



# Cyber and unmanned shipping

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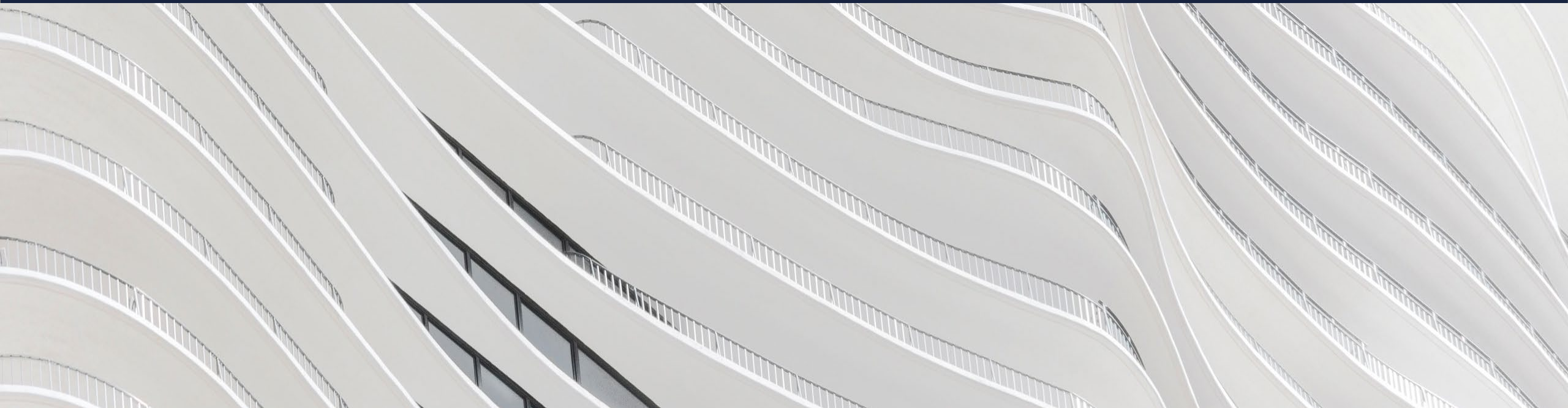




# Human Error

- 75% - 96% of shipping accidents
- 75% of 15,000 marine liability claims costing \$1.6 billion in 2017
- 90% of car accidents

