



**WAFIC** FISHING  
PEARLING  
AQUACULTURE

30 March 2022

Mr Michael Carmody AO  
Lead Reviewer  
DCV Safety Review Panel  
GPO Box 594  
Canberra, ACT 2601

Dear Mr Carmody,

**Independent Review of Australia's Domestic Commercial Vessel Safety Legislation, and Costs and Charging Arrangements**

The Australian Government has commissioned an independent review to consider whether Australia's legal framework regulating the safety of domestic commercial vessels is fit for purpose (Phase 1). The review is also to consider whether this regulatory framework is being delivered efficiently and effectively, and to consider options for future cost recovery arrangements (Phase 2).

The WA Fishing Industry Council (WAFIC) is the peak industry representative body for the commercial fishing, pearling and aquaculture industries in WA. In total our membership covers over 1200 vessels and 4000 individuals and the industry produces in excess of \$800 million GVP per annum.

The WAFIC submission (Attachment 1) is responding to Phase 1 of the public consultation process entered into by the Department of Infrastructure, Transport, Regional Development and Communications in February 2022 and conducted by a Review Panel of three members with a mix of safety, regulatory, financial and industry expertise.

We recognise that Phase 2 will deal with cost recovery arrangements for AMSA service delivery activities however what is determined and discussed in relation to legislation and supporting regulations (Phase 1) has the flow on effect of determining the level of costs associated with service delivery.

This submission is the result of WAFIC seeking responses from stakeholders by circulating the Review's public consultation documentation to the commercial fishing, aquaculture and pearling industries throughout Western Australia through our range of communications tools (website, newsletter, social media, direct mail, online and face-to-face meetings).

WAFIC notes this current consultation process is the first of two planned phases and that the purpose of the first phase is to seek feedback from industry on whether Australia's legal framework regulating the safety of domestic commercial vessels (DCVs) is fit for purpose.

WAFIC notes that stakeholders had opportunities to make comment to the Review panel through written submission or directly with the online or face-to-face consultation processes. On behalf of our members WAFIC takes this opportunity to thank the Review Panel for the consultation arrangements applied.

Yours sincerely

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# Independent Review of Australia's Domestic Commercial Vessel Safety Legislation, and Costs and Charging Arrangements

Submission from WA Fishing Industry Council March 2022

## Opening Comments

The WA Fishing Industry Council (WAFIC) is the peak industry representative body for the commercial fishing, pearling and aquaculture industries in WA. In total our membership covers over 1200 vessels and 4000 individuals and the industry produces in excess of \$800 million GVP per annum.

WAFIC has been a strong supporter of the overall objective of establishing a single, national, marine safety service delivery model to assist the Australian government and the wider domestic commercial vessel industry (including the fishing, pearling and aquaculture industries) to operate in a more efficient and cost-effective manner while maintaining safety.

WAFIC has also been a strong supporter of the AMSA focus on improving the safety culture within industry through increasing owner and operator responsibility and self-audit for marine safety within their DCV operations.

Overall WAFIC continues to support a single, national management system for marine safety and believes that appropriate tweaking of the current legislation and supporting regulations as well as development of support explanatory documentation will be a significant step to driving the efficiencies sought from the initial COAG harmonisation policy.

The previous multiple state jurisdiction delivery model was cumbersome and resulted in inefficiencies for vessel movements around the country, inconsistency in application of survey requirements, misalignment of competencies across similar operations and inhibited transition of the workforce across borders. We note the Productivity Commission draft report on the National Transport Regulatory Reform sets out that under the National Law the ability to recognise marine qualifications nationally has improved operators' ability to hire staff from interstate (p12).

Other concerns with the previous state-based system are now being uncovered with indications that baseline survey requirements underpinning marine safety may have been missed (eg vessel stability evidence) and is proving costly for industry to rectify.

