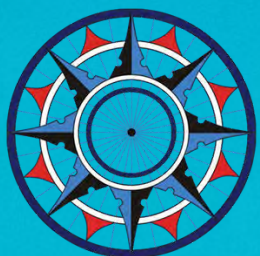


# Pacific Maritime Lawyers & Consultants

*Helping you navigate maritime law*



Capability Statement

# About Pacific Maritime Lawyers & Consultants



At Pacific Maritime Lawyers, we know the law, and we know boats.

We combine effective, hard-hitting legal representation with a genuine and deep understanding of the practicalities of owning and operating vessels of all shapes and sizes, in Australia and overseas, for commercial or for recreational use.

We are, very deliberately, a boutique firm and we stay within our wheelhouse. We are not interested in becoming a large Eagle Street firm. From day one, you will know the people advising you, by name. You will know the lawyer with your file, and the partner looking over their shoulder. And you will know that almost all of our work is focused on boats and cargo. You're not paying for large city offices or slick advertising campaigns – you're paying for people who can help.

We are practical commercial lawyers, looking for practical commercial solutions, which will get you back on the water as soon as possible, for as little money as possible, with as little stress as possible.

We are proud to remain the Australian agents for the St Kitts & Nevis International Ship Registry.



## OUR GENERAL AREAS OF PRACTICE

- Tugs, barges, ferries and other commercial vessels
- Superyachts
- Purchase and sales transactions and disputes
- Flagging and regulatory compliance issues
- Relationships with regulators
- Repair and repainting/recoating disputes
- Maritime law actions (liens and arrest)
- Insurance claims
- Maritime employment issues
- Maritime criminal law

## Organisation and Management



**Capt. John Kavanagh**  
Principal Lawyer /  
Master Mariner



**Dr. Anthony Marinac**  
Litigation Director



**Mr Ryan Norval**  
Special Counsel



**Mr Tom Mohun**  
Solicitor



**Mr Eusebio Bajandi**  
Solicitor



**Mrs Rebecca McGuren**  
Practice Manager



**Mrs Amber Watters**  
Senior Paralegal



# Mission and Vision



## Mission

Our mission is to assist our clients to navigate the reefs and shoals of maritime law to find safe harbour. We are focussed on practical outcomes and commercially sensible solutions, based on our expertise in the law and our thorough understanding of the maritime industry.

## Vision

We think 'Maritime Matters'. As Australians, we live on an island connected to the world's economy by sea, our sea lanes are the source of our prosperity and our ports are essential for our economy. We use the waters around our isolated nation for food, for recreation, for tourism and for trade. Maritime Matters, and at PML, nothing matters more to us than the maritime industry.



## Tugs, barges, ferries and other commercial vessels

We regularly provide advice to some of the East Coast's most significant tug, barge and ferry operators on a range of operational issues. Our clients have included:

- Tourist ferry operators
- Major port tug operators
- Barge operations in Australia and in the south Pacific
- Commuter ferry operations in major cities
- Dredging operations in major ports

We are also the honorary solicitors to the Australian Commercial Vessel Operators Association, a service we undertake at no charge. Work in this area has included:

- Contract review for major service contracts between operators and large government or corporate entities;
- Resolving regulatory compliance concerns (for instance by review of Safety Management Systems);
- Responding to regulator issues (such as AMSA improvement or prohibition notices) and challenging adverse regulator decisions; and
- Incident management, including reputational management if an incident occurs;



## Superyachts

We are routinely involved with all aspects of the build, purchase and operations of large motor yachts. Clients have included high-wealth individuals with private superyachts, as well as commercial superyacht charter operators and some of Australia's most well-known yacht brokers.

Work in this area has included:

- Advice on new build contracts, including contracts in major overseas manufacturing locations (particularly in Asia and in Europe);
- Advice to brokers on purchase contracts for large superyachts;
- Advice on flagging issues, and in particular the application of the LYC and the Domestic Commercial Vessels National Law in Australia;
- Advice in relation to the impact of COVID-19 on the movement of large yachts;
- Advice on crewing contracts, both international (MLC) contracts and contracts which prevent potential liability under Australian law;
- Incident management services if an incident occurs aboard a vessel;
- Development and management of Safety Management Systems; and
- Managing disputes regarding repairs, which must be completed to the very highest standards in the case of a Superyacht.

