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Port Management Act 1995

NOTICE OF PROPOSAL TO MAKE A TOWAGE SERVICES DETERMINATION

Under section 73C of the **Port Management Act 1995**, Ports Victoria hereby gives notice of a proposal to make a towage services determination under section 73B of that Act. The proposed form and content of the determination are set out below. Under section 73D of the **Port Management Act 1995**, any person who is likely to be affected by the proposed determination may make a written submission to Ports Victoria about the determination.

This notice also includes a draft example of the towage service licence which contains examples of conditions that may be applied to any licence issued. This draft example is provided for the purpose of notification only and does not form part of the proposed determination.

Submissions must be made within six weeks from the date of publication of this notice and must be emailed to marine.licences@ports.vic.gov.au. Submissions should be marked to the attention of Cameron Toy, General Manager Regulatory Compliance and Licensing.

PROPOSED FORM AND CONTENT OF TOWAGE SERVICES DETERMINATION

Port Management Act 1995

TOWAGE SERVICES DETERMINATION

Division 2 of Part 4A of the **Port Management Act 1995**

PORT OF MELBOURNE

Under section 73B of the **Port Management Act 1995**, Ports Victoria makes the following towage services determination:

SPECIAL

Port Management Act 1995
TOWAGE SERVICES DETERMINATION
 Port of Melbourne

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TOWAGE SERVICES DETERMINATION

1 March 2024

1. Introduction

- 1.1 Ports Victoria makes this towage services determination (Determination) pursuant to section 73B of the **Port Management Act 1995** (PMA).
- 1.2 The Determination is limited to the provision of Towage Services by Licensed Towage Service Providers in the commercial trading port specified in Schedule 1.
- 1.3 A Licensed Towage Service Provider must comply with conditions of the Towage Service Licence it holds.
- 1.4 Safety of life always remains the overarching priority.

1.1. Definitions

The Determination uses terms with defined meanings.

ADMP has the meaning given in Appendix 7 – Alcohol and Drug Management.

AMSA means the Australian Maritime Safety Authority.

Audit Date has the meaning given in Appendix 1 – Risk Management Framework and Due Diligence.

Audit Reports has the meaning given in Appendix 1 – Risk Management Framework and Due Diligence.

Best Industry Practice means the practices, methods and acts which are equal to or better than those practices, methods and acts which reasonably would be expected, engaged in or observed by competent, experienced and reputable operators who perform maritime towage under conditions comparable to those applicable for purposes of this Determination.

Business Day means a day other than:

- (a) a Saturday or Sunday; or
- (b) a day appointed under the **Public Holidays Act 1993** as a public holiday or public half-holiday throughout the whole of Victoria.

Designated Person has the meaning given in Appendix 2 – Towage Safety Management System.

Emergency Command Officer means the person nominated by the relevant fire or other emergency authority to manage or coordinate the response to an emergency.

Emergency Response Plan has the meaning given in Appendix 1 – Risk Management Framework and Due Diligence.

Environment includes the physical factors of the surroundings of human beings including the land, waters, atmosphere, climate, sound, odours, tastes, the biological factors of animals and plants and the social factor of aesthetics.

Environmental Incident means any event that gives rise to an environmental hazard or situation that is potentially hazardous to the Environment at or near the Port.

Environment Plan has the meaning given in Appendix 1 – Risk Management Framework and Due Diligence.

Equipment means any equipment required to perform a Towage Service.

Fire and Emergency Services has the meaning given in Schedule 1.

FRMS has the meaning given in Appendix 6 – Fatigue Management.

Harbour Master means:

- (a) a person who is the holder of a harbour master licence granted under section 224 of the MSA, or
- (b) any person authorised under section 229 of the MSA to exercise any of the functions of the harbour master if the person so authorised is acting in accordance with the authorisation.

Licence Period means the period for which a Towage Service Licence is valid.

Licensed Towage Service Provider means a person who holds a licence issued under section 73H of the PMA.

Management Representative has the meaning given in Schedule 1.

Marine Incident means:

- (a) a death of, or injury to, a person onboard a vessel caused by the operation or navigation of a vessel; or
- (b) the loss or presumed loss of a vessel; or
- (c) a collision of vessels; or
- (d) a collision by a vessel with an object; or
- (e) the grounding, sinking, flooding or capsizing of a vessel; or
- (f) a fire onboard a vessel; or
- (g) a loss of stability of a vessel that affects the safety of the vessel; or
- (h) the structural failure of a vessel; or
- (i) a close quarters situation; or
- (j) an event that results in – (i) the death of, or injury to, a person onboard a vessel; or (ii) the loss of a person from a vessel; or (iii) a vessel becoming disabled and requiring assistance; or
- (k) the fouling or damaging by a vessel of – (i) any pipeline or submarine cable; or (ii) any aid to navigation within the meaning of the **Navigation Act 2012** (Cth).

Master, in relation to a vessel, means a person having command or charge of the vessel.

MSA means the **Marine Safety Act 2010**.

MSR means the **Marine Safety Regulations 2023**.

Marine Safety Worker means a person who has carried out, is carrying out or is about to carry out marine safety work as defined by the **Marine Safety Act 2010** and does not include a volunteer.

PMA means the **Port Management Act 1995**.

Port means the commercial trading port to which this Determination applies and includes any of the following waters, or any part of those waters:

- (a) an approach, anchorage, harbour or haven, whether natural or artificial;
- (b) any estuary, channel, river, creek, or roadstead; and
- (c) any navigable water.

Port Customer means a person who is required to or intends to obtain Towage Services in the Port at any time.

Port Standards and Procedures means all obligations, port notices, directions, orders, standards, rules, guidance, powers, practices and procedures relating to operations, environmental protection, traffic, security, emergencies, health, safety, welfare or other matters concerning the Port, including those put in place by Ports Victoria.

Quality Assurance Program has the meaning given in Appendix 13 – Quality Assurance Program.

Qualified Personnel means personnel who are physically, mentally and medically fit, and properly qualified and suitably experienced to be able to undertake and carry out the work to be performed.

Risk Event means an incident which exceeds the planned safety margin, increasing the risk of an accident. It is an incident which does not involve actual damage or stakeholder complaint. A risk event includes hazardous occurrences, increased risk, or the potential for an accident, but which did not constitute a Marine Incident.

PPE Plan has the meaning given in Appendix 5.

Safe Transport Victoria means the transport safety regulator for Victoria.

Specification means the minimum requirements set out at Schedule 1.

Sundry Services has the meaning given in Schedule 1.

Towage Delivery Deadline means:

- (a) the specific time booked by a Port Customer in circumstances where the Port Customer requires a specific time for the commencement of Towage Services and has given the Licensed Towage Service Provider more than two (2) hours' notice of its requirements; or
- (b) in the absence of a Port Customer requirement for a specific time for the commencement of Towage Services, two (2) hours after the Port Customer has advised the Licensed Towage Service Provider of its requirements provided the Licensed Towage Service Provider has been given at least two (2) hours' notice by the Port Customer.

Towage Service means the service of supplying one or more towage vessels to assist in the navigation of other vessels by towing or pushing those vessels into, within or out of port waters.

Towage Vessel means a vessel designed or intended to be used to assist another vessel's navigation by towing or pushing that vessel.

Towage Service Licence means a licence issued under section 73H of the PMA.

Towing means any operation in connection with the holding, pushing, moving, escorting, or guiding of a vessel and the expressions 'to tow', 'being towed' and 'towage' shall have a corresponding meaning.