# Autonomous Technology – where are we?



# Drones

- Civilian
- Military
- Commercial





# Drones

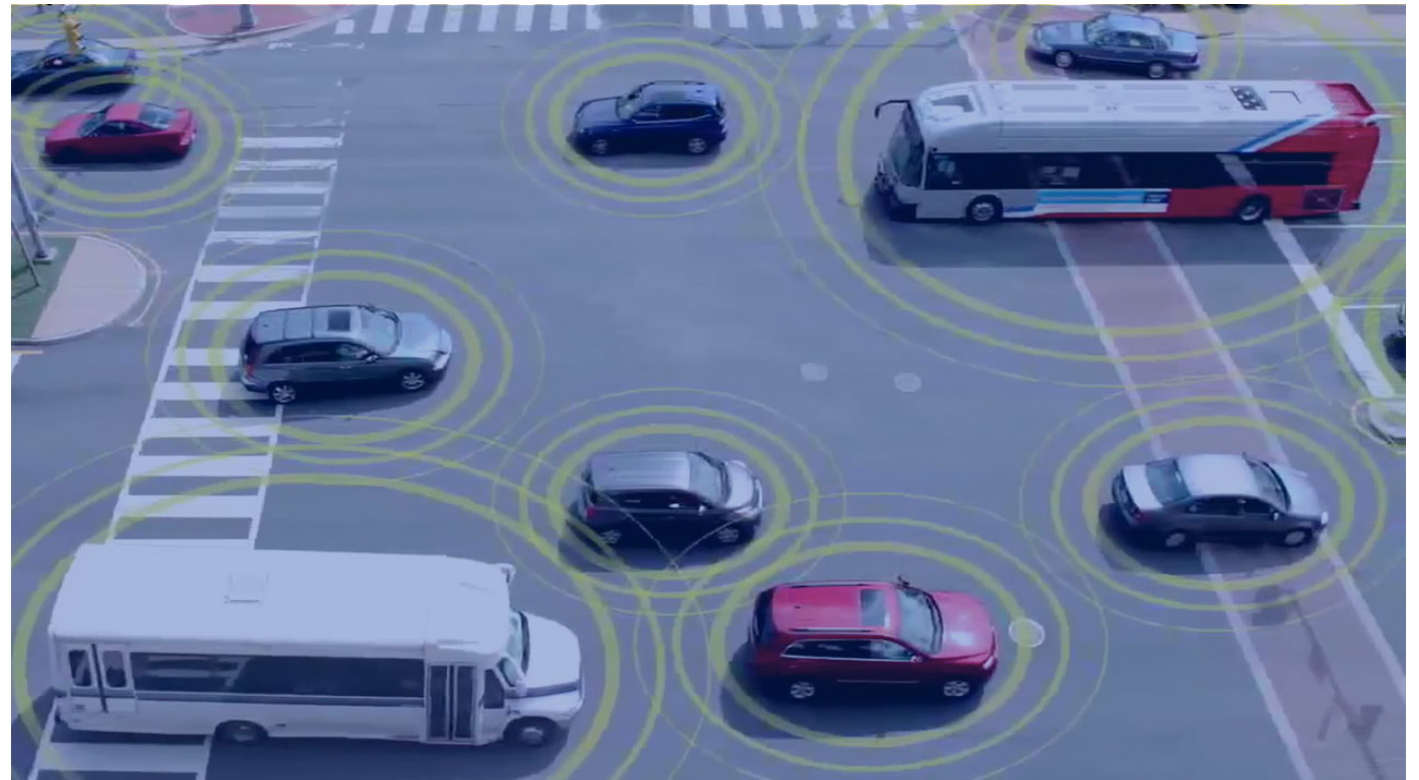
## Insurance

- UAV Operators Insurance
  - Hull cover
  - Third party liability
  - Statutory liability
  - Privacy breaches

- Exclusions
  - Hi-jacking
  - Political or terrorist purposes
  - Malicious act
  - Act of sabotage

# Vehicles

- Systems limiting the role of the driver
- UK's six-level designation of automation
- No universal regime for insuring automated vehicles
  - Is this relevant to NZ?
- Tesla
  - Insurance included with cost of car in Asia



# United Kingdom

## Automated and Electric Vehicles Act 2018

- Strict liability on insurers
- ‘any part of the *cause* for the accident was the vehicle itself’
  - Driver
  - Manufacturer
  - Software provider
  - Supplier of satellite services
  - Government
- Liability of owner if insurance cover limited
  - Software alterations
  - Installation of safety-critical software
- Cyber risks not excluded

# United States

## Uber decision

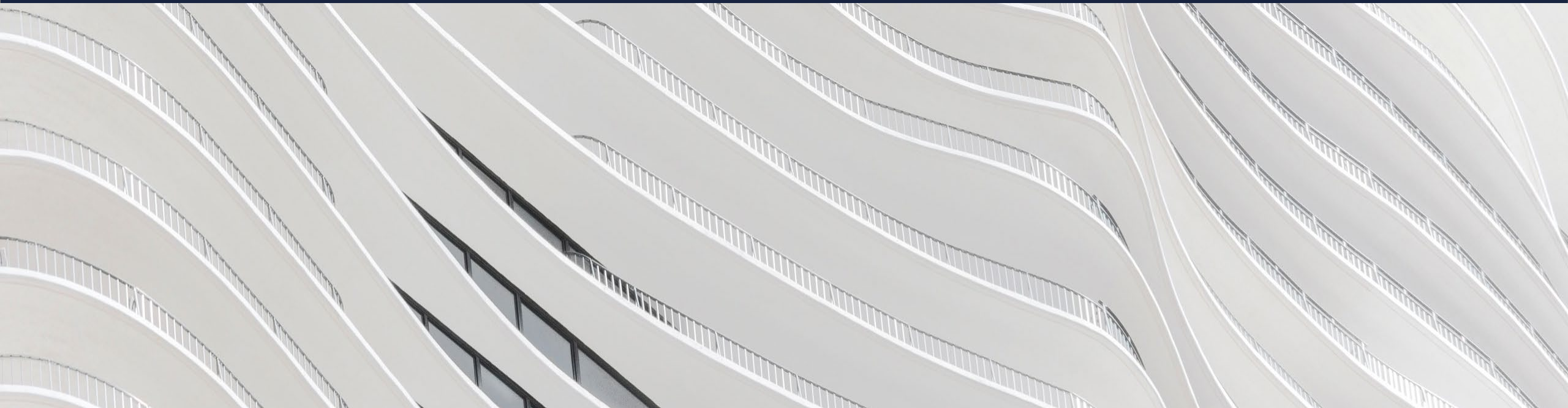
- No liability for death of pedestrian hit by an Uber self-driving vehicle in Arizona
- Consideration needed to be given to the person sitting in the driver's seat
  - Speed
  - Lighting conditions
  - Other relevant factors
- Always has to be a human element

# Australia

## National Transport Commission

- No specific laws for liability for injuries and no compulsory insurance coverage
- Roadmap to reform
  - Framework for liability is sufficient
  - Assigning fault requires further regulation
- Liability to be resolved on a case by case basis

# What about vessels?



# Where are we?

## Vessels

- New technology
- YARA and Kongsberg Maritime
- Rolls Royce and Intel
- Rolls Royce and Finferries
- OCIUS
- Marine Autonomous Surface Ships



