approach to emergency response issues. The in-principle agreement was on the basis of full cost recovery from the shipping industry. The Government considers that such cost recovery arrangements are more appropriate than the tripartite funding mechanism proposed by the Committee.

The details of this integrated national approach, known as the National Maritime Emergency Response Arrangements, were developed by the Australian Maritime Group, a sub-group under the ATC, and were agreed to by the ATC on 18 November 2005. All key elements of the National Maritime Emergency Response Arrangements have now been implemented.

The National Maritime Emergency Response Arrangements:

The National Maritime Emergency Response Arrangements include a two-pronged national approach based on:

1. the provision of a minimum level of standby emergency towage capability in a number of strategic regions around the Australian coastline through contracts let following competitive tender processes. Each of these regions will have at least one ocean-going emergency towage vessel (ETV) engaged under contract by the Australian Government through the Australian Maritime Safety Authority (AMSA). In order to be cost effective, operators of these vessels will be expected to provide an ETV capability as an adjunct to other services.

In recognition of the special sensitivity of the Great Barrier Reef (GBR) and Torres Strait region and the fact that there are no suitable port-based or other assets within a reasonable steaming distance, the Australian Government has contracted a vessel to provide a dedicated standby emergency towage capability for the northern section of the GBR and the Torres Strait; and

2. legislation by the Australian Government to enhance the regulatory framework for intervention in Australia and management of maritime incidents involving the threat of significant pollution.

The necessary legislation has been enacted. The enhanced regulatory framework ensures that consistent and timely decisions can be taken in the national interest with the objective of preventing or minimising pollution damage to the marine environment.

The legislation clarifies, through amendments, the Australian Government's current powers of intervention under the *Protection of the Sea (Powers of Intervention Act) 1981* (the Act). The Act empowers AMSA to take such actions as are required to prevent or minimise pollution from a shipping incident including, but not limited to, powers to direct the owner/operator or master of a ship or a salvor in possession of a ship that is in danger of causing pollution or has caused pollution.

2. GOVERNMENT RESPONSE TO THE RECOMMENDATIONS

The report *Ship Salvage - Inquiry into Maritime Salvage in Australian Waters* contains eight recommendations. The Government's response to each of the recommendations is as follows:

Recommendation 1

The Committee recommends that the AMSA, with industry consultation and input, make an assessment of Australian ports to determine the most strategic placements for salvage-capable tugs and their equipment.

Government Response

Agreed

The Australian Maritime Safety Authority (AMSA) and the Department of Transport and Regional Services commissioned an independent risk assessment of changes in emergency towage and salvage capacity in late 2004. This was followed by a number of stakeholder consultation workshops involving other jurisdictions and industry in major cities in early 2005. The Government agreed that a dedicated emergency towage vessel be located in the northern section of the Great Barrier Reef (GBR) and Torres Strait, and the remaining Australian coast be protected by placing suitable emergency towage capable tugs at a number of strategic areas. Contracts for these services have been finalised by AMSA following competitive tender processes. The north Western Australia service commenced on 1 June 2006. This is being provided by Riverwijs Dampier. Australian Maritime Systems Ltd is providing the dedicated service in the northern Great Barrier Reef and Torres Strait region. This service commenced on 1 July 2006. For the remaining seven regions around Australia, a contract was signed with Adsteam Harbour in late June 2006 for a five year period. These services also commenced on 1 July 2006.

Recommendation 2

The Committee recommends that to support the continued provision of salvage capability in designated ports, the additional revenue should be raised by:

- *An increase in either light dues or the shipping levy to raise one third of the estimated revenue required;*
- *The Australian States and Northern Territory to provide one-third; and*
- *The Australian Government to provide the remaining one-third.*

Government Response

Not agreed

Salvage and emergency towage capabilities have traditionally been provided by the shipping and towage industries on a commercial basis. The Australian Transport Council (ATC) concluded that the cost of continued provision of emergency response capability should be met through a single national levy on shipping consistent with the 'potential polluter pays' principle. The necessary legislative changes to the *Protection of the Sea (Shipping Levy) Act 1981* were passed by the Parliament in September 2005 to allow for collection of the levy revenue required for this purpose.

Recommendation 3

The Committee recommends that the subsidy for salvage capability be paid to a company which successfully tenders for the towage contract in a designated port, subject to an audit by AMSA to ensure that salvage capability is maintained at a satisfactory standard and the sum involved is an accurate reflection of the costs incurred.