TSMS has the meaning given in Appendix 2 – Towage Safety Management System.

Vessel means any kind of vessel that is used, or capable of being used, in navigation by water, however propelled or moved, and includes:

- (a) a barge, lighter, floating restaurant or other floating vessel; and
- (b) an air-cushion vehicle, or other similar craft, that is used in navigation by water; and
- (c) any aeroplane that is designed for and capable of being waterborne, for so long as that aeroplane is waterborne; and
- (d) a life boat; and
- (e) a thing being towed by a vessel; and
- (ea) a thing prescribed to be a vessel under the MSA; and
- (f) an off-shore industry mobile unit within the meaning of the **Navigation Act 2012** (Cth) –

but does not include a facility within the meaning of Schedule 3 to the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**.

VTS means Vessel Traffic Service.

1.2. Interpretation

1.2.1. When interpreting this Determination:

- 1.2.1.1. a reference to a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted, or replaced, and includes any subordinate legislation issued under it.
- 1.2.1.2. any reference to *in writing* includes correspondence by letter or email.
- 1.2.1.3. headings are for convenience only, and do not affect interpretation.
- 1.2.1.4. a singular word includes the plural, and vice versa.
- 1.2.1.5. if a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning; and

- 1.2.1.6. if an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

1.3. Application of this Determination

- 1.3.1. The Determination applies to the provision of Towage Services within the commercial trading port specified in Schedule 1.

2. Licensed Towage Service Providers – General Safety Duties

2.1. Towage as a Primary Control of Risk

- 2.1.1. Towage is a primary control measure applied by the State to support the management of the risks of navigating vessels within the Port. In these waters, the potential hazards to human life, the Environment and infrastructure are now more significant and serious than at any time in the past, due to increasing size and capacity of vessels and their cargo. To continue to reflect the outcomes expected under the PMA and MSA, appropriate risk management measures will be required.
- 2.1.2. Licensed Towage Service Providers must comply with all legislative requirements and maintain a due diligence approach to their risk management, ensuring that they and their employees fulfil their safety duties under the MSA.
- 2.1.3. Licensed Towage Service Providers must assess the fitness and competence of all persons appointed to positions with responsibility for the provision of Towage Services.
- 2.1.4. To provide safe and effective Towage Services, Licensed Towage Service Providers must apply a due diligence and ‘so far as is reasonably practicable’ principle approach to risk management.
- 2.1.5. These requirements will also foster a culture of continuous improvement to actively manage evolving risks in Towage in Victoria.

3. Conservancy and Sustainability

- 3.1.1. Wherever practicable, Licensed Towage Service Providers must take all reasonable precautions to protect the Port’s marine Environment, including:
 - 3.1.1.1. transitioning to clean energy in land and waterborne assets to support the Victorian Government’s goal to reach 40 per cent renewable energy generation by 2025, and
 - 3.1.1.2. undertake investment decisions that support Australia’s drive to achieve net zero emissions by 2050.
- 3.1.2. Within the Quality Assurance Program, Licensed Towage Service Providers should demonstrate how their organisation is addressing these requirements and sustainability in general.

4. Miscellaneous

4.1. Costs

- 4.1.1. All costs associated with complying with this Determination, including obtaining and maintaining the required certifications and in connection with any audits required by this Determination, must be borne by the Licensed Towage Service Provider.

5. Communication

5.1. Contacting Ports Victoria

- 5.1.1. All communications to Ports Victoria in connection with this Determination (including all notifications and reports) should be made using the following contact details: email: marine.licences@ports.vic.gov.au telephone: +61 3 5225 3500
- 5.1.2. These details may be amended from time to time. Any such amendment will be provided by Ports Victoria to Licensed Towage Service Providers in writing.

5.2. Contacting Licensed Towage Service Providers

- 5.2.1. Ports Victoria will communicate with Licensed Towage Service Providers by email or by letter.
- 5.2.2. A notice or communication sent to a Licensed Towage Service Provider by Ports Victoria is effectively given and received:
 - (a) if it is sent by letter, three Business Days after it is posted;
 - (b) if it is sent in electronic form;
 - i. if it is transmitted by 5.00 pm (Melbourne time) on a Business Day – on that Business Day; or
 - ii. if it is transmitted after 5.00 pm (Melbourne time) on the Business Day, or on a day that is not a Business Day – on the next Business Day.

Schedule 1 Towage Service Determination – Performance Standards**Commercial trading port**

The port of Melbourne.

Specification**Minimum Requirements**

Element	Requirement	Notes
Number of Towage Vessels	6	
Age of Towage Vessels	< 10 years old (and maintained <10 years throughout the License Period).	
Length of Towage Vessels	Maximum Length Overall (LOA) 30 m.	
Type of Towage Vessels	Rotor tugs and/or Transverse tugs and Tractor tugs for the provision of over the bow towage and maneuverability in confined waters. A Towage Vessel must be suitable for use at No. 1 Maribyrnong Berth conscious of the available area and the size of the ships using this berth.	The 6th Towage Vessel may be an Azimuth Stern Drive (ASD).
Minimum Towage Vessel specifications	Minimum 70 t Bollard Pull.	The 6th Towage Vessel may be minimum bollard pull 60 t.
Availability	Three Towage Vessels available 24 hours a day, seven days a week and the remaining three Towage Vessels available at two hours' notice.	Disruptions to Towage Vessel availability due to crew change and fatigue breaks are to be covered by other Towage Vessels to ensure three Towage Vessels are available at all times across a 24 hour period.

Firefighting capability	<p>A minimum of two FiFi one rated tugs to be available for the provision of emergency response 24 hours per day on all days of the year.</p> <p>The tugs must be capable of carrying a minimum of 9 m³ of fire-fighting foam to deploy a 3% minimum foam mixture.</p> <p>Foam must be carried on-board in designated tanks.</p>	<p>At least one of the two FiFi tugs must be underway to the site of emergency within 15 minutes of a request from fire services or Harbour Master.</p> <p>A second tug must be underway to the site of emergency within one hour of the request.</p> <p>Licensed Towage Service Providers are responsible for the procurement of foam.</p> <p>Type and specifications of foam purchased is to be determined in consultation with the relevant fire authority.</p>
Emergency response	One Towage Vessel designed and equipped to provide emergency offshore Towage.	Crews are to undertake regular training to ensure proficiency in the use of emergency towage equipment.

Performance Standards

Service to be Offered to all Port Customers and Service Delivery

Licensed Towage Service Providers must ensure that the Towage Services are made available to all Port Customers on fair and reasonable terms based on the United Kingdom Standard Conditions for Towage and other Services (as revised from time to time) or where the United Kingdom Standard Conditions for Towage and other Services ceases to be published, such other conditions approved by Ports Victoria.

In providing the Towage Services, Licensed Towage Service Providers must ensure that:

- only Qualified Personnel are used;
- Towage Services are at all times carried out with the highest degree of skill, competence, professionalism, diligence and timeliness and in accordance with Best Industry Practice, prevailing standards of the maritime industry, all applicable laws and the service standards set out in this Determination;
- it always has an appropriate number of Qualified Personnel available and ready to perform the Towage Services to ensure the Towage Services are carried out in a safe and efficient manner; and
- Towage Services are always commenced or are ready to be commenced at the direction of the Vessel's pilot or Master (as the case may be) on or before the expiry of each Towage Delivery Deadline.

Continuous Availability

Licensed Towage Service Providers must ensure that Towage Services are available when required by Port Customers on a 24 hours a day, every day of the year, basis and in accordance with notices, directions, instructions, and requests from the Harbour Master.

