Planning for success

BY MARGARET WIND EXECUTIVE OFFICER, NZ MARINE TRANSPORT ASSOCIATION

A very warm welcome to our readers and members for 2015. Like many, I managed to enjoy the luxury of a few days off with family, too much food and some of New Zealand's finest liquid grape varieties over Christmas. The relentless calls and emails, however, continued to remind me of the implementation issues facing our sector under the new SeaCert and MOSS rules; particularly with respect to the growing attrition rates. Our industry's contribution to tourism and other industry is often overlooked, as is the importance of ensuring the survival of our domestic operators who make such a valuable contribution to New Zealand's international marine image.

This gave cause to focus on setting the 2015 Marine Transport Association objectives and overcoming the challenges of the past few years. The obvious goals include increasing membership, enhancing our relationship with MNZ and other regulators, and most importantly, representing our members on maritime matters. To achieve this, we need to focus on what our demographic or target market needs.

It's no great revelation that our sector of the industry is the most diverse within the transport portfolio. It's also the smallest, with the domestic fishing and passenger fleet shrinking by the day. This in itself causes enormous challenges for our regulators, suppliers and training providers. In any one area of New Zealand, you could look down a marina and spot a passenger ferry, sport fishing launch, sailing yacht, coastguard RIB, commercial fishing boat, and a water taxi. Throw in a DOC research boat, a dive vessel and perhaps a houseboat and we have a fair representation of a typical waterfront setting anywhere in the country.

These are the vessels working under the new MOSS regime, however, each of these vessels is surveyed to a different maritime rule. They also have different manning requirements, equipment and stability criteria. The point of this analysis is to focus on and address the funding and delivery challenges faced by Maritime NZ and other service providers while effectively aiming to deliver on the promise for a safe and viable outcome.

So where do we start? We know there is one constant in that our fishermen and charter operators alike want to come home safely to their families each week. Acknowledging this means that attention might be better focused on the education needed to achieve this. So how can we improve in this area? It takes a lot of experience and knowledge to do this effectively and to understand the environment and economic pressures our operators face. In my view, because of its diversity, the experience necessary is not something that can be taught easily. It comes from years of working with operators and thus I mean no disrespect when I say that MNZ has many years ahead of them before they can effectively and credibly wear the educators' hat without assistance. Many experienced MNZ staff have left, and despite the sound and talented background of some of their replacements, a true sense of understanding is best achieved through a stronger working relationship with industry.

MOSS has shown that operators are becoming more in tune with their maritime operation. But the positive momentum is being outweighed by increased fees and unnecessary auditing of the old system through "deemed-MTOC" audits. We all accept that fees are a fact of life, but the increased costs are significantly higher than under the old system, so much so as to suggest "extortion" which is a negative reaction to what could be a good product.

So how did the analysts get their estimates so badly wrong? The MOSS consultation promised minimal increases with surveyor costs remaining the same. This hasn't happened; not deliberately, but because the initial estimates were so incredibly inaccurate.

There are many other challenges facing our regulator. Surveying now has a one-size-fits-all approach, which is not practical. Commercial providers of MTOPs throughout the country are competing for business and producing manuals for operators instead of with them.

The quality and scrutiny of MTOPs is also inconsistent, a problem that will no doubt need to be revisited during future audits which poses another conflict of interest for MNZ in the coming years. Many of these issues replicate what occurred with the advent of Safe Ship Management in 1998. The MTOPs, if written in conjunction with the owner and embraced by all of those within the operation, have excellent potential. Yes, they are time-consuming and expensive to develop, but if done right, they will form the basis of safe operating practices in the coming years.

So how do we move forward? Let's acknowledge that safety is the first priority. Viability is the next, for all parties involved – including operators, Maritime NZ, surveyors, training organisations and other providers. If one party fails then the others suffer and a downward spiral ensues.

So a conclusion is reached: 2015 is about putting aside preconceptions and combining our knowledge and expertise to jointly achieve growth in all sectors.

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MOSS – Survival of the richest

BY MARGARET WIND, EXECUTIVE OFFICER, NZ MARINE TRANSPORT ASSOCIATION

A steady stream of complaints by confused and frustrated operators from around the country has prompted me to reflect on the state of our industry and how *interpretation* plays such an important role in the management of new rules. Maritime rules part 19 & 44 (MOSS) are a classic example of this.

MOSS regulates the safety system of our industry. As such, it has more direct impact on the daily lives and livelihood of the people in our industry than even the Maritime Transport Act 1994 which is the governing law. Maritime NZ has had *over six years* to get this right, and to ensure that the transition from SSM to MOSS occurs smoothly. Certainly, during the consultation stage there was more than enough feedback to enable Maritime NZ to understand the consequences of the changes they were considering, and – vitally – the sensitivity of the industry to radical change and additional costs.

The transition was never going to be easy. Let's be clear: It's not a simple task to change an established safety system that (as far as industry was concerned) was understood and operating well. But apparently, according to Maritime NZ, SSM was "dysfunctional" and we were inherently "unsafe". Who would have known?

Many of us would agree that SSM needed some modifications. But were we collectively that reckless? As an industry were we *really* that unsafe? Of course there were cowboys then, and no doubt there will still be cowboys under MOSS. Having an MTOP and an MTOC won't change hearts and minds. That takes leadership and direction – which should be the real mission of MNZ as both our industry regulator, and as a centre for excellence in maritime matters.

To industry insiders, MOSS appears to be a *political solution* to manage control of industry, in part to prevent any repeat of the drawn out and expensive litigation involving Survey Nelson. But MOSS is now the new order – and we need to work under it.

What is a significant worry for the industry, however, is the apparent lack of strategic thought put into how MOSS was rolled out.

Champagne corks may have been popping in Wellington on July 1, when MOSS came into effect, but it looks like we have the hangover – as well as the bill for the party and the mess on the carpet to clean up: Issuing a 96-page checklist to surveyors (when MNZ had been *specifically* asked by surveyors not to do so); the confusion over access to MNZ's database by surveyors; the problems with MTOP approvals; the fiasco of surveyor recognition; the lack of direction regarding new build portfolios and many other key technical matters; along with *costs and charges* which seem to be rocketing. These are not "teething problems", they are real, genuine concerns from an industry struggling to come to terms with changes being imposed on them.

The occasional MNZ press release showing smiling people with their MTOC does not inspire confidence. It's particularly galling when those being heralded as MOSS pioneers have unwittingly let their vessels' surveys lapse.

> What is needed by MNZ now is clear, concise direction, a preparedness by them to work *alongside* industry

We are nearing the point where the industry will be voicing a collective lack of confidence in the leadership and governance of Maritime NZ and MOSS. That will be a sad day, and one which no one could take pleasure in, as it would mark a collective failure. Not only would we have failed ourselves, we would be leaving a legacy of problems for those who follow.

What is needed by MNZ now is clear, concise direction, a preparedness by them to work *alongside* industry, to listen to the problems we are experiencing in making MOSS work – and then *commit to act on this feedback.* It's not good enough to pretend to listen, then ignore what's been said. Above all, this should be done without a stopwatch ticking in the background so an invoice can be sent for "safety services".

It's time for you to come out of your office Mr Director. Time for you to *listen* to the industry you are there to represent and serve.

On a more positive note, plans for this year's NZMTA Conference and mini-Trade Show are well underway. Being held in the beautiful Bay of Islands gives us the opportunity to incorporate some local fare with our traditional dinner being held at the renowned Duke of Marlborough hotel. As a prelude, we're hosting a Bathtub Racing event for the Dalkon Shield, the annual North/South competition.

This year we are giving trade suppliers and sponsors the opportunity to display their products and services throughout the period of the conference. Anyone interested in being part of this should give us a call to book a space.

Timing for the conference couldn't be better. We are excited about the new format and believe everyone in our industry will gain something from it. The agenda includes speakers from our tourism, commercial fishing and training sectors, MOSS and SeaCert workhops, and of course, the chance to talk to our wonderful sponsors and trade suppliers.

Registration details are on the MTA website at www.marinetransport.co.nz, phone 09-535 7702 or email info@marinetransport.co.nz.

A candid approach

BY MARGARET WIND, EXECUTIVE OFFICER, NZ MARINE TRANSPORT ASSOCIATION

The Association has had a busy couple of months travelling around the country conducting a series of road shows to assist operators with their understanding of the new maritime rules, MOSS and SeaCert. A great turnout in many areas has prompted NZMTA to continue with the concept of face-to-face meetings in other areas. It is hoped we will complete a full circuit of the country on an annual basis in future.

Despite reports that we are scaremongering by presenting extreme cost and compliance regimes, this is simply not true. NZMTA has a reputation for passionate advocacy and integrity which is crucial to its very survival. Its material and presentations therefore represent an honest interpretation of the rules and how they affect our members. If our regulator feels that these issues are non-existent, or that our spokespeople are over-inflating the problem, then now is the opportunity to confront the issue. Most of the information is freely available on the Maritime NZ website. NZMTA has no cause to have a hidden agenda. Our role is to ensure the longevity of our industry and to serve those who contribute to this. Advocating on behalf of members is one of our key objectives and it is timely to focus on how we can do this professionally and in partnership with Maritime NZ in the future.

During a recent meeting with key Maritime NZ management, we spoke candidly about the major issues facing our members. Without wanting to sound like a broken record, compliance costs seem to dominate every discussion we have with operators at present. So let's focus on this issue objectively.

Take into account the fact that 70 to 80 percent of those in our industry are owner-operators. Then factor in the average size of those vessels and their percentage of annual usage, particularly in the charter and workboat sector. For the fleet operators, government work vessels and many port operators, the issue is not as significant. For the charter and small workboat sectors however, the issue is untenable. The figures simply don't stack up and an alarmingly high number of operators have already withdrawn their vessels from commercial use.

This is a problem we need addressed constructively with Maritime NZ. I refuse to believe that all is lost and that our only option is to spend more time and money on the path of seeking ministerial intervention. I suspect, like us, our regulators do not want to witness the demise of a significant portion of our industry – but this is where it is heading. This is no exaggeration.

If nothing is done, the face of our domestic charter business will change significantly for the worse – and the blame will fall firmly on onerous, unrealistic compliance demands and inappropriate legislation.

Another issue that operators object to strongly is being labelled 'unsafe' and 'non-compliant'. This is simply not true, yet it's been used as an argument to push through legislation enacted by those who don't understand the true statistics. There is a very small number of operators genuinely in this category and we continue to ask: Why can't these simply be managed using the traditional method of detention?

What's the solution? Well, as we all know, the new rules have been gazetted. New compliance teams have been formed and all of this has to be funded by industry. Any change will now take years to achieve.

Therefore, we need to work jointly with Maritime NZ to establish some solutions for those seasonal and small operations that genuinely need some help. NZMTA is encouraged by the desire of Maritime NZ to gain a better understanding of industry concerns and we have invited them to attend future road shows in the hope that a more inclusive rapport may ensue.

Maritime NZ's apparent determination to divide and conquer continues to create mistrust as longstanding relationships are called into question by some looking to gain popularity. This doesn't work in our industry; old-fashioned traits such as honesty and hard work will always reign supreme. Ever the optimist, I look forward to the day we work in partnership towards the objective of a safe, enjoyable and jointly viable maritime community.

NZMTA CONFERENCE

Changing to a more positive subject, I am pleased to announce that details for the annual NZMTA conference have now been confirmed. It is scheduled to be held in Paihia, Bay of Islands from November 26 to 28 and will include expert speakers discussing the Health and Safety in Employment Amendment Act, MOSS and SeaCert, with optional workshops on developing MTOPs and safe operating plans. There will also be a range of presenters updating industry on issues facing the fishing, seafood, and tourism sectors. The conference is designed to suit anyone involved in the maritime sector. A range of suppliers have already signed up to demonstrate their latest marine products if you fancy a break from the serious discussions, and we top the week off with a wonderful dining experience at the Duke of Marlborough in Russell. Registration details will be on the NZMTA website from early September.

On a final note – anyone who is not currently an NZMTA member should visit our website for details of a special membership package offer. Go to www.marinetransport.co.nz or phone 09 535 7702 to register before September 30 and receive a free Ships Log Book and a range of other benefits.

MOSS costs exposed

BY MARGARET WIND, EXECUTIVE OFFICER, NZ MARINE TRANSPORT ASSOCIATION

Is Maritime New Zealand the only growing sector in the New Zealand marine industry? That's the word on the waterfront from countless operators who supported the move for change and looked to MNZ to deliver on their promises to provide an efficient and cost effective Maritime Operator Safety System and SeaCert package. Sadly this has not eventuated quite as anticipated and they are left retracting their initial support. Costs seem to be the dominant concern, with many small to medium sized operations wondering how they can meet the increased fees. Viability of this sector is key to the overall survival of our industry, given that small owner/operators make up the largest percentage. What many fail to realise is that without our smaller operators most other maritime industries will suffer.

Have these sentiments fallen on deaf ears? Up until last week I would have responded with a resounding "yes". Ever the optimist however, a recent Maritime Transport Association seminar revealed a more deferential regulator. MNZ revealed some of the costs we have been all been talking about and indicated an approach that might even be considered reasonable. There is no escaping the fact that the costs have increased but there does seem to be a willingness to keep expenses to a minimum through better engagement with operators long term. We can only hope this intent is followed through.

The MTA have been offering some guidance to operators on MOSS and SeaCert by conducting a road show around the country to assist with understanding some of the transition processes and costs. We now know that a single vessel operator with a 12-15m vessel needs to budget approximately $3500 to $5000 in the first couple of years of entry to MOSS. This would cover the application, survey and initial audit fees. On-going costs would be in the range of $1500 pa spread across the 10-year MTOC period.

Secondary to the pricing concerns, feedback from operators highlighted a view that MNZ appears to be mishandling the transition from SSM to MOSS and is now also alienating the pivotal element of the survey process – the professional survey community.

MOSS was initially intended to improve survey standards through a more direct role by MNZ with the surveyors. What has eventuated is a complex reporting system that will inflate the cost of surveying. The system does tick the standardisation box (if all surveyors are made to use it) but MNZ have signalled that they do not intend to monitor the surveyors unless a problem arises. This may result in a situation where the work of some may go unchecked for several years. Under the SSM regime, there was a robust verification process, along with ISO and MNZ quality audits to monitor compliance through the surveying community. The concern is that when an anomaly is eventually exposed, the operator and surveyor may suffer the penalty of going on an increased audit regime. Giving MNZ their due, there does appear to be some appreciation of this and a recent willingness to negotiate a better outcome. During the recent MTA operator seminar, senior management was made aware of industry concerns with respect to a breakdown in the vital relationship with operators, surveyors and seafarers. There are some significant issues, including SeaCert transition problems, cost of MOSS delivery to operators and the significance of the surveyor function. MNZ may be better served reflecting on whether they have truly honoured their commitment to industry with respect to the original intent of both MOSS and SeaCert to improve safety and standards.

There is a strong message here; the marine industry as a whole can only survive if those on the water are making money. The service providers such as surveyors, training organisations, boat builders, maritime lawyers and MNZ need to support the frontline in order to thrive; if the operators flourish, so do the service providers. Our regulators need to take a strategic approach and consider the overall viability of our industry.

In other news, the MTA annual vessel operator seminar held earlier this month in Auckland enjoyed an excellent line up of speakers, including MNZ who delivered a very informative session in the afternoon. Feedback from many delegates signalled a positive change in the relationship and we look forward to engaging more with MNZ on behalf of our members.

The MTA is enjoying a membership drive at the moment and would encourage anyone in the industry to consider joining up. The MTA is a strong advocate for seafarers and operators nationwide and have some amazing new benefits and maritime updates that offer good value for money. Anyone seeking assistance with seafarer licensing, MTOPs, HSE and compliance management will gain significant advantage in the coming years. Please contact Margaret; info@marinetransport.co.nz for more details or check the MNZ website for special offers on.

Ph: 09 535 7702 or www.marinetransport.co.nz

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the story of the New Zealand industry to 500 schools. A fantastic achievement and something positive to look forward to.

Sticking with the positive theme, Karin Kos, communications manager for Seafood New Zealand and long-time friend of the federation gave the audience strong words of encouragement about what we do and how we do it. She made the point that we need to be more visible in promoting ourselves and provided examples of DVDs about fishermen working on Great Barrier Island in protecting black petrels and also fishermen from Port Chalmers working with the Yellow-Eyed Penguin Trust in protecting yellow-eyed penguins in Otago.

It was a fitting end to a long day and reiterated to everyone that while we may not hear it often, we actually have a great good news story to tell.

The Annual Shipwreck Relief Society auction was held that evening and a great time was had by all. Auctioneer extraordinaire Ritchie Kibblewhite led the charge and managed to extract $22,300 from the willing punters. Another good result and an excellent display of generosity from all those wonderful suppliers that provide goods and the fishermen that bid for them.

On Friday the NZFCF's 56th Annual General Meeting was a special moment whereby Dave McIntosh, long time federation member and fishermen's friend from Whitianga/Coromandel, Auckland Inshore and Leigh Associations was awarded life membership, a fitting end to a well run and most enjoyable conference.

Big thanks to the Bluff Fishermen's Association for all their help during the three days – enjoyed greatly by all who attended.

Transition confusion and angst

BY LOUISE DEEHAN-OWEN, SENIOR LECTURER, NEW ZEALAND MARITIME SCHOOL

Many of us are in the process of going through licence transition. It is causing confusion and angst. Even with a good website, there is still a lack of clarity as to what one will end up with. Judging by the number of telephone enquiries to the school, it now appears that many in the industry have limited access to web-based guidance. The use of one method to disseminate information to all has been shown to be flawed in other government roll-outs. It's been shown to be more effective to utilise multiple media resources. From the enquiries, it appears that there is an area of concern for licence holders who are skippering vessels over 24m and under 500gt.

The path in the transition document on the MNZ website seems inconsistent. The old Restricted Limits Launchmaster (RLL) and Commercial Launchmaster (CLM) seem to hold greater privileges than the Inshore Launch Master (ILM) when transitioning, with the Skipper Restricted Limits (SRL) "endorsed to 24m and less than 500gt" mentioned in the direct options. If you held an old, or legacy Local Launchmans' Licence (LLL) you appear on the table as able to proceed to a SRL endorsed to 24 metres, but as a Local Launch Operator (LLO) you may or may not hold these.

