

Incident Report
Close Quarters
*Morning Haruka & Otakou
& Purbeck*
9 August 2005
Class B



NARRATIVE

Evidence of *Purbeck*

Vessel Description

Purbeck is a freight ferry owned by Purbeck Limited, U.K. and operated by Interislander. She has the following main particulars:

Registered Length:	117.32 metres
Breadth Overall:	18.12 metres
Maximum Draft:	4.266 metres
Gross Tonnage:	6 507
Year of Build:	1977
Port of Registry:	Wellington
Service Speed:	15 knots
Engines:	2 x 2208kW
Propellers:	2 x controllable pitch
Rudders:	Twin semi balanced
Navigation Aids:	Gyro 2 x Radars GPS (Global Positioning System) Electronic chart display with feed from GPS and radar Automatic Identification System (AIS)

Evidence of Second Officer

The report from the Second Officer of *Purbeck* on the incident is reproduced in full below.

- "2105 *I sighted **Morning Haruka** on our port bow at approximately 4 nautical miles (nm) and adjusted the settings on the radar until I could acquire the target. Once plotted it appeared that the vessel had a closest point of approach (CPA) of 3 cables astern of us. I was not happy with that and waited a few moments longer to ensure that the plot was correct and confirmed it visually.*
- 2110 *There was no sign of **Morning Haruka** altering course so I called her on channel 16 VHF and the OOW responded immediately. They were at about 3.5 miles distant now and I informed him that there was a risk of collision and asked him what his intentions were. He replied that he would alter course. I confirmed that he would alter course and ended the call.*
- 2114 *There was little sign that he had altered course sufficiently to avoid the situation and the CPA was now 1 cable ahead. I called the ship again and stated that he was now at 2 nm and the CPA was 1 cable and that I was not happy with that. He replied that he would alter course to port as he was too close to land to alter to starboard. I confirmed that with him and ended the conversation. I then called the Master to the bridge because I was not convinced that he was going to take the necessary action.*

- 2116 *The Master arrived on the bridge and I explained the situation, saying that I was not happy with the situation, and I stopped both engines as he was now at 1.5 nm with a CPA of 1 cable ahead. I then called **Morning Haruka** again and said that the CPA was still one cable and I was not happy so I have stopped my engines. His response was "Roger I will maintain my course and speed". At that stage the Master called them back and notified them that they were in contravention of the International Maritime Rules for the Prevention of Collision at Sea.*
- 2116 *After the conversation with **Morning Haruka**, **Santa Regina** called and stated that she had seen the whole incident unfold and would make notes in case of further investigation. I then passed the con to the master while I talked to **Santa Regina** and the fishing vessel **Otakou** that had an incident with the vessel a short time before.*
- 2122 ***Morning Haruka** passed ahead of us at 1nm and we resumed our previous course and speed towards Tory Channel.*
- Weather *At the time of sighting **Morning Haruka** there was a very heavy shower of rain and hail, making it very hard to see, and exceptionally difficult to plot on radar. As the situation unfolded the heavy shower moved from them towards us. At the point that I took avoiding action the hail and rain was on us. There were also heavy thunder clouds all round the Strait. Wind was from the south at 20 knots and there was a low southerly swell.*
- Comment ***Morning Haruka** never indicated that she had a problem seeing us or identifying us and answered the radio immediately when called. The OOW on **Morning Haruka** also indicated from the start that he knew he was the give way vessel and indicated that he would do so, but never took the appropriate action. The only reason she gave for not taking action was that she was too close to land. However, when I checked on radar, it appeared that she did have sufficient room to pass clear astern of us if she had taken action in sufficient time."*

Evidence of *Otakou*

Vessel Description & Manning

Length Overall:	42.02 metres
Breadth Overall:	11.02 metres
Gross Tonnage:	703
Year of Build:	1989
Port of Registry:	Nelson
Engines:	1570kW
Propellers:	1
Radar	Raytheon ARPA

Evidence of Master

The report written by the Master of **Otakou** is reproduced in full below.

*“At 2020 on 9th August 2005, the fishing vessel **Otakou** was engaged in trawling in position 41° 28.6´S, 174°29.6´E. Her heading was 130°(T) and speed approximately 3.5 knots. At the same time fishing vessel **Ronita** was about 5.5 miles to the south east of us on a heading of 320°(T) at a speed of 8-9 knots. Also, the fishing vessel **Albert Sanford** was 0.5 miles on our port beam on a heading of 130°(T) at a speed of 5 knots.*

At this time a large vessel northbound through the Straits was observed approximately 7.5 miles to the south of us. The northbound vessel was acquired and the automatic radar plotting aid (ARPA) gave a CPA of 0.3 miles.

***Ronita** was steaming back towards us because that was where the heavy schools of Hoki were. She was being overtaken by the northbound vessel, later identified as **Morning Haruka**. **Ronita** was unable to contact **Morning Haruka** by VHF and unsuccessfully tried to get his attention by spotlight. **Ronita** then reduced speed and **Morning Haruka** overtook close on her port side.*

*We also called **Morning Haruka** on VHF and gave five flashes without success. We started hauling our gear, which reduced our speed to approximately 1 knot. **Morning Haruka** crossed our bow at a distance of 0.4 miles.”*

Report of Australian Maritime Safety Authority (AMSA)

As **Morning Haruka** was bound for Australia at the time of the incident, Maritime New Zealand faxed and emailed details of the incident to the Australian Maritime Safety Authority (AMSA), with a request that they interview the vessel's crew. Amongst other documents, AMSA were given a copy of the Maritime Operations Centre recordings of VHF transmissions made on channel 16 during the incident.

An AMSA Marine Surveyor boarded the vessel on 13th August 2005 in Botany Bay. He took copies of a variety of documentary evidence and discussed the incident with the Master and Third Officer, who was Officer of the Watch at the time of the incident. The Surveyors report is quoted in full below.

*"As instructed I followed up on the fax forwarded from Maritime New Zealand. I visited the tanker m.t. **"Morning Haruka"** on 13th August 2005 at No.2 Kurnell wharf in Botany Bay at 1000 hours. The Master of the tanker m.t. **"Morning Haruka"** was given copy of the complaints to read and asked to respond.*

*He said that about 1900 he, the Master, had gone down to answer the call of nature and freshen up. On returning to the bridge, he noted the passenger vessel m.v. **"Purbeck"** passing astern of his vessel, so he queried the situation with the 3rd Officer who told him that he had been in communication with the vessel and the passenger ship had agreed to pass astern of him.*

The 3rd Officer was asked to explain what happened. He said he was on watch and it was only when he was close to Cape Terawhiti he noted the vessel on radar, which he used the ARPA to acquire and observe. He realised that there was a very small CPA. He was looking for the vessel visually in between all the bright shore lights and eventually at about 2.5 to 3 miles away, as he indicated on the chart, he picked up the sidelights of the vessel between all the bright shore lights.

He said it was difficult to identify the vessel's sidelights, because of the bright line of deck lights that merged with the bright shore lights that camouflaged the sidelight of the vessel.

He heard the passenger vessel m.v. "**Purbeck**" call on the VHF and he responded. He kept in communication with the vessel, advising him of his intention to alter course. He said the passenger vessel m.v. "**Purbeck**" asked him to alter course to starboard.

As per the guidance note on the chart and the parallel index line put on the chart by the 2nd Officer, an alteration to starboard would put the vessel less than the recommended 5 miles off the coast. It would also have meant a broad alteration to starboard (about 60° alteration to starboard) unless he was to pass ahead of the passenger vessel m.v. "**Purbeck**". Instead he decided after some deliberation to turn to port.