Delay in Services Delivery

If a Licensed Towage Service Provider has reason to believe that it is or may be unable to provide Towage Services in a timely manner for any reason, then the Licensed Towage Service Provider must:

- (a) immediately inform and liaise with the Harbour Master, the relevant Port Customers and any other person who may be affected;
- (b) do all that it reasonably can to restore the ability to provide the Towage Services as quickly as possible; and
- (c) keep all affected and potentially affected parties informed and up to date as to the Licensed Towage Service Provider's progress in restoring its ability to provide the Towage Services.

Firefighting Services and Sundry Services

A Licensed Towage Service Provider must:

- ensure that its nominated Towage Vessel/s has the capability (as detailed in the Specification) to provide firefighting support in case of a Port emergency; and
- provide firefighting support services, including the use of the Towage Vessel's firefighting capability, transportation of emergency services personnel, emergency Towage and the use of the Towage Vessel as a command and control platform when required by the Harbour Master or any government authority (Fire and Emergency Services).

Licensed Towage Service Providers must ensure that a range of support services (other than Towage Services) are provided to Vessels in Port waters (Sundry Services), in the case of any Vessel:

- (a) being immobilised and adrift due to engine or other equipment failure or for any other reason;
- (b) requiring relocation in emergency situations or for urgent safety reasons; or
- (c) being aground.

Licensed Towage Service Providers must provide Fire and Emergency Services and Sundry Services in response to requests or directions given by the Harbour Master or at the request of any Vessel owner, Vessel charterer, Vessel Master or shipping agent.

Licensed Towage Service Providers must:

- (a) provide prompt and responsive action in all cases; and
- (b) not, during or prior to the commencement of any Fire and Emergency Services and Sundry Services, seek indemnities, assurances, waivers, securities, or approvals of any kind from anyone in control of or connected with the Vessel requiring the Fire and Emergency Services and Sundry Services that could delay the services being provided or accepted promptly.

Licensed Towage Service Providers must ensure that:

- (a) all Fire and Emergency Services and Sundry Services are at all times carried out with the highest degree of skill, competence, and professionalism; and
- (b) it uses all reasonable endeavours in the circumstances to achieve the best possible outcome for any Vessel, its crew, the Port, Port Customers, the public and the Environment.

For the avoidance of doubt, nothing in this Determination is intended to affect the ability of a Licensed Towage Service Provider to undertake salvage services.

Firefighting

Licensed Towage Service Providers must:

- (a) if firefighting foam forms part of the capability, provide and manage at least the minimum quantity of firefighting foam of a type and quality as outlined in the Specification.
- (b) ensure the firefighting Towage Vessel/s is/are available for providing firefighting support in the Port, land based fires adjacent to the Port and fires on Vessels in the vicinity of the Port;
- (c) take directions from the Harbour Master or the Emergency Command Officer in accordance with firefighting and disaster procedures developed by Ports Victoria or the relevant fire authority from time to time;

- (d) ensure that the Master of a Towage Vessel responds to the directions of the Harbour Master or Emergency Command Officer;
- (e) keep informed of the Port's current firefighting and disaster procedures; and
- (f) comply with any requirements of the relevant fire authority, and any statute, regulation or other notice issued by any similar authority.

Firefighting Exercises and Drills

Licensed Towage Service Providers must:

- (a) train and keep trained its Towage Vessel crews in appropriate firefighting procedures;
- (b) make the firefighting equipped Towage Vessel/s and crew(s) available for exercises when requested to do so by Ports Victoria or the Harbour Master; and
- (c) maintain a record of when firefighting exercises with any Towage Vessel are conducted and the names of the crew involved in the exercise.

Customer Service Undertakings

Licensed Towage Service Providers must:

- (a) place the highest priority on the satisfaction of Port Customers;
- (b) monitor and improve the quality of its customer service;
- (c) ensure that it responds quickly and effectively to any concerns raised by Ports Victoria or any Port Customers in relation to the reliability, timeliness, or quality of the Towage Services delivered by the Licensed Towage Service Provider; and
- (d) work with the Ports Victoria to ensure that the objectives set out in this clause are met.

Equipment

A Licensed Towage Service Provider must ensure that:

- (a) it always has, or can obtain, all the equipment (including Towage Vessels) it needs to carry out the Towage Services;
- (b) all Equipment is always in a good, clean, and safe condition other than during periods of scheduled or emergency maintenance, repairs, or shutdowns;
- (c) all Equipment is properly and professionally maintained and serviced at regular intervals in accordance with Best Industry Practice;
- (d) all Equipment is always:
 - i) AMSA compliant, kept in appropriate survey, and maintained to survey standard;
 - ii) in proper working order except during periods of scheduled or emergency maintenance or repairs; and
 - iii) with appropriate on board radio communications systems,
- (e) any issues or defects that might affect operational capability are reported to Ports Victoria and the Harbour Master as soon as practicable; and
- (f) no Equipment with a defect that might adversely impact upon operational capability is operated.

A Licensed Towage Service Provider must seek written approval from Ports Victoria in relation to any proposed change in the Licensed Towage Service Provider's Equipment that will have a significant impact on the Towage Services provided by the Licensed Towage Service Provider. This includes an increase, decrease or change in the composition of the Towage Vessel fleet.

Where any such change to Equipment is requested, the Licensed Towage Service Provider must prepare a transition plan, which sets out:

- (a) the proposed Equipment change;
- (b) the proposed timing for the change; and
- (c) any anticipated operational effects to the Towage Service.

The Licensed Towage Service Provider must submit the transition plan to Ports Victoria and the relevant Harbour Master for approval.

Any replacement Towage Vessel/s must be of a size, specification and quality that is at least equivalent to the Towage Vessel/s being replaced.

Towage Vessels per Vessel Movement

The final decision as to how many Towage Vessels, which Towage Vessels and the way in which Towage Vessel/s are to be deployed with respect to any Vessel movement in the Port, rests with the Harbour Master.

Responsibility for the safety of the Towage Vessel, whilst engaged in a Vessel movement under the direction of the Vessel's pilot or Master, rests with the Master in charge of the Towage Vessel.

Management Representatives

Licensed Towage Service Providers must:

- (a) appoint one or more persons to be its representative (Management Representative) with the authority to act for and on behalf of the Licensed Towage Service Provider;
- (b) keep Ports Victoria informed of the identity of the Management Representative; and
- (c) ensure that the Management Representative is always contactable.

No Interference with Other Users

A Licensed Towage Service Provider must not obstruct or cause any interference to Ports Victoria or anyone else lawfully using the Port.

Directions

A Licensed Towage Service Provider must comply with:

- (a) the Port Standards and Procedures;
- (b) all directions given by the Harbour Master; and
- (c) all lawful directions, regulations and notices made or given by any authority having jurisdiction at the Port.

APPENDIX 1 Risk Management Framework and Due Diligence

Licensed Towage Service Providers must apply a risk management framework and due diligence principles to all Towage Services. In meeting the duties prescribed in Chapter 2 of the MSA, Licensed Towage Service Providers must include the following elements as part of the ongoing process of risk management:

- (a) establishing all credible critical hazards;
- (b) identification of all practicable precautions for each hazard;
- (c) determination of the reasonableness of the practicable precautions; and
- (d) implementation of a safety Quality Assurance system to ensure precautions are sustained into the future. This Quality Assurance system must be the basis of certification for other integrated standards within a management system. The accreditation is to meet at a minimum ISO 9001:2015 Quality Management System (or equivalent as determined by Ports Victoria).

