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Our Ref: 2014/33

Mr Michael Fleming
Australian Maritime Officers' Union
PO Box 407
HAYMARKET NSW 1240

Dear Mr Fleming

**RE: OFFER FOR A NEW DARWIN PORT CORPORATION MARINE PILOTS
ENTERPRISE AGREEMENT**

I am writing in response to your correspondence dated 4 August 2014 and, taking into account reports from my representatives involved in bargaining. It is unfortunate the parties have been unable to progress key issues in recent times particularly when I was prepared to consider your proposal to vary the term of the agreement in return for key efficiencies for the Darwin Port Corporation (DPC). Your correspondence dated 4 August 2014 clearly confirms there is no preparedness to agree to removing the minimum qualifications clause (or, wording which may be acceptable to the DPC) or, agreement on the proposed classification structure model.

We are in agreement – this office, DPC and the Australian Maritime Officers' Union (AMOU) - that operational and regulatory matters should be addressed externally and sit separately from the industrial instrument covering employment terms and conditions. I am concerned that there may be an expectation from marine pilots to finalise operational and/or regulatory matters prior to bargaining being resolved. Whilst discussions on training and principles of allocation will continue, I need to stipulate that bargaining is not subject to those discussions or finalisation of those matters.

The following reaffirms my bargaining position which was outlined in the last bargaining meeting held on 23 July 2014 but, with some concessions made in a genuine attempt to settle negotiations and ensure pilots receive their next salary increase in a timely manner.

Revised Offer

The terms of the revised offer is in accordance with the NTPS Wages Policy 2013-2016 and comprise a total package of improvements and changes to terms and conditions of employment as follows:

1. Enterprise agreement

The new agreement to be in the form of an enterprise agreement made under the *Fair Work Act 2009*.

2. Duration

The new agreement to have a four year term expiring 12 months after the final salary increase paid under the agreement which will provide employees with stability in terms and conditions for the next four years.

3. Salary Quantum

Subject to the achievement of the efficiency measures in this offer and the approval of the agreement by the Fair Work Commission:

- An initial salary increase of 3% to be paid effective from the first full pay period commencing on or after the date the parties reach in-principle agreement; and
- Salary increases of 3% per annum for the following three years after the initial salary increase, to be paid from the first full pay period commencing on or after those respective years.

Salary increases under the new agreement will not apply to employees who cease employment with the NTPS prior to approval of the agreement by the Fair Work Commission.

4. Superannuation Guarantee

As you would be aware, current Commonwealth legislation provides progressive increases to the Superannuation Guarantee (SG) charge from 1 July 2013. SG is the compulsory system of superannuation support for eligible employees, paid for by employers. Some employers, including public sector employers, have opted to off-set the cost of future superannuation contribution increases against wage increases.

The Northern Territory Government has decided not to offset the salary offers against increases in the SG during the term of the agreement. This means that the SG increases will be paid to all Marine Pilots in addition to the annual 3 per cent wage increases, rather than being included as part of the annual wage increases on offer.

5. Common NTPS conditions of employment

To retain a common core of NTPS conditions of employment, and in keeping with recent practice where the Darwin Port Corporation Marine Pilots' Enterprise Agreement refers to provisions under the NTPS 'General' Enterprise Agreement, include and update relevant clauses to continue with these arrangements.

6. Efficiencies

- Master Class 1 minimum qualification – Clause 19

We agree with the AMOU that regulatory standards should be external to the agreement. On this basis, DPC and I propose to remove clause 19 from the agreement.

- Classification Structure Proposal - withdrawn

DPC proposed a new classification structure to allow a more dynamic approach for Marine Pilots operating in a multi berth Port, and which would provide for Marine Pilots to achieve progression through a number of additional increments based on the licences issued, providing access to higher remunerations sooner than the current structure provides.

If it would settle negotiations, we are prepared to withdraw this proposal.