When the passenger vessel m.v. **Purbeck** was about 2.5 miles away he altered about 30° to port, allowing him to take a full turn if required. Shortly after his action, the passenger vessel m.v. **Purbeck** called him and complained about his not obeying the rules and that the passenger vessel m.v. "**Purbeck**" would take action to pass astern of him.

The Third Officer was asked to demonstrate his ability to use the ARPA and the ability to perform a trial manoeuvre, which he appeared to be able to demonstrate. When queried, he said he did not do a trial manoeuvre (when he had the encounter with the "**Purbeck**") to ascertain if his actions would be effective. He was also asked if he knew the turning circle of his vessel he said about 0.5 miles.

A copy of the course recorder is attached. The Master of the tanker m.t. "**Morning Haruka**" analysed the recording to confirm the Third Officer's narration of the passage through Cook Strait. This was done taking into account that at 2000 hours clocks were retarded 20 minutes in line with the instructions. Between 2045 hours and 2100 hours the positions plotted on the chart indicate that the vessel had altered course, resulting in her position being to the west of her intended course.

Examination of the passage plan and charts indicate that all relevant information had been included. The Second Officer had made a large notation on the chart cautioning other watch-keepers that the area was a "Ferry cruising area". Parallel indexing lines were drawn on the charts in keeping with the "voluntary code" note on the chart that requested vessels carrying "oil or other harmful liquid substances in bulk" to keep at least 5 miles off the coast.

The Master of the tanker m.t. "**Morning Haruka**" was unaware of the alleged close quarter incident involving the fishing vessels. When told that the fishing vessels were passed at a distance of 0.4 miles, he said it was not unusual. The Collision Regulations refer to trawling lines in excess of 200 metres requiring additional lights. He said the distance astern of 0.4 miles or almost 740 metres to be adequate clearance of the trawling gear. In his opinion the fishing vessels had no excuse for protesting.

Both the Master and Third Officer felt that as a consequence of the "Voluntary Code" note on the chart that requested vessels carrying "oil or other harmful liquid substances in bulk" to keep at least 5 miles off the coast, the Cook Strait imposed limitations on their ability to manoeuvre. Hence fishing vessels and smaller craft should avoid as far as possible embarrassing large vessels transiting the Strait, as is the practice in the North Sea and English Channel.

As the times of communication between vessels cannot be identified, only the interpretation of the ship's staff of events can be considered."

AMSA collected the following documentary evidence from *Morning Haruka*:

- Statement of Third Officer
- Master's report to the company
- Copy of Chart NZ 463, Approaches to Wellington, used by the ship for the area off Wellington
- Copy of "Voluntary Code" note on Chart NZ 463
- Copy of ship's course recorder print out for the period 0600Z to 1220Z on 9th August 2005
- Copy of GPS position log
- Copy of deck log book for 9th August 2005
- Wheelhouse poster of manoeuvring diagram
- Copy of the Master's order book
- Copy of passage plan Timaru to Botany Bay
- Copy of company's standing orders for watch officers

Evidence of *Morning Haruka*

Vessel Description & Manning

Morning Haruka is a product tanker owned by Nakata Marine Corporation, Panama, and operated by Nakata Mac Corporation of Hiroshima, Japan.

IMO No.:	9313266
Registered Length:	182.5 metres
Breadth Overall:	32.2 metres
Maximum Draft:	12.6 metres
Gross Tonnage:	26 900
Deadweight Tonnage:	47 407
Year of Build:	2005
Port of Registry:	Liberia
Engine:	MAN B&W 6S50MC – 11 665 hp/127 rpm

The Master of *Morning Haruka* has over 20 years experience at sea.

At the time of the incident *Morning Haruka* was proceeding northwards through Cook Strait on passage from Timaru to Botany Bay, Australia. She was carrying 15 088 tonnes of gas oil and 9 813 tonnes of ballast.

Evidence of Third Officer

The Third Officer of *Morning Haruka* gave evidence on the incident to the Australian Maritime Safety Authority in the form of a letter. The text of the letter is reproduced in full below.

*"It was a perfect weather and good visibility when MT **Morning Haruka** approaches the Cook Strait, as I observed there's (sic) some fishing boats around the midway of the channel which has full of lights and even their navigational lights are not visible. As a duty officer I observed every movements (sic) of the targets around the ship through a visual lookout and with my radar (ARPA) and my watchman as well, until finally I observed that I could pass through to all fishing boats with a minimum CPA of 0.7nm without any alteration of my intended course. As I am coming closer to the Strait one fishing boat on my port bow turned round and headed towards my bow so decided to alter my course 10 to starboard just to keep clear and to have a safe distance to her. Finally I passed all fishing boats well clear with a safe passing distance and without damage to their fishing gears (sic).*

*After a while I received a call from ferry Boat **Purbeck** on VHF Ch.16 requesting me to alter my course to starboard, as I observed **Purbeck** is about 2.5 nm on my starboard side and she was on my almost beam, so then I refused to do that action because I don't have enough space and I will be in close quarter situation and even risk of collision may exist if I alter course to starboard and besides I will be coming closed (sic) to nearest land, for that reasons I decided to alter my course 30 to 40 on my port side just to keep clear and to have a safe passing distance with her and even I can proceed to full circulation (sic) manoeuvre or even can slow down my engine, all action taken was agreed between **Morning Haruka** and ferry Boat **Purbeck** through VHF Ch. 16 that ferry Boat **Purbeck** will alter course to portside and passed on my astern (sic) and it was clearly understood between two parties. Finally ferry Boat **Purbeck** passed well clear astern of **Morning Haruka** with a safe distance. And after a few minutes I received a call from ferry Boat **Purbeck** on VHF CH.16 saying that I am not following the rules. As a Navigator I know that I am the give-way vessel and I'm aware about the rules but finally it was for me to decide which way to chose (sic) to avoid a dangerous situation; still in respect to all regulations and recommendations in general.*

Lastly I would say thanks for giving me the opportunity to explain my side."

Evidence of Master

The Master of **Morning Haruka** gave evidence on the incident to the Australian Maritime Safety Authority in the form of a letter. The text of the letter is reproduced in full below.

"I regret to inform you that all complaints directed to me from NZ Skippers are baseless and as the Master of vessel, have to expressly reject them.

It is deplorable that all processed documents issued by NZ Maritime (sic) are confidential; my name (name of my vessel) has been used; but I have no basic human rights to have an official copy. Additionally NZ Maritime (sic) processing claims without to inform me and vessel's owner.

*Within over 20 years of my sea service - it was my first visit to New Zealand as the master of small handy-size tanker **Morning Haruka**.*

It never happened before that my vessels and my good name have been exposed for such amorphous complaints from third parties. I understand that it may come from low, restricted to coastal waters, experience of complaining Skippers.

As the vessel is new and all equipment on board in perfect working condition: it was easy to collect sufficient evidence proving my point of view – all materials have been delivered to the AMSA Boarding Inspector today 14th August 2005 at Botany Bay Kernel Pier during his post incident inspection.

I would appreciate if you check a copy of my chart NZ 46 with ship's positions plotted. FYI initially ships clocks were UTC + 12, then adjusted to UTC + 11h 40m (20 minutes per each night watch)

Please then plot a position stated in report prepared by Skipper FV **Otakou**, following every vessel course and speed, then checking my vessel course recorder – you can easily notice that without any reaction from both **Otakou** and **Morning Haruka**, vessels should pass each other in minimum CPA of almost half mile. Additionally, my OOW has altered the course 10 degrees to starboard side. If FV **Otakou** slow down, as was mentioned in report – minimum distance between us was more than 1 nautical mile!

Duty Officers are well trained about fishing gears arrangement of various boats in various world-wide regions and they will always pass a bow of trawling vessel to safe (sic) her fishing tackles. It is a safest way to avoid any damage to fishing vessel gear.