Processes

Licensed Towage Service Providers must ensure the process of risk management identification, controls and determination of practicable precautions is carried out in consultation with internal stakeholders, including those directly involved in the delivery of Towage Services:

- (a) Towage Vessel crews;
- (b) other Marine Safety Workers;
- (c) managers of crews and Marine Safety Workers;
- (d) the Designated Person;
- (e) work health and safety representatives;
- (f) asset managers; and
- (g) procurement representatives.

In addition, Licensed Towage Service Providers must ensure all relevant external stakeholders are engaged, including as a minimum:

- (a) Harbour Masters;
- (b) pilot services providers representatives;
- (c) lines handler representatives;
- (d) berth operators; and
- (e) Vessel owner representatives.

Investigations

Marine Incidents and Risk Events are to be systematically captured, reviewed, and used to regularly reassess the risk and the effectiveness of designated controls to treat risks.

Records

Licensed Towage Service Providers must ensure records are maintained and retained on all aspects of the risk management framework and due diligence activities. These records are to be presented for any audit activity and other occasions when requested by Ports Victoria or Safe Transport Victoria.

Plans

Licensed Towage Service Provider must prepare and provide to Ports Victoria prior to commencing operation:

- (a) a detailed emergency response plan (Emergency Response Plan) that sets out:
 - i) a detailed outline of the risks associated with the Licensed Towage Service Provider's activities in the Port; and
 - ii) the Licensed Towage Service Provider's response plans in relation to any risks associated with any of the Licensed Towage Service Provider's activities in the Port,

- (b) a detailed environmental management plan (Environment Plan) that sets out:
- i) a detailed outline of the risks associated with the Licensed Towage Service Provider's activities in the Port, including the potential consequences of any Environmental Incidents;
 - ii) the systems, practices, and procedures that the Licensed Towage Service Provider will apply to govern:
 - all the Licensed Towage Service Provider's activities in the Port; and
 - the compliance monitoring and reporting protocols for the Licensed Towage Service Provider's environmental systems, practices, and procedures in relation to the Licensed Towage Service Provider's activities in the Port; and
- (c) any other plans which the Harbour Master or Ports Victoria deems required for the Towage Services or otherwise in connection with this Determination,

and the Licensed Towage Service Provider must without delay incorporate any changes, additions, or variations required by Ports Victoria (acting reasonably). If revisions or alterations are made to a plan, the Licensed Towage Service Provider must provide the revised copy to Ports Victoria within five Business Days of the revision being made.

Implementation Review and Audit of Plans

Licensed Towage Service Providers must conduct an annual review of each required plan by 30 June in each year.

Licensed Towage Service Providers must use its reasonable endeavours to revise and improve each required plan and keep each required plan up to date in accordance with Best Industry Practice.

Practices

Licensed Towage Service Providers must (at its own cost) conduct a thorough annual internal audit of each required plan and prepare audit reports by 30 June in each year (Audit Date) outlining in detail the levels of compliance and compliance failures under each plan over the previous year (Audit Reports). The Licensed Towage Service Provider must provide Ports Victoria with copies of the Audit Reports for consideration within 10 Business Days following the completion of each financial year as part of the Annual Performance Report required by Appendix 12.

APPENDIX 2 Towage Safety Management System

Licensed Towage Service Providers must establish a Towage Safety Management System (TSMS) at least in accordance with the performance standards set out in this Appendix 2.

The TSMS must be compliant with AMSA (Marine Order 504) requirements and will encompass the entire business including on board Towage Vessel operations. It must describe how:

- (a) the Licensed Towage Service Provider's work practices are conducted safely;
- (b) the Licensed Towage Service Provider complies with the applicable FRMS and ADMP;
- (c) risks associated with all operations of the Licensed Towage Service Provider are identified, eliminated, or minimised using a hierarchy of controls;
- (d) the Licensed Towage Service Provider complies with requirements of the MSA for providers of Towage Services;
- (e) the Licensed Towage Service Provider ensures that all Towage Vessel crew are trained to comply with the requirements of the MSA and MSR; and
- (f) the Licensed Towage Service Provider ensures compliance with requirements of operational safety for conducting Towage Services.

The TSMS must include:

- (a) the standard operating procedures of the Licensed Towage Service Provider;
- (b) how the standard operating procedures integrate, align and remain current with Port Standards and Procedures and Harbour Master's directions;
- (c) requirements for internal audits;
- (d) how the system is revised and kept up to date;
- (e) a statement of the procedures for carrying out corrective actions;
- (f) incident reporting and investigation methods;
- (g) handling procedures for complaints regarding safety from internal and external sources;
- (h) a drug and alcohol policy for staff of the Licensed Towage Service Provider and people employed or contracted by the Licensed Towage Service Provider;
- (i) procedures for the licensing, training, induction, and familiarisation of Towage Vessel crew during their initial training and ongoing professional development; and after extended period of absence from work; and integration with Port emergency or contingency training; and
- (j) procedures for maintaining fitness for duty for all Marine Safety Workers, including after extended period of times away from operational roles due to illness, injury, or other reason.

Licensed Towage Service Providers must identify a Designated Person who is to provide independent assurance to the Chief Executive of the Licensed Towage Service Provider (or equivalent position holder in the organisation) that the TSMS is working effectively.

Licensed Towage Service Providers must ensure the TSMS includes procedures for record keeping of all TSMS requirements and that the procedures are properly carried out so that the Designated Person can be satisfied the TSMS is working effectively. Licensed Towage Service Providers must ensure the Designated Person is made available to assist with activities during audits.

APPENDIX 3 Training and Continuous Professional Development

In addition to any local knowledge training required by Safe Transport Victoria, to ensure Towage Services are of the highest standard, Licensed Towage Service Providers must carry out and maintain a relevant training and continuous professional development program for Towage Vessel Masters and other key positions, at least in accordance with the performance standards set out in this Appendix 3.

Induction

Licensed Towage Service Providers must ensure that its personnel attend (at its own cost) any relevant induction courses if required by the operating Port.

Masters and Crew

Licensed Towage Service Providers:

- (a) must ensure that all Masters and crew engaged in the provision of Towage Services are at all times fit for work and are always suitably qualified as required by AMSA (Marine Order 505) and experienced for the work they are allocated;
- (b) must have a fatigue management plan in accordance with the requirements of Appendix 6;
- (c) must ensure that all Masters engaged in the provision of Towage Services always hold all required certificates and approvals;
- (d) must ensure that all crew are appropriately trained and maintain skill sets in over stern towing given the potential need to provide Fire and Emergency Services in exposed Port waters; and
- (e) must implement an internal induction course and ensure an ongoing training program exists which includes:
 - i) the use of simulation centres for emergency scenario drills and continuous professional development;
 - ii) formal training in the execution of indirect towage techniques. Training to include augmentation/use of pilots familiar with local Port operations;
 - iii) involving local pilot services providers to ensure there is a clear understanding of the collective skill sets;
 - iv) the use of a internationally recognised third party (or equivalent) to quality check the competence of each Master annually;
 - v) Ports Victoria simulator training; and
 - vi) Ports, Towage and VTS conferences or workshop attendance.

All persons involved in the management of Licensed Towage Service Provider functions must have undertaken relevant training for their positions. These persons are to hold both the technical and managerial qualifications and skill sets identified for their positions prior to appointment. The ongoing training required and its frequency, for each Marine Safety Worker and management position, must be managed and documented by a person dedicated by the Licensed Towage Service Provider.

