

## Nautical Institute Seminar

### Preventing Shipping Incidents in the Great Barrier Reef: A Hypothetical Discussion

Queensland Branch, Brisbane, 25 March 2015

On 25 March 2015, the Queensland branch of the Nautical Institute held a hypothetical discussion on preventing ship incidents in the Great Barrier Reef. The hypothetical was conducted by Professor Sarah Derrington, Dean of Law at the University of Queensland, a noted author in maritime law and Fellow of the Nautical Institute. Professor Derrington put the evolving scenario to a knowledgeable panel comprised of Nautical Institute members and invited guests.

The panel comprised:

- Captain Peter Liley MNI, Brisbane Marine pilot and formerly a GBR Pilot
- Captain Brian Beveridge MNI, Retired Shipmaster
- Captain Bruce Victor MNI, a serving Great Barrier Reef Marine pilot
- Commander Jim Huggett RANR, Executive Director at Maritime Safety Queensland (MSQ)
- Captain Mike Hooley AFNI, a senior investigator with the Australian Transport Safety Bureau (ATSB)
- Ms Jocelyn Parson RANR, Manager of Salvage and Intervention at the Australian Maritime Safety Authority (AMSA)
- Captain Ernie Van Buuren MNI, partner at Norton Rose Fulbright



The scenario put to the panel involved a cape sized ship, the "Heavy Lifter", losing its steering outbound to the Hydrographer's Passage through the Great Barrier Reef after loading at a coal port in North Queensland.

Captain Victor was the first panel member to respond noting that as the Reef Pilot he had been on board the ship already for four or five hours as the reef pilot outbound from the coal loading port. Whilst the compulsory pilotage area had not yet been entered, he would have prepared a passage plan and would have been consulting with the master prior to making the entry into Hydrographer's Passage. Upon losing steering, Captain Victor noted that it might have taken three or four minutes before the ship's crew had told him and the first clue would have been an increasing rate of turn. His first response would be to contact REEFVTS, other traffic on the reef would be informed and consideration would be given to the present weather, direction of drift, state of tide and the engineering response on board to the technical issues.

Jim Huggett from MSQ gave a brief background to the operation of REEFVTS noting its sophistication, the suite of sensors available, and the procedures that are in place to respond to a potential casualty.

Jocelyn Parsons from AMSA advised that the REEFVTS report would have gone through the Canberra Rescue Coordination Centre and so all of the Commonwealth response agencies would be alerted at an early stage also.

Professor Derrington told the panel that the ship had lost one anchor in a typhoon on the previous trip, and the other anchor was stuck on the gypsy, consequently the ship could not anchor. Captain Victor responded that the reporting regime required all defects to be reported through REEFVTS and the lack of an anchor would have been known to both the reef pilot, AMSA and to MSQ.

Ernie Van Buuren from Norton Rose Fulbright was asked whether the ship was seaworthy with only one anchor. Ernie responded that obviously class would have had to provide a dispensation to sail with only one anchor, but if the other anchor was also inoperable, then that would have important liability consequences, including insurance consequences, post any incident.

As the incident progressed, and it appeared that the ship had also lost main engines and was not under command and drifting ever closer to grounding upon the Great Barrier Reef, Jocelyn Parsons explained how the Australian Maritime Safety Authority response would be constructed, including:

- seeking additional information from the master of the "Heavy Lifter" so as to obtain improved situational awareness;
- obtaining details of the mechanical breakdown and estimated time of repair;
- the rate of drift and the weather forecast;
- the nearest point of danger in terms of distance and time
- the emergency towage response available, including the dedicated emergency towing vessel, Coral Knight;
- the availability of non-towage assets in the vicinity, that is, vessels of opportunity;
- liaising with both the Master and the pilot, particularly in circumstances where the master's English is their second language and obtaining the services of an interpreter may be required.

Jim Huggett provided an update on the MSQ response. Whilst MSQ was the lead marine pollution combat agency in the Great Barrier Reef and to this end would be preparing resources to respond to any oil spill, they would be looking to the Australian Maritime Safety Authority to lead the casualty prevention response. The Great Barrier Reef Marine Park Authority was also a legitimate stakeholder, and were being kept informed, but they had no active role in the management of the response at this point.

Professor Derrington then put to the panel that there were two vessels of opportunity in the vicinity, the “Bunga Petrol”, a 170 m length overall products tanker under the command of Captain Brian Beveridge, and the “Ballast Champion”, a cape sized bulk carrier in ballast with Captain Peter Liley, reef pilot, on board. The “Ballast Champion” was approaching Hydrographer’s Passage from the Coral Sea and the “Bunga Petrol” was northbound from Brisbane carrying petroleum products for the Queensland coastal ports of Mackay, Townsville and Cairns.