# Carriage of goods

## Carriage of goods

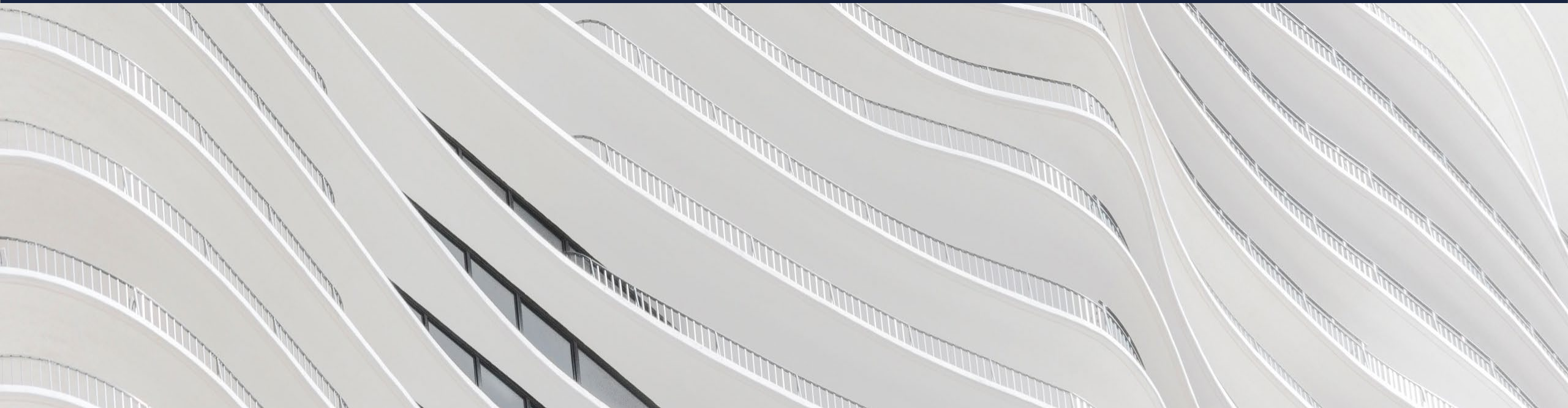
- Rights and obligations concern operations or matter involving the Master or crew
- Contractual rights and obligations between the parties in the carriage of goods
- Loss/damage
  - Stevedores
  - Loading/unloading
  - Collisions
  - Berthing
- Warranty of seaworthiness
  - Marine Insurance Act 1908 section 40

# Carriage of Goods

## Claims

- Removing human error?
- Quality of evidence available
- Shift in nature of the claims
- Domestic strict liability – could this be done internationally?
- Who is liable?

# Cyber



# What is the risk?

## Cyber risks

- P&I Club UK:

*“the risk of loss or damage or disruption from failure of electronic systems and technological networks”*

- P&I Club Japan:

*“cyber-risk is a potential risk ... which will cause financial loss, disruption or damage to the reputation of an organisation”*

- Aon:

*“loss of productivity, loss of revenue/profit and reputational harm”*

# What is the risk?

## Cyber risks

- Reliance on new and increased technology
- Where does the risk come from?
  - CIA triad
- What is it?
  - Loss of life/personal injury
  - Pollution
  - Loss of property
  - Business interruption
  - Loss of production
  - Loss of data
  - Loss of reputation
  - Third parties



# What is the risk?

## Cyber insurance

- Rapid increase in cyber liability insurance
  - US\$6.2 billion in written premiums by 2020
- Institute Cyber Attack Exclusion Clause 380:

*“in no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm of any computer, computer system, computer software program, malicious code, computer virus or process or any other electronic system”*
- P&I cover ‘silent’ on cyber
- Requirement for ‘malicious’ intent
  - *Navigators Insurance Company & Ors v Atlasnavios-Navegacao LDA* [2018] UKSC 26
  - *Tektrol Ltd v International Insurance Company of Hanover Ltd & Another* [2005] EWCA Civ 845

# Cyber Risk Management System

## International Maritime Organisation

*“the process of identifying, analysing, assessing and communicating a cyber-related risk and accepting, avoiding, transferring, or mitigating it to an acceptable level, considering costs and benefits of actions taken to stakeholders”*

*“support safe and secure shipping, which is operationally resilient to cyber risks”*

- IMO Resolution MSC.428(98)

# Warranty of seaworthiness

## Marine Insurance Act 1908 section 40

- (1) Implied warranty of seaworthiness at commencement of voyage
- (2) Reasonably fit to encounter the ordinary perils of the port
- (3) Seaworthy in respect of preparation or equipment for the purposes of each stage of voyage
- (4) Reasonably fit in all respects to encounter the ordinary perils of the sea
- (5) Insurer not liable for any loss attributable to unseaworthiness

# Bringing it all together

- Increase in autonomous technology for shipping systems
- Shift in insurance claims from human error
- Reliance on software and system increases cyber vulnerabilities
- All vessels and systems at risk, not just unmanned vessels
- Insurance market following statutory framework – UK regime
- Strict liability for insurers?

Thank you