

28 April 2008

Mr Roger Beale AO
Chairman
Quarantine & Biosecurity Review Secretariat
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Dear Mr Beale,

Quarantine and Biosecurity Review

We are pleased to respond to the invitation to make a submission to the Quarantine and Biosecurity Review.

Ports Australia

Ports Australia [formerly the Association of Australian Ports and Marine Authorities (AAPMA)] is the peak body representing the interests of government owned and privately owned ports as well as marine regulatory authorities in Australia. The Association provides leadership and support in areas of common interest related to ports, their interfaces and the achievement of their trade facilitation objectives. A list of our members is included at the Appendix.

The National System for the Prevention and Management of Marine Pest Incursions

Australia's Biofouling Management Policy gives effect to the Australian Government's commitment in the IGA to a National System for the Prevention and Management of Marine Pest Incursions through regulation to ensure that vessels entering Australia are subject to agreed measures to minimise the risk of introducing marine pests through biofouling

Industry has witnessed the inability of AQIS/DAFF to provide the necessary national leadership and to ensure the State actions are consistent with the Agreement. We acknowledge that the existing AQIS legislation does not cover inter-state vessel movements but the IGA was supposed to be the first step in aligning policy between the commonwealth and the states/territory. The inconsistency between the federal and state/territory jurisdictions highlights the need to align the policy framework.

Overseas Dredges

The Rudd Government has firmly established Infrastructure development as a high priority and one which is receiving considerable attention across a number of federal departments. Development of infrastructure at and near our ports, both commodity and container ports, is proceeding at a steady pace. Resource exports are increasing rapidly and considerable emphasis is being placed on developing infrastructure to support future growth. Ships calling at Australian ports are getting bigger (again, at both the commodity and container ports) thus requiring increased dredging operations for navigation channel development.

The nature and scope of the dredging operations often necessitates large dredges. These almost exclusively come from overseas. Due to the establishment costs of bringing these larger dredges to Australia, they are often contracted to work at more than one Australian port.

Ports Australia and our members have been involved in discussions with AQIS for many months on the provisions of the new biofouling legislation, with specific reference to dredges as a potentially high area of risk.

A recent example of the difficulties associated with biosecurity arrangements and overseas dredges involves the Volvox Asia which undertook dredging in a number of ports around Australia in 2006. She had been slipped and cleaned in Singapore two months prior to her arrival in Australia. The vessel arrived in Weipa in late May 2006. She was cleared by AQIS at Weipa for entry to Australian waters. However, AQIS did not undertake a biofouling inspection (we have been advised that AQIS has a policy of not inspecting vessels below the waterline).

The Volvox Asia dredged in Weipa from May to August 2006. Ports Corporation of Queensland which had contracted for the ship's visit to Weipa had acknowledged the risk of a dredge operating for a period in warmer waters and had requested that the relevant Queensland state agency (Qld EPA) undertake diving inspections of the dredge's hull but the Qld EPA did not undertake or require any inspections.

After completing the work in Weipa, the vessel then travelled to the Port of Brisbane where she dredged from August until November. She then travelled to Dampier, stopping at Gladstone for refuelling.

The vessel arrived in Dampier on 17 November 2006. A WA Ministerial Condition applied to this project as the project triggered an assessment under Part 4 of the WA Environmental Protection Act. This particular Ministerial Condition required an in-water inspection of the Volvox Asia within 48 hours of the vessel's arrival in Dampier and a report was made to the WA Department of Fisheries (DoF).

It was believed that the vessel carried Asian Green Mussels, however, this was not confirmed immediately. Nonetheless, DoF ordered the vessel to leave port and to anchor in water no less than 200 metres in depth. In-water cleaning of the vessel's hull was considered to be unsatisfactory by DoF and the vessel was ordered to be slipped. However, the nearest place where a vessel of this size could be slipped was in Singapore.

The vessel went to Singapore and was cleaned and then inspected in Singapore by DoF and then permitted to return to Dampier on 5 December 2006.

Rio Tinto, who had the contract with the dredge, drew up a marine pest management plan that was approved by the WA Department of Conservation. The plan involved monthly monitoring of the vessel and the service wharf for the remainder of the dredge program.

The problem from the Port of Dampier's perspective, was that the WA Department of Fisheries ordered the vessel to leave the port without any consultation with Rio Tinto, the Port or with the Dampier Harbour Master. Importantly, the DoF had no legislative power to order such action which could have had severe ramifications for the ship's operating safety and marine operations in the port generally. Furthermore, these actions were taken prior to confirmation of the presence of an introduced marine pest.

When advised that the dredge had Asian Green Mussels whilst in Queensland the Queensland EPA arranged for larval monitoring devices to be installed in Brisbane, Gladstone and Weipa but these took nearly 6 months to install.

The Volvox Asia was again contracted to work in Australia in late 2007. The Port of Brisbane Corporation contacted both State and Federal Biosecurity Agencies to confirm quarantine/biosecurity protocols but was advised that none were in place and hence any actions were up to the Port of Brisbane.

The dredge worked in Brisbane until late April 2008 and was contracted by Ports Corporation Queensland to work in Abbott Point. In this instance, the Great Barrier Reef Marine Park Authority required that the dredge be slipped and inspected prior to entering the Marine Park. This occurred and no marine pests were located.

These examples highlight the absence of protocols for foreign dredges arriving in Australia or moving around the coastline from state to state. There is no leadership shown by the national regulator, AQIS, and State regulators appear to be developing rules with no coherent or co-ordinated approach.

AQIS argues that they do not have the skills or the resources to inspect ships' hulls. AQIS inspects cargoes and the contents of ships for foreign plants and animals and therefore they are the appropriate organisation to develop the skills for hull inspections. Ships' hulls are simply another vector for the importation of marine pests and biofouling is arguably a higher risk for the marine environment than ballast water.

