



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



President's Message

As we approach the end of a memorable year, the executive committee of MLAANZ thanks all members for the ongoing support and camaraderie we have enjoyed through challenging circumstances. Our association is in good shape.

The Annual General Meeting of MLAANZ was held as a “virtually-conducted” event on Monday November 30, 2020, with strong representation from all branches. Our audited accounts for the year to June 30, 2020 were adopted, informative updates were provided by our various branch chairs and the incumbent committee was elected for a further year.

We now sign off the year with this final December edition of *Semaphore*, and we've included an array of interesting news items. There is a breaking story about the shadowed implementation of a trans-Tasman “travel bubble”, coverage of a precedent-setting development with New Zealand's endorsement of the country's first enforceable undertaking involving a stevedoring company and an opinion piece on the country's offshore oil pollution legislation. Proving that maritime boundaries are never entirely resolved even with the passage of millennia, there is an interesting article about current-day friction between Greece and Turkey regarding the limits of territorial waters in the Ionian Sea and another story highlights accusations of political motivations in search-and-rescue operations off the Italian coast. Furthermore, we bid farewell to two long-term Australian servants to the industry, recap a MLAANZ submission on the Nairobi Wreck Convention and recount how the Australian Maritime Safety Authority cracked down on an aggressive vessel owner ... and more!

Finally, we recirculate below, for those who might have missed it, my 2020 President's Report to Members, which was distributed last month ahead of the Annual General Meeting.

2020 has been a year like no other. The year has presented enormous challenges for organisations the world over, and MLAANZ has been no exception.

We began the year with a fresh new committee and considerable momentum as a result of our highly-successful 2019 conference, held in Auckland from September 11 to 13, 2019 on the theme “Sea Change – Navigating the Future”.

However, the first signs of the likely impact of the COVID-19 pandemic became apparent in January and February 2020, and by March lockdowns of various durations were being implemented by Governments in New Zealand and most States and Territories of Australia, accompanied by border closures and travel restrictions.

Our committee quickly recognised that it would be impossible to conduct a conference in 2020, and it was announced to members in March that the conference originally planned to be held in Perth, Western Australia, in late 2020 would not occur. At the time of writing, with the biosecurity situation globally still fluid and uncertain, no firm plans have been developed for the timing, location or duration of a 2021 MLAANZ conference. The committee will give attention to the options for a 2021 conference at its first meeting in the New Year.

The postponement of the MLAANZ conference was mirrored by the decision of the Comité Maritime International (CMI) in April to cancel its planned 2020 conference in Tokyo, Japan. CMI now (provisionally) plans to hold its reprogrammed Tokyo Conference from October 20 to 24, 2021.

MLAANZ is a committed member of CMI and has greatly appreciated CMI's assiduous work and assiduous communications over the past year, under the presidency of Christopher Davis of the United States. CMI's work outputs encompass topics such as rights of direct action against insurers, security interests over shipping containers and breaking owners' rights to limit liability under the IMO Conventions. Details can be found at www.comitemaritime.org.

An important area of work for MLAANZ over the past year has been dialogue with Governments and the making of submissions on shipping policy and maritime law issues. The committee has deliberated on topics as diverse as judicial sale of ships, Australian coastal trading reform for cargo vessels, the Nairobi Wreck Convention and the Athens Convention relating to carriage of passengers.

We were disappointed by the recently-announced decision of the Australian Government not to accede to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea as MLAANZ had advocated adoption of the convention as benefiting Australian passengers and industry participants, and supporting the cause of uniformity. Australia's Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development, the Hon Michael McCormack MP on November 13 stated the Government's Regulatory Impact Statement had concluded that "whilst there are benefits to passengers if Australia were to accede to the convention there is no strong or urgent case for Government action. Except in the event of a catastrophic incident, passengers have access to greater amounts of compensation under the current system". The statement also said the Government would continue to monitor the situation in case circumstances changed.

Given the limitations this year on conferencing and face-to-face meetings, MLAANZ branches have focused their efforts on conducting "virtual" seminars on maritime law topics, utilising Zoom and similar technologies. This has proven to be a great success judging by attendance, participation numbers and other feedback. Activity at a branch level has been maintained and the virtual seminars have had the positive effect of increasing the level of cross-fertilisation between branches, across both sides of the Tasman Sea. The following seminars have provided some of the highlights of 2020:

- New Zealand Branch seminar on May 12, "COVID-19: Legal Issues in Shipping and Trade – Contract Essentials", speaker: Paul David QC, Auckland Bar
- New Zealand Branch seminar on May 25, "New Zealand Government Strategy for Trade Recovery", speaker: Vangelis Vitalis, deputy secretary, New Zealand Ministry of Trade and Foreign Affairs
- Western Australian Branch seminar on June 25, "COVID-19 – What Does it Mean to the Maritime Sector?", speakers: Tony Pegum of Mitsui OSK Lines and Professor Kate Lewins of Murdoch University
- Western Australian Branch seminar on July 23, "Maritime Disputes and Maritime Arbitration", speaker: Philip Teoh, Azmi & Associates, Malaysia
- Western Australian Branch seminar on August 13, "A Two-Pronged Approach to Decarbonisation", speaker: Margot Matthews, LNG Marine Fuel Institute
- Victorian Branch seminar on September 16, "Maritime Arbitration", speakers: Bronwyn Lincoln, Corrs Chambers Westgarth, Corina Song, Allen & Gledhill, Singapore and Matthew Harvey SC, Victorian Bar
- Western Australian Branch seminar on September 23, "Does a Defective Passage Plan Render a Ship Unseaworthy?", speaker: Matthew Harvey SC, Victorian Bar

- Western Australia Branch seminar on November 9, “Extra-Territorial Reach of State Marine Pollution Legislation”, speaker: Ashwin Nair, Cocks Macnish

A Victorian Branch event originally planned for November on “Competing Liability Rules” has been rescheduled to March 2021.

During 2020 we increased the frequency of the association’s *Semaphore* newsletters in an effort to keep members abreast of developments in the world of shipping.

MLAANZ remains in a very strong financial position, as indicated by the audited financial statements for the year to June 30, 2020.

Our membership numbers remain healthy, albeit that several very active members retired from professional practice during the year. The Queensland Branch has strongly acknowledged the contributions of Professors Nick Gaskell and Michael White QC of the University of Queensland. The New South Wales Branch has also recognised the contribution of recently-retired Derek Luxford, a member of MLAANZ since 1983, NSW Branch chair from 1992-1995 and in recent times a leader of efforts to promote amendments to Australia’s Marine Insurance Act. The federal committee would also like to place on record its appreciation of the contributions made by these three gentlemen and thank them for their service to our association.

Membership renewal notices for the 2021 year will be distributed shortly and the committee encourages all members to attend to renewals promptly.

This has been a long, arduous and uncertain year which has required us all to experiment with new ways of working. It would be unsurprising and understandable if many of our members were now feeling a sense of fatigue. I encourage everyone to make the most of opportunities for rest and relaxation over the coming summer months and to recharge our metaphorical batteries so we can throw ourselves energetically into 2021.

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