



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



President's Message

MLAANZ Newsletter — Final for 2017

This is our final newsletter for 2017. It also marks the end of Neil Beadle's presidency of MLAANZ. His presidency will be a hard act to follow. On behalf of the board, the state branches and the broader membership, I would like to extend my sincere thanks to Neil for his stewardship and guidance. He has steered MLAANZ to the strong position in which the association finds itself today. His commitment, dedication and sheer determination are second to none. Thank you Neil and we look forward to working with you throughout 2018 in your new role as immediate past president. You are not off the hook yet!

I propose a brief summary of some of the events and achievements of MLAANZ in 2017.

MLAANZ 44th National Conference, 4-6 October 2017 — the Four Seasons of Shipping

Congratulations and thanks to the Victorian branch of MLAANZ for organising an outstanding conference which was held at the Pullman Melbourne on the Park. The feedback has been very positive — the papers were informative and interesting, the calibre of speakers was excellent, and the networking events were enjoyable. All in all a very successful conference. Special thanks also to Matthew Harvey and David Goodwin for their efforts. A number of speakers and guests travelled from overseas and we would like to extend our thanks for their commitment and ongoing support.

The Dethridge Memorial Address delivered by The Hon Sir Bernard Eder of Essex Court Chambers, London, former judge of the High Court of Justice of England and Wales and senior editor of *Scrutton on Charterparties and Bills of Lading*, entitled *The MV Good Faith: The Relevance of Good Faith in Shipping Disputes*, was indeed memorable. Sir Bernard's participation is testimony to the high regard in which the conference is held internationally. The distinguished speakers included a number of other sitting or retired members of the judiciary including The Hon Robert French, former Chief Justice of the High Court of Australia, The Hon Justice John Digby and The Hon Justice Steven Rares. Special thanks also to the academics who participated at the conference for their insights and contributions.

I would also like to extend our special thanks to all our sponsors, without whom the conference would not be possible. Particular thanks to our platinum sponsor HWL Ebsworth, our gold sponsors HFW and RMIT University, our silver sponsors AMSA, DLA Piper, Thynne + Macartney and Clifford Chance, and our bronze sponsor Young's List.

The topics ranged from the influence of ships on the common law, recent developments in admiralty law — a comparative analysis between Singapore, New Zealand and Australia, port developments generally touching on how technology is changing the shipping world including assessing bridge-less ships — where do we stand, changes in the regulatory environment, insurance, developments in the carriage of goods by sea, the role of ethics in ship arrests and how to establish a practice in arbitration. The conference attracted CPD points.

The gala dinner was a particularly memorable event for both Melbournians and non-Melbournians alike and was held at the MCG in the Harrison Room — a truly unforgettable occasion.

Last but not least I would like to extend our special thanks to the industry participants who attended and to our broader membership who participated for their invaluable contributions — it made the conference the success it was.

We hope you will all join us in New South Wales in late 2018 for the 45th MLAANZ annual conference.

Call for Papers for 45th Annual Conference — NSW

Planning has already commenced for the 2018 annual conference in New South Wales. We will notify members of the proposed dates in due course although it is expected to be in September or October 2018. We will circulate a “save the date” as soon as possible. The board invites all parties interested in presenting at the 2018 conference to submit an abstract (of approximately 200 words) on their proposed presentation. We request that submissions be received before 9 February 2018.

Recent Developments

1. Proposed Amendments to the Marine Insurance Act 1909 (Cth)

As members will recall, on 20 June 2017, Neil Beadle received a letter from the Attorney-General's Department in Canberra thanking MLAANZ for raising a number of concerns and for its submission on the proposed amendments to the Marine Insurance Act 1909 (Cth). The Attorney-General has referred the issues to his department for review. While there is some way to go, this is certainly a step in the right direction and we thank all of those who have participated in the process and persisted with their endeavours to reform the legislation.

2. Athens Convention — Carriage of Passengers by Sea — Federal Government's Discussion Paper

In November 2017, the Department of Infrastructure and Regional Development published a discussion paper on the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea 1974, as amended by the 2002 Protocol (Athens Convention) with a view to canvassing public views on the adequacy (or otherwise) of Australia's current legal framework regarding the international carriage of passengers by sea and the relevant liability and compensation regimes applicable. The Department is also seeking views on the commercial implications of Australia ratifying the Athens Convention.

All ship passengers and those participating in the cruise sector are encouraged to read the discussion paper and to make written submissions by no later than 31 January 2018. Please note that the submissions will only be treated as confidential if they are expressly stated to be confidential. The submissions are to be E-mailed to athensconvention@infrastructure.gov.au. The discussion paper can be found here: https://infrastructure.gov.au/maritime/business/liability/damage_luggage.aspx.

Thanks to all who have persevered with striving for amendments to the regime and who have liaised with the stakeholders.

3. Investigation into “Flag-of-Convenience” Shipping in Australia

The Senate Rural and Regional Affairs Committee commenced an investigation into Flag-of-Convenience shipping in Australia. MLAANZ understands that as a result, the Fair Work Ombudsman has conducted investigations aimed at improving the working conditions of seafarers, including investigations into suspected underpayment by foreign flagged vessels of their crew whilst in Australian water. The committee made a number of recommendations including adequate funding of the Fair Work Ombudsman to implement an inspection programme to minimise the risk of exploitation of seafarers. The Fair Work Ombudsman has been active in this area and MLAANZ understands the Ombudsman has already recovered some compensation for foreign seafarers who were underpaid while working in Australian waters.

The Fair Work Ombudsman has sounded a warning to industry participants to ensure workplace obligations are complied with while operating in Australian waters.

4. International Maritime Law Arbitration Moot 2017

Congratulations to Professor Kate Lewins of Murdoch University for arranging the 18th International Maritime Law Arbitration Moot (IMLAM) competition for law students, which was held in Singapore. The competition was hosted by the Centre of Maritime Law at National University of Singapore with 26 teams competing from 12 different countries and over 50 arbitrators from around the globe. The competition is highly regarded worldwide and has significant educational benefits. I'm pleased to advise that MLAANZ has agreed to continue sponsoring the IMLAM Moot by contributing towards its running costs.

Congratulations to all teams who participated and particularly to the winner, the National University of Singapore. We hope that this will be the commencement of a long and fruitful career in maritime law and arbitration for the winners and all participants in the moot.

Appointment of President of the Australian Law Reform Commission

On 30 November 2017, the Attorney-General for Australia, Senator the Hon George Brandis QC, announced the appointment of Professor Sarah Derrington as the new president of the Australian Law Reform Commission (ALRC) for a term of five years. The appointment is well deserved and recognises Professor Derrington's distinguished career as a scholar and practitioner. Sarah is currently academic dean and head of school at TC Bernie School of Law and the University of Queensland. Her field of specialisation is admiralty, maritime and insurance law. Sarah is a past president of MLAANZ. She has also been appointed a judge of the Federal Court of Australia from which she will be seconded during her tenure as president of the ALRC.

MLAANZ would like to extend its heartfelt congratulations to Professor Derrington. We look forward to working with her in the future.

Pat Saraceni
President, MLAANZ

Dr Pat Saraceni
Director, Litigation and Dispute Resolution
Clifford Chance
Level 7, 190 St Georges Terrace
Perth, Western Australia, 6000
+61 8 9262 5524, +61 419 784 206
pat.saraceni@cliffordchance.com

December 2017