We note with regret that the Issues Paper specifically states that the review "will not address the spread, within or between states, of endemic pests or diseases" yet. We further note that AQIS seems unwilling to engage with the states or Northern Territory on the risks of marine pests being transferred between state waters by dredges.

The Issues Paper states at para 32 that "the Australian Government also undertakes targeted post-border measures (ie within Australia), including working with state and territory governments and industry to coordinate emergency responses to pest and disease incursions". When it comes to marine pests, AQIS is not working with the state regulators on any coordinated or targeted post-border inspection.

We are concerned that AQIS, rather than carrying out its quarantine responsibilities across the board, seeks instead to limit its activities to those for which it has existing staff and training. We believe that AQIS is limiting its brief as far as possible rather than contending with the inter-jurisdictional issues of liaising with state-based agencies to prevent the spread of marine pests. We are also concerned with the inability or unwillingness of the states to secure a nationally based regime.

Several ports are addressing these potential hull fouling concerns via contractual conditions with the dredging contractor, placing the responsibility onto the dredging contractor to ensure that hulls are clean prior to the vessel's voyage to Australia. However, in response the dredging companies are adding contingency sums of several million dollars to dredging contracts.

Ports do not want introduced marine pests in our waters. Despite repeated requests by Ports Australia and individual ports, AQIS does not yet have a protocol in place to give guidance to industry for the processes that should be put in place prior to the arrival in Australia of an overseas dredge.

Ballast Water Exchange for Vessels Transiting the GBR Marine Park

Ports Australia has been a member of a working group that has been commissioned to look at options for ballast water exchange for vessels transiting the GBR Marine Park.

There was a possibility that AQIS/DAFF would advocate ballast water exchange take place within the port precinct. Ports Australia highlighted the major difficulties with this approach and DAFF agreed to commission a scoping study to determine exactly the nature and size of the problem – ie how many vessels are involved, what sort of vessels are they, what are the trades are involved, etc.

Ports Australia's position is that the states should commit to a genuinely nationally based approach keeping in mind the terms of the 2002 Inter Governmental Agreement. The states have been very slow to respond to repeated calls over the years for that commitment. Inter-jurisdictional transfer of pests has the potential to be a lot more problematic than their control at our international borders.

Ports Australia has argued that it is unsatisfactory for agencies to expect port authorities to act as *de facto* regulatory agencies, a position they readily fall back to. Port authorities are prepared to assist with exotic pest management but not assume the proper role of a commonwealth or state regulatory agency.

Introduced Marine Pests in Cairns Port

Cairns Port Authority has suffered from several incursions of Asian Green Mussel and, more recently, the potentially more dangerous Asian Bag Mussel.

There was minimal involvement by AQIS in the process of identifying the incursion source or determining the extent of the incursion despite the obvious knowledge that could possibly be gained from such investigations.

An issue which further complicates the incursions in Cairns is that it is suspected that one of the Asian Green Mussel infestations occurred via a Defence force vessel which added another regulatory layer to the investigative and response process.

Cairns Port Authority has noted concerns with the interactions and responsibilities between AQIS and Defence national inspection protocols and subsequent state agency (Biosecurity Qld) responsibilities for state (domestic) waters and arising from this detection.

Marine Pest Monitoring Baseline Studies

We are yet to receive advice on marine pest monitoring baseline studies for locations near ports. This issue has been discussed for well over 4 years and yet we seem no closer to developing an agreed protocol or confirming where monitoring responsibilities or costs should rest.

Ports Australia is committed to working with regulators to address this important introduced marine pest issue to ensure that sea trade activities are not compromised or inadvertently constrained. We see AQIS as having a lead role in this issue given their current responsibilities.

Draft Submission by Shipping Australia Limited to the Review

We have had the advantage of being able to review a draft version of the submission that will be made to the Review by Shipping Australia Limited. The members of Shipping Australia have more interaction with AQIS officers than do we via container and cargo inspections, their involvement on the AQIS Industry Cargo Consultative Committee and other related activities.

We note SAL's views that AQIS should be a separate regulatory agency in the manner of either the Australian Customs Service or the Australian Maritime Safety Authority, the governance of which has the respect of industry. We concur with all of the arguments outlined by SAL in their submission. Ports Australia supports a case for increased resources for AQIS so that it may fully comply with its own legislation and act more decisively to prevent damage to our marine environment from incursions.

Ports Australia looks forward to meeting with members of the Review Panel during May.

Yours sincerely,

Susan Blackwell
Executive Officer

Appendix - Ports Australia's Members

- Albany Port Authority
- Broome Port Authority
- Bunbury Port Authority
- Cairns Port Authority
- Darwin Port Corporation
- Dampier Port Authority
- Esperance Port Authority
- Flinders Ports South Australia
- Fremantle Ports
- Geraldton Port Authority
- Gladstone Ports Corporation
- Mackay Port Authority
- Port of Melbourne Corporation
- Newcastle Port Corporation
- Port Hedland Port Authority
- Port Kembla Port Corporation
- Port of Brisbane Corporation
- Port of Portland Pty Ltd
- Ports Corporation of Queensland
- Sydney Ports Corporation
- Tasmanian Ports Corporation Pty Ltd
- Toll Ports and Resources - A Division of Toll Logistics
- Townsville Port Authority

Marine Authorities

- NSW Maritime Authority
- Maritime Safety Queensland
- Victorian Regional Channels Authority
- Victorian Department of Infrastructure
- Department for Transport, Energy & Infrastructure, SA
- WA Department for Planning & Infrastructure

Associate Members

- Port of Hastings Corporation
- Royal Australian Navy
- Australian Hydrographic Service (RAN)