

AMSA response to recommendations in the ‘Response to the Montara Wellhead Platform incident – Report of the Incident Analysis Team’

AMSA’s responses to the recommendations below are not intended to pre-empt any outcomes of the Montara Commission of Inquiry. AMSA will take into account any relevant outcomes of the Inquiry in responding to these recommendations.

Recommendation 1 – The Australian Maritime Safety Authority should review and update its existing internal procedures for oil and chemical spill response for major incidents in which the Authority is combat agency. Regular trials of the procedures should be undertaken (given live implementation is likely to be infrequent) and adjustments made as necessary.

AMSA response: Agreed. A number of discrete items included in the detail of the IAT report had already been identified by AMSA and are being addressed. New items which are amenable to discrete technical treatment will be addressed. In regard to updating procedures, AMSA also notes the potential for coordination and resourcing arrangements to change as a result of the review of the National Plan in 2010, and ongoing developments in the Australian Government's emergency management arrangements. AMSA's internal procedures will be updated consistent with these developments and will include a commitment to an annual exercise where AMSA is the combat agency for a major pollution incident.

Recommendation 2 - The Incident Analysis Team recognises the challenges associated with using and maintaining skills over an extended period to implement a Contingency Plan that, in terms of the Australian Maritime Safety Authority’s combat agency role, is used infrequently. Nevertheless, the Authority needs to consider all available options to ensure appropriate resourcing is available to effectively undertake its combat agency role.

AMSA response: Agreed. The outcomes of the proposed National Plan Review to be conducted during 2010 will be reflected in a revised Inter-Governmental Agreement, which will include a full list of AMSA’s responsibilities and functions as manager of the National Plan. AMSA will then be in a position to consider appropriate resourcing, including the resources required to effectively undertake its combat agency role. In the meantime, AMSA has undertaken an internal restructure, creating a new Marine Environment Division to provide for an increased focus on environmental issues, and has recruited several temporary contract positions to assist in upgrading National Plan training, assessing and replacing National Plan equipment, and undertaking the proposed National Plan Review.

Recommendation 3 - In conjunction with the Department of Environment, Water, Heritage, and the Arts and other relevant Commonwealth agencies, the Australian Maritime Safety Authority should revise the National Marine Oil Spill Contingency Plan and the National Marine Chemical Spill Contingency Plan to develop a clear plan and delivery mechanism for the provision of environmental advice, preparation and maintenance of Net Environmental Benefit Analysis, wildlife response and monitoring for a spill where the Commonwealth is lead agency. This should also include a clear statement on sourcing Commonwealth environmental and scientific advice.

AMSA response: *Agreed. As noted by the Incident Analysis Team, the Department of Environment, Water, Heritage and the Arts is currently considering its role in the National Plan. Once the position of DEWHA is known, and the proposed arrangements on sourcing Commonwealth environmental and scientific advice discussed and agreed with AMSA, the contingency plans will be updated accordingly. Other options to be considered include the development of additional dedicated capacity within AMSA and outsourcing the operational aspects of wildlife response.*

Recommendation 4 – The Department of Resources, Energy and Tourism should, in conjunction with the Australian Maritime Safety Authority and the offshore petroleum, exploration and production industry, undertake a review of the legislative arrangements concerning insurance to ensure cost-recovery arrangements following oil spills are effective, and recommend any improvements considered necessary. Following this both agencies should jointly develop and distribute to National Plan participants information on arrangements for insurance and cost recovery for incidents involving the offshore petroleum exploration and production industry as envisaged by the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and related arrangements.

AMSA response: *Agreed. AMSA will shortly be contacting the Department of Resources, Energy and Tourism with a view to commencing this work, in conjunction with the State/NT Designated Authorities through the Environmental Assessors Forum.*

Recommendation 5 - As a priority, the Australian Government should resolve any ambiguity about the legislative powers in its administered legislation to respond to spills other than from ships and if so, take steps to rectify this situation.

AMSA response: *Agreed. AMSA will seek advice from the Australian Government Solicitor as to whether there is any legal ambiguity and, if so, any amendments to administered legislation that might rectify the situation.*

Recommendation 6 – The Department of Resources, Energy and Tourism and where relevant the Department of the Environment, Water, Heritage and the Arts should ensure that the Australian Maritime Safety Authority/State/Northern Territory and other agencies involved in the National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances be formally consulted in the assessment of Oil Spill Contingency Plans for offshore facilities prior to their approval.

AMSA response: *AMSA would support this recommendation, however it is a matter for DRET as AMSA has no legislative basis to require these Oil Spill Contingency Plans to be submitted. With regard to consultations with State/NT National Plan agencies, this will be discussed at the next meeting of the National Plan Management Committee and also with the State/NT Designated Authorities through the Environmental Assessors Forum. The Department of Resources, Energy and Tourism and Department of the Environment, Water, Heritage and the Arts will then be advised of the outcomes of these discussions and the most appropriate mechanisms can then be further discussed and put in place.*

Recommendation 7 – The Australian Maritime Safety Authority should ensure an

assessment of the preparedness for oil spill response across Australia, with particular focus on the northwest coast, is incorporated in the proposed review of the National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances. This assessment of preparedness should be based on a formal risk assessment of the possibility of a major oil spill arising from all marine sources, with particular emphasis on the increased activity of the offshore petroleum exploration and production industry and other marine operators.

AMSA response: Agreed. The proposed review of the National Plan is expected to commence within the next two months. Terms of reference are currently being developed for an Australia-wide risk assessment to be undertaken as the first step in the review. The issues highlighted in this recommendation will form part of these terms of reference.

Recommendation 8 – The Australian offshore petroleum exploration and production industry should be the primary option for resources (including personnel for an Incident Control Centre) when a spill from an offshore petroleum facility occurs. In the event that Australian Maritime Safety Authority is the Combat Agency, then the industry (including the Australian Marine Oil Spill Centre) should be more heavily relied on to provide appropriate leadership and other resources, with support under existing National Response Team arrangements as required.

AMSA response: Agreed in principle. AMSA will investigate the capabilities of the offshore sector to deliver these resources, however AMSA remains concerned that the current arrangements do not represent an equitable contribution by the offshore petroleum exploration and production industry to oil spill preparedness and response arrangements set up and funded by the shipping industry.