Night Skipper of ferry Boat **Purbeck** had a call to our vessel asking us to alter course to our starboard side. Due to close distance to nearest land and with regards (sic) to New Zealand Voluntary Notice plotted on chart NZ 46, OOW proposed that he will alter a course to port side instead, giving a wide berth to passing ferry. He altered course 30 degree to port side (please see our course recorder print out), being ready to stop our vessel or to proceed with even full circulation (sic), but meantime **Purbeck's** Night Skipper decided to change a course and pass our aft (sic). This was fully agreed between both vessels and done. FYI Engine Room on **Morning Haruka** was "manned" and remain standby from 2030 (UTC+12) till 2230 (UTC + 11h 40m). Approaching angle between vessels was about 40 degrees, and for **Purbeck** it was just to continue on same course to pass our bow, or to alter course for 10-15 degrees to pass astern of **Morning Haruka**, without to slow down movement has been agreed, otherwise **Purbeck** should alter a course to starboard instead.

All above took place on approach to Cook Strait, with good weather and perfect visibility. Weather fouled (sic) one hour later as visibility has been restricted by passing rain.

I do not see any reason for all actions taken, making AMSA Inspector, me myself and my Officers additionally busy to investigate case, defence (sic) our rights and issue a report.

N.B. today we lost our first and last chance to go ashore from over a month.

May I have time now to pass my complaints about Cook Strait passage as follows:

- Small craft, fishing boats etc should not disturb to (sic) in transit vessels to pass a narrows, as they are restricted for manoeuvrings and by "Voluntary Notice"
- All calls followed by excessive narration between local vessels have been performed on VHF ch 16, making channel "occupied, busy, non-readable"
- Local vessels, being equipped with AIS did not use DSC on VHF as recommended
- Local vessels not properly lighted (sic), showing a lot of strong additional lights
- Their sides look like a Xmas trees, which make others unable to recognise navigational lights from a safe distance (all mixed with shore lighting)
- How much suppose to be a safe distance between a trawling boat (speed 3.5 knots) and high powered ocean-going tanker (16 knots speed – 450% higher speed than boat) **Otakou** couldn't case (sic) collision with our vessel, even having specific intention – all due to huge speed difference between us
- **Purbeck** agreed a movement with **Morning Haruka** and then come with complaints to the Authorities, being 50/50 involved (by agreed movement)? Self-assessment?
- What is the official meaning of spotlight on-off used by FV **Ronita**? To get out our intention from FV **Otakou**? We expect them to be busy, working on deck."

Documentary Evidence

Course Recorder

A photocopy of ***Morning Haruka's*** course recorder print out is reproduced in *Appendix 1*. The notes on courses that are hand written on the graph have been inserted by Maritime New Zealand (MNZ). The times in the right hand column of the graph are in Greenwich Mean Time (GMT) namely, New Zealand Standard Time (NZST) – 12. The hand written notes on times in the right hand margin are labelled LT (local time) and refer to ship's time. They should be ignored as all times in this report are expressed in NZST.

The graph shows that at 2020 ***Morning Haruka*** altered course 5° to port from 002° to 357°. At 2028 she altered 9° to starboard, from 357° to 006°. This course increased to 009° at 2042 when course was altered 14° back to port to 355°. This course gradually changed to 002° until, at 2112, it appears the vessel came to starboard to 008° then immediately back to port, reaching a maximum deviation of 26° from the original course of 002° at 2120. This course of 336° was held for approximately two minutes when the course was altered back to starboard and the vessel steadied on 005° at 2130.

It is not known with certainty how accurately the time is set on the course recorder, but the above times agree with the other available evidence.

Chart

The AMSA surveyor photocopied ***Morning Haruka's*** copy of Chart NZ46, Cook Strait. Fortunately positions plotted on the chart during the vessel's transit of Cook Strait had not been erased. The positions comprise of DGPS positions, indicated by a dot enclosed by a triangle, and observed positions, indicated by a dot enclosed by a circle. These positions are reproduced in *Figure 1 - Chart Extract NZ46 Cook Strait*.

DGPS Log

Positions recorded in the DGPS Log are shown on Figure 1, Chart Extract NZ46 Cook Strait. There is some discrepancy between the DGPS positions and the observed positions. The degree of discrepancy is normal and to be expected. At 2000, ship's clocks were retarded 20 minutes to GMT + 11 hours 40 minutes. Times noted on the ship's chart and in the DGPS Log have been adjusted to NZST before being used in this report.

Evidence of Maritime Operations Centre

VHF communications received by the Maritime Operations Centre (MOC) network of aerals are recorded. A transcript was made of the MOC recording relevant to this incident. This transcript is incorporated with the voyage data recorder (VDR) information obtained from *Purbeck* below.

Evidence of *Purbeck's* VDR Information

VDR information was obtained from *Purbeck* for the period of this incident. The information is in the form of log information captured every two seconds, radar screen images captured every 10 seconds and continuous sound recordings from four bridge microphones.

A log of events extracted from the VDR information is given below:

- 1957 *Purbeck* departs from Rail Ferry Terminal Wellington bound for Picton with 31 persons on board.
- 2026 *Purbeck* passes Barrett Reef Buoy at the entrance to Wellington harbour. (See Figure 1 - Chart Extract NZ 46, Cook Strait).
- 2047 *Purbeck* alters course at way point 1.0 miles south of Sinclair Head.

