



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



New Zealand Branch Report

Kia ora, New Zealand like the rest of the world is facing considerable challenges as we head into a recession with consumer confidence at an all-time low. Supply chains continue to struggle under the congestion and poor service the Pacific region is receiving from the major shipping lines.

Rising fuel prices are hitting the New Zealand maritime community hard. Domestic shipping operators are already facing fuel costs double those of 12 months ago. For cargo operators this will no doubt lead to increased prices as these costs are passed on to customers and end consumers. For others such as the fishing and aquaculture industries it will result in large losses as prices for fish product are largely fixed in forward sales and where they are not, buyers will not pay double the price they had been paying. This will lead to the risk of vessels being tied up if it is cheaper to do so than continue to operate. This in turn will lead to vessels deteriorating if they are mothballed and continued servicing is ceased. This all leads to potential risk to the seafarers who operate these vessels in some of the world's harshest waters. One way or another we are in for tougher times.

Add in rising fuel prices and continued regulation of the maritime industry – it simply adds more pressure to our maritime industry.



MLAANZ New Zealand Branch president Hamish Fletcher

Internally in New Zealand, new developments in shipping announced recently offer some brightness to the darkness and these are discussed further below in our maritime update. They show the innovation some of our companies are taking as they try to improve these congestion issues and look to solve wider carbon emissions and labour shortages along the way.

Move Logistics is leading a multimillion-dollar “blue water” shipping route linking New Plymouth to Nelson which is set to revolutionise freight transport between the North and South Islands next year. The drive-on, drive-off truck service using roll-on roll-off ferries is set to take vehicles off the road, save 2000 tonnes of carbon emissions a year and free up drivers in an industry facing massive labour shortages.

Move Logistics has entered into a NZ\$10 million dollar co-investment with the Government's roading agency Waka Kotahi to remove vehicles from the road through shipping. Currently, the only options available for moving trucks between the North and South Islands are via the Cook Strait ferries operating between Wellington and Picton. While it will initially operate between Nelson and New Plymouth, the service will be capable of calling into at least 13 New Zealand ports, without the need for any new infrastructure.

In a further boost to domestic shipping, Maersk is to introduce a two-vessel coastal service with New Zealand crews in local waters only. The first such service for Maersk in 25 years' operating in New Zealand.

How our maritime operators will cope, only time will tell, but it will be interesting to reflect back in 12 months and see how they have fared.

Branch activity has seen a webinar presented by Paul David and we are currently organising our New Zealand Branch conference in Auckland for later in the year – details to be released shortly as well as a call for papers.

Maritime Legal Update in New Zealand

The new Part 199 of the Maritime Rules will implement the requirements of MARPOL Annex VI in New Zealand. Part 199 was signed by the Minister of Transport on March 16, 2022 and will enter into force on August 26, 2022 (three months after the New Zealand instrument of accession was deposited). The rule is designed to bring emissions controls into our domestic legislation.

Cartel Fines Imposed on Freight-Forwarders

The High Court has imposed penalties totalling over NZ\$9.7 million on two international freight-forwarding companies, Mondiale Freight Services Ltd (Mondiale) and Oceanbridge Shipping Ltd (Oceanbridge), and on four individuals associated with the companies, for engaging in longstanding cartel agreements with their competitors.

The Commerce Commission filed proceedings against the defendants alleging that they each breached the Commerce Act by agreeing with other freight-forwarders not to compete for customers. Mondiale and Oceanbridge were in separate cartels and did not enter into cartel agreements with each other.

The separate cartel agreements were reached prior to the COVID-19 pandemic.

The Commission agreed settlements to resolve the separate proceedings with each of the defendants. The High Court imposed penalties of NZ\$4.9 million on Mondiale and NZ\$4.6 million on Oceanbridge. The four individuals associated with the companies received penalties ranging from NZ\$65,000 to NZ\$100,000.

Enforceable Undertaking Funds New Fishing Industry Training

An enforceable undertaking between Maritime New Zealand and a South Island fishing company and its director is funding training to help reduce the number of collisions involving watchkeeping failures.

The enforceable undertaking with the fishing company Pegasus Fishing Ltd and its director, Antony Threadwell, follows a collision outside the entrance to Lyttelton in January 2020 between a 180-metre bulk carrier, Rose Harmony, and a 24-metre fishing vessel, Leila Jo, operated by Pegasus.

The NZ\$175,000 undertaking will fund watchkeeping training at the Westport Deep Sea Fishing School and online through Guard Safety.

Enforceable undertakings provide a means of improving safety in health and safety prosecutions.

Pacific Maritime Safety Programme Funding Approved for Another Four Years

New Zealand will continue to support maritime safety in the Pacific through the provision of NZ\$12 million funding over the next four years for the Pacific Maritime Safety Programme (PMSP).

The programme delivers maritime safety initiatives to seven Pacific Island countries – the Cook Islands, Kiribati, Niue, Samoa, Tokelau, Tonga and Tuvalu.

The funding, from July 1, 2022 to June 30, 2026, marks the fourth phase of the programme.

The PMSP is a Ministry of Foreign Affairs and Trade programme, funded through the International Development Co-operation programme and delivered by Maritime New Zealand.

PMSP4 will deliver initiatives across five outputs – community education and awareness, legislative support, maritime training, domestic vessel safety and search and rescue/marine pollution response.

I look forward to seeing many of you at the MLAANZ Brisbane and New Zealand Branch conferences later this year.

Nga mihi

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