The December 2012 Council of Australian Governments (COAG) National Compact on Regulatory and Competition Reform, committed governments to *'free[ing] the business environment from unnecessary regulation'*. This document sets out that *'Businesses benefit via lower costs and reduced regulatory burden'* (p1)<sup>1</sup>

The stated overall objectives of COAG entering this harmonised regulation approach to assist the operations of the Australian marine industry were:

- operate in a more efficient and effective manner;
- reduce red tape and thus costs; and
- improve marine safety.

Equally importantly, to get States to agree, COAG introduced the 'grandfathering policy' recognising that many in the DCV fleet were operating safely under their existing vessel safety management systems, using their prevailing vessel configurations and operating

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<sup>1</sup> December 2012 Council of Australian Governments (COAG) National Compact on Regulatory and Competition Reform <http://www.coag.gov.au/node/486>

within their existing area of operation and thus should not be forced into major cost imposts to modernise for little result in safety benefit. However, it was understood by industry that should an operator decide to change operations (eg from potting to trawling) or modify the vessel (eg change engine power, add live fish tanks or new accommodation) or change the area of operation (eg fish further to sea) that decision would initiate an assessment by AMSA as to whether that vessel has a change in status away from being 'grandfathered' and triggering the need to move towards existing marine safety standards in the National Law.

Industry also accepted that 'grandfathered vessels', regardless of the policy, were required to implement any new law requirements for contemporary marine safety standards for crew manning requirements, crew competency and base safety equipment.

It was understood by industry and government that establishing a national system would not be perfect from the start and that trying to mesh together the outcomes from seven separate state/territory jurisdictions into a single national law and management regime was always going to take time to settle. It would be naïve to expect all issues to be fully covered and effectively managed by AMSA within this first five year period of full AMSA management - just as it would be unreasonable to expect all operators of domestic commercial vessels to have fully embraced the agreed principle of greater '*self-responsibility*' for safety as part of driving the incentives for more efficient and cost effective marine safety management.

COAG recognised at the time of establishing the harmonised national marine safety framework there would be a '*settling in period*' and hence supported a transition via financial assistance for the establishment of the national law (ie 2013 – 2023). COVID circumstances have extended these government financial support arrangements.

Some in industry propose the Review Panel considers a hybrid model where the state-based AMSA surveyors and vessel inspectors operate at a more local level instead of having to refer to a Canberra based administration. Moderation of vessel circumstances can be done by the AMSA surveyors in-situ instead of the seemingly clunky system currently in place where the clients get caught in the bureaucracy of AMSA generic email addresses and telephone helplines.

Many in industry take issue with the use of contract surveyors as opposed to AMSA employed surveyors (like occurred in the previous system). The current AMSA system is not streamlined and requires multiple levels to achieve the same objective that one surveyor and a clipboard used to smoothly achieve.

This Review is a timely opportunity for government and industry to determine what will work best going forward and drive the necessary efficiencies into the national system, resulting in achieving the COAG and industry objectives of the harmonized approach - *less red tape, less cost and maintain safety*.

**Question 1:** *Is Australia's legal framework for the safety of domestic commercial vessels fit for purpose?*

The policy initiatives and management approach behind the National Law focus was on improving the culture within industry and driving efficiencies through increasing personal responsibility and self-audit for marine safety by DCV owners and operators. This has not happened to the extent expected to date.

Current legislation, regulations, associated standards and marine orders under the national system are frustrating, overly complicated, unnecessarily complex and have resulted in increased compliance costs. As mentioned earlier this appears to be the result of trying to mesh the outcomes from seven separate state/territory jurisdictions into a single national law and management regime. This was always going to take time resolve and to settle.

