Independent Review of Maritime New Zealand’s Response to the MV *Rena* Incident on 5 October 2011

Simon Murdoch, Reviewer

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Preface

In his introduction to *Casualty Management Guidelines* (2012), technical editor John Noble says that “many people caught up in a major casualty response ... will never have experienced anything like [it] in their careers before. ... Even ashore, parties with responsibility for dealing with the casualty may never have experienced the mechanics of major casualty response until it occurs. While all the training that does take place is invaluable, nothing quite prepares a responder for a first-time reaction”.

The response phase is the period in an emergency when this shock has to be absorbed at the same time as mitigations and remedies begin to be applied. Later phases may be equally or more problematic in substance, but are less demanding in regard to both operational tempo and the undefined operational theatre in which the response must embed itself.

The pressures of the *Rena* incident caused Maritime New Zealand (MNZ), across its systems and response machinery, to buckle initially. Some of its planned and exercised response functions had limited resilience to begin with and were impaired in ways that might have damaged the response as a whole. Others had to be reinforced and scaled up, and that did not always happen quickly or seamlessly. Because there is no off-the-shelf solution, each response starts anew. MNZ, having absorbed the initial shock, needed to be able to adapt, adjust and create resilience. This review indicates where these qualities were displayed and to what effect in the longer term.

A major maritime casualty is both an industrial accident and a natural disaster. There will always be a gap between the worst-case risks presented by a major maritime casualty and the indigenous response capabilities of most sovereign states, especially smaller countries and particularly those with maritime domains as extensive as New Zealand’s. The transport sector as a whole operates within ceilings of risk tolerance and rations resources across it. New Zealand’s indigenous maritime response capabilities, in aggregate as a national system, are limited partly by historic policy choices about acceptable risk and partly by affordability. The level of investment in MNZ’s response mission and capability has been constrained by the funding mechanism – a tied industry “tax”. MNZ itself is a small agency primarily focused on reducing risk through regulatory interventions – the fence at the top of the cliff. A casualty of the dimensions and complexity of the *Rena* grounding with a broad spectrum of risks at national, regional and local levels would inevitably find points of vulnerability in the standing response plans and available systemic capability for which MNZ has statutory responsibilities.

A coastal state can offset its vulnerability by accessing protections that come from operating within the wider framework of law governing international liabilities and compensation. This enables government-to-government collective support and creates the incentives to bring global salvage and insurance industry assets into a national incident response.

These parties brought reinforcements to the *Rena* response – expertise, technology and investment – on the scale needed to avert catastrophic pollution. In this sense MNZ was
not the sole or even the principal contributor to the Rena outcome such as it has been to date. Indeed success or failure in the response phase rested on the individual and conjoined efforts of an alliance of institutional contributors, foreign and domestic, whose particular assets and competencies needed to be effectively orchestrated. The conduct of relationships with the principal funders of the response (the Protection and Indemnity Club) and with the multinational, commercial salvage industry consortium engaged by Costamare was critical to the outcomes achieved in the response as a whole. The inputs from London Offshore Consulting greatly helped MNZ in this respect.

A common view of those interviewed, reflecting on the outcomes of the response, was that “it could have been a lot worse”. They felt that fate or luck had played a part in so far as the vessel itself had held together long enough against the forces of nature for the response to become reinforced and to gather the strength and organisational shape to deliver the mitigations against multiple pollution and other risks as effectively as it did.

It is in this respect that MNZ had vital managerial roles to perform both at the tactical level in terms of the discrete operational and functional elements of the response and at a higher level of response strategy and governance. The internal lessons learned project has already given MNZ a good grasp of the former. This review revisits those findings, but from an holistic perspective. Its recommendations concentrate on the latter. They outline, as key principles, what the lead agency needs to do competently at both levels in a future major incident response to give itself a fair prospect of achieving at least the level of success that can be justifiably claimed for the Rena response.

In essence this can come from a deeper institutional appreciation of how, when faced with a major incident and risks far in excess of the planned response capability, a coastal state copes, in particular how soon it can establish an overall response environment that has structure, order and coherence. This is the strategic platform that the operational and functional elements need in order to become effective and perform optimally.

For many stakeholders, especially those in local and regional government, the Rena incident is not over; the response phase may be but not the recovery, let alone restoration and rehabilitation. In acknowledging this, I wish to thank those who agreed to speak to the review. For some, it was to recall a period of profound stress or professional overload – often both. It is to be hoped that they can tell how their experiences and judgements about them influenced the review.

The conclusions reached and the recommendations made are my sole responsibility.

I also thank the sponsors for the approach they have taken. To be part of an internal review but independent of it involves boundaries that must be set and respected. That has been the case.

Support for the review process within MNZ has made the task manageable. Harry Hawthorn, Sue Lister, Andrew de Montalk and Jill Brodie each helped keep me on track and provided valuable assistance or advice. The review has been edited most ably by Belinda Hill.

Myrie Randell was asked to work alongside me from the start. For agreeing to take on that task and for all the project management and other skills for which I called on her, and which she has given in full measure over the past seven months, I express deep appreciation.
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## Abbreviations

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<th>Description</th>
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<tbody>
<tr>
<td>AMSA</td>
<td>Australian Maritime Safety Authority</td>
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<tr>
<td>CIMS</td>
<td>Coordinated Incident Management System</td>
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<td>ICC</td>
<td>Incident Command Centre</td>
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<td>LLC76</td>
<td>Convention on Limitation of Liability for Maritime Claims (1976)</td>
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<td>LOC</td>
<td>London Offshore Consultants</td>
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<td>MERCOM</td>
<td>Maritime Emergency Response Commander</td>
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<td>MIC</td>
<td>Maritime Incident Controller</td>
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<td>MIRT</td>
<td>Maritime Incident Response Team</td>
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<td>MNZ</td>
<td>Maritime New Zealand</td>
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<td>MPRS</td>
<td>Marine Pollution Response Service</td>
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<td>NMERA</td>
<td>National Maritime Emergency Response Arrangements</td>
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<td>NOSC</td>
<td>National On-Scene Commander</td>
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<td>NOWRT</td>
<td>National Oiled Wildlife Response Team</td>
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<tr>
<td>NRT</td>
<td>National Response Team</td>
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<tr>
<td>ODESC</td>
<td>Officials Committee for Domestic and External Security Coordination</td>
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<tr>
<td>SCOPIC</td>
<td>special compensation protection and indemnity club</td>
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<tr>
<td>SOSREP</td>
<td>Secretary of States Representative for Maritime Salvage and Intervention</td>
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Part A: Context

1. Background to the independent review

**MV Rena incident – cargo vessel grounds off Tauranga coast and leaks oil**

1.1. Early on 5 October 2011, the MV *Rena*, a cargo vessel, grounded on Astrolabe Reef off the Tauranga coast. The ship’s bow section wedged on the reef but its stern section remained afloat. Cargo holds flooded and more than 350 tonnes of heavy fuel oil leaked from the vessel. *Rena* developed a list, losing containers over board, some of which washed up on the coastline along with other debris. The role of Maritime New Zealand (MNZ) was to coordinate the response to the oil spill and oversee the salvage operation.

**Independent review commissioned**

1.2. The Independent Review of Maritime New Zealand’s Response to the MV *Rena* Incident is an independent perspective on defined matters relating to the response phase of the *Rena* incident. MNZ and the Ministry of Transport commissioned the review. After a period of initial scoping, the review was formally approved in August 2012 and commenced in late September. (See section 2 for the scope and approach of the review.)

1.3. The Maritime Transport Act 1994 provides for a three-tier response to an oil spill, depending on a spill’s size, cost, location, complexity or environmental impact. Tier 3 is the response to the most serious or significant spills. The recovery phase of the *Rena* incident began when the status of the response reverted from Tier 3 to Tier 2 on 4 May 2012, and management responsibilities were transferred to a Regional On-Scene Commander.

1.4. On 30 May 2012, the Incident Control Centre in Tauranga (which had been established on the day of the grounding) was closed. MNZ’s ongoing responsibilities had been centralised earlier (January 2012) in a new Wellington-based business unit with a small Tauranga presence (the Response and Recovery Unit).

**Mandate of the review**

1.5. This review is mandated to address MNZ’s response to the incident. The accepted taxonomy for disaster management moves through four interlinked phases. Therefore, the review focuses on the first phase (response) and touches on the second (recovery) for which early planning began in the mid-stage of response. It does not cover restoration and rehabilitation.

1.6. This review deals predominantly with the performance of MNZ, which holds the statutory responsibility for regulating New Zealand’s maritime jurisdiction and is the statutory responder in a maritime casualty that is larger than that which could be handled effectively at an industry (Tier 1 response) or a regional (Tier 2 response) level.
1.7. From early 2012, MNZ ran a series of internal post-operational debriefs of its response units and personnel. The Reviewer did not participate in these debriefs, but was given access to the documents they gave rise to, some in draft form, and was able to re-engage with the in-house contributors to the debriefs, as well as former MNZ staff. In addition, the Reviewer was mandated to engage with a variety of response participants from organisations and commercial entities other than MNZ and to obtain the perspectives of public and private sector stakeholders who had been affected by the Rena incident or response operations.

1.8. Between 25 September and 20 December 2012, the Reviewer held over 80 meetings with response participants or stakeholders in Wellington, Tauranga and Auckland. Those who spoke with the Reviewer are listed in Annex C.
2. Terms of reference

2.1. The Terms of Reference for the independent review, made public on 26 September 2012, contained the following directions for the purpose and scope of the review.\(^1\)

**Purpose**

2.2. The intended outcome of the independent review is to examine the Maritime New Zealand (MNZ) response to the *Rena* incident and establish the factors that contributed to or limited its effectiveness.

**In scope**

2.3. The Terms of Reference stated the review would cover MNZ’s response in the major areas of:
- planning and preparedness
- oil spill response
- salvage oversight
- Maritime Incident Response Team actions
- investigation of the incident
- administrative support functions that enabled the response activity
- communications and community engagement.

2.4. The Terms of Reference also stated that the review would consider:
- the effects of the response on MNZ’s business continuity
- MNZ’s ability to respond to a wider-ranging major maritime incident (for instance, one involving loss of life as well as an oil spill and salvage activities).

**Out of scope**

2.5. The Terms of Reference specified that outside the scope of the review were:
- the regulatory framework per se (a review of the Maritime Transport Act 1994, and rules and international conventions as they relate to oil-spill responses) except for consideration of the extent to which statutory powers were adequate to provide the responses required
- the wider government response (this is not a whole-of-government review) except as this relates to MNZ’s engagement with whole-of-government structures such as the Officials Committee for Domestic and External Security Coordination
- the recovery component of the response
- how other agencies operated (central or local government) except as this relates to how MNZ engaged with them and involved them in the response
- the cause of the accident; such matter being the subject of the accident investigation being carried out by the Transport Accident Investigation Commission.

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3. Methodology and approach

No formal powers of inquiry, participation voluntary

3.1. The sponsors of this review saw it as part of a progressive internal debriefing and lessons-learned process for which they had a plan and schedule. The Reviewer was not given any formal powers of inquiry.

3.2. The Reviewer emphasised to those whose accounts of the response he sought that he had no ability to compel “witnesses” and was not “taking evidence”: participation was entirely voluntary. The Reviewer invited participants to talk frankly, and he undertook to respect those points they considered sensitive or observations and judgements made in confidence.

3.3. The Reviewer also explained that he had no mandate to report on the conduct or behaviour of individuals for performance-related purposes. The Terms of Reference clearly pointed the Reviewer towards the structures, functions and systems that made up the Maritime New Zealand (MNZ) response as a whole, and potential improvements to them.

Two-part review

3.4. During the scoping period, the sponsors and the Reviewer agreed how the review should be undertaken. The core of the review is in two parts:
- MNZ’s response mission (its capabilities, systems, doctrine and practices) at the outset of the Rena incident (Part B)
- MNZ’s actual response (seen as a complex operation with human and technological dimensions) (Part C).

3.5. Specifically, Part B of this report considers, on the eve of the Rena incident:
- MNZ’s response mission (planning and preparedness) (section 5)
- the policy framework (including MNZ’s authorising environment and systemic capability, as well as New Zealand’s national response management system) (section 6).

3.6. Part B ends with the Reviewer’s conclusions on MNZ’s state of readiness (section 7).

3.7. Part C considers the incident response through two phases:
- initial response:
  - the response declaration and implementation (section 9)
  - risk appreciation and cross-agency support (section 10)
  - the first oil containment and removal steps (section 11)
- long-term response:
  - oil spill and other maritime pollution combat operations (section 12)
  - oiled wildlife protection operation and other ecosystem issues (section 13)
  - the waste train (section 14)
– community relations, volunteer involvement, and iwi and hapū engagement with the response (section 15)
– investigation and criminal liability proceedings (section 16)
– media services and public information (section 17)
– international aspects (section 18)
– administering the response (section 19)
– from de-escalation to recovery (section 20).

3.8. Part C ends with the Reviewer’s conclusions on MNZ’s incident response (section 21).

3.9. Part D contains the Reviewer’s recommendations (section 22).

3.10. Annexes A–E contain supporting information. A list of references completes the report.
4. Introductory observations: context and narrative

Introduction

4.1. This review report does not give a full history of the *Rena* incident or the response phase. In due course, Maritime New Zealand (MNZ) may consolidate its own debriefs and records with other such material from other official sources to form such an account. However, preliminary narrative is required to form a backdrop for what follows in this review.

4.2. This section provides selected facts about MNZ and the *Rena* incident that have been drawn from a variety of sources and interpreted by the Reviewer. MNZ and other maritime industry professionals will well understand much of this information. However, for others such as some *Rena* response participants and contributors from other disciplines, it will be less familiar but is necessary to give context to the subsequent parts of this report.

Maritime New Zealand

4.3. The Maritime Safety Authority was established in 1993 as a Crown entity and was renamed Maritime New Zealand in 2005. MNZ is governed by a five-member board known as the Authority. MNZ is one of the operational and regulatory arms of the transport sector of the New Zealand Government for which the Minister of Transport and Ministry of Transport are responsible.

Functions and outputs

4.4. MNZ’s primary functions and duties arise from the Maritime Transport Act 1994. MNZ receives Crown funding through Vote: Transport, but the bulk of its income is from levies and fees that third parties pay for services. Its annual expenditure is approximately $26 million.

4.5. MNZ has a current establishment of 154 full-time equivalent staff, most of whom are based in Wellington. However, MNZ also maintains a regional presence in nine major ports and has two specialist services – the Rescue Coordination Centre of New Zealand in Lower Hutt and the Marine Pollution Response Service (MPRS) in Auckland.

4.6. MNZ delivers outputs in respect of the commercial shipping sector: this includes international cargo and cruise operators; categories of vessel such as interisland ferries, coastal traders and tankers recognised under international regulations; and domestic operators of fishing or commuter/passenger services. MNZ also covers adventure providers, recreational boaters, and the oil and gas industries. Sea transport is New Zealand’s most-common transport type for imports and exports. An average of 87 percent of exports by value and 76 percent of imports by value were transported by sea between 2000 and 2010.\(^2\)


New Zealand, 738 vessels and 63 tankers made 5,517 port visits in New Zealand in 2009/10.

**Relationship with the Ministry of Transport**

4.7. The role of the Ministry of Transport in respect of the Crown entities in the transport sector is as a high-level performance monitor and adviser to the Minister of Transport. The ministry monitors and advises on such matters as the place of shipping in an integrated national transport policy, and the connectivity of that policy to the Government’s wider strategic priorities for the economy, environment, and social and community well-being.

4.8. The conduct of regulatory and response business between the Government and the maritime sector (including policy settings and priorities), and the organisational management of MNZ are not Ministry of Transport accountabilities; they fall to the Director of MNZ and the Authority.

4.9. The Ministry of Transport monitors MNZ’s governance responsibilities, as it does performance, but at arm’s length from its operations. In practice, the Ministry facilitates MNZ’s engagement with central government in regard to budgetary and funding issues and the more systemic aspects of business development, such as those involving legislative change (for example, in relation to the Oil Pollution Levy or International Maritime Organization conventions).

**Change programme**

4.10. During 2009/10, MNZ, one of many public sector entities similarly tasked by the Government, commenced a major strategic rethink about its core business and preferred business model. MNZ concluded that it should adopt a new model. It proposed to move from an approach based on a regulatory doctrine of highly prescriptive rules and standards to an approach that would make more use of outcomes-based rules and seek to minimise compliance costs for the maritime sector. At the same time, the new approach would incentivise higher levels of operator awareness of and commitment to a strong safety culture.

4.11. MNZ accordingly revised and redesigned its Qualifications and Operational Limits Framework and its Safe Ship Management System. The proposed changes in strategic direction and organisational business practices generated reviews of MNZ’s funding, staffing requirements and competency needs. (In 2010, a value-for-money audit by Ernst & Young gave rise to a full-scale funding review.) There were also consequences for organisational structure and the configuration of the Executive Team. Overall, this change programme was a work in progress when the Rena incident hit the organisation. The Director of MNZ had completed her term in office, and her successor had been named.

**Maritime response mission**


4.13. The first objective is for MNZ to ensure New Zealand meets the international treaty obligations that arise from the country’s membership of the International Maritime Organization and adherence to certain of its subsidiary bodies and instruments. The
International Convention for Oil Pollution Preparedness, Response and Cooperation and the liability conventions are the most relevant for this review. ³

4.14. The second objective is for MNZ to meet the requirements of domestic legislation, principally the Maritime Transport Act 1994. This Act tasks the Director of MNZ with:

- preparing the New Zealand Marine Oil Spill Response Strategy (national response strategy) and the National Marine Oil Spill Contingency Plan and reviewing them regularly
- ensuring regional, shipboard and site marine oil spill contingency plans are prepared and regularly reviewed
- ensuring necessary training for successful implementation of the national strategy
- appointing a National On-Scene Commander (NOSC) and alternates to lead response operations.

**New Zealand Marine Oil Spill Response Strategy**

4.15. The national response strategy outlines the three-tiered marine pollution response system and establishes frameworks and policy principles for partnership and cooperation within that system. ⁴ In the event of an oil spill, the polluter is liable for all reasonably incurred costs associated with the response within specified limits. Those responsible for each tier response must prepare contingency plans and a response capability appropriate to their level of responsibility. ⁵

- Tier 1 – industry (that is, ships and onshore and offshore oil transfer sites) is responsible for responding to the oil spill incidents for which it is responsible.
- Tier 2 – regional councils are responsible for responding to oil spill incidents in their part of the territorial sea where the spill exceeds the clean-up capability of a Tier 1 responder or the responsible party cannot be identified. ⁶
- Tier 3 – MNZ (through MPRS) is responsible for responding to all escalated Tier 2 spills and other spills in New Zealand territorial waters. (MPRS also attends regional incidents and may advise on response options.)

4.16. The national strategy also addresses roles and responsibilities, escalation guidelines and financial accountabilities, notably for the recovery of costs incurred in a response. The review process is a five-yearly cycle that begins with the updating of the current marine oil spill risk assessment and reviewing capability.

4.17. There have been no legislated changes to the response system since 1994, and New Zealand has not taken on any new International Maritime Organization obligations that require domestic arrangements to be changed to meet a treaty standard. Such system improvements as have occurred arose from consideration by the Authority and

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³ These liability conventions are the Convention on Limitation of Liability for Maritime Claims and the International Convention on Civil Liability for Bunker Oil Pollution Damage.


⁶ The territorial sea of New Zealand is the area of water not exceeding 12 nautical miles from the coast. For the legal definition, see section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977.
MNZ management of findings from incident reports or from reviews conducted internally or externally as part of the strategic planning cycle.

4.18. It becomes apparent from even a cursory review that the Maritime Transport Act 1994 is very prescriptive about a marine pollution incident caused by an oil spill, but is less so about other kinds of pollutant. In turn, MNZ, quite properly with its eye on meeting its core duties, has tended to focus on an oil spill response ahead of other kinds of pollution combat.

**Marine Pollution Response Service**

4.19. MPRS is the operational unit of MNZ with direct responsibility for response operations and response coordination (particularly for oil spills). The service is in Auckland (Te Atatu), and has nine staff (8.2 full-time equivalents) plus a manager who reports to a Wellington-based general manager. At the time of the *Rena* incident, both the manager and general manager were relatively new to their MNZ roles, although both had had considerable crisis management and emergency experience elsewhere in government.

4.20. For a major maritime oil spill, MPRS undertakes the overall command role and other leadership duties in mounting an effective response; otherwise it provides support and standby services to the relevant responders for Tier 1 and Tier 2 incidents. MPRS has vessels and maintains holdings of technical equipment and dispersant at Te Atatu (for its own Tier 3 use) and at regional depots. It also designs the overarching systems, doctrine, plans and procedures of the national response framework. For a Tier 3 response, the National Response Team (NRT) is activated. The 50-person NRT comprises staff from MPRS and MNZ and two senior professionals from each of the 16 regions. They receive advanced training and exercise regularly.

4.21. About 500 personnel based in the regions have work experience or qualifications that fit them for roles in maritime incident response. From this pool, and aiming at a minimum number of 362 operatives, MPRS also trains an auxiliary group of regional responders. Besides having Tier 2 roles, they are the “surge capacity” of the NRT for Tier 3 responses. (In fact, in October 2011, this group was about 400 strong according to MPRS assessment.) In the course of the review, the expression “badged NRT” became a useful shorthand to distinguish the core NRT (50 people) from the regional responders group who form a “ready reserve” and whose access to MPRS-led training and exercising is more limited and less frequent.

4.22. MPRS funding depends on an industry levy, the Oil Pollution Levy (which feeds the Oil Pollution Fund), to meet reasonable costs associated with planning for and responding to marine oil spills.

4.23. The levy has been unchanged since 1998. The oil and offshore oil drilling industry are the main contributors of the levy. Unlike the comparable Australian pollution fund, several

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7 Those line managers of Incident Command Centre functions are known collectively as the Incident Command Team. Their roles and duties are detailed in the national contingency plan.

8 Annex D summarises MPRS and NRT involvement in oil spill incidents and exercises.

9 The Oil Pollution Fund is intended to provide funding sufficient to support New Zealand’s oil pollution preparedness and response function and capabilities under the Maritime Transport Act 1994.
sctors of New Zealand’s maritime industry (fishing and the domestic coastal maritime fleet) are exempt from contributing to the levy.

4.24. The Maritime Transport Act 1994 transferred the Oil Pollution Fund from Treasury to the Ministry of Transport, and established the Oil Pollution Advisory Committee to provide advice on the fund. At the time of the transfer, reserves of $12 million had been ring-fenced for immediate or short-term operational expenditure for oil spill response and to cover costs in any spill for which the polluter was not identified or otherwise not recoverable.

4.25. It was further decided that this level of reserves was too high and should be run down to a new limit of $1 million. The Minister of Transport agreed to reset the reserve at $2 million in mid-2010.

4.26. In its 2012–2015 Statement of Intent,10 MNZ commented that a trend towards a structural deficit with revenue from the fund ($3.2 million) not covering MPRS expenditure ($4.5 million) was observable, and noted that consultations with industry on proposals for a new levy regime had begun.

Evolution of the Maritime New Zealand response system

4.27. The history of MNZ’s response system and practices for Tier 3 incidents began with the grounding of the Taiwanese fishing vessel Dong Won 529 and an associated diesel oil spill off Stewart Island in 1998. MPRS took over the response operation from the Southland Regional Council, and implemented the then plan and incident command system, including the mobilisation of elements of the NRT.

Jody F Millennium incident

4.28. In the years following the Dong Won 529 grounding, three other oil spills or potential spills were escalated to Tier 3 level. Of these, the most recent before the Rena incident occurred over a decade earlier. In February–March 2002, the bulk log carrier Jody F Millennium was unable to moor securely in Gisborne Harbour in heavy swells. When the carrier was taken out to the port approaches, it grounded about 424 metres from Waikanae Beach with 430 tonnes of heavy fuel oil and 20,000 tonnes of logs on board. From 8 to 25 February, a 25 tonne oil spill occurred, affecting about 8 kilometres of coastline in an environment of considerable cultural, ecological and recreational sensitivity.