These anomalies are confusing enough without the complication that the LLL is a legacy ticket with an expiry date, and if you are a practicing mariner would have need to have obtained an LLO or upgraded to an ILM.

From seminars attended with MNZ, it appears that if you have been doing a job on a vessel as Master, then under the transition process you should be able to continue your job. Your experience on the job will have to count toward meeting the requirements of the new licence required to do your job. But in cases where a mariner is not utilising their licences, but doesn't want to lose them, it is a far murkier path.

With this in mind, we suggest that mariners follow the transition process as stated in the previous *Professional Skipper* article and get assistance to write a detailed Curriculum Vitae painting the best picture of your work experience. If you have this backed up and verified by the correct documentation, I feel you will find this process easier. Gathering documentation can be difficult if companies have closed or employers are no longer in their roles. In these cases statutory declarations will be necessary.

This process highlights to everyone that whether you are in long-term employment, or going from job to job, it is *vital* to keep legal records of your service roles and responsibilities. Employers could also usefully present their employees with service certificates to cover future changes.

Fair and transparent judgements by MNZ on evidence presented when mariners transition to the new structure will be essential to avoid developing further confusion, disharmony and distrust through this process.

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LISTENING TO INDUSTRY VOICES

Since it was first published, *Professional Skipper* magazine has endeavoured to act as a voice of the broader maritime industry in New Zealand, highlighting the issues that matter to mariners, engineers and those associated with the maritime industry.

Our approach has always been to listen more than we talk, but when important issues need to be raised, we aim to speak out as clearly and cogently as possible on behalf of the industry. Sometimes that makes us unpopular. So be it.

Any review of the issues that have 'made the news' in this magazine over the last few years would highlight the unease and alarm in the industry about how the government regulator Maritime NZ is interacting with the industry.

Many in the industry say the recent 'transition process' affecting vessel inspections (MOSS) and seafarer licencing (SeaCert) has been a calamity. In many quarters it is creating confusion, angst, distrust and fear – provoking ridicule and contempt, and an alarming exodus of talent and experience.

One respected industry figure described the problem to us this way:

"The single most concerning issue we are facing is the reluctance of MNZ to engage in effective meaningful dialogue with industry during the implementation phase of MOSS. This is reflected in a culture which is distant and at times can be seen as arrogant. The end result is that MNZ as regulator will become disengaged with industry, and the gulf that now exists will become wider."

Judging by the correspondence we receive, the issues raised by our industry contributors, and our contacts within the wider maritime industry, a number of common themes emerge. The claims made are serious any way you look at them. They include frequent, repeated allegations that:

1) Maritime NZ is unfairly "gouging" or overcharging the industry through sharp increases in compliance and other costs, in part, it is said, to deal with its own demonstrated funding shortfall and financial problems.

2) Maritime NZ is inconsistently applying and sometimes misinterpreting the law and maritime rules, in some cases to the financial detriment of operators and mariners. Maritime NZ managers are also accused of playing favourites and setting out to punish those it perceives as 'troublemakers'.

3) Maritime NZ is displaying a 'cops and robbers' compliance mentality. Flying a flag of 'increasing safety', some members of the authority appear to take a "you're dangerous, until proven otherwise" approach to compliance, using spot checks and Police patrol-style tactics.

Note: because of credible reports about senior Maritime NZ officers seeking to intimidate or take retribution against critics and those who speak out against 'abuses', we have chosen not to attribute sources in this report. In several cases industry people and companies have provided information to us on the explicit proviso that we protect their identity. We leave it to our readers to decide whether this necessarily affects the credibility of the claims, assertions and allegations or not.

"GOUGING"

Maritime NZ is in financial difficulties and has been for a number of years. The most recent *Briefing to the Incoming Minister of Transport*, dated September 2014 records …

*"Over recent years, **funding has been an issue for Maritime NZ** as we have looked to improve the way we regulate the industry and develop our response capability. A value-for-money review of Maritime NZ's regulatory and compliance activities in 2010 recommended that **steps be taken to ensure Maritime NZ's long term financial sustainability, resulting in a new industry fees and levy structure being introduced in July 2013**.*

*The new charging regime is planned to be phased in over six years, during which time **the proportion of revenue that Maritime NZ receives from user fees will slowly increase**, while the amount received from the levy on commercial operators will slowly decrease.*

*An important mid-point review of the new regulatory and compliance industry fees will be started in 2014/15, taking into account, in particular, our experience with the introduction of the new MOSS and SeaCert programmes, with any changes being implemented from July 2016. **Initial experience of implementing these programmes has highlighted that revenue received is quite different to original expectations.** Actions are in hand to deal with this. …"* – page 7 (emphasis added)

A number of industry operators have independently contacted *Professional Skipper* with information pertaining to Maritime NZ's statement that 'revenue expectations' were not being met, and shedding light on the 'actions in hand' to deal with it.

A surveyor reports a Maritime NZ staffer explaining to him how the authority had "stuffed up" its forecasts for the cost/income of MOSS, and found itself "$1 million in the red". In response, according to this surveyor, Maritime NZ has directed its Maritime Officers to "take longer doing audits so they could charge more". Versions of this allegation have been repeated by others from all over the country.

Many operators report they're being hit with "deemed MTOC audit" inspections by Maritime NZ – even though their vessels are still under a current SSM certificate (i.e. not expired or near-

expired) and as such, covered under transitional arrangements which should mean the vessel is not 'due' for an inspection or audit until the two year anniversary.

Maritime NZ has apparently decided that operators who put their vessels through a SSM inspection in the six months leading up to the transition to MOSS on July 1, 2014 were trying to beat the system. These operators are apparently, in MNZ's view, dodgy or unsafe – and therefore have become targets of these early audits.

A statement on the Maritime NZ website headed 'Timing of deemed MTOC audits' cites "a disturbing number of non-conformities" identified through these audits as a justification for MNZ's campaign to effectively re-audit SSM certified vessels early, transitional arrangements be damned. The language used doesn't indicate whether the "non-conformities" are, in fact safety issues or paperwork deficiencies.

A carefully considered legal opinion recently obtained from a shipping law specialist by maritime operators has analysed the basis on which Maritime NZ can legally impose safety/compliance/audit inspections as "deemed MTOC audits". The opinion finds Maritime NZ's actions are "misleading" and out of step with the law. It argues that the authority is engaged in a "*misuse of power"* no less, and causing *"significant (additional) cost and inconvenience to the operators"* who see the audits as *"merely a revenue generating exercise on the part of MNZ."* .

Maritime NZ has been sent the legal opinion for its response.

Meanwhile, word from inside Maritime NZ indicates low staff morale, with Maritime Officers troubled by the revenue gathering activities they're being ordered to engage in: long comprehensive site visits; more deemed MTOC audits; and pushing early entry into MOSS. MOs tell *Professional Skipper* they've been assigned 'pseudo-quotas' through the scrutinised expectation that they will meet increased numbers of deemed MTOC chargeable hours for fee generation, and their activity is being micro-monitored. Could these be among the "actions … in hand to deal with" Maritime NZ's financial shortfall?

INTERPRETING AND APPLYING THE RULES UNFAIRLY

Maritime NZ's failed prosecution of the Master of the *Santa Regina* led to a serious rebuke by a District Court Judge (see: Captain John Brown's article: 'Maritime NZ's vendetta against mariners' *Professional Skipper* Nov/Dec 2014). Judge Broadmore in no uncertain terms chastised Maritime NZ for its attitude towards questions of law and mariners …

" I do not believe the fate and reputation, not to mention the pockets, of defendants should be the playthings of regulators wishing to have their opinions as to the law tested – particularly when there is only the slenderest basis in the evidence presented to the court for factual findings necessary to support those opinions, and further when they appear to conflict with those of a full bench of the Court of Appeal. "

The deemed MTOC audits, where Maritime NZ's legal basis for auditing vessels with valid SSM certificates appears to be questionable reflects this same attitude.

Many operators are reporting their concerns about inappropriate behaviour by Maritime Officers with respect to unscheduled audits and 'compliance checks'. In the Coromandel, operators were given less than a week's notice of an audit, despite their vessel recording satisfactory outcomes from their Maritime Officer and SSM company inspections as recently as May 2014.

Operators in the north are being given similar unsatisfactory notice of audits. On one occasion, the MO had identified the vessel as 'low risk' in March 2014. When challenged, the MO threatened to detain the vessel if the audit did not proceed. A commercial fisherman in the South reports he was threatened with boat detention if he didn't comply with a costly deemed MTOC audit – any delay would have cost him dearly, as seasonal prices were about to drop.

These incidents are far from isolated. One former staffer calls them "indicative of a growing heavy-handed 'Police State' mentality within the Compliance Group of Maritime NZ."

The unnecessary expense to those who have been subject to these audits in the same year as a 2- or 4-year survey seems to escape Maritime NZ.

Industry insiders say the authority appears to have significantly misled the Minister about the comparative cost under SSM. Under the old system, any audit conducted occurred during the same visit as the survey. *The Maritime NZ audit is a new and additional cost to operators.* Very few of the domestic operators or their vessels were unsafe and in many cases the new system actually *doubles* compliance costs.

The published intent of MOSS was to empower operators with the objective of enhancing safety throughout the maritime community while maintaining costs at a economically realistic level, i.e. good safe operators were to reap the benefits through cheaper compliance, whereas unsafe 'rogue' operators would be subject to higher compliance costs in order to encourage their adoption of safe practices. This seems to have been misinterpreted by Maritime NZ which "appears to consider that to rule all with an iron fist will be more effective," says an insider.

> Under the guise of 'promoting safety', there seems to be a greater use of 'snap' inspections, checks and gotchas

It pays to reflect here on the statistic, previously highlighted in *Professional Skipper*, that the New Zealand inshore fleet has *an extremely good safety record* – and consider that perhaps beating good operators into submission might have a negative effect.

The question that remains unanswered is: "What is happening to the unsafe operators?" They are still out there, injuring people while seemingly *avoiding Maritime NZ.*

Perhaps the most serious failing of MOSS appears to be the management of the domestic fleet itself. The responsibility to ensure vessel and equipment currency now falls on the operator. But without the support of the SSM companies, which kept registers of expiry/renewal dates of such equipment and ▶

Notice to Mariners

Maritime NZ Audits and 'risk assessment'

Maritime NZ uses a risk assessment process to determine the frequency of audits. Any operator assessed as 'high risk' can be subject to six-monthly audits, whereas one seen as 'low risk' should only be audited once every two years.

Any operator contacted by Maritime NZ for an audit is entitled to ask for a copy of their risk assessment appraisal to review its details for veracity.

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surveys, these safety alerts may be lost and standards fall. Maritime NZ appears not to have the capability or desire to provide this important service.

Maritime NZ will retain records of operators under MOSS, but who is monitoring the vessels? Unless Maritime NZ conducts audits every two and a half years there is no way of knowing whether a vessel has met its survey requirements under Maritime rule part 44. More added costs.

'COPS AND ROBBERS' MENTALITY

The industry has detected a pseudo law enforcement attitude displayed by the Compliance Group of Maritime NZ which is widely seen to have brought an 'us and them' mentality to its role – with damaging effects.

Under the guise of 'promoting safety', there seems to be a greater use of 'snap' inspections, checks and gotchas. Operators say Maritime NZ seems to be flexing its muscles and acting in an increasingly intimidatory manner.

For example, a recent early morning exercise – purportedly a 'snap check' on a dangerous goods sailing – saw Maritime NZ officers board a vessel, demanding to check its documentation and manuals and belligerently grilling the skipper and crew about record-keeping and safety procedures over several hours while actually navigating in restricted waterways. The MOs' attitude was perceived as aggravating and intimidating by the skipper and crew.

Indeed, some in the industry have become openly derisory about how Maritime NZ's Compliance Group seems to revel in 'gung-ho' and 'cowboy' activities, e.g. conducting 'joint operations' with the Royal NZ Navy, boarding fishing vessels at work off the West Coast to check their 'certification and life-saving appliances, emergency preparedness and working practices' – *while at sea*; and using the Wellington Police launch to patrol the Marlborough Sounds carrying out snap inspections and 'education and information' programmes aimed at telling mussel farmers and aquaculture operators about MOSS. Why do this from a Police launch or naval vessel – the use of which is inherently intimidating to any operator? And is this really the best use of taxpayer dollars?

In addition, many in the industry are greatly troubled by reports of Maritime NZ staff taking a overly officious, macho approach; they are also said to victimise operators or others who criticise the way Maritime NZ is carrying out its functions, creating a climate of fear.

We ourselves hear many reports of Maritime NZ officers behaving in a bullying, macho manner towards operators, threatening to subject their vessels to snap audits, to delay sailings or place further impositions on them. There are no checks and balances within Maritime NZ on the conduct of Maritime Officers. Unlike other regulatory bodies, they are not subject to regular assessments of their abilities or knowledge. "Maritime Officers are quite literally given a warrant, pushed out the door with minimal training, and thereafter allowed to impose regulatory powers with no oversight or confirmation of ability. Hardly the stuff of a professional organisation, yet they're quick to impose such checks and balances upon industry operators," says a former Maritime NZ staffer.

> Many in the industry are greatly troubled by reports of Maritime NZ staff taking a overly officious approach

COMMENT

Stand-over tactics have no place in an industry that, despite the claims of Maritime NZ, has a good safety record. It is not, overall, as dangerous as it is made out to be. The inshore fleet is most affected by MOSS and yet, excluding two mutton bird tragedies, it has the best safety record.

The message 'We're doing all this to improve safety' is not being accepted by the industry. Conflating the safety record of commercial fishermen, high risk tourism ventures (such as jet-boating and white-water rafting) with that of marine transport, charter vessels and sedate tourism operators is seen as misleading, unfair and intellectually dishonest.

So, while the inshore fleet is actually quite safe – despite what Maritime NZ says – the scorecard for Maritime NZ reflects a different story. You need only look at the criticism Maritime NZ has faced in recent times over the *Santa Regina* prosecution, the *Rena* and *Triview* groundings – not to mention the repeated occasions Maritime Officers have turned up to audits and then admitted that they didn't know their own rules, or how a MOSS MTOC was issued to an operator who Maritime NZ held up as a shining example – only to be advised that the operator didn't have valid Certificates of Survey for their vessels.

IN PURSUIT OF DIALOGUE

The issues facing the industry require an ongoing dialogue. In the words of the Marine Transport Association's Margaret Wind:

"We are nearing the point where the industry will be voicing a collective lack of confidence in the leadership and governance of Maritime NZ and MOSS. That will be a sad day, and one which no one could take pleasure in, as it would mark a collective failure. Not only would we have failed ourselves, we would be leaving a legacy of problems for those who follow.

What is needed by MNZ now is clear, concise direction, a preparedness by them to work alongside industry, to listen to the problems we are experiencing in making MOSS work – and then commit to act on this feedback. It's not good enough to pretend to listen, then ignore what's been said. Above all, this should be done without a stopwatch ticking in the background so an invoice can be sent for "safety services".

It's time for you to come out of your office Mr Director. Time for you to listen to the industry you are there to represent and serve."

Perhaps it's also time for the Minister of Transport to take a serious look inside the realm of Maritime NZ, rather than merely accept Maritime NZ's version of 'the state of the industry'. Such an examination or review would, no doubt, identify some glaring home truths.

GOT OLD, UNLOVED MARITIME BOOKS GATHERING DUST?

Professional Skipper is looking for unwanted books featuring all aspects of New Zealand's maritime history, from shipping to fishing to the waterfront, to add to our growing in-house reference library.

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editorial

MNZ fees – who's milking the cash cow?

In celebrating this 100th issue, I must thank our loyal advertisers and contributors, many have been with us since day one, and I wish to thank our readers and the wider maritime industry we serve. Without your support we would not have survived the many storms that have passed our bows.

My first editorial back in 1996 was titled "An industry in change". Safe Ship Management and the new operating limits were the hot topics as New Zealand's domestic fleet transitioned from an archaic government run bureaucracy to a delegated responsibility SSM system. At the time it was argued that to introduce a safety system that placed the responsibility of vessel management and safety on the operator would shift the burden of cost into a competitive environment where the operator had choices.

The new Maritime Safety Authority, still in its infancy with a staff of 62, was busy writing the new rules in keeping with government policy of ensuring safety at reasonable cost. To make certain there were no monopolies the Government approved the establishment of 14 SSM companies. Today only eight survive.

The size of the domestic fleet in 1986 was estimated to exceed 7000 vessels – remembering that fishing vessels under 40ft were not subjected to survey and were primarily managed by MAF. The introduction of SSM in 1996 changed this.

When I look at the fleet nearly 20 years on, I see the remnants of a vibrant maritime industry with an aging fishing fleet. Maritime NZ claims the domestic fleet numbers 3000 vessels, shared among 2000 operators. I believe this number is closer to 2800 vessels and dropping fast.

When we look at SSM the story is not all bad. Yes, there were problems, but by and large our safety record is good. We understand we are rated fourth in the world for maritime safety, only to be dragged down by the high number of boating accidents and loss of life in the recreational sector. One would think Maritime NZ would focus on recreational boating safety. Sadly, there is no money in it and politically it is not a winner, so leisure boaties will remain unregulated and able to endanger themselves or others.

During early consultation meetings, the previous director, Catherine Taylor, sold MOSS to industry under the pretext that good operators would save money and compliance costs would drop. Our industry is full of success stories from around the country. We are recognised as being safe responsible operators. Maritime NZ statistics state that the number of compliance imposition of conditions and detentions in a year is under five percent and the number of prosecutions is less than one percent of the domestic fleet.

This begs the question; why has Maritime NZ embarked on a journey that will turn the maritime industry on its ear by imposing crippling costs, when it is in fact they who have failed to manage the one percent?

Yes, we have our cowboys. The *Easy Rider* is a case in point. The local MSI was on board the vessel the afternoon before *Easy Rider* sailed on its fateful voyage and nothing was said about the skipper's intention to sail. No amount of compliance rules on the wider maritime industry will put a stop to the one percent who choose to deceive and break the rules.

Unfortunately, with not one mariner on the senior executive team, it appears that Maritime NZ has developed a compliance strategy that assumes we are a waterfront rabble that requires regulating. It is this officious attitude driving new policies and charges that will be the death knell for many small operators.