## Purchase and sales transactions and disputes

In our experience, the purchase or sale of a vessel can very quickly go from an exciting time to a complete disaster, and the investment of a small amount of money in legal advice up front, can save you tens of thousands of dollars down the track. Our work in this area has included:

- Reviewing contracts for some of Australia's most prominent yacht brokers;
- Confirming clear title in the vessel prior to purchase;
- Guidance on the sea trial and pre-purchase survey process;
- Transfer of title in the vessel; and
- Advice on disputes as to warranty works after purchase.



## Flagging and regulatory compliance issues

The regulatory environment for commercial vessels in particular has been through massive changes in the past five years. It can be difficult for even the most diligent vessel operator to remain on top of this changing regulatory landscape. We can provide expert guidance to help you avoid the pitfalls. Our work in this area has included:

- Advice on whether vessels should be flagged in Australia or in another nation;
- If the vessel is to be flagged in Australia, which form of registration will be necessary;
- Compliance with the regulatory requirements for vessels which only operate domestically, and vessels which operate outside Australian waters;
- Advice on the importation process;
- Compliance when operating overseas; and
- Compliance with COVID-19 Regulations.

In addition, we are the Australian agents for the St Kitts & Nevis International Ship Registry – but this does not mean we will advise you to flag your vessel in St Kitts & Nevis if that isn't the best option for you.



## Relationships with Regulators

If you operate a vessel in Australian waters, then whether you know it or not, you have a relationship with a range of maritime regulators: The Australian Maritime Safety Authority, Maritime Safety Queensland, Port Authorities and Harbourmasters, perhaps the Gold Coast Waterways Authority, and perhaps other organisations such as the Great Barrier Reef Marine Park Authority.

We speak the regulators' language, and have some to know many of them through repeated contact on behalf of our clients. In most cases, the regulators are professional people just trying to do their job, and successfully dealing with them is a matter of understanding how they work, and understanding the processes they must follow.

Our work in this area has included:

- Responding to Improvement Notices, Prohibition Notices, and Notices to Show Cause issued by the regulators;
- Reporting and management of maritime incidents;
- Advising clients who are interviewed by the regulator in the course of investigations;
- Dealing with notices issued under the War of Wrecks;
- Dealing with disputes in relation to jetties, berths, and anchorages; and
- Management of MARPOL applications for larger vessels.



## Repair and repainting disputes

One of the most common forms of dispute in the maritime world occurs when a vessel is hauled out for repairs or repainting. Time and time again we have seen disputes arising from the failure to have an effective contract, or disputes over the costs arising from changes to contract on the way through, or disputes about whether the job was done effectively. In this area, our work has included:

- Reviewing contracts, or providing a proper contract to protect the interests of all parties up front;
- Advising on mechanisms for changes to the job, whether they are changes required required by the owner, or changes that emerge due to necessity once the job begins;
- Advising on disputes under the Australian Consumer Law when work is not done effectively, including how you can meet your obligation to mitigate your losses;
- Legal action, including court action. We have recovered hundreds of thousands of dollars for our clients through negotiation and successful court action.

Court action is always our final resort, but we will be straight with you about the costs and your prospects.

## Maritime law actions (liens and arrest)

Under some circumstances, the Admiralty Act 1988 provides parties in maritime disputes with additional safeguards which are not available in other forms of legal action, such as a maritime lien which may give a party rights in relation to someone else's vessel, for instance if they have done work and not been paid, and the ability to arrest a vessel to be held as security for your claim. This is an area of law which is completely unknown to most practitioners who do not have maritime experience. In this area we have:

- Successfully implemented maritime liens and registrations under the Personal Property Securities Registration Act (PPSR), to provide security for clients with claims over a vessel;
- Successfully resisted such liens, and successfully insisted on the removal of PPSR Registrations;
- Acted for the party arresting vessels, ultimately resulting in the vessel being sold by the court and the money paid to our client;
- Acted for the owner of arrested vessels, advising on the best way to have the vessels released from arrest.



## Insurance claims

For most large maritime firms, insurance claims are their bread and butter, and insurance firms are their biggest clients. We predominantly represent vessel owners and operators who have had insurance claims rejected by insurers. We understand specialist aspects of maritime insurance, such as the information required in order to make a solid maritime claim under the Insurance Contracts Act, and for commercial operators, we understand the unique requirements of the Maritime Insurance Act. We have established relationships with all the major maritime insurers – they don't necessarily like us, but they know our claims need to be taken seriously.