4.29. The salvage operation addressed the containment of oil on board and its pumping to Lancer barges for transfer to the Royal New Zealand Navy tanker Endeavour. MPRS (through the NRT) conducted booming and dispersal of the spilled oil. The National Oiled Wildlife Response Team, a specialist group built around Massey University undertook a wildlife protection operation. (The university’s veterinary and wildlife unit has been retained since 1998 to respond to Tier 3 incidents.) A barge from Picton discharged cargo while attempts were made – ultimately successfully – to refloat the vessel.

4.30. The incident required a Tier 3 response for about one month.

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Findings of the Jody F Millennium incident review

4.31. The Director of MNZ (then the Maritime Safety Authority) commissioned a formal review of the spill response. The two external reviewers visited the response and later attended the MNZ internal post-operational debriefs. The reviewers’ report had significant bearing on the evolution of MNZ’s response doctrine, structure and planned procedures. The report also provides a benchmark against which this review can measure the scale of the Rena incident in terms of risk and the severity of the challenges it posed for the response. The reviewers’ main findings were as follows.

- The spill response implemented operationally (that is, through the NRT in the Incident Command Centre (ICC)) a well-established plan (that is, a plan consistent with the national contingency plan).
- However, in respect of MNZ’s coordination role and its command, through the ICC, of oil pollution combat operations, there were limitations.
  - Some flaws in the mobilisation rate of the NRT and the time taken to get the ICC to full functionality.
  - Communications to and engagement with the local community, especially iwi, was too low key initially.
  - Potentially damaging communication difficulties arose between the commercial salvor and MNZ because MNZ “did not have access to the appropriate level of salvage expertise in order to adequately monitor and assess the conduct of the salvor”, (The report also commented extensively on other aspects of salvage command and control as a doctrinal issue that had been the subject of an MNZ-led working party study in July 2001, and concluded that there was a demonstrated need for a new role of salvage advisor in the response structure.)
  - There were problems with the structure for reporting from the operational frontline (the ICC and NOSC) to the strategic rear at MNZ headquarters in Wellington (the Director and the Director’s Advisory Team). It was in Wellington where responsibility lay formally for assessing the national interest and position on salvage issues and for dealing with Ministers and other interested external parties, both domestic and international.
  - Costs (notwithstanding the benefits) arose for the response’s managerial coherence because the Director and only available Deputy Director had to spend an extended period (11–15 February) in Gisborne, away from the Director’s Advisory Team in Wellington.
  - The lines of decision-making responsibility (that is, the authorising environment) were blurred at times. Executive Team members at the frontline and in the ICC occasionally diverted the tactical response (under the statutory operational command of the NOSC) into broader issues.

Appreciation of the importance of iwi liaison and its place in response structures and plans (including the Director’s Advisory Team in Wellington) was lacking.

Earlier formal involvement of the district council’s resources might have been advisable. (The NOSC “should be alert ... to the views” of the Regional On-Scene Commander” even when the response has not begun at the regional Tier 2 level.\textsuperscript{14})

\textit{Changes to the response system as a result of the review}

4.32. As a result of the findings from the \textit{Jody F Millennium} incident review and influenced by international best practice, MNZ revisited aspects of its response thinking and changed its response system. The five developments that merit description in this review are the:

- resolution of the balance between salvage advice and salvor liaison
- engagement of London OffShore Consultants (LOC) to provide salvage advice
- establishment of the Maritime Incident Response Team (MIRT)
- establishment of the Maritime Incident Controller (MIC) position
- redefinition of the response “rear” and “front” in light of the resourcing of the new roles.

4.33. In March 2003, MNZ had entered upon a retainer contract with LOC Asia, a salvage consulting firm in Singapore, to fill the role of salvage advisor on a callout basis.

4.34. The issue of salvage (or salvor) liaison was addressed (if not fully clarified) by tying the function to the new “rear” structure (MIRT) that was being established and placing it under a new senior manager position, the MIC further described below. The 2010 standard operating procedures said that the salvage liaison officer would be MNZ’s “eyes and ears” on the vessel and would report directly to the MIRT and the MIC.\textsuperscript{15} The provision of advice to the MIC about salvage policy issues and options was seen as a MIRT function allocated to its Planning and Intelligence Unit. The relevant annex of the national contingency plan describes the salvage liaison function differently. The function is “to enable the continuing exchange of information regarding the salvage operation between the [Director of MNZ/NOSC], the Maritime New Zealand appointed Independent Salvage Adviser and the Salvage Master”. There is no reference to MIRT or MIC in the relevant diagram.

4.35. The question of what response functions lay at the front with the NOSC (the ICC) and what at the rear with MNZ (the Director and Director’s Advisory Team) was addressed. The 2010 guidelines recognised that many kinds of maritime casualty risks might not involve a significant oil spill or a search and rescue operation or both. Accordingly, a wider mission existed than that expressly allocated to MPRS and the Rescue Coordination Centre of New Zealand (“MNZ’s [two] standing and primary response units”).\textsuperscript{16} This wider mission needed to be articulated and given an identity as well as organisational form and substance. A new body, described as an ad hoc, secondary


entity, was created – MIRT. Its key functions were monitoring, supporting, coordinating and fully controlling (leading) a response, depending on the exact nature of the incident.

4.36. The designated leader of MIRT for an incident would be known as the MIC (or maritime incident controller or coordinator). The MIC was seen as holding a full set of delegated powers from the Director of MNZ. Boundaries between the functions of the NOSC and the MIC for oil pollution responses were delineated. From the standing operating procedures, it appeared that the MIC role was not to be filled by either the Director or the relevant second tier (Executive Team) manager. The standard operating procedures depicted their responsibilities during an incident as follows.\(^{17}\)

**Director of Maritime New Zealand**

4.37. During an incident response, the Director of MNZ needs to:

- advise the Minister of Transport and other Ministers as appropriate
- advise the Authority and Secretary of Transport as required
- maintain a strategic overview for MNZ, including assessing organisational risk
- appoint or replace the MIC (or Maritime Incident Coordinator)
- ensure adequate liaison occurs with key stakeholders such as local members of parliament and chief executives of relevant government departments
- delegate powers as necessary
- initiate section 325 reviews as required\(^{18}\)
- ensure MNZ continues to deliver its business-as-usual functions.

**General Manager, Maritime Security and Incident Response**

4.38. The General Manager, Maritime Security and Incident Response, if not appointed to the MIRT, becomes a member of the Director’s Advisory Team. In addition, this general manager is responsible for:

- advising the Director of MNZ on the appointment of MIRT members
- overseeing MIRT operations
- ensuring suitable MIRT replacements are available and that operations are sustainable
- conducting debriefs as soon as practicable after operations have concluded to capture and process lessons learned.

**Director’s Advisory Team**

4.39. The mandate of the Director’s Advisory Team had been to provide whatever support was requested by the Director or the ICC; keep the Director appraised of the incident and response; provide specialist legal, human resources, financial and media advice; and provide other special advice and liaison activities as required.\(^{19}\)


\(^{18}\) Under section 325 of the Maritime Transport Act 1994, “The Director may, at any time within 2 years of a marine oil spill response being carried out, review that response with a view to improving such responses in the future rather than assigning blame to any person for any errors or omissions with respect to that response”.

4.40. The Director’s Advisory Team was conceptually and practically superseded by the creation of MIRT as part of a wider set of structural changes that merged previously separate outputs for response and audit/investigations under an acting manager until the appointment of the General Manager, Monitoring and Response in September 2009. The Reviewer understands that the MNZ Executive Team – comprising the deputy director and five general managers – was to fulfil the support to Director function, but the remaining functions now delinked from the Director would be covered by MIRT.

4.41. The proposed structure of MIRT is in Figure 1.

**Figure 1**: Proposed structure of the Maritime Incident Response Team

![Diagram of MIRT structure]

Note: DAT = Director’s Advisory Team; ICC = Incident Command Centre; MCDEM = Ministry of Civil Defence and Emergency Management; MIC = Maritime Incident Controller; MiCoord = Maritime Incident Coordinator; MNZ = Maritime New Zealand; NOSC = National On-Scene Commander; P & I = Protection and Indemnity; RCCNZ = Rescue Coordination Centre of New Zealand.

4.42. The MIRT guidelines went on to outline the role of the Director (or MIC acting under delegation) to deal with a hazardous ship, in particular to assume control from the ship’s master, its owner or a salvor under certain circumstances of risk of harmful consequences to the marine environment or to marine interests. (This recognised that the new salvage advisor function recommended in the 2002 review would report directly to the Director, be senior to and separate from the old salvor liaison function, and not be able to be directed by the NOSC.)

4.43. Although the guidelines are not explicit about the status of MIRT compared with the NRT, it appears:
- they would be separate entities
- MIRT would be the clearinghouse for all maritime incidents
• NRT would be dedicated to oil pollution combat, with a dedicated budget (via the Oil Pollution Fund) for preparedness-related activities.

4.44. The guidelines refer to the interests of the wider national emergency response community at central government level, and the role of the Security and Risk Group in the Department of the Prime Minister and Cabinet. However, this is related mostly to the provision of information (not protocols for the integration of their capabilities and assets into a Tier 3 response). The guidelines also provided for a community relations plan to be created, and for a dedicated manager to run it in consultation with the regional council or territorial local authority, but did not otherwise describe the possible interdependencies.

International support arrangements

4.45. The New Zealand Marine Oil Spill Response Strategy states that in the event of a major spill beyond the risk threshold established for domestic capability, New Zealand “has established arrangements for international assistance” through the International Convention for Oil Pollution Preparedness, Response and Cooperation (1990) and related formal mutual assistance arrangements, notably with Australia. (A Memorandum of Understanding between MNZ and its Australian counterpart the Australian Maritime Safety Authority (AMSA) was agreed in 2009.) The strategy notes that there are other “quite informal” understandings with agencies and organisations in other countries that MNZ has been reviewing, renewing or upgrading. It is explicit that New Zealand’s reliance on international assistance is “fundamental”, and that the country’s geographic isolation will inevitably mean delays until significant overseas resources can be mobilised.

4.46. The National Marine Oil Spill Contingency Plan establishes that the NOSC is the decision maker about seeking overseas resources for a New Zealand oil spill response, although the statutory authoriser of the request is the Director of MNZ. The task of liaising with the international partner is allocated to MIRT, which will complete the formal legal steps to invoke a support arrangement and thereafter maintain the relationship. Four priority sources of overseas support are identified in the national contingency plan: AMSA, Australian Marine Oil Spill Centre Pty Ltd, Oil Spill Response Ltd (Singapore and Southampton). The Memorandum of Understanding with AMSA provides for MNZ to “sub-lease” Oil Spill Response Ltd equipment covered by Australia’s arrangements with Oil Spill Response Ltd.

4.47. It is also noted in the relevant planning documents that “spiller’s representatives” will attend the response, most likely from the relevant protection and indemnity club of insurers, but the International Oil Pollution Compensation Fund may also be represented.

MV Rena and the nature of the incident

4.48. Some of the information in this section was not available to MNZ at the time of the grounding, but emerged from investigation and was used in court proceedings.

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21 During the response, MNZ sourced equipment and assistance from the UK Oil Spill Response Ltd.
4.49. **Rena**, a 22-year-old German-built container vessel, was fitted with seven cargo holds. It had a total capacity of 3,352 20-foot equivalent units (TEU), split as 1,384 TEU within the holds and 1,968 on deck. In addition, the vessel was originally designed to carry 121 refrigerated units. **Rena** was on its second voyage around New Zealand, having left China in June and made port calls in Australia before arriving at Bluff on 28 September. MNZ conducted a standard port safety inspection at Bluff, before **Rena** proceeded to Port Chalmers, Lyttelton, Wellington and Napier. On the morning of 4 October, **Rena** departed Napier with a plan to reach the Tauranga pilot station no later than 3 am the next day to meet a tidal window of opportunity to enter the port. At 2.14 am, **Rena** struck the Astrolabe Reef (Otaiiti) at maximum speed.

4.50. **Rena** grounded on the reef bow-first, causing instantaneous damage to its bottom structure (60 metres of keel, about 25 percent, was torn away). The damage resulted in several watertight compartments being flooded from the bow area to the number 4 hold. There was also extensive damage to oil tanks and pipelines. While the bow remained hard aground (stuck fast into the reef), the stern section was still afloat and buoyant to the prevailing north-east weather patterns as experienced in the Bay of Plenty during a bad weather event. In effect, the bow section became a pivot on which the aft section swivelled and rotated in bad weather. Initially, the vessel had an 11 degree list to port. The hull was under such stress that initial cracking from the impact was forecast to worsen at an unpredictable rate, and a complete (“catastrophic”) breakup of the vessel was seen from early on as a worst-case risk but one of high probability.

4.51. As it turned out, on 10 and 11 October a severe weather event consisting of north-easterly swells of up to 8 metres, dramatically altered **Rena**’s position on the reef, shifting from the port list to a 22 degree list to starboard. The vessel’s main superstructure was also subject to extensive cracking at the number 3 hold, the point where the vessel was pivoting on the reef. **Rena**’s condition continued to deteriorate. Although “effectively broken into two separate parts”, **Rena** lay on the reef for a further three months. It was not until 7–10 January 2012, following another severe storm, that the stern section (in which the navigation suite and crew accommodation were located) severed completely. The stern section repositioned itself on the reef close by the forward section. The stern section remained buoyant. On 10 January, the stern section lost buoyancy and sank on the reef in a partly submerged state, the deepest part being about 70 metres. The partially submerged fore section remained fixed on the reef. Over the autumn and winter months of 2012, heavy seas caused further structural failure to both the submerged and visible parts of the wreck, with broken-off sections either lying on the reef below the waterline or on the seafloor adjacent.

4.52. The voyage plan had provided for **Rena** to refuel and take on cargo in Tauranga before leaving New Zealand. At the time of the grounding, **Rena** was carrying 1,368 containers of which 11 were declared dangerous goods. There were 547 containers, many empty, locked together on deck, and 821 containers in the various holds. The containers were

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23 This figure was later found to be inaccurate; on closer investigation, 32 containers of various chemicals were certifiably dangerous goods. MNZ has investigated this matter separately.
both standard “boxes” and refrigerated units (made of lighter steel and more fragile) housing perishable organic materials prone to decomposition. During the first storm on 10 and 11 October, 88 deck containers fell overboard. When the aft section finally severed in January 2012, it held 309 containers.

4.53. At the time of grounding, Rena was estimated to be carrying the equivalent of 1,761 cubic metres of heavy fuel oil and 75.3 cubic metres of marine diesel oil, as well as a quantity of other lubricants. The ship’s power was not lost until 11 October, and the ship’s master and crew made immediate attempts to transfer bunker oil internally. In its report on salvage and wreck removal operations, LOC judged that these efforts might have been counterproductive, having the unintended effect of making some oils less secure and more releasable through leakage.

4.54. LOC further estimated that every hour 4.3 cubic metres of heavy fuel oil and other oils/lubricants were being lost, either by leaking within the ship or directly overboard from the one tank (No 3 Starboard) that had been breached in the grounding. During the first storm, this tank fully ruptured and 167.9 cubic metres of heavy fuel oil was released immediately into the sea.

4.55. Rena sailed under the Liberian flag. Liberian registry and New Zealand’s membership of the International Maritime Organization meant that those involved in the management and operation of the ship and the New Zealand authorities with statutory powers or responsibilities of the affected coastal state would conduct the response in a well-defined legal environment (that is, according to the rights and obligations of the parties to a casualty under international maritime law).

4.56. Rena was owned by the Daina Shipping Company, part of the Costamare Group. CIEL Shipping Ltd (South Africa), a majority-owned vessel management company within the Costamare Group, had responsibility for crewing and technical management. Since June 2011, Rena had been under charter to the Mediterranean Shipping Company, which had organised the current voyage and cargo schedules.

4.57. Rena was insured by the Swedish Club, a protection and indemnity syndicate that was also a member of a wider grouping of such syndicates in the International Group of Protection and Indemnity Clubs. They reinsure one another for substantial claims and collectively purchase reinsurance. This provides individual clients with access to high levels of reliable insurance cover. The Swedish Club held a triple B rating and was regarded as “a blue chip [Protection and Indemnity] Club ... with a first class reputation”. In a major incident, it is normal practice for a shipowner’s casualty representative to be appointed to monitor salvage operations on behalf of the owners, clients and their insurers. It is also normal practice for the representative to prepare a final report for the settlement of remuneration based on the salvor’s claimed costs.

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24 The opinions of LOC have not been tested with the ship’s owner or the Protection and Indemnity Club.
4.58. Five hours after the grounding, the NOSC, having completed discussions with the Director, determined that the incident required a national response and declared a Tier 3 status. On the following morning, the Director issued two statutory notices to the owner of the casualty.

4.59. The first notice classified Rena as a “hazardous ship” under New Zealand law. This classification required a salvor to be appointed and necessitated the salvor’s full and continuous communication (“all information, updates and plans”) with MNZ.

4.60. The second notice appointed a NOSC, and required recognition of NOSC prerogatives in regard to ship inspections, as well as compliance with NOSC instructions in respect of oil pollution. It is commonly understood internationally that in a major casualty the first priority is to ensure the safety of those on board. A modern reality is that protection of the environment has become the second priority for those involved. Very often these immediate priorities will outweigh all other immediate priorities for the salvor.

4.61. The owners of Rena had appointed a salvor, Svitzer Ltd, on 6 October under a Lloyd’s Open Form contract with a special compensation protection and indemnity club (SCOPIC) clause incorporated and invoked. The salvor provides services to the owners of the maritime property at risk (that is, the ship, cargo, containers and bunker fuel). The salvor is rewarded, in part, according to the value of property recovered. The SCOPIC clause allows the salvor to recover expenses it incurs with a 25 percent uplift if there turns out to be minimal salved value from its operations or a risk of the vessel being lost altogether (“total constructive loss”). Under the International Convention on Salvage (1989), the owner may revoke the SCOPIC clause after a period of advance notice.

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Part B: Maritime New Zealand’s response capabilities and readiness

5. Response mission overall

5.1. Maritime New Zealand (MNZ) was well aware that there are many varieties of casualty and many kinds of risk to the overall interests and well-being of a coastal state, many of which are not always purely environmental in nature. Maritime Incident Response Team (MIRT) documents state that a shipping casualty means any of:

- a collision of ships
- the loss, stranding or abandonment of a ship
- any other event occurring on board, outside or to a ship, resulting in material damage or the risk of material damage to ship, cargo, or both.

5.2. Accordingly, the functions that MNZ would perform as part of its response mission, given likely scenarios, vary (see the summary in Figure 2).

Figure 2: Potential Maritime New Zealand functions

Note: CDEM = Civil Defence Emergency Management; MIRT = Maritime Incident Response Team; MSO = Maritime Security Organisation; NOSC = National On-Scene Commander; RCCNZ = Rescue Coordination Centre New Zealand.
6. Policy framework for a Tier 3 maritime oil spill response

National Marine Oil Spill Strategy

6.1. The 2006 National Marine Oil Spill Strategy was in place at the time of the Rena incident. The statutory (five-yearly) review had been conducted in 2009/10. By early 2011, the Executive Team and the Authority were progressively considering the review findings, with the intention of finalising the new strategy by December 2011.

6.2. The centrepieces of the review were the Marine Oil Spill Risk Assessment and a report by external consultants from Thompson Clarke Shipping on capability and the capacity and capability investment limits and priorities.

6.3. The Marine Oil Spill Risk Assessment that had underpinned the 2006 national strategy had been completed in 2004. The new strategy was to be based on a different approach to risk assessment. The manager of the Marine Pollution Response Service (MPRS) considered the 2004 risk assessment model too static, and preferred a model that better captured the changing face of the New Zealand maritime industry, and could incorporate new data from advances in environmental mapping techniques, especially regarding sensitive coastal sites. The manager sought a more “granular” regional risk profile, and a rating of risk that took into account relative levels of vessel activity.

6.4. The strategy was to continue to be built around the proposition of the “one in a hundred year” spill event. The Thompson Clarke Shipping review noted that the 1998 risk assessment gave a spill value of 7,000 tonnes; the 2004 assessment, 2,300 tonnes; and the new assessment was to be set against a value of 1,000 tonnes. The consultant pointed out that such reductions in the size of the index spill event could, “by default”, legitimise reductions in response capability. It considered this figure reasonable for only the lower risk areas, but recommended that for higher risk areas (such as Taranaki and Marsden Point), Maritime New Zealand (MNZ) needed to set a higher value (5,500 tonnes), based on the rising levels of exploration activity and tanker sizes. (The Bay of Plenty was rated the fourth highest in terms of vulnerability.)

6.5. The consultant predicted that container liner services to New Zealand were likely to continue to be rationalised, reducing direct port calls via hubbing, trans-shipping and use of domestic feeders, and by introducing progressively larger ships. While this trend would “reduce the locations of and likelihood for larger oil spills …, it [could] increase their potential size”, and would increase the numerical chances of smaller spills from domestic or regional vessels on a broad front across New Zealand.


6.6. The consultant’s consideration of response capability resulted in the broad conclusion that the New Zealand system as it stood would meet international expectations; albeit, only within its prescribed risk envelope of oil spill volume and type. The capabilities at MPRS’s disposal or able to be called up regionally would allow a credible response to be mounted. However, the consultants also made technical (re-equipment) suggestions and developmental recommendations about the tiered system, as well as critical observations. Notably, it found:

- “insufficient attention” had been paid to the National Response Team’s (NRT’s) development and training levels were too low
- shortcomings in MNZ’s conception of external relationships, particularly as regards whole-of-government relationships and with iwi
- “there is limited third party commercial open water towage and salvage capability under New Zealand flag in New Zealand waters that might be available for a marine pollution incident outside port limits”, and there would be constraints and delays in acquiring it from eastern Australia.

6.7. The MNZ Authority considered the Thompson Clarke Shipping report at its February 2011 meeting. The Reviewer has sighted the meeting’s minutes and spoken with participants. The overall state of the response function was debated. The point was made that as a small country with limited resources, New Zealand would always have to live within a capability budget that was smaller than its risk envelope, and the consultant’s report was to be taken in that context. MNZ was “comfy”, provided it could keep New Zealand’s relationships with its closest International Maritime Organization partners, especially the Australian Maritime Safety Agency, in good repair. The Authority discussed the affordability of the recommended acquisitions and other changes in light of the wider budgetary situation and competing business priorities. Phased improvements were felt to be potentially manageable, and follow-up analysis was commissioned.

6.8. Meantime, and not directly for purposes related to the revised national strategy, those responsible for MPRS’s contribution to annual accountability processes were drawing on the Thompson Clarke Shipping report. One accountability requirement was an update of MNZ’s key risks and risk treatment plans by its Audit and Risk Committee as an input to the new Statement of Intent.

6.9. MPRS at unit level classified as highest risk its ability to deal with “a significant oil spill in a remote area”, its lack of capability to deal with a non-oil release of hazardous or noxious substances, and the impacts of limited operational funding on capability development. It also gave less acute ratings to the risks of inadequacies in the NRT, and the reliability of regional performance in more significant Tier 2 incidents. The 2011 organisational risk register for the whole of MNZ appears not to have sustained these risk ratings by MPRS. Instead it concluded that the risk of MNZ failing to manage a maritime incident (be it a grounding, an oil spill, a biosecurity or hazardous or noxious substances event, or some wider marine security threat) was moderate. The consequences of the risk were depicted schematically as affecting MNZ’s reputation (rather than as affecting a range of public interests).

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6.10. As input to MNZ’s 2011/12 business plan and following the Authority’s direction, the recently appointed unit manager of MPRS began preparing an action plan and key goals for deepening capability within MPRS and the national response system. Both the unit manager and general manager had taken on board the more critical comments in the consultant’s report. They were also aware of a perception within parts of MNZ that the response mission as a whole had been de-prioritised (possibly as a result of flat budgets), deskill ed and, in terms of response functions had lost dynamism (for example, fewer qualified mariners in senior positions). As the risk ratings indicated, they were also looking beyond an oil spill, concerned about expectations that MPRS or Rescue Coordination Centre of New Zealand might need to oversee, if not mount, responses to a spectrum of complex maritime incidents and multidimensional pollution risks. However, it was equally clear that without change in the levy system, any enhancements of capability could come only from reprioritisation, and could be only incremental, as they would need to be spread over several budgets.

