

# CURRENT ISSUES IN SURVEYING

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## Current Issues in Surveying

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### *Introduction*

The Issues facing surveyors are largely a response to the changes in our industry. Many different functions are performed under the title of surveyor. Within the broad classes of hull and cargo surveys we carry out inspections of quality, quantity, safety, and fitness for purpose. We investigate and determine the cause, nature, and extent of loss. In New Zealand we interpret policies, and quantify and adjust claims for Marine Insurance. In this we often cross the roles from surveyor to adjuster.

### *Changes in the market*

I was going to say that an issue in surveying was the diminished need for surveyors. Although there are still many surveys in the traditional fields there are less of them. But the nature and need for surveying has not so much diminished as changed. Society and Industry today has better facilities and also greater expectations in almost every field than in the past. Manufacturers no longer carry warehouses full of stocks of raw materials, but rely on regular shipments of smaller quantities. They expect to receive them on time and in sound condition. Consumers expect that products and services will perform to their purpose. Legislation and watchdog organisations are available in event of failure and loss. In today's litigious society, we as surveyors are also more vulnerable to liability for a loss from our negligence.

### *Changes in shipping*

Shipping has responded to the needs of its market with door-to-door freight forwarding. Goods are packed on pallets and in containers. Terminals move cargo with portainer cranes in fast round the clock operation. Roro ships load and discharge by ramp and shift cargo very quickly. There is vastly improved handling equipment, faster port service, and a focus on customer care. In New Zealand deregulation has brought competition to container handling. Cargo moves faster, more efficiently, and in better condition. If service is not acceptable the customer has choice and will look elsewhere.

Internationally shipping competes at fine margins and cost must be minimised to survive. There have been mergers and rationalized operations to gain efficiency. Ships have minimal crew, often from a manning company and made up of shorter-term labour of mixed race. There is less commitment or loyalty to the owners or the vessel than in the past. Standards of operation and maintenance have suffered, and insurance claims have reflected this deterioration.

At one time the standard of ships was controlled by the Flag country which set it's requirement by regulation and ensured condition by inspection. To avoid constraints and save costs owners moved to register their ships in countries with less onerous requirements. In the last decade the age and poor quality of ships reached an all time low bringing public attention to a shameful situation.

We as surveyors have become more involved in condition surveys of ships and a number of survey companies have introduced their own inspection and audit arrangements. These various standards not only require the condition of the ship to be inspected and controlled but also the procedures for maintenance and operation. Many countries have now taken greater responsibility for the condition of visiting vessels, with Port State Control surveys detaining those found wanting. Details of vessels that fail the Port inspection are published and shared with other countries.



### *Changes in insurance*

The Marine Insurance Industry responded to growing claims from poor maintenance with higher deductibles, and the Institute Time Clauses 1995. These were met with dismay and complaint as they connect the requirement of a defined management involvement, with the owners due diligence in event of a loss. When investigating and reporting on a casualty it is essential for the surveyor to record the quality management status of the vessel.

Insurance companies are a main user of marine surveyors. The insurance industry has seen many recent changes of its own through merger, restructuring and increased broker involvement. In the marine field much of the business is handled through specialist maritime agencies, but a significant amount of work also comes from companies. The requirement of us as surveyors varies a lot depending upon the practice of the instructing party. When they instruct surveyors after a casualty some insurers will just want a report of the cause and extent of the loss to adjust themselves. Others will expect to receive a report that states whether and how much they should pay.

### *Surveyors and disputes*

As the person who has gathered the information at the time, taken the statements, and seen the evidence, the surveyor is usually vital to a recovery action or defense. We have often written the pro forma claim on behalf of a party, set the recovery in motion, and prepared the valued claim.

As we are also experts in our field we can give assistance to the Court on technical matters and custom. It is worth my making general comment to this gathering that as an expert witness, the surveyor finds true independence quite hard when among a group of lawyers enthusiastically talking of winning. We become included with one side against the other. Whilst we know that our evidence must be the truth, it is of no value to the party paying our fee if it does not suit their argument. I'm sure that there are surveyors who consider their ethics to be impeccable, who have hesitated under cross-examination, when asked a question to which the answer is damaging to the case of their side.

The confusion to the Court of conflicting expert evidence must be very hard to resolve. There seems to me to be considerable merit in a Court appointed expert or assessor, or in Arbitration before an expert adjudicator or tribunal including a maritime expert.

### *Timeliness*

Surveyors have always responded promptly to an instruction when it comes to attending the site. Whether for the salvage of a stranded vessel, a collision damaged ship, or cargo that has arrived in a mess, we can usually be there quickly. In recent times it has become increasingly necessary to produce findings and reports with equal speed and efficiency. It was once allowed that we would get the report out in our own good time, but we are now committed to standards of service and time limits.

Speed of communication has affected all of us with facsimile, Email, voicemail, and cell phones. There is no longer much room for leeway and there are no more hours in the day. We are faced with the honesty that if it is not done immediately, it is because we considered something else more important to do first. How do you tell your client that they are not the most important?

### *Construction Methods*

In addition to the aluminium fishing vessels that they have been building for some time, Australia has developed a position leading the world in design and construction of fast ferries. These vessels with catamaran hulls and huge power from lightweight diesel engines achieve very high speeds. Computer ride control systems have overcome the disturbing motion and make fast ferry operation even more popular.

As surveyor I am still getting used to the innovations of high-speed ferries and the rules that apply to them. A recent collision between harbour ferries in reduced visibility has brought attention to what speed reduction should be considered safe in these conditions.

