

Incident Report
Close Quarters Situations
Challenger, Aratere & Lotus
21 February 2006



NARRATIVE

On 20 February 2006, at about 1600 hours New Zealand Daylight Time (NZDT), a Skipper and an agent from KMS Repossessions Ltd¹ boarded the fishing vessel **Lotus** in Oyster Bay (See Figure 1 – Extract of Chart NZ 615 Marlborough Sounds, for position of Oyster Bay).

Upon boarding the vessel, the Skipper stated that he spent about an hour and a half familiarising himself with the vessel². This included, amongst other things, checking the engine and setting up the GPS navigation system, which he had brought with him.

At about 1730 hours, **Lotus** departed Oyster Bay bound for Picton via Tory Channel. The weather was reported as flat sea, calm conditions, with good visibility.

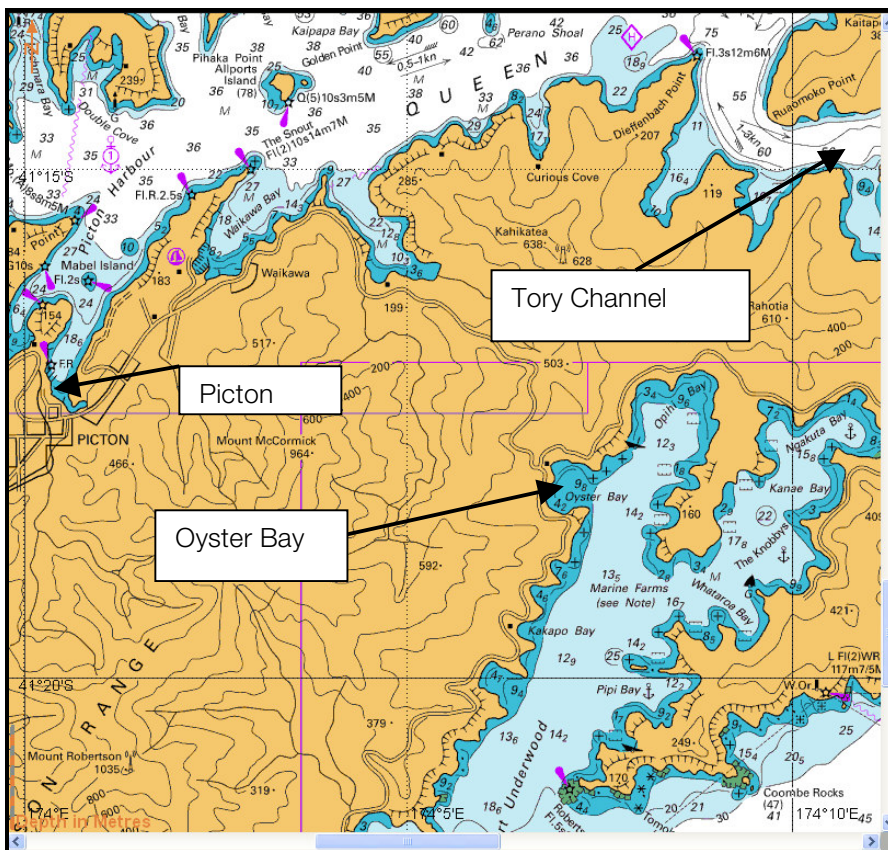


Figure 1
Extract from Chart NZ 615 Marlborough Sounds

At about 2100 hours, the agent went onto the deck and noticed that the navigational lights were no longer being exhibited. The agent reported this to the Skipper. The Skipper checked the navigational lights switch, which indicated they were switched on. At this juncture, **Lotus** was steaming towards the Eastern Entrance of Tory Channel.

Accordingly, the Skipper reduced **Lotus'** speed and took all way off the vessel. After this, the Skipper checked the fuse box, which was situated next to the conning position and found that the fuse supplying power to the navigational lights had failed.

¹ It was the evidence of the Skipper that KMS repossessions Ltd had contracted him to repossess **Lotus** from Oyster Bay, Port Underwood. KMS was contracted to Speir Finance Group Ltd to organise the repossession

² This was the first time the Skipper had been on board the vessel.

The Skipper, using a spare fuse from his toolbox, replaced the fuse and the navigational lights came on again.