6.11. A related MPRS initiative was the commissioning of an independent review of NRT by the late Captain John Lee-Richards in mid-2011. The review report was handed to MPRS management a matter of days before the Rena grounding (since when, for obvious reasons, it has been on hold).

6.12. Lee-Richards found that, since 1994, NRT’s development had been “sporadic” and had lacked proper governance. It was “not apparent if any significant enhancements had been made as a result of findings from Tier 3 exercises”. Just under half of the members of the NRT had had experience of Tier 3 oil spills in New Zealand or their equivalent overseas and had training in the Coordinated Incident Management System (CIMS). Gaps were identified in the depth of NRT skills and experience. Doubts were raised about the deployability of the 59 badged members who would become team leaders or managers in a Tier 3 response and the approximately 400 equipment trained responders from regional councils.

6.13. Of particular interest, because Lee-Richards had been an Auckland harbour master and a National On-Scene Commander (NOSC), were his comments about sustainability for some of the more specialised and senior positions in the Incident Command Centre (ICC) command structure (the Incident Command Team). He said, “It has largely been left to the NOSC, and immediately below levels to constitute a realistic NRT on the day when faced with a significant oil spill”. He expressed apprehension that in a major incident response the planned structure would require more positions to be filled than there would be trained NRT personnel available.

**National Marine Oil Spill Contingency Plan**

6.14. The January 2011 National Marine Oil Spill Contingency Plan was in force on the eve of the Rena incident, and was the plan’s sixth issuance. (By law, the national contingency plan must be reviewed every three years or after its use in a nationally significant spill, or if the Director of MNZ or NOSC determines an inter-sessional review is needed.)

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6.15. Conceptually, the national contingency plan sits atop 16 regional plans (for Tiers 1 and 2 events), which MNZ (through MPRS) reviews as part of its overall responsibility to audit the regions for their incident preparation and response arrangements. The Director is the statutory owner of the national plan, but it cannot be amended unless the Director has consulted the NOSC. In practice, because (until 2010) the MPRS unit manager had always been a NOSC, MPRS has been the organisational custodian of the plan.

6.16. The national contingency plan had been reviewed internally as part of MNZ’s internal audit process in April–May 2010. The 2010 audit report found the plan to be clear, concise, “extremely comprehensive in nature” and well integrated with regional plans.

6.17. The national contingency plan is updated on an iterative basis, so comprises chapters that have not been amended and updated chapters. The plan is a mix of several different types of information (legal, technical and operational) and mandatory procedures with template recording and accounting documents. The plan is hundreds of pages, long but well enough set out to be useable as a ready reference compendium by those (that is, MNZ and NRT staff) at whom it is principally directed, and who would be expected to be familiar with it from training and exposure to NRT (or Maritime Incident Response Team – MIRT) activations. The plan is relatively less precise about external dependencies and the interfaces with response partners from central government, but it has guidance on regional government collaboration principles.

6.18. The national contingency plan is clearly based on the principles of a tiered response and the expectation that most incidents will be resolvable locally or regionally. From this flows an assumption that influenced much of MPRS response thinking: incident responses will tend to be escalatory, meaning they begin at one level and may require additional effort, if they become too large to handle or are likely to exceed set financial limits. The plan states that a nationally based Tier 3 response would continue to be managed from the regional council ICC until several key positions within the ICC could be filled by more experienced MNZ personnel and other experienced personnel from other regions, that is, the NRT (although not identified as such). Thereafter, regional councils would be expected still to provide backup support to MNZ personnel if required. MPRS exercises tended to focus on activating the regional planned response, and the escalation to national level was often an add-on, partial and virtual.

6.19. The national contingency plan recognises the importance of effective communications when the ICC is planning and implementing tactical response operations; it establishes a position of media and community relations advisor reporting to the NOSC. Standard operating procedures for the ICC media/community relations unit include key response lines for Tier 3 events. The underlying assumptions, however, were that the frontline response could be represented and adequately explained to the wider public and could achieve necessary operational communications with the affected public through ICC-based, NOSC-led conferences and media statements. The MIRT guidelines reflected the same assumption. They stated that “a response’s number one priority is the operational


element so meeting media and community requirements must not interfere with the operational effectiveness of a response”, and allocated management of salvage, strategic, policy, legal and political aspects to MIRT’s media team.

6.20. The national contingency plan lays out standard operating procedures for Tier 3 responses in six phases.

1) Discovery, notification and identification (that is, that the particular marine casualty may result in an oil spill) and determination of response level (that is, the relevant tier).

2) Activation of response structures, machinery, and mobilisation of human resources and international outreach (if needed).

3) Selection of response strategy, development of an incident action plan, socialisation and consideration of the plan’s options, approval of an agreed plan, and a cascade into a command and control structure.

4) Implementation of the action plan, including deliverables for ICC managers and designated leaders (the Incident Control Team).

5) De-escalation, termination and demobilisation of staff.

6) Post-operational position, documentation of costs (including for litigation) and residual business activities.

Role of the National On-Scene Commander

6.21. The national contingency plan is precise about the role of the NOSC, and outlines a broad span of responsibilities and expectations (shown in Table 1).

Table 1: Responsibilities of the National On-Scene Commander during an oil spill

<table>
<thead>
<tr>
<th>Category</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operational</td>
<td>Contact Tier 1 (site or ship) or Regional On-Scene Commander, assess the magnitude of the problem, advise priority actions, and determine the regional or Maritime New Zealand (MNZ) effort required to respond Prevent further pollution Mitigate the effects of the oil spill Activate the regional or MNZ response Travel to the incident location as soon as possible after notification and assume control of the response operation Take control of a hazardous ship and issue instructions to the master, owner, agent, or person in charge of any salvage operation in respect of such ship or its cargo, if delegated by the Director of MNZ Develop and implement the incident action plan through consultation with Tier 1 or Regional On-Scene Commander and Incident Control Team as appropriate Delegate responsibilities to make optimum use of Tier 1, regional or MNZ personnel in response to the incident Conduct briefings with direct reports on a regular basis Confirm response objectives and priorities, and communicate them to the planning, logistics, administration, operations managers and others as necessary Evaluate and adjust the incident action plan as appropriate Ensure response objectives are being achieved</td>
</tr>
<tr>
<td>Category</td>
<td>Responsibilities</td>
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<tr>
<td>------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Conduct</td>
<td>Conduct site inspections where necessary</td>
</tr>
<tr>
<td>Authorise</td>
<td>Authorise the procurement of agreed equipment, resources and services</td>
</tr>
<tr>
<td>Communications</td>
<td>Communicate effectively with senior Incident Command Centre (ICC) managers about the situation and immediately inform them of significant events</td>
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<td></td>
<td>Facilitate appropriate information flow systems, especially cross-ICC communication at all levels</td>
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<td></td>
<td>Liaise with the Director of MNZ or regional council chief executive as required</td>
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<tr>
<td></td>
<td>Ensure communications between the Incident Command Centre and Incident Support Centre are effective</td>
</tr>
<tr>
<td></td>
<td>Ensure communications between the ICC and Maritime Incident Response Team are effective</td>
</tr>
<tr>
<td></td>
<td>Maintain contact with representatives of the spiller (if known)</td>
</tr>
<tr>
<td></td>
<td>Provide, where possible, prior warning of oil pollution to those people or organisations whose interests are at risk from an oil spill</td>
</tr>
<tr>
<td></td>
<td>Ensure an accurate record is kept of events, decision, responses made and expenditure relating to the incident</td>
</tr>
<tr>
<td>Health and safety</td>
<td>Ensure site safety plans are in place for all aspects of the spill response</td>
</tr>
<tr>
<td></td>
<td>Ensure the safety of all personnel involved in control and/or response operations</td>
</tr>
<tr>
<td></td>
<td>Ensure proper hazard identification and mitigation procedures are in place and complied with</td>
</tr>
<tr>
<td>Media</td>
<td>Ensure a planned media response</td>
</tr>
<tr>
<td></td>
<td>Participate (from time to time) in media matters, organised through the media community affairs coordinator</td>
</tr>
<tr>
<td>WebEOC</td>
<td>Review and approve sections of the Incident Action Plan</td>
</tr>
</tbody>
</table>

Note: WebEOC is a web-based information management system that enables real-time information sharing.


6.22. In the second phase of mounting a national response, the NOSC has a particularly demanding role. It is clear from the national contingency plan that besides being responsible (facing inwards) for setting up a functional ICC, the composition of a command team (the Incident Command Team), formulating and implementing the overarching pollution combat operational plan (that is, the Incident Action Plan), the NOSC also has several important relationships facing outwards, sideways and upwards. These relationships involve the Director of MNZ, Maritime Incident Controller and MIRT, which might need specific technical input from the frontline to exercise the ship-control powers affecting the conduct of the response, but also rely on the NOSC for key situational knowledge as an input to strategic policy settings. Relationships may also be needed with other response entities from central government and regional leadership, including political decision-makers who may be called on to provide elements of the total response; external contractors; and, of course, the representatives of the spiller and casualty.

6.23. Both Thompson Clarke Shipping and Lee-Richards commented on the reduced size of the NOSC cohort, observing that it had fallen from six to four people between 2009 and
Two of the serving NOSCs were MNZ employees and two came from regional councils. The consultants noted that, besides the two NOSCs who had left MNZ during this period (to take up opportunities in the Australian maritime and shipping industry, “a number of senior marine qualified and experienced staff had also left MNZ”. MNZ management advised that those staff had been replaced with new hires from the same background. However, the consultants, nonetheless, recorded as an “erroneous perception” (needing to be monitored) the view expressed to them from “a number of quarters in government and industry” about a “diminution of maritime skills” in the sector generally in New Zealand and “particularly in MNZ”. The consultants tied these comments to observations about shrinkage of the feeder group (the Regional On-Scene Commander cohort) brought about by an employment trend affecting harbour masters (in-line, salaried positions were progressively being replaced with contracted-in services), and a reduction in the seniority level at which the remaining full-time harbour master positions were being recruited.

6.24. Lee-Richards also drew attention to the need for the “top end” of the response capability to contain an “in house element” with a foreign-going, large ship background, and enough “in-depth ship knowledge to apply to a large vessel casualty”. He also noted that within the serving cohort of four NOSCs there was “varying actual spill experience and tenure”, and that NOSCs themselves felt strongly that there was not enough “redundancy” in the system. The available pool of appointed NOSCs was potentially too small, and rostering needed careful consideration.

Training and exercising

6.25. MPRS gives high priority in its normal operations to maintaining a high level of training and exercising engagement with regional partners. The internal audit of 2010, in a random sampling, had found high levels of satisfaction among regional council managers and course participants with the training courses. They are a significant proportion of activity for all MPRS staff, and use 25 percent of Oil Pollution Fund budget. The oil spill training regime in 2011 was relatively new. A review involving the funders (the Oil Pollution Advisory Committee and councils) had favoured lengthening certification and revalidation periods (a financial saving), more-frequent training and greater integration with regional exercises. The 2011/12 training programme targeted Tier 2 and Tier 3 responders. (Tier 1 training is industry provided.) The programme encompassed initial training for regional responders (four three-day courses), a single revalidation course for the same group, a wildlife responder course, a spill management and supervision course, and a five-day course for future on-scene commanders (eight places for Regional On-Scene Commanders and Deputy NOSCs).


40 Thompson Clarke Shipping. 2011. Review of New Zealand’s Oil Pollution Preparedness and Response Capability. Wellington: Maritime New Zealand, p 125 (emphasis in original). www.maritimenz.govt.nz/Publications-and-forms/Environmental-protection/OPPRC-Review-February-2011.pdf. In regard to the MNZ Executive Team, after the 2011 restructuring, the two new appointees had relatively little exposure to MNZ’s response mission. Two other members had been in MNZ during the Jody F Millennium response. Maritime experience was available among senior staff with navy backgrounds, and the Chair of the Authority was a former Chief of the Royal New Zealand Navy.

6.26. There is no formal training for NOSCs – a gap that Lee-Richards believed ought to be rectified. Lee-Richards also believed that a more intensive training might be required across the NRT for those who would have to “train the trainers” in a major incident response. Lee-Richards noted that NRT members ought to have higher levels of CIMS accreditation.

6.27. By contrast, for MNZ staff outside MPRS training opportunities for response-related roles and functions were more limited. A wider (incident response not oil spill) programme of training and development was being contemplated. A framework of needs and objectives for it had been articulated in March 2010 following the creation of the MIRT. Questions of how to institutionalise the framework and the priority to accord to it in the hierarchy of MNZ’s needs for competency enhancements under the new business model were unresolved, and no dedicated funding was allocated. Nonetheless, efforts were made to find courses, mostly offshore, that would expose these managers to learnings relevant to a Tier 3 response, particularly the salvage and liability dimensions of such a response.

6.28. International standards (the International Convention for Oil Pollution Preparedness, Response and Cooperation), as reflected in New Zealand law (the Maritime Protection Rules), require an exercise regime to be established and implemented. Industry exercises (Tier 1) may involve MNZ, and the regions are encouraged to incorporate Tier 1 sites into their two (minimum) annual exercises. These Tier 2 exercises, which must test contingency plans and deployment of equipment, are subject to MNZ approval. MPRS must attend at least one exercise in each region and assess it formally. Results are fed into an index that rates regions in terms of oil spill preparedness. Exercises were allocated $0.4 million from the Oil Pollution Fund in MPRS’s 2011/12 budget and most of it was earmarked for regional purposes. A combined industry–region–MNZ exercise, called a “national exercise”, is undertaken once every three years. It has rarely involved other non-maritime responders and other agencies at national level or even regionally.

6.29. Exercising, as Lee-Richards observed, is not training. Training aims to deliver the individual to the response entity in a competent condition fit for an integral team member. Exercises are to mould those individuals into a cohesive unit able to deliver “gold standard” response outputs. Others would say that exercises are a simulated reality test of planning and plans, to protect against the “perfect-on-paper” syndrome. There can be quite high direct and indirect (opportunity) costs associated with exercises, depending on the degree to which they replicate reality or allow certain phases to be notional or virtual. There is a tendency to fully mobilise only selected elements, often the more “kinetic” or equipment-intensive elements, and to pre-position other elements (a “warm start”) during business hours.

6.30. For response organisations, the learnings obtained from actual deployments, including false alarms, can be of equal or greater value than that from exercises. It was remarked, to the Reviewer, that Tier 2 responders, especially the major New Zealand ports, face more incident callouts, and actually deploy for responses reasonably frequently. MPRS records of its level of exercise and small incident deployments since 2006 support this.42

6.31. MPRS and NRT did exercise parts of their Tier 3 capabilities systematically. However, consistent with its statutory mandate, MPRS tended to build the Tier 3 component onto

42 Annex D summarises MPRS and NRT involvement in oil spill incidents and exercises.
a regional exercise, with a bias towards testing Tier 2 capability in selected regions (ports) which might be due for overall audit. MPRS was also conscious of the need to incorporate a wildlife response component into both regional and national exercises. (National Oiled Wildlife Response Team leaders attended MPRS training and conducted their own specialised courses at Massey University.)

6.32. The Thompson Clarke Shipping review considered more focus should be applied to exercising for Tier 3 incidents at oil and gas platforms offshore in Taranaki. The consultants also assessed a sample of regional council exercises. They noted both the burden (a desire to conduct exercises during quiet periods within council and port operations) and a sometimes repetitive quality (“lack of imagination”) in exercise scenario setting. The 2010 internal audit of MPRS found the exercising regime to be sound in a compliance sense.43 Using the measures from the MPRS 2007 survey of its relationships with regional councils, the audit re-sampled and tested the adequacy of former results. This led to specific comments about exercises such as that they needed more reality in testing the transition and escalation phase. The audit report also alluded to an impression that regional councils sometimes resented that they were not always recognised or treated by central government (that is, MNZ) as equal legislative partners and co-administrators of the marine and coastal environment.

6.33. The Reviewer’s sense from these reviews is that oil spill exercises were well conducted overall as far as MPRS was concerned. The 2010/11 MPRS business plan treats such exercises as business-as-usual functions (apart from a comment about the risks of a hazardous and noxious substance spill in a port or at sea, which related back to an audit comment about developing a relationship with the New Zealand Fire Service). MPRS was also beginning preparations for a national exercise in 2012.

6.34. To sustain a frontline operation adequately, supporting infrastructure must be in place. The amount of such infrastructure can be determined using the well-known military axiom of the “teeth-to-tail” ratio.44 When MPRS exercised Tier 3 elements of an oil spill response, there was both frontline (teeth) and rear mobilisation, and the scenario might involve Wellington-based parts of the NRT. However, for reasons already discussed in paragraph 6.26, and possibly because MIRT was not formally an integral element of the NRT, aspects of the exercise involving the MIRT and wider MNZ (the rear) were often only desk-topped. The sequence of setting up a functional incident command centre, especially its administrative units (tail), was never fully tested from start to finish. The MIRT as it found its feet, simultaneously had been developing a separate exercise programme to cover non-oil pollution or multiple pollution risks of a variety of maritime casualties. Its first dedicated exercise in December 2010 was a tanker adrift after a collision with a Taranaki oil platform, resulting in two kinds of oil spill threat, and tested some of the statutory powers of the Director of MNZ (rather than the NOSC) for ship control.

6.35. A well-established, whole-of-government, annual exercise programme seeks to strike a balance between natural environmental disaster response under Civil Defence

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44 The ratio refers to the number of military personnel (“tail”) it takes to supply and support combat units (“teeth”) whose primary function is to neutralise the enemy. The ratio is not a specific measure but rather a general indication of an army’s military might in relation to the resources it devotes to supply, upkeep and logistics.
Emergency Management scenarios and threat scenarios from counter-terrorism and biosecurity. The Department of the Prime Minister and Cabinet coordinates this programme to align overall national security and emergency management risks with available resources. The programme also ensures a level of commitment that is manageable for agencies such as the New Zealand Police and New Zealand Defence Force that might figure in many multi-agency scenarios. These exercises can last over a week, and often cold start. They are particularly useful for exposing interdependencies and synergies, as well as for testing system reliability for command, coordination, control, communications and intelligence. These exercises are often the basis for updating high-level agreements between agencies about emergency support and collaboration.  

6.36. As a point of comparison, the most recent review of Australian maritime response capability notes that exercises “should be integrated with or reflect the wider national emergency management framework and the need to incorporate planning, logistics and administration functions under scenarios beyond immediate callout. The focus of past exercises was perceived to be based on desktop scenarios and equipment deployment in the first few hours of callouts. A number of aspects of incident response operations that are necessary past day three of incidents have not been exercised”.  

6.37. With no exercise participation, MNZ had a relatively low profile within the community of response agencies whose normal (“peacetime”) business is coordinated through the Domestic and External Security Group in the Department of the Prime Minister and Cabinet. The level of engagement was limited, occasional and somewhat personality dependent. It appears not to have been easy for MPRS (based in Auckland) to establish connections. There had not been recent real civil defence emergencies with any kind of maritime dimension that could have exposed MPRS and NRT to the real-time pressures of multi-agency collaboration.  

Maritime New Zealand and New Zealand emergency response doctrine  

6.38. In New Zealand for over a decade, CIMS has provided the ruling doctrine by which civilian entities with disaster or emergency response duties bring their respective functions to an incident requiring the deployment of multiple response capabilities under a commonly accepted and replicable command and control system. CIMS was aligned with its Australian counterpart, and standards were set through an Australasian inter-service incident management framework.  

6.39. As a result of the 2009 Australian bushfires and more recent New Zealand events of a similar scale and severity of consequence (the Pike River Coal mine explosion and the Christchurch earthquakes), the limits of CIMS have been exposed. It has become quite widely accepted that CIMS structures and processes can become stretched, possibly to the point of counter-productivity, when emergencies are complex; escalations are rapid;  

45  MNZ had one interagency Memorandum of Understanding with the New Zealand Defence Force: it had not been updated for some years.  

larger numbers of people become affected; supporting agency inputs proliferate; and media scrutiny and public information demands abound. In particular, these strains can affect the single commander (the more so if that person has mostly technical competencies of a single-service kind and only a regional experience base).

6.40. Doctrine has been revised recently and contemporary best practice has started looking beyond CIMS. Much attention has focused on US and other (military-derived) models that lend themselves more to integration and coordination than to tactical command. The same issues have also been considered in the United Kingdom. The UK model emphasises the importance of strategic rather than tactical control when a major incident involves more than one or two emergency services in a response, and civilian (for example, local authority) assets are engaged. The “keynote is always coordination rather than command”. In a maritime context, the command and control structure must allow for the possibility of simultaneous sea, land and shoreline operations. The Christchurch earthquake review explored similar issues. That review has made a case for a cadre of professional incident controllers whose expertise is honed by breadth of experience in complex emergencies.

6.41. MNZ, in comparison to other New Zealand first responder organisations, had only recently (in 2009) formally adopted CIMS and was beginning to mainstream it into competency and skills enhancement policies. CIMS principles customised for maritime incidents and taking into account International Maritime Organization doctrine had informed the national contingency plan over several iterations, and MPRS/NRT training had taken CIMS qualifications into account.

**International maritime incidents – best practice**

6.42. MNZ updated its own response doctrine predominantly through its International Maritime Organization and other international maritime partnership links. It looked to the reports of casualty and incident management from international peer organisations, and the reports of staff, mostly MPRS staff, who observed or participated in these responses.

6.43. MNZ staff have been sent, as observers or in-line responders, to two recent international incidents that are relevant to the New Zealand response doctrine: the Pacific Adventurer and Deepwater Horizon incidents. MNZ has also taken lessons from the Napoli incident.

**Pacific Adventurer incident**

6.44. The Pacific Adventurer incident in March 2009 off Queensland’s Sunshine Coast involved the loss of ammonium nitrate containers off a cargo ship, damage to the ship, and a 270 tonne oil spill and shoreline clean-up. MNZ was exposed to high-level management and coordination issues, as well as practical operational issues (both technical and managerial), particularly regarding beach and shoreline counter-pollution operations. It


48 Annex B outlines the role of the Secretary of States Representative for Maritime Salvage and Intervention (UK).

was also an opportunity to check interoperability of the Australian and New Zealand systems and practices.

**Deepwater horizon incident**

6.45. The *Deepwater Horizon* incident in April 2010 was the internationally well-known offshore oil rig failure in the Gulf of Louisiana. This incident gave rise to a report in June 2011 that consolidated the experiences and reflections of 11 participants, of whom all but one (who was a Regional On-Scene Commander) were from MPRS or had MIRT roles. The report makes many comparisons with MNZ’s planned response doctrine and capabilities. It can be read, to a point, as a snapshot of practitioner thinking about the New Zealand system by some of those about to be thrust into response leadership roles by the *Rena* grounding.

6.46. One of the report’s general conclusions was that, although the New Zealand oil spill response mechanisms were generally aimed at dealing with bunker fuel spills or bilge discharges from errant boats, they could be scaled up for a different type of incident (such as one affecting oil or gas installations).

6.47. The report also commented on the relative merits of US and New Zealand response doctrines, particularly the Unified Command Model (US) as compared with CIMS (NZ). CIMS was seen as being better for New Zealand because it is less bureaucratic (or “top-heavy”) and less prone to distractions from the main task (that is, pollution combat operations). CIMS was also revalidated in respect of enhancing interagency response collaboration, being “sufficiently flexible to enable different agencies to carry out their statutory obligations without unnecessary alteration to internal operational procedures”. The report contains reflections about the difficulties of team/group dynamics in an extended response to a complex incident because of high staff turnover, the nature of media and public information pressures in the age of social networking, and how to manage and efficiently task shoreline clean-up teams in the field, especially if they are joined by untrained volunteers.

