



AUSTRALASIAN INSTITUTE
OF MARINE SURVEYORS

Independent Review of Domestic Commercial Vessel Safety Legislation

Submitted by:

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Introduction to AIMS

The Australasian Institute of Marine Surveyors (AIMS) is the peak industry body for Marine Surveyors in Australia and the Australasian region. We are a not-for-profit professional organisation governed by a board of directors with a vast, collective experience spanning the broad spectrum of the marine surveying profession. The AIMS operates under an ISO9001:2015 Quality Management Framework and publishes an annual report to members, made available to the broader maritime industry and regulatory bodies.

The AIMS has over 450 marine surveyor members covering services for international and domestic trading ships including warranty and insurance, offshore oil and gas, classification, flag state, dry bulk and liquid cargo, draft surveys, insurance and claims as well as domestic towage and salvage tugs, workboats, ferries, houseboats, recreational vessels, and statutory surveys for domestic commercial vessels. More than 40% of accredited domestic commercial marine surveyors are members of the AIMS.

The AIMS has variously established strong relationships with the marine survey community, the Australian Maritime Safety Authority, The Department of Agriculture, Water, and the Environment as well as key stakeholders such as shippers, charterers, insurers, and vessel owners.

The AIMS is also the primary provider of marine survey training in Australia, facilitating entry pathways and coaching opportunities for newcomers across all sectors of marine surveying.

While supporting members in their professional pursuits, the AIMS also strives to promote and uphold standards of marine survey, develop the experience and qualifications of marine surveyors, and address consumer welfare through accountability that come with engaging ethical, professional marine surveyors.

From the 1st of July 2022, the AIMS will enter into a Deed of Agreement with the Department of Agriculture, Water, and the Environment to accredit marine surveyors able to perform bulk vessel surveys fit to load grain; a new regime intended to maintain and standardise the quality of bulk vessel surveys in this sector and provide greater assurance that bulk vessels comply with agricultural export legislation while protecting Australia's grain exports.

The AIMS is pleased to have the opportunity to contribute to the Independent Review of Commercial Vessel Safety Legislation. Our submission relates specifically to the application of the National Law from the professional standpoint of marine surveyors as service providers to the domestic commercial vessel sector and addresses only the questions relevant to our sector.

Q1. Is Australia's legal framework for the safety of domestic commercial vessels fit for purpose?

In the application of the legal framework whilst performing statutory surveys, AIMS members DCV surveyor feedback indicates current framework difficult to navigate, prone to conflicting interpretation and oftentimes inconsistent in its application.

- AIMS is of the opinion that to provide a framework that is simple and transparent, the complex web of the current regulation and supporting marine orders needs to be reviewed with the express purpose to simplify the framework to create a more concise model, with reduced opportunity for individual interpretation by not only the surveyors using the system, but the AMSA surveyors and user support personnel.
- The AIMS believes the framework requires more robust foundations that facilitate a network of support from the regulator to ensure effective application. Marine Surveyors contacting the regulator for assistance through current channels regularly experience inconsistent answers to queries and delays in receipt of an appropriate response, increasing burden on industry and operators to successfully operate a business whilst maintaining compliance with the requirements.
- Vessel operators, relying upon AMSA accredited DCV surveyors, become disillusioned with their appointed surveyor when the surveyor is struggling to provide definitive answers because they are unable to gain clear direction from within the NSCV or AMSA.

Q2. 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?

In a national approach to the regulation of domestic commercial vessels, the application of state-based workplace health and safety requirements creates confusion, particularly with vessels operating interstate. Additionally, the unique nature of the workplace on board a vessel makes compliance with health and safety framework designed primarily for a more standardised work environment challenging.

The AIMS would welcome a review of workplace health and safety requirements to assess the feasibility of managing these more effectively through the onboard safety management system. These systems need to be adopted as dynamic tools adaptable for all operators to avoid unnecessary burden upon a potentially viable system.

Additionally, a review into the auditing of safety management systems is required with AIMS belief that these audits should be separated as independent from the certificate of survey. Pragmatic auditors are needed who can recognise the level of complexity required for different sized operators to achieve the safety outcomes these systems are designed for.

Q6. Would expanding the Australian Transport Safety Bureau's role to include domestic commercial vessel safety support substantially improve safety outcomes for industry, as well as regulators and policy makers?

Marine Surveyors maintain a professional relationship with vessel owners and operators as an independent professional undertaking surveys on behalf of their clients in accordance with the regulation, while maintaining independence from the regulator. The AIMS believes that the relationship between operators, DCV surveyors and AMSA surveyors, should remain on a reasonably even keel to maintain effective application of regulations, and having a fourth party that is outside this circle could prove valuable in sustaining these important relationships, particularly at a local level.

In an instance where a serious hazard or risk is identified but outside of the scope of the capacity of engagement, the only avenue to report such concerns under the current arrangement is to the regulator. The role of an independent 'no blame' agency would allow non-conformities, or serious safety risks, to be reported and investigated confidentially, avoiding potential incidents, reducing negative perceptions of surveyor, operators, and AMSA, and improving safety outcomes.

Q7. 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?

It is the opinion of marine surveyors that grandfathering arrangements have been exploited by some operators to avoid periodical inspections. This arrangement has created a culture of disincentive to perform safety upgrades, or even replace potentially unsafe vessels and the resultant effect observed is cases of safety equipment expiration and vessels degradation contrary to safe operation.

While AIMS believes a sunset date needs to be established to bring these vessels under the regime to create a consistent approach across the sector, consideration must be given to those grandfathered vessels which will either not pass transitional status or elect to not undertake this transition and discontinue commercial operation.

The risk for those who opt out of survey and transition to a recreational vessel is, with limited regulation in many states and territories with relation to the 'seaworthiness' of recreational vessels, any inherent safety concerns will then fall to the burden of the states and territories, in effect transferring the risk rather than achieving the outcome of enhancing safety.

This approach would surely reduce the risk for the national regulator where vessels cannot be used commercially; however, with potential for moving into the recreational space, it highlights another area that the AIMS has identified in bringing recreational vessels under a "Seaworthiness Certification" system similar to what applies with motor vehicles – likely a State based system.

This question also raises the potential relationship to Question 6 by way of utilising ATSB involvement as an independent way of "moving along" grandfathered vessels that clearly flaunt the system, without negatively impacting aforementioned relationships.