At about 2250 hours, the Skipper broadcast a radio message on VHF channels 16 and 19 to all ships, giving a 10-minute warning of **Lotus'** entry into Tory Channel controlled navigation Zone³. At about 2320 hours, **Lotus** entered the Eastern Entrance of Tory Channel (See Figure 2 – Extract of Chart NZ 6154 Tory Channel Entrance & Picton Harbour).

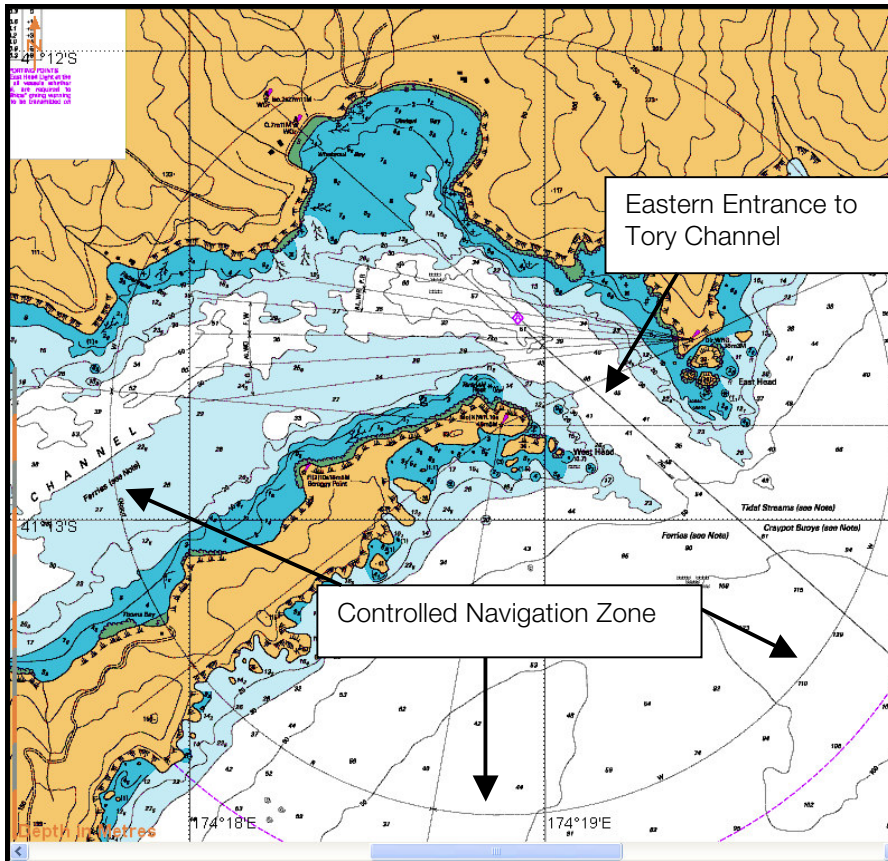


Figure 2
Extract of Chart NZ 6154 Tory Channel Entrance & Picton Harbour

At about this time the Agent went onto the deck. The agent noticed that the navigational lights were no longer being exhibited and accordingly he reported this to the Skipper.

The Skipper asked the agent to take the wheel. As the Skipper was now familiar with the lay out of the fuse box, he considered it safe to allow the agent to con the vessel⁴. The Skipper replaced the fuse for a second time and the navigational lights came on again.

³ The seaward extremity of this Zone, when approaching Tory Channel inbound from Cook Strait, is that point forming the intersection of the line of the leading lights, 310° 45'(T), and the seaward arc of a circle, radius 0.6 nautical mile, centered on West Head Light. This equates approximately to *Position 1* Figure 4. The western extremity of this Zone, for ships' that are outbound from Tory Channel, is situated along a line that is drawn in a direction of 320°(T) from Scraggy Point Light (See Figure 3). The Zone is controlled in the sense that the Marlborough District Council Bylaws 2002, requires the pilot or master (if pilot exempt) of every ship, whether inbound or outbound, to broadcast, or cause to have broadcast, an initial radio message addressed to all ships giving warning of their vessel's transit of the eastern entrance to Tory Channel. This message has to be broadcast not less than 10 minutes before entering the Tory Channel Controlled Navigational Zone (See Figure 2 for zone).

⁴ In addition, the fuse box was situated next to the wheel.