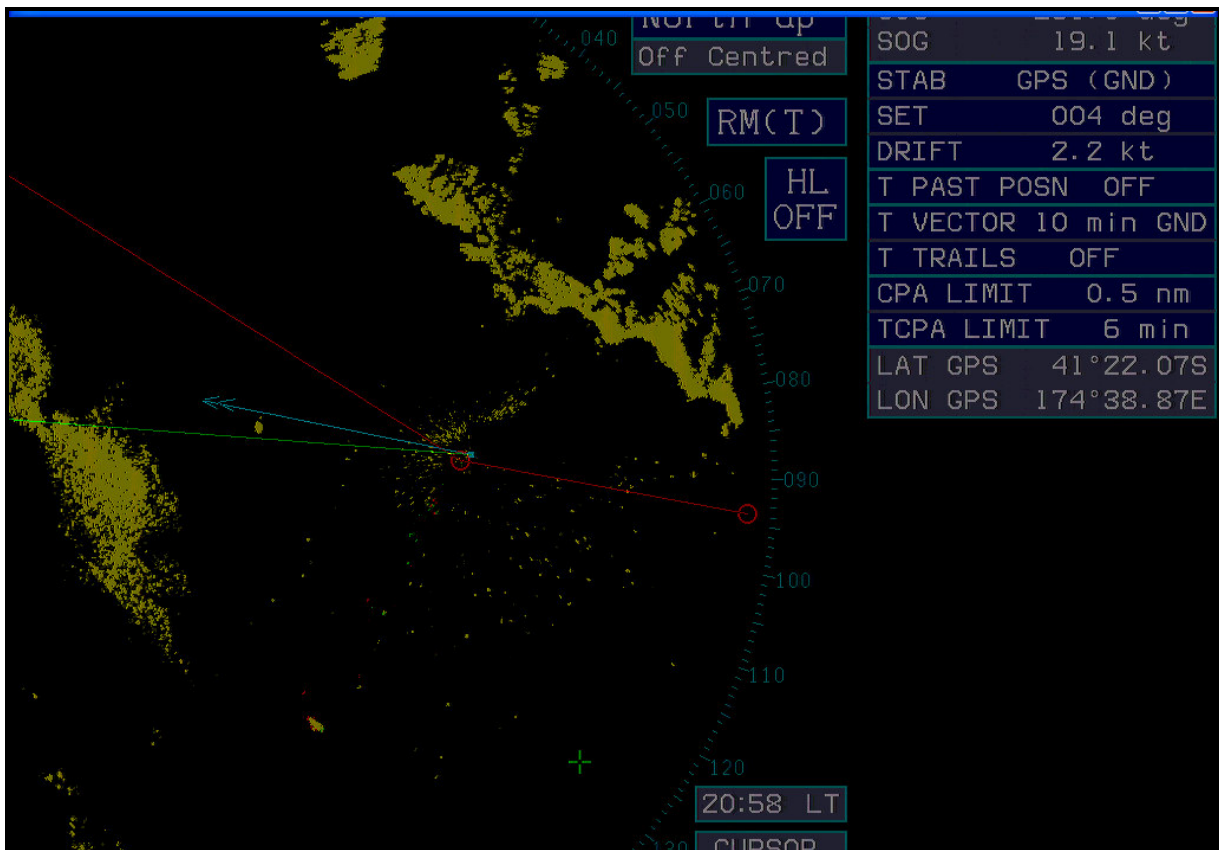


Figure 2
Part of Radar Image at 2058

- 2058 *Purbeck* alters course for Tory Channel Entrance at way point 2.0 miles south west of Tongue Point. Figure 2 shows part of *Purbeck's* radar image at this time. She has a speed over the ground of 19.3 knots. Alarms are set for a CPA of another vessel of 0.5 miles and a time to closest point of approach (TCPA) of 6 minutes. The return from *Morning Haruka* is masked by the returns from the band of rain ahead of *Purbeck*. The red line shown on the screen is *Purbeck's* planned track. The red circles on the red line are the alter course way points. The blue dot marks *Purbeck's* position and the blue line extending from it shows the course over the ground. The green line indicates the course being steered.
- 2104 The Third Officer adjusted the rain clutter setting to suppress the returns from the band of rain. The echo from *Morning Haruka* became visible and the 3rd Officer acquired it with the ARPA.

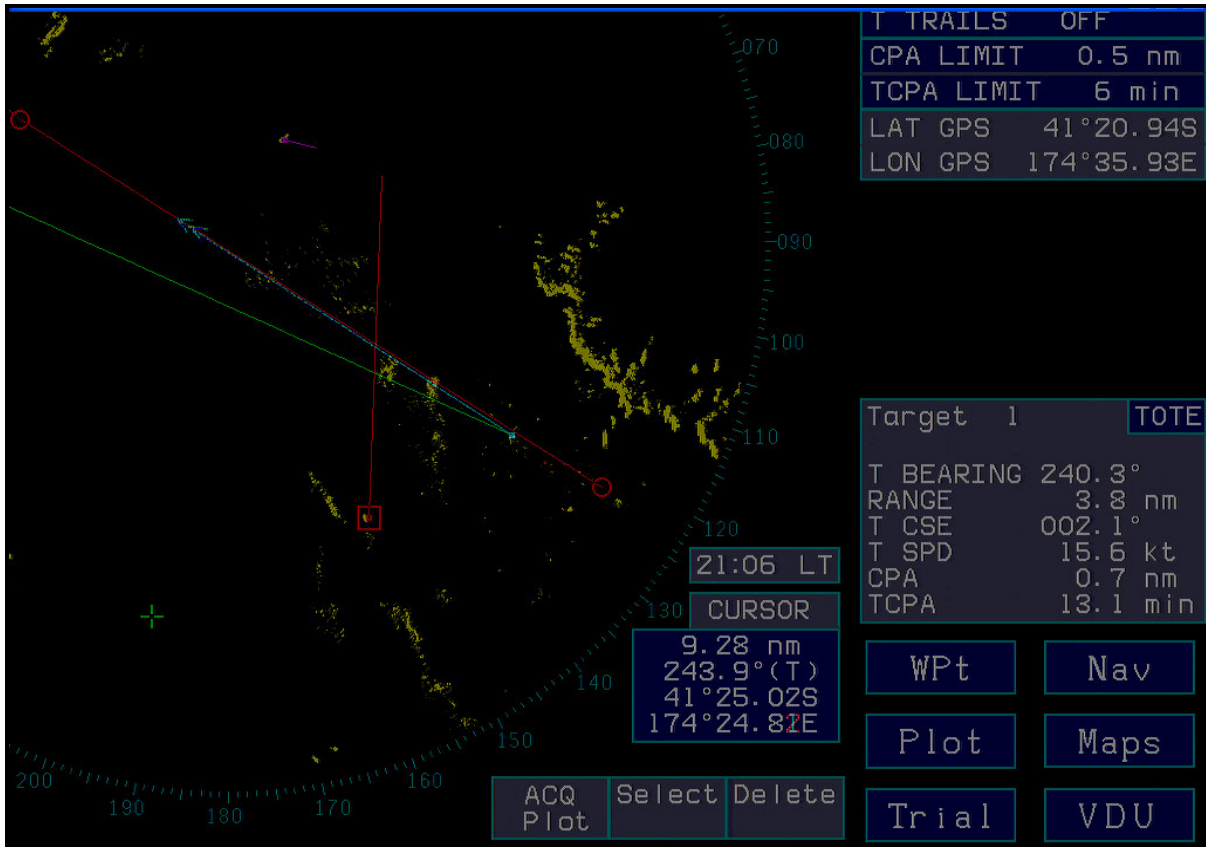


Figure 3
Part of Radar Image at 2106

2106 Information available from the ARPA acquisition indicated a CPA of 0.7 miles and a TCPA of 13.1 minutes at 2119. (See Figure 3 - Part of Radar Image at 2106). **Morning Haruka** has **Purbeck** 59° on her starboard bow. **Purbeck** has **Morning Haruka** 54° on her port bow at a distance of 3.8 miles.