While the concept of MOSS may on the outside look good to Government and offer benefits to operators, it removes the competitive controls on costs that SSM offered.

I also note that Maritime NZ, during its name change from the Maritime Safety Authority, has quietly removed its requirement to deliver safety outcomes at a reasonable cost. Maritime NZ may now be likened to the fox in charge of the hen house. New inexperienced administration staff with limited maritime knowledge will be tasked to review operators MTOPs, at a charge out rate of $179.00 per hour. While not wishing to cast aspersions on the new recruits, not only do we face the risk of compliance costs skyrocketing, we also risk the potential for incompetent decisions and outcomes that may have a significant impact on the way we manage our operations.

When we consider during this time the number of foreign casualties on our coast, from the *Jodi F Millennium, Tai Ping, Caribic, Eastern Honor, Capella Voyager, Schelde Trader, Hanjin Bombay,* to the *Rena* casualty, arguably the second most costly in the world after the *Costa Concordia*, and as I write the 32,000 tonne bulker *Lake Triview* has a dozen holes after grounding within Port Taranaki harbour limits. Just what is Maritime NZ doing to control these ships, any one of which could do more damage to New Zealand's safe green image than if half the domestic fleet were to sink.

Now to add insult to injury, we have just been advised of the proposed new charges for transitioning existing tickets into the new the SeaCert seafarer licensing. By the time a simple inshore skipper pays his MNZ fees, medical, eyesight, new radio operators, radar and more, he is not going to get much change out of $2000 plus and Maritime NZ do not consider imposing these outrageous fees as disadvantaging a seafarer.

To Maritime NZ: when you consider the millions of passengers and tonnages of freight carried annually by the domestic fleet, our safety record is something of which to be proud. Not something to be milked, like the proverbial cash cow.

Keith

Keith Ingram, Editor

editorial

Are we really that unsafe, Director?

Anyone who saw the Maritime NZ Director's recent interview on national TV could easily have come away with the wrong impression.

His comments, marking *TSS Earnslaw's* certification as the first passenger ship to enter the new MOSS regime, effectively implied that New Zealand's maritime transport industry has a poor safety record – and that MOSS will magically change this. An uninformed viewer could be excused for concluding our maritime industry has been desperately unsafe, bordering on third-world standards. Why else would Maritime NZ trumpet how it has heroically taken over and replaced SSM with MOSS?

This is a very poor message to be sending about legitimate, responsible operators, especially when you consider the millions of passengers, zillion tons of freight, and the tonnage of fish caught annually. In fact many find it insulting.

For the record – and using Maritime NZ's own facts – the domestic fleet numbers some 2800 non-SOLAS vessels. In referring to Maritime NZ's compliance triangle, it is accepted that about 90 percent of operators are safe and good. (Does the Director know this?) A further five percent are deemed safe, but were reportedly bad-payers under SSM. *Four percent* are operators that may require some assistance or attention. That's not ideal, but it's a far cry from the impression the Director of Maritime NZ gave standing on the shores of Lake Wakatipu.

Further, Maritime NZ managers have identified that *less than one percent* are problem operators, some of whom Maritime NZ simply cannot manage or fix. No amount of rules is going to fix cases where the operator of a vessel sets out to deceive, such as the *Kotuku* and *Easy Rider*.

As of July 1, we are stuck with MOSS. Even those operators who were quick to get their vessels through the four-yearly SSM just before the MOSS deadline have not escaped MOSS's clutches – because for Maritime NZ purposes they are now deemed to be in MOSS for management purposes and one can expect MOSS charges to apply.

It's worth remembering that in selling the change Maritime NZ (a) claimed MOSS would deliver what SSM failed to do, and (b) stated that operator compliance costs would be cheaper or certainly *not cost any more* than the SSM system it replaced. Sadly in reality we are facing the opposite, with crippling compliance costs choking economic growth.

Let's put the proposed MOSS charges aside (because to me these are scary enough) and look at the survey costs, which were *included* in the old SSM charges, now it's another added cost.

Maritime NZ has produced a 95 page survey template for MOSS, plus a 16-page survey plan. It is huge and all-encompassing. Either you or your surveyor will have to adapt it to match your vessel. That sounds simple enough, and in proclaiming its attributes, Maritime NZ officials advise that for, say, a 12m vessel as in my case, the survey document will be about 12 pages. A page per metre! Great! Wrong.

In working through the template, I am now stuck at 64 pages, and have requested Maritime NZ to show me how to get this down to the claimed 12 pages.

Add to this the required photographic record of every element, section, part, fitment, item of machinery and safety aid, and we are looking at a swag of photos that have to be inserted into the document and labelled so that someone in Wellington may check up on the checker – another cost at $179/hr with no end yet in sight.

Gone is the SSM competitive environment with its fixed quotes and known fees. The new Maritime NZ costing structure remains open-ended. It now has a license to charge whatever it likes and if this puts you out of business, "Oh dear, how sad, never mind". What it misses out on with you, when you sink below the radar, will just be loaded onto the next operator. And it gets worse.

I have just had a shufti at the Maritime (Offences) Regulations, which have been dusted off by the Director's staff. It would appear that the days of friendly, helpful Maritime Officer visits are coming to an end. Looking at the business plan for the Maritime Compliance Group 2014-15, it seems that all visits will now be compliance inspections or audits – both of which will command a chargeable hourly fee based on their hourly rate of $234 or a projected fee of some $2000 for the audit. During such an inspection or audit where deficiencies are identified, Maritime NZ may additionally impose an infringement fee of up to $2000.

Nowhere is the subject of warnings covered. The penalties appear to be fixed. A recreational boater with no lifejacket faces a fine of $100 per offence, while the commercial offences appear to start at $500 or $2000 a smack! Next thing, we will see our Maritime Officers in stab-proof vests at $2300 apiece, plus Tasers, just to manage some errant fisherman who reacts violently to the prospect of being pinged $2000 for not having his MOSS certificate correctly displayed.

Is this really what our safety authority is all about now? Turning the maritime industry on its head by imposing an arcane system with a crippling and unrestricted cost structure? Remember, we are talking about less than one percent of operators being a problem.

Whatever happened to "*Safety at reasonable cost*"?

Keith Ingram, Editor

editorial

Are dark clouds looming?

In my last editorial I was open in my question to Maritime NZ when I asked, *"Are we really that unsafe Director?"* for it was a fair question. What I did not expect was a determined and defensive reaction by Maritime NZ in an attempt to prove me wrong and the Director right.

Likewise, I am alarmed to hear reported comments from Maritime NZ officers that the main reason Maritime NZ introduced MOSS was because the domestic fleet was reportedly so unsafe.

Granted, the ongoing number of deaths resulting from recreational boating incidents is of concern, but this should not reflect on the wider maritime industry.

It is becoming clear that Maritime NZ does not have the tools, nor the ability, to manage the ongoing safety of our recreational boating fleet.

In a misguided response, Maritime NZ Officers are now looking for discrepancies within the past SSM system, which applied to the domestic *commercial* fleet.

If these claimed defects are valid, that would strike at the heart of our ship survey system. Remember, this previous system was designed by the then Maritime Safety Authority – which employed a raft of professional seamen, engineers and other mariners.

Maritime NZ, by its actions, is questioning the professionalism of each and every engineer and nautical surveyor who previously worked within the SSM system. Our 60-odd surveyors nationwide – who were clearly regarded as competent under SSM – are now being told by government officials *who have no maritime training* that they will have to sit a written and maybe an oral exam to assess their competence as a surveyor. The clear inference of this is that they now are seen as being incompetent. As a result, we now risk losing hundreds of man-years of surveyor experience – and for no credible reason.

In the past few weeks my phone and emails have run hot with industry participants from the length of the country who complain they are being victimised by Maritime NZ. They report Maritime NZ is conducting under MOSS 'Deemed MTOC' audits of vessels which had just recently been inspected under SSM.

Why is Maritime NZ so insistent on carrying out these 'Deemed MTOC' audits on SSM vessels? The answer is because they can – under Rule part 19 Transition and revocation. (What was not clear to operators is that the old Rule 21 for SSM has been revoked.)

The cost of such audit inspections was previously covered under the SSM charges. But now, Maritime NZ can charge for these audits – in fact, the Maritime Officers have been instructed to charge at the new rates for time, travel and service. These new unexpected, expensive charges are rocking the industry.

You can well imagine the shock for many on receiving a bill for the new Maritime NZ fees and charges. For smaller operators, these charges have leaped *threefold* from SSM charges. Then they also have to pay new surveyor rates, which include added compliance and training costs, time, and added admin/paperwork – just to carry out what was once a simple small boat inspection.

As one Northland operator told me, the average wage in his community and his business is $18 an hour. How can Maritime NZ justify an hourly charge of $259 for MOs, or $179 for a clerk doing simple paperwork?

The scale of the fees now being charged is mind-boggling and this added burden will drive many out of business or face financial ruin.

Another phone call was from an irate paua diver who operates a 3.5m rubber boat with a pull-cord outboard motor on an isolated coast. After being inspected, he was given a number of impositions, and threatened with his vessel being detained, because it was deemed unsafe.

These 'defects' were: no life jackets – when a diver is in his wet suit; no bilge pumps – a simple bucket and venturi duck-bills are fitted; no navigation lights – it's now required to have fixed lights, hard-wired to a fixed battery, he was informed. This diver does not work before sunrise or after 30 minutes past sunset and has never been required to have nav lights. (Not to mention that he cannot charge a battery off his hand-start motor.)

Yet another indicator of the confusion in Maritime NZ's ranks is that it is issuing MTOCs to operators without checking whether their vessels are in current survey! Such is the disarray surrounding the implementation of MOSS and MTOCs, many operators have the mistaken impression that once they have an approved MTOC, other than their own maintenance, they are not required to have an *independent* survey carried out for 10 years. Wrong …

Clearly, from the information we received in response to a recent OIA request, Maritime NZ has no clear idea of the status of the domestic fleet – specifically, just who is in survey and who is not.

I had another call this morning from an operator who had just been given a 'non conformity' notice for not having a Fitness for Purpose certificate. The owner argued he now had a Certificate of Survey as he had just completed his two-year survey. The COS actually replaces the FFP certificate – and in any case, the FFP is a 'deemed COS' under the new rules. But the MO still pinged the operator. It seems he didn't know his own rules!

Day after day I'm hearing from operators who feel betrayed that overt promises that MOSS would be no more expensive or onerous than the system it replaced have been comprehensively broken.

These are dark days. And they may soon be getting darker as Maritime NZ's actions threaten the viability and survival of many maritime operators.

Keith

Keith Ingram, Editor

editorial

MOSS – "a pathway to prosecutions"

The Compliance Group of Maritime NZ has come under significant industry scrutiny, and has been subject to some harsh comments within this magazine over the past 12 months. My last six editorials make for sobering reading. Yet they appear to have fallen on deaf ears.

When one looks at the Maritime NZ organisation overall, there are sections doing outstanding work, such as RCCNZ, Nav-aids and radio, Pacific liaison, and even some among the old MSIs (now MOs). But this good work is being cast under a shadow by the leadership of the Compliance Group.

This magazine has tried to communicate with those at the top, only to suffer frustration from a lack of meaningful engagement.

Like many a critic, I have made this plea:

Just because you do not like the message, don't shoot the messenger! Operators in the domestic fleet and organisations like the NZ Marine Transport Association want to work with you, but at some stage, Maritime NZ compliance officials must start listening to the message and start communicating with honest intent.

I have seen grown men literally shed tears of frustration when faced with recent horrible experiences at the hands of Maritime Officers, sometimes two or three at a time, with the power to intimidate – conducting 'deemed MTOC audits'. Many of these legitimate operators are about to walk away from the industry.

Clearly the 'romantics' (operators doing less than 60 days a year) will be the first to go. They'll be quickly followed by many of the corporate vessels we as an industry encouraged to enter SSM during the past America's Cup.

The MOSS application form and the up-to-95-page(!) assessment form, plus the 16-page Surveyor's form are onerous, difficult and costly to complete. In the words of one senior industry manager:

"When you look at all the vessel and company information, much of it sensitive, that now has to be provided, Maritime NZ has structured MOSS as a means of gathering evidence to enable an easy pathway to prosecution."

Entrapment might be a good way to describe it.

It seems clear that Maritime NZ is currently making a big effort to get operators into MOSS early. As a 'punishment' for operators who renewed their SSM certificates before the July 1, 2014 deadline, they now appear to have become targets of Maritime NZ's 'Deemed MTOC' audits – accompanied with increased fees and charges.

Industry operators should NOT give into pressure to enter MOSS early, nor buckle to these new audits. When advised of such audits, they should ask for a copy of their 'risk assessment appraisal' – the Maritime NZ document that determines their audit frequency – and then challenge it. If you passed your recent SSM audit, then there should be no justification for Maritime NZ to re-audit.

Unfortunately Maritime NZ failed to show up at the recent MTA conference. This was after the MTA went out of its way to shift the conference dates to accommodate them so they would available to discuss MOSS and SeaCert. It seems a sad indictment on some Maritime NZ managers when the regulator chooses not to front up – at all – to an industry conference keen to discuss the impact and potential ramifications of how it is implementing something as important MOSS.

The Minister has signed it into law. One would think that when faced with the biggest change in the way we manage the safety aspects of the domestic fleet, the regulator would want to get alongside industry representatives at every opportunity and work with them.

Reading the relevant cabinet papers and Maritime NZ's advice to its Minister, it is evident this radical change was partly driven by the urgent needs of a cash-strapped Crown entity. Maritime NZ seems caught up in an effort to gain more revenue, under the banner of "improving safety".

When one looks at the past 20 years of SSM and the state of the New Zealand domestic fleet, apart from some key risk areas, our safety record was good by world standards. But Maritime NZ's story tellers would have their Minister believe otherwise, in their pursuit of increased revenue.

And yet they continue to ignore the greatest risk to our waters and coastline: the large foreign going ships that visit New Zealand. Those big international operators have successfully lobbied for a reduction in Maritime NZ levies – yet some of them continue to ground ships on our shores with frightening regularity – never mind the near-misses that go largely unpublicised.

Is this fair? Clearly not, and it is all about money. These costs are crippling the inshore domestic fleet.

In this issue we report the anguish, confusion and outrage of operators – see 'Listening to industry voices' page 68. No, it's not pretty.

The time has come for affected operators to talk to their local MP. Go, explain the impact on you and your community, and ask your MP to take your concerns to Minister Simon Bridges. Don't be shy. Take your *Professional Skipper* magazine with you.

To close on a positive note, the maritime industry is like one big family. Our family. From all of us here at Professional Skipper magazine, we wish you and your family the very best for the festive season. May the jolly fat fella in red bring you and yours the joys of Christmas.

Keith Ingram, Editor

editorial

More fallout from the industry

Since the last issue I have had another chance to beat my feet around the traps. The word on the waterfront offers no comfort as many small operators decide to pull their boats out of SSM and MOSS. Over time, their loss will be keenly felt.

A big thank you for the feedback we've received about our special report in the last issue, *'Listening to industry voices'*. It's heartening to hear from so many readers who feel that *Professional Skipper* acts as a medium for the industry in these challenging times.

Even our industry watchdog, the Marine Transport Association has become alarmed about the rapid loss of many of the husband-and-wife operators from our small communities, with the common cry, "It is all getting too hard!" Then we have the professional or corporate owners joining in with, "Enough is enough."

It was not that long ago that the old Maritime Safety Authority *worked alongside* the maritime transport industry in a positive relationship. For example, in an effort to reduce pirate operators, the MSA introduced a requirement to display vessel registration numbers. This initiative, combined with MSA commercial flags and increased education by MSI's, saw many unlicensed, corporate-owned private vessels – which had been doing client charters – mend their ways and enter SSM to start operating legally. Most of these companies hired contract skippers and/or vessel managers to operate their vessel.

In talking with one recent professional owner, a non-mariner, he advised that he had purchased a local charter boat business a few years back because it was good for the community which did not want to see the vessel leave the district when the previous owner wanted to retire.

He employed a professional skipper to manage the day-to-day operation under SSM, to skipper the charters, and bank the money. Meanwhile, our owner paid the bills, and on occasions got to enjoy his own boat with his family. Not only did he create employment, his charter operation brought clients into this small coastal community – supporting local restaurants and motels.

With the introduction of MOSS, he now finds himself fully responsible for the operation *and any misdemeanours his skipper might incur* ashore or afloat. Because of his profession, our owner simply cannot afford the risk of losing his 'fit and proper person' status if, by chance, his skipper stuffs up. The end result: the skipper has lost his job, leaving a young family without income; the community has lost a charter boat, resulting in loss of trade for the local restaurants and motels; the MTA has lost a valued member; and finally, Maritime NZ has lost the income from marine safety charges etc.

This is just one example of where everyone loses. I am resisting the urge to say, "I told you this would happen!" But this is only one example. I am aware there are hundreds more.

One only has to read our readers' letters, and the industry opinions and articles published in *Professional Skipper* to gauge the current negative industry view of how Maritime NZ instigated changes. MOSS, SeaCert and their associated costs have ripped the guts out of the maritime industry.

And it should not be so. Sooner or later someone in authority must come to the realisation that something is seriously wrong and start asking questions. It should not be this hard!

MEETING THE MINISTER

I was encouraged recently when I met the new Minister of Transport Simon Bridges and found him refreshing, open, and interested in hearing about our industry, its challenges and concerns.

At a time when it has seemed difficult, if not impossible to get alongside Maritime NZ, it would be good for the industry to form a positive relationship with our representative at the Cabinet table.

To this end, we have opened up communications with the Minister who has agreed to a meeting in the near future – and an interview with this magazine. With this in mind, we would like to present readers' questions. (see '*Have you got any questions for the Minister of Transport?*', page 49.)

This is your chance to ask your burning questions that may affect your future livelihood. Use it.

The recent escapade in the Southern Ocean involving three toothfish pirates and *HMNZS Wellington* raised a few questions – actually, more questions than answers. Who were those pirates? Where were they from? Were they in our waters or international? Why they were allowed to get away? Why didn't the Navy do something? Why didn't *Wellington* arrest the boats? Or fire a shot? Couldn't they invoke 'hot pursuit'? In this issue, the Navy's Commodore John Campbell offers the inside story on this case which involved matters of complex international law. (See page 70-71) Whether the Navy should have arrested one of the ships first, and sorted the niceties out later, will no doubt remain a topic of armchair debate. But of greater concern: it's evident that we now have foreign fishing boats setting miles of illegal gill nets in our Southern waters.