**Napoli incident**

6.48. Another casualty response of relevance (which MNZ had studied but not had a presence at) was the *Napoli* incident where a large container vessel was critically damaged at sea in a force 9 gale in the English Channel.

6.49. The response involved a crew extraction by military helicopters. An initial attempt to tow the abandoned and sinking ship to a place of refuge (a UK port) was overtaken by a decision that a beaching would be necessary to reduce the pollution risks of an uncontrolled oil release and the loss of cargo, including 159 dangerous goods containers. A bunkers pumping and transfer operation was largely successful, although there were oil spills (one of 9 tonnes). A shoreline pollution protection and clean-up operation involving debris (often oil contaminated) from the 114 containers lost overboard and broken at sea was mounted. The 2,214 on-board containers, above and below deck, were also removed.

6.50. This incident was a big media story, in part because of scavenging from the beached containers, which introduced a security (police) dimension. The incident lasted several months.

6.51. The official report, which acclaims the response a “massive success”, makes several, apparently elementary, but resonant points about the nature of the response operation led by the Maritime and Coastguard Agency (MNZ’s UK counterpart). The duration (114 days) of the response phase itself gave rise to management challenges. The response was also notable for its complexity, involving many different organisations in several different phases.

- “Some of these phases took place simultaneously and overlapped, whilst others occurred in sequence.”
- “Some of the initial phases were clearly emergency operations of short duration while other phases were much longer-term and conducted as individual ‘projects’.”
- “Some phases were purely marine or maritime while others were more concerned with the potential effects to the local population.”

6.52. The report also reflects on the effectiveness of high-level decision-making, overall incident coordination, and response management (see para 4.32). The performance of the Secretary of States Representative for Maritime Salvage and Intervention (SOSREP) and the Salvage Control Unit was also considered. Role and function issues have been widely discussed in maritime circles in Australia.

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54 Annex B outlines some of the history of this ongoing debate, drawing on United Kingdom and Australian commentary.
7. Conclusions on Maritime New Zealand’s state of readiness

Introduction

7.1. According to its own strategy and risk parameters, which, indisputably, have their basis in statute (the Maritime Transport Act 1994), Maritime New Zealand (MNZ) could have been expected to be fully prepared only for a certain type of Tier 3 pollution incident – an oil spill of up to 2,300 tonnes. It had doctrine, plans, skills and equipment to combat such pollution; first by containing oil spilled into the sea (by spraying dispersant and/or booming and skimming), and then by cleaning up oil that washed ashore, threatening damage to the shoreline, wildlife or the well-being of coastal dwellers and users. Any other pollution incident would fall outside its planned response envelope, and so would require something more than a simple scaling up. Systems gaps and chinks in the armour of the oil response machinery could be exposed. The resilience of planned response functions would certainly be tested and the adaptability of the response management challenged.

7.2. The common view of the Rena incident as a maritime casualty is that it was (and still is) one of the most complex response challenges in the world in recent years in so far as container vessel incidents are concerned. It is clearly, by comparison with the Jody F Millennium incident, the most challenging marine pollution emergency to have confronted New Zealand in recent history. The Reviewer was told this by international and domestic experts in many different ways, but most graphically when it was said that if the response system had had a measure of severity above the equivalent of Tier 3, that is, a Tier 4 – the Rena grounding would have qualified at that higher level. Thus, the Rena response was bound to test the limits of planned capability in MNZ generally, but particularly in the Marine Pollution Response Service (MPRS) and the badged National Response Team (NRT).

7.3. From knowledge gained from past Tier 3 responses, particularly to the Jody F Millennium, and exposure to other recent international incidents of like kind and proportion, it was likely that the capabilities brought by other parties (commercial salvors, International Maritime Organization partners, and the wider New Zealand emergency management community) would be vital. The planned oil spill combat operation might be one of several battles to be won in a wider campaign conducted by an alliance of responders.

7.4. The salvor liaison function had been repositioned inside the new response rear entity (Maritime Incident Response Team – MIRT) that was to be responsible for salvage advice. The interfaces between the proposed salvage unit and the Incident Command Centre (ICC), and with London Offshore Consultants (LOC) as the appointed salvage consultant to the Director of MNZ had not been tested. There had been one MIRT exercise. MNZ’s institutional knowledge of the salvage dimension of a major casualty was dated and dispersed. MNZ’s dependencies on LOC were more than technical.

7.5. Against this background, the following conclusions can be drawn about the depth of MNZ’s state of readiness. In October 2011, how prepared, practised, trained and exercised were the elements of the response system for which MNZ is accountable?
Planning and preparedness

- Core technical staff were well trained and prepared, albeit for a limited range of incidents, but senior managers were relatively unseasoned for a Tier 3 response.

- Few Wellington-based elements of a Tier 3 response and the administrative staff who would reinforce the Incident Command Centre had been exercised.

- Dependencies on other central government capabilities for a Tier 3 response had been identified but not formally included in Memoranda of Understanding.

7.6. MNZ’s cadre of senior managers for a Tier 3 response was relatively unseasoned. The new Executive Team, which had had some exercising and training exposure, had two members with Jody F Millennium experience. The pool of National On-Scene Commanders (NOSCs) was at an historically low ebb, and the response rear under the management model in the MIRT guidelines was untested.

7.7. Core MPRS staff, particularly those with technical roles in a response, were well trained and prepared for a limited range of oil spill incidents.

7.8. Core NRT members (that is, MPRS and badged NRT members) held appropriate qualifications in the Coordinated Incident Management System (CIMS) and were adequately trained\(^{55}\) for ICC roles relating to a limited range of oil spill combat operations. However, the NRT surge capacity (that is, the regional responders) were not as well trained or practised as core NRT members.

7.9. Nevertheless, neither core MPRS staff nor badged NRT were trained or prepared for the complexity of incident management and the weight of ICC administrative pressures that would be required to scale up to the Rena response.

7.10. Outside MPRS, MNZ’s level of preparedness was limited to those senior managers with incident experience or with MIRT roles or NRT surge response roles that had given them access to training and exercising.

7.11. Wellington-based MNZ elements of a Tier 3 response, other than MIRT (such as investigation, liability and salvage liaison) had been exercised rarely. Administrative staff that would function as reinforcement for the ICC had not been exercised.

7.12. MPRS-led “national” exercise scenarios generally have been aimed at Tier 2 incidents that briefly escalate to Tier 3, but never a Tier 3 cold start, which, by definition, would have a bigger quotient of start-up problems than an escalation.

7.13. Elements exercised at Tier 3 tended to be the “teeth” (oil combat and wildlife and other operational and tactical functions) rather than the “tail” (full ICC set-up functions, including administrative functions) that would be required during an incident.

7.14. MNZ was not connected to the national, whole-of-government exercise programme. (There has been no maritime emergency scenario on the programme in the past decade.) That lack of connection resulted in gaps in the understanding of the Officials Committee for Domestic and External Security Coordination and the Security and Risk Group in the

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\(^{55}\) To level 4 on the National Qualifications Framework.
Department of the Prime Minister and Cabinet, which complicated their ability to reinforce MNZ’s response capability.

7.15. MNZ’s dependencies on other central government capabilities for a Tier 3 response had been identified in the National Marine Oil Spill Contingency Plan but had not been fully elaborated into mutual support Memoranda of Understanding.

**Authorising environment**

- The national strategy and contingency plan address only oil spill pollution risks.
- Internal functions are precisely delineated, but not those of external partners.
- The interplay between the roles of the National On-Scene Commander and the Director of MNZ during a complex response is not well articulated.

7.16. New Zealand’s domestic legislation is prescriptive about adhering to a plan of response to an oil spill (but not to other elements of pollution risk). The New Zealand Marine Oil Spill Strategy and the National Marine Oil Spill Contingency Plan do not address wider pollution risks. The national strategy does not put forward in a coherent way the distilled knowledge of MNZ about the core strategic principles it should follow when conducting a multi-layered response to a complex casualty. Its recently restructured Executive Team was lacking in institutional memory of this kind and could not retrieve it in such a way as to influence the *Rena* response in its initial stages.

7.17. The national contingency plan establishes two centres of authority for a Tier 3 response: the ICC (front) and the MIRT (rear). MIRT is a relatively recent construct (replacing the Director’s Advisory Team in 2009) and its place in a major casualty response is not fully defined in respect of its role in incident control and coordination (rear) or in its accountabilities for whole-of-government relationships and collaborations.

7.18. Both the national contingency plan and the MIRT guidelines precisely delineate internal MNZ functions, but are relatively light on those of external partners. They touch on only the steps required in a major incident (Tier 3) to integrate other agency or regional government capabilities into the response at the strategic governance (rear) level or at the senior management (Incident Command Team) level at the frontline (other than in respect of the media and community relations).

7.19. Statutory powers of the Maritime Transport Act 1994 and the Maritime Rules empower the NOSC to undertake incident control and oil spill command and the Director of MNZ to undertake ship control. The powers are clear enough, but the interplay between them during a complex response is less well articulated, especially when the designated decision-maker has given others delegated rights to some of the statutory powers.56

7.20. The national contingency plan does not prescribe how the MNZ Executive Team will be deployed for a Tier 3 response. However, during the *Rena* response there were expectations about the role the Director of MNZ in particular would play (at the rear rather than the front).

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56 These are formalised through clear delegations during an incident that vary from business-as-usual delegations.
**Systemic capability**

- The 2010 Marine Oil Spill Risk Assessment may have reinforced the focus on planning and capability for Tier 2 incidents.
- The response mission has been progressively deskillled and crowded out by competing priorities and pressures.
- Concerns about capability and effectiveness for a Tier 3 response, particularly for incidents involving non-oil pollution threats, were not sustained in the organisation-wide risk register.

7.21. Earlier Marine Oil Spill Risk Assessments had addressed the possibility of an unpredictable catastrophic oil spill and had taken account of ships and shipping patterns relating to total risk. However, the 2010 assessment appears to have been influenced by the desire to create a regional vulnerability index. This may have reinforced the tendency to focus on planning and capability for Tier 2 incidents that might escalate to Tier 3 or remain at Tier 2.

7.22. There were many suggestions to the Reviewer that MNZ had lost focus on its response mission. Response capability had progressively become deskillled and “dulled down”, crowded out by competing (regulatory) priorities, and pressures arising from the “big projects” that would implement the new business model. The new MPRS management team was aware of such concerns.

7.23. The report from the Deepwater Horizon incident indicated that, overall, MNZ response practitioners felt fairly comfortable that New Zealand’s system was “scalable” and robust.\(^{57}\)

7.24. The MPRS audit report in 2010 commented on the risks associated with a Tier 3 incident becoming larger than MPRS’s ability to deal with it.\(^{58}\) However, the report concluded that the risks could be mitigated by the rights the International Convention for Oil Pollution Preparedness, Response and Cooperation gives New Zealand to obtain international assistance and the recent bilateral agreement with the Australian Maritime Safety Authority. This report raised few red flags for the MNZ Executive Team.

7.25. MPRS 2011 risk ratings did highlight concerns about capability and effectiveness for a Tier 3 response, particularly for incidents involving non-oil pollution threats. MNZ management did not sustain these “red flags” in the organisation-wide risk register.

7.26. Thompson Clarke Shipping had reassured MNZ, but only up to a point, about capability and effectiveness for a Tier 3 response.\(^{59}\) The capability at MPRS’s disposal or ability to call up regionally would be sufficient to enable a credible response to be mounted only up to the Marine Oil Spill Risk Assessment–prescribed level of oil spill type and volume. Thompson Clarke Shipping thought that was too low for certain kinds of risk. Apart from several developmental recommendations to improve the efficiency of the tiered response system, the report concentrated on future risk from oil and gas field offshore...

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incidents but did note that “insufficient attention” had been paid to the NRT’s development and training levels were too low.

7.27. MNZ’s Executive Team placed a high emphasis on ensuring New Zealand kept its key International Maritime Organization relationships (especially with the Australian Maritime Safety Authority) in good order because New Zealand’s reliance on their support for an “outside the envelope” oil spill was increasing. MNZ was “not uncomfy” with Thompson Clark Shipping’s picture of response capability “considering New Zealand’s limitations as a small country”.

7.28. A plan and key goals for deepening MPRS was initiated, but would only be fundable with reprioritised current spend or new money injections from an increased levy. Therefore, some of Thompson Clarke Shipping’s recommendations were only implementable by spreading projects over several budget years.

7.29. Lee-Richards’ review of the NRT, amplified the Thompson Clarke Shipping report findings on the NRT’s real deployable capability for a major response and voiced concern about on the NOSC talent pool and training. It arrived too late to be considered by MNZ management before the Rena incident.

New Zealand’s national response system and its management

- Although other strategic response models for multi-agency coordination and integration had been considered, the MNZ “pollution combat” model remained largely unchanged.
- The CIMS template for establishing incident command and control is hard wired into the national contingency plan, but CIMS training has been limited and constrained by funding.

7.30. MNZ’s response system is benchmarked to International Maritime Organization standards. System changes through legislation can be triggered from government decisions to join conventions, but otherwise tend to emerge from post-incident reviews or as part of the strategic planning cycle. The Jody F Millennium report caused MNZ to introduce, administratively, several system developments aimed at response effectiveness (for example, MIRT and the role of salvage adviser). These functions were being institutionalised gradually, but had not been fully tested in a Tier 3 exercise and had not faced the “reality test” of an actual incident.

7.31. MPRS had considered United Kingdom, Australian and United States models for “response control” (being multi-agency coordination and integration at a strategic level as distinct from command of pollution “combat” operations), but it had not led to a change in thinking.

7.32. New Zealand’s emergency management system doctrine has been similarly evolving in recent years (especially since the Pike River Coalmine explosion and the Christchurch earthquakes). However, MNZ was not as well connected as other first-responder agencies to this revisionist thinking and was not conscious of its implications for its maritime response mission, strategy or national contingency plan.

7.33. MNZ’s use of the CIMS template for establishing incident command and control is hard-wired into the national contingency plan. CIMS training outside the MNZ/MPRS core has been only recently initiated and proceeds at a slow pace because of funding constraints.
8. Introduction

8.1. This part of the report explores what happened during the response phase of the Rena incident. As previously stated, and consistent with the Terms of Reference for the independent review, this part looks at the response in functional terms. It is not a linear (narrative) treatment, and it benefits from hindsight in having the luxury of disaggregating a series of activities that were going on simultaneously, often expediently, across the response frontline in Tauranga and the response rear in Wellington. Disaggregation means there is some repetition in the commentary, as the Reviewer considers each element of the response from the perspectives of several functional contributors.

8.2. The Reviewer agreed with the many participants who saw the response in two distinct periods. The dividing point between the initial response and the long-term response was the storm on 10 and 11 October 2012 and the evacuation of the vessel. This was the point about seven days after the grounding at which overlapping pollution threats arising from the grounding became tangible risks, and response operations, ready or not, planned or improvised, had to be activated.

8.3. Consistent with the evolved response framework, this section also treats the Maritime New Zealand (MNZ) response mission as having an operational front and a strategic rear each with a set of unique deliverables, but also shared or overlapping tasks.

8.4. This account is based on interviews with response participants at all levels of MNZ and a selection of external partners and stakeholders. It also draws on perceptions and findings from the earlier post-operational debriefs. From these sources, there is an accumulation of feedback – some negative – about technical matters, notably the performance of equipment and machinery and technical decision-making by users. The Reviewer considers that certain of these warrant further consideration by MNZ and partners on the basis of specialist advice and knowledge. They are presented in Annex A.

8.5. The Jody F Millennium review focused on matters requiring attention, rather than every aspect of the response.60 It aimed to identify issues that MNZ (then called the Maritime Safety Authority) had not had to confront before, assess how appropriately they were handled, and assess how they could be better managed in future. The same approach applies for this section. The review also noted that positive reports had been made about particular aspects of the response, and that the way MNZ conducted the response had been applauded by community interests, environmental groups, local government and the media. Although the Jody F Millennium incident had a more finite span than the Rena incident, which is still far from over for many interested and affected parties, many

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of the comments made to this review about MNZ’s performance in the response and early recovery phases of *Rena* were similarly quite sympathetic and complimentary.

8.6. There is no lack of understanding of the complexities of the *Rena* incident or lack of appreciation for the efforts of MNZ, especially the core group of staff who were with the response in one role or another from the first morning. As is often the case, imperfections in systems, plans and structures, which are to be expected in any crisis, can be overcome by a workforce that is motivated and well managed.
Initial response

9. Response declaration and implementation

Introduction

9.1. This section covers the initial declaration of the Tier 3 response and the resulting implementation of the planned infrastructure. It discusses initial problems that impeded the response (for example, a lack of clarity about the structure and poor information flows) and subsequent changes to the plan.

Tier 3 incident declared

9.2. Maritime New Zealand (MNZ) inspectors who had boarded the vessel with the Tauranga harbour master provided initial information about the Rena grounding. In consultation with MNZ, the harbour master declared the establishment of an exclusion zone later that morning.\(^{61}\) It was clear enough that the ship was significantly damaged, but more precise information (both strategic and tactical) would be required for response planning. However, it was sufficient information for the National On-Scene Commander’s (NOSC’s) Tier 3 declaration.

Maritime Incident Response Team convened

9.3. At MNZ in Wellington, the Maritime Incident Response Team (MIRT) had been convened automatically. MIRT carried out its planned mobilisation procedures, in particular activating the salvage advice contract with London Offshore Consultants (LOC) and informing other agencies directly or through the alerting procedures of the Security and Risk Group in the Department of the Prime Minister and Cabinet.

Response teams mobilised

9.4. By midday on the day of the grounding, elements of both the National Response Team (NRT) and National Oiled Wildlife Response Team had been mobilised, and a core group of response leaders was in transit to Tauranga.

9.5. A skeleton Incident Command Centre (ICC) was first established at the offices of the regional council, which had adopted its Civil Defence Emergency Management configuration. It relocated, albeit temporarily to offices at the airport. MNZ worked with Bay of Plenty Regional Council staff to secure a vacant supermarket to accommodate the ICC.\(^{62}\) MNZ’s Information Services staff worked through the night to install hardware that would be operational by the morning of Monday, 10 October.\(^{63}\)

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\(^{61}\) An exclusion zone is an area into which entry is forbidden. See Annex E for a history of the exclusion zone.

\(^{62}\) From mid-October to the end of January 2012 with the downsizing of the response, the ICC relocated to premises at Glen Lyons Ave, Tauranga. With the termination of the response, the ICC closed on 31 May 2012.

\(^{63}\) Further work in evenings increased the ergonomic aspects and addressed safety aspects by ensuring cabling was through ceilings.
9.6. Formal requests for international assistance were under active discussion, and informal contact was made with the Australian Maritime Safety Authority. The Reviewer was told that these planned notification and mobilisation procedures were effective.

**Oil combat operational logistics – equipment**

9.7. The plan contained an annex listing oil spill response equipment available for Tier 3 or Tier 2 spills. Further equipment is available on call from Australia, Singapore and Southampton in the United Kingdom.

9.8. The response equipment of the Marine Pollution Response Services (MPRS) warehoused at its Te Atatu facility was assembled and transported to Tauranga within hours of the incident using pre-established contracted trucks. Other equipment, including the “blue boxes” that the National Oiled Wildlife Response Team uses and that are stock-piled in containers in the regions, was also mobilised quickly.

9.9. After arriving in Tauranga, the Oil Spill Equipment Technician organised the warehouse footprint for storing booms, skimmers, personal protective equipment and other kit. MPRS’s and the Australian Maritime Safety Authority’s assets and equipment and other response equipment were stored at the council’s Shed 8. This equipment formed the core MNZ oil response hardware capability.

9.10. Additional gear and personal protective equipment required was sourced from local materials suppliers identified in the Tier 2 response plan. This equipment was distributed and used during subsequent operational phases, such as beach clean-up. The control regime for purchasing and acquisition logistics followed MNZ’s standard operating procedures for its normal business.

**Incident Command Centre under pressure from cold-start Tier 3 response**

9.11. The early decision that this was not a Tier 2 incident and would require an MNZ-led response, meant it was unlike past incidents; this would be a cold-start Tier 3 response, not an escalation built on an initial footprint using established regional infrastructure and assets. The rapidity of mobilisation and the extent of call-up of NRT soon placed the ICC under physical pressures, necessitating a search for viable premises, and administrative overload caused, in part, by the volume of personnel support arrangements to be attended to and, in part, by an underestimation of the capability requirements for systemic administrative functionality.

9.12. The ICC was set up according to plan with three core units (along the lines of the Coordinated Incident Management System) in the direct line of response command to the NOSC. A further four functions had direct relationships for liaison purposes or reporting to the NOSC. Each of these seven units was scaling up, and the media and community relations cell, which became the first to receive reinforcements from outside MNZ and the NRT, was severely stretched. Several badged NRT members present at this time felt the structure was not delivering access or decisions to all units effectively, and priorities were becoming harder to sort out.

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64 A detailed breakdown of each section in this structure is in MNZ. 2012. Incident Command Team roles and responsibilities (chapter 3). In National Marine Oil Spill Contingency Plan. Wellington: Maritime New Zealand.
9.13. To be ready for oil combat pollution operations was a clear priority for the NOSC and ICC. Readiness relied on a clear appreciation of risk, based on a mass of information about the casualty, oil, local hydrography and coastal geography that had to be gathered, assessed and processed. These tasks required liaison between the salvors, LOC and the ICC. A salvage unit was established at the ICC and headed by the General Manager, Monitoring and Response whose familiarity with MNZ’s thinking about the role and accountabilities (as outlined in the MIRT guidelines) came from his line manager responsibilities (see para 4.38). The Reviewer understands that this General Manager had received delegations of the Director’s ship control powers, but was not to exercise them except in extreme circumstances and not without prior consultation. He personally led the operational function of salvor liaison. He was the first of three members of the Executive Team to go forward to the response frontline.\(^6\)

9.14. The creation of infrastructure to support NRT operations and the testing of at-hand technical capability for containment and removal options for oil spilled into the sea also began very quickly (initial positive indications were misleading). A flurry of procurement and contracting ensued.

9.15. The human resources function was coping, but only barely, with basic employer and placement tasks as the ICC expanded rapidly. Its ability to undertake skills matching was constrained especially for new and non-NRT arrivals. Pressures were arising in regards to shift change handovers and information transfer.

\(^6\) The Executive Team of usually seven members was down to six, because the position of General Manager, Corporate Services was vacant. Over 5–8 October, the two members who had Jody F Millennium experience were on leave.
9.16. By days 4 and 5 (the weekend) there were concerns about whether the ICC, as it stood, was at the necessary level of functionality for the multidimensional frontline performance likely to needed for a response that could be longer lasting and more resource intensive than anything MNZ had previously encountered. The appreciation of pollution risks had sharpened considerably with early advice from LOC about the worst-case scenario – that bad weather could break up the ship and cause a catastrophic release of oil and other cargo-derived pollutants into the sea.

9.17. NOSC had rising concerns based on trialling and testing that heavy fuel oil spilled overboard might react to water in such a way as to make it neither containable by booming nor collectable by skimming. A groundswell of concern had built locally across the region that ICC media operations had been unable to mitigate, particularly after oil traces appeared on the shoreline and precautionary beach closures were at hand.

9.18. The Director of MNZ accompanied the Minister of Transport and other senior officials to Tauranga on day 5. Out of this visit came the first of several important adjustments to the planned response.

First adjustments to planned response

9.19. The Director of MNZ had made requests to the Australian employers of two recently departed NOSCs to make them available to the response.\(^66\) She decided to vary the conventional wisdom about continuity of command (around a single NOSC responsible throughout an incident) by creating a roster of NOSCs who would assume full command of the response for their “tours of duty”. These were decisions made to enhance sustainability (avoid leadership burnout) and facilitate innovation. However, they were potentially at the expense of coherence if the different NOSCs failed to recognise that they were part of a going concern where some inherited decisions could not be undone or overridden.

9.20. The Director, having been briefed by the mayor and regional council officials and having seen the pressures on the ICC media unit and Incident Command Team leaders, recognised more resources needed to be applied to community relations and engagement with affected parties. These parties were not happy to remain bystanders, and were on the verge of spontaneous direct action.