In this area our work has included:

- Representing recreational boat owners making claims after their boats suffered damage, either due to the perils of the sea, or due to the conduct of another person;
- Representing recreational boat owners who have had claims rejected by the insurer. We routinely persuade insurers to offer some level of settlement where they had initially rejected the claim;
- Assisting commercial vessel operators to put together successful claims under the Maritime Insurance Act – a much more complicated piece of legislation which is much harder to claim under.





### **Maritime employment law**

We believe we are the only specialist maritime employment firm in private practice. Many international operators in Australian waters believe that if they are flagged overseas, Australian employment law will not apply aboard their vessel – and this is not always true! We are well versed in the application of employment law to both domestic and international vessels. In this regard we have advised both employers and seafarers on:

- The applicability of various awards to seafarers in Australia, and the implications for crewing requirements, shifts and swing rotations;
- The applicability of Maritime Labour Convention (MLC) Contracts in Australian waters;
- The preparation of crew contracts and crewing policies;
- The resolution of employment disputes between employers and crew members;
- Independent investigation of employment-related allegations (such as harassment and bullying allegations);
- Advice to seafarers whose rights are not being attended to.

We are a long-term supporter of the Mission to Seafarers in their work of providing support to seafarers far from home.

### **Maritime criminal law**

Nobody wants to find themselves facing potential or actual criminal charges arising from the maritime operations. However if you do, it is crucial that you get us involved, and the sooner the better. It is very, very easy to jeopardise your own rights inadvertently. We have represented clients in a range of actual and potential criminal matters including:

- A client who was charged with failing to follow his SMS when the vessel burned to the waterline – even though he was the last one off the boat, and all 42 passengers were saved. This client was acquitted.
- Clients who have been charged with fishing offences, either in terms of restricted species, or fishing in restricted areas – in which cases the clients pleaded guilty, but received lower than expected penalties.
- A client who was charged with the dangerous operation of a vessel, but was acquitted.
- A client who was charged with stealing from their employer, but was acquitted.

Clients charged with navigation-specific charges, such as failing to comply with COLREGS or creating unnecessary wash in harbour areas.

## Immigration and Australian Visa Services

If you need help with immigration services, we are your solution. PML can be of assistance as qualified migration lawyers in Australia and offer professional assistance. We provide a tailor made personalised solution, based on your needs.

There are numerous visa options and conditions on the Department of Home Affairs website, which can become intimidating when you are unsure of the appropriate path to follow. We will clarify these for you and advise about your most appropriate visa class, complying with the Department of Home Affairs requirements.

On your behalf, we will prepare your application, manage the flow by lodging the application with the Department of Home Affairs, and liaising on your behalf until your visa application is finalised and an outcome has been determined.

PML can assist you at any stage in the visa application process, even where you have already lodged your visa application.

You can obtain more information about the different types of visas on the website of the Department of Home Affairs:

<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing>

Australia welcomes applicants who meet the eligibility criteria. In general, your eligibility for a visa to enter or remain in Australia depends on one or more of the following:

- Australia's need for your skills
- Potential employment opportunity
- Potential business opportunities
- Potential investment opportunities
- Any distinguished talent you have to offer
- An offer to study
- Family connections in Australia
- Your plans for retirement
- Plans for a working holiday
- Plans for a relaxing holiday

Make sure that your application is lodged and granted before travelling to Australia.



*Business and Investment Visa Category and Skilled Visa categories are also available.*

- *Maritime Visa's include:*
- *Maritime Crew Visa (MCV)*
- *Superyacht Crew Visa*
- *Special Purpose Visa*
- *Transit Visa*



# For inquiries, contact us.



**Capt. John Kavanagh**  
Principal Lawyer /  
Master Mariner  
0481 170 373



**Dr. Anthony Marinac**  
Litigation Director  
0431 455 803



**Mr Ryan Norval**  
Special Counsel  
0429 553 176



**Mr Tom Mohun**  
Solicitor  
0409 193 007



**Mr Eusebio Bajandi**  
Solicitor  
0450919751



**Mrs Rebecca McGuren**  
Practice Manager  
0400 236 105



**Mrs Amber Watters**  
Senior Paralegal  
0499 905 338

[www.pacificmaritimelawyers.com.au](http://www.pacificmaritimelawyers.com.au)

[info@pacificmaritimelawyers.com.au](mailto:info@pacificmaritimelawyers.com.au)

**1300 797 627**



**PACIFIC MARITIME LAWYERS & CONSULTANTS**