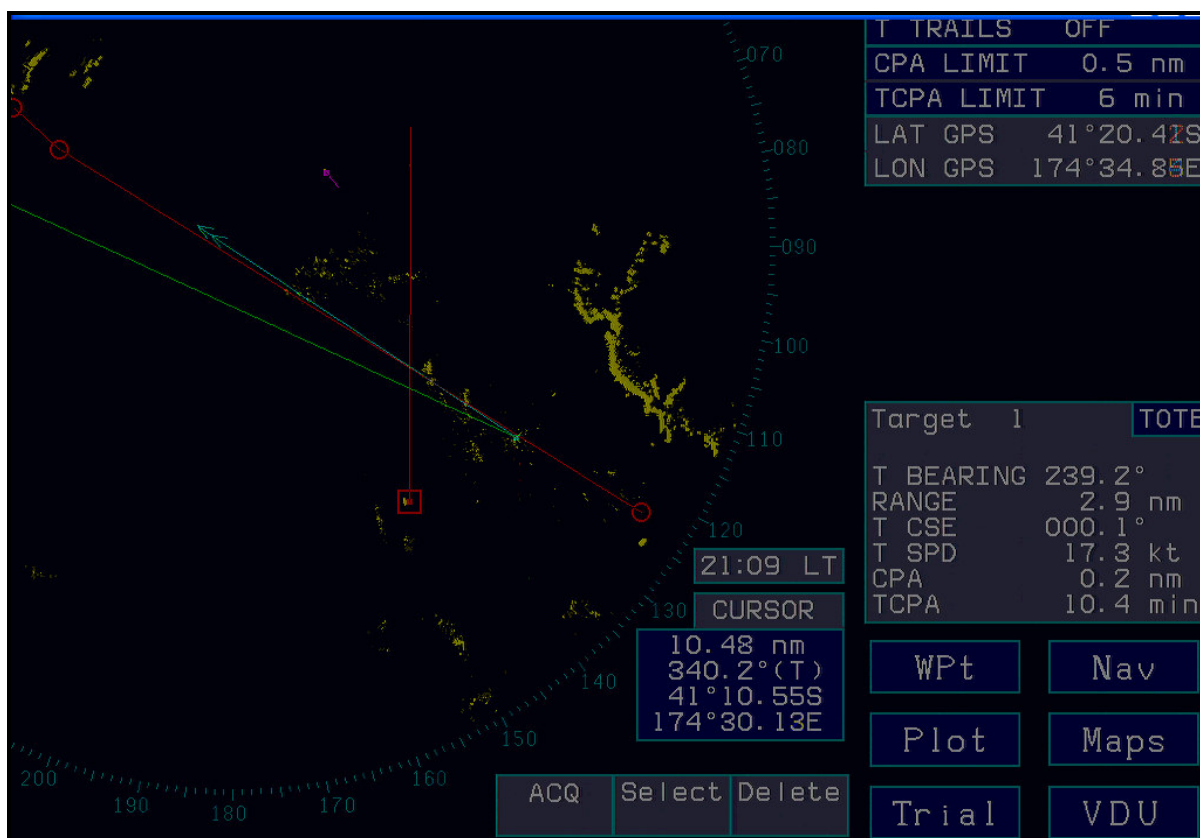


Figure 4
Part of Radar Image at 2109

2109 The accuracy of the radar plot increased with time and the CPA of *Morning Haruka* had reduced to 0.2 miles and the TCPA to 10.4 minutes at 2119. (See Figure 4 - Part of Radar Image at 2109). The distance between the two vessels at this time was 2.9 miles. At this time the following radio communication took place on VHF Channel 16:

Purbeck: *Morning Haruka, Morning Haruka, Purbeck, Purbeck*, Channel 16.

Morning Haruka: Station calling *Morning Haruka*, go ahead sir

Purbeck: Yes, good evening sir. I see you out there on our port bow. I currently have a CPA of three cables on my radar. What are your intentions please?

Morning Haruka: I will alter.

Purbeck: Ok, that's appreciated. Thank you.

Morning Haruka: You're welcome.



Figure 5
Part of Radar Image at 2112

2112 **Morning Haruka** had not altered course and the CPA had reduced to 0.1 miles. TCPA was 7.9 minutes at 2120. (See Figure 5 - Part of Radar Image at 2112). The following radio communications took place:

Purbeck: **Morning Haruka, Morning Haruka, Purbeck**, Channel 16.

Morning Haruka: Go ahead

Purbeck: Yes, good evening again sir. We are now down to two miles and with a CPA of zero. Are you altering course? Is that correct?

Morning Haruka: Ok, I will alter my course to port. Ok for you? No time to starboard, to alter my course to starboard.

Purbeck: You're coming to starboard now. Ok, thank you.

Morning Haruka: I am going to alter to port. I don't have time to alter my course to starboard.

Purbeck: Ok, you alter to port. Roger

Morning Haruka: Altering to port.

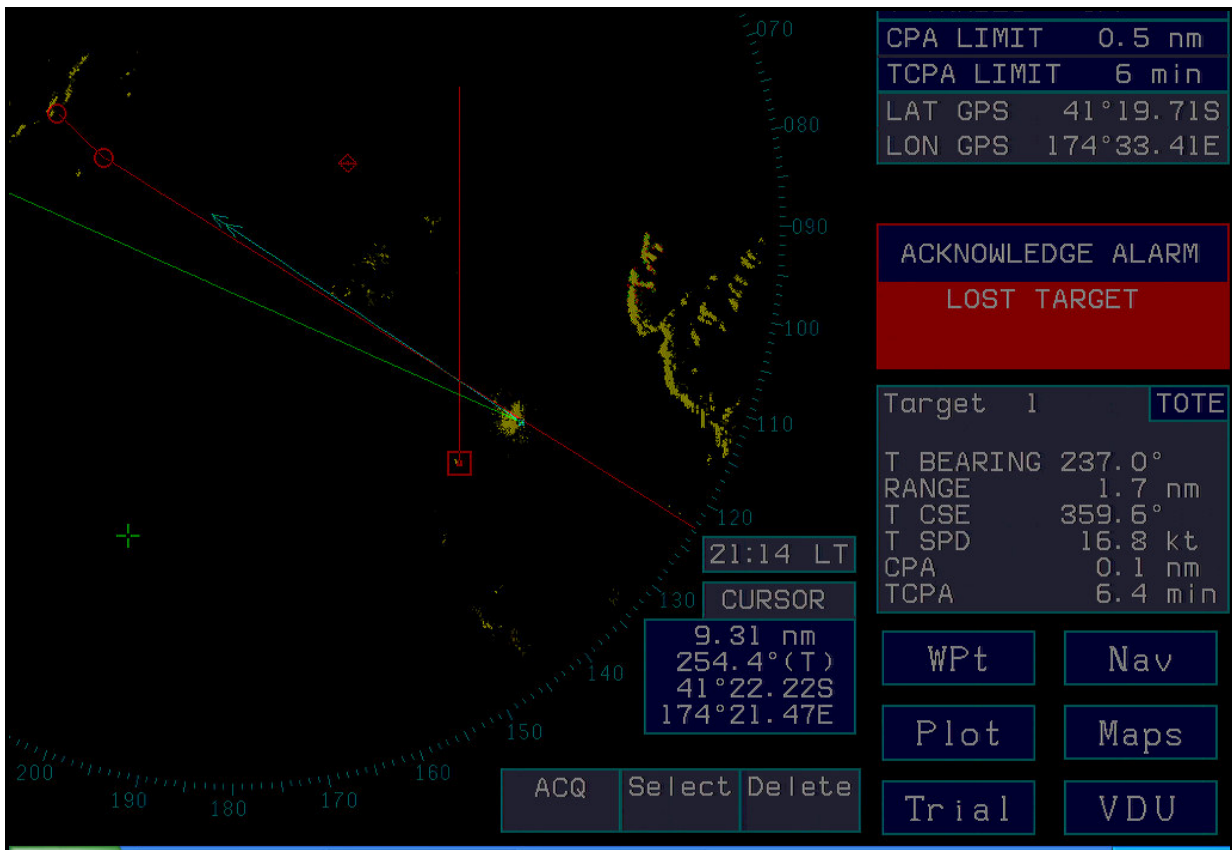


Figure 6
Part of Radar Image at 2114

2114 **Morning Haruka** had not altered course and the ARPA was showing a CPA of 0.1 miles and TCPA of 6.4 minutes at 2120. (See Figure 6 - Part of Radar Image at 2114). The distance between the two vessels at this time was 1.7 miles.