Interestingly, both vessels had a significant detention history, and the relevance of that history was considered by the panel. The following points were made:

- the detention history is not always known to the pilot on board, and it is not normally part of the master/pilot exchange
- the detention history usually has more relevance after an event or incident
- whilst the detention history is accessible on databases, subscriptions are required and are not generally accessed for operational purposes
- AMSA do however consider the detention history when thinking about intervention orders and requiring vessels to assist the casualty if safe to do so, as well as the type of vessel involved, the training of the crew, the equipment available and also expert towage expertise
- AMSA also use detention history for prioritising the port state control inspection program, and it would be expected that the “Heavy Lifter” would both be detained and thoroughly inspected after this incident.

By this point, the proximity of the “Heavy Lifter” to the Great Barrier Reef, the worsening weather, the approach of darkness and the lack of available towage assets meant that an urgent decision needed to be made about whether either the “Ballast Champion” or the “Bunga Petrol” would be required to assist the stricken vessel. Some of the issues considered in relation to this decision were:

- the difficulties of passing a line from one ship to another at sea, including the use of a fishing vessel, rocket lines and lifeboats
- the position of the Bunga Petrol, being a part loaded products tanker, and the additional hazards posed by the cargo
- the size and limited manoeuvrability of the “Ballast Champion”
- the safety of the ships and crew attempting to render assistance
- the legal issues associated with salvage, including Lloyds open form (LOF) and advice being sought from owners and insurers
- whether mooring lines were adequate to conduct a tow or whether merely maintaining position was sufficient. Reference was had to dynamic and static loads on mooring lines and their suitability
- whether Yokohama fenders were available to protect the ship offering towage assistance
- whether it would be better to allow the Heavy Lifter to run aground rather than endanger another ship and potentially increase the overall environmental damage
- the role of experts in providing advice both to the Masters involved and to the response agencies so as to ensure an effective outcome
- the use of intervention directions under the Powers of Intervention Convention were an easy thing to do, but if there was a safety issue then that was the overriding factor. The advice of the Masters involved was fundamental to the prudent exercise of such statutory powers.

On the issue of environmental decision-making, Jim Huggett referred to the Oil Spill Response Atlas, which contained a large amount of information concerning environmentally sensitive areas that would allow decision-makers to prioritise response efforts and to identify the issues associated with this particular vessel in this particular location.

Professor Derrington then referred to the evolving incident as obtaining widespread media coverage. The response agency with the lead on media was identified as AMSA, and the specialist media officer would have the carriage of media releases. Politicians were also being briefed at both Commonwealth and State level.



In the scenario, the “Bunga Petrol” was successful in putting up a line, and holding the Heavy Lifter off the reef until towage assets arrived on scene. Even with this happy outcome, further discussion was had concerning the following issues:

- the apparent breakdown in communication between the emergency towage assets that should have been available much sooner;
- given significant response activation from both AMSA and MSQ had occurred, cost recovery in relation to the incident would be collated and pursued from the owners of the “Heavy Lifter”. Generally speaking, the invoice would be rendered in less than a month
- the charterers of the ship ought to be identified and the due diligence process for the chartering of this vessel to be examined
- whether the successful salvage by the “Bunga Petrol” would be affected by the issue of intervention orders by AMSA.
- The liability regime, including the Bunkers Convention and the compulsory insurance arrangements. For a ship the size of the “Heavy Lifter”, the limitation sum would be in the vicinity of AU\$51 million.
- However, wreck removal and salvage are not subject to the limitation; and

- it was noted that a new piece of legislation had been put before the Australian Parliament that would increase the limits of liability via proximately? 50% before the end of 2015.

Following the formal part of the hypothetical, a lively question-and-answer session ensued with interesting discussion concerning the absence of an “insurance wire” on modern vessels, the utility of the towage plan that is now required, safe working loads of bollards upon each ship noting the mismatch in sizes between the Bunga Petrol and the Heavy Lifter, and the terms of salvage being cut across by the Powers of intervention being exercised by the AMSA.

A vote of thanks was given for all participants and a great deal was learned about how shipping incidents are prevented and managed within the Great Barrier Reef Marine Park. Special thanks was given to Norton Rose Fulbright for providing the venue and refreshments.

**John Kavanagh MNI**