At about 2400 hours, the navigational lights failed again. At this juncture, **Lotus** was approaching Allports Island on a heading of about 252°(T). The Skipper replaced the fuse a third time, but this failed immediately. The Skipper had no additional spare fuses to be able to exhibit the navigational lights.

The Skipper stated he was conscious of the fact that he was in a shipping lane and approaching Picton. Therefore, to ameliorate the situation he turned on all available deck lights to illuminate the vessel.

At about 0010 hours, **Aratere** entered Queen Charlotte Sound from Tory Channel on passage to Picton.

At this time, a small vessel, which subsequently proved to be **Lotus**, was observed to be on **Aratere's** inbound track. The Master of **Aratere** stated that **Lotus** was approaching Allports Island and was exhibiting three white lights, one above the other, which were not quite in a vertical line.

According to the Master of **Aratere**, **Lotus** was on a heading of about 252°(T) at a speed over the ground (SOG) of about 7 knots.

As **Aratere** approached Allports Island, her SOG was reduced to about 10 knots, to allow **Challenger** to clear Picton Harbour.

The Master of **Aratere** stated that as **Aratere** approached Allports Island, **Lotus** altered course to port onto a heading that was almost parallel with the shore in the vicinity of Picton Point. At this juncture, **Lotus** was one nautical mile ahead of **Aratere** and tending to port of **Aratere's** intended track.

At about 0029 hours, **Challenger's** last mooring line was let go. After clearing the berth at Picton, her speed was gradually increased to pitch four and then to pitch six, which gave an approximate SOG of 12 knots.

At about 0031 hours, **Challenger's** Lookout reported to the Master the presence of a single white light that was clearing Picton Point (See Figure 3 – Extract of Chart NZ 6154 Tory Channel Entrance & Picton Harbour). The Master then instructed the Officer of the Watch (OOW) to acquire the target on both radars.

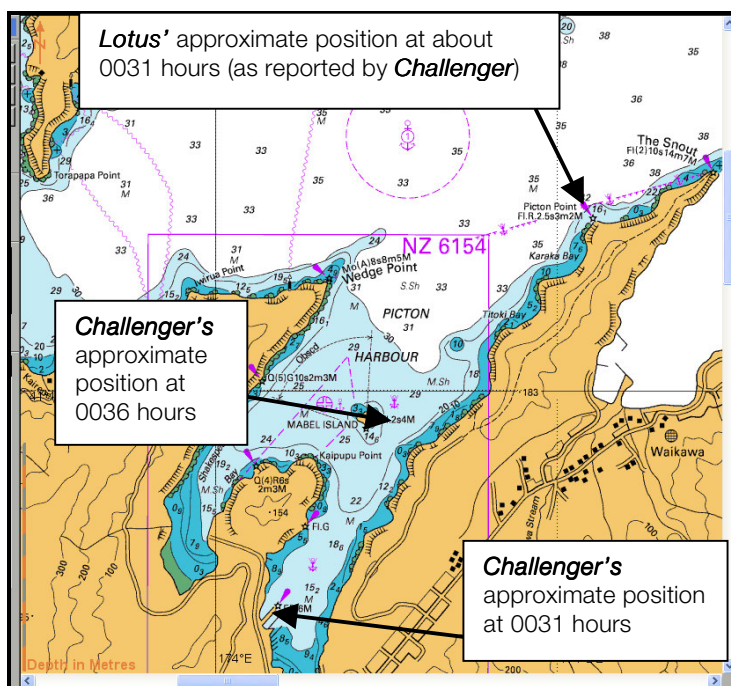


Figure 3
Extract of Chart NZ 6154 Tory Channel Entrance & Picton Harbour

At about 0036 hours, **Challenger** passed Mabel Island abeam to port. Her SOG was about 12 knots at this time (See Figure 3). At this juncture, the OOW reported to the Master that the acquired target (**Lotus**) was showing a CPA of zero.

Upon visual inspection, the bridge team determined that **Lotus** was not showing any recognisable navigation lights, and accordingly were unable to establish her aspect. Radar data indicated that **Lotus** appeared to be passing close down the starboard side of **Challenger**.

The Master reduced **Challenger's** speed to pitch four, giving a SOG of about 8 to 9 knots. The Master informed the bridge team and engine room that there might be a further reduction in speed due to the uncertainty of **Lotus'** intentions.