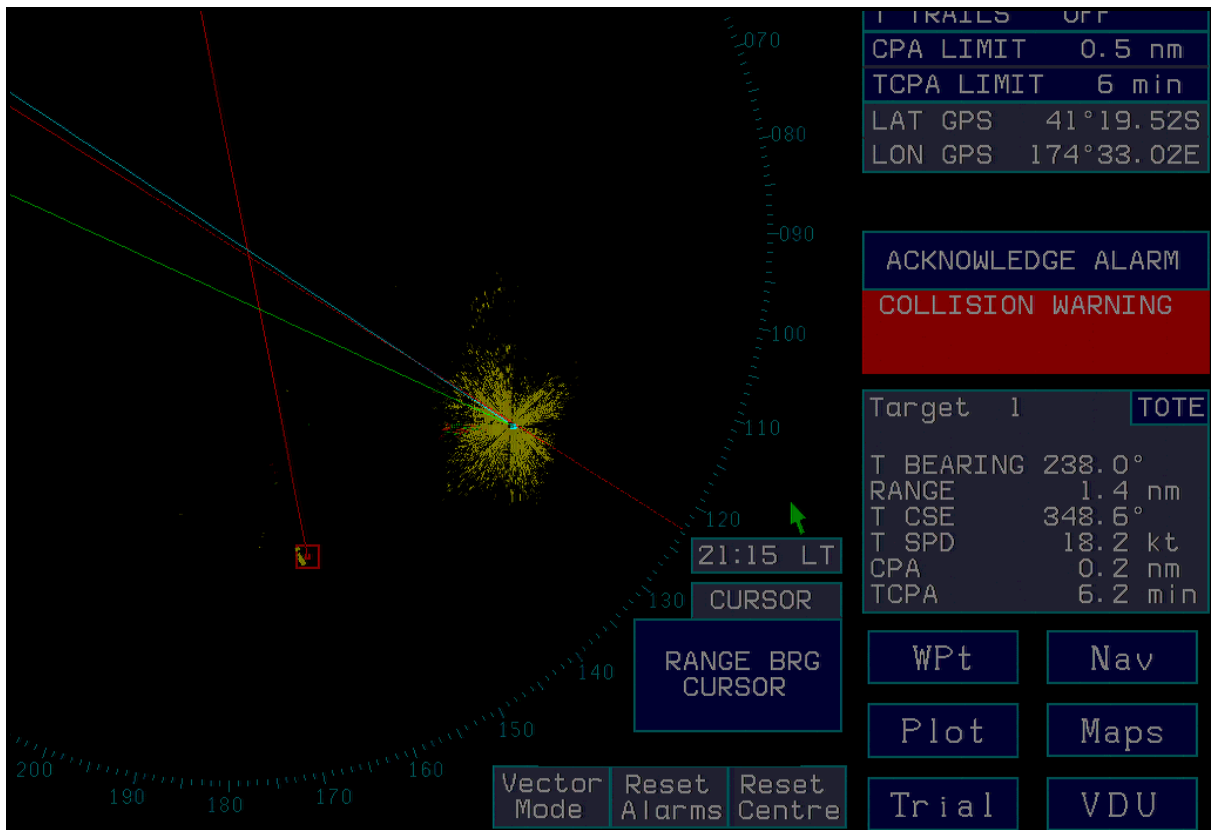


Figure 7
Part of Radar Image at 2115

- 2115 The ARPA showed *Morning Haruka* was altering course to port and was making good a course of 348.6°(T) at a speed of 18.2 knots over the ground. *Purbeck's* log information indicated a set and drift of 024° at 2.6 knots at that time. The CPA was still 0.2 miles but the TCPA had changed to 6.2 minutes at 2121.

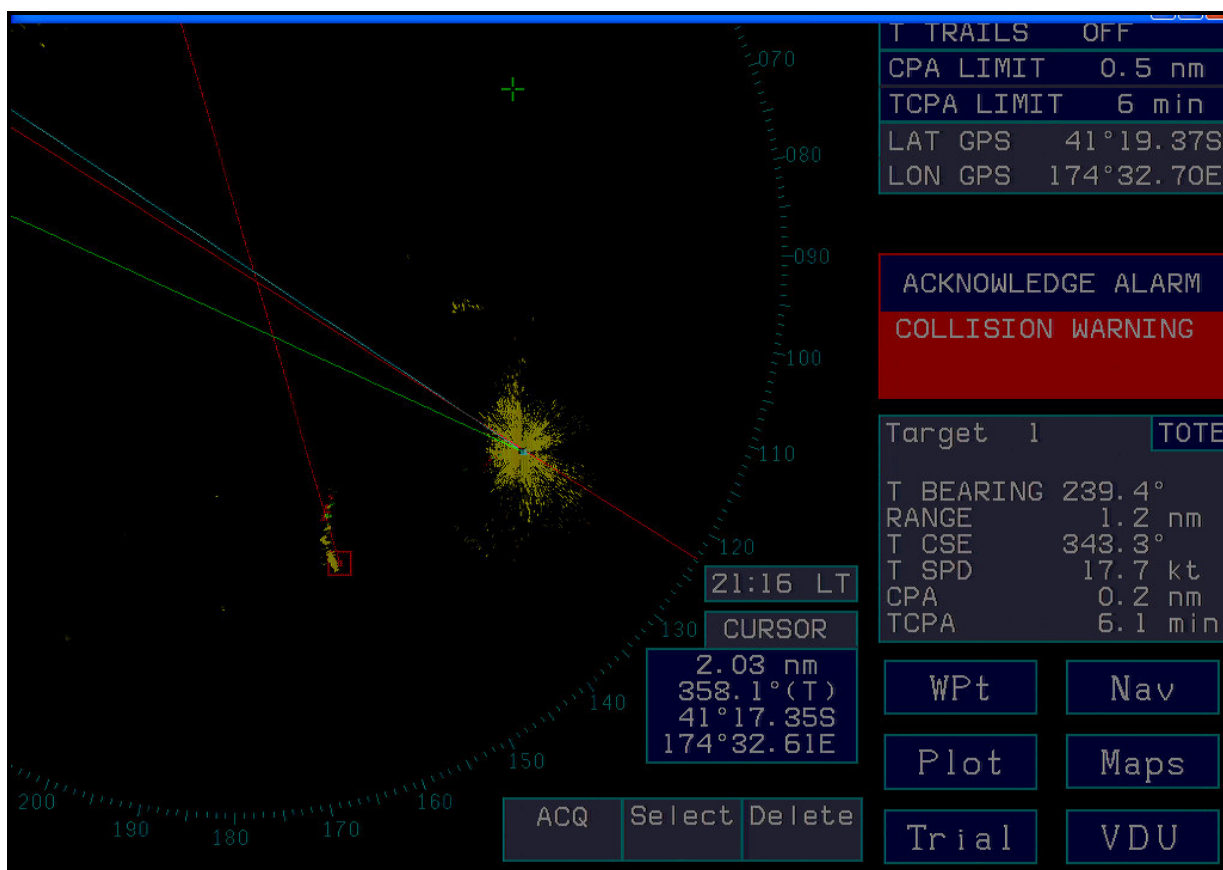


Figure 8
Part of Radar Image at 2116

2116 The ARPA indicated that **Morning Haruka** had altered course approximately 17° to port but the CPA was still 0.2 miles with TCPA of 6.1 minutes at 2122. The distance between the two vessels at this time was 1.2 miles. The following radio communications took place:

- Purbeck:** **Morning Haruka, Morning Haruka, Purbeck**, Channel 16.
- Morning Haruka:** Yes, go ahead.
- Purbeck:** I see you are now going to pass two cables ahead of us. I am going to slow down. I am not happy with your actions, over.
- Morning Haruka:** Continue my course. Roger.
- Purbeck:** **Morning Haruka**, this is the Captain on the **Purbeck**. You should know the International Rules and Regulations. You are maintaining course, which is not correct. Over.
- Morning Haruka:** But I don't have time and place to go to starboard. Close to the land.
- Purbeck:** That's an absolutely ridiculous thing to say sir. You are at least seven miles off the land.

2117 The following radio communication took place:

Santa Regina: **Purbeck** this is **Santa Regina** on 16.

Purbeck: Go ahead

Santa Regina: Yes, good day Mike. If you want any support with a witness or anything just let us know.

Purbeck: No, that's fine.

Otakou: **Purbeck, Purbeck**, this is fishing vessel **Otakou**, 16.

Purbeck: Go ahead sir.

Otakou: Yes, good evening, we had problems too. We were engaged in fishing, he just about cleaned us up. Can we have the name and call sign of the vessel please?