New Zealand has a worldwide recognition as designers and builders of superyachts and racing yachts that has brought considerable overseas orders to local yards. Vessels of various size and type are being built here in aluminium and composite materials. Carbon fibre laminations are now widely used on yachts at the top end of the racing and the luxury market. Building with pre-impregnated fabric and an oven cure is now often used for hulls and masts.

The failure of *Young America*, as a contender in the Louis Vuitton series in November last year, proved to be an interesting survey. Built of carbon fibre sandwich over aluminium honeycomb core the boat had folded in half around the cockpit bulkhead. This is also the area of the keel support tower and mast step. The American builder flew a team to Auckland and worked in a rented shed to carry out repairs. It was not appropriate to suggest that the repairs be carried out by a local yard, although there is ample expertise, and rates would have been considerably less. The hull was cut and the middle two and half metres was completely removed and discarded. The two remaining ends were set up with laser alignment and fastened securely in place. A female mould was formed with timber battens across the gap and a replacement lay up of carbon and core material was fabricated in place to make up the missing section. New bulkheads, keel tower and mast step were built in the U S factory and flown to Auckland for installation. The repair took just six weeks and the remarkable result was that the joined halves measured within half a millimeter of the original configuration.

#### *Changes in Survey Equipment*

The testing equipment now available has made the job of checking condition much more efficient. Loss of thickness, fatigue and other failures are more easily found with modern lighter test equipment in expert hands. We are also working in a safer environment with atmosphere tests to ensure a compartment is safe to enter and work in. The Occupational Safety and Health requirements now in place at ports and shipyards have made a big reduction in the risks that go with the job of surveyor.

#### *Valuations and arrests*

During the last few years a number of vessels have been arrested and in some cases later sold. We have been involved as surveyors to examine, survey, and report on their inventory, condition and value. In some cases we have also been asked to assist the Court with sale. Many of these have been Russian fishing vessels. Some have been in very poor state and worth little more than break up, whilst others have been successfully taken back into a fishing fleet.

#### *Small ships and pleasurecraft*

One of the issues that has not changed, but continues to face surveyors and adjusters with work in this field, is the matter of instructing repairs. Once a claim is accepted both the owner and the repairer know that the insurer will bear the costs of the repair. To ensure correct contractual relationships the instruction to carry out the repairs must be given by the owner to the repairer. Since he will not bear the final cost, the owner then has little interest in the value of the work and will usually want the best that he can get.

The surveyor must ensure that the work done and charges incurred are kept to a correct level. Since the surveyor for insurers must take a lively interest in the nature and extent of the work, the repairer will find much of the contact and discussion is with the surveyor. At the conclusion of the job it will sometimes happen that the repairer will expect to charge the account for the work to the surveyor or insurer, for whom he has apparently been working.

The surveyor must direct the account to the owner and point out that the insurer has not contracted with the repairer, although they may pay accounts on the owner's behalf. As has been mentioned before, we are in a more litigious society, and must be aware of exposure to liability. We find as surveyors that this is an area in which we are vulnerable. It can happen that the insurer has not agreed to accept the claim and finds reason to decline after the repairs are done and cost incurred. The owner may not accept the insurer's decision and also refuse to pay. This leaves the repairer looking to the surveyor for payment, who after all has directed much of the work.

This issue sometimes arises in respect of salvage costs and charges, where immediate work is required. The owner believes that he is insured and insurers will pay. In fact insurers have not yet considered any question of policy response. An impoverished owner can be reluctant to incur high salvage costs without the insurers backing, but failure to do so will allow the vessel to deteriorate and the loss increase. As he watches his boat breaking up, an owner who has told his insurers of his claim expects them to take action. He hears with dismay the surveyor who tells him he has the responsibility to mitigate the loss at his own expense. The surveyor is often known to the salvage contractors and is likely to arrange and direct the work. We have to be very careful to ensure that we do not end up with the bill.

Many insurers provide their cover in plain language wording rather than the institute clauses. Unlike the institute clauses that exclude betterment, but allow new for old without deductions, most plain language policies do not allow new for old. The owner must contribute to the extent of his benefit even though this was unavoidable in the repair.

It is important for the surveyor to have established the owner's contribution early in the repairs to ensure that agreement is reached. Particularly where the damage has resulted from the negligence of someone else, the owners expect that they will receive their vessel fully repaired, and do not welcome the requirement to contribute.

#### *Duplicated casualty investigation*

This subject is merely my comment without any suggested solution. When appointed to a major casualty for insurers, we attend the scene, examine the vessel, and interview the participants, taking statements when this is appropriate. If the case has caught the attention of the Maritime Safety Authority (MSA) and the Transport Accident Investigation Commission (TAIC) they may both also have officers on site making similar inquiries. Sometimes there is also interest by the Police or other authorities.

During an accident the master and crew can have had a shocking experience, sometimes endangering their lives. They are also likely to have guilt and recrimination for their fault in what has happened. Having to face a triple grilling over the events is an onerous experience. As I say, I do not have an answer to this situation. I acknowledge that it would not be appropriate for us to carry out the investigation together.

I do speculate though, when I write my report after the event, how it will compare to the report by the MSA that I will probably not see, or the report by TAIC that will be published in several months time. I also wonder whether I have discovered something that others may have overlooked, or if they learned something that I did not.

#### *Conclusion*

In this paper I have mentioned a number of areas of development and change that has had an impact on the varied work as surveyor. Following the introduction of our papers at the Queenstown Conference I will be available with my colleagues to answer any questions that you may have. If you miss the chance to speak to us then, please look for us at another time during the conference. We will be very willing to talk about our work and the challenges that we face.