The situation at Taharoa has been described "an accident waiting to happen." When vastly experienced maritime professionals question Maritime NZ's recent decision to grant an exemption to NZ Steel from carrying a licensed pilot when mooring its ironsand bulkers, surely something is wrong. (See page 52-53)

These are challenging times for all sorts of reasons. Keep your letters, thoughts and ideas coming in. Sooner or later we will get to the ear of reason.

Keith Ingram, Editor

MOSS – 'killing' charter operators

BY CHRIS CALCOTT, FORMER CHARTER BOAT OPERATOR, BAY OF ISLANDS

Russell in the Bay of Islands is synonymous with game fishing. Shortly, unless you own a boat you will only have *one boat* you can charter from Russell to fish in any shape or form – let alone game fish.

My boat *Legend* is one of the three that have dropped out directly due to the introduction of MOSS. It seems possible that MOSS played a part in the decision to put *Striker* (the fourth boat) up for sale.

I understand there may be other boats in the Bay of Islands from Opua-Paihia-Kerikeri considering withdrawing too, when their time is up under the old system.

Several things strike me about this situation. I'll share them with you. MOSS, we are told, is 'all about safety'. Deaths at sea in NZ in recent times occur in:

(1) Boats under 6m, with passengers with no life jacket on, often in gumboots, often not being able to swim and either with a six pack on board or already under the influence.
(2) Deep Sea Fishing – pushing the limit of what is safe to fish in for financial reasons
(3) Heart attacks or stroke, which have nothing to do with the sea or being on a boat
(4) Collisions

Here in the Bay of Islands, we have in the last few years had plenty of examples of (1) and some of (3) and *no deaths* outside of these on any charter boat.

I see *nothing* that Maritime NZ's new MOSS system is doing that will change (1) to (4) other than perhaps influencing the Deep Sea Fishing fleet following the Bluff incident.

MTOP – WINNERS AND LOSERS

Winners

SeaLord and large commercial fishers – MOSS seems to be wiping out the charter industry, leaving more fish for them. (I understand certain key members of the National Party have large financial interests in the fishing industry – is there a connection? Others would know better than I).

Losers

- Charter boat owners (fishing) – perhaps the least import issue in the big scheme of things.
- 'NZ Inc' – every kilogram of fish caught by SeaLord is worth only dollars to NZ Inc.
  On Russell boats I would estimate every fish is worth as follows to the Russell economy (consisting of (charter boats, hotels, restaurants, boat builders, mechanics etc)
  Snapper of any legal size $150+
  Kingfish $600+
  Marlin $10,000+.
- Sailing charter boat owners – Sealord will not compensate in any way for them ceasing to trade.

QUESTIONS

Has the Minister of Tourism being made aware of how MOSS is decimating this aspect of the tourist industry in coastal towns such as Russell? If so does anyone have a reply from him? Can I have a copy?

I guess the government sees a lot of us charter boat owners as 'rich tax dodgers' who only want to charter in order for IRD to part-fund our hobbies. Well, in part they could be right. But if the commercial fishing industry does have a large influence on the National government, then us bleating about our hardship will be laughed at in the corridors of power.

Has pressure been brought to bear on the Minister of Tourism? Would, say, *Seven Sharp* or *Campbell LIVE* be interested in the Russell situation? Would that embarrass the government into changing what it is doing? Honestly, it seems the current lot doesn't respond to much else.

My passion in all of this

Maritime NZ's MOSS is *killing* an industry which some of us love and which provides for Kiwis (and foreign tourists for the benefit of NZ Inc.) access to an experience that is very special. Maritime NZ is doing this either by intent (which, if true, is scandalous) or through ignorance – in which case it can undo its wrong and change the system for charter boats and bring in something simple and cheap.

Most charter operators run boats that are well-equipped, well-maintained, and skippered by those with the greatest local sea knowledge. (To my mind good skippering is the single greatest safety precaution, and one that no MTOP can ever replace.) Charters generally only go out in sensible conditions.

We do not need the bureaucratic monster that is MOSS, at huge cost to ourselves, policed by the newly heavy-handed, vindictively-minded Maritime NZ. MOSS adds nothing beyond what a sensibly maintained boat with a good local skipper gives as protection to the public.

If my boat is rammed by a drunk hooligan on a jet ski (who should be controlled by Maritime NZ) my skipper would not have run to my MTOP to find out what he should do next! He would use his years of experience and good equipment to deal with the situation!

The Minster of Tourism needs to know in no uncertain terms how much money NZ Inc. will lose as a direct result of Maritime NZ's MOSS – whether their actions are being taken intentionally or merely out of bureaucratic ignorance.

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A surveyor's view of Maritime NZ's problems

BY BILL DIXON

I read the editorial in *Professional Skipper's* last issue (Nov/Dec issue) with much interest.

I had asked Maritime NZ, in an open email (July 10, 2014) which included all currently recognised surveyors, about my sudden lack of competence at the end of this year. I received one reply, from a surveyor, and have yet to hear from Maritime NZ – this is not unusual as awkward questions are usually ignored by them.

The rules do not call for a mandatory written examination. This is at the discretion of the Director of Maritime NZ. I would assume that he has taken advice on this subject as he has yet, as far as I know, to show any knowledge of maritime affairs in any of his statements or actions.

I have a feeling that the government has no requirement for the people running departments such as this to have any *actual experience* of the subject covered, I quote Catherine Taylor on this: "I have no need as I am an administrator and employ people who have this knowledge." She missed the point that when you employ people with knowledge you need to listen to them and not get rid of them at the first sign of dissent.

I wrote to the Director of Maritime NZ in June last year on the subject of charging surveyors for issuing recognitions. We have all been told, quite strongly, that we represent the Director when we carry out our duties as surveyors. To then be told that he needs to be remunerated for this honour is a bit unusual – but then he did come from the real estate sector so gouging people will come as second nature. He replied saying that "user pays" in a letter that, roughly translated, came out as "because I say so".

When I was requested to reapply for recognition in 2013 I received a carefully worded set of instructions on how to go about it, signed by the Director. Nowhere did it mention a $230 fee.

Two months after receiving the recognition, an invoice landed on my doorstep for the said amount. Had I been notified of a fee I would not have reapplied then. I have now received a demand for $670, in advance, for application under MOSS. This will gain Maritime NZ the same amount of success, as I will not be submitting to the insult of sitting an examination set by someone of lesser qualification, and probably lesser experience, than myself (I hold a CURRENT unlimited Chief Engineers Certificate as well as being an experienced surveyor of ships). There was no mention of an examination when the request ▶

for applications was sent out (see the trend?) but as soon as the application went in I was told to book a time to sit the exam.

When MOSS was first mooted (and until I got this email) it was understood that all current surveyors were to be accepted as MOSS surveyors. Could the exorbitant fee be the reason behind it?

On the subject of competence, when I first started I was regarded as being so competent that I was never audited on my work before being recognised as a surveyor – I am told this is a very rare occurrence.

Now, after inspecting and passing a large number of vessels as fit with no complaints or misdemeanours, I am suddenly *unfit* for the job unless deemed so by the current regime at Maritime NZ. Sometimes one has to wonder who is in charge over there, could it be Walt Disney Enterprises?

I had the dubious honour of having a Maritime Safety Inspector brought from Auckland to re-audit vessels that I had surveyed three years ago. These vessels had already been audited by the local MSIs with no faults found. The imported person found fault with only one vessel out of the 12 or so rechecked. The faults were put down to incompetence on my part by Maritime NZ even though covered in Part 46 as being the owners' responsibility, especially as the re-audit was carried out over five months after the survey.

This same MSI was a leading light of the MOSS travesty, one wonders if his knowledge of the rules is any better now? And – I never received an apology or a retraction.

The other thing that makes me very reluctant to carry on my (loose) association with Maritime NZ is their tendency toward litigation. I believe they have staffed a compliance department with superannuated cops. This is definitely a step toward the surreal. Maritime NZ head office has, since the advent of Catherine Taylor, had a belief that almost all operators/surveyors/SSM Companies should be treated with suspicion. Now they have a whole department of people who believe that the innocent are only the guilty who haven't been caught yet! This has to be a cosmic joke.

On January 1, 2015 I will breathe a sigh of relief and put the past few years dealing with Maritime NZ down as a bad experience – one that I would not wish on anyone else. Well, maybe on Catherine Taylor. I could also include Nathan Guy (then Associate Minister of Transport) and, especially Stephen Joyce (then Minister of Transport) for the way they pandered to the harridan.

We hear much about how hard it is to change the law of the land, but they managed to change a maritime law between a court judgment finding her in the wrong, and her appeal. Would you believe seven weeks? Luckily, this being a democratic dictatorship, they could not backdate it to when she first acted illegally.

I will miss the relationship that I have had with vessel owners and operators over the past years. But in all good conscience, I cannot carry on in a fashion that I am uncomfortable with. The charges that we have to impose for the increased work required by MOSS are extremely high when compared to SSM. I would rather do without the income than gouge people I like and respect.

We expected change when the last Director left. We all thought it would be for the better – how stupid can you get?

Bill Dixon IEng IMarE MIMarEST
(Soon to be ex) Surveyor of Ships

Regular readers of Professional Skipper will notice there is no MNZ Incidents Reports section in this issue. In response to our queries, the following notice was posted to the maritimenz.govt.nz website on July 28, 2014:

Accident, incident and mishap reporting summaries

Reporting summaries on hold

Until recently, a summary of notifications made to Maritime New Zealand about accidents, incidents and mishaps was published. In the interests of increasing notifications, and further protecting the privacy of those who make notifications, publication has stopped and these issues are being considered. This page will be updated when a decision has been made.

The Fall and Fall of our Industry Regulator

BY ALAN MOORE, NZOW

I have been increasingly alarmed at what I perceive is a massive intrusion by the Compliance section of Maritime NZ in the application of the new raft of rules recently introduced by our regulator.

During my involvement over the years, with only a couple of exceptions, I have attended the annual conferences of the NZ Marine Transport Association. Since they commenced in 1971, these conferences have been an excellent vehicle for people in the industry to voice their concerns over rules and regulations … and to put forward their ideas over the shape of new ones.

An example of this is the new SeaCert rules. After conferring with its members and other operators throughout the country, the MTA submitted ideas to MNZ's consultation group, such as medical examinations, and a finite term for skipper certification. These ideas (like it or not) were taken up – and now form the way our qualified seafarers are certificated.

NO-SHOW

So I was shocked at the last conference, held in Paihia in November, to discover that *no-one from MNZ* was in attendance – particularly since the conference, originally scheduled for late September, was delayed because Maritime NZ was having its own bi-annual conference in Queenstown at the same time.

The MTA conference organising committee reluctantly deferred it since members considered it important to maintain the link between industry and the regulator. But then MNZ announced that it would *not* be attending – because, they said, it was decided to engage with industry on a one-on-one basis rather than with an Industry Group. (This reasoning appears flawed as since that announcement, MNZ has attended two industry group conferences where, in one case, an MNZ spokesman indicated they were not prepared to attend an event where they felt likely to be lambasted by industry participants.)

Now, it's true that MNZ delegates were quite likely going 'face the music' over issues that were being constantly brought up by operators. I won't bore you with what these issues are – you only need to read the editorials and, significantly, the Letters to the Editor column in *Professional Skipper*. In all the time that I have been receiving *Professional Skipper*, I have never seen so much alarm, distrust and ill-feeling expressed towards MNZ.

Clearly those at the grass roots of our industry are expressing their views through the only means they have: *Professional Skipper* magazine is the conduit to (as our esteemed editor puts it) "The Great Unwashed". These people are the hard-working one man bands that make up 85 percent of our industry.

In the past, the rules that control these operators, and the associated costs, have been tolerated and the industry has grown reasonably. But now the rules have changed. As MNZ has taken on a role as an audit/management provider (with an associated increase in staffing), the costs have escalated to a point where the continued viability of operators is at risk.

Operators are falling off the edge faster than we can count (150 in the last six months). Furthermore, MNZ's desire to control/provide a commercial service to industry has been detrimental to the private sector and has removed competition.

Why? The answer is simple: Costs. MNZ, in its wisdom, apparently considered it necessary to increase its staff headcount for an expected increase in workload with the advent of the new rules for MOSS. They added at least 100 people – most of whom are administrators not mariners. But it seems MNZ did not factor in that the rules provided for operators to *delay their transition to MOSS* – so long as they had a current Safe Ship Management Certificate.

This meant that a lot of operators were able to continue utilising the services of their existing safe ship management company, under SSM, for up to four years, and then transition to MOSS. This same 'phase-in' logic applied to transition to the new SeaCert system. Transitioning skippers could delay this process for up to five years.

But it appears the hierarchy at MNZ found the sudden burden of all these extra staff put a huge drain on their budget – with no income to offset it. The Compliance Team at MNZ quickly found a solution to this issue: Deemed-MTOC audits!

Now of course, I'm not privvy to the discussions, but it's almost as if MNZ Compliance said: "Here is how we will fix this. We will insist that every vessel – whether in SSM or not – will have to undertake an audit in preparation to entering MOSS".

In addition, and as revealed on their own website, MNZ's reasoning was to regard any operator who decided to have their vessel surveyed in the six months prior to MOSS (even though many of these were actually due for survey anyway) as somehow *an increased safety risk* … and therefore a target for these new audits.

But what about the perfectly ethical operator seeking certainty, who read the rules and saw the opportunity to (perfectly legally) delay his entry into the new-fangled MOSS scheme? Why would he not make the most of this sensible business arrangement with associated savings in costs? How is that dodgy?

The MTA sought a legal opinion over MNZ's approach from highly respected Maritime Lawyer Peter Dawson, who wrote on behalf of MTA to MNZ asserting that under Maritime Rule 19, it is *illegal* for MNZ to conduct audits of vessels operating with a Safe Ship Management Certificate. MNZ replied stating that the rule they were using to conduct the audits was not Rule 19 but Section 54 of the Marine Transport Act 1994.

Section 54A(1) provides the Director with the power to require the holder of a maritime document to undergo an investigation if the Director:

> *(a) Has reasonable grounds to believe that an investigation is necessary in the interests of maritime safety; and either*
>
> *(b) (i) Believes that the holder has* ***failed to comply with the terms of the maritime document*** [i.e. non-conformities could arguably be a failure] *or*
>
> *(ii) considers that the privileges or duties for which the maritime document has been granted are being carried out by the maritime document holder in* ***a careless or incompetent manner.***

It seems pretty clear that this section is for use dealing with an individual who is acting improperly or in a reckless manner

and/or places people or property at risk.

Maritime NZ says it disagrees with Peter Dawson's view that to use Section 54 requires that each audit can be conducted only if that particular operator demonstrates risk. MNZ's lawyers maintain that there is an inherent risk in every operation and, accordingly MNZ uses the power given to it to conduct such audits *without providing individual evidence of such failure or risk.*

MTA sees that as an *abuse* of the Director's privileges, and holds that Section 54 was never intended to work as a revenue-gathering tool. The MTA and other parties intend to continue to argue the case on behalf of all the operators who have (or may have) the imposition of the fees associated with these audits – in some cases up to $5000. But MNZ has deep pockets – and a hell of a lot more to lose should the MTA view be upheld.

MNZ'S ARGUMENT

The Jan/Feb 2015 issue of *Professional Skipper* magazine printed comments from the three of the most senior people in MNZ. **Harry Hawthorne**, General Manager Compliance referred to the Funding Review conducted in 2012. His background is the Police force and Corrections department. He stated that fees for the domestic fleet were being subsidised by others. The Restricted Limits ship sector has always enjoyed a form of cross-subsidy from the international sector. The removal of this resulted in a 'transfer' of $4 million from overseas vessel costs to the domestic fleet – reflecting in an increase of fees to the local fleet.

While at the time this may have been justified, it would be interesting to now recalculate this in view of the international vessel accidents and incidents, not the least of which was the *Rena*. MNZ will argue that these costs were not passed onto the domestic fleet, but the time taken by MNZ staff to attend to these issues kept them away from duties normally associated with our industry.

Harry also tried to justify the increase in charges made by MNZ for surveys and audits. He claimed that MNZ has no influence over what Surveyors charge. This is blatantly incorrect. Indirectly, MNZ has set the new fees for surveyors (application costs and administrative requirements). This has increased the time required by surveyors to administer surveys and thus, has increased the hours taken to complete the work. True, MNZ does not set the hourly rate, but it is directly responsible for the hours taken to complete a survey. Survey times have *tripled* under the new rule.

In order for a surveyor to practice his profession he must register with MNZ at a cost of $800; undertake an assessment by MNZ (a minimum of five hours of his time; and then complete a 92-page template document for every vessel inspected, regardless of size. These impositions result in an increase to the end user imposed by the regulator.

He further claims that MNZ is committed to lifting survey standards. He states that it is "a necessary part of addressing the poor safety record associated with the SSM system". This is an incredible statement. What evidence does Harry offer that there was a poor safety record associated with the SSM system?

The new rule writes up a raft of standards for surveyors but there is no monitoring. Couple this with the fact that surveyors no longer have the protection of an ISO standard or a survey company for support, and there is the potential to have rogue surveyors making hay while the sun shines, without any checks and balances. Worse still, no-one at MNZ is monitoring whether vessels are *actually* completing their surveys. Many vessels are not in current survey but are still working

Chairman of MNZ **David Ledson**, used the adage "Safety, Safety, Safety". (We all know it is *impossible* to argue against safety.) But his statistics are not specific, and without this, one cannot pinpoint the particular sector that is responsible for the failures. I do know, however, that almost all the deaths are related to the *fishing sector* and not the passenger/non passenger transport sector. This distorts the safety data and creates a false impression of the level of safety for the overall Maritime industry – and in particular the restricted limit passenger sector.

When addressing the deemed-MTOC audits, David said the criteria for determining if an audit should be conducted is based on where *"evidence indicates the highest risks lie"*. That is a clear requirement of Section 54 and must be done in each case. The problem with that is that David revealed MNZ staff have audited "around 150" vessels under Section 54. They *surely* have not individually assessed these operators – nor do I believe that any of the operators of these vessels have acted in a *careless or incompetent manner*.