We do not agree with the union's claim for an additional salary point (MPL6) and disagree with the union's claims of work value case to substantiate a higher salary level; and on this basis cannot agree to utilising the industrial court system to consider such a matter without such evidence. Instead, we are prepared to issue a letter of understanding from the DPC CEO that, should the work duties and responsibilities of marine pilots change significantly during the term of the agreement, the DPC CEO would consider making a case to me to consider the marine pilots' classification structure based on any future work value change.

- TOIL

DPC proposed to change these provisions with the flexibility for pilots to be recalled to duty on their day off with a minimum of a four hour of TOIL credit. (Please refer to attachment of the OCPE draft tabled in bargaining).

We do not agree with the draft provided by the AMOU and hope agreement can be reached on the draft attached. If not, we will withdraw this proposal and operationally this will mean any pilot recalled to duty on their day off may be required to remain on duty for the whole period they are paid, that is, a full day.

7. Union Matters

After consideration given to matters raised by the AMOU for salary reviews, increases and the term of the agreement, and other employment conditions, this offer is in response to those matters.

My previous correspondence has provided detailed responses to matters including Use of Vehicles, 'Leave Reserved' claim, Inpex Training and responses to operational matters on behalf of DPC including Pilotage Services Safety Management System, and the Principles of Allocation. Our position is unchanged on these matters. Clarification had previously been provided on Personal Accident and Travel Insurance and Workers Compensation.

9. New Agreement

A draft working copy of a proposed new agreement was tabled during bargaining which has been drafted in line with my initial offer of 29 April 2014, incorporating:

- retention of current relevant provisions;
- the NTPS Wages Policy 2013-2016;
- compliance with the Fair Work Act 2009 (the Act), and recent amendments that became effective from 1 January 2014;
- consistency in common provisions across NTPS Agreements for core conditions (for example, parental leave, personal leave, job security, superannuation, salary sacrifice etc.);
- removal of policy and procedure where appropriate (e.g. the Employee Health and Well Being, Communications Equipment and Vehicle Use, as these do not provide an entitlement to the provision; however changes to them will continue to be made in consultation with employees); and
- removal of references to other legislation where appropriate.

In addition, we have also raised in bargaining clauses that we will be seeking to change or remove which include:

- The removal of clause 28 - Contract of Employment (fixed period employment);
- Replacement of the Management of Change and Consultation provisions with the Fair Work Act model clause; and
- Changes to the Rosters and work hours clause in light of the FWA consultation model.

I believe that in the circumstances, this is a fair package that provides an appropriate balance of maintaining wages and introducing efficiencies for the NTPS and that the bargaining process is an opportunity to discuss issues important to employees and the unions. However matters not pertaining to bargaining are to be addressed in external forums.

A meeting has been scheduled for 22 August 2014 and I look forward to progressing bargaining and reaching agreement so we can implement the new terms and conditions of employment and provide salary increases in a timely manner.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'C. Allen', with a horizontal line extending to the right.

CRAIG ALLEN
Commissioner for Public Employment

21 August 2014

OCPE Draft tabled 3 July 2014

Time-off-in-lieu arrangements for additional hours of work

27.10 The CEO may approve time off in lieu of additional hours worked in excess of the roster, subject to operational requirements and safe fatigue management.

27.11 A marine pilot required to provide pilotage services or attend to a Port emergency on a rostered day off will be credited with:

a half day off the roster for up to 4 hours of work commencing after 0700 and up to 1800, to be used at a later time; or
a day off the roster for more than 4 hours of work commencing after 0700 and up to 1800, to be used at a later time; or
a day off the roster for work commencing after 1800 and up to 0700 (or to attend an emergency without notice), to be used at a later time.

27.12 A marine pilot required to perform other duties, eg administration, pilotage planning and meetings, on a rostered day off, will be credited with time off in lieu on an "hour for hour" basis.

27.12 Time off in lieu will not apply to travel to attend training interstate.

27.14 A marine pilot may accumulate a maximum of five days credit in time off in lieu. The five day maximum includes time accumulated as a day off the roster and time accumulated as hourly credits. These credits must be used within ~~one~~ two months or will be paid out in cash to the marine pilot.

27.15 Time off in lieu credits accrued as at the commencement date of this Agreement will be recorded and recognised by the DPC.