9.21. The Director had accepted the reinforcing of the media and community relations unit, but decided to vary the plan by splitting the function and personally leading the community dimension. This decision took her onto the frontline for an extended period in what was regarded as an operational role. Correct though this decision was (and successful as it would prove to be), it did incur costs, especially for the Wellington-based response rear. Both the MIRT and the Executive Team lost focus and functionality when the Director travelled to Tauranga on day 6 to begin a sustained programme of community meetings and hui. She brought with her another general manager who was soon to take up a new and unplanned frontline role as Director’s Representative.

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\(^{66}\) The Director had also asked the AMSA if the senior manager with direct operational experience of the Napoli response could be released for a period. He had arrived in Tauranga by day 5 as had the extra NOSCs.
Unclear structure and poor information flows

9.22. Local civil defence and emergency management officers and others from central, regional and local government in the Bay of Plenty told the reviewer that, in their view, the response was hampered (until about day 8 or day 9) by:

- difficulties in finding the points of the response structure where functional inputs and skilled people at their disposal could be incorporated
- a lack of clarity about the roles of central and regional government and local agencies, including about jurisdictional boundaries and decision-making primacy in the MNZ national contingency plan
- a lack of higher level information about the response strategy (which was of strong interest to them because of the expectation that at a certain point regional government would assume from MNZ the responsibility for leading the recovery and restoration phases).

9.23. The last point above was not overcome until the dispatch of a senior regional council manager to Wellington where he could access the Watch Group led by the Department of the Prime Minister and Cabinet and participate in the MIRT.

Inadequate communication with locals, including iwi

9.24. During the same period, a communication vacuum affected Bay of Plenty iwi, especially those living outside Tauranga and along the coastline or on the offshore islands. The only information available to them and those representing them was from open media sources. They began to seek, but were unable to gain closer connection to MNZ’s response.

9.25. During her weekend visit, the Director of MNZ attended a hui at which information on what was happening and processes regarding the ship was shared, effectively for the first time. Iwi observed that MNZ had not taken account of local people (Māori or Pākehā) in its approach to the incident. The Director of MNZ addressed this criticism by deciding that iwi liaison officers should be part of the MNZ response and have a formal presence in the ICC.
10. **Risk appreciation and cross-agency support**

**Introduction**

10.1. This section covers how a lack of information impeded initial risk appreciation activities at the “rear” of the response as well as the appreciation of the incident from a strategic perspective. It also discusses the subsequent cross-agency or whole-of-government support that was forthcoming.

**Lack of information also hindered the rear**

10.2. The same need for building-block information with which to drive operational planning in the Incident Command Centre (ICC) also affected the mobilised Maritime New Zealand (MNZ) rear, in particular the Maritime Incident Response Team (MIRT).

10.3. The Security and Risk Group in the Department of the Prime Minister and Cabinet and other agencies from the Civil Defence Emergency Management community were awaiting follow-up to the alerting calls made on the first morning.

10.4. The New Zealand Defence Force and New Zealand Police were expecting to be supplied with guidance about the capabilities or support they might be required to deploy into a joint operations environment against what, in their preliminary estimate was a major maritime emergency.

10.5. The Department of the Prime Minister and Cabinet had two important threshold issues: to establish whether the response would best be treated as a national civil defence emergency (if the powers available to the National Controller were necessary to effect a response), and the need for a broad-based national interests risk appreciation. The first was resolved. MNZ’s status as the response leader under its Act was endorsed. Systems and procedures of the Officials Committee for Domestic and External Security Coordination were mobilised around, and in support of, those of MNZ.

10.6. The second requirement was harder to satisfy. Neither MIRT nor the ICC was easily able to supply a foundational level of situational awareness around which this appreciation could be built; nor was it prepared for the broad-based future-focused scenario planning that the situation required.

10.7. The Reviewer was told that this lack of situational awareness arose, in part, from the inherent difficulties of communicating with the on-board team (the salvor, maritime safety inspectors and London Offshore Consultants (LOC)) as well as from information gaps in the national (Tier 3) and regional (Tier 2) planning documentation. However, it also arose from a deficiency of in-house “savvy”; MNZ did not have sufficient grasp of casualty management and salvage practices, which constrained the response initially and for some time after the storm on 10 and 11 October. The Director of MNZ and other managers relied on the Australian Maritime Safety Authority and LOC for policy guidance in this area. LOC was soon asked to add a Wellington-based representative to its presence.
High-level strategic appreciation of the incident hard to form

10.8. The model framework in the MIRT guidelines was itself problematic for gaining a high-level strategic appreciation. Of particular concern to the Department of the Prime Minister and Cabinet and other central government stakeholders was its relative under-emphasis of the wider pollution and disruption consequences of the incident, including its knock-on macroeconomic effects if the port – New Zealand’s busiest – should have to be shut down for any extended period.

10.9. This broader perspective might have been added readily by the Ministry of Transport, but there was no standing in MIRT’s plan (nor that of the ICC) for a Ministry representative, and contact was delayed with the Officials Committee for Domestic and External Security Coordination. Accordingly, the first strategic appreciation, which was based on a template provided by the Security and Risk Group, did not emerge until the second round of meetings of the officials committee at Watch Group and chief executive level. The Director of MNZ gave the latter group a more sober assessment of the risks and sought interagency support for the response.

Whole-of-government initiatives offered to strengthen frontline and rear

10.10. The whole-of-government contributions that were rapidly offered were aimed at strengthening the frontline functions at the ICC or at creating awareness, oversight and issue management capacity in the rear.

10.11. When the Ministry of Transport was engaged (via the Watch Group) it was able to pick up analytical and related policy tasks that MIRT or MNZ could not easily undertake. In particular, the Ministry took responsibility for the resourcing issues that were confronting the response and commenced work on funding questions, as it was clear that the Oil Pollution Fund would certainly need to be supplemented.

10.12. The Ministry of Transport, also took the lead in organising ongoing dialogue among the wider range of central government agencies with direct operational interests in the response or potential involvement in dealing with social and other consequences. Through a coordinating committee, the Ministry ensured coherent oversight of these various interests and inputs. Figure 4 illustrates the nature of these relationships.
Legal support

10.13. Fundamental policy considerations for a response strategy were domestic law and the international maritime legal and liability frameworks defining the division of response accountabilities between the polluter and the coastal state. These needed to be explained and interpreted by MNZ to agencies that lacked the familiarity with a maritime emergency that a national exercise would have corrected.

10.14. The small MNZ legal team, which had important advisory duties to the National On-Scene Commander (NOSC) at the ICC as well as to the Director of MNZ (in respect of her in-extremis ship control powers), was quickly reinforced by Crown Law Office and commercial expertise. (See also section 16.)

Communications support

10.15. The interagency Civil Defence Emergency Management communications group undertook to supplement the MNZ media team.
New Zealand Defence Force support

10.16. The New Zealand Defence Force had activated its standing procedures for aid to the civil authority almost immediately. A liaison and initial planning group was on standby.

10.17. At a meeting of the Officials Committee for Domestic and External Security Coordination, the Chief of Defence Force advised the Director of MNZ that a full headquarters group could be made available to reinforce the ICC and, breaking with convention, it could be placed under NOSC command. A senior naval officer (who had Jody F Millennium experience) would be in a lead liaison role.

10.18. The New Zealand Defence Force was conscious of the role of commercial operators in a salvage-led response and recognising liability considerations. Its appreciation of risk was that in terms of available domestic capacity and assets the most significant shortcomings would be in dealing with pollution and related risks arising from floating or sunken debris (cargo and containers).

10.19. New Zealand Defence Force assets could be required on water to police the exclusion zone, for aerial reconnaissance, to manage sea-lanes or an evacuation from the casualty, and possibly on land. Contingency planning for possible integrated or joint operations needed to begin without delay. But on deployment to Tauranga, the Defence Force found it harder than it expected to slot into the embryonic ICC. In retrospect, it considers that there was too low a level of doctrinal and exercise-garnered familiarity between its systems and those of MNZ.

Security and Risk Group visit

10.20. When the Security and Risk Group visited the ICC and spoke with the NOSC and other stakeholders, it was able to confirm impressions that the response frontline was faced with a significant adjustment to accommodate the scaled-up presence now being activated.
11. **Oil containment and removal steps**

**Introduction**

11.1. This section discusses in the context of the long-term response the first oil containment and removal steps, oil risks and the (limited) options for managing them (on-board oil containment transfer and removal, bunkering). The section also discusses the rescue operation.

**First oil containment and removal steps**

11.2. On the vessel, London Offshore Consultants (LOC) worked, with the support of MNZ’s maritime safety inspectors, to deliver Maritime New Zealand’s (MNZ’s) first evaluation of the nature of *Rena*’s grounding and the risks of the response. It was clearly a dynamic casualty and an unstable operating environment for a ship-based recovery of oil. Using its powers, MNZ issued, on 6 October, two notices enabling the National On-Scene Commander (NOSC) to act and enforce the provision and disclosure of information by the representatives of the ship owner.

11.3. The crew on the ship, some quite traumatised, also cooperated. The salvors (Smit and Svitzer), were also on-board within 24 hours. Communication links were established with the insurer (Swedish Club). The salvors were contracted under the Lloyds Open Form contract that commits them, on behalf of the owners and insurers to make their best endeavours to ensure the safety of the crew and any other people on board, to save the ship and to protect the environment. (See para 4.61.)

**Oil spill risks**

11.4. It was established that two holds had been breached and that the number 3 starboard hold was leaking oil. The reef assessments that LOC made indicated that the ship was unlikely to be refloated, without the removal of a significant amount of weight. The vessel had developed a list of approximately 11 degrees to port. Observations led to an understanding of where the vessel was flexing. LOC advised that a crack would occur as the steel became fatigued through wave action. Aware of the remoteness and exposed location of the Astrolabe Reef, LOC and the salvors factored in its micro-climate at 12 kilometres out. Beyond the coastal water line, Astrolabe was subject to extreme weather conditions distinct from those of the bay itself. LOC’s calculations told it where the ship would break. Its worst-case scenario was that in sufficiently adverse weather the aft section would be severed quickly and sink with an uncontrollable release of oil and other pollutants.

11.5. The highest priority after achieving some control of the oil on board was to locate a vessel to pump oil off the ship and bunker it when removed. This would involve oil pipes in the fractured duct keel and taking water out of the bilge system. Salvors were hoping

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67 These powers exercised through MNZ’s first two notices were issued on 6 October 2011 at 12.28 pm.
68 A Lloyds Open Form Contract serves to avoid any authorisation delays during the initial phase of any salvage.
69 The draught of the vessel before and after the grounding indicated a ground reaction in excess of 9,000 tonnes.
to use the ship’s electric system to keep the heavy fuel oil warm, which would make it easier to remove.

**Limited options for oil risk management**

11.6. Anticipating the salvor’s intent, the Marine Pollution Response Service (MPRS) with support from the Maritime Incident Response Team, had begun to search for specialised assets from New Zealand’s maritime industry fleet of vessels. However, it was quickly found that fit-for-purpose and ready-for-use assets were not within the commercial fleet’s capability. The alternative was to go offshore or make do.

11.7. As the Incident Command Centre (ICC) planners began to integrate trialling information, the NOSC soon confirmed that MNZ’s oil spill assets for aerial dispersal, booming and skimming oil in the water were not suitable. This equipment was predominantly viable for inner harbour conditions. Heavy fuel oil leaking from the vessel sank subsea and sat within the water column, a factor that further limited the use of the booming and skimming equipment. The unique, coastal environment (tidal estuaries and mangrove areas) around the bay also served to limit the utility of MPRS’s skimmers and booms. It was increasingly clear that to remove oil before it escaped overboard was the most viable option, and salvage operations would be central to the effectiveness of the response overall. Knowledge of the dynamic risks posed by the *Rena* situation only added to the sense of urgency.

**On-board oil containment transfer and removal**

11.8. Many participants told the Reviewer that, in this initial phase, “it became a race against time” to get the oil out. There was increased pressure and stress on those working on board or alongside *Rena*. Precautionary efforts to seal areas in which oil remained trapped started with the sealing of *Rena*’s air vents and tanks. Flanges for the oil tanks were being fitted in readiness of the bad weather forecast to arrive on 10 October. A concurrent effort to remove the cargo and oil was considered but was ruled out on several grounds – notably the uncertain impacts on stability and the inherent fragility of the oil transfer and pumping operations, which meant that a minor mistake in any activity involved in the shifting of containers would compromise oil transfer and pumping.

**Bunkering options: Awanuia**

11.9. A decision was made to attempt to transfer on-board oil to a non-specialised bunker vessel. It was ascertained that HMS *Endeavour* was unable to be used as a bunker for technical reasons. The most suitable available New Zealand vessel was *Awanuia* (primarily a vessel for inner-water refuelling), which Z Energy Limited’s subsidiary company Sea Fuels operated. Preliminary discussions had established that the vessel was not equipped for the type of transfer function required, and that it was fully deployed servicing existing commercial contracts. However, with a forecast storm and the urgency to begin clearing *Rena* of fuel, the release of *Awanuia* to the salvage effort was negotiated.

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70 *Endeavour* is a single-hulled vessel and had maneuverability limitations.
11.10. Finalisation of the contractual arrangements and the required fit out (to equip Awanui to transfer and bunker the heavy fuel oil) delayed the Awanui from being able to move into proximity with the reef and the stricken ship. It did so on the afternoon of day 5.

11.11. A viable and planned approach for the transfer was established between Sea Fuels management and Svitzer. This involved a two-stage transfer process – moving heavy fuel oil from one of Rena’s oil storage tanks to other of its storage tanks, before pumping it overboard to Awanui. With the weather deteriorating, Awanui was to work no closer than 50 metres from the Rena. However, the temporary master’s experience in the worsening conditions that evening rendered this impractical. Awanui was moored by positioning the vessel roped to Rena and with a tug boat immediately behind it. A hose was then attached to Rena.

11.12. The closeness of Rena, the weather and the effects of backwash and waves coming over the reef made it increasingly difficult for Awanui to maintain a stationary position. Anxiety about the adequacy of the mooring system and the safety of the crew and vessel increased. Despite the weather conditions and the precarious nature of the operations, 3 tonnes of heavy fuel oil were transferred over a two-hour period. However, at 10 pm, Awanui, having expressed safety concerns to Svitzer, was shifted away, ceasing pumping. Awanui remained in the vicinity overnight.

11.13. On day 6, Svitzer arranged additional support to enable Awanui’s temporary master to reposition the vessel closer to Rena. In what were now stormy conditions, pumping started again. The moorings had become more stressed and Awanui’s movements caused a hole to be pierced in its upper structure. Awanui had to return to Tauranga for repairs. A fender was added to Awanui’s superstructure as an extra protective measure. This took 36 hours.

11.14. Efforts were under way to identify additional support from within New Zealand. Sourced from the offshore oil zone, the tug Swiber Torrun arrived in Tauranga on 13 October.

Evacuation of vessel and rescue operation

11.15. As the weather worsened, heavier seas caused Rena to move from its original grounded condition with a change of heading. The bow remained pinned to the reef but the more buoyant aft section was more exposed to movement in the heavy swell. According to those on board, Rena righted itself for a period and then suddenly lurched to 22 degrees starboard very close to the waterline. The situation was tense and frightening for all 35 aboard – MNZ staff, the salvors and the crew.

11.16. In the ICC, the Bay of Plenty Regional Police Commander and his unit, aware from day 1 that an evacuation process might be required, and MNZ staff developed contingency plans in parallel. During the morning of 11 October, all aboard Rena were evacuated. The evacuation was coordinated by the Salvage Liaison Officer communicating with the Rescue Coordination Centre of New Zealand. When the planned option of a helicopter rescue became unviable (because of fog at sea), the salvage master issued instructions to those on board to abandon ship and made a mayday call. The Royal New Zealand Navy

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71 The Awanui crew regarded the main pumping equipment (a three-inch hose) as suboptimal, because it was neither a floating hose nor of a diameter that would enable easy and fast pumping. Suggestions that a two-pump operation might have been feasible were discounted to the Reviewer by the temporary Master and the salvors.
(Endeavour) responded by mounting the rescue by sea. To extract all on board safely was perilous; the seamanship of the naval personnel involved was warmly commended by those rescued. Later that evening, a small group of salvors and MNZ maritime safety inspectors, went back out to the scene and, from a distance, kept an anxious vigil lest the storm should break the ship.
Long-term response

12. Oil spill and other maritime pollution combat operations

Introduction

12.1. This section discusses the long-term response to the oil spill and other maritime pollution combat operations.

Long-term response

12.2. In the latter phase of the response, as the Napoli review indicates, command and control would inevitably become more complex. A variety of response operations involving a variety of professional specialisations and utilising different management approaches had to be put in place in their own right, but then integrated with each other. Management at a strategic (not tactical) level needed to join the interests of stakeholders in a sustainable alliance. In addition, response management had to address whether and how to accommodate the palpable desire of individuals, iwi and citizen groups to become part of the plan and pollution combat operations.

12.3. It is not easy from the records of the response to chart precisely the growth of the response workforce. However, the scaling up from initial mobilisation was significant. The population in the Incident Command Centre (ICC) grew from 25 on day 1 to a peak of about 200. One-third of Bay of Plenty Regional Council staff (60 officers) were committed to the ICC or Rena-related tasks. There were 68 Maritime New Zealand (MNZ) staff on Maritime Incident Response Team (MIRT) rosters in Wellington and others who moved to ICC rosters whose positions were backfilled. The whole badged National Response Team (NRT) was deployed, and the regional responders pool was also drawn on from other regions.

12.4. At the height of the response, from the second week of October through to early December, MNZ believes up to 800 people were in one way or another involved as responders under MNZ’s control. These responders included beach clean-up teams, the National Oiled Wildlife Response Team (NOWRT) and its surge capacity, and elements of the 500 New Zealand Defence Force personnel who deployed with the response for ground- or water-based operations or ICC duties.

Resumed on-board oil removal operations

12.5. Besides affecting the ship’s position on the reef, the storm had also worsened the ship’s integrity as the original crack extended to its superstructure. Significant damage also occurred to the bulbous bow, affecting the planning parameters for oil transfer operations. The feared release of oil and containers had occurred. The ship had snapped

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72 Records show that on the eve of the Rena incident, MNZ had 128 full-time equivalent staff.
but not (yet) broken in two or slipped down the reef.\textsuperscript{73} London Offshore Consultants’ (LOC’s) worst-case scenario of a catastrophic release had been realised in part consistent with estimates that the region’s coastal waters, shoreline and beaches (public and maritime users) would be endangered for some significant time. When the salvors returned to the further-compromised casualty, the risk of the ship breaking up and a second and more severe release of oil remained high.

12.6. When pumping resumed, a variety of improvements were made to de-risk mooring. A rigid inflatable boat, obtained from the Royal New Zealand Navy was deployed, enabling the Awanuia to break away from Rena during other periods of bad weather.

12.7. The tug Swiber Torrun moored in place next to Rena and Awanuia as pumping resumed on the 16 October. On 22 October, Swiber Torrun was replaced by Go Canopus, a Singapore-based purpose-built vessel capable of remaining on station during bad weather. Pumping continued until 14 November.

12.8. LOC had calculated that 1,693–1,772 cubic metres of heavy fuel oil was on board Rena when it grounded.\textsuperscript{74} About 467 cubic metres was thought to have been lost to sea. Removed from Rena to Awanuia and to “tank tainers” on Go Canopus were 1,226.4 tonnes of oil and 228.5 tonnes of water. LOC estimated that in a worst-case scenario, at the end of the pumping, remaining on board were 109 cubic metres of heavy fuel oil. Some fuel was thought to be trapped in pipelines and pockets and spaces in the fore and aft sections.

12.9. With pumping completed, the focus swiftly changed to container removal. This work started on 16 November. The barge Sea Tow 60, which was moored at the stern of the wreck, and the crane ship Pancaldo were used to discharge containers and distressed cargo safely from Rena. Smit Borneo arrived on 5 December and was removing containers by 9 December. It had a longer reach, so was used to remove the bulk of the remaining containers. Go Canopus and Smit Borneo remained engaged removing containers and distressed cargo until all the containers and debris that were able to be retrieved from the fore section had been. Go Canopus and Smit Borneo were decommissioned and departed New Zealand waters on 20 June 2012.

**Sustainability of response staffing**

12.10. Further rotations to a variety of roles enabled many staff to be refreshed. However, rostered shifts were often of a shortening time span. Difficulties arose with the turnover created, as the additional strain of managed handovers and bringing new people up to speed had an unforeseen impact. This in turn highlighted weaknesses in the depth of the NRT and regional responder networks.

12.11. As the weeks started to pass, resourcing of ICC functions became an issue. Many of the staff provided from the regions and government departments were returning to their substantive operations in their home organisations. MNZ invoked its Business Continuity Plan to address the pressures on its own personnel. MNZ’s business-as-usual operations were becoming an equal focus, and MNZ had begun to consider the recovery phase and

\textsuperscript{73} For details, see paras 4.50 and 4.51.

\textsuperscript{74} LOC. 2011. C/V Rena: Analysis of oils remaining on board (ROB). Singapore: London Offshore Consultants, pp 13 and 14. These opinions have not been tested with the ship owner or the Protection and Indemnity Club.
its role in the monitoring of the wreck. A decision to source temporary staff from the Tauranga community helped reduce the churn arising from shuttling MNZ’s staff between the response rear and the ICC.

### Human resources

**12.12.** Some desirable human resource activities and standard practices (for example, skills matching) became hard to implement with the expertise and capability available. Debriefs indicate a widespread view that the matching of staff to tasks was lacking across several roles. The assumed underlying factors contributing to this included deficient training and a lack of awareness or transferability of the skills, capability, experience and qualifications held by responders. ICC handovers between shifts proved too short and there was no standardised practice for overlap and no information-sharing protocols.

### Containers and distressed cargo

**12.13.** The storm, sea conditions and the reef wrecked many of the containers as they fell overboard. Cargo was spilled, resulting in a secondary but no less acute, non-oil pollution risk of container contents and oiled debris becoming submerged in coastal waters or washing ashore. The entrance to the Port of Tauranga was at particular risk from containers in the sea lanes, and public health concerns were rising with awareness of the hazardous and noxious elements of the waste cargo. The amended and expanded salvage operation aimed to minimise the impacts of pollution on the coastline and shoreline.

### Preparations for shoreline clean-up

**12.14.** Planning for a coastline and shoreline clean-up operation was to be centred on the ICC. NRT and NOWRT capabilities were also required. Planning would begin with the development of plans based on MNZ and Marine Pollution Response Service technical expertise to model the potential flows of pollutants. Initial planning for oil, wildlife and other debris depended on accurate modelling of the behaviour of the substances taking account of tidal patterns. This in turn required spill data and spill trajectory assessments. The Reviewer was told that early modelling did not predict how quickly or how widely across the coastal geography these pollutants would be released. The environmental advice units in the ICC and MIRT lacked both depth of expertise and an integrated methodology that could bring aerial observations, shoreline clean-up assessment techniques, and satellite information together with the appropriate science. The oil on water categories used in New Zealand have been superseded by the Bonn Agreement system.\(^{75}\)

### Hazardous and noxious substances and dangerous goods

**12.15.** The management of risk arising from the on-board containers also required the assessment of the dangerous goods element and then a plan to mitigate risks of the remaining dangerous goods containers being released overboard. MIRT successfully

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researched and clarified the true extent of this. A recommendation was made to attach GPS pingers to identified high-risk containers, thus allowing the containers to be easily tracked and located if washed overboard.

12.16. Unfortunately, the salvors lost time as they waited for pingers to arrive from overseas suppliers. Initially, pingers were to be placed on containers known to hold dangerous goods. Dangerous goods information detailed in the Rena’s manifest proved incomplete, at least in part because several clients of the Mediterranean Shipping Company had not declared fully all dangerous goods in their bills of lading. Some cargo, although not dangerous in itself, could create environmental problems if it came into contact with sea water.