One cannot escape the clear impression that this deemed-MTOC audits exercise is purely revenue-gathering and in fact is *Ultra Vires* (outside the law). Audit findings are also inaccurate in many cases and, I suspect, being reported to the MNZ Board as significant breaches of safety to justify the programme. There are many examples of MNZ audit findings that are not related to any maritime, marine protection or HSE requirements.

Obviously David Ledson is providing Board support for his staff. Judging by his last column, he seems prepared to obfuscate to achieve this. In any event, the fact remains that there are many disgruntled maritime operators out there – some of whom will not be there for much longer!

Finally, MNZ Director **Keith Manch** (who is also an ex policeman), in response to a query from R Lea Clough, advised readers of *Professional Skipper* (Letters, 'Spot the sailor') that there are 48 marine-qualified staff at MNZ. Given a total staff of198, and that MNZ's prime function is marine, this is a low percentage. As a realist, I suggest that none of these people has any influence on policy. It seems to me that a maritime regulatory body with only 25 percent of the staff holding any marine qualifications is a recipe for disaster – particularly as the 'men on the ground' are only carrying out the instructions of their superiors.

The upper echelon of Maritime NZ seems to be overrun with ex-policeman – there are at least *seven* of them at the last count. Perhaps this explains the latest MNZ TV advert with its 'Cops and Robbers' theme culminating in a plea to 'Get it on!' (Your life jacket, that is.) Most operators I have spoken to think the commercial is a joke – no doubt a very expensive one to produce!

TIME FOR MNZ TO RE-ENGAGE

I believe the time has come to ask our regulator to return to a regular programme of discussion and consultation with industry representatives. Industry will no doubt be prepared to meet and express their views over the issues being constantly raised with the intention of attempting to bring resolution to the concerns.

Strong bridges and lines of communication between the parties (operators and the regulator) have existed in the past. These should be rebuilt now – urgently – to allow the industry to move forward with confidence.

I implore MNZ to give this suggestion serious consideration and to react accordingly. Instead of skipping the MTA conference, reach out and engage with our industry representatives.

PHOTO COURTESY DIANNA ROBJOHNS

THE REMOVAL OF MY ALBATROSS

BY CAPTAIN JOHN HENDERSON, MASTER, *SANTA REGINA*

'God save thee, ancient Mariner!
From the fiends that plague thee thus!—
Why look'st thou so?'—'With my crossbow
I shot the Albatross …
Ah! well a–day! what evil looks
Had I from old and young!
Instead of the cross, the Albatross
About my neck was hung.

(FROM THE RIME OF THE ANCIENT MARINER
BY SAMUEL TAYLOR COLERIDGE, 1834)

I had always understood the death penalty was abolished in New Zealand in 1961 – and that you'd need to be convicted of a crime before it could be imposed. I became less convinced about those historical facts when in April last year I suffered a near fatal heart attack a month after the conclusion of my three-year court battle with Maritime New Zealand.

Although exonerated by the District Court Judge who dismissed the charge against me after a six-day trial, anyone who has had first-hand experience of the court process will understand the enormous stress it creates – in my case stress that nearly had fatal consequences.

It is worth analysing aspects of the case in some detail so that mariners get a better understanding of *what you might expect* if you ever have the misfortune of facing a Maritime NZ prosecution.

THE COLLISION

I went to sea in 1963 serving as a deck officer, working through various certificates until achieving my Master's certificate of competency, and then subsequently taking pilot, harbourmaster and port management roles. I returned to command positions with Strait Shipping for 12 years. That saw me serving as the master of *Santa Regina* on one stormy April evening in 2011.

Inbound to Wellington, the mate/master and I discussed whether to order a tug for berthing as we were encountering south-west 30 knot winds. We agreed that a tug wasn't necessary. But just as I was backing the ship into the berth, the wind changed suddenly to south-east with a gust of over 50 knots which pushed *Santa Regina* sideways. Realising the ship was being pushed down on the derelict trawler *Southern Prospector*, I went full ahead to exit the berth but clipped the hulk with my starboard quarter. It is worth noting that the Wellington Port Company had been asked by Masters to remove this hazard to berthing operations.

I immediately notified Beacon Hill harbour control by VHF and asked the Harbourmaster to inspect *Southern Prospector* for damage.

By the time we berthed, the crew had identified a small

piercing in *Santa Regina*'s shell plating 120 mm long which I immediately arranged to have repaired. As the collision had been sufficient to create at least one small piercing, the Chief Engineer Alan Radcliffe and I were concerned that there might be further damage below the water line that had not been detected.

Cargo and passengers were about to be loaded and it was gale Southerly in Cook Strait. We were taking no chances.

We decided the potential damage might be in the area from the ship's stern up near the pilot door on the starboard side – which is 52 metres forward of the transom.

Alan and I worked over this whole area, from the main deck level to the lower part of the hull and super structure visiting all spaces from the stabiliser room to the steering gear aft. Where necessary, floor plates were lifted for inspection. We crawled around the various compartments to see if there was any damage or leaks. Ballast tanks were sounded. Alan and I then went on to the wharf to attempt a visual inspection. Understand, however, that heavy rain was being delivered horizontally by 30 to 40 knots of wind, in complete darkness.

We saw ripples along the side of the hull, but that is consistent with the knocks and scrapes incurred by normal RO-RO operations. Neither Alan nor I saw the gash. Nor did the mate/master who made his own independent inspection from the wharf.

When photographed in perfect visibility in daylight through the sharp focus of a camera lens, it seems inconceivable that we could have missed it. But trust me, if you had been there on the night, you would understand why.

Having completed our inspection, we sailed for Picton, and it was not until our return to Wellington next morning that we noticed a further piercing of 1.85m about 5m above the waterline. At the same time, the local deputy Harbourmaster sighted the area of concern and reported directly to Maritime NZ – but made no contact with the vessel.

Maritime NZ inspectors then boarded and detained the ship in an aggressive fashion. Their belief was apparently that I had attempted a cover-up of the collision, and intended to continue sailing. I would have thought radioing the Harbourmaster's office to report the incident within minutes of it happening would be a bad start for someone intent on a cover-up.

> Seven of the top jobs at Maritime NZ in this area have been allocated to ex-policemen with no maritime background

What followed was an inept Maritime NZ investigation headed by Ray McMillan which resulted in me being charged under the Maritime Transport Act.

EXPECT A HALF-BAKED INVESTIGATION

Until the arrival of Catherine Taylor as Director of Maritime NZ, all accident investigators held Master Mariner tickets. That arrangement ensured a familiarity with ships and their operation – and would have meant I would have been unlikely to have been required to answer questions at interview such as "How wide is *Santa Regina*?" and "Does your ship have bow thrusters?". ▶

Captain John Henderson

Post-Ms Taylor, seven of the top jobs at Maritime NZ in this area have been allocated to ex-policemen with no maritime background or training. The current Director, Keith Manch, is himself an ex-cop. The General Manager of Maritime Compliance is ex-Police and Corrections department. Likewise, MNZ's Manager of Intelligence and Planning Paul Fantham was a CIB detective. Ray McMillan was in the Navy but served as a radio operator, and at one point as a chef at Scott Base.

The inadequacies of the investigation are too wide-ranging to detail in this article but include:

- Failing to interview the mate/master (in overall command of a vessel when the Master asleep or off duty);
- Not asking me or the Chief Engineer to demonstrate the inspection that we had conducted;
- Failing to inspect the ballast room record book;
- Failing to obtain during the initial investigation a General Arrangement plan, Stability book and other plans and drawings necessary to assess the potential effect of the damage on stability;
- Interviewing some witnesses 10 months after the event. Those witnesses were told that Maritime NZ's policy was to 'wait and see' whether the defendant pleaded Guilty. If a Not Guilty plea was entered, *then* the investigation would be completed!
- Failure to obtain any naval architecture evidence in support of the contention that the damage caused risk or danger;

Appointing an "expert" to comment on my actions who had not set foot on board *Santa Regina*.

Later I'll explain the appeals that Maritime NZ pursued after the charges against me were thrown out. In the Court of Appeal the three judges made specific reference to the consequences of the amateurish investigation that had led to the charges being laid:

> *"Before us Mr La Hood for the Crown accepted that there was no actual risk to the ship or its passengers as a consequence of the gash in question. In our assessment this was not the original approach of the Crown* [Maritime NZ]*, which embarked on the trial on the basis that Mr Henderson's actions had caused actual risk or danger. It was driven to this concession by the evidence as it unfolded in the District Court."*

EXPECT TO BE ACCUSED OF BEING A LIAR AND A PERJURER

One of the most inept aspects of the investigation was the Investigator's failure to interview the mate/master who took over command from me on the return voyage from Wellington to Picton. He made his own inspection of the hull from the wharf and he also didn't detect the damage. When I told the jury about that inspection the prosecutors accused me of lying.

Fortunately my lawyers had taken a signed statement from the mate/master which detailed the inspection he had made and that statement was shown to the jury.

A second allegation that I was giving perjured evidence arose in relation to a video reconstruction of the post-collision inspection of *Santa Regina* on the night that Alan Radcliffe and I had undertaken. This assumed considerable importance because the jury specifically asked the question whether Alan agreed that my video of the inspection was a correct reconstruction.

Alan was to have been a prosecution witness and would have been able to verify the reconstruction. However, when we got to trial there was no sign of Alan. He was at sea on board *Tangaroa* and was unable to help me. How convenient for the prosecution.

It turned out that four months prior to the scheduled trial, Alan had informed Maritime NZ that he wouldn't be available for the March date. Unfortunately for Maritime NZ, NIWA agreed to stream the video to Alan at sea on *Tangaroa* – 90 nautical miles off the Canterbury coast – and we got a written statement from him via satellite confirming that my video reconstruction was accurate. In fact, Alan commented that he felt our inspection was longer than that reconstructed for the video.

But this had not stopped the prosecutors from alleging that my reconstruction was a bogus "gilding of the lily" which I had made up to impress the jury. In other words, a second baseless allegation that I had perjured myself in the witness box.

It disgusts me that the Court system allows a prosecutor to make allegations of perjury which have *absolutely no factual basis* and which would have been disproved had Maritime NZ's investigation been conducted competently.

DON'T EXPECT ANY IMPARTIAL REVIEW OF THE CASE AFTER A PROSECUTION IS STARTED

Under the Solicitor General's rules for prosecutions, prosecutors are supposed to keep an open mind and to review the case if new evidence comes to light or if things change. It became apparent to us when the briefs of evidence were filed ahead of the trial that the Maritime NZ case was extraordinarily weak.

My lawyers had briefed New Zealand's leading naval architect, Harry Stronach and the well-respected ex ferry master Captain John Brown.

Stronach assessed the implications of the undetected damaged plating which left an opening with a cross section of about 0.14 square metres that would have allowed water to enter that high up the ship only in extreme sea conditions. He concluded:

- The ship had drainage and pumping arrangements that could handle water volumes considerably in excess of any conceivable water ingress through the damaged area;
- *Santa Regina* could handle damage scenarios where the openings in the shell plating were several hundred times larger than the observed damage;
- There was no risk of water on the vehicle deck causing a free surface effect;
- Other similar ships (including *Kaitaki* and *Straitsman*) have permanent large ventilation openings in locations similar to the area of damage on *Santa Regina*;
- The observed damage did not compromise the structural integrity of the ship or present any risk to passengers or crew;

- Maritime NZ's so-called "expert witness" conceded that he did not have Stronach's experience, expertise or qualifications to argue against the above.

Stronach's evidence concluded:
"The allegation that continued operation of the ship endangered the passengers and crew, ***is not supported by an analysis of the facts****."* [emphasis added]

My lawyers then decided to approach Keith Manch, requesting a meeting to review matters. Part of their reasoning was that this prosecution had been started by Catherine Taylor whose judgement in legal matters had been proved suspect. In the *Survey Nelson* case the Court of Appeal found Taylor had acted illegally in her treatment of that survey company and its directors.

Perhaps Manch considered that this prosecution was baggage inherited from his predecessor that he would be keen to get rid of? We approached him seeking a meeting and offered to disclose the reports prepared by our experts. That request was refused, and we were fobbed off to the Crown Solicitor.

A RABID DOG NEVER LOOSENS ITS BITE

Having decided the evidence was so weak that it should not even go to the jury, Judge Thomas Broadmore dismissed the charges on day six of the trial. But I was to learn that you should not expect Maritime NZ to be gracious in defeat.

Maritime NZ's lawyers then sought permission to appeal to the Court of Appeal – which involved still more agonising delay, legal submissions, and a further hearing. Leave to appeal was refused by Judge Broadmore in trenchant terms:

> *"I particularly record Mr La Hood's observation in the course of oral argument that, on the evidence heard, it was likely that the jury at any new trial would find that the Crown case had not been proved beyond reasonable doubt; but the legal issues giving concern to Maritime New Zealand would have been resolved. I am dismayed by this observation. I do not believe that the fate and reputation, not to mention the pockets, of defendants should be the playthings of regulators wishing to have their opinions as to the law tested – particularly when there is only the slenderest basis in the evidence presented to the court for factual findings necessary to support those opinions, and further when they appear to conflict with those of a full bench of the Court of Appeal."*

But *still* the leadership of Maritime NZ was not willing to bury the hatchet. It launched a second appeal to the Court of Appeal!

PREPARE TO MORTGAGE YOUR HOUSE

The second appeal followed four pre-trial hearings in the District Court, a six day jury trial, and the first appeal hearing – accumulating legal costs and experts' fees of just under $300,000. I am extremely fortunate that my then employer Strait Shipping has stood by me throughout this ordeal and has met the costs of a first-class legal team with extensive experience in Maritime law.

Had that not been the case, the consequence would have been my financial ruin or, more likely, being forced into a position of pleading Guilty to avoid the huge costs associated with defending this type of complex case.

By contrast, Maritime NZ as a branch of the Great Ship of State has infinite resources at its disposal. In my case this was exemplified by the retention of two senior prosecutors and also Maritime NZ commissioning a bizarre "crime scene reconstruction" which involved a car crash expert shining torches, car headlights and a Wellington harbour tug spotlight on to the hull of *Santa Regina*. That expensive farce was designed to show what steps I 'should have' taken on the night. But the reconstruction was done in fine, calm conditions and on the night of a perigee super moon!

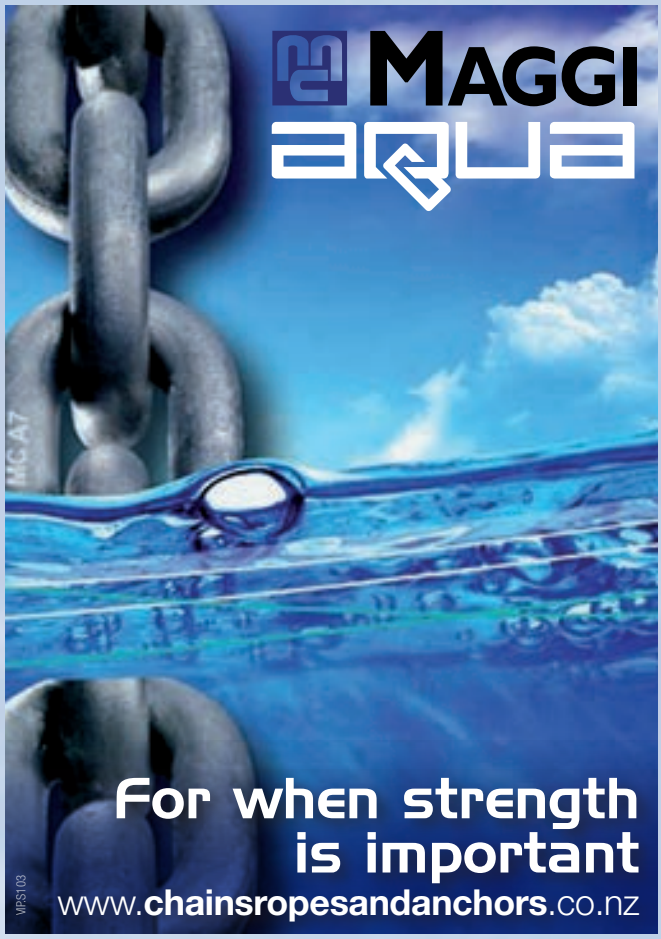
FINAL WORDS

As the maritime industry regulator, it is not Maritime NZ's role to be popular. But, it is important that the agency has the respect of the maritime community. I question how that respect can possibly be earned by the current administration.

The highest maritime qualification held within Maritime NZ's senior management team is the Deputy Director's Boat Master's Certificate earned from the Coastguard in the 1990s. Compare that with the CAA where ex-aviators hold all of the top positions (excluding admin and legal).

Professional mariners reasonably expect to be judged by their peers rather than by university graduates theorising from the lee of Bum Island. The growing *widespread contempt* for Maritime NZ among professional mariners will not change until at least *some* senior management positions are held by people with a genuine affinity with the maritime community they supposedly serve.

For three years this Albatross hung around my neck, placed there by an incompetent and deeply suspicious government bureaucracy. A blunt knife loosened it after the trial, but only when Maritime NZ's second appeal was thrown out by the Court of Appeal was the Albatross finally removed and buried at sea – where it had always belonged.



CONDITIONS: Letters to the editor are encouraged from readers who wish to say nice things, raise an industry concern, or even get something off their chest. Letters are published in good faith and may be abridged if too verbose or on the edge of being libelous. Since 1996 we have only refused to publish two letters. For this reason, while we will protect an author's identity if requested by "name withheld on request", letters must be clearly marked by name address, signed or emailed as verification of authenticity. Letters not clearly signed may not see the light of day.

MARITIME NZ WOES

Dear Sir

I have just read *Professional Skipper* from cover to cover and must complement you on having the fortitude to stand where most would falter. Your tenacious ability to hang in and continue to allow the industry voice of concern be heard issue after issue is commendable. But when will the message be read or received by the MNZ bosses? Or is it that the new MNZ police state just don't want to listen?

Surely the staff of MNZ are not all thick? For there are many respected people who have been with MNZ for years and most have a good rapport with operators so why don't these intelligent folk speak out? They must see and hear of the concerns from operators first-hand. They must understand that the high level of costs they have been told to impose on doing audits is not being well received, so why do these once respected maritime officers not speak out? Is it because they too have been captured by the police state propaganda?

