

IN THE FAIR WORK COMMISSION

Matter No: B2022/1726

Re Svitzer Australia Pty Limited

WITNESS STATEMENT OF MARK MORROW

I, Mark Morrow, Executive Director, Response Division of the Australian Maritime Safety Authority, say as follows:

1. I have been in the role of Executive Director, Response Division, since 6 December 2018. Prior to this role, I have worked in a number of emergency management positions including as an Assistant Commissioner in the NSW State Emergency Service.
2. I have been appointed by the Australian Maritime Safety Authority (**AMSA**) as the Maritime Emergency Response Commander (**MERCOM**). The MERCOM is responsible for the management of emergency intervention issues in response to maritime casualty incidents.

Fair Work Commission's consideration of whether industrial action should be suspended or terminated

3. I am aware that Svitzer Australia Pty Ltd (Svitzer) has notified its employees covered under its 2016 National Towing Enterprise Agreement, and also the relevant maritime unions, that it intends to take industrial action in the form of lockout, and that this will take place from midday on Friday, 18 November 2022 and continue indefinitely. I understand that Svitzer has advised that during this time no vessels will be towed in or out of the 17 ports across Australia in which Svitzer provides towing services.
4. I am also aware that the Fair Work Commission is considering whether it should suspend or terminate the intended action.

Emergency towing capability

5. Under the *Inter-Governmental Agreement on the National Maritime Emergency Response Arrangement*, an appropriate level of emergency towing capability and availability around the Australian coastline is to be maintained, in line with assessed levels of risk.
6. To ensure this capability, and under the National Plan for Maritime Environmental Emergencies (**Plan**), arrangements have been put in place for suitably equipped vessels to respond, at short notice, to tasking from AMSA to perform first strike emergency towing services in the event of a maritime casualty. Under these arrangements AMSA has contracted with towing service providers to respond, at short notice, to a vessel in distress (which is referred to as a "casualty") in each of the 11 established geographic regions around Australia. Such casualties may include vessels that have lost power, suffered

equipment breakdown or malfunction, caught fire or lost their anchorage or mooring capability. If such vessels run aground there may be a risk of a significant oil or noxious substance spill, leading to serious environmental and ecological outcomes.

Svitzer is the main provider of emergency towage capability

7. Under the Plan, Svitzer is the main provider of emergency towage capability, providing capability for 8 of the 11 regions around Australia. 6 of those 8 Regions are potentially impacted by this action. It is contracted to provide both 'stand by' and an 'on-task' services. Stand by services require Svitzer to maintain vessels with particular equipment and suitable crews and supplies, ready to undertake emergency towage services at short notice.
8. The lockout notified by Svitzer will impact upon emergency towage capability in the regions impacted by the lockout, including Queensland, New South Wales, South Australia, and Western Australia. I understand that the lockout will not involve personnel of Svitzer in the Northern Territory or Victoria.
9. If Svitzer ceased to provide emergency towage services, there would be a substantial reduction in the availability of suitably equipped vessels to provide those services in the event of a maritime casualty. It is possible that there would be no vessels with sufficient capability available to respond to a casualty in the location where the incident occurred.
10. Even if an alternative service provider was available in proximity to where the incident occurred, it is likely that the vessel(s) supplied would require a greater period of time to prepare to respond and/or may have less capability, and therefore, may provide a lesser response to mitigate risk to the environment, the ship and the safety of those on board.
11. The inability to provide emergency towage capacity or delays in the provision of emergency towage services, could lead to decreased capacity to assist operators:
 - (a) reduce risks to the vessels and the safety of those onboard; and
 - (b) prevent serious environmental incidents, such as oil spills.
12. On the 4th July 2022, an incident occurred involving the bulk carrier *MV Portland Bay* off Port Kembla, New South Wales. The ship had developed main engine problems and was unable to keep clear of the coast, due to an 'east coast low' severe weather event, which caused the vessel to drift toward the cliffs at the Royal National Park. The vessel was carrying 809 tonnes of heavy fuel oil and 133 tonnes of diesel, and if it ran aground, posed a serious environmental risk of an oil spill. Svitzer towage vessels deployed from Port Botany, and a third vessel was directed to deploy, and did deploy, from the Port of

Newcastle, to assist the *Portland Bay*. The vessel was safely kept from running aground and was towed into the Port of Sydney.

13. In October 2022, a separate incident occurred involving a cargo vessel, the *Rio Madeira*, in which the vessel lost power and drifted from off Port Botany to the vicinity of Eden on the south coast of New South Wales. Svitzer's towage vessel was directed to deploy, and did deploy, from the Port of Newcastle to assist. These are the only recent incidents in which the Svitzer contract has been activated by AMSA.
14. AMSA has received a seasonal forecast indicating that due to the La Niña event currently being experienced, there is an increased likelihood tropical cyclones and severe weather events through December 2022 and January 2023. Experience shows that maritime casualties are more likely to require assistance in these weather conditions.
15. Experience also shows that in the event of severe weather events, such as an 'east coast low' port authorities may direct vessels to leave port. This combined with the number of vessels currently en-route to Australia who may be refused entry to closed ports arising from the Svitzer action, will potentially increase vessel congestion as vessels take up a holding pattern or anchorage offshore. In the event of a maritime casualty, as explained above at paragraph 9, there may be a substantial reduction in the availability of suitably equipped vessels to provide towage services during the period of lockout which Svitzer had announced.
16. The current level of towage capability provided by Svitzer under the existing arrangements with AMSA is amongst the most capable across Australia. It is, however, the last line of dedicated defence in the event of an incident and will be unavailable during the period of the lockout.



SIGNED BY MARK MORROW
Date: 17 November 2022

