



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



New Zealand Branch Report

Activities

The New Zealand Branch of MLAANZ has had just six months since its last AGM and conference and so activities have been limited. The main recent focus has been to bring our annual conference back to a midyear cycle so we do not clash with the MLAANZ federal conference.

So it was with much excitement that we held our 2023 Branch conference at the Hilton Auckland on 2 June.

The festivities kicked off our legendary icebreaker event at Little Alice in the Viaduct Basin, just steps away from the Maritime Museum, America's Cup home base and Ports of Auckland. With the minimum-spend trend we now have a new version of the "6 o'clock swill" and in true mariner spirit not a drop or cent was left on the bar. Special thanks to Australian and Wellington visitors in ensuring Little Alice didn't make an unearned profit!

The conference kicked off on a windy and wet Auckland day with over 70 delegates and speakers.

The international speakers were a highlight and Dr Pierre Jean Bordahandy from Vanuatu shared with us his experiences working within the International Maritime Organization on the reduction of Greenhouse gas emissions and the battles and hurdles faced – very enlightening and evidence that patience and resilience is required.

Marcus John (pictured right) from Thomas Miller Australia rounded out the international card with great photos and videos of disasters at ports worldwide including some in New Zealand. Marcus was able to illicit lively comments from the floor from participants in the local cases, who remained very careful not to breach settlement agreements.

In attendance from Australia were also Fraser Hunt, Maurice Lynch and Robin Bowley.

We are very thankful for our international speakers as they add extra sparkle to the conference.

The youth theme that New Zealand has pushed for over 30 years continues to go from strength to strength as the case note presentations were outstanding from Alexander Bennett, Theo Ewart and Francesca Dorman. Some young talented lawyers to keep an eye out for in the future.

Rosalie Van Dael (pictured overleaf) then gave an excellent presentation on admiralty and insolvency before dashing off to Comité Maritime International, Montreal, to speak and then on to study a Masters at Oxford. We send Rosalie off with our best wishes and the financial support of the Federal Board of MLAANZ.



Completing our young presenters section, Chante Fourie (pictured at right with Rosalie Van Dael at left) continued the outstanding performances by exploring “breaking the unbreakable?”, recklessness and unified interpretation to the Limitation of Liability Convention.

This year we had a significant representation from the Ministry of Transport and Maritime New Zealand (MNZ), both as presenters and attendees. Having our regulators attend is a major plus and we welcome them with open arms and appreciate their contribution.

Stu Day and Dave Whitebridge spoke on health, safety and updating us on what MNZ has been up to internationally during the past 12 months. As an aside, Dave Whitebridge is now a committee member of our Branch so we look forward to his contribution there.

The final session saw speaker debuts at our conference. The enigmatic Glen Hunter enthralled with stories with pictures about wreck removals and related health and safety issues, and Helen Sadgrove gave a perfect Ted-quality speech on how the traditional regulators’ approach to health and safety doesn’t work and instead offered a 21st Century model that would achieve greater outcomes.

The amount of effort that goes into a presentation is huge and these speakers delivered a fantastic conference for the Branch, thank you.

The AGM that followed saw the office holders re-elected for another term and new committee member Dave Whitebridge elected. With our 50th anniversary coming up in 2026, John McElvie will lead the gathering of historical information including recordings of founding members and early Branch members so we can share these stories of the past with member for years to come.

The conference dinner was held at Non Solo Pizza and again with a minimum spend, we ate a banquet with fine wines and mocktails and partied into the night. To our team of organisers – Stacey Fraser, Vannesa Ma, Paul David, Andrew Colgan, Colin Hunter and Neil Beadle – a massive thank you.

Legal Updates in New Zealand*

Shiling Incident Highlights Jurisdictional Complications

The recent high-profile situation involving the container vessel MV Shiling has highlighted the complications that can occur over jurisdiction to investigate and deal with incidents at sea.

This was the fourth mayday call involving the Shiling that New Zealand authorities had responded to in the past year.

The ship broke down while leaving Wellington Harbour in April. The Transport Accident Investigation Commission (TAIC) launched an investigation. MNZ released the Shiling from detention after the repairs were approved by the vessel’s classification society, Lloyd’s Register, and flag state, Singapore. MNZ said that Singapore was “the legal entity responsible for the oversight of the vessel, and we thought we ought to be happy with this”. These repairs to the generators and engine were supposed to give the ship sufficient power to sail to Singapore for permanent repairs.

The vessel departed Wellington on 10 May. But on 12 May it suffered a propulsion and steering failure about 22 nautical miles northwest of Farewell Spit. It was rescued and towed to safety in Tasman.

The incident has also raised questions about the resources and legislative requirements to respond to stricken ships. The Skandi Emerald, an ocean going tug, just happened to be in New Zealand for work.



It's unclear how harbour tugs would have fared in potentially rough open seas. After the Interislander ferry Kaitaki lost power off Wellington's south coast in January, Greater Wellington Regional Council chair Daran Ponter and Marlborough mayor Nadine Taylor wrote to Transport Minister Michael Wood arguing that the lack of a rescue vessel in Cook Strait poses an unacceptable health and safety risk. They have met with Associate Transport Minister Kiri Allan, who has responsibility for maritime transport, to discuss the issue.

MNZ's Health and Safety Jurisdiction Extended

The Government plans to extend MNZ's health and safety jurisdiction to cover the land side of commercial ports in New Zealand.

WorkSafe New Zealand is normally the regulator responsible for health and safety under the Health and Safety at Work Act. However, the Minister can designate other agencies to be the regulator for health and safety in particular contexts. MNZ was already responsible for health and safety on ships. But WorkSafe retained responsibility for health and safety on land at ports. This could create complications in some situations.

The extension of MNZ's health and safety role at ports was one of the recommendations made by the Port Health and Safety Leadership Group in its recently-released Port Sector Insights Picture and Action Plan.

MNZ chief executive Kirstie Hewlett says that the expansion of MNZ's role will enable an holistic and targeted approach to supporting port businesses improve health and safety.

"We will be able to more effectively work with, and regulate, businesses that carry out high-risk port-based activities to improve health and safety on ports," said Ms Hewlett.

"The extended designation also comes with resourcing to enable a greater presence on ports over time.

"Feedback from the sector told us that having one regulator would make it easier to get an end-to-end sense of how these businesses are developing systems, performing safety operations, and engaging with workers.

"MNZ will be engaging widely with the sector later this year on the designation, how it will work in practice and what it will mean for those working on the 13 commercial ports.

"We've done some early work to scope the various actions that will be required to implement this change, and will be working closely with WorkSafe over the next year or so to ensure everything is in place to make this a seamless transition."

The extension of MNZ's health and safety jurisdiction will take effect from 1 July 2024.

Nga mihi

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