Records

Licensed Towage Service Providers must ensure the regime includes procedures to maintain and retain detailed records of all training and continuous professional development activities undertaken.

Licensed Towage Service Providers must provide to Ports Victoria the schedule and register for all Towage Vessel crew training, drills and exercises on a quarterly basis.

APPENDIX 4 Workplace Health and Safety

Licensed Towage Service Providers must have measures in place to:

- (a) protect, so far as is reasonably practicable, the health, safety, and welfare of Marine Safety Workers; and
- (b) eliminate, so far as is reasonably practicable, risks to the health, safety, and welfare of Marine Safety Workers,

in accordance with this Appendix 4.

Workplace Health and Safety

Licensed Towage Service Providers must be able to demonstrate compliance with all occupational health and safety obligations under Victorian law, including those imposed by the **Occupational Health and Safety Act 2004**.

Licensed Towage Service Providers must take all reasonably practicable measures to ensure health and safety at their workplaces, including:

- (a) Licensed Towage Service Providers and their employees must exchange information and ideas about risks to health and safety and discuss proactive measures that can be taken to eliminate or reduce those risks. This exchange must be undertaken on a regular basis;
- (b) when carrying out workplace risk identification or making decisions regarding measures taken to control workplace risks, Licensed Towage Service Providers must so far as is reasonably practicable consult with employees;
- (c) Licensed Towage Service Providers must provide such information, instruction, training, or supervision to employees to enable those persons to perform their work in a way that is safe and without risks to health;
- (d) Licensed Towage Service Providers must employ or engage persons who are suitably qualified in relation to occupational health and safety to provide advice to the Licensed Towage Service Provider concerning the health and safety of employees;
- (e) Licensed Towage Service Providers must maintain an ongoing monitoring program for the health of all employees, and keep information and records relating to the health and safety of individual employees; and
- (f) Licensed Towage Service Providers must implement policies, procedures, and training for managing workplace bullying, harassment, and discrimination.

Records

Licensed Towage Service Providers must ensure all evidence of the required information exchange, consultation, training, monitoring programs and policies is kept up to date and made available to enable confirmation of activities and results during audits.

Any evidence containing private health information must, if needed, also be recorded in a manner that will not compromise privacy in a version available for review by auditors.

APPENDIX 5 Personal Protective Equipment

Licensed Towage Service Providers must have in place a Personal Protective Equipment (PPE) plan, at least in accordance with the performance standards set out in this Appendix 5.

PPE of Marine Safety Workers must be managed within a PPE plan (PPE Plan). The Plan must:

- (a) identify all items of PPE required for every activity carried out by Marine Safety Workers;
- (b) ensure that all Marine Safety Workers are provided with fit for purpose PPE for each aspect of the Towage Service operation;
- (c) itemise equipment required by Marine Safety Workers in the event of emergency or other contingency, and ensure these PPE items are accessible to each Marine Safety Worker; and
- (d) itemise PPE required by Marine Safety Workers when carrying out high risk operations or personnel transfer or accessing a Vessel on a wharf through a terminal and ensure these PPE items are carried by each Marine Safety Worker.

A written record must be made of any occasion when a Marine Safety Worker has not met the requirements of the PPE Plan, the reason that the requirements were not met, and any action taken by the Licensed Towage Service Provider as a result.

A written record must be made of any failure of any item of PPE during its use, the reason for the failure as far as possible, and any action taken by the Licensed Towage Service Provider as a result.

Licensed Towage Service Providers must ensure the PPE Plan and any attached records are kept up to date and are made available to enable confirmation of activities and results during audits.

APPENDIX 6 Fatigue Management

Licensed Towage Service Providers must have in place a Fatigue Risk Management System (FRMS), at least in accordance with the performance standards set out in this Appendix 6.

A Licensed Towage Service Provider must ensure it meets the requirements relating to fatigue management under the **Occupational Health and Safety Act 2004** and AMSA Marine Order 504: *Certificates of operation and operation requirements – national law*.

The FRMS must:

- (a) control any risks to safety associated with the fatigue of all Towage Vessel Masters and other Marine Safety Workers carrying out marine safety work for and on behalf of the Licensed Towage Service Provider;
- (b) be based on fatigue science; and
- (c) include validated bio-mathematical models, operational experience, and other fatigue risk management processes to quantify and predict the effect of sleep disruption on reaction time and cognitive effectiveness, both at individual fatigue and group fatigue levels.

The FRMS must include the following components:

- (a) policy and documentation;
- (b) fatigue risk assessment;
- (c) independent quality assurance, in addition to the quality assurance of the Determination;
- (d) education and promotion (including training, awareness, and information); and
- (e) Marine Safety Worker compliance with FRMS.

Licensed Towage Service Providers must ensure that each Towage Vessel Master and other Marine Safety Workers:

- (a) comply with the FRMS, and
- (b) maintain a working knowledge of the system,

so that no Towage Vessel crew member agrees to undertake a Towage movement unless that crew are fully confident in their own ability to operate at a satisfactory level of performance and safety under all circumstances. This extends to all other Marine Safety Workers engaged in the operation of Towage.

This working knowledge includes the understanding of the shared responsibility that exists between individuals and organisations to manage fatigue. Licensed Towage Service Providers must ensure documented systems exist to record this understanding of responsibility to enable confirmation during audits.

Reporting

A Fatigue Management Report must be submitted to Ports Victoria each quarter, in a format approved by Ports Victoria. This report will include, as a minimum:

- (a) safety performance indicator measurements;
- (b) copies of fatigue reports submitted each month for each Marine Safety Worker, categorising their role;
- (c) fatigue risk trend analysis;
- (d) any fatigue hazards or incidents;
- (e) any actions taken to remedy or control fatigue hazards or incidents; and
- (f) details of any fatigue training undertaken.

Fatigue metrics and safety performance indicators must be collated and submitted to Ports Victoria on an annual basis.

Any sensitive personal information must be redacted in a version that is made available to auditors.

APPENDIX 7 Alcohol and Drug Management

Licensed Towage Service Providers must have in place an Alcohol and Drug Management Plan (ADMP), at least in accordance with the performance standards set out in this Appendix 7.

Licensed Towage Service Providers must:

- (a) develop and implement strategies to ensure Marine Safety Workers do not carry out marine safety work while having equal to or more than the prescribed concentration of alcohol or prescribed concentration of drugs as defined in section 3 of the **Road Safety Act 1986**; and
- (b) includes adequate consultation.

Licensed Towage Service Providers must also meet the requirements set out in the **Marine (Drug, Alcohol and Pollution Control) Act 1988** and **Occupational Health and Safety Act 2004**. The alcohol and drug management strategies must be managed within the ADMP.

The ADMP must:

- (a) help manage the risks of alcohol and other drugs in the workplace;
- (b) outline the Licensed Towage Service Provider's policy on the use of drugs and alcohol; and
- (c) provide evidence on how all legislative requirements are being met.

The ADMP must include an:

- (a) education program;
- (b) testing regime;
- (c) response program; and
- (d) supporting programs and regimes.

Licensed Towage Service Providers must ensure documented systems exist to cover the programs and regimes to enable confirmation of the activities and results during audits.

APPENDIX 8 Communication

Licensed Towage Service Providers must have in place a communication policy at least in accordance with the performance standards set out in this Appendix 8.

Licensed Towage Service Providers must establish and always maintain effective office and communication systems that enable Port Customers to communicate requests as required and other information to the Licensed Towage Service Provider.