Brian Henderson, Master, Auckland

Brian you raise some interesting questions and yes, we still have many once respected Maritime Officers within MNZ. However, dare I say it, while they might not have been captured (yet!), if they were to speak out I would suggest that their future employment could be at risk. Sad but true. Ed...

CULTURE CLASH

Dear Sir

I have just become aware that MNZ has recently lost three very good mariners from their ranks, your son included. With many Maritime Officers actively seeking alternative employment in industry. Why is this might I ask? In speaking with one recent departee I was advised that the developing non-mariner, audit – audit money at all cost culture now being demanded by Wellington was not what they signed up for. You might like to follow this one up. Contacts below.

Colin Balderson, Auckland

[Contacts withheld, thanks Ed…]

PILOTAGE PROCEDURES BREACH RULES

Dear Sir

As an old Captain and Pilot, I was very interested by this TAIC report. [*Professional Skipper* Nov/Dec 2014]

But it's very difficult to understand the problem of each captain because of the lack of information.

1) The chart is too small to have the position of the tanker at the same hour with the position of the pilot boat and the position of the *IDAS Bulker*.

2) Information missing for the *IDAS Bulker* – What was her maximum draft on departure Napier? What was her next port? What was the nationality of the Captain? What was her speed 1.5 miles after pilot disembarked?

3) No information at all about the tanker? Last port? Speed? At what ship speed pilot embark and disembark at Napier?

4) *IDAS* was heading 35° and the tanker alter course to starboard to 345°. That means tanker was coming from South and from the starboard *IDAS. IDAS* was the ship catching up too.

5) What is the regulation for a tanker in Napier – What minimum distance from a danger (like the North Pania Buoy) a tanker must pass and are the tanker got a special pilot boarding ground (further away than for others commercial vessels with less risk).

Sorry for my English, it's not my usual language.

To end this letter, I will just support everyone else who is very disappointed by the loss of the Maritime Incident Report Summaries. It was just like a maritime course for all seamen. We learn from our blunders, and learn from others blunders. Why stop this school when everyone is talking about "Safety first".

Michel Dewas, New Caledonia.

Michel, thank you for your letter. You may be interested in reading the complete TAIC occurrence report (with full size chart and much more detail) available from the taic.org.nz website (ref 13-202) – or via this shortlink: [j.mp/TAIC-IDAS]. Ed…

TIME FOR MNZ BOARD CHAIRMAN TO STEP UP

Dear Sir

There are none so blind as those who do not wish to see – or none so deaf as those who do not want to hear the message and both statements fit MNZ to the bill. Yes I have heard from the Auckland and Tauranga MOs that the place is no longer being run by skirts, but ex-coppers are now in charge, which raises the question, given that we are talking about the maritime authority here, which looks after maritime safety, what do a bunch of ex-coppers know about the maritime industry? Sorry, I forgot they must have got their experience from dealing with drunks on the waterfront. They might have spoken with me in my younger days.

Seriously Keith, it has got beyond a joke and when you see these new MOs on the wharf, gone is the friendly voice of reason from the past. For you can no longer trust them or their advice and everything you say is on the record. No-one I know has a friendly word to say about MNZ anymore, and the letters and comments from those prepared to speak out in *Professional Skipper* are just the tip of the iceberg of concerns. Most are too frightened to speak out in fear of being targeted for an expensive audit.

What I cannot understand is why the MNZ Board remains so silent – or are they just Government appointed puppets? What about the Admiral in charge? He seems to speak some sense, although you have to read between the 'Corporate-speak' in his column at times. Surely he can see and read with concern all the letters from operators and industry leaders to get some idea that *something* in the MNZ corporate model is wrong.

I bet he did not run the Navy like MNZ is currently being managed, so why does he not step up and demonstrate some nautical leadership and get the MNZ boat back on course before they hit the rocks or the operators do a public mutiny as we all drown under this wave of serious MNZ mismanagement and the increased burden of unreasonable costs? Come on sir, you can do it!

Ray Stevens, Tauranga

MNZ BOARD NEEDS TO GET THE MESSAGE

Dear Sir

I just received the latest magazine Keith and I want to say you are truly the voice of the industry. Without you and *Skipper* we would not have a medium in which to try to expose what is going on at the hands of Maritime NZ.

I also understand they are recruiting more ex-coppers as they know how to prosecute people, while very good mariners are leaving. Can these people not see the message written directly under their noses?

And what about the board? Are they just there to collect the meeting fees and rubber-stamp the 'police state' policies, or can they make a difference? We will have to wait on this one I suppose.

A great magazine and right on the money. Thanks.

Jim Henderson, Coromandel Coast

'GO POLITICAL' ON MNZ

Dear Sir

What another fine edition of *Professional Skipper*, I only get it from time to time. You and your team should be commended on the amount of work you all do to bring this together. The magazine took me all Christmas between snoozes at the beach to read from cover to cover.

I am not in the commercial industry, but love the reading, from all the old stuff to the new and yes I will be subscribing. Although I must note with some concern the amount of disparaging letters and remarks about Maritime New Zealand. Do they not get the magazine? Surely they must read it. Even if only half of what is being said is true, why are the bosses not listening?

From a personal experience when dealing with Government agencies, if it is as serious as it appears to be, then maybe you should be talking to the Minister direct, or the Ombudsman. Seriously, the problems being created by the authorities like in this case where they seem to be a law unto themselves will only be addressed if you go political.

This aside, a great read and worth the $10 I pay for it. Good holiday reading. Love the letters and the Surveyors' comments because they are so reflective of the feeling that prevails.

You are to be congratulated for producing such an independent journal for your maritime industry. All the best for the future.

Craig Johnson, Wellington

Craig, interesting comments, thank you. Worthy of consideration. Subscription form below. Ed…

NO INCIDENT REPORTS

Dear Sir

Compliments of the season Keith. I've just read *Professional Skipper* Jan/Feb 2014 and enjoyed it as usual.

Am I to understand that Maritime NZ has now a policy of not submitting for printing their accident reports?

What has brought about this change of philosophy? PC or something of the sort? Can't we name and shame now? (Not that naming and shaming is necessarily a good idea, but it's good to be aware of accidents and their causes.)

They do of course publish a few in *LOOKOUT* – but not with anything which will identify the boat or skipper/owner involved in the accident.

Happy New Year.

Captain Barry Thompson, Auckland

'OBVIOUS' INCOMPETENCE

Dear Sir

With reference to Captain John Brown's excellent article about the needless prosecution of Captain John Henderson, Master of *Santa Regina* p.58 of *Professional Skipper* November/December 2014 ['Maritime NZ's vendetta against mariners'] …

Since that article was written, Maritime NZ has been exposed further as an organisation of incompetence with no professional ▶

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magazine for publication by you, or with your authority. That's good news about the assurance you have received from Maritime NZ allowing your existing training courses to continue. Ed…

ANOTHER SURVEYOR'S VIEW

Dear Sir

Bill Dixon raised a number of points in the last issue. ['A surveyor's view of Maritime NZ's problems', *Professional Skipper* Jan/Feb 2014]

No one likes new bills. I certainly don't like ACC bills or the new fees for Surveyor Recognition. At least I am able to recover the MNZ fee by working for a living – I never want to recover the ACC donation I make when riding my motorcycle!

Then there is the question of competence. Despite nearly 30 years design approval experience I am happy to sit an exam to show I understand the Maritime Rules. I assume Bill did exams to prove his competence as a Chief Engineer, and continues with professional development courses – so why is an exam unreasonable for recognition as a Surveyor?

Perhaps the most enlightening point of Bill's article is the way big ship Chief Engineers believe they are automatically experts on small ships.

It is Big Ship thinking, and a comparison to the ISM Code, that underpins MOSS. This was developed after the *Herald of Free Enterprise* disaster where the vessel sailed without a procedure that said "close the bow door" – with disastrous consequences. The subsequent enquiry found a whole range of activities undertaken onboard without safety as a high priority. The principle of the ISM Code that followed is that if you document all hazards and write procedures to eliminate, reduce or avoid those risks, then there will be a safety benefit.

The same principles were part of SSM – but were poorly implemented with an almost complete lack of guidance from MNZ. There was little importance given to the procedures manual and the key requirement – an Audit to confirm it was appropriate, up-to-date, and being implemented – was given only a cursory review. With a safety management system seen as the way forward, MNZ could re-task the SSM companies towards improving manuals and conducting proper audits, or to take over the process. Certain SSM companies refused absolutely to adopt the system and others followed with only limited enthusiasm … leaving MNZ little choice but to step in – and that just happened to resolve some of their funding issues as well.

Although "safety management" systems are well-proven in other industries, I am not aware of any examples that apply to the equivalent of small boat operations. No doubt the effect of this experiment will become clear as time moves on. If it results in more training and improved understanding of the operation by the a vessel owner, master or crew then there is some hope; if it simply results in more paperwork and bureaucracy draining the industry of funds then I am less confident.

Mike Hudson, surveyor, MNZ Recognition pending (fee paid, exam to be taken!), Motueka

'POSITIVE KIWI AID' RESONATES

Dear Sir

Many thanks for your two very positive articles in *Professional Skipper* and *NZ Workboat Review* magazines about the new Kiribati Police rescue vessel. ['Positive Kiwi Aid'] Both articles are resonating very well in MFAT circles and there has been a good deal of positive comment from across the Pacific as well. I'm hopeful we can see the Kiribati boat as the beginning of a broader MFAT initiative this year. ▶

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The boat is entering service well. A few minor niggles and concerns as they set it to work have been quickly ironed out through excellent support for White Pointer (Tony Bourke) and Yamaha (Hugh Stewart). They are well on track.

All the best to you and your team. Thanks again.

Tony Parr, Rear Admiral (retired), New Zealand Pacific Maritime Safety Programme

SEACERT AND MOSS

Dear Sir

Harry Hawthorn's "Response" on behalf of Maritime NZ in the last issue [Letters, *Professional Skipper* Jan/Feb 2015] makes a number of assertions which cannot go unchallenged.

Fees – Harry referred to a 2012 review of fees applying to MOSS and SeaCert and said, *"Prior to this review, fees and charges had not been adjusted for more than 10 years and activities relating to domestic operators were being subsidised by others."*

Really? By whom were they being subsidised? There were significantly fewer staff within MNZ managing the domestic fleet, and the cost of these numbers could have been fairly distributed amongst the fleet – this would have been far more acceptable to our sector.

Harry claimed, *"Even if SSM had been retained, the fees would have increased. User pays is something everyone accepts as modern legislation" and "By and large, the fees charged to the operators that have received MTOCs have been within the estimated range of fees as outlined on Maritime NZ's website."*

Two things: (1) As mentioned above, why could the cost of an MSI's visits not have been on-charged to individual operators under SSM (i.e. every 4 years or more if high risk) when they were visited? (2) The fees are significantly more than under SSM. The number of incidents and fatalities within our sector does not justify the additional expense. Cost/benefit ratios have failed under the new system.

Audit/survey cycles – Harry continued: *"Under MOSS, audits for well-performing operators have the potential to be reduced to three times per operation in 10 years, rather than the five audits per vessel that would have occurred under the previous system."*

Two things are wrong with this statement: First, Maritime rule part 21 only required an audit of operators upon entry into SSM and then each intermediate survey (four yearly). This would equate to only three in a 10 year period. Furthermore, these audits were conducted *at the time of a survey visit* so there was little additional cost to the operator – perhaps one extra hour on the visit. Now MNZ is charging upwards of $1,200 to $3,000 for its audits and are conducting them on *every* vessel, including those with 'low risk' scores on their database.

Lifetime certificates – Harry said: *"On the issue of 'lifetime tickets', with such a qualification, it is not possible for anyone to understand properly the current competence of the holder to exercise the privileges of the equivalent certificate in SeaCert."*

Once again, what evidence was there to suggest that 'lifetime ticketholders' imposed any risk? There was no need to improve safety outcomes in this area – so why do it? Also, it would be interesting to research what other countries have done. Have they changed their regulations to now require ALL ticketholders to renew? Unless there was a real need to assess holders of these tickets, this is further evidence of MNZ 'extortion'. MNZ should prove otherwise.

Margaret Wind, Auckland

SS VENTNOR GRAVES

Dear Sir

I noted in the last issue of *Professional Skipper* [Jan/Feb 2015] your article titled, "Outrage over shipwreck 'lack of respect'". I have been involved with the *SS Ventnor* Project for over four years. The history that you have published is fairly accurate. Where the article runs off the rails, in my opinion, is your comments which are basically taken from the general media that have commented on the wreck.

Dame Susan Devoy's comment which you published: "She slammed those she said were trying to trying to turn it into a 'money making venture' and tourist attraction" shows she and her advisers have no idea of *deep* (150m) diving. e.g. Each diver has approximately $80,000 of gear on to do this type of dive. Tourist divers? – Yeah right!!

Her advisers should have told her that a Chinese Heritage Trail was set up by Liu Sheung and her group, encouraging Chinese descendants and visitors to visit the sites. It was Te Tai Tokerau and Labour MP Kelvin Davis who commented that these various remembrance sites are a potential tourist attraction. Much the same as, but on a smaller scale: Gallipoli, the Pyramids, Pearl Harbour, and many Maori urupa around NZ. Devoy's comparison with Pike River mine is, ill-informed and in bad taste.

The comment that really affronted those involved in this very expensive project is your heading, "Lack of respect". Our Project group from day one, has been guided by its mantra, "Spiritual, Cultural and Humanitarian", and has never once deviated from that philosophy.

Over three years ago when we decided we needed to see if a wreck in fact lay on the bottom, as many fisherman thought, and deploy a remotely operated vehicle (ROV). You only need one boat to do this. We took out two boats.

John Albert the project manager (who is a Maori whose roots are from the Hokianga area) hired a second boat so that a highly respected kaumatua could bless the site before the ROV was deployed. Believe me, it was a *very* moving 20 minute blessing which was recorded on video.

As far as respecting a grave site, we totally agree. Before any of the survey/video dives that have been conducted, the respect for the human remains is discussed. The divers doing these dives are all highly respected by Australian maritime archaeological groups and the USA's *National Geographic* magazine, having been involved with many dives, documenting wrecks that have had a huge loss of life.

Just about any wreck may have human remains and still be dived on a regular basis. e.g. the Second World War wrecks in the Solomons, and even our own Mikhail *Lermontov* and wrecks in the Hauraki Gulf. Taking this to extremes, people dive the *Titanic*.

Keith, I can assure you and your readers that the remains of the *Ventnor* are respected by the divers and all involved with the *Ventnor* Project. Videoing or placing a hand on the wreck is nothing compared to the damage caused by trawlers which have completely ripped the superstructure off the wreck and the damage that fishermen's anchors can cause on a regular basis, when fishing the site.

Highly skilled divers documenting the wreck for the Chinese descendants of the dead is a very worthwhile project. Also, no-one is making any money as Ms Devoy alludes too! The people involved in the project put in the effort because we believe it's a significant, worthwhile project – which in some way may bring closure for the descendants and their families.

Dave Moran, Editor, Dive New Zealand Magazine.

strange New Zealand harbour rules with them to the open sea?

One is the moving prohibited zone where vessels under 500 tons are prohibited. One major overseas port, Southampton, has introduced a similar rule where Very Large Crude Carriers manoeuvre regularly but the rule only applies during these manoeuvres. When this occurs, six patrol boats are stationed on the perimeter of the zone to escort or tow away any small craft. These large tankers are much larger than any of the highly manoeuvrable ferries in Marlborough Sounds and the zones are probably justified in the busy waters of the Solent.

Another is the 500 ton rule which says any vessel under 500 tons is "not to impede" a larger vessel. The international COLREGS use the term "not to be impede" but only in relation to fishing vessels under 20 metres in length in narrow channels.

In New Zealand some local authorities have interpreted "not to impede" to mean "give way". The international COLREGS have clear instructions about "give way" and "stand on". They are not the same as those which apply to "impede" and "not to be impeded" and do not confer on the "not to be impeded" vessel the same rights and requirements as a "stand on" vessel.

It would be interesting to have these local rules tested in Court. They appear to conflict with the International COLREGS and would probably fail the test of Rule 1(b) of the COLREGS which say any local rule shall conform as closely as possible to the international rules.

Unfortunately, Rule 1 (b) was not included in NZ Maritime Rule 22 when the NZ Rules were gender-neutralised some 20 years ago. A number of prominent persons have criticised NZ Rule 22 such as NZ Maritime School and Captain Platt in his review of Cook Strait Ferry Services because of this and other inconsistencies with the international rules.

I believe these inconsistencies, which have been allowed to gestate in New Zealand, have resulted in an attitude of 'Might is Right' in some ports. However there is no doubt in my mind that in this case the overtaking vessel must keep clear of the overtaken vessel regardless of what any local NZ Rules say.

Captain John Brown, Wellington

PAUA FRUSTRATION

Dear Sir

I currently live at Te Awaiti on the south Wairarapa coast. I am having a love-hate relationship with Seafood NZ over the blatant actions of paua quota holders taking paua from in front of residential areas in at times waist deep water.

The CEO of Seafood NZ, Tim Pankhurst has seen the problem first-hand but wants to bury his head in the sand, and Tony Craig comes across as, "Tough. Live with it."

Can you please put me in touch with someone who can help us to get publicity re this problem before it turns really nasty.

Ed Holter, Wairarapa

NZ AID BOAT FOR TOKELAUS

Dear Sir

I read an article some time ago in your magazine about the ship *[the New Zealand government has commissioned to be built in Bangladesh for service in the Tokelau Islands using NZ Aid funds. See Professional Skipper Nov/Dec 2013 – ed.]* Your article was strongly worded but in my opinion not strongly enough.

I worked on this project several times - as you know it went round the traps for years.

To give the design to a Danish group and award the tender to Bangladesh is a National disgrace, and never mind all that *** about "25% cheaper" and how "NZ could not build it".

And look at the photos. *[see News: 'Tokelau boat delayed' – ed.]* That thing is intended for a run of 340 miles, which is less than the distance to the Chathams. And is intended to service 1400 people.

And when we worked on it, we were told by the (many) bureaucrats that the budget was strictly $9.00 million. Chittagong is building that for $9m?? Must be slave labour – which NZ is supposed to be opposed to!

Hey, I don't care; I am supposed to be retired! I just think that there has been nothing like enough noise about it.