Many in industry believe the legal framework should be sufficiently flexible and intuitive to the needs of DCVs to maintain the highest level of safety and minimise unnecessary cost burdens. When laws are too rigid in their application and do not make adequate provision for exemptions in certain circumstances – then costs go up. We refer to the example provided to the Review Panel by Austral Fisheries during our online stakeholder meeting in March 2022 regarding the significant manning requirements imposed by AMSA on a one-off vessel delivery from NZ to Australia and the associated costs incurred to meet these requirements. Industry believes that such circumstances, where risks are negligible and over a short duration, can be sufficiently managed at an acceptable level by means other than those solely prescribed by the applicable legislation.

WAFIC has been a strong supporter of modernising fisheries management across Australia through establishing legislation as the ‘toolbox’ - laying out the framework for management and then allowing flexibility and timely adjustment through a range of management ‘tools’ that can be accumulated, used and updated as required without constantly changing the toolbox. The ‘tools’ in fisheries management are in the form of management plans or harvest strategies - subsidiary legislation which allows amendments to be made at Minister or Director level so long as these are in line with the legislative framework and carry the opportunity for consultation and review.

In the case of the National Law (the toolbox) it is the marine orders and standards that are the ‘tools’ necessary to introduce the flexibility and timeliness in management to meet a modern DCV industry.

Feedback from stakeholders is that the number of instruments currently in place are complicated and that specific requirements, such as those for safety management systems, are too complex. Complex or confusing jurisdictional oversight in itself can act as a risk for safety as operators often just give up as ‘too hard’. A single source of truth, clearly explained, will significantly benefit operators and improve outcomes.

The DCV is highly diverse and a ‘*one size fits all*’ approach across all sectors - for all requirements - is not feasible and needs to be scaled depending on a vessel’s class and/or operations. This ‘*one size fits all*’ approach results in exceptions, exclusions and duplication across the framework rather than provide tailored requirements based on risk profile. There have also been issues raised through the likes of mandatory equipment assessments (eg wearing lifejackets at all times) that have not recognised the specifics of some fishing operations (netting from small vessels) where hand hauling may result in increased safety concerns around entanglement.

These issues seem to be particularly underlined where the National Law Act does not provide the level of flexibility regarding certification arrangements to cater for the lower-risk vessels or lower complexity vessel operations. This has resulted in a number of exemptions thereby increasing the number of instruments within the framework and it has built on itself.

Stakeholders have made other suggestions to reducing the complexity of the National Law.

- Provide a practical overview of the National Law framework – ‘*National System 101*’ with greater use of diagrams and flowcharts to show the interconnections of regulations, marine orders, standards, general safety duties etc
- A review of arrangements for small, lower complexity, lower risk, non-survey vessels with a view to releasing these vessels from complex management requirements and the associated compliance imposts on the management agency
- Introduce infringement notices – less \$\$ penalty / less admin rather treating everything as a breach / give court discretion to apply penalty levels
- Reduce duplication with WHS laws / clarify which agency has responsibility in certain circumstances

- There is inconsistent application of regulations by surveyors between vessels creating confusion and tension
- Regulations and red tape seems to be building up so the review is very timely
- There is confusion over how the appropriate crewing arrangements interact with the minimum crewing table

Many in industry believe the use of contract marine surveyors, similar to class society surveyors, is not an effective delivery of services. The variety in the makeup of the DCV fleet means there cannot be a 'one size fits all' approach in the application of surveys due to the different vessel constructs, types and sizes.

These industry stakeholders propose a system that is more appropriate and reflective of our positive experiences with the previous system administered by the state's relevant marine authorities:

- AMSA develop a consolidated set of rules for DCVs as opposed to the rules being spread through the Marine Orders (ie similar to USL Code);
- AMSA use their state-based offices to directly engage their own marine surveyors to attend vessels and oversee that the provisions of the consolidated rules are being complied with;
- the state based AMSA offices issue the required certificates following compliance with their survey inspections;
- moderation can be achieved by the state AMSA offices and their surveyors being coordinated by Canberra;
- some functions such a plan approval for new vessel builds could still be completed in AMSA's Canberra office but periodical surveys, modifications and change of operation assessments can approved locally;