The Master of **Challenger** contacted **Aratere**, on VHF channel 19, and informed her of his intentions. **Aratere** reduced her SOG to 3 knots as a contingency to allow for more sea room in the event of an emergency.

Challenger's bridge team continued to monitor the approach of **Lotus**. At a distance of about 7 cables, **Challenger** reduced to pitch 2 giving a SOG of about 6 knots. Shortly after, **Challenger** sounded 5 short blasts. The Skipper of **Lotus** stated that he did not hear **Challenger's** sound signal.

At about 6 cables **Challenger's** engines were put to pitch 4 astern.

At a distance of about 5 cables, **Challenger's** bridge team reported that **Lotus** was seen to alter course rapidly to starboard and move across **Challenger's** bow. Shortly after, **Challenger's** engines were split, namely port to pitch 6 ahead whilst starboard remained on pitch 4 astern and the helm put hard to starboard.

The Skipper of **Lotus** stated that he was aware of **Challenger** and acted accordingly by making a broad alteration to starboard (90°). After this alteration, **Lotus** headed towards the northern end of Mabel Island.

The Master of **Challenger** stated that as his vessel swung to starboard, **Lotus** resumed its inward bound course and passed between 1 and 2 cables down **Challenger's** port side. Shortly after this, **Challenger** altered her heading back to port to about 035°(T). Her speed was then increased to pitch 4 on both shafts and **Challenger** continued on passage without further incident.

At about 0040 hours, **Challenger** reported the incident to Picton Harbour radio.

Once **Challenger** had cleared Picton Harbour, **Aratere** increased her speed to about seven knots.

The Master of **Aratere** stated that **Lotus** altered course to port after passing Mabel Island and entered Picton Harbour. The Master also stated that **Lotus** was in mid channel and because of this, **Aratere's** SOG was reduced to about 3 knots, as the Master was unsure of **Lotus'** intentions.

At about 0052 hours, **Aratere** passed abeam of Mabel Island. The Master stated that **Lotus** continued on passage, in mid channel, and in doing so impeded **Aratere**, as he had to take all way off the vessel.

The Master of **Aratere** stated that at about 0100 hours, **Lotus** entered Picton Marina.

At about 0111 hours, **Aratere** berthed without further incident.

At about 0130 hours, Picton Harbour Radio later identified the vessel as being fishing vessel **Lotus**.

FINDINGS

Challenger & Lotus

The two Masters of **Challenger** and **Aratere** reported the incident to Maritime New Zealand and the Marlborough District Council (MDC) Harbourmaster on 21 February 2006.

Maritime NZ, in agreement with the MDC Harbourmaster, made the decision that the incident was to be investigated by the Harbourmaster.

On the 23 February, Maritime NZ received correspondence from Interislander, who were unhappy that the matter was being left to the Harbourmaster to investigate. Subsequently Maritime NZ assigned an Investigator to the case.

The Maritime NZ Investigator requested the case file from the Harbourmaster which included the following:

- Incident report forms from **Challenger** and statement of fact.
- Incident report form from **Aratere** and statement of fact.
- Incident report form from **Lotus** and statement of fact.
- A statement of fact from the Master of the **Kent**⁵
- Port Marlborough New Zealand Harbour Incident report
- Toll Group Incident/Hazard Report.

Challenger and **Aratere** have full Voyage Data Recorders (VDR) but relevant VDR information was not down loaded at the time of the incident.

The Investigator obtained further information, in addition to the above, by interviewing the two occupants of **Lotus**.

The Skipper was contracted to KMS to repossess boats around New Zealand. He was the holder of a Commercial Launch Master Certificate of Competency, which he had held for about 15 years. In addition, he had some 30 years experience on small boats without incident.

The Skipper always travelled well prepared when repossessing vessels. He always carried his own tool kit (mechanical), GPS navigation system, and charts of the area.

During the course of the voyage, the Skipper used his best endeavours to fix the ongoing problem with the navigational lights, by replacing the fuse three times. When these were exhausted, he switched on the deck lights.

During the course of his interview, the Skipper was asked if the VHF was used to alert Picton Radio and hence other vessels of **Lotus'** situation. Skipper said that he did not make any navigational warning on VHF, as they were in the process of repossessing the vessel and did not wish to highlight this fact over the radio. In hindsight, the Skipper admitted that a navigational warning to other vessels via Picton Harbour Radio advising them of his condition and intentions would have been a prudent measure.