Colin Dunlop, Whangarei

LOCOMOTIVE TORPEDOES

Dear Sir

Chris Howell's fascinating article on Q Ships [*Professional Skipper* Nov/Dec] threw up an interesting archaic term – "locomotive torpedo". The name conjures up the image of a weapon drawn by a smoke-belching steam engine, but in fact relates to the original meaning of the word locomotive – "self-propelled".

In the 1860s and for some decades later, "torpedo" meant any underwater explosive device. A towed torpedo was drawn across the bows of a larger ship by a small, relatively fast steam pinnace, immune to the ship's clumsy main armament, but vulnerable to sharpshooters capable of firing accurately to more than two hundred metres. Union Admiral Farragut's cry, "Damn the torpedoes!" referred to moored, command-detonated mines in the Confederate waters of Mobile Bay, Alabama. The spar torpedo was a sort of Victorian kamikaze weapon projecting over the bows of a small steam pinnace. New Zealand deployed four of these, based in the main ports, during the Russian scare of the 1880s. Fortunately, they were never used.

In late 1860s, when British inventor Whitehead developed his modern torpedo, driven by a compressed air cylinder and motor, it was called a "locomotive torpedo" to distinguish it from the others. Eventually, the moored torpedo became a mine, the other, dangerously impractical, versions disappeared and "locomotive" was dropped, giving torpedo its modern meaning.

R Lea Clough, Napier

DEEMED MTOC AUDIT FEES

Dear Sir

The waterfront is running scared of Maritime NZ. Any time they call up any one of us for a deemed MTOC audit, guys are ducking for cover because of the rumours we have heard about some of the prices being charged.

One guy said they were on board for two hours plus an hour travel, and then two hours in the office, five hours and when he complained he was told he was lucky it was not six hours.

Keith, you are the one in the know. Can Maritime NZ legally charge these bloody outrageous fees for an audit when in the past the SSM audits were a part of our annual fees?

Kevin Barton, Auckland

SHAGS ON THE BOAT

Dear Sir

While generally satisfied by your interview on National Radio (Afternoon Panel on counterproductive snapper size law: 14 October), I was dubious about your bold claim that "we have all had a few shags on the back of the boat"!

I don't know if the commercial fishermen would agree! But in seriousness, I do really appreciate *Professional Skipper*, Keith. My partner is a foreign going master, and I do find myself reading it all the time. While I'm only recreationally ▶

involved in the seafaring world, I am a professional in the similarly male-dominated world of construction, and something I always do really appreciate is the respectful way women are treated in your magazine. (I choose to forget Captain Asparagus!)

I know the magazine is a stalwart of the seafaring world, and I think it's open and respectful attitude to women in the industry will have a significant impact on the culture of the seafaring world at large.

Cheers Keith!

Jessica Glen, Lyttelton

Ha Ha Ha I love it. Did I say that. Well there is a tad of truth in the statement. – ed…

"SPOT THE SAILOR"

Dear Sir,

As a retired mariner, forced by age and decrepitude to a shoreside existence, I find that my lack of current sea-going experience means that I cannot join the chorus of discontent with and vilification of Maritime New Zealand. In the plethora of charges voiced against the organisation is one that they are all – or almost all – landlubbers imposing inappropriate rules on experienced seafarers. Just so that all those in the industry know what levels of expertise they are dealing with, can you ask MNZ to furnish some statistics along the lines of:

- Total number of officials/employees in MNZ
- Number of Master Mariners
- Number of Mates
- Number of Chief Engineers
- Number of persons with other relevant maritime qualifications

R Lea Clough, Napier

MARITIME NZ RESPONDS: STAFF QUALIFICATIONS

Dear Sir

This letter responds to R Lea Clough's letter to the editor regarding maritime experience within Maritime NZ.

Before commenting on the extensive maritime experience we have it is worth reflecting on Maritime NZ's role. We are a maritime regulatory, compliance and response organisation – focussed on "safe, secure and clean seas and waterways". As such we need, and have, a wide range of skills, expertise and experience, including that provided by experienced mariners.

Our regulatory role requires regulatory, policy, and legal skills and experience; our compliance role requires skills and experience in education, licensing and certification, auditing, inspection, investigation and the application of the law; our response role requires skilled and experienced search and rescue managers and officers, and people with emergency response planning, leadership, communication and coordination experience. Given that our maritime role includes environmental responsibilities we also have environmental skills and experience.

For the organisation to operate effectively we also have administrative support, financial, IT, communications and human resources skills and experience.

A previous editorial in *Professional Skipper* questioned Maritime NZ's process to assess surveyors – I can assure you that any technical assessment of surveyors is carried out by staff with appropriate maritime qualifications and experience.

In the organisation as a whole we have 198 staff. This is made up of:

- 39 in our Safety and Response Group (which includes the Marine Pollution Response Service, Rescue Coordination Centre, and Maritime Security)
- 43 in Corporate Services (which includes planning, risk management, administrative support, communications, IT and finance), HR and the Office of the Chief Executive (which includes strategy and governance)
- 116 in our Policy and Legal, Standards and Compliance groups – where you will find most of the 48 staff with maritime qualifications. The breakdown of their highest qualifications is as follows:

Master Mariners	13
Chief Engineers	11
Mates	2
Naval Architects	2
NZ Offshore Master	5
Offshore watchkeeper command endorsed	1
ILM/CLM	6
Third Engineer + Master's Degree in Engineering	1
Inshore Fishing Skipper	1
Master 3000GT	1
Deep Sea Trawler Engineer	1
Qualified Fishing Deckhand	1
US Coastguard	1
Senior Raft Guide 4/5	1
Yacht master off shore	1

I would also note that from time to time experienced maritime industry people are engaged from outside Maritime NZ in project work alongside our own experienced staff, such as for the SeaCert developments and the development of the surveyor performance requirements. Additionally, policy development processes involve extensive industry consultation providing for input from across the maritime industry, the results of which are invariably considered fully by both staff with policy and maritime experience.

Keith Manch, Director, Maritime New Zealand

COMPLIANCE DIVISION WOES

Dear Sir

What the f#%? is Maritime NZ doing?? Are they not supposed to be our responsible regulator and work with us?

Now I am old enough to remember the old Marine Department and recall the establishment of the MSA and the Government trade-off in creating M&I [Marine and Industrial Department] so it could be sold – because the cost of running a compliance system was too expensive for the Government.

So they palmed it off to private enterprise, and to ensure no one ripped the system, created a competitive environment. The MSA worked with the maritime industry in creating Safe Ship Management, a system that served us well for 20 years.

Mariners from the maritime industry, managed the MSA in those days, and they understood the industry. Today, with Maritime NZ, we have an organisation twice as large, run by ex-coppers and jailers who know 'jack shite' about the maritime

world and seem hell-bent on killing the industry.

Do they not understand that we are a maritime nation? A bunch of islands in the South Pacific? And when you think about the size of our industry and the number of commercial vessels, how can they justify trying to recover $5-million from a very small, low-cost sector – that already has a very good safety standard by Pacific and even world standards?

The new costs are just outrageous and they are getting away with it. How can the Government justify a 1000% increase in compliance costs on operators?

It looks like we are being blamed for all the recreational boating deaths when Maritime NZ compliance cannot even manage a simple boatie.

The situation is becoming embarrassing for the rest of Maritime NZ who mostly do a great job, only to be dragged into the gutter and suffer industry criticism because of the compliance division. In fact, Harry's mob could not manage a piss-up in a brewery.

When is the Minister of Transport going to wake up that he has an agency that has gone feral?

Al Bowden, Retiring feral (pirate) to Coromandel

RETIREMENT

Dear Sir

After 40 years of conducting courses for Boat skippers, I have decided to retire.

I first ran a course in New Plymouth in 1973, and have continued since then. That course was for Restricted Limits Launchmaster and Boatmaster, (Boatmaster was a Marine Dept. course and qualification.)

I continued through a variety of name changes and requirements, and after moving to Coromandel in the 1990s, I began taking Inshore Launchmasters to prepare for their exams.

In that time a number of people have helped to ease the way.

I would like to particularly mention Jean Hulbert and Lisa Kraj from Maritime NZ Seafarer licensing. Because I ran courses where the candidates were located, often these ladies had to chase me around the country with permits.

The late Lionel Brock and Mike Foster, examiners, who also traipsed around New Zealand to carry out exams, and who also acted as mentors for me.

The staff at Boat Books in Auckland who answered the panic calls for sets of flashcards when extra people turned up on the first morning saying, "Am I too late?".

Thanks to RFD for the supply of Flares for demonstrations, and Firewatch Thames for carrying out fire extinguisher familiarization training.

Finally, thanks to my wife Jocelyn who answered the phones, prepared food, and put up with me being away for three weeks at a time off in the hinterland.

I have made many friends among the course members over the time, and I am grateful for this.

I have recently put some time into working with the Oyster Industry in the preparation of a part 35 qualification for the industry. This will be getting underway shortly, so I will still be involved.

Kia kaha katoa.

Darcy Ranger, Coromandel

PIRATES

Dear Sir

With all the new revenue gathering, blatant rip offs, by swashbuckling maritime officers, I am thinking of doing 'pirate' charters. But when I look at how the Government, in particular Maritime NZ, has become the biggest pirate of them all. How can I compete?

D&M, "Cutless" Charters, Whangapareoa

MARITIME NZ AUDITS

Dear Sir

My name is Steve Miller from Cave Cruzer Adventures based in Whitianga. I have just had three guys here from Maritime ▶

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MARITIME NZ RESPONDS: SEACERT AND MOSS

Dear Sir

A number of your correspondents have raised issues around MOSS and SeaCert that require clarification, particularly in relation to fees and their impact on volunteer or seasonal operations. At the core of both MOSS and SeaCert is a commitment to improving safety.

An operator's approach to safety cannot be dictated by the nature of the workforce or how often a vessel goes to sea. At any given time, the operation must be safe – for paying participants, passengers or workers.

MOSS is based on ensuring operators take control of managing their safety and a key part of that is ensuring those working in an operation, in any capacity, are appropriately qualified under SeaCert.

Fees: Fees applying to MOSS and SeaCert processes were developed following a value-for-money review of Maritime NZ's activities in 2010. The review found Maritime NZ was delivering value for money but there was a lack of clarity about the cost of each service and whether these costs were being appropriately distributed among those receiving the services.

This led to a funding review in 2012. Prior to this review, fees and charges had not been adjusted for more than 10 years and activities relating to domestic operators were being subsidised by others.

Even if SSM had been retained, the fees would have increased.

By and large, the fees charged to the operators that have received MTOCs have been within the estimated range of fees as outlined on Maritime NZ's website. See: www.maritimenz.govt.nz/moss

Survey cost: Maritime NZ is not responsible for setting surveyor fees and the survey requirements for vessels *have not* changed as a result of MOSS.

There is no factual basis for attributing increased survey charges to the requirements of MOSS.

Maritime NZ is committed to lifting survey standards and makes no apology for that. It is a necessary part of addressing the poor safety record associated with the SSM system. But to suggest that this greater scrutiny requires surveyors to do something extra, beyond what they should have been doing previously, is not the case.

However, operators now have every right to shop around for a competitive price for survey – which will still need to be performed to the required level.

Audit/survey cycles: Under MOSS, audits for well-performing operators have the potential to be reduced to three times per operation in 10 years, rather than the five audits per vessel that would have occurred under the previous system.

Out-of-water surveys reduce from five to four over 10 years under MOSS.

Lifetime certificates: On the issue of "lifetime tickets", with such a qualification, it is not possible for anyone to understand properly the current competence of the holder to exercise the privileges of the equivalent certificate in SeaCert. To improve safety outcomes it's important that seafarers, their employers, and the regulator have a clear understanding of what proficiencies and competencies are associated with the certificates being granted.

This in turn provides certainty that the person entrusted to run a vessel and keep paying passengers and other employees safe is up to date with competency requirements.

Accordingly, applications for a SeaCert certificate will require seafarers to demonstrate they have undertaken, and kept current, the additional proficiencies and competencies needed to hold the equivalent certificate in SeaCert. A medical/eyesight check may also be required.

This is consistent with the approaches to commercial licensing in other transport sectors and in line with international best practice in the maritime sector.

Harry Hawthorn, General Manager Maritime Compliance, Maritime NZ

NZ to audit my SSM manual and operation under this MTOC system.

It was with some interest that I learned that the "old" SSM manuals – that were the industry standard and guideline – are now deemed to be too generic and not specific enough for our operation now.

It would seem that we have to reduce everything in the manual to the most basic level. The example given was the Man Overboard flow chart which should be reduced to: Man overboard. Stop the boat. Go back and get him.

The new system now states that my manual predominantly does not conform to the industry standard, and that I will receive correspondence stating this and 'corrective action' is required. I actually wonder if this is so the new kids at Maritime NZ can understand things more easily.

And for the privilege of being told all this, I can expect a bill of approximately $1,500. These guys were here for three hours talking this shit over and apparently when only expecting one guy this visit became a training exercise. Again I was under the misguided impression that the hourly rate was about $250 an hour. It would appear it's closer to $500! The cynical part of me thinks this all designed to penalise those who chose not to transition into MOSS at this stage, and that these guys don't have enough to do. Who knows?

I'm picking that this is just one of a number of similar stories you have heard and you will probably still get a few more. This letter is pretty much just to let you know some more ongoing shit and an opportunity to vent my spleen a little bit.

Steve Miller, Whitianga

MARITIME NZ HORROR STORIES

Dear Sir

I started sweeping the boatshed floor over 60 years ago. My grandfather also started 60 years before me and his grandfather 60 years before him. My family started building wooden boats in 1739 back in Scotland.

Today it is almost at end, and when I launch the boat in my back yard, there are no more sons to take over. We are facing the end of an era.

In my time since 1967, I have seen many changes in the commercial boating industry in New Zealand. The introduction of the Quota Management System in 1986 changed the fishing

industry – and the focus from building new boats, to owning and trading a right to catch fish. This made a few very rich and although it was sold as a means to better management, the truth is that it is the 'big five' who now own the major share of all quota. What happened to the 5% rule?

Now Maritime NZ, or what ever they call themselves this week, have also embarked upon a new system to again make the big five rich and in control.

I have been helping operators through the MOSS maze, but like most operators/surveyors, I am becoming increasingly convinced that Maritime NZ is intent upon only one outcome. That is to do as little as possible with as few as possible for as much as possible.

I meet good, honest operators from Stewart Island to Maunganui who only want to be on the sea, fishing or helping people enjoy themselves. I have found almost all have horror stories about Maritime NZ's "deemed MTOC" audits, on the top of rules that even MO's do not understand (nor do they even know what the current rules are). They are taking what their bosses say as being gospel.

When I have asked of Maritime NZ to clarify certain rules, I am now fobbed off as being some sort of troublemaker. The auditors I have met to-date are all of foreign extraction, without any knowledge of the New Zealand marine industry. What's more galling, they do not care.

Many operators are considering adopting the "hire a rod" system, or giving all this away. To me it's very sad. We now have a regulator that is hell-bent on destroying the maritime inshore industry as we know it in the search of increasing compliance costs.

Maybe the Government should consider its position on all of this, and employ people with some knowledge of our industry and safety systems.

I am all for rules made to enhance the safety of the industry, but dreaming up non-compliance paper-related issues is only going to piss off all those in the industry. That is, if they get to survive!

Phillip Carey, Spring Creek, Marlborough

KEITH, YOU BULLY

Dear Sir

Keith Ingram you are a bloody bully. You were a bully at sea – a bloody good seaman and one of the best – but still a bully. And now you are picking on poor old Maritime NZ. Like I said, still a bully.

Times have changed Keith, and the days of professional seaman at the head of our marine safety authority have gone. While you might have set the highest standards for us and many others to follow, this current crop of safety leaders know nothing, and half of what you are saying just goes over their heads.

They are not seamen, and will never be seamen, so stop trying to bully them into being what they will never be. Give up and save your breath.

Seriously Keith, your blood's worth bottling. You wear our maritime industry on your sleeve. We are very lucky to still have a seaman with your knowledge to bully us along when we drift off course. More's the pity that a few in authority won't listen.

Dale Armitage, Still at sea, bulk carriers, Northland when home.

ACCIDENT SUMMARIES

Dear Sir

Have you seen the Maritime NZ publications lately? These are supposed to be informative, promoting safety and what a load of crap they are. Not only this, but they are no good for long drop dunny paper either. Makes one choke either way you look at it.

The most constructive and informative education tool Maritime NZ had was the Accident Summaries published in your magazine. These were as reported and unadulterated – and yes I featured once. But the lessons learnt were fantastic because it could happen to anyone.

The problem now is the place appears to be run by PC ex-coppers who just do not understand men at sea.

We are not frightened to stand and be counted when we f*** up and we do, but we learn – and we learn from others' mistakes.

The greatest educational tool lost because there are none so blind as those who do not want to see.

Maritime NZ open your f***ing eyes and bring them back in their original form I say.

Grant Johnson, an Auckland Westie afloat.

NO INCIDENT REPORTING PUBLISHED

Dear Sir

Now that Maritime New Zealand have decided to stop supplying and allowing you to publishing incidents in Professional Skipper, I believe they have now also stopped the best monitoring system the marine industry had.

That system is the industry itself, which has evolved hugely over recent times, especially over the last decade, with most operators having to comply with a raft of changes, amendments, compliance and new legislation which has resulted in a very focused and efficient industry. While there has been huge debate, of which much was reported through your publication, wanting to accept it or not, the reality is the industry is smarter, more educated, and runs in my opinion a dam sight more leaner ▶

We were all at the launching. Pam Deeming and son Peter live at Okiato and have all records. (Can you pass that on?) We have two large folders containing a photographic record of all ships that berthed at Opua since re-opening in 1957 plus signatures of crews.

Nancy began the record when at High School and I took over when she left school. Apparently it is now very valuable and the librarian at Voyager Maritime Museum, Queens Wharf has persuaded us that it should be held with them instead of Kawakawa museum. Nancy and I will be in Auckland at a yet to be determined date to present it!

We were in Wellington recently and took the books with us to show Captain Pryce of the New Zealand Ship and Marine Society. He positively drooled over it. Those gorgeous cargo ships that looked like ships have all been scrapped in favour of tin cans that float!