Industry accepts there have been tangible benefits arising from the National Law including:

- the ability to recognise marine qualifications and vessel surveys nationally has improved operators' ability to hire staff from interstate and move operational areas.
- the benefits accumulating from the simplification of certificate of operation requirements for large fleet operators that previously held individual certificates for each vessel allowing a single certificate for their entire fleet and removing the schedule of vessels from the certificate.
- the timeliness in introduction of the reform mandating the use of float-free automatically activating emergency position indicating radio beacons (EPIRBs) on certain classes of vessels from 1 January 2021.
- greatly improved consultation processes on proposed amendments and policy developments

**Question 2:** *Does the national law interact efficiently with other Commonwealth and State and Territory frameworks, particularly the Navigation Act 2012 (Navigation Act) and workplace health and safety regulations, as well as with international maritime safety obligations?*

The current legal framework is particularly challenging for DCV operators because the framework itself necessitates that DCV operators must serve to two masters – AMSA and each state/territory Worksafe agency.

The National Law framework as it applies to DCVs is inefficient and confusing because of the way that it interacts with the model WHS legislation as adopted in each State and Territory (except WA, which will adopt the model WHS legislation on March 31, 2022).

The interaction between the National Law and the respective WHS Acts is further complicated for operators of DCVs working across multiple jurisdictions because of the divergence from the uniformity of the model WHS legislation by each State and Territory when adopted.

The National Law attempts to delineate the interaction between other State and Territory frameworks at Section 6(1) entitled, “*Relationship with State and Territory laws*” and states: “*This Act is intended to apply to the exclusion of a law of a State or Territory that relates to marine safety so far as it would otherwise apply in relation to domestic commercial vessels.*”

Section 6(2) then states: “*However, subsection (1) does not apply to a law of a State or Territory so far as: .... (b) the law deals with any of the following matters:*”

S6(2) then provides for 23 matters that the National Law cedes to State or Territory laws, which includes:

- ... repairs, cutting or welding occurring on board vessels (s 6(2)(b)(xiii));
- gas and electrical safety (s 6(2)(b)(xx));
- workplace health and safety (s 6(2)(b)(xxi));
- emergency management and response (s 6(2)(b)(xxii)).

When an incident occurs on board a vessel at sea industry owners are simultaneously engaged by the relevant WHS authority and AMSA to assist with two separate investigations applying different legislation to the same incident. This is inefficient and offers no certainty under the law for operators of DCVs. In any given matter one regulator may choose to prosecute, the other not. Different penalties and provisions would apply depending upon which legislation is applied.

The inefficient interaction of the National Law with WHS laws also creates some precarious dilemmas for DCV operators that remain without a practical resolution. The fact that States never ceded the power to regulate electricity generation and electrical safety on DCVs to the Commonwealth can be used as an example to demonstrate this.

The Commonwealth has extended its power by passing laws to implement international agreements/conventions which it signs and, in this way, the STCW international conventions permit marine engineers to perform electrical and refrigeration work on ships covered by the Navigation Act 2012. But this does not extend to DCVs that are not covered by STCW and so must conform with the individual state laws on electrical work. The practical implication of this is that DCV marine engineers cannot (“legally”) perform electrical work on board vessels at sea unless they hold a certified electrical qualification issued by a State. This is despite undertaking training and competency assessments to perform electrical work on vessels as part of meeting the Marine Engineer certificate of competency qualification.

It is our understanding that AMSA has entered into a memorandum of understanding (MOU) with each State to resolve jurisdictional issues and duplicity in application of the law. However, we understand these agreements are not legally binding and offer limited, if any, certainty under the National Law for DCV operators. WAFIC supports a single regulator taking exclusive control of all matters safety at sea. AMSA is the most competent regulator to manage safety of domestic commercial vessels when at sea.