Licensed Towage Service Providers must ensure that Port Customers can always order, reschedule, and cancel Towage Services with the Licensed Towage Service Provider's traffic officers during business hours and the Licensed Towage Service Provider's duty officer after hours. Licensed Towage Service Providers must ensure that its traffic officers or duty officer are available 24 hours per day every day of the year.

Licensed Towage Service Providers must take all reasonably practicable measures to ensure a healthy culture of communication exists in the workplace. The level of this health must be measured by survey or other means that, so far as is reasonably practicable, captures the input of all Marine Safety Workers at intervals not exceeding every two years.

Licensed Towage Service Providers must develop a communications procedure that, among other things:

- (a) requires Towage Vessel crews to share with VTS any safety information that could be relevant to any other Vessel operating in the area; and
- (b) details of when, where and under what circumstances use of mobile phones by Towage Vessel Masters may be appropriate.

Licensed Towage Service Providers must also develop, implement, and maintain a distraction policy for Towage Vessel Masters. The policy is to include a requirement that Tug Masters, while undertaking Towage duties, only engage in communication relevant to the Towage being undertaken.

APPENDIX 9 Contingency Planning

Changes to Towage Services

If a Towage Vessel becomes unavailable or is likely to become unavailable for the provision of Towage Services for any reason for a period of more than 24 hours or there are any other issues or potential issues affecting service delivery, then the relevant Licensed Towage Service Provider must immediately notify Ports Victoria in writing:

- (a) of the circumstances giving rise to the unavailability or issue;
- (b) the steps being taken to make the Towage Vessel/s available again for Towage Services or otherwise rectify the issue; and
- (c) the estimated time that the Towage Vessel/s will be unavailable, or the issue will otherwise be rectified.

The Licensed Towage Service Provider will need to provide for a replacement Towage Vessel until the unavailable Towage Vessel becomes available.

The Harbour Master may direct a mandatory cross hire for a specified period between operators on occasions where there is a risk to Towage Vessel service delivery in the Port due to unforeseen Towage Vessel outages. In these circumstances the fee payable between both parties will remain a commercial matter for the involved parties based on the previously established mandatory cross hire arrangements.

High-risk activities

Licensed Towage Service Providers must ensure, and be able to demonstrate to Ports Victoria, that appropriate contingency planning is carried out for each high-risk activity undertaken.

Licensed Towage Service Providers must prepare a register of all events and activities deemed to be high-risk by the Licensed Towage Service Provider.

All contingency plans prepared by the Licensed Towage Service Provider for high-risk activities must:

- (a) provide for all credible hazards;
- (b) comply with Harbour Master requirements, Port Standards and Procedures, and align with Port and state emergency response plans; and
- (c) be regularly reviewed and updated, with detailed records to be kept of each review and/or update.

Each Towage Vessel Master must participate in whole of Port contingency training in a simulated environment at intervals of not more than three years. Licensed Towage Service Providers must ensure that all such planning and training is recorded.

APPENDIX 10 Marine Incident and Risk Event Reporting and Investigation

Enhanced collaboration and report sharing between Licensed Towage Service Providers and relevant Harbour Masters must take place on an ad hoc, routine and regular basis in accordance with the requirements of this Appendix 10.

Notice of Accidents, Incidents and Damage

Licensed Towage Service Providers must comply with all statutory and regulatory requirements to give prompt notice of any events required to be notified, including the following events, as soon as it become aware of their occurrence:

- (a) any Marine Incident;
- (b) any Environmental Incident; or
- (c) any suspected security breach or security threat.

In addition to any reporting requirements established in the PMA or MSA, reports must be made to Ports Victoria no later than within the time indicated in the tables in this section.

The Licensed Towage Service Provider must notify Ports Victoria, before the due period expires, if any report cannot be provided by the required time, including the reasons for the delay and details of when the report will be provided.

Incident or Risk Event	Report Due
Marine Incident resulting in fatality, serious injury requiring hospitalisation, major damage to infrastructure or vessel	Immediately
Risk Event that could have resulted in the outcomes listed above	Within 24 hours of the incident
Incident resulting in minor damage	Within 72 hours of the incident
Marine pollution incident	As required by Harbour Master's Directions

Reporting and Investigation Policy

Licensed Towage Service Providers must develop and implement policies and procedures for requirements of reporting and investigating incidents and/or risk events. The policies and procedures must conform to applicable laws and any relevant Harbour Master's Directions.

Licensed Towage Service Providers must develop and implement policies and procedures to facilitate necessary training for all personnel involved in reporting and investigation of incidents and risk events.

These policies and procedures include the immediate actions required of Towage Vessel crews involved in a Marine Incident or Risk Event that triggers internal investigation. These actions must include the mandatory requirements to:

- (a) stand down from further work until the incident or risk event is reviewed and/or investigated;
- (b) undertake drug and alcohol testing;
- (c) provide a fatigue report;
- (d) complete reporting requirements;
- (e) store recorded data correctly;
- (f) be offered a support person to assist; and
- (g) undertake initial debrief with an appropriate manager from the Licence Towage Service Provider and/or the Harbour Master.

Licensed Towage Service Providers, and their employees, must assist as required in any incident or Risk Event investigation carried out by AMSA, Safe Transport Victoria or Ports Victoria.

Reporting and Information Sharing

The Licensed Towage Service Provider must have measures in place to ensure that:

- (a) when a Towage Vessel is involved in a Marine Incident, the Master immediately reports the incident to the relevant Harbour Master via VTS and provided full particulars in writing as soon as possible;
- (b) all Risk Events are reported to the relevant Harbour Master; and
- (c) in addition to any Safe Transport Victoria requirements, the relevant Harbour Master is provided with a completed internal review or investigation report for each Marine Incident or serious Risk Event.

Licensed Towage Service Providers must ensure there is a process for:

- (a) monitoring and auditing the thoroughness of incident investigation processes and the validity of the investigation conclusions;
- (b) monitoring the application of lessons learnt from individual and industry experience and incident investigation;
- (c) assessing and auditing the validity and effectiveness of indicators used to measure performance against the requirements of this Determination; and
- (d) assessing the validity and effectiveness of consultation processes used to include all appropriate stakeholders.

Licensed Towage Service Providers must provide to Ports Victoria a quarterly update of analysis and trends of Marine Incidents and Risk Events along with lead and lag indicators, in such a way that sensitive information is de-identified.

Recording Devices and Evidence Capture and Retention

Licensed Towage Service Providers are to ensure, and be able to demonstrate to Ports Victoria, that all necessary policy and procedures are developed, and training provided for the appropriate deployment of any recording device used during investigations.

These policies, procedures and training must ensure that all evidence and data that may be relevant to an investigation is:

- (a) collected as soon as possible following a Marine Incident or Risk Event; and
- (b) collected, stored, and released in accordance with the requirements of applicable law.

These requirements apply to all evidence and data that is collected by a Licensed Towage Service Provider or an individual crew member, including where the evidence and data has been provided by third parties.

APPENDIX 11 Continuous Improvement

Licensed Towage Service Providers must have in place, and demonstrate adherence to, an appropriate policy of continuous improvement with at least the following elements:

- (a) capturing information concerning local, national, and international towage related incidents to share lessons learned, and where applicable, amending the Licensed Towage Service Provider's policies, procedures, standards, or training requirements;
- (b) capturing lessons learnt from all components of operational and administrative activities, including capture of relevant lessons learnt from external organisations and sharing these lessons widely within the Licensed Towage Service Provider;
- (c) considering and providing the Licensed Towage Service Provider's own recommendations arising from such information to the Navigational Safety Committee and participate as appropriate in that Committee;
- (d) recording Navigational Safety Committee outputs and sharing these with all relevant members of the Licensed Towage Service Provider;
- (e) sharing the findings from audits of the Licensed Towage Service Provider's compliance with this Determination and of any other documents managed by the Licensed Towage Service Provider, with key operational staff; and
- (f) review and appropriate dissemination of relevant Harbour Master's Directions.