Purbeck: Stand by.

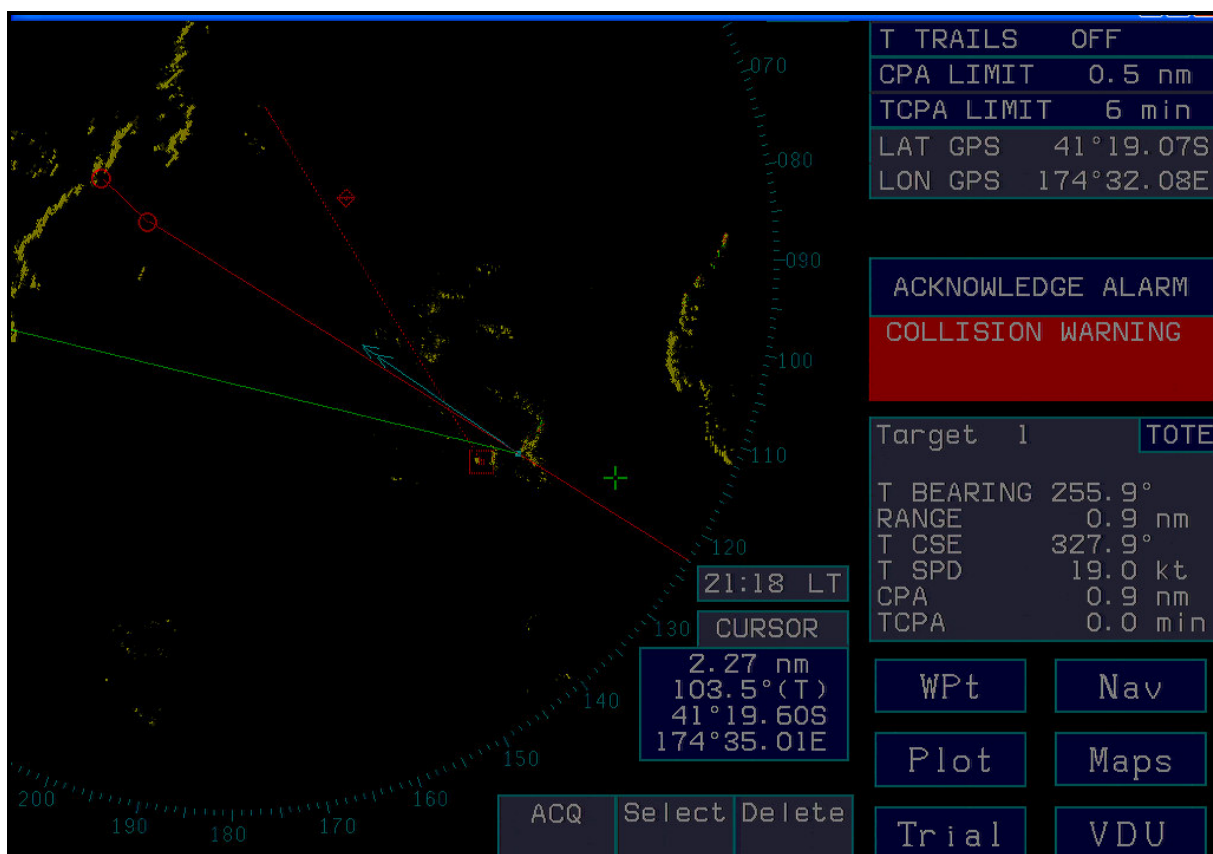


Figure 9
Part of Radar Image at 2118

2118 **Purbeck** had reduced speed to 8.2 knots through the water and had reached her closest approach to **Morning Haruka** of 0.9 miles. (See Figure 9 - Part of Radar Image at 2118).

2120 The following radio communications took place:

Purbeck: Fishing vessel calling the **Purbeck**, go ahead.

Otakou: Yes, good evening, fishing vessel **Otakau**. The vessel you just had problems with came close quarters with us while we were engaged in trawling and showed no signs of obeying the laws.

Purbeck: Yes, ok, **Otakau, Purbeck**, I have got his name and call sign here if you want that.

Otakou: Yes, I would appreciate that please.

Name and call sign of **Morning Haruka** exchanged.

COMMENT AND ANALYSIS

International Regulations for Preventing Collisions at Sea/New Zealand Maritime Rule Part 22 – Collision Prevention

Rule 5

Lookout

Every vessel shall at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

Rule 7

Risk of Collision

- (a) Every vessel shall use all available means appropriate in the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.
- (b) Proper use shall be made of radar equipment if fitted and operational, including long-range scanning to obtain early warning of risk of collision and radar plotting or equivalent systematic observation of detected objects.
- (c) Assumptions shall not be made on the basis of scanty information, especially scanty radar information.
- (d) In determining if risk of collision exists the following considerations shall be among those taken into account:
 - (i) such risk shall be deemed to exist if the compass bearing of an approaching vessels does not appreciably change;
 - (ii) such risk may sometimes exist even when an appreciable bearing change is evident, particularly when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

Rule 8

Action to Avoid Collision

- (a) Any action to avoid collision shall be taken in accordance with the Rules of this part and shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.
- (b) Any alteration of course and/or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar: a succession of small alterations of course and/or speed should be avoided.

- (c) If there is sufficient sea-room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it is made in good time, is substantial and does not result in another close quarters situation.
- (d) Action taken to avoid collision with another vessel shall be such as to result in a safe passing distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.
- (e) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken her speed or take all way off by stopping or reversing her means of propulsion.
- (f)
 - (i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea-room for the safe passage of another vessel.
 - (ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.
 - (iii) A vessel the passage of which is not to be impeded remains full obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.

Rule 15

Crossing Situation

When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

Rule 16

Action by Give-Way Vessel

Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

Rule 17

Action by Stand-On Vessel

- (a)
 - (i) Where one of two vessels is to keep out of the way the other shall keep her course and speed.
 - (ii) The latter vessel may, however, take action to avoid collision by her manoeuvre alone, as soon as it becomes apparent to her that the vessel required to keep out of the way is not taking appropriate action in compliance with these Rules.
- (b) When, from any cause, the vessel required to keep her course and speed finds herself so close that collision cannot be avoided by the action of the give way vessel alone, she shall take such action as will best aid to avoid collision.

- (c) A power-driven vessel which takes action in a crossing situation in accordance with subparagraph (a)(ii) of this Rule to avoid collision with another power-driven vessel shall, if the circumstances of the case admit, not alter course to port for a vessel on her own port side.
- (d) This Rule does not relieve the give-way vessel of her obligation to keep out of the way.

Rule 18

Responsibilities between Vessels

Except where Rules 9, 10 and 13 otherwise require:

- (a) A power-driven vessel underway shall keep out of the way of:
 - (i) a vessel not under command;
 - (ii) a vessel restricted in it's ability to manoeuvre;
 - (iii) a vessel engaged in fishing;
 - (iv) a sailing vessel.
- (b) A sailing vessel underway shall keep out of the way of:
 - (i) a vessel not under command;
 - (ii) a vessel restricted in her ability to manoeuvre;
 - (iii) a vessel engaged in fishing
- (c) A vessel engaged in fishing when underway shall, so far as possible, keep out of the way of:
 - (i) a vessel not under command;
 - (ii) a vessel restricted in her ability to manoeuvre.
- (d)
 - (i) Any vessel other than a vessel not under command or a vessel restricted in her ability to manoeuvre shall, if the circumstances of the case admit, avoid impeding the safe passage of a vessel constrained by her draught, exhibiting the signals in Rule 28.
 - (ii) A vessel constrained by her draught shall navigate with particular caution having full regard to her special condition.
- (e) A seaplane in the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with the Rules of this part.
- (f)
 - (i) A WIG craft, when taking off, landing and in flight near the surface, shall keep well clear of vessels and avoid impeding their navigation:
 - (ii) A WIG craft operating on the water surface shall comply with the Rules of this Part as a power driven vessel.