The mining industry in Western Australia offers an example of a model where one law can efficiently and successfully operate at the exclusion of another. The *Mines Safety and Inspection Act* completely excluded the Western Australian *Occupational Safety and Health Act* from power over matters on mine sites (section 6A). The delineation to determine which law would apply was simple and practical. If the matter involved anything on a mine site, the *Mines Safety and Inspection Act* would apply. If the matter involved anything not on a mine site, the *Occupational Safety and Health Act* would apply.

It is also our understanding that grandfathering provisions may not be recognised by the State Worksafe regulators, so vessel owners may not be able to rely on the grandfathering provisions as a defence if the Worksafe authorities decide to prosecute.

**Question 3:** *Is the scope of the definition of 'Domestic Commercial Vessels' appropriate to capture the types of vessels and operations that justify additional regulatory intervention under the National Law beyond existing WHS obligations?*

WAFIC stakeholders believe the definition and scope could be narrowed to exclude vessels that may be more appropriately classed as “recreational” such as jet-skis and kayaks and some other Class 4 vessels. Some aspects of the National Law (eg Coxswain 3 NC certificate of competency) have been significantly amended from their original intent to satisfy this class and the issues involved again on trying to implement ‘one size fits all’.

This class of vessel should be returned to the states and territories to manage.

**Question 4:** *Should the framework ensure the Navigation Act provides the default standards for commercial vessels?*

The Navigation Act was established for the safe management of the ‘...4,000 ships that transport goods to and from Australia, carrying 99 per cent by volume of Australia’s imports and exports’<sup>2</sup>. The AMSA website sets out ‘The Navigation Act 2012 is legislation which covers international ship and seafarer safety...’

It clearly does not relate to the 30,000 DCVs operating well inside the Australian EEZ.

The Navigation Act is effectively the model for interstate and international trading vessels. These vessels are designed and built under IACS<sup>3</sup> Class rules, can be grouped according to their cargo (bulkers, container vessels, tankers etc) and almost exclusively of steel welded construction. By comparison, DCVs are constructed of a wide range of materials, differ vastly in design, age and are operated for a variety of purposes (including cross purpose operations). As such, it is a gross over-simplification to believe that the regime for a trading vessel can be adapted to suit the diverse nature of the DCV fleet.

The standards under the Navigation Act should not be applied to DCVs as default standards. The scope and application of the Navigation Act is appropriately suited to ships that transport goods on long distance voyages outside the Australian EEZ.

The commercial context and risk profile of predominantly large container vessels undertaking long international voyages is not directly transposable in a domestic commercial context, where vessels predominantly operate within the Australian EEZ.

The applicable standard should take into consideration the lower risk profile of vessels that operate within the Australian EEZ. Applying the standards under the Navigation Act to DCVs as a default would unnecessarily increase compliance costs for DCV operators.

**Question 5:** *Is the definition of an “Owner” of a vessel in the National Law sufficiently clear and understood?*

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<sup>2</sup> Second reading speech, Minister for Transport, 24<sup>th</sup> May 2012  
<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F7b0b2bac-de69-42c1-8a98-2d16329f051f%2F0024%22>

<sup>3</sup> International Association of Classification Societies

As mentioned before the interaction of the WHS laws and the National law create confusion when divergent in application on the same matter. To avoid confusion, the definition of “Owner” of a vessel should be consistent with the definition of “*Person Conducting a Business or Undertaking (PCBU)*” as defined under model Work Health and Safety legislation.

Under the current regulatory framework, a vessel is defined as a workplace under applicable Work Health and safety legislation. Therefore, any definition of “Owner” of a vessel in the National Law must be read concurrently with the definition of a PCBU in Work Health and Safety legislation.

The two definitions cannot be inconsistent because both apply to vessel owners depending on which regulator they are dealing with in relation to a matter. It is perhaps this application of the current safety law framework to domestic commercial vessels that is less clear and least understood.

