



Independent Review of Domestic Commercial Vessel Safety Legislation Draft Interim Safety Report – phase 1

Submitted by:

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Introduction

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 480 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 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 comes with engaging ethical, professional marine surveyors.

The AIMS is pleased to have the opportunity to contribute to the Independent Review of Commercial Vessel Safety Legislation. Our submission addresses recommendations from the Draft Interim Safety Report of the National Law from the professional standpoint of marine surveyors as service providers to the domestic commercial vessel sector.

Recommendation 1: The law should be amended to better reflect a risk-based regulatory model that is flexible and able to adapt to innovation and emerging technologies by:

- **retaining general safety duties on all parties that have a duty under the current law;**
- **removing the universal requirement for all DCV's to have Certificates of Survey and Operation;**
- **providing that vessels of a type or class specified in the regulations (or MO's) be required to comply with the NSCV Standards and/or hold a COS or COO; and**
- **requiring higher risk vessels to comply with the Navigation Act and associated international standards, including the International Dangerous Goods Code and the Standard of Training, Certificate and Watchkeeping**

Marine surveyors agree that the current legal framework is unnecessarily complex and is often exposed to individual interpretation. While in support of a review of the framework as a risk-based regulatory model in principle, marine surveyors agree with the recommendations that approaches towards these amendments, including the development of codes of practice or guidance materials, should be made in close consultation with industry and stakeholders.

While acknowledging that the frequency of surveys, audits and inspections should be based on risk and safety incidents tabled in the Draft Interim Safety Report have trended downwards since 2018, any further approach to change or reduce current survey regimes must give consideration to the risk of compromising these outcomes.

Prior to 2018, vessels holding a Certificate of Survey had annual surveys on a 5-year cycle. When the service delivery model for DCV's transitioned to AMSA in 2018, it changed that only high-risk vessels are now surveyed at year 1, 2, 3 and 5, medium risk at year 3 and 5 and low risk vessels at year 5 only. This is a significant reduction from pre-2018. When looking at a 15-30 metre 3B fishing vessel, classed as medium risk, under the current regime this vessel is only surveyed at year 3 and 5. Marine Surveyors believe, given the vessels work operations and nature, any further reduction in their survey requirements may create additional negative outcomes not reflected in the current safety data.

Recommendation 2: The grandfathering arrangements that are a risk to safety should be wound back in accordance with a phased risk-based program.

- **All existing DCV's subject to grandfathered design and construction standards should meet acceptable baseline set of design and construction standards based on the current 'transitional standards' within seven years of implementation of this change**
- **DCV's that would be required to be certified under the risk-based regulatory regime proposed under Recommendation 1, and that are subject to grandfathered survey requirements or otherwise subject to grandfathered design and construction standards, should undergo survey inspection to assess gaps and requirements to the baseline design and construction standards.**
 - **These inspections should occur over a two to five year period, with higher risk vessels/operations given greater priority for early inspection**
 - **Owners should be required to rectify inspection findings within two years of inspection**
- **Grandfathered crewing and crew competency arrangements should be phased out within five years of implementation of this change**
- **The Australian Government should establish and fund an Industry Assistance Package with a suite of incentives to assist attaining these standards**

Marine Surveyors agree with Recommendation 2 that current grandfathering arrangements pose a risk to safety and should be wound back within a phased risk-based approach over a seven-year period.

Marine surveyors also agree that the application of grandfathering arrangements via general exemption is problematic but recognise that for some vessels, a mechanism will still be required for the arrangement of an alternate survey proposal or specific exemption assigned on a case-by-case individual basis, rather than the blanket approach currently adopted.

While the transitional vessel standards allowing vessels to comply with either the NSCV or USL are effective as vessels unable to comply with modern standards may not be inherently unsafe, marine surveyors do not believe it unreasonable to expect vessels to comply with safety requirements under the NSCV.

The recommendation calls for a baseline set of safety requirements for grandfathered vessels to meet, but it must be considered that stability currently has no base line as states never enforced a 5-year lightship verification. All vessels should be required to do a lightship check at the first Certificate of Survey renewal survey or within 5 years for Queensland vessels operating under grandfathering without a Certificate of Survey.

Currently only high risk (class 1 vessels) undergo an actual lightship check at renewal survey. Class 2 and 3 vessels can fulfill this requirement by owner or operator declaration that there have been no changes that affect stability. As an example, an existing 3B fishing vessel with a Certificate of Survey can self-declare lightship verification although an actual check has not been undertaken since the last stability assessment (over 20 years in a lot of cases). With an actual lightship check a high percentage of existing vessels will trigger as transitional vessels due to their lightship changing <4% or their longitudinal centre of gravity moving <2% (MO503 schedule 1 vessel change 6 c-d).