Close Quarters Situation between *Morning Haruka* & *Otakou*

At 2020 the trawler *Otakou* observed the tanker *Morning Haruka* approaching on her starboard bow at a range of approximately 7.5 miles. Her ARPA gave a CPA of 0.3 miles. Attempts by *Otakou* to attract the attention of *Morning Haruka* by VHF radio and flashing light failed. Consequently *Otakou* commenced hauling her net, which reduced her speed to approximately 1 knot. *Morning Haruka* passed ahead of *Otakou* with a CPA of 0.4 miles at approximately 2040.

The Third Officer of *Morning Haruka* stated, “one fishing boat on my port bow turned round and headed towards my bow so decided to alter my course 10° to starboard just to keep clear and to have a safe distance to her.”

Morning Haruka's course recorder shows that between 1953 and 2040, her course varied between 357° and 005°. At 2040, she altered course to starboard reaching 009° at 2042 then almost immediately altered back to port, steadying on 355° at approximately 2048 (See Appendix 1 - Course Recorder *Morning Haruka*). This represents a minor deviation of track to starboard. The chart plot indicates a deviation of 0.4 miles (See Figure 1 - Chart Extract NZ 46, Cook Strait).

Morning Haruka passed close enough to *Otakou* to cause significant concern to the Skipper of *Otakou*. Cahill¹ states:

“The problem of determining minimum clearances, or CPA, when passing on parallel courses, when overtaking or approaching seems obviously closely related to that of a definition of “close quarters”. The courts and other quasi legal bodies that study such matters, have steadfastly refused to define that term. Lord Justice Willmer, in a decision handed down in 1961 on the Grepa/Varena collision remarked that:

It leaves open to argument what is meant by the phrase “close quarters situation”. That, I think, must depend on the size characteristics and speed of the vessels concerned. I think, however, in the case of ships of the class we have here it must mean quite a substantial distance and, I venture to think, a distance measurable in miles rather than yards.”

There is little guidance as to what would be considered a safe and seamanlike passing distance in this case. However, given that at 2040, the closest land to *Morning Haruka* was 10 miles on her starboard side and 16 miles on her port side, MNZ is of the opinion that, in passing ahead of a trawler with a CPA of 0.4 miles and causing her Skipper sufficient concern to commence hauling her net, *Morning Haruka* failed to comply with International Regulations for Preventing Collisions at Sea, Rules 8, 16 and 18(a)(iii)/Maritime Rule Part 22.8, 22.16 and 22.18.1 (c).

Close Quarters Situation between *Morning Haruka* & *Purbeck*

The potential close quarters situation between these two vessels did not exist until *Purbeck's* planned alteration of course at 2058 (See Figure 1 - Chart Extract NZ46, Cook Strait). Eleven minutes later, at 2109, *Purbeck* called *Morning Haruka* on VHF to advise of a CPA of three cables and to request *Morning Haruka's* intentions. The Third Officer of *Morning Haruka* replied that he would alter course.

Three minutes later, at 2112, *Purbeck's* ARPA was indicating a CPA of 0.1 miles in 8 minutes time. *Purbeck* again called *Morning Haruka* to advise of the CPA and request *Morning Haruka's* intentions. The Third Officer of *Morning Haruka* replied that he would alter course to port as he did not have time to alter course to starboard. It was the Third Officer's evidence that he altered course 30° to 40° to

¹ Captain R.A.Cahill, Collisions and their Causes, The Nautical Institute, Third edition 2002.

port. **Morning Haruka's** course recorder indicates that at 2112 course was altered 6° to starboard to 008° then 32° back to port, 26° from her original course of 002°, steadying briefly on 336° at 2100.

The evidence of **Purbeck's** VDR indicated that this alteration did not significantly increase the distance of the CPA and delayed the time of CPA by one minute. The Third Officer of **Morning Haruka** stated to the AMSA Surveyor that he did not carry out a trial manoeuvre on the ARPA to check the efficacy of his actions.

At 2112, when **Morning Haruka** altered to port she was 5.2 miles from the shore and **Purbeck** was 60° on her starboard bow at a range of 2.1 miles.

At 2116, **Purbeck** advised **Morning Haruka** that he was not happy with his actions and was slowing down.

Cahill in "Collisions and their Causes" states:

"There is a strong and well founded prejudice among seamen with a proper understanding of the Rules, reinforced by innumerable court decisions, against any alteration of course to port for the purpose of avoiding traffic under normal circumstances. Once the rules begin to govern, that stance becomes almost unassailable in meeting and crossing situations."

A note on chart NZ46 states:

"VOLUNTARY CODE

Vessels laden with oil or other harmful liquid substances in bulk are to keep at least 5 nautical miles off the land, any charted danger, or any outlying island(s) until reaching the position where alteration is required to make port."

Cook Strait has a width of 11.6 miles at the narrowest point. Fisherman's Rock, with a swept depth of 9.4 metres, lies in the centre of the northern entrance to the Strait. It is 7.8 miles from Mana Island to the east and 7.3 miles from The Brothers in the west. Consequently it is not possible for vessels transiting Cook Strait to comply with the Voluntary Code.

The Voluntary Code is just that; there is no legal requirement to comply with it and there is no indication that it should supplant good seamanship or the requirement to comply with the International Regulations for Preventing Collisions at Sea.

The Third Officer of **Morning Haruka** may have been reluctant to alter course to starboard and pass astern of **Purbeck** because of the proximity of land and the existence of the Voluntary Code. However, **Morning Haruka** was the give way vessel and the Third Officer could have fulfilled his obligations by reducing speed or taking a turn out of the vessel. By altering course 26° to port he did not significantly alter the close quarters situation.

Cockcroft and Lameijer² state:

"In a crossing situation a power driven vessel is required to avoid crossing ahead of a power driven vessel on her own starboard side, if there is risk of collision, but is not directed to cross astern. An alteration of course to starboard will usually be the best method of keeping out of the way of a vessel which is on the starboard bow, but a reduction in speed or a substantial alteration of course to port would be preferable in order to avoid collision with a vessel approaching from near the starboard beam."

In this case, at about the time **Morning Haruka** altered course to port **Purbeck** was approximately 60° on **Morning Haruka's** starboard bow at a range of 2.1 miles. **Morning Haruka's** manoeuvring information indicates that in ballast she has an advance of 3 cables in turning through 90°.

² A.N.Cockcroft and JNF Lameijer, A Guide to the Collision Avoidance Rules, fifth edition, 1996.

Morning Haruka failed to comply with **International Regulations for Preventing Collisions at Sea, Rules 7, 8, 15 and 16/Maritime Rule Part 22.7, 22.8, 22.15 and 22.16.**

The Master of ***Morning Haruka*** was not on the bridge at the time of this incident. Maritime New Zealand consider it appropriate that he was, given that the vessel was a tanker navigating in relatively unfamiliar waters and transiting a Strait with known crossing ferry traffic.

In the opinion of Maritime New Zealand, both ***Purbeck*** and ***Otakou*** complied fully with the requirements of the **International Regulations for Preventing Collisions at Sea Rule 17/Maritime Rule Part 22.17.**

SAFETY RECOMMENDATIONS

It is recommended that in addition to the interested parties referred to in this report, Maritime New Zealand forwards copies of the report to the following:

1. The secretariat of the International Maritime Organisation.
2. The flag state of *Morning Haruka*.