Myra Larcombe, Opua

WELL DONE SKIPPER

Dear Sir,

Just joining the long line of those who have appropriately congratulated you on the 100th issue of *Professional Skipper*.

You – and credit to Vivienne too – have made a valuable contribution to the NZ maritime field since you started the magazine. Your 'no nonsense' but carefully considered approach to voicing concerns has been appreciated. May it long continue and I hope your health is going from strength to strength.

Barry Thompson, Auckland

'BLATANT REVENUE GATHERING'

Dear Sir

Congratulations on producing such an excellent magazine and I enjoy reading every issue.

I volunteer on a dive boat and run SCUBA and spearfishing day trips for young divers on our club's Rigid Inflatable Boat, length just under six metres. Although we are a non-profit organisation we are deemed by Maritime New Zealand to be commercial because the divers contribute to fuel and boat running costs. Our boat is under survey and skippers must hold an appropriate ticket.

As my old Local Launchman's Licence doesn't have an expiry date, it needs to be changed to a Skipper Restricted Limits certificate before 2019. I can accept the need to transition to a new ticket but as a volunteer I find the fee of $372 payable on transition, and every five years thereafter, to be unjustifiable. New applicants need to find an application fee of $761. It appears to me to be blatant revenue gathering by a Government agency and possibly an abuse of power.

Volunteers play an important role in the marine environment and, for many people, their first experiences of the sea have been made possible by volunteers. I know of some people that liked their experiences so much they went on to enter the marine industry and now spend their lives on the water. For example, volunteers run marine clubs and trusts up and down the country and operate vessels such as the *Spirit of New Zealand*, the *William C Daldy* and the *Jane Gifford*. Many of these volunteers will not be able or willing to pay the new SeaCert fees and MOSS compliance costs needed to keep their operation going. This will cause the industry to lose many experienced mariners whom are willing to give their time and pass on their skills for free, but are not willing to pay the substantial fees now required.

I request that Maritime New Zealand consider the broad implications of their crippling compliance costs, and also offer fee exemptions to volunteers and no-profit organisations.

Bruce McFarlane, Auckland

YACHTS, SAFETY AND MOSS

Dear Sir

I have just read your editorial in the September/ October *Professional Skipper* magazine. Thank you for raising all those points about MOSS and the huge difference from the SSM system. I just shake my head over this one.

The Penny Whiting Sailing School has been operating on the Auckland Harbour aboard 47 to 50 foot yacht for the past 48 years over the summer months. I have had more than 33,000 students through my practical hands on course on the Auckland harbour.

I am very conscious about safety and a clean record for this and of course the safety equipment and condition of my yacht. These two things are what learning to sail is all about and I pride myself on having a vessel that I keep to top standard for my students to learn aboard and gain safety and confidence and get a good understanding of the wind and tides in Auckland. Some students have thought that I am grumpy but I know what I have to do to keep them safe and not hurt themselves, and the yacht safe in all conditions. I'm not a grump and still love the challenge of teaching Adults to sail and understand boating.

I'm not a grump and still love the challenge of teaching Adults to sail and understand boating

I attended a couple of seminars before MOSS came into force and once again just shake my head as my yacht is not a fishing boat and I found it hard to work out where sailing yachts like mine with a purpose fits in at all. I offered to talk to people that were putting the policy together, but never heard back from them.

I have got to say that after many trips on the Auckland Harbour and suffering the changing weather conditions in a days sailing it sure gives one an understanding of safety and what is necessary to keep my students focused and positive about tide changes that often cause sea conditions the change a lot.

However I'm sure your article will stimulate further discussion and perhaps the MOSS system and people that run it will try to understand a basic sailing yacht doing a job on the harbour.

Penny Whiting MBE, Auckland

LINZ CHARTS

Dear Sir

I got pretty peeved at having new charts collapse with little use and complained to LINZ in February. It took until July to get their response. Apart from an early invite to join a programme of consultation, not much.

Because of the pressure of writing an MTOP etc I didn't get back to this – I couldn't remember all the people who agreed with me in February to add to the distribution list for the questionnaire.

But maybe the readers of *Professional Skipper* might feel it was worth getting on the list by emailing Jennifer Ryan: jryan@linz.govt.nz

Rob Thexton, Devonport

WONDERFUL KEN RING

Dear Sir

Wonderful congratulations on your wonderful book review of that wonderful man of science Ken Ring's latest wonderful contribution to human knowledge. Nothing could be more wonderful than to be told by your wonderful magazine that we can now "reliably calculate the weather for any window of days in the year ahead". Do you think I should set sail for my wonderful trip to Stewart Island on July 15, 2015, or perhaps the wonderful week after that? Does this mean I have to toss my no longer wonderful copy of Nostradamus into the tide? Please keep me informed of all future wonderful scientific breakthroughs in wonderful weather prediction. Our wonderful lives depend on it.

Kevin Mccready, Auckland

Yep Kevin – and we love piss-takers as well. Ed...

CLEAN OCEANS

Dear Sir

I'm alongside a rusty rig near Timor on a supply boat, with a whale shark under us. This Irish Wolfhound of the sea world is just there, like the ducks and goats near the farm gate at home. Its rugged good looks is further proof that well mitigated human activity at sea is not affecting marine life.

Captain Vince Scully, Kaikoura

HYPOCRISY

Dear Sir

We Kiwis are too nice for our own good – and far too nice to those who display the most mindboggling hypocrisy. I cite your article on Chris McKenzie, a Maori Party candidate, demanding compensation for the fall in value of fish assets consequent to the banning of "slave ship" FCVs. Appropriately, you print it under the article about the slaves trying to recover some $22 million that the Korean owners have rorted.

Simple advice to Mr McKenzie, who is clearly one of those who spent the century and half after 1840 making no attempt to go fishing – learn something about the fishing industry. Had you and yours been in it from the start, as had my whanau, you would know that you make do with what assets you have. If you are too idle to actually go out and catch it for yourself, sell it someone who can.

R Lea Clough, Napier

TO THE MINISTER OF TRANSPORT

Dear Minister

On the Maritime NZ website it states….

"Who we are ... Maritime New Zealand – Nō te rere moana Aotearoa

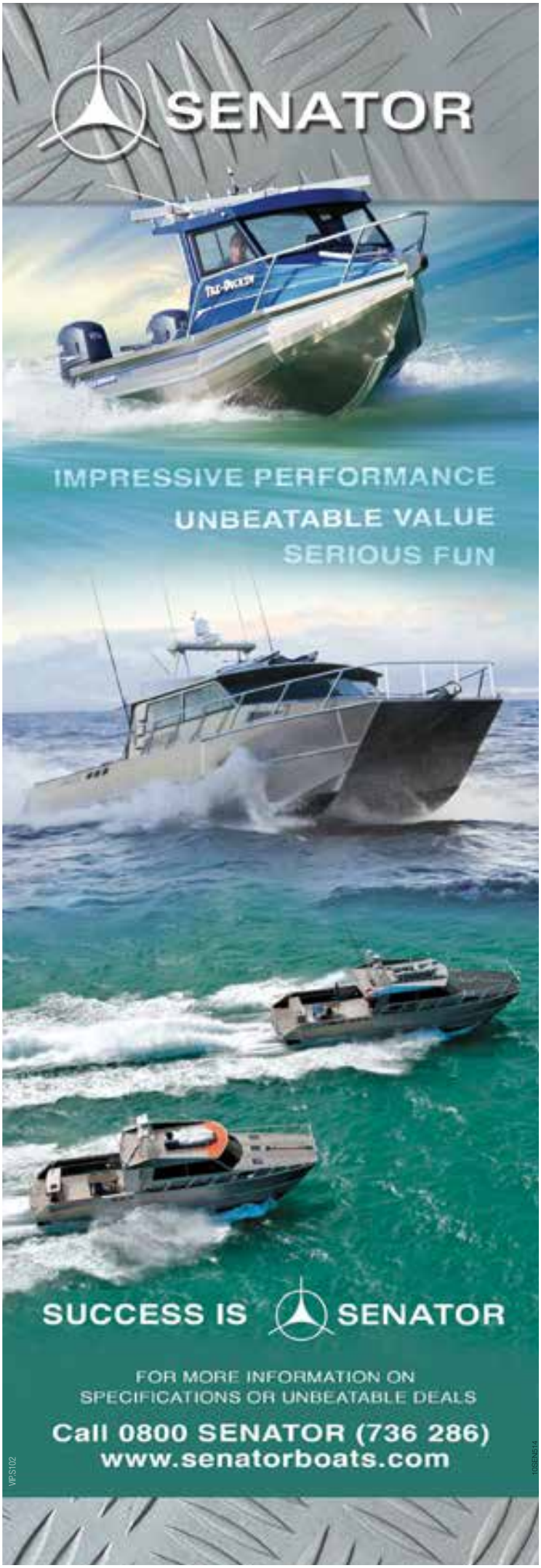
Our vision – A vibrant viable maritime community that works and plays safely and securely on clean waters.

Our mission – Working together to provide inspirational leadership, guidance and support to the maritime community to achieve the vision."

HUGE Fail on the mission statement!

The rash of 'Nanny State' legislation is in my view just another excuse for Government agencies to tax small business.

I am in no doubt that the owner/operators of surveyed vessels, recreational charter and commercial fishing alike, are reeling at the new legislation, fees regime and paperwork associated with MOSS. ▶



The regulations have been put together without any consultation – the consultation we were involved in at the early stages in no way relates to the MOSS system that's been served to us. What we were told years back and what we have got now are as different as a tin dinghy is to the Queen Mary.

After years of communicating with operators and reading emails which relate their difficulties coping with the many changes in legislation and systems over the last 20 years and now the exorbitant fees and paperwork associated with the new MOSS system

(Visit tinyurl.com/mosshourlyrates to see the rates), I am under no doubt that within a few short years (maybe as little as two) the charter boat industry will be largely defunct.

Most of the charter and small commercial fishing fleets are husband-and-wife teams in the age group of 60 plus. Many of the vessels are well known and have been around the traps for years as well.

Many of these operators potentially would have stayed operational for another ten to fifteen years, earning an income, remaining self-sufficient. The reality is that many on my email database have already gone.

Most have just had enough of being dictated to by bureaucrats who have no understanding of the nature of the industry and have just taken their vessels out of survey. These vessels are not now available to the industry. The very legislation which purports to be crafted to *provide inspirational leadership, guidance and support to the maritime community creating a vibrant viable maritime community that works and plays safely and securely on clean waters* … does not.

At every turn, Government departments are screwing the life out of the small maritime fleet to point of the death of the industry – a death of a thousand cuts, if we call each operator's demise another cut.

There is no leadership, no guidance, no support or vision provided by the Agencies, just a portrayal of Incompetence, Ignorance and Arrogance.

There is a very good editorial in the Sept/Oct issue of *Professional Skipper* magazine which gives a good overview of how MOSS is going to affect our industry – and the effect it will have on operators. It will be the demise of the charter boat and small fishing operators in NZ.

'Without prejudice' we protest the new MOSS system.

Stephanie Railey, Charter Boats of NZ

KEEP IT UP

Dear Sir

Just a quick note to compliment you and your Team on a great issue, so much interesting stuff to read.

Keep up the good work.

Brian Macken, Auckland

RETROSPECTIVE REGULATIONS?

Dear Sir

As part of the continual process of updating Maritime Rules, the Minister of Transport, Hon Gerry Brownlee, signed a number of amendments prior to the election – they came into force as the Law applying to New Zealand vessels on 7 August. I would like to bring one particular update to your readers attention.

The Law relating to launching and recovery of rescue boats on smaller non-SOLAS vessels has been updated. Wherever the Rule requires a Rescue Boat to be carried, it now requires a launching appliance capable of launching and retrieving the rescue boat with the full complement of persons on board. This appliance must not depend on any means other than gravity or stored mechanical power to launch the survival craft boat. This has replaced the earlier requirement for an appliance "acceptable to the Surveyor" and is effectively *retrospective* as it now applies to any vessel required to have a non-SOLAS rescue boat.

While normal practice on these smaller ships may have been to launch the rescue boat unmanned – and then to return anyone rescued to the ship before recovering the boat – that is no longer necessary. The Rule does state that simply lifting the boat on or off (by hand or hand-powered winch) is no longer permitted.

Furthermore, the Rule now requires any launching device to be capable of operating with the rescue boat manned — and specifically mandates the appliance must be fit for this purpose — so an on-load release hook is also required, along with crane safety factors acceptable for a manned operation at sea.

My concern under MOSS is that, reading the Rule as I have above, will require many boats to upgrade their gear before a Surveyor is able to issue the ship with its next Survey Certificate; indeed *they will be operating illegally* in the interim as the Rule has applied since 7 August.

There appears to be little guidance from Maritime NZ on applying this new requirement and I saw little consultation before it was introduced. While we all support any iniatative to enhance safety it will be interesting to learn of the costs as the requirement is enforced.

Name withheld by request

Or can we mandate that boats get a certificate (say every three years) that their boats have been stress-tested? Anyway, you can see where I'm going with this.

Kevin McCready, Auckland

Kevin you raise some interesting concerns. All too often we blame the mooring when vessels let go in a storm and end up a navigational hazard or on the rocks. The need to test the main mooring bollard on moored vessels in line with the mooring check seems logical to me. But where will the liability lie, begs the question. Ed….

DOING BUSINESS WITH MARITIME NZ

Dear Sir

Have you ever had to do business with the Maritime authority? If so, it would have to be a matter of necessity because no one would deal with them unless they had to.

Let me tell you members that they are not nice people to deal with and that's because they don't have to be. They are the Authority, a government department, they make the rules and then enforce them and woe betide any boatie that doesn't jump when they shout.

My yacht, *Offshore*, is a registered NZ ship – which all yachts are required to be before they leave NZ. We first registered before we did the 1974 Whangarei to Noumea race. In those days, we were a British registered ship but this was changed when Maritime New Zealand took it over.

Last Xmas Janet and I were cruising, as you do, and I looked at the registration certificate and noticed that Rona (my late wife) and I were the owners and we lived in Belmont.

Rona died eight years ago and I have not lived in Belmont for the past 20 years, so I decided to email Maritime NZ and ask them to alter the certificate details and bring them up to date.

I thought that they would want to have their register up to date with the correct details for each ship, but this seems to not be the case.

They emailed me back stating that they would alter the address free of charge but to remove Rona's name they required a copy of her death certificate (fair enough) and eight hundred and sixty four dollars!

I hate being ripped off, especially by a Government department, so I wrote to my local MP, Paula Bennett, who can be a feisty woman when she wants to be. She was appalled, and wrote to the minister responsible for Maritime NZ, Gerry Brownlee, asking for an explanation, which she duly received. As you have probably already guessed, it amounted to nothing. However, he did say that Maritime NZ's charge out rate was $144.00 per hour.

So there you have it, to remove a name from a database took them SIX HOURS!

By this time I was very steamed up and told them so. Only to receive a two-fingered salute in reply.

Paula was not impressed with their reply either, and would like to take the matter further. However, with the election not too far away, she has more important matters to attend, so I am not holding my breath.

The one thing that Maritime NZ appear to be good at is ripping off their customers. For example, I read in a recent copy of Boating NZ, a letter to the editor saying that it is becoming increasingly difficult to hire a charter boat in NZ and a lot of operators have shut down because of the compliance costs charged by MaritimeNZ.

Poor old *Steinlager II* entered the latest Fiji race and because she was registered as a charter vessel MaritimeNZ demanded $15,000 before they would let her start.

And I feel so sorry for that woman who was the wife of the *Easy Rider* skipper. She lost her husband, her family, boat, business and friends in that tragedy, but Maritime NZ had to have its pound of flesh and took her to court.

So to finish with my problem, the matter has now reached a stalemate. We are waiting for another response from Paula Bennett and in the meantime I am not holding my breath.

Frank Warnock, Glen Eden Auckland,
Devonport Yacht Club

OTAGO IS IN GOOD HANDS

Waterfront scuttlebutt is often the source of some early news and events within the maritime industry. But like all sources of rumour, it should be treated with caution.

HMNZS Otago was seen to berth in Lyttelton on July 19. Her arrival was reportedly 'out of the blue' and at what seemed to be very short notice, and she entered the Lyttelton dry dock for urgent repairs. Further enquiries revealed that there was an issue with the ship's electrolytic anodes, designed to combat hull corrosion. The anodes themselves apparently looked OK but *Otago* is showing signs of serious hull deterioration in their proximity.

Some reports portrayed the whole thing as shrouded in mystery and quasi-secrecy, with the suggestion "Her Britannic Majesty's Government in New Zealand" and the Navy had lowered the publicity boom in order to avoid any further embarrassment in this, an election year!

As Stark Bros were busy replacing sections of the corroded hull plating in the vicinity of the anodes, in some circles rumour swirled and speculation arose about whether *Otago*'s sister ship, *HMNZS Wellington* suffers from the same problem. This and other gossip begged the question: *Are these ships falling apart?*

So, just what is going on? To dispel any misinformation, *Professional Skipper* magazine asked the Chief of Navy Rear Admiral Jack Steer who responded:

> On July 14 the crew of *HMNZS Otago* was alerted to flooding in a compartment. Water was found to be entering the ship through a breach in the hull. Ship's staff took immediate action to ensure that the incident was contained. There was about two tonnes of water in the compartment, which was removed using fixed pumps. Temporary repairs were effected using quick dry cement, and the pumps continue to be used as required.
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> Whilst significant, this quantity of water does not present a serious risk to a ship of this size. Sailors are well trained in responding a variety of incidents onboard ships.
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> *HMNZS Otago* returned to Devonport Naval Base to conduct further assessment and permanent repairs to the ship's hull.
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> *Otago* entered Lyttelton's dry dock on July 22 to enable a full investigation and repairs to the hull. Lyttelton was selected because of other naval and commercial bookings at the Calliope dry dock at Devonport.
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> The breach appears to have been caused by issues with the cathodic protection on *Otago*'s hull. Initial review of sister ship *HMNZS Wellington* indicates that this is not a class issue.
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> *Otago* departed Lyttelton on July 29 with repairs completed. She returned to Devonport Naval Base to focus on upcoming tasks, including a multi-agency deployment. Later in the year, *Otago* is programmed to dock as part of scheduled routine maintenance.

Thank you Admiral for your prompt response. Clearly these are working ships, a part of our protector fleet in professional hands. Ed…