12.17. Until the pingers arrived in the quantities required for the response, the consortium of salvors worked to locate lost containers and container debris that were in the sea and washing up on coastal beaches. The Royal New Zealand Navy provided assistance from mid-October to early 2012, using sonar around the port entrance to ensure sea lanes were clear of submerged and floating containers.

Adapting the planned response – management structure

12.18. The changes the Director’s representative recommended after his initial deployment to Tauranga and after consultation with the Department of the Prime Minister and Cabinet and other agencies are shown in Figure 5. This was a significant adaptation of the basic Coordinated Incident Management System (CIMS) structure. It addresses the parts of the National On-Scene Commander (NOSC) role that required coordination, relationship management and a high-level overview more closely aligned to the view being taken from Wellington. It is closer to the concepts of unified command and overall incident control that were discussed earlier.

76 Container debris was often oiled.
12.19. The Director’s representative was able to undertake high-level non-operational functions (that is, coordination and relationship management). With the Director of MNZ having taken on a major part of the public communications task, the media function became more manageable. ICC roles and functions could be recast to better correspond to the span of activities being undertaken and outputs being delivered through the ICC.

12.20. The decision to create a roster of NOSCs enabled a range of leadership changes in the ICC, which served to diversify the basic CIMS structure that had been established at the onset of the response. (This freed up the duty NOSC to focus on getting the ICC functioning more smoothly as the operational tempo (of pollution combat activities) accelerated.)

12.21. ICC internal processes were also adapted. A daily strategic management meeting including a more representative range of stakeholders and agencies (including iwi, the Department of Conservation, New Zealand Police, New Zealand Fire Service, Bay of Plenty Regional Council and Tauranga City Council) was introduced. Daily action plans were streamlined. Explicit orders of the day were issued to field operatives, and debriefs and general meetings became targeted.

12.22. As a result of the above structure, the ICC worked more effectively – daily meetings continued and stakeholder relationships (re)developed. The strategic management meeting enabled risks to be addressed before they became full-blown issues. Better planning and communication connected daily field operations. ICC functions moved from undertaking reactive activities to undertaking better planning and proactive activities. The response developed, what one NOSC aptly called, its “battle rhythm”. ICC and its functions were working more effectively. With the wreck failing to break up, the response settled into its work. With a stronger lead from the Wellington-based Executive
Team and a reduced “here-and-now” burden on the NOSCs other sensible adaptations and technical innovations were introduced. Overall, the response became more flexible.

Reorientation of the salvage operations

12.23. The further damage left no prospect of refloating Rena and the ship was declared a total constructive loss. New arrangements were made as the focus shifted from saving the ship to salvaging cargo and managing the pollution risk. The Swedish Club had engaged Braemar Howells, an international distressed cargo company that had led operations in the United Kingdom at the beaching of Napoli, to work with Svitzer to address the wider pollution issues.

12.24. One arm of the Swedish Club’s salvage consortium would be responsible for containers and cargo still on board the wreck or overboard within a 1 kilometre limit. Braemar Howells was to be responsible for all non-oil pollution in the sea outside the 1 kilometre zone in coastal waters and on beaches. Braemar Howells was also responsible for disposing of all recovered containers and cargo handed over into its care by Smit Svitzer. (Containers and container debris were either recycled or treated appropriately at the regional council’s Truman Lane environmental management site. This facility provided great value to the response.)

Salvor liaison and salvage superintendency

12.25. The role of the Salvage Unit that had been set up within the ICC and its relationships with the emerging consortium of salvors were also receiving fresh consideration. The unit had taken effective command of MNZ’s maritime inspectors who were carrying out salvor liaison aboard the vessel. It also assumed the role of clearing house for information about the salvage operation, which was increasingly critical to the overall success of the management of the multiple pollution risks posed by the casualty. This was considered consistent with a mandate to monitor and superintend the evolving salvage activity, and to influence but not intervene except where a vital interest might require the use of directive statutory powers.

12.26. The unit led the consultation concerning the salvage consortium’s transition issues, its intended plan and the mobilisation of appropriate assets for exclusion zone operations.77 The foundation of this was another in the series of cogent and well-presented advisory briefs that LOC provided to MNZ throughout the response. This one identified short-term to immediate risks (including the removal of dangerous goods, removal of hydrocarbons, salvage contract, strength and stability monitoring (of the wreck)), medium-term risks (including wreck removal (contract and preparations), tendering processes and container removal) and long-term goals. This enabled consideration of the wreck removal while acknowledging that the casualty remained dynamic and prone to change.

12.27. From its establishment, the unit had progressively seized the salvage policy reins from MIRT. This would cause concern about potential perceptions when the negotiation of the Rena compensation claim developed momentum in late 2011 and into early 2012.

77 A 1 kilometre exclusion zone had been established to reduce safety risks to salvors and the many sea-borne onlookers. For more information, see Annex D.
12.28. LOC, with its contractual responsibilities to advise the Director of MNZ, had felt pulled in two directions and had at times been uncertain about how coherently MNZ was absorbing the reports and advice it was providing on future risk and mitigation options. The salvors too had concerns about whether MNZ grasped some of the technical and professional intricacies of their approach. These concerns crystallised over the emerging issue of the plan for on-water debris containment and recovery.

12.29. The unit’s concept of salvage “superintendency” appeared to be moving towards explicit kinds of operational intervention that discomfited the commercial parties and contractors. Different tolerances for cost and risk, sometimes potentially serious, are a recognised occupational hazard of the salvage industry; a coastal state must be able to assert its interests and priorities. However, the insurers and the salvors equally have legitimate processes and interests at stake. The parties are, in effect, joined in a pragmatic alliance, and relationship management is important.

12.30. The salvage unit sought assurances, in New Zealand’s broader interest, that the salvage operations would not be interrupted or cease, although the nature of these operations was changing. Besides continuity, the unit was concerned to clarify issues about commitment to a viable clean-up plan; one that might need rapid mobilisation and sustainability, and needed to meet New Zealand environmental standards. These are legitimate interests to pursue.

12.31. However, relationships became very strained for a period. Parties external to MNZ told the Reviewer that this was interpreted as MNZ underestimating the goodwill of the owners and the professionalism of the Swedish Club and the salvage consortium whose engagement in the response had become so central. A restoration of mutual confidence was needed and was achieved through the combined efforts of the Director-designate of MNZ, the Protection and Indemnity Club’s senior claims manager, and LOC. This occurred against the backdrop of early exchanges about civil liability issues that were to end with a negotiated settlement between the Crown and the ship owner’s representatives in November 2012.

**International legal context**

12.32. A constant and major consideration throughout the response was the applicability to the *Rena* incident of international maritime law and the domestic law, which gives effect to it. It is a declared goal of the national strategy to ensure that New Zealand “is a party to International agreements which will enhance our ability to respond effectively to marine oil spills” and that New Zealand is able to meet relevant responsibilities and obligations arising from such agreements. (The International Convention on Oil Pollution Preparedness and Response (1990) requires states party to the International Maritime Organization conventions regime to maintain effective national response systems and capability. Access to the benefits and protections this regime offers arise from being in good standing.)

12.33. New Zealand’s situation in terms of its standing at international maritime law and its rights to compensation on the eve of *Rena* was that New Zealand was a signatory to the International Convention on Civil Liability for Oil Pollution Damage (1992) and International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1971).
12.34. The 1992 convention applies to threats of “spills of persistent oils” from the cargo and bunkers of oil tankers. It establishes strict liability for the tanker owner if the incident occurs in a contracting state up to an agreed limit. It is funded by tanker owners.


12.37. New Zealand is not a signatory to the International Convention on Civil Liability for Bunker Oil Pollution Damage (2001) (Bunker Convention), which covers oil spills from ships other than tankers whose oil is carried as fuel in ship bunkers. Strict liability extends beyond the owner to the charterer, the manager and operator. New Zealand is also not a signatory to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (1996) (HNS96).

12.38. Policy proposals in recent years have recommended that New Zealand updates its participation in the International Maritime Organization regime by acceding to the Bunkers Convention and HNS96. These recommendations required prior industry consultation and, besides Cabinet approval at policy level, a decision about legislative priority. MNZ and the Ministry of Transport were working on a comprehensive review of the Maritime Transport Act 1994. Specific new accession proposals became caught up, first, in the wider review, then in Cabinet processes to determine annual legislation priorities among Ministers. A high priority slot has apparently been found for the Marine Legislation Bill in the 2013 programme.

Civil liability proceedings

12.39. At the time of the Rena incident, New Zealand’s legal position was less favourable than officials and Ministers in principle would have preferred. By an orthodox interpretation of the country’s international obligations and entitlements, Rena was not an International Convention on Civil Liability for Oil Pollution Damage ship by type (that is, not a tanker). The oil that Rena as a container ship carried was ship oil (that is, covered only in the Bunker Convention). The civil liability for ship owners and others was capped at the LLMC76 limits.

12.40. This element of the international dimension of the Rena response is best summed up from the notes on sentencing by Judge RP Wolff in the Tauranga District Court on 26 October 2012. 78

“The civil liability of ship owners and others for damage caused by a bunker oil spill ... in the circumstances arising here is limited to a sum of approximately $11.3 million.”

78 Notes on sentencing of District Court Judge Wolff in Maritime New Zealand v Daina Shipping 26 October 2012, DC Tauranga CRI-2012-070-001872 (note ii).
“Had the Defendant resorted to its rights to cap its liability, the Crown would be left to claim against the capped fund and would have received a payment pro rata with all other persons able to establish loss as a result of the grounding. Any payment to the Crown would have been less than the capped fund of $11.3 million” (the total cost to the Crown to date is approximately $47 million).

As a result of extended and co-operative negotiations between the Crown and the defendant and its insurers, the owner and its insurers agreed to pay the Crown the total sum of $27.6 million in compensation or $38 million if a resource consent were granted. This agreement “significantly exceeds the Defendant’s civil liability under the Maritime Transport Act and International Conventions”. (As a result “the Crown has avoided a much greater loss than the deficit which will remain after the compensation payment”.)

“[I]n addition to any compensation paid pursuant to the Agreement, the Defendant through its insurers has made payments towards salvage and clean-up which are ongoing ... in excess of $NZ235m” and “are committed to further payments” through wreck-dismantling salvage work (also ongoing).
13. **Oiled wildlife protection operation and other ecosystem issues**

**Introduction**

13.1. This section explores the role of the National Oiled Wildlife Response Team (NOWRT) in the *Rena* response, from mobilisation to demobilisation, and the relationship with the Department of Conservation.

**Mobilisation of the National Oiled Wildlife Response Team**

13.2. The oiled wildlife response was led by Massey University’s Veterinary Clinic Services, which is contracted to Maritime New Zealand (MNZ) as NOWRT. By agreement, the National Marine Oil Spill Contingency Plan (national contingency plan) requires NOWRT to be capable of dealing with 500 wildlife casualties.

13.3. At the start of the *Rena* response, NOWRT alerted and mobilised its core team of badged members (about 16 people), and notified international experts and contacts in its specialist contractor network.

13.4. NOWRT moved its essential equipment from Palmerston North to Tauranga rapidly, and commenced arrangements for acquiring a site for constructing a treatment facility. To start its operational planning, the team needed, and gained, oil spill trajectory reports as they became available. By day 3, NOWRT had deployed beach watchers who were the first “official” presence on the region’s beaches and the first to encounter rising public anxiety.

13.5. A regional manager from the Department of Conservation had set up the initial wildlife cell at the Incident Command Centre (ICC) with an incident action plan aimed at operations across disparate locations. These locations included the treatment facility at Te Maunga, the ICC, and dispersed field operations. The locations reflected the oil trajectory over the area of coastline that corresponded to the expanded pollution risk. The risk of a catastrophic oil release onto the Bay of Plenty coastline and shoreline created urgency and a sense of precaution. NOWRT spent heavily on its build up. Before the storm on 10 and 11 October, NOWRT’s total staffing was about 200 wildlife responders. Its peak numbers were 361: 16 in the ICC, 215 in field operations (including 185 “field” wildlife responders) and 130 responders at its facility at Te Maunga. These figures were indicative of NOWRT’s scale, and occurred when ICC logistics were under great pressure to meet the needs of other responders and the overall ICC financial control system (especially procurement and asset management) was under-resourced.

13.6. After the storm on 10 and 11 October, NOWRT began frontline operations. These operations prioritised protected and high-risk species (for capture, clean and release) with shoreline sanctuaries a second-line priority.

13.7. NOWRT provided veterinarian and wildlife care, food, a wildlife centre, and equipment and management (by the Massey veterinary clinic team). Daily wildlife operations collected oiled birds and delivered them to the staff at the oiled wildlife facility. These

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79 The cost to MNZ of this retainer is $480,000 per year.
staff cared for the birds after capture. The operations relied considerably on the Department of Conservation and its infrastructure.

**Relationship with the Department of Conservation and its broader focus**

13.8. Because of initial mobilisation pressures, NOWRT found it was left to undertake the full management of and logistics, planning and resourcing for its field staff – activities for which it was neither well prepared nor well versed in. Badged NOWRT members found it difficult to come to terms with the web-based information management system (WebEOC) and preferred to use a hardcopy document management system to record decisions.

13.9. Despite the Department of Conservation’s regional presence, infrastructure, and the responsibilities shared for environmental protection, there was no response-specific policy-level agreement about cooperation between MNZ and the department, and no response-specific protocols on interoperability issues in the national contingency plan; nor had MNZ had policy engagement with the Ministry for the Environment, which also has a wider purview taking in the Resource Management Act 1991. The most highly developed of its marine pollution partnerships was with NOWRT, whose focus was limited to oiled wildlife, in particular birdlife.

13.10. NOWRT did not have an incident action plan and structure for the broader coastal ecosystem (flora, fauna, wildlife, and linked aspects of the human habitat of the coastline such as local food sources or kai moana), which the Conservation Act 1987 encompasses.\(^80\)

13.11. The Department of Conservation and NOWRT were equally concerned about oil pollution – the primary threat, but there were wider social and environmental risks if the *Rena* broke up. The department had a long view of the response itself as a potential cause of ecological risk, and an awareness of matters that were bound to arise when the focus shifted from response to recovery and restoration and rehabilitation.

13.12. Under the national contingency plan, primacy for the response in this area lay with NOWRT, and the lead shifted away from the Department of Conservation. Reinforcements offered to the Director of MNZ at the meeting of the Officials Committee for Domestic and External Security Coordination were drawn from across adjacent conservancies and arrived at ICC on 5 October. It was expected that the department would support NOWRT to carry out its response. However, for some time, the department’s desk in the ICC operated separately, following the department’s response doctrine and drawing on its Coordinated Incident Management System (CIMS) training and experience. This set the department apart from NOWRT, which had had only limited exposure to CIMS.

13.13. As the ICC transitioned the response from being purely an oil spill response to a wider pollution response, MNZ became involved in overseeing the planning of the transition with Braemar Howells. However, the Department of Conservation, while aware of the Braemar Howells operational plan, was not party to discussions on this at ICC. The department also questioned NOWRT’s division of effort and intervention priorities: should the priority be saving all birds at risk or saving only at-risk endangered species?

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\(^80\) The term in the Conservation Act 1987 is the “coastal marine area”.
13.14. NOWRT outcomes were:
- 383 oiled little blue penguins admitted to the facility released back to the wild (95 percent of the little blue penguins admitted)
- 89 dead oiled penguins
- the pre-emptive capture of threatened species (120 birds)
- 60 New Zealand dotterels released only when the main risk of oiling had passed
- 54 dotterels successfully returned to the wild.

Winding down

13.15. The different entities disagreed about when and how to wind down, given that there were still risks arising from the ship breaking up. NOWRT was concerned about the potential of birds being re-oiled, a possibility arising from premature release and opted to maintain a high numbers of birds (there were 407 mid-November) at the facility at Te Maunga. Meanwhile, there was a steady decrease in bird numbers collected by field operations. (Over a period of weeks, the number remained static at two to five birds per day.)

13.16. NOWRT demobilised in late December, and staff returned to the Massey University clinic. The Department of Conservation group had demobilised mid-November as part of the first stage of de-escalation.

13.17. The total cost of NOWRT activities was $4,111,838.
14. Waste train

Introduction

14.1. This section discusses the collection and disposal of oiled waste from the shoreline and other debris.

Shoreline oiling and oiled waste

14.2. During planning and early preparation for the arrival of oil, the planning officer from the Marine Pollution Response Service (MPRS) identified a method for managing the waste that would be generated by clean-up operations. On his direction, a contract was established with Trans Pacific Industrial Solutions, a division of Transpacific Group Limited, to deal with all aspects of the waste.

14.3. Oil spill trajectory modelling had predicted oiling would occur along several beaches, at Motiti Island and coastal areas, and in the inner harbour at Tauranga. Initial planning of the inshore clean-up accounted for the predicted course. However, the oil arrived on the tide one day earlier than expected. The beach clean-up response was coordinated in the Incident Command Centre (ICC) with Maritime New Zealand (MNZ) working with Bay of Plenty Regional Council staff. A contract with Readynet Emergency Management Associates, which the council had completed earlier in the year, became a considerable asset for these operations. Readynet was used to manage the responder workforce, especially the volunteer element. Completed daily action plans and volunteer lists were sent to Readynet. The company contacted the registered volunteers, notifying them of assembly points for a targeted clean-up of the coastline. Over 25 volunteer groups were set up and focused on distinct tasks in the clean-up process. The clean-up was supported by the planned disposal of waste. The planning, network coordination and waste disposal are all successes of the Rena response.

14.4. The Gisborne District Council’s Regional On-Scene Commander maintained oversight of all aspects of the waste disposal operations, including solid and liquid waste (coming from the beaches, the wildlife centre Te Maunga, the ICC, general rubbish and vehicle wash). Fortunately, Tauranga’s main beaches were clear of driftwood. This contrasted with other beaches that required driftwood to be pushed up into the dunes before the heavy fuel oil washed ashore. This “pre-work” minimised the amount of oil-contaminated waste. In addition to the oiled sand, oil-contaminated sea lettuce, usually recycled for composting, was part of the waste gathered and disposed of.

14.5. The collection of oiled waste was an arduous and labour-intensive exercise undertaken by volunteers and contractors who worked on their hands and knees using sieves to pick up sandy oil balls and patties. Their work played a big part in reducing the volume of oily sand waste. Beach-grooming machinery creates more waste, because the ratio of sand and rubbish to oil is higher than the amount of waste collected by a manual beach clean-up.

14.6. The beach clean-up was highly successful and set a precedent for public participation contributing to the recovery of oil spilt in the environment. The clean-up has received accolades and will serve to inform approaches to cleaning up oil during spills worldwide. As the clean-up progressed, Trans Pacific teamed up with Envirowaste Services Limited.
The outsourcing of this part of the response enabled response resources and the volunteer network to focus on the clean-up. Transpacific and Envirowaste advised that waste of about 2,584 tonnes was recovered.

14.7. Figure 6 shows the waste train of all types of waste from the ICC, Te Maunga, and beach-clean ups. It also shows how rapidly the operations were brought to high productivity in the weeks after the storm of 10 October. The volunteer cohort first joined the official response in significant numbers in mid-October.\(^81\)

Figure 6: Weekly waste train, 12 October 2011 to 1 February 2012

![Weekly waste train chart](chart.png)

Note: Solid waste = 963.28 tonnes; liquid (washing) waste = 42.466 tonnes; Te Maunga Wildlife = 1,406.718 tonnes; sea lettuce = 55.64 tonnes; other = 95.76 tonnes. The total waste train was 2,583.864 tonnes.

**Other debris**

14.8. The Braemar Howells recovery team collected containers, container debris (oiled and non-oiled) and distressed cargo. Recovery operations extended from Tauranga to the eastern beaches on the Coromandel Peninsula and offshore islands. Debris was recovered from as far afield as Great Barrier Island and Gisborne.

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81 By mid-October, the number of volunteers working on beach clean-up was increasing exponentially. For example, there were 39 volunteers on 13 October, 145 on 14 October, and almost 1,000 on 15 October (a Saturday).
14.9. The waste train for the salvage was coordinated by Braemar Howells supported by Unimar Marine Services (of Nelson). They worked closely with the Bay of Plenty Regional Council during October to source a site and gain consents to develop the council’s Truman Lane facilities to manage salvage waste.

14.10. Figures at the end of February showed that since Rena grounded, Braemar Howells processed about 4,500 tonnes of waste. About 3,800 tonnes went to landfills and the remainder had been recycled by March 2012.
15. **Community relations, volunteer involvement, and iwi and hapū engagement**

**Introduction**

15.1. This section discusses the long-term response in the context of community relations, volunteer involvement, and iwi and hapū engagement.

**Community relations**

15.2. The storm of 10 and 11 October lead to 350 tonnes of oil spilling from the vessel and washing ashore on the following days, blackening the Bay of Plenty shoreline, including several frequently used beaches in populated areas and other places of cultural, recreational or commercial significance.

15.3. Maritime New Zealand (MNZ) quickly warned people not to go onto the beaches and not to touch the oiled “mud-balls” or other oily waste. However, the public (many of whom were users of these amenities, and others who were simply concerned citizens) continued to visit the beaches. Notices and warning tape reduced the numbers, but the situation was difficult to police. The desire of the public to be able to see things for themselves and be “part of the solution” was a fact the response had to address.

15.4. Concerns for the future of highly valued beaches and other familiar shoreline intensified during the phase of the initial Incident Command Centre (ICC) media overload. MNZ was perceived as not devoting sufficient effort to meeting local information needs.

15.5. MNZ had several reasons for initially discouraging public participation in the response, including the unknown toxicity of the spilled oil, and other public endangerment risks of legal consequence relating to hazardous waste. (Early on, MNZ had limited knowledge about what had escaped from the containers and what substances might be involved.) It was generally accepted practice among other International Maritime Organization member states (including Australia) to apply precaution and rely on trained professionals.

15.6. The Bay of Plenty Regional Council (and Tauranga municipal leaders) had foreseen the level of public sensitivity. As part of normal business, they managed responsibilities related to civil defence emergency management affecting the marine coastal environment and maintained active links with shoreline communities. However, they also operated a variety of well-established programmes of an environmental character (such as sand-dune planting) and interacted with user groups and organisations (such as surf-lifesaving) that had knowledge, assets and capabilities of potential value to operations to protect the shoreline.

**Volunteer involvement**

15.7. When their access to MNZ and the ICC became better established and as the Director of MNZ’s separate focus on community issues took effect, the council officials responsible for the usual community relations programmes put the case for organising a volunteer effort that could become part of the mainstream response. They believed they could create a regime for which the council would take the lead responsibility and that would
be designed to meet MNZ’s concerns. MNZ accepted this suggestion, and work began urgently on the policy and operational parameters for such a regime.

15.8. This was an important adjustment to MNZ’s response doctrine and the national plan. It was strongly encouraged by the Minister of the time (Hon Steven Joyce) and others whose understanding of the Christchurch earthquakes experience (the Student Army and Farmy Army in particular) gave them confidence that such risks as might arise in this case were able to be mitigated, and were outweighed by potential benefits. To deny the concerned public the possibility of useful engagement seemed highly counterproductive. Analysis established that the heavy fuel oil at the shoreline was of relatively low toxicity. This removed one major impediment to proceeding with an early start to the progressive introduction of the registered, approved and trained volunteers to beach clean-up operations that had been commenced by MNZ.

15.9. By the end of the public clean-ups, the volunteers, having become an effective multiplier to the “official” response, were recognised as essential to the response. International Maritime Organization circles have shown considerable interest in the volunteer regime and how it worked. The volunteers were applauded for their efforts and the impact they had made. In total, there were:
- 8,000 registered volunteers
- 40 corporate or group offers of labour
- 57 voluntary caterers
- 150 clean-up events
- 24,000 hours of volunteer effort
- $350,000 of personal protective equipment purchased
- many vehicles and much gear loaned or donated.

15.10. MNZ and the Bay of Plenty Regional Council covered this aspect of the response in the post-operational feedback process (debriefs) that followed de-escalation. The Reviewer has seen the conclusions MNZ has drawn and concurs with them.

