

**SUBMISSION TO:** MARITIME NZ  
**ON:** PUBLIC CONSULTATION DOCUMENT ENTITLED: "Qualifications and Operating Limits Proposals"  
**DATE:** 19 November 2010

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*INTRODUCTION: CONSULTATION PROCESS AND BACKGROUND TO REVIEW*

The NZ Merchant Service Guild ("the Guild") represents masters, maritime pilots, deck officers, tug masters, launch masters, tug and launch crew, boat hosts and other shore-based maritime qualified personnel.

The Guild was visited by the MNZ QOL Review staff as part of the initial industry fact finding visits, and assurances that the exercise was not about lowering standards were very welcome. On those representations, we advised that the only problems our members wished to highlight were the unsuitability of the 45 meters vessel size as a criteria for maritime rules, the need for an official seaman's book as a record of sea time, and to advise that the recent changes made to sea time requirements were not widely supported.

The Guild was also invited to a stakeholder meeting in Auckland [despite the Guild office being in Wellington] on 10 August at which attendees were presented with the QOL proposals with a view to providing MNZ with initial comment. It was difficult to provide comment immediately or soon after the presentation, because requests for the proposals to be provided in writing were declined. We did however, request that silence on any proposal not be taken as agreement. Despite this, MNZ's 'road show' public meetings were all advised that the proposals had been 'tested' at a series of stakeholder group meetings, and particular mention made of the maritime unions. This was misleading.

Guild officials encouraged maximum attendance of its members at the public meetings around the country, and an official was also present at most meetings except for those at Taupo, Picton, Queenstown, and Dunedin. Two hours was almost invariably insufficient time to explain the large volume of material, but the meetings were conducted very well, with questions invited throughout the presentation at each logical juncture, although we noted some statements such as "the proposal for Cook Strait will only apply to vessels under 500gt", were not reflected in the consultation document itself, and that some 'interesting' questions were left unanswered or deflected to a 'chat' after the meeting.

The review of the qualifications framework was raised during the last government's *Sea Change* sector group meetings which considered New Zealand's decimated coastal shipping industry, and how it could be rejuvenated to complement a national transport strategy. A Workforce Development Group was among initiatives introduced, and manpower issues, and in particular, the worldwide shortage of maritime officers, was a central point of discussion by both the workforce development and the wider sector group. The MOT commissioned a report from Thompson Clarke which predicted that if a coastal feeder shipping industry were developed in New Zealand, the current number of suitably qualified personnel would be woefully inadequate, and to crew a national fleet of such vessels it would need to be increased dramatically. Ship owners became rightly very concerned about their future supply of foreign going qualified officers and engineers.

Finally, last year MNZ met with ship owners to discuss ways of avoiding compliance with STCW. This collusion explains the many proposals in the document that undermine the integrity of our international obligations and national maritime rules.

## OPERATING LIMITS PROPOSALS

- **Renaming "enclosed" waters "sheltered" waters**

The current terms "enclosed" and "restricted" are not terms contained in STCW. We are in favour of the New Zealand maritime rules complying with STCW.

Just as the 45 meter criteria was intended to be equivalent to 500gt (the criteria used in STCW and other Conventions), it should be assumed that the use of the terms "enclosed" and "restricted", along with their current boundaries and limits, were intended to be equivalent to the STCW concepts of "sheltered" and "waters closely adjacent to sheltered waters".

Open ocean lies outside the harbour limits at locations such as Timaru, Napier, Gisborne, New Plymouth, and along the west coast of the South Island or at East Cape. In recognition of this<sup>1</sup>, there are rightly no restricted limits currently defined in these areas, and STCW should continue to apply. Any proposal which removes application of STCW from vessels operating or transiting these areas is in contravention of the principles of the review and will lower standards.

- **Extended or "expanded" sheltered waters limit for certain vessels**

The examples given in the document and at meetings were pilot boarding stations and port company vessels. When a member of the public asked whether this would apply to dredgers, there was no answer given. We know how generous Maritime NZ is when it comes to exercising discretion in favour of ship owners and operators. Our views on this extended limit are the same as for "adjacent" waters below, and **we believe it is simply not credible to describe the waters outside New Plymouth, Gisborne, Westport etc as "sheltered"**.

- **"Adjacent"**

We note the word "closely" is omitted. "Closely" is the terminology of STCW. The proposal therefore would again fail to correctly reflect the terminology of STCW. We conclude however, that the omission is deliberate since it appears the intention is to designate the entire 12 mile limit as "adjacent to sheltered waters", and 12 miles, in our view, cannot credibly be called *closely adjacent*. In areas such as New Plymouth and those mentioned above, "closely adjacent" should be 1 metre. 12 nautical miles for an inshore standard at Timaru or Westport is reckless experimentation with safety.

**If the concept of "closely adjacent" is applied, it should go no further than the current restricted limits.**

- **"Smoothed out" inshore limit**

The document is very unclear on the exact nature of this proposal. We conclude from references in the "issues" and "benefits" paragraphs, that the intention of the inshore limit proposal is to allow vessels of any size to circumnavigate New Zealand under inshore standards ie outside the coverage of STCW.