Government Response

Agreed

The National Maritime Emergency Response Arrangements agreed by the ATC provide that AMSA will organise competitive tenders for emergency towage capability in strategic regions in Australia and that AMSA will manage the auditing function associated with this arrangement. As indicated in the response to Recommendation 1, AMSA has completed these tender processes.

Recommendation 4

The Committee recommends that the tripartite funding arrangement proposed in recommendation 2 be reviewed every three years by the Australian Government's Standing Committee on Transport.

Government Response

Not agreed

The tripartite funding model recommended by the Committee was not supported by the ATC. Under the agreed National Maritime Emergency Response Arrangements, the costs of funding the national approach will be fully recovered from the shipping industry through the Protection of the Sea Levy. Review of this funding arrangement will be conducted every five years in accordance with the Australian Government's Cost Recovery Guidelines.

Recommendation 5

The Committee recommends that Articles 9 and 11 of the International Convention on Salvage 1989 be enshrined in Australian law.

Government Response

Agreed

The obligations in Articles 9 and 11 of the International Convention on Salvage 1989 are currently met in existing Australian law.

Article 9 of the Salvage Convention deals with the rights of coastal states to protect its coastline from pollution and allows these states to take measures in accordance with international law, including giving directions in relation to salvage operations. The powers to take such measures and to give directions are enacted through the *Protection of the Sea (Powers of Intervention) Act 1981*.

Article 11 of the Convention concerns the obligations of parties to the Convention to cooperate with salvors and other interested parties and public authorities when taking actions in relation to salvage operations. The duty to cooperate and consult is covered by the obligations placed on AMSA under the *Protection of the Sea (Powers of Intervention) Act 1981*.

Recommendation 6

The Committee recommends that AMSA, in consultation with State governments, industry and other interested parties develop a national plan for emergency response/salvage operations. The plan should have regard to the following needs/issues:

- *The ability for a salvor to negotiate with one authorised person/authority so as to avoid the necessity of separate negotiations with a number of interest groups in an emergency;*
- *Legislative protection for port authorities and tug operators to allow the release of tugs to carry out emergency response operations.*

Government Response

Agreed

The Government has implemented the elements of the National Maritime Emergency Response Arrangements as agreed with the states, Northern Territory and industry, which provide for a single national decision-maker for the management of incidents involving potentially significant pollution. The Government amended the *Protection of the Sea (Powers of Intervention) Act 1981* in early 2006 to ensure prompt release of port tugs during an emergency, and to protect all persons operating under the direction of the national decision-maker.

Recommendation 7

The Committee recommends that the Government subsidise the provision of training courses in Australia in subjects related to maritime salvage operations and that greater use should be made of Australia's maritime training and education resources in this area.

Government Response

Noted

The Government supports the view that Australian maritime training and education institutions should be able to provide appropriate courses for salvage operators, although this is primarily the responsibility of the maritime salvage industry, state and territory governments and training institutes. Over the life of the 2005-2008 Skilling Australia's Workforce agreement, the Australian Government is already committing \$4.9 billion to state and territory governments to support their efforts in vocational and technical education. The funds supplement those provided by state and territory governments, which are responsible for all aspects of their training systems, including decisions on policies, priorities, the types of courses offered and the places available. However, the Australian Government has no power to direct states and territories to implement particular training programs.

In addition to the funding provided to state and territory governments, in 2005-2006 the Australian Government provided \$15.4 million to 10 Industry Skills Councils. These Councils develop competency standards across a range of industry sectors. The standards, grouped into industry Training Packages, form the basis for nationally recognised qualifications and courses offered by training providers. The Transport and Logistics Industry Skills Council (TLISC) has developed the Maritime Training Package, consisting of industry-validated standards, qualifications and assessment information. This Package is subject to continuous improvement requirements, to ensure it meets emerging or changing industry needs. The maritime salvage sector can work with the TLISC to ensure specific requirements related to salvage can be incorporated into the Maritime Training Package.

Recommendation 8

The Committee recommends that in determining the site to be used as a place of refuge, the person making the final decision must have an adequate level of maritime experience, understanding of maritime safety issues and appropriate maritime transport ministerial authority.

Government Response

Agreed

A suitably qualified person with appropriate maritime qualifications already has been appointed by the Australian Maritime Safety Authority to perform the role of the national decision-maker.

The Government notes, however, that certain critical decision making powers concerning sinking or destroying a vessel, under the current powers of intervention legislation, are properly reserved for the responsible Minister, who would in practice act with the advice of suitably qualified officials as has been the case since the introduction of the intervention powers.