Iwi and hapū engagement

15.11. Another stream of the “informal” response, which also grew out of MNZ changing its thinking, concerned Māori. In the first 36 hours after the grounding, local iwi leaders had made urgent representations through their parliamentary and other contacts in Wellington, as had been made in Tauranga. Iwi leaders wanted recognition of mana, access to the ICC and, generally, to become connected to the official response. These representations gave rise to simultaneous and parallel conversations among officials about the modalities for such engagement.

15.12. Te Puni Kōkiri’s view was that already in existence and able to be leveraged for the response was a reasonably effective iwi network and infrastructure that had been tested and found sound during recent civil defence emergency management alerts. The regional council shared this view and was adamant a protocol needed to be developed to facilitate the arrival and activity of the official response among local hapū (recognising that views were strongly held about coastline and shoreline matters at grassroots level, as well as in institutionalised Māori bodies across the region). Te Puni Kōkiri also considered that the effective central government conduit to local Māori might be the
Department of Conservation because of its various established and ongoing engagements with coastal environment management matters affecting iwi and hapū. There was a recognised need for a centralising administrative and financial influence to be brought to bear because it was likely the smaller hapū in more remote parts of the affected coastline would not easily find the resources to support their own efforts or to sustain support services to the salvors or other arms of the official response when their joint and several pollution combat operations reached full pitch. The belief was shared among the council, the Department of Conservation and Te Puni Kōkiri that the same risks of counter-productivity that applied in respect of discouraging local community and public participation in counter-pollution activities would affect the response, if iwi and hapū could not be joined into the official response in the appropriate way.

15.13. This was recognised by the Director of MNZ (see para 9.21). After her first meetings with Maōri leaders, she made engagement with iwi and hapū one of her priorities as part of the wider mission of recovering public confidence and support for MNZ and the response. Soon after the first hui that the Director attended, where iwi mobilisation was debated, Te Puni Kōkiri’s regional office and the council’s iwi liaison leader worked with her on a stepped-up communications plan for iwi and hapū. This plan was to explain the response strategy, the complexity of the liabilities, the accountabilities and liabilities of the Costamare Group and the Protection and Indemnity Club, and the parameters of the Government’s role in superintending and monitoring the operations that the salvage consortium had been engaged to carry out.

15.14. Iwi were sensitive to the urgency of addressing the full spectrum of pollution issues that arose from the storm, and used their local connections and database of networks across 136 marae across the Bay of Plenty region to mobilise large numbers of people and volunteers. Iwi were organised and had plans, sign-off processes and tasks allocated, but were held back (justifiably) from commencing early beach clean-ups by a basic level of health and safety training requirements. They dealt with the National On-Scene Commander (NOSC) and Director’s representative to accelerate and expedite the training. They were then deployed into selected frontline operations within the ICC-led pollution combat plan. To ensure iwi were appropriately engaged, iwi liaison officers worked in the ICC or with the National Oiled Wildlife Response Team as wildlife responders.

15.15. Iwi communicated and worked with salvors and volunteers about the need to observe protocols relating to the cultural significance of sites, and took responsibility for coordinating volunteers and their accommodation during beach clean ups at Motiti Island.

15.16. Limitations in regional communication networks were addressed by using the mobile telephone network and equipment supplied by MNZ. (The lack of telephone land-line facilities on Motiti made communication with iwi on Motiti difficult.) Iwi used the templates they had developed and used during the Bay of Plenty’s recent kiwifruit disease scare to mobilise aspects of the shoreline and coastline response.

15.17. The Reviewer was told that there were delicate issues of cross-cultural (mis)understanding and occasional moments of tension as the response frontline moved out into the Maōri communities along the coast. Most matters were resolved through negotiation. Iwi had concerns about the dispersant trials (as noxious substances) and the
potential effect of dispersants on local fauna, flora and the subsea environment in proximity to Motiti and on the harvesting of kai moana. When working in the ICC, iwi representatives had to operate across the functional units, and in the period when embryonic action plans were being developed with urgency and cross-unit relationships were still forming in the ICC itself, they found it difficult to carry out their new and unfamiliar role.
16. **Investigation and criminal liability proceedings**

**Introduction**

16.1. This section explores the activity of the Maritime Investigation Team and the *Rena* Investigation unit – the dedicated specialist team brought together for investigation of the *Rena* grounding.\(^{82}\)

**Maritime Investigation Team – mobilisation and other establishment issues**

16.2. Professional discussions of investigation matters among the Transport Accident Investigation Commission (safety investigation), Maritime New Zealand (MNZ) (Maritime Transport Act 1994) and the Bay of Plenty Regional Council (Resource Management Act 1991) resolved the issue of primacy. MNZ initially mobilised its Maritime Investigation Team but quickly formed a dedicated *Rena* Investigation team.

16.3. Senior investigations staff assumed roles in the Maritime Incident Response Team and in Tauranga maritime investigators started working the scene. As the gathering and collating of documentary exhibits progressed, the need for secure premises saw the *Rena* investigation transferred from an allocated working cell in the Incident Command Centre to the regional council. The Reviewer was told a lack of dedicated facilities was one of several planning gaps in regard to the resourcing of the criminal investigation. Suitable office accommodation in Wellington, staffing, and access to expert maritime advice were also problematic and remained issues for the investigation until March 2012.

**Investigations and civil liability negotiations**

16.4. MNZ Legal and the Crown Law Office had developed a clear understanding of the centrality of the *Rena* investigation to MNZ’s short-term objectives (criminal proceedings) and mid-term objectives (civil liability negotiations) by the end of October 2011. However, the investigation phases of the factual situation for both the criminal and civil phases of the investigation were not widely understood across MNZ. Collaboration among the Crown Law Office, MNZ Legal and the *Rena* Investigation Manager in November resulted in a shared understanding of these connections and allowed for high-level planning of investigation phases for both criminal and civil liability activities.

**Charges laid**

16.5. With over 100,000 items of documentary evidence gathered and logged to a criminal court standard, the electronic file took over four months to analyse. The *Rena* Investigation Team and MNZ Legal worked closely with the Crown prosecutor and Crown Law Office, to establish a summary of facts. The Director of MNZ formally authorised the laying of charges under the Maritime Transport Act 1994 and Resource Management Act 1991 against the ship’s master and second officer and the shipowner Daina Shipping Company.

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\(^{82}\) The Maritime Investigation Team supports the enforcement of compliance among the maritime community of MNZ’s strategic goal of safe shipping and clean seas and investigates various accidents and incidents.

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*Independent Review of Maritime New Zealand’s Response to the MV *Rena* Incident*
16.6. The master and second officer entered guilty pleas in May 201 and both received jail sentences. Daina Shipping Company entered a guilty plea in October 2012 and was fined.

**Conclusion of the investigation**

16.7. During May to October 2012, the investigation team undertook a formal debrief. The Reviewer has seen, and fully supports, the draft report containing recommendations and lessons learned.

16.8. The *Rena* investigation formally concluded in October 2012.
17. Media services and public information

Introduction

17.1. This section explores the role of media services and public information in the Rena response.

Prompt mobilisation of response to media and public information enquiries

17.2. One member of the Maritime New Zealand (MNZ) Education and Communications team, with National Response Team training, was mobilised in the early hours of the response. This person was working to set up the planned Incident Command Centre (ICC) function (media and community relations).

17.3. This function rapidly became overwhelmed as local concerns regarding the fate of the ship and the potential for an oil spill and wider pollution intensified, and the demands of national (and international) media grew.

Principle of high transparency difficult to put into operation

17.4. The Director of MNZ was committed as a matter of principle to a high degree of transparency about the conduct of the response. However, to operationalise this principle would require sufficient depth and quality of resourcing both at the front (ICC) and the rear. Planning had envisaged that the Maritime Incident Response Team would serve as the central reference point for all whole-of-government and parliamentary information and for regular media feeds about the progress of the response as a whole. In fact, the media focus of attention was on the more visible frontline and the balance of effort intended by the division of tasks between MIRT and ICC was largely lost.

17.5. Other stakeholders (the regional council, city council and iwi) all had a need to convey public information and experienced pressure from local media, but had some capability and experience. Given the rising tide of demand on the ICC unit, strengthening and integration of frontline capability became a necessity. By day 3, the Security and Risk Group in the Department of the Prime Minister and Cabinet, based on its recent major disaster experiences, offered to reinforce the ICC media cell with senior practitioners from other central government agencies.

Media and community relations split into two distinct functions

17.6. By day 5 (10 October), the Director of MNZ responded to stakeholder anxiety by splitting media and community relations into two distinct functions. The Director took direct personal responsibility for community relations. The conflation in the plan between providing media services and information for those affected locally and regionally was not sustainable in a response of this complexity and duration. The needs of the directly affected and the wider community interest merited consideration in their own right; a planned approach and the visible leadership provided by the Director.

17.7. The remaining problem was to adapt the media plan so that it had a strategic breadth (across all stakeholders) as well as a depth of capability sufficient to begin telling the story of the response, in all of its complexity, not merely reacting to the news cycle. This was developed by MNZ management from a Civil Defence Emergency Management
template at the instigation of the Officials Committee for Domestic and External Security Coordination.

17.8. Roster rotations and better integration with the public information systems that operated through the local authority’s resources enabled the implementation of the adapted communications plan. Over time, media servicing and related demands from ministerial and VIP visits began to be managed more effectively. Collaboration increased between the ICC, the salvage consortium and local media managers and the flow of information improved in quality and accessibility. The “overwhelming” pressure felt by staff in this function initially was progressively reduced, although only in relative terms, because the response was a major news item nationally for an extended period, and the dominant public issue, regionally and locally to the end of the response phase and beyond. In fact, MNZ’s Rena response communications continued with weekly media releases until October 2012.

17.9. The Reviewer has read the post operational debrief of MNZ’s Education and Communications team and Rena Communications responders that was completed during June 2012. As indicated above the non-MNZ responders played a considerable part during the peak response period and their views need to be taken into account.
18. **International aspects – Australian support**

18.1. Maritime New Zealand (MNZ) formally asked the Australian Maritime Safety Authority (AMSA) for support on 7 October. AMSA’s team coordinator arrived in New Zealand on the same day, and was followed by 11 experienced members of Australia’s National Response Team a day later.

18.2. Overall, 75 Australians were deployed to New Zealand during the response with second deployments in mid-October to early November and a third deployment in mid to late November.

18.3. They were deployed predominately in coastline shoreline operations (and planning). While AMSA and the Australian Marine Oil Spill Centre provided National On-Scene Commander (NOSC) appointees, AMSA also provided:

- Deputy NOSCs
- Incident Management Team specialist advisors
- Incident Management Team shoreline response managers
- air observers
- on-water (marine) operators
- shoreline clean-up assessment team leaders
- GIS mapping and modelling advisors
- environmental advisors and coordinators.

18.4. Approximately 40 tonnes of National Response Team–stockpiled equipment was deployed, including three Desmi 250 skimmers, a 1,200 m Ro-Boom, three beach sweepers and AFEDO dispersant equipment. This equipment was utilised in several key operational areas. However, some of the same factors that negated MNZ’s equipment also meant that AMSA’s assets could not be used for a variety of reasons in the prevailing conditions. (These included GP (sea) booms that were not effective in coastal mangrove areas and where vessels with a more shallow draft and lower freeboard for GP grooming were not available.)

18.5. The skills that the AMSA team brought to the response for spill surveillance and environmental awareness were of considerable value to MNZ whose capability depth in these areas was limited. The high-level salvage advice AMSA could offer directly or through the strengthened NOSC pool was instrumental in clarifying where and how the planned response needed to adapt.

18.6. At the conclusion of the response, AMSA debriefed its responders. AMSA has shared its subsequent report with MNZ. The report offers lessons from the integration and liaison processes and comments on the New Zealand response (seen more from the front than the rear) from the perspective of what worked well and could have worked better. Many of the comments on the operation of the Incident Command Centre mirror those made in MNZ’s in-house post-operational debriefs. This adds weight to the conclusion of the Reviewer that MNZ’s internal lessons learned processes have been thorough overall.
19. Administering the response

Introduction

19.1. This section discusses the administrative aspects of the response, including information technology and knowledge management, procurement logistics and financial management, and human resources (workforce, skills and rostering).

Information technology and knowledge management

19.2. The National Marine Oil Spill Contingency Plan (national contingency plan) contains policies and procedures for recording communications and decision-making. The plan also allocates a role for a document controller as a second tier position in the Administration/Logistics team of the Incident Command Centre (ICC).

19.3. Document control is aimed at message control and documentation logging, using logbooks and information systems activities. To do this during the response, the web-based information management system of the Marine Pollution Response Service (MPRS) WebEOC was used.

19.4. Before the Rena incident, WebEOC had not been used for a large incident and the version in service was not current. (Two upgrades had not been purchased since its acquisition by MPRS.) A development plan was mooted, and so was the acquisition of a new system called E-Sponder.

19.5. Despite roles allocated in the national contingency plan, no individual person was appointed to lead the document and information management (and event historian) functions at ICC. The MPRS web administrator, a badged National Response Team (NRT) member, undertook a series of ICC functions during the response, as well as the WebEOC administrator role.

19.6. However, because of this span of accountabilities, the designated WebEOC administrator was unable to fully manage the oversight of personnel and responders involved in the use and management of information. (MPRS staff were generally trained for multiple response roles and during mobilisation were being stretched across too many of them simultaneously.) Other ICC personnel who were aware of the importance of a document management system did not gain support and were not in a leadership position to manage the information.

19.7. With up to 800 people, significant volumes of information were created and shared in multiple forms and formats.

19.8. The Tauranga response information technology platform in the ICC comprised a hard drive, email systems, and laptop computers (some of which were linked to WebEOC). The hard drive was not integrated with the main system of Maritime New Zealand (MNZ) in Wellington. Most response personnel did not have access to MNZ’s email accounts. As a recourse, 23 Gmail accounts were set up to enhance communication by responders. Key responders also used email accounts in addition to the Gmail accounts.

19.9. The Maritime Incident Response Team (MIRT) could not access any key response documentation that was stored on the Tauranga I: drive. The Wellington and Tauranga
systems were stand-alone and worked in parallel to each other, which resulted in a fragmented system.

19.10. While the limited functionality of WebEOC presented difficulties, of more importance was the fact WebEOC capabilities were not widely or uniformly known across the badged NRT. Orientation training for non-MNZ responders, although needed, had not always been provided. It was hard to find mentors who could induct the rising number of responders to the system.

19.11. To address this, rectify information gaps and increase WebEOC functionality during the response, the Sydney-based vendor was brought to the ICC. This saw, on 9 October, five days in to the response, onsite support being implemented to:

- fix user issues
- create new groups of users
- train some new users.

19.12. The Reviewer has noted a credible review with key recommendations, remedial actions and lessons learned.

**Procurement logistics and financial management**

19.13. During the *Rena* incident, critical second-tier MNZ manager, general manager and chief financial officer positions were effectively vacant. The plan detailed the administration/logistics section to be established in the ICC. This section formed the core of the response tail. An administration and logistics manager position had been allocated to lead the logistics, finance and administration functions. This was a rostered position that was intended to be staffed by MNZ members or from the NRT pool at the appropriate level of seniority. However, because of the gaps, those who were deployed initially had not been trained or exercised and were not necessarily administration or logistics specialists. The dedication of those who “held the fort” during this period, particularly MPRS and MNZ staff, deserves high credit, as they went long stints with heavy workloads and many demands from the mobilising frontline as they covered vacancies.

19.14. With the Tier 3 declaration, the National On-Scene Commander was empowered to draw on the Oil Pollution Fund for expenses the response incurred. The first surge of spending occurred to meet the response needs and set up the ICC. The response quickly depleted the Oil Pollution Fund, and it became clear that funding would be needed to enable MNZ to sustain the response over several months. A decision was made early to seek further funding (to cover non-oil costs (for instance, the *Rena* investigation), which would contribute to the Government’s eventual financial liability claim to be lodged and negotiated with *Rena*’s owners and the insurers in conformity with International Maritime Organization rules and standards. With the assistance of the Ministry of Transport and the Treasury) the necessary steps were taken to gain information about the extent to which the fund would cover costs.\(^{83}\) It was necessary in the context of future liability to delineate the parameters for the replenished fund clearly.

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\(^{83}\) An understanding of the Oil Pollution Fund and what it would cover was held by the NOSC and MPRS.
Administrative logistics

19.15. The scale and complexity of the response (requiring the recovery of oil, containers and container debris) led to a quick escalation of purchasing activity for response equipment, including boat hire.

19.16. In addition to oil combat operational logistics, which dealt with the sourcing of specialised response equipment, a broader logistics function in the ICC served to enable the ICC to be set up effectively (that is, with office equipment, partitions, tables, chairs and so on); responders equipped; and accommodation, rental transport, travel coordinated.

19.17. In the absence of preferred supplier agreements for all purchases, the purchasing of equipment was undertaken by multiple purchasers who sourced items through the Tauranga economy. However, pressures within the ICC and some inherent limitations of MNZ’s financial standard operating procedures, including its purchase order system, quickly made the tracking and control of the spend problematic.

19.18. In late October when MNZ’s operations manager was rostered to the ICC, he immediately set up processes that increased the effectiveness of ICC systems and helped the logistics function to get on top of purchasing and asset tracking.

Financial management

19.19. Cost tracking and procurement systems had not been established, nor roles delineated beyond the one finance position in the national contingency plan. The NRT had only one badged member with specialised financial management skills and experience using MNZ’s financial management systems. The MNZ finance officer worked steadily to set up the initial finance process systems in the ICC.

19.20. WebEOC was used for financial and time management spreadsheets. However, it did not properly interface with MNZ’s finance system. Financial management processing was spread between the ICC and the finance function in Wellington, requiring all finance documentation to be transferred to Wellington for payment. These factors resulted in the response financial management system and processes becoming stretched in the initial phase and set-up stages of the ICC. Double handling and communication difficulties occurred in processing with payment authorisation requirements requiring finance documentation to be delivered to Wellington and later returned to Tauranga for authorisation.

19.21. The lack of response experience and short rotations of staff in finance positions prevented corrections to the processing system over the first few weeks. As time went by, MNZ and locally based temporary staff with experience in logistics and procurement were rotated into or appointed roles at the ICC. This resulted in finance, procurement, logistics, asset management and administration systems becoming customised and running more smoothly.

Rena financial claim management

19.22. During the initial phase of the response although elsewhere in the response there was awareness of it, the claim management function did not draw on the experience of Australian partner organisations, who had recent experience of a major casualty
response relevant to MNZ’s processes for its impending claim. Nor was the institutional knowledge of existing MNZ staff brought to bear until mid-2012.

19.23. MNZ’s legal staff, aware of the salvage-related claims practices and liability and settlement processes lying ahead, provided guidance to staff in the ICC about the importance of accuracy in recording and compilation of financial information. This information formed part of the financial claims process and negotiation with the ship’s insurer.

**Human resources – people, skills and rostering**

19.24. It is unclear from the planned configurations for ICC and MIRT that there is a distinct human resources function with appropriate status and role specifications; nor does it appear to be a specified NRT role for a cold-start Tier 3 response. The ICC organisational structure allocates the position of personnel controller to the Administration and Logistics Group as a second-tier role. It may have been a widely held assumption that the overview and leadership of human resources for the response would be achieved through the combined efforts of the MNZ Executive Team, particularly those members remaining in Wellington to carry out a mixture of business-as-usual and response-rear functions.

19.25. Notwithstanding the depth of expertise that the NRT (and the regional responders) offer for a Tier 3 response, there were areas of activity in which the skill sets needed were “one deep”. There are limits to the depth of specialised expertise in most small central government agencies, and some better method of drawing on other tiers of government or academia for the rear as well as frontline (via NRT) in a major maritime pollution incident needs to be found.

19.26. Roles and role descriptions were also missing from the ICC organisational structure at the level below team leader. The lack of resourcing resulted in WebEOC data entry and updates falling behind as the ICC expanded rapidly. During initial mobilisation, some stored information about NRT personnel proved inaccurate, especially about the regional badged and regional responder subgroups. This was remedied on the spot by MPRS, which had mobilised the NRT. Rosters of key positions across the true breadth of the response, reflecting its complexity and its extended duration, were needed. There were, however, significant “muddles” over early ICC rosters. Suggestions were made that roster management could be absorbed into or taken over by the Planning Group. However, data that would have assisted competency matching to ICC roles and tasking could not be readily sourced.

19.27. To administer the wildlife response workforce as it expanded was an additional pressure on the human resources function. The need to process employment agreements and pay these responders led to an early decision to contract out to established payroll services in the region and later to transit individuals to contracts for services. However, the volume of responders and contractors proved to be a challenge for both NOWRT management and MNZ.

19.28. Health and safety oversight and enforcement could have deteriorated under these circumstances, but both within the official response and amongst the community responder cohorts the outcomes of the response are excellent. Given the hazards
confronting both the salvage operations and aspects of shoreline and coastal zone protection, it is remarkable that no serious accidents or injuries occurred.

19.29. The basic employer functions were able to be delivered with difficulty, but the aim of actively managing the growing response workforce, in terms of competency profiling and skills matching, was largely unattainable. Resources were not available from MNZ to quickly correct this, so the ICC drew heavily on resourcing from the Bay of Plenty Regional Council and Tauranga City Council.

19.30. Debriefs completed internally in MNZ and with the NRT and NOWRT at all levels comment on the absence of a visible human resources management function in the ICC configuration: the lack of an empowered senior manager and well-resourced human resources team supported by robust systems and templates.
20. From de-escalation to recovery

Introduction

20.1. This section covers the de-escalation of the response and Maritime New Zealand’s (MNZ’s) return to business as usual.

Implications of underestimating the scale of the incident

20.2. As the scale of the incident started to become clearer so did the potential costs, not just financial costs, but in terms of MNZ’s ability to maintain a full range of activity. It appears that MNZ did not consider invoking its existing Business Continuity Plan for the diversion of its staff into a response, even though by day 7 a significant number (possibly over one-third) of MNZ staff were on duty or rostered for Rena roles. The fact that the Executive Team was initially understrength, and had fragmented as three of the available members moved to operational roles in the Incident Command Centre (ICC) at Tauranga may have contributed to this.

20.3. However, with the return from leave of a key general manager in the Executive Team, the Business Continuity Plan and its processes were initiated (19 October). Most of MNZ’s major strategic projects agreed with the Ministry of Transport for delivery in 2011/12 were put on hold. Recruitment to vacant positions and the full induction of new staff were also put on hold.

Plan for de-escalation

20.4. Information started to be gathered, so the impact of the response on the organisation could be quantified. It quickly became clear that MNZ needed a plan for the de-escalation of the response and a recovery to business as usual. This involved considering the:

- ongoing response to the Rena incident (and the money required for this)
- ongoing need for recovery operations following the Rena incident
- capacity to respond to an inquiry into the Rena response
- need to catch up and deliver on the intended level of regulatory activity for 2011/12
- need for an internal review to identify improvement opportunities, including reviewing the targeting strategy for foreign vessels and adjusting sensitivities
- continuation of initiatives resulting from value-for-money and funding reviews.

20.5. This work fed into preparation (led by the Ministry of Transport) of a resourcing overview document for the Officials Committee for Domestic and External Security Coordination and Cabinet, and a series of reports to the group of Ministers to whom Cabinet had delegated “power to act”. By early November, the options for how to structure MNZ’s

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84 See paras 4.10 and 4.11.
85 “Power to act” enabled the Ministers to take decisions on the government response to the grounding of the Rena, including any funding and appropriation issues. Authorisation of the power to act is a standard practice during an election year. Cab Min (11) 38/1 Minute of Decision, 17 October 2011a.
de-escalated activity and to support the recovery and restoration phases of the *Rena* had been formulated. The options covered:

- staff recovery
- managing MNZ’s response to a formal inquiry (independent review)
- reinstatement and recovery (catch-up) of business-as-usual activity to meet performance indicators in the Statement of Intent
- recovery or delay of three strategic projects to which MNZ had committed in its Statement of Intent (the Maritime Operator Safety System, SeaCert (Seafarer Certification previously Qualifications and Operational Limits) and Funding Review projects)
- organisational and staff well-being.