APPENDIX 12 Reporting

Licensed Towage Service Providers must comply with the reporting requirements set out in this Appendix 12.

Annual Performance Report

Licensed Towage Service Providers must submit an Annual Performance Report in the form approved by Ports Victoria within 10 Business Days following the completion of each financial year. The Annual Performance Report must include:

- (a) an assessment of the Licensed Towage Service Provider's compliance with the requirements of the Determination in the preceding year as required by Appendix 13;
- (b) the results of the external audit of the Licensed Towage Service Provider's operational and safety performance as required by Appendix 13;
- (c) the results of the internal audit of the Licensed Towage Service Provider's compliance with the requirements of the Emergency Response Plan and Environment Plan as required by Appendix 1; and
- (d) fatigue metrics and safety performance indicators as required by Appendix 6.

Quarterly Performance Report

Licensed Towage Service Providers must submit a Quarterly Performance Report in the form approved by Ports Victoria within 10 Business Days following the completion of each quarter.

The Quarterly Performance Report must include the following information:

- (a) the attainment or otherwise of the key performance indicators (if any) specified in the Towage Service Licence held by the Licensed Towage Service Provider;
- (b) the Fatigue Management Report as required by Appendix 6;
- (c) details of all Towage Vessel crew training, drills and exercises held during the preceding quarter as required by Appendix 3; and
- (d) analysis and trends of Marine Incidents and Risk Events as required by Appendix 10.

APPENDIX 13 Quality Assurance Program

Licensed Towage Service Providers must have in place a quality assurance program at least in accordance with the performance standards set out in this Appendix 13 (Quality Assurance Program).

The program must include certification, external auditing, and any internal audit regime established by the Licensed Towage Service Provider.

The Quality Assurance Program and any audits required by this Determination are in addition to any audits required by Safe Transport Victoria, including any audits of duties required under the MSA.

Certification and Audit

Licensed Towage Service Providers must obtain and maintain quality assurance certification for the performance measures set out in this Determination. The quality assurance certification must:

- (a) be certified by an organisation which is a member of the Joint Accreditation System of Australia and New Zealand, or a comparable organisation approved by Ports Victoria;
- (b) incorporate the performance standards set out in this Determination; and
- (c) provide for annual audits.

In addition to quality assurance audits scheduled by the Licensed Towage Service Provider on an annual basis:

- (a) the Licensed Towage Service Provider may arrange for an audit at any time for any reason; and
- (b) Ports Victoria may require that an audit takes place at any time for any reason, including a Risk Event or Marine Incident (to be undertaken at the Licensed Towage Service Provider's cost).

These audits may incorporate all or some of the requirements of this Determination and may be undertaken by internal staff, their representatives, or an auditor nominated by Ports Victoria.

Both the Licensed Towage Service Provider and Ports Victoria, as appropriate, must provide the other party with at least 28 days prior notification of any audit arranged.

Ports Victoria may send an observer to any audit.

Copies of all audit reports issued by the auditor, or internal staff, must be provided to Ports Victoria or the Licensed Towage Service Provider, as appropriate, within 10 Business Days of completion of the audit.

Performance Report

The Licensed Towage Service Provider must submit in writing to the Chief Executive Officer of Ports Victoria an annual report of its performance in respect of this Determination.

The report must be signed by the Chief Executive of the Licensed Towage Service Provider or the person in an equivalent role within the organisation, or the person acting in that role.

APPENDIX 14 Record Keeping

Licensed Towage Service Providers must maintain proper records and auditable systems in respect of each performance standard in this Determination.

The records and systems must capture the information required for routine reports to be made to Ports Victoria as outlined in the Determination.

The records and systems must also store information in a form that is readily retrievable and accessible, such information to be provided promptly to Ports Victoria if requested.

The records and systems used by a Licensed Towage Service Provider must comply with all requirements under privacy law.

The following is an example of the towage service licence which contains examples of conditions that may be applied to any licence issued. This draft example is provided for the purpose of notification only and does not form part of the proposed determination.

Port Management Act 1995
Section 73H
TOWAGE SERVICE LICENCE

Licence Holder: [Insert Licence Holder and ACN/ABN]

Date this Licence takes effect: 1 March 2024

Licence Period: Five years from 1 March 2024 unless earlier suspended, cancelled or surrendered.

The Licence Holder is authorised to provide the Towage Service specified in Schedule One during the Licence Period (unless earlier suspended, cancelled or surrendered in accordance with the PMA). This Licence is subject to conditions.

In this Licence, ‘Determination’ means the towage service determination specified in Schedule One. All other defined terms have the same meaning as in the Determination.

(Example) Conditions:

Compliance with Determination

1. The Licence Holder must provide the Towage Service in a way that meets the requirements and standards set out in the Determination, including (without limitation):
 - a. the Specification and performance standards set out in Schedule One to the Determination; and
 - b. the requirements contained in each appendix to the Determination.

Provision of Towage Service

2. The Licence Holder is required to evidence to the satisfaction of Ports Victoria that it has sufficient and appropriate berthing arrangements and equipment (including tugs) at the commercial trading port specified in Schedule One, responding within 10 Business Days of any request from Ports Victoria.
3. The Licence Holder must provide one full calendar year’s notice to Ports Victoria of the following:
 - a. an intention by the Licence Holder to surrender this Licence;
 - b. any significant changes to the Towage Service provided by the Licence Holder in accordance with this Licence, including (without limitation):
 - i. any significant change to the number and capability of Towage Vessels to be operated by the Licence Holder; or
 - ii. any significant reduction in the Towage Service provided by the Licence Holder; or
 - c. any other change or event that will render the Licence Holder unable to comply with the Determination.
4. The Licence Holder must immediately notify Ports Victoria in writing:
 - a. if a Towage Vessel becomes unavailable, or is likely to become unavailable for a period of more than 24 hours, to provide Towage Services; or
 - b. of any other issue that may significantly affect the Licence Holder’s ability to provide the Towage Service (including Equipment defects).
5. The Licence Holder is required to maintain, continuously, all required classifications, certifications, licences, qualifications and approvals for its equipment and operations, and comply with applicable laws in connection with providing the Towage Service.

6. The Licence Holder must notify Ports Victoria immediately in writing should there be any change of control of the Licence Holder within the meaning of section 50AA of the **Corporations Act 2001** (Cth) within the Licence Period.

Insurance

7. The Licence Holder must have the insurances specified in Schedule One continuously in full force and effect with insurers approved by Ports Victoria and to provide certificates of currency within 5 Business Days of any request from Ports Victoria.
8. The Licence Holder must notify Ports Victoria whenever an event occurs which may give rise to a claim under an insurance that is specified in Schedule One.