This would be a better safety outcome as stability is a particular example where operators are depending on stability data which may no longer suit the vessels characteristics. This move would also reduce the existing vessel grandfathered standards fleet due to the transitional standard trigger.

The report findings note the misalignment between states and requirements for Certificates of Survey. Marine surveyors support the alignment of a more nationally recognised system unlike the current arrangements where, although no longer state based, there is still disparity between vessel requirements dependent on its location.

In enforcing changes to the grandfathering arrangements as recommended, it will be important to provide explicit requirements for vessels transitioning to support accredited marine surveyors in a consistent approach. This transition process has the potential to raise issues of owners or operators 'surveyor shopping' if there are inconsistencies in requirements placed upon them to comply.

Recommendation 10: The marine surveyor accreditation scheme should be reviewed to make it fit for purpose. As part of that review, consideration should be given to introducing (among other matters):

- **A tiered accreditation scheme according to size and complexity of the vessel**
- **A formal continuing professional development program**
- **Regular random audits of surveyor approvals and subsequent standards applied**
- **Increasing the approval powers for accredited marine surveyors**
- **Greater flexibility in who can be accredited as a marine surveyor, and expanding categories of accreditation to adequately cater for new and emerging technologies and**
- **A formal rulings program to provide certainty for surveyors and operators**

Accredited Marine Surveyors form a vital link in the safety outcomes of the domestic commercial vessel fleet. It is prudent to consider statistics released by AMSA this year that currently 61% of accredited marine surveyors are over 50 years of age with the average age being 53¹. This clearly highlights the need for attracting new surveyors to the industry, as the next 10-15 years is a critical time for training and knowledge transference to emerging professionals.

Some of the challenges faced by new surveyors to the industry as reported by surveyors and students highlights the need for the marine surveyor accreditation scheme to be reviewed to make it fit for purpose as recommended within this report. Within this review the following needs to be taken into consideration:

- Entry pathways to accreditation can at times be too narrow with no allowance for recognition for non-traditional pathways
- The pathways to upgrade or expand accreditation categories is unclear
- There is currently a lack of practical training opportunities for new surveyors to learn or expand their skills
- Experienced surveyors are reluctant to take on trainees for fear of increasing their commercial competition
- The sustainable workload for private surveyors, particularly those who undertake periodical surveys, declined significantly with the reduced survey regime in 2018, resulting in a decrease in active surveyors.

¹The importance of professional marine surveying and continuous improvement presentation – AMSA; AIMS National Conference 2022

Tiers of Accreditation

Applying tiers of accreditation within categories of survey, based on vessel complexity, is an option supported by experienced marine surveyors. This could be adopted as both an entry pathway into the industry but also a progression pathway upon expansion of required skills and experience.

There is the opportunity to expand or further develop and formally adopt training courses to assist in this tier progression approach. Point 4 above though must be considered, surveyors need to be able to gain the practical experience and exposure to more complex vessels to be able to effectively apply any learned skills effectively.

Such a tiered model also serves to increase industry confidence in the skill and experience in engaging a marine surveyor to undertake a complex vessel survey.

Approval Powers

A tiered model such as this may also be used effectively in the development of a risk matrix wherein experienced surveyors undertaking lower risk surveys may be granted increased approval powers. These powers could be category and/or tier dependent to retain regulator confidence in safety outcomes, but experienced marine surveyors believe adopting limited approval powers will effectively reduce burden on both the regulator and industry.

Auditing

A tiered model could also be utilised as an effective framework to identify higher risk surveys and surveyors to develop an audit schedule which allows AMSA to best utilise resources to focus their audit activities. Triggers to consider in such an approach may be:

- Newly accredited surveyors
- Surveyors recently awarded a higher tier of vessel complexity within any given category
- Surveyors recently awarded increased approval authority on Certificates of Survey
- Surveyors with previous misdemeanours
- Surveyors with previously identified non-compliances
- Previous audit results

Marine Surveyors also believe that in the survey of a new vessel or transitional vessel, AMSA currently undertakes a very thorough review of all facets prior to granting approval, so these, in effect, can be treated like an audit within themselves.

Formal Continuing Professional Development Program

It would be beneficial for AMSA to align more closely with industry professional bodies, particularly those who currently mandate a formal CPD program as a condition of membership.

While there is a current requirement for accredited marine surveyors to maintain an active membership with an industry professional body, there are opportunities for AMSA to better utilise

these relationships to ensure accredited marine surveyors are compliant with requirements such as CPD through their professional membership.

Existing frameworks for self—regulation within these organisations, such as CPD compliance could be reviewed in line with AMSA’s requirements and utilised to achieve this outcome with limited additional burden on resources.

Formal rulings program

Accredited marine surveyors support a formal rulings program and believe this will prevent some of the inconsistencies and ambiguity in application of the National Law currently experienced by surveyors in communications with the Regulator.