**Question 6:** *Would expanding the Australian Transport Safety Bureau’s role to include domestic commercial vessel safety support substantially improved safety outcomes for industry, as well as regulators and policy makers?*

The majority of stakeholders in industry have little working knowledge of the ATSB (and its processes) and as such feedback on this particular question has been limited. WAFIC recommends that AMSA embark on an education campaign of the ATSB processes and the benefits that may be forthcoming from using the ATSB (including costs).

Those stakeholders with some knowledge of the ATSB process expressed support for this group to be the investigating agency for DCV incidents, particularly where there is a clear benefit to the overall industry (eg serious incidents). They saw value in the ‘no blame’ approach to their investigations (rather than disclose details to a regulator) for improving incident reporting from within industry.

Of course any move to a new process such as the ASTB will require an understanding of costs and how those costs are attributed (eg is the ATSB process a public good service?)

Any initiative to expand the role of the ATSB to include DCV safety should not create another ‘regulator’ for vessel operators and should not lead to the creation of additional legislation applicable to DCVs administered by the ATSB.

**Question 7:** *Would removing, in whole or in part, current grandfathering provisions substantially improve safety outcomes? If so, how could industry be supported in making that transition?*

WAFIC does not support the notion that safety outcomes will be ‘substantially improved’ through removing of the current grandfathering provisions.

We bring to your attention the response of the WA Minister for Transport (7 February 2020, ref: 72-23640) to the Productivity Commission’s Draft Report on National Transport Regulatory Reform.<sup>4</sup> In the attachment to the letter are the specific comments of the WA Department of Transport (WADOT) to the draft recommendations of the PC. On page 4 of the attachment in the letter the WADOT has responded in support of the PC recommendation 5.5 to wind up the grandfathering provisions in the National Law. WAFIC wishes to advise that industry was at no time consulted by WADOT in relation to this matter and does endorse the WADOT position on this matter.

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<sup>4</sup> WA Minister for Transport (7 February 2020, ref: 72-23640) to the Productivity Commission’s Draft Report on National Transport Regulatory Reform / [https://www.pc.gov.au/data/assets/pdf\\_file/0020/251264/subdr081-transport.pdf](https://www.pc.gov.au/data/assets/pdf_file/0020/251264/subdr081-transport.pdf)



As mentioned in our opening comments the 'grandfathering provisions' recognized that many in the DCV fleet at the time of introducing a national management system were operating quite safely under their existing vessels' configurations, continuing to operate within their existing (and in some case long time) areas of operation and responsibly implementing modern safety management and training systems.

Industry took COAG at it's word in 2013. If you do not modify your vessel or change the operations of your vessel there would be minimal transition costs under the National Law

These vessels should not be forced into major cost imposts to modernize for little, or no, change in safety benefit just because of their age. Many of these vessels are exceptionally well maintained and have operated safely in the same area for many, many years without incident. The introduction of quota management across a larger range of fisheries drives safety measures by removing the 'race-to-fish' between fishermen and concentrating on 'fish-to-market' that allows selection of weather conditions in which to operate and vessel/technology configuration to maximise return (in some case one newer vessel to replace two existing vessels to catch the same amount).

Any changes to the 'grandfathering vessel provisions' need to be assessed on a risk-based, data evidence approach. It is our understanding that AMSA have limited and unreliable longitudinal data on DCV safety. This is largely because safety data was not consistently gathered and well managed under the previous State and Territory administrations. Therefore, a decision to remove, in whole or in part, current grandfathering provisions would be premature, unsupported by the available safety data and prejudiced towards operators who have consistently demonstrated that grandfathered vessels can be maintained to a safe operating standard and operated safely.

The grandfathering provisions are specifically in line with the COAG principles supporting the establishment of the national harmonised regulation approach – ie to assist the Australian DCV industry through allowing operations in an efficient and effective manner, reduce red tape, reduce costs and maintain marine safety. Industry accepted that 'grandfathered vessels' were required to implement modern law requirements for crew manning, crew competency and base safety equipment.