We vigorously oppose any proposals having such an effect. They are in contravention of the spirit of STCW and other international conventions, and they would result in a wholesale lowering of standards and unacceptable levels of risk. MNZ should learn from

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<sup>1</sup> We strongly disagree with the explanation in the consultation document that the current inshore limits "have been defined in the rule for those areas of the New Zealand coast where there are greater numbers of restricted limits vessels operating".

its mistakes in allowing two STCW vessels to operate outside STCW, and the repeated collisions, groundings and other incidents that have plagued both vessels. It is just extreme good luck that there has been no loss of life.

Proposals to “smooth out” the current inshore limit allowing “extended transits within merged inshore limits” would *extend* the current restricted limits, and this should not be permitted. We oppose any extension to the current restricted limits, whether by operating limit or by designation of a “direct transit”, on the grounds that such changes would, and are clearly designed to, remove application of STCW where it currently applies and therefore lower the applicable standards. This directly contradicts assurances given throughout the review.

The public meetings were told that the inshore limit for Cook Strait would only apply to vessels of under 500gt. This is not a credible statement and is not contained in the consultation document. In any event, Cook Strait should not be an inshore limit. That Foveaux Strait is “no more dangerous”, is not a responsible reason for lowering the standard in Cook Strait. Maritime NZ appears very susceptible to complaints from operators about “fairness” to the extent that safety considerations take a back seat. Maritime NZ is not a teacher, nor parent, nor a District Court judge. It is a safety regulator. It is absolutely not understandable why our restricted limits have stood as currently defined for many years, but now suddenly in 2010, Maritime NZ wants to allow operators to go further in the same ship than they could before. Why?

- ***“Near” coastal***

200 nm is not a credible definition of near, let alone extending this to the entire EEZ. It is not correct to say that STCW “regards the coastal and offshore area (regardless of their size) as near coastal”<sup>2</sup>. Defining near coastal limits depends on such things as the availability of search and rescue facilities, waves, and wind, not on MNZ’s stated objective of “future proofing” an industry by guaranteeing lower and cheaper compliance costs. It is not a responsible approach to say that the IMO cannot challenge states’ definitions. MNZ must follow STCW’s list of factors to be taken into account when defining near coastal areas.

It is common for countries to have 20 to 30 nautical miles as their defined ‘near coastal’ areas. Any countries which have larger near coastal areas have much better search and rescue capabilities than New Zealand and/or can call on neighbouring countries to assist. New Zealand is poorly equipped and isolated. “Near coastal” should therefore be 20 to 30 nautical miles from the shore and any proposal for larger area would open New Zealand to serious challenge that it has ignored the STCW factors above and comment at the public meetings about these waters.

**The proposal to extend “near coastal” to the EEZ creates an unacceptable level of risk.**

#### *QUALIFICATIONS*

- ***Competency approach and task book***

We think that whatever system of qualification and assessment is implemented, it must retain the integrity of objective standards and a robust process. Too much operator or regulator discretion or operator subjective assessment will irreversibly compromise the integrity of the qualification.

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<sup>2</sup> MNZ statement at public meetings

- ***Sheltered and inshore vessels >500gt***

The proposal puts excessive discretion in the hands of the Director to determine qualifications for vessels of over 500gt navigating exclusively in these areas. STCW should continue to apply to the areas it does now. A skipper taking international tourists on a coastal cruise must be suitably qualified in accordance with STCW, and not a lower qualified person forced out of his/her depth by the regulator. NZOM is not an appropriate qualification to command a vessel of over 500 gt around the coast of New Zealand.

- ***Near coastal qualifications for vessels <3000 gt***

We support the proposal to introduce near coastal qualifications [subject to our comments that "near" should be 20 to 30 nm), provided the base qualification for this "suite" is the current second mate foreign going certificate (OOW) ie 12 months course which follows the current syllabus, or with the very small modification (as stated at the public meetings) of removing celestial navigation.

- ***Currency and revalidation***

The proposal does not address the revalidation and currency requirements for NZOM and NZOW certificates.

## CONCLUSIONS

- The consultation document contains some good principles. Certain proposals, such as removing defunct qualifications and demonstrating clear pathways to higher qualifications, are long overdue. But they do not address the vital question of the retention of maritime skills in New Zealand. We and many observers will be especially pleased to see the end of the very problematic 45 metre criterion.
- But we also want New Zealand to be a proud, law-abiding maritime nation, not one whose regulator is prepared to stretch the natural meaning of words like "sheltered" to ridiculous extremes, or to allow vessels to go further on lower qualifications than they do now, with no other conceivable rationale than to suit a small group of "ship owners" who complain about spending money.
- Much of the language used by Maritime NZ during the public consultation has demonstrated an acceptance of the operators' claims that they "can't" go here or there because the rules "prevent" them from doing so. But the rules do *not* prevent them. They *can* go *everywhere*; provided they have the right vessel and qualifications to do so. It is very simple. Similarly there has been great emphasis placed on "the need for flexibility". Why does MNZ need so much "flexibility"? The answer can only be "because operators want to break the rules".
- The content of this submission has been discussed with the IMO in London who stated that, although STCW allows states to define certain operating areas, MNZ's attempts to exploit this without credible justification, are against the spirit of the Convention.
- Finally, international shipping is a vital lifeline for New Zealand, but for the shipping companies themselves, New Zealand visits are an insignificant part of their operations. If all the international shipping companies and their insurers were aware of the QOL proposals for New Zealand waters, we believe they would probably be reassessing their trading routes right now.

Helen McAra  
General Secretary  
November 2010