



# SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



## NZ Branch Report

Kia ora Koutou. The New Zealand Branch held its Annual Conference in the legislative Chamber of Parliament in Wellington on May 14, with 70 delegates in attendance.

We were privileged to have Deputy Prime Minister Grant Robertson open the conference.

Highlights included the contribution of our younger members, with talented solicitors Netty Jagusch from Duncan Cotterill, Zane Fookes from Chapman Tripp and Daniel Jackson from Oceanlaw New Zealand providing detailed case summaries on important case law in the past year.

Emily Ferguson of Wynn Williams, another young member, provided an enlightening exposé of the liability issues from shipping in Antarctica, including the challenges facing the world as this area becomes used more and more for shipping.

Mike Knowles from Zespri International, speaking in his role as chair of New Zealand Council of Cargo Owners, educated attendees on the challenges faced in the supply chain of our exporters.

The event was a major success, being our first person-to-person conference since COVID-19 struck. We were fortunate to have two of our Australian members attending, a small teaser of things to come as our borders open across the Tasman.

Parliament was a superb venue, providing the opportunity for maritime industry insurers, lawyers and surveyors to interact with Government agencies including the Ministry of Transport and Maritime New Zealand in the nation's capital.

The conference was followed by the AGM. Stacey Fraser, our secretary, retired but remains a board member and member of the MLLANZ Federal Board. Stacey's contribution to the Branch has been nothing short of outstanding. I take this opportunity on behalf of all members to thank Stacey for her hard work and significant achievements in making the New Zealand Branch a better organisation. We also bid farewell from the board to Matt Flynn after many years of service. Matt likewise has made a large contribution over the years and I also thank Matt for his efforts. Richard Belcher was appointed secretary and all officers were re-elected.

The conference rounded out with a lively dinner at Dockside as we all reminisced of days and conferences of old and enjoyed the pleasures of Aotearoa's kaimoana and outstanding boutique beers and wines.

### ***Maritime Activities in New Zealand – March 2021-May 2021***

#### ***Government to Ban Live Cattle Exports by Sea***

The Government has announced a ban on live cattle exports by sea after a two-year transition period.

The decision followed a Ministry for Primary Industries review of live exports. The ban was recommended by the National Animal Welfare Advisory Committee.



Extra requirements for live exports were introduced in October 2020 to implement recommendations from a review led by Michael Heron QC that was commissioned after the Gulf Livestock 1 sank in September 2020. These requirements will continue to apply during the transition period.

Agriculture Minister Damien O'Connor said: "At the heart of our decision is upholding New Zealand's reputation for high standards of animal welfare. We must stay ahead of the curve in a world where animal welfare is under increasing scrutiny."

### *Maritime Levies now Able to be used for Seafarer Welfare Services*

Parliament has amended s 191(2) of the Maritime Transport Act 1994 to allow maritime levies to be used for seafarer welfare services. The amendment was made by s 6 of the Regulatory Systems (Transport) Amendment Act 2021, which entered into force on April 1, 2021.

New Zealand has obligations under the Maritime Labour Convention to ensure that seafarers on ships visiting its ports have access to welfare services necessary for their health and wellbeing, promote the development of welfare facilities and encourage the development of welfare boards.

Maritime New Zealand will enter into service delivery arrangements with the Seafarers Welfare Board, providing secure funding for core welfare services from maritime levies. Transport Minister Michael Wood said: "The Seafarers Welfare Board currently relies on donations to co-ordinate facilities at our ten main ports. By giving them long-term funding certainty, we will meet our international commitments and ensure that services to support seafarers' wellbeing continue to be provided."

The Government has provided interim funding to the Board in 2020/21 through the Essential Transport Connectivity Scheme.

### *Maritime New Zealand Accepts Enforceable Undertaking from KiwiRail After Incident on Interislander Ferry*

Maritime New Zealand has accepted its second enforceable undertaking under the Health and Safety at Work Act 2015. An enforceable undertaking is a binding agreement between the regulator and a person or corporation who has allegedly contravened the Act, whereby the alleged offender agrees to take various actions without admitting liability. The regulator may accept an enforceable undertaking proposed by the alleged offender instead of prosecuting, except where the alleged offending involved reckless conduct.

A crew member of the Kaiarahi slipped and fell in its hydraulics room, which had had insufficient non-skid surfacing and no anti-slip grading. The worker broke his femur in two places, requiring surgery and the insertion of rods and screws. He was off work for 15 weeks and three days.

KiwiRail supported the injured worker while off work and paid reparation. It also fixed the problem on the Kaiarahi and introduced testing and remediation to protect crew from similar incidents on its other ferries, as well as for workers and passengers at its ferry terminals.

The centrepiece of the enforceable undertaking is KiwiRail providing \$250,000 of funding to the Marlborough District Council to implement a system of real-time monitoring of tides, currents and water depths in the Marlborough Sounds. All commercial and recreational vessels will be able to use the system without charge. It will also provide historical information and some modelling of future water movements. The council wants to introduce such a system because of the dangers of sudden changes and fast tides and currents in the Sounds.

Other conditions in the enforceable undertaking include:

- developing and distributing a frame work for friction testing on ships
- continuing to carry out friction tests on ships and terminals
- continually reviewing and prioritising resurfacing and repairs
- developing friction testing policy and procedures

I look forward to the MLAANZ Brisbane Conference later in the year and watching MLAANZ flourish over the remainder of the year.

Nga mihi

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