COAG did not envisage an end to grandfathering. The 2011 Joint Standing Committee on Transport papers state: *'The national system is ultimately intended to cover all commercial vessels in Australian waters. However there will be arrangements covering transitional/grandfathering provisions to ensure introduction of the national system from 2013 occurs in a progressive and structured manner'*.

Consistent with the view at the time, AMSA's 2012 regulatory plan took this approach that: *Grandfathering arrangements would continue to apply unless incident data dictated the need to adopt an alternative approach*<sup>5</sup>. (WAFIC underline emphasis)

It needs to be remembered that AMSA has phased-out grandfathering arrangements in relation to several aspects of DCVs and now requires contemporary safety management implementation for:

- safety equipment
- float-free emergency position indicating response beacons (EPIRBs)

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<sup>5</sup> AMSA Supplementary Submission - Australian Government Productivity Commission National Transport Regulatory Reform Draft Report November 2019 (January 2020) p10 of 22.

- operational requirements
- survey frequency.

It was accepted by industry that should an operator decide to change operations (eg from potting to trawling) or modify the vessel (eg change engine power, fit live fish tanks, new accommodation) or change the area of operation (eg fish further to sea) that decision would mean an assessment by AMSA as to whether that a vessel has changed status away from being 'grandfathered' and trigger the need to move towards meet existing marine safety standards in the National law.

Impediments should be removed so as to 'incentivise', **not force**, the modernisation of the DCV fleet. Industry will change where there are efficiencies to be gained. There is a willingness by some owners in some sectors to move away from grandfathering arrangements, however building new vessels to standard is challenging, and achieving compliant vessels at a manageable cost is very difficult. Carbon emissions reduction is one such issue that is commencing serious consideration within some parts of industry and should be encouraged by the legislation, not discouraged. Industries are partnering with external groups expert in these areas to build improvements but need encouragement from AMSA for their innovation.

A question for the Review might be how does AMSA think it might change regulations to encourage such innovation.

There have been improvements to the process through the 'transitional vessel scheme'. Prior to this for an existing vessel to be modified, change its mode of operation or change its area of operation required the vessel to become a "new vessel" and comply totally with the National Standards for Commercial Vessels (NSCV). This was often done without added safety benefit creating a significant cost disincentive for operators wishing to make improvements to their vessel.

The implementation of the 'transitional vessel scheme' in 2018 has allowed an existing vessel owner, wishing to make modifications or to diversify the vessel's operations, to meet elements of contemporary electrical, fire safety and stability standards without imposing unwarranted cost (for example design assessment of existing vessel hull and machinery). This has provided an achievable pathway for owners of an existing vessel to be modified and improved over a period (each time an owner makes changes), rather than all at once.

Some stakeholders however remain unclear what the 'transitional vessel scheme' means and feedback indicates AMSA is not explaining clearly enough how to 'transition'. We reiterate our suggestion for better guidance materials in plain English.

As noted earlier in our submission the grandfathering policy may create a false sense of security should grandfathering provisions not being recognised by the State WHS regulators, so vessel owners may not be able to rely on the grandfathering provisions as a defence if the Worksafe authorities decide to prosecute.

Any amendments to current grandfathering provisions should only be considered if a detailed case for change can demonstrate, using all available incident and accident data, that grandfathered vessels are not able to operate safely with appropriate control measures implemented to eliminate or mitigate identified risks. Cost impacts will also need to be assessed (in accordance with Office of Best Practice (OBPR) requirements) and a public cost-benefit assessment conducted to determine and agree on any appropriate phase out period.

Almost any change to the status of grandfathered vessels would put some owners in a position of economic unsustainability. The availability of good second hand compliant DCVs

is low, and reducing due to overseas sales, losses and sales to the private sector. Cost to build a new vessel, compliant with the DCV regulations, continues to skyrocket.

ENDS

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