The Skipper stated that throughout the passage he kept a sharp lookout both visually and by radar and was aware that ferries would be arriving at and departing from Picton.

⁵ **Kent** was berth on the Bluebridge Ro Ro berth Picton Harbour. The master witnessed the incident.

He considered his actions, on sighting **Challenger**, to accord with the collision regulations, namely, taking earlier and substantial action to keep well clear by making a broad alteration to starboard (90°). Thereafter he kept **Lotus** to starboard of the navigable channel and close to the shoreline at Mabel Island.

The Master of **Challenger** stated that **Lotus** made a rapid alteration of course to starboard at a distance of about five cables

The Skipper stated that **Lotus'** closest point of approach on passing **Challenger** was about 300 metres (port to port). This accords with the evidence of the Master of **Challenger** who stated that **Lotus** passed his vessel between one and two cables (185 to 370 metres).

The Skipper stated that he did not hear the five short blasts from **Challenger** which was about 7 cables distant.

The Skipper was asked about the ergonomics of his wheelhouse. He stated that the arc of visibility was good. He did not consider the noise from the engine situated beneath the wheelhouse, to be excessive as he could communicate comfortably with the Agent from KMS.

Aratere & Lotus

The Master of **Aratere** stated that **Lotus** continued on passage, mid channel, and in doing so impeded **Aratere**.

Marlborough District Council Local By Law 3.2 (i)(e) states:

“The master of every ship which is less than 500 gross tonnes shall not impede the progress of any ship of 500 gross tonnes or more while navigating within harbour limits.”

SAFETY OPINIONS & RECOMMENDATIONS

1. This incident highlights the importance of VDR. Namely, if VDR information had been downloaded it would have provided incontrovertible evidence as to the movement of the three vessels in these two incidents. It is recommended, if this is not already documented, that Interislander develop and implement as soon as practicable, written procedures requiring ship's personnel to conduct a full download and preservation of all VDR data immediately following any incident or accident.
2. In recent years there has been a significant number of close quarter incidents involving Cook Strait ferries and small recreational craft. The majority of these incidents have occurred in pilotage waters. A recent accident involving a collision between a Cook Strait ferry and a recreational craft, resulted in the loss of life of the skipper of the smaller vessel. This may have impacted on the decision making process of the two ferry masters in these incidents.
3. Poor or lack of any communication by recreational craft, the lack of or inappropriate navigational lights, and their failure to appreciate the limitations of ferries when they are manoeuvring in restricted pilotage waters only adds to the problems faced by ferry Masters in being able to take appropriate action in time to avoid a close quarters situation or a collision.
4. In this instance, the Skipper, who was both highly experienced and qualified, should have appreciated better that without any knowledge as to his intentions and the lack of any navigation lights to give an indication of his vessel's aspect, that other vessels and particularly ferries, would be extremely wary and cautious. Both masters prudently took early and substantial action as was necessary to prevent a close quarters situation or a collision from occurring.
5. Whilst appreciating that repossession agents are in an unusual position, Maritime New Zealand would usually regard it as irresponsible for a skipper to take command of a fishing vessel without any familiarisation as to its operation or condition being given by the previous owner or skipper. In circumstances where a clandestine operation, such as this, prevents a skipper from obtaining appropriate advance knowledge of a vessel, it is fundamentally important that a proper risk assessment is conducted in advance and appropriate measures adopted so as manage those risks for the overall safety of the operation. Although the Skipper had taken a number of measures to mitigate risk, such as carrying a tool kit, a GPS unit and chart, as well as fuses for the navigation lights, there were other measures that he should have adopted. An experienced crewmember, who could assist the Skipper in the event of an emergency, should have been on board the vessel. In addition, a hand held VHF should have been carried, in the event of the VHF radio on board the vessel malfunctioning.
6. On the basis of the above it is recommended that Maritime New Zealand send a letter to the Skipper of *Lotus* censuring him for his failure to report the defective navigational lights to the appropriate authorities so that this could be broadcast to all vessels and recommending that in any future vessel repossessions, he takes an experienced crewmember with him and carries his own VHF set.