Reporting requirements

9. The Licence Holder is required to report in writing to Ports Victoria on its attainment or otherwise of the key performance indicators specified in Schedule Two on a quarterly basis. Reports must be submitted in the form approved by Ports Victoria within 10 Business Days following the completion of each quarter.
10. In the event that the Licence Holder does not achieve ninety (90) per cent or greater of the key performance indicators specified in Schedule Two over two consecutive quarters, Ports Victoria may direct the Licence Holder to prepare a recovery plan within the period specified by Ports Victoria.
11. The Licence Holder must provide the recovery plan to Ports Victoria for approval.
12. The Licence Holder must adhere to the recovery plan as approved by Ports Victoria.
13. The Licence Holder must submit an Annual Performance Report to Ports Victoria in accordance with the requirements of Appendix 12 to the Determination. Reports must be submitted in the form approved by Ports Victoria within 10 Business Days following the completion of each financial year.
14. The Licence Holder must submit a Quarterly Performance Report to Ports Victoria in accordance with the requirements of Appendix 12 to the Determination. Reports must be submitted in the form approved by Ports Victoria within 10 Business Days following the completion of each quarter.

Incident reporting

15. The Licence Holder must notify Ports Victoria of any Marine Incident or Risk Event concerning the Towage Service authorised by this Licence. The Licence Holder must investigate the incident and provide a report to Ports Victoria within the timeframe specified by Ports Victoria.
16. The Licence Holder must comply with the incident reporting timeframes specified in Appendix 10 to the Determination.
17. In the event that Ports Victoria commences its own investigation into a Marine Incident or Risk Event, the Licence Holder must cooperate and participate in the investigation, including by providing Ports Victoria with information and documents on request.

Audit requirements

18. The Licence Holder must in each year of the Licence Period undergo the annual audit described in Schedule One and provide the report of that audit to Ports Victoria.

Compliance with performance standards

19. The Licence Holder must be able to evidence that it has a risk management framework in place at least in accordance with the performance standards set out in Appendix 1 to the Determination. The framework and its contents must have due regard to Harbour Masters' Directions.
20. The Licence Holder must be able to evidence that it has in place an Emergency Response Plan and an Environment Plan at least in accordance with the performance standards set out in Appendix 1 to the Determination.

21. The Licence Holder must be able to evidence that it has in place a Towage Safety Management System at least in accordance with the performance standards set out in Appendix 2 to the Determination. Any amendment must be notified to Ports Victoria within 48 hours.
22. The Licence Holder must be able to evidence that it has in place a training and continuous professional development program for Towage Vessel Masters and other key personnel at least in accordance with the performance standards set out in Appendix 3 to the Determination. This requirement is additional to any local knowledge training required by Safe Transport Victoria.
23. The Licence Holder must be able to evidence that it has in place measures to:
 - a. protect, so far as is reasonably practicable, the health, safety, and welfare of Marine Safety Workers; and
 - b. eliminate, so far as is reasonably practicable, risks to the health, safety, and welfare of Marine Safety Workers,at least in accordance with the performance standards set out in Appendix 4 to the Determination.
24. The Licence Holder must be able to evidence that it has in place a Fatigue Risk Management System at least in accordance with the performance standards set out in Appendix 6 to the Determination.
25. The Licence Holder must be able to evidence that it has in place an Alcohol and Drug Management Plan at least in accordance with the performance standards set out in Appendix 7 to the Determination.
26. The Licence Holder must be able to evidence that it has in place a communications policy at least in accordance with the performance standards set out in Appendix 8 to the Determination.
27. The Licence Holder must provide a representative to participate by attendance (if necessary by online attendance) at each meeting of the Navigational Safety Committee.
28. The Licence Holder must be able to demonstrate effective contingency planning for high-risk activities based on recognised risk management principles, and that this is incorporated into its Towage Safety Management System and meets at least the performance standards set out in Appendix 9 to the Determination.
29. The Licence Holder must be able to evidence that it has in place an incident and risk event reporting and investigation framework at least in accordance with the performance standards set out in Appendix 10 to the Determination.
30. The Licence Holder must be able to evidence that it has in place a quality assurance program at least in accordance with the performance standards set out in Appendix 13 to the Determination.
31. The Licence Holder must maintain proper records and auditable systems in respect of each performance standard in the Determination at least in accordance with the performance standards set out in Appendix 14 to the Determination. The Licence Holder must maintain all records in accordance with privacy legislation.

Additional information about this Licence

In the event of any inconsistency between the Determination and this Licence, the terms of this Licence will prevail.

This Licence is non-exclusive.

The Licence Holder enters into its own arrangements for the provision of Towage Services, for example, contracts with Port Customers and arrangements for access to berth space and other facilities.

The Licence Holder makes its own enquiries and uses its own judgment when acting on the authorisation granted by this Licence. The Licence Holder is not relieved from liability in relation to anything that arises in connection with the provision of Towage Services.

Ports Victoria has power under the PMA to amend or remove a condition of, or to impose a new condition on, any Licence.

Failure to comply with a condition of this Licence is a penalty offence and may result in its cancellation.

CHIEF EXECUTIVE OFFICER
Ports Victoria
For and on behalf of Ports Victoria

SCHEDULE ONE

1	Commercial trading port	port of Melbourne
2	Applicable Towage Service Determination	Dated 1 March 2024
3	Insurances	<p>The Licence Holder must at its own cost insure and remain insured during the Licence Period with an insurance company, rated A or above by Standard and Poor's, or in the case of Protection and Indemnity Insurance, an association that is a member of the International Group of P&I Clubs against any liability of the Licence Holder and its subcontractors:</p> <ul style="list-style-type: none"> • in respect of delay in the commencement of any Towage Service to any Port Customer beyond the Towage Delivery Deadline; • against all claims and liabilities arising (whether at common law or under statute) in relation to workers compensation; • in respect of (but not limited to) any accident or injury to any person or damage to any property for at least \$50,000,000 in relation to any one event and including Ports Victoria as an additional named insured; • for Protection and Indemnity for no less than \$500,000,000 for each Towage Vessel utilised; and • third party property damage in respect of loss arising from the use of a motor vehicle for no less than \$20,000,000. <p>Ports Victoria may notify an increase in the necessary levels of cover consistent with the reasonable recommendations of its insurance consultants.</p>
4	Key Performance Indicators (KPI)	The Licence Holder is subject to the KPIs specified in Schedule Two.
5	KPI reporting	A KPI report is to be raised quarterly by the Licence Holder and submitted to Ports Victoria. Two (2) consecutive quarters of non-attainment (<90%) may result in a requirement to prepare a recovery plan that is to be signed off by Ports Victoria.
6	Audit	The Licence Holder must undergo an annual audit of its operational and safety performance by a recognised technical authority approved by Ports Victoria in accordance with Appendix 13 of the Determination.

SCHEDULE TWO

KPI		Target	Weighting
On time service	Towage Vessel/s available at scheduled arrival/departure time.	100%	10%
Emergency response	Towage Vessel/s routinely available and successfully assist in emergency response as required.	100%	5%
Availability	Towage Vessel/s available for routine or emergency tasking.	100%	35%
Reliability	No equipment failures during tasking which affect delivery of service.	100%	10%
Fuel burn	System in place to minimise throughout Licence Period.	Baseline to be agreed after first three (3) months of operation	10%
Safety	Zero Lost Time Injury, Zero Medical Treatment Injury, Two (2) proactive hazard hunts and safety walk arounds per Towage Vessel per month.	100%	10%
Fatigue Management	Sufficient crew engaged to ensure compliance with contemporary fatigue management practices and protocols and Determination requirements.	100%	5%
Planned maintenance	Evidence of system in place which is built from Original Equipment Manufacturer's and reported on monthly via an industry recognised Planned Maintenance System.	90% completion rate	5%
Annual 3rd party audit	Annual 3rd party operational and safety audit by recognised authority.	Pass/Fail	10%

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