20.6. Deliberations by the Executive Team, Authority and Ministry of Transport during November resulted in proposals to Ministers to establish the *Rena* Response Group. This group would be led by a temporary general manager. Together with the Ministry of Transport and Treasury, MNZ agreed the basis on which a funding injection would be sought from the Government, and a paper seeking ministerial approval was completed by mid-November. This additional funding was granted to MNZ on 14 November 2012 to enable MNZ to continue delivering on the Government’s priorities, to deliver against MNZ’s regulatory mandate (to protect safety, environment and security), and to reduce risks to government.

20.7. Other matters relating to the resumption of MNZ’s suspended business-as-usual activities and the funding of non-*Rena* aspects of the response outputs that the Marine Pollution Response Service would deliver were taken forward in the early new year as part of the 2012/13 Budget cycle.

**Regional partner’s concerns**

20.8. The de-escalation process and the transfer from MNZ to the regional council of responsibility for the several major response management functions (including those related to the wreck and its future) were matters of concern to the council and regional and local stakeholders.

20.9. At the policy level, strong efforts were made to maintain connectivity between central and regional decision makers, and to approach the point of handover in an organised way. The Reviewer was told that when the ICC began to be wound down not enough consultation about the disposition of the residual assets had occurred, and for the future a protocol should be incorporated in the national contingency plan.

20.10. In terms of stakeholders, the Reviewer was told that there were iwi interests in de-escalation as a process and in its implications, which were not able to be met proactively. ICC processes could have been better coordinated.

20.11. When hand-over finally occurred on 4 May 2012, it appears to have been relatively seamless. The role of the Tauranga response and recovery office under the *Rena* Response Group was widely commended to the Reviewer.
21. Conclusions on Maritime New Zealand’s incident response

Introduction

21.1. Initially, the Maritime New Zealand (MNZ) response, both at the frontline (Incident Command Centre – ICC) and rear (Maritime Incident Response Team – MIRT) struggled to achieve functionality. Some of its shortcomings were inherent in the gap between MNZ’s planned capability and the scale of the incident. Others arose from deficiencies in the planned capabilities, response doctrine and structures, which might not have shown up in a lesser event but were exposed by the complexity of the Rena incident and the multiplicity of the challenges it posed.

21.2. In the critical days either side of the storm of 10 and 11 October, adjustments began to be made to the planned response, which enhanced overall functionality. MNZ made adaptations that contributed to the coherence of the response by recognising the need for better coordination among agencies and better utilisation of stakeholders’ capabilities and assets. The necessary structural redesign of the response moved it beyond CIMS towards unified command and like best practice models. The two functions reinforced earliest – media and community relations – stabilised and performed important roles with increasing effectiveness.

21.3. The combined efforts of the professional salvage consortium on board Rena and in the waters of the bay were vital in reducing the extent of the risk of oil and non-oil damage to the regional coastline and shoreline from the wrecked ship. Major disruptions to commercial shipping and port operations were avoided.

21.4. The shoreline pollution combat operations, which the ICC coordinated successfully, combined commercial, public and voluntary sectors’ capabilities and achieved a clean-up of high quantity and quality. Risks to wildlife were minimised.

21.5. The health and safety record of the response is outstanding considering the hazards of many parts of the work environment.

21.6. The problems of administering and servicing frontline operations on the unprecedented scale required in the Rena response were underestimated and under-planned. They were progressively overcome during the response, but not quickly or easily.

21.7. The response was limited in part, but not fundamentally compromised, by deficits in MNZ’s technical capabilities - (equipment). MNZ’s technically specialised staff delivered soundly (for example, ship inspection/investigation) overall but may have lacked depth in one area (environmental analysis). The criticisms made to previous reviews about a perceived decline in mariner knowhow in the senior establishment, especially a lack of practical grasp of the salvage business, were reiterated.

21.8. The transition from response to recovery was carefully considered. MNZ’s de-escalation and handover process was satisfactory overall.
Initial response

Response declaration and implementation

- Many positions and teams mobilised quickly, but those not adequately specified in the national contingency plan or untested were slowest to become fully functional.
- The Director of MNZ used statutory powers appropriately.
- Problems arose for the planned response in matters of strategic oversight, front–rear coherence, high-level coordination and control, and maintenance of public confidence.

21.9. The National On-Scene Commander (NOSC), National Response Team (NRT) and National Oiled Wildlife Response Team (NOWRT) all mobilised as planned and gathered in Tauranga where the Tier 3 response was declared promptly on receipt of information from MNZ staff aboard Rena.

21.10. MIRT, the rear pillar of MNZ’s overall response configuration, also mobilised quickly. Aspects of its role that were not fully defined in the plan and were untested in practice were slow to achieve functionality.

21.11. A clear understanding of the liability and salvage parameters enabled appropriate legal support and advice and led to statutory powers being used appropriately by the Director of MNZ and NOSCs.

21.12. The plan for both the ICC and MIRT was based on the premise of a Tier 2 incident escalating to a Tier 3. However, the Rena response was a Tier 3 response to be initiated from a cold start, so it was not built on a prior (regional) organisational base or assets in place.

21.13. The ICC took time to find its feet; it shifted three times within one week to accommodate the surging number of responders as NRT assembled and other contributors (such as the Australian Maritime Safety Authority – AMSA) began to arrive alongside the central and local government and community-based agencies contributing to the response.

21.14. The initial structure of operations and functional configuration of the ICC followed the plan and a basic Coordinated Incident Management System configuration. All decision-making and leadership accountabilities resided with the duty NOSC as single point of (unbroken) command.

Risk appreciation and cross-agency support

- The necessary threshold question of mandate (who should lead a response under what powers) was resolved after some consideration and debate.
- Without a strategic assessment of national interests and risks, MIRT could not articulate to the Officials Committee for Domestic and External Security Coordination (ODESC) and Watch Group a clear master plan for the response, recovery, and restoration phases.
- Requests for additional resources were imprecise, making it difficult for central government stakeholders to determine the most appropriate assets to deploy.
MNZ’s accountabilities under the Maritime Transport Act 1994 meant the ICC’s initial flow of information was skewed towards the oil aspects of the incident, yet significant non-oil implications also needed to be addressed.

The Ministry of Transport found its way to a needed (but under-planned) role in policy development and whole-of-government coordination, resulting in a strategic overview and policy coherence.

The Executive Team became fragmented as members took up frontline operational duties. Internally, MNZ as a whole struggled to balance business-as-usual and response accountabilities.

Recourse to staff from the Bay of Plenty Regional Council and earlier secondment from across government could have bolstered the response’s administrative capability.

21.15. Neither the plan nor MIRT response guidelines contained a template or framework that allowed for a sufficiently broad assessment of national interests and strategic risks for a maritime casualty on this scale. It took too long to form a high-level appreciation of the coordination and control requirements to be met to achieve the necessary coherence to the tactical and operational dimensions of the response. Therefore, a Rena plan that focused on three stages – response, recovery and restoration – could not be articulated to ODESC and the Watch Group at either a strategic level or an operational level from an end-to-end perspective.86

21.16. The initial flow of information from the ICC and NOSC to MIRT was skewed towards oil as a result of MNZ’s Maritime Transport Act 1994 accountabilities. With advice from London Offshore Consultants (an additional LOC representative was engaged and situated in MIRT) and AMSA, it became possible to broaden the flow of information and to provide a wider appreciation of salvage risk and advice about the non-oil aspects of the incident. The Director grasped that the incident scale was beyond MNZ’s standalone planned capability and requested additional resources that were raised through whole-of-government collaborations initiated quickly, more ad hoc than planned in some cases.

21.17. The absence of the strategic assessment impeded initial planning. Requests for external resources (from strategic partners and stakeholders) were imprecise, affecting the ability of central government stakeholders to determine what assets to deploy. The strategic overview and policy coherence sought by the Department of Prime Minister and Cabinet and the Watch Group was delivered progressively through the Ministry of Transport, which found its way to a needed (but under-planned) role in policy development and whole-of-government coordination.

21.18. At the response rear, MIRT was facing its first Tier 3 test. The controller, supported by Executive Team members, was expected to achieve connectivity to the frontline operation and to support ICC plans and operations. The controller was also expected to undertake liaison across government for issue management, provide information to the

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86 These would include and allow for the description of the response (oil, non-oil pollution and salvage), recovery and restoration. It would identify the organisation(s) or partner(s) involved at each phase.
Independent Review of Maritime New Zealand’s Response to the MV Rena Incident

Department of the Prime Minister and Cabinet, and be accountable for salvage, on behalf of the Director, through the use of appropriate legal instruments. MIRT was able to carry out some valuable planning and logistics tasks of a preparatory kind for the oil-related operations. However, to create and maintain strategic awareness it needed a flow of information on salvage, non-oil pollution, MNZ’s community engagement and stakeholder relationships. Without that information, MIRT became somewhat marginalised.

21.19. The recent restructure and role changes in the MNZ Executive Team compounded by institutional knowledge loss and lack of exercise familiarity contributed to governance uncertainties, and affected MIRT at the onset of the response. The Executive Team became fragmented for a time as members took up frontline operational duties; it was slow to exert internal administrative leadership and determine how best to manage the gravitational pull of the response on MNZ as a whole organisation with other important accountabilities.

21.20. Populating the ICC’s planned structure as numbers grew exponentially with the various mobilisations caused certain dysfunction and a variety of teething problems for the response managers. The planned configuration of the ICC was too narrow for the scale of this response; the structure (CIMS) itself was putting pressure on decision making, the span of control and information flows. Response management had not addressed the rising concerns of other regional agencies, citizen groups and iwi who sought to or had become part of the plan and pollution response operations.

21.21. Delays occurred as mobilised non-MNZ/non-NRT responders experienced difficulty integrating their capabilities into response operations at points where they could make their highest value contribution. This occurred because there were no formed or exercised plans for interoperability with other agencies with emergency response capability relevant to a maritime incident of the scale and complexity of the Rena. Most issues were rectified progressively. However, lingering problems of fit between respective emergency management cultures remained, and later there were issues over de-escalation and demobilisation triggers.

21.22. The administrative burden had been under-estimated and resourcing for this scale of response under-prioritised. Consequently, the corporate and administrative underpinnings of the response (the “tail” functions in the ICC) that had been harder to mobilise from a cold start were slower to achieve functionality than the operational frontline (the “teeth”). Available NRT-trained staff became overwhelmed by the pressures of the accelerating mobilisation. A blended approach, through recourse to staff from the Bay of Plenty Regional Council and earlier secondment of staff from across-government, particularly the Civil Defence Emergency Management community, could have bolstered the administrative capability of the response at its most vulnerable moment.

21.23. Some units in the ICC were able to be reinforced quickly through early mobilisation of interagency support (provided through ODESC), notably the media/community relations and planning functions. The MNZ legal function quickly and appropriately drew in external support.

21.24. The New Zealand Defence Force had recognised the dynamic nature of the situation and breadth of risk early and was ready to assist by mobilising on-water capability, placing
relevant units on alert, but awaited MNZ’s directions for deployment into planned activity. Its contribution was extensive and became vital as the response was sustained over a number of months.

**Early oil containment and removal**

- MNZ-owned assets and technical capabilities for dealing with escaped oil at sea were not able to be utilised.
- Mitigation of the oil threat became critically dependent on salvage efforts on board the casualty.
- On-board oil removal operations were fraught technically and interruptible by weather.
- The threat from containers and container debris on water could not be addressed simultaneously with on-board oil-related operations.

21.25. Early on-board assessments were refined progressively using LOC technology and expertise, leading to a deeper understanding of the dynamic nature of the casualty and the consequent worst-case pollution risks.

21.26. MNZ-owned assets and technical capabilities for dealing with escaped oil at sea were ineffective because of the casualty’s location and situation. The assessments of the NOSC, LOC and salvors confirmed that the risk of oil pollution, “oil on beaches”, was a certainty.

21.27. A coastline/shoreline response plan, using data from the shoreline clean-up assessment team and geospatial trajectory forecasting, was being developed in readiness of the forecast oil release. The NOWRT facilities at Te Maunga, had been established and an expanded network of wildlife responders was available.

21.28. The heightening risk of a catastrophic release if *Rena* broke up, made on-board operations to contain and remove oil the best and most viable option. With a storm forecast in the bay, salvors sourced and secured *Awanuia* and several support vessels to begin, with urgency and under demanding conditions, on-board oil containment and transfer to bunkers. This was initially problematic, but after the storm achieved a significant measure of success because of the salvors’ acquisition of several fit-for-purpose vessels.

21.29. Inherent technical difficulties and avoidance of accidental compromise to delicate oil-pumping arrangements ruled out the concurrent removal of heavy fuel oil and containers/cargo.

21.30. In dangerous conditions on 10 October, the crew, salvors, LOC and MNZ staff were evacuated from the vessel by sea in a successfully coordinated operation between MNZ, the Rescue Coordination Centre of New Zealand and the Royal New Zealand Navy.

21.31. The casualty shifted in the storm, which triggered a significant release of heavy fuel oil. Containers and container debris were washed overboard. This created a more complex set of risks and a different paradigm for the response than had been envisaged in MNZ’s plan, characterised by a critical dependency on salvage efforts.
21.32. *Rena*’s structural integrity was further compromised during the storm and led to the declaration of the ship as a total constructive loss.

**Long-term response**

*Later oil spill and other maritime pollution combat operations*

- Preparations for oil on shoreline and beaches were satisfactorily executed despite being technically impaired.
- On-board oil removal operations became very effective and reduced risk.
- Dangerous goods risks were managed down gradually.
- Containers and container debris removal operations on water reduced risks to beaches, sea-lanes and shorelines.

21.33. Risk of further big spills remained high because the integrity of the wreck’s superstructure was deteriorating and weather conditions could yet break it up fully. Planning for shoreline clean-up operations used aerial observation information, spill data and spill trajectory assessments to forecast where oil would come ashore. However, the oil came ashore earlier than expected. Shortcomings in Shoreline Clean-up Assessment Team data analysis and processing impaired planning.

21.34. However, operational adjustments were being made that enabled heavy fuel oil and lighter oil fuels to be continuously and successfully transferred from several tanks on board and then pumped to *Awanui*’s bunkers. The salvors brought in purpose-built vessels from overseas, thus increasing the productivity and effectiveness of the spill prevention operations to the point, in late November, where the risk of a major spill from ship breakup had been reduced appreciably.

21.35. The broader non-oil pollution risks began to be defined as dangerous goods containers were identified. GPS pingers were in short supply; those sourced were attached to these containers, so they could be tracked if they were washed overboard. MNZ proactively communicated information about the hazardous substances and dangerous goods declared in the wreck’s manifest.

21.36. As oil removal stabilised, the focus shifted from saving the ship to saving cargo, managing distressed cargo, on-water pollution and wreck removal. To deal with floating containers and debris on water required a separate pollution response and plan to be negotiated between the commercial provider and New Zealand coastal protection interests. A specialist in distressed cargo on water (Braemar Howells) was added to the salvage consortium and operated outside the exclusion zone along the coastline. It took control of the disposal of debris using recycling processes and landfills.

21.37. The Port of Tauranga and its sea-lanes were successfully kept open with the support of the Royal New Zealand Navy.
Salvage issues

- Salvage superintendency became centred on the ICC unit. Tensions arose between the unit and the salvors consortium over continuity of operations and salvor intent regarding the plan for non-oil pollution management.
- Efforts to restore mutual confidence and trust were timely and successful.

21.38. A lack of clarity in the accountabilities of the Tauranga Salvage Unit and in the leadership of the salvage function between front and rear of the response had begun to manifest with the fragmentation of the Executive Team. At the onset of the *Rena* response, current knowledge of salvage, which became the major technological driver of the response, was low because of the limited understanding of best practice. Statutory interventions were used appropriately and New Zealand interests in the continuity of the salvage operations were well protected. However, the manner of superintendency of salvor intent and plans by MNZ at times was less appropriate.

21.39. MNZ had a planned dependency on external advice from London Offshore Consulting. It drew on this fully and took expert counsel from the Australian Maritime Safety Authority. Nonetheless, the Reviewer was told that the depth of MNZ’s overall salvage nous and a guiding relationship management strategy (which would conceive of the response as a pragmatic alliance of interests whose efforts could be harmonised) were lacking.

21.40. Concerns arose among the salvage consortium about the balance between explicit operational intervention and monitoring and superintending the salvage. This tension was recognised and adjustments made that enabled a restoration of the good faith essential to good outcomes in a response of this complexity, duration and high environmental risk. The guidance role of the later ICC salvage liaison unit contributed to highly effective coastline/shoreline waste management outcomes.

21.41. MNZ, supported by Crown Law, made efforts to create and preserve cooperative relationships with *Rena*’s owner and its representatives. These enabled the civil liability issues to be progressed towards the negotiation of a settlement.

Adjusting the management structure

- The planned response structure was adapted to better reflect strategic coordination needs.
- The insertion of the Director’s representative in to the leadership team enhanced response coherence.
- ICC functionality was improved.
- The Ministry of Transport developed appropriate management and coordination arrangements for the response rear.

21.42. To achieve greater coherence across the response (front and rear) control and coordination needed to be recognised in the strategic sense and given clear leadership.

21.43. As the NRT and regional responder networks mobilised, responder numbers in the ICC surged. Hours were long and the situation challenging, so rosters were established. The scaling up of the response began causing span of control problems affecting senior leaders in the ICC/NRT.
21.44. To achieve greater functionality in the ICC and meet the high-level control and wider coordination challenges that the scaled-up response was presenting, a new role of Director’s representative in a frontline non-ICC position was created. The Director’s representative led various coordination, relationship management and public communication functions. This reorientation of the frontline was supported at the rear by the Ministry of Transport, which developed a coordinating mechanism for whole-of-government inputs, and provided a strategy for transition to recovery.

21.45. Media servicing and public information outputs improved quickly with a reinforced unit able to concentrate its efforts. By separating the community relations function and leading it personally, the Director was able to defuse criticisms about MNZ’s “unresponsiveness” in the wider community and amongst Māori. Tolerance and goodwill towards the response were largely sustained thereafter.

21.46. The Director, concerned about sustainability, and innovation instigated a roster of NOSCs and Deputy NOSCs with a transfer of command rights. This was a change to plan and established practice, which the situation justified.

21.47. With the reconfiguration of the ICC’s response structure and a reorientation of its frontline command regime, ICC processes also became streamlined. Problems were recognised, and necessary adjustments instigated by the NOSCs. The needed connectivity with non-MNZ response partners, at central and local government levels, was achieved. A Māori voice and presence in the response leadership was established and progressively institutionalised. However, underlying sustainability issues, arising from the extent of the requirements for skilled and trained responders, persisted.

Oiled wildlife protection operation and other ecosystem issues

- The core wildlife response team quickly became functional.
- The requirement to scale up the response was significant (and driven by a precautionary approach).
- Bird protection operations were effective, despite administrative difficulties.

21.48. The core National Oiled Wildlife Response Team mobilised and established the wildlife facility at Te Maunga quickly and effectively.

21.49. Given MNZ’s acceptance that its approach should be precautionary, the NOWRT achievement in minimising oiled wildlife casualties was satisfactory in terms of costs and benefits. The quality of NOWRT’s treatment of bird species was not questioned, although views were expressed about greater discrimination between endangered species and other species. The NOWRT systems were not easy to scale-up for engaging and managing an expanding wildlife responder workforce. This gave rise to occasional operational confictions, some compounded by NOWRT’s lack of comfort with the ICC’s WebEOC system.

21.50. NOWRT’s specialised capability and mandate from MNZ clearly focuses on (oiled) bird life and does not incorporate the broader ecosystem. The mandate of the Department of Conservation (flora, fauna, wildlife and linked aspects of the human habitat of the coastline such as local food sources or kai moana) would have provided a broader framework for oversight of the multiple threats of environmental damage that the response faced.
Iwi and volunteer workforce

- The iwi and volunteer workforce regime, an innovation of the regional council with MNZ support, was successfully incorporated into response operations and markedly increased the productivity of the beach clean-up.

21.51. An initiative was taken to incorporate iwi and a volunteer workforce in shoreline and beach clean-up operations. The regional and local authorities were confident in the systems and networks under their control to harness community energy, and believed these potential response partners could use local knowledge (for example, arising from the response to the kiwifruit disease) and assets productively. This policy shift was authorised by the Director of MNZ, who was persuaded to see this as positive in risk–reward terms. The Bay of Plenty’s Readynet contract meant a smart activation system could be implemented. An effective training regime was developed. The efforts of the formal pollution combat operation and the capability presented by the arrival of a stream of trained volunteers were successfully integrated and managed through the ICC. The productivity of the overall pollution combat effort, particularly beach clean-up, was multiplied.

Criminal investigation

21.52. The criminal investigation, which had been somewhat hampered administratively in the early evidence collection phase, resulted in bringing successful prosecutions. The facts yielded by the investigation also contributed to the civil liability work stream, which had been well initiated and strategically managed.

International aspects

21.53. Although New Zealand’s status in terms of International Maritime Organization treaty and convention adherence was less than ideal, MNZ’s standing as a compliant and respected member of the of International Maritime Organization helped the response. The partnership with Australia proved highly valuable, and AMSA’s deployment of staff and equipment was generous.

Administering the response

- Administrative functions needed earlier systemic integration and senior leadership.
- Teething problems were widespread across individual functions. Information management was worst affected.
- Over-stretched ICC managers applied ad hoc remedies.
- The human resources function was under-planned and unable to deliver the full suite of needed services.

21.54. The MNZ post-operational debriefing of the administrative dimension has been done function by function. Each report is thorough in itself, the lessons and improvements are clearly identified.

21.55. The human resources function, was under-appreciated and unplanned. Overall, staffing levels were perceived as insufficient to allow for adequate backfilling of key roles. This was exacerbated by the long duration of the response and the perceived reluctance of MNZ and the regional councils and other responder employers to carry on releasing staff
for the response. More attention needed to be given to backfilling at the home agency for those who deployed to ICC and within ICC to provide cover for rotational gaps and churn.

21.56. Despite difficult and dangerous conditions for the salvage and other on water operations, and a range of shoreline/coastline health and safety risks, outstanding workforce safety results were achieved.

21.57. Administering a frontline response of the scale of the Rena incident and its consequences posed MNZ, the ICC in particular, with problems of depth and available administrative capability well beyond the planned levels. The responsibility for bringing in behind the teeth of operational response a robust and effective tail of logistic, financial and other corporate services and ensuring their integration seems not to have had a senior MNZ owner initially.

21.58. The systems themselves all exhibited teething problems in coping with the high tempo of mobilisation. This affected, in particular, the information control, knowledge retention and document management functions, so critical when seen as a system, to overall response coherence, which consequently underperformed. Functions relied on a small cadre of managers with limited NRT or MIRT training. Much remedial work was accomplished by these managers (before Executive Team support arrived). The response had administrative defects, but, in the end, it was not damaged by any major administrative failing.
Part D: Recommendations

22. Reviewer’s recommendations

22.1. In respect of the various matters related to the procedures and plans for a Tier 3 oil spill response raised in the conclusions sections of this report (sections 7 and 21) or in the relevant post-operational debriefing reports held by Maritime New Zealand (MNZ), a consolidation should proceed. Following consolidation, MNZ should consult with relevant central and local government partners about an addendum to the national contingency plan – a framework-level capture of the generic demands of a major maritime casualty and Tier 3 response involving multiple pollution or related risks.

22.2. MNZ should also review the national strategy in association with the Ministry of Transport and the Department of the Prime Minister and Cabinet (Security and Risk Group) to ensure it properly covers the variety of serious maritime incidents to which MNZ, alone or in partnership with other agencies, may need to respond and any legislative or resourcing implications arising.

22.3. The Director of MNZ should ensure the revised strategy and amended plan proceed from an agreed approach to the key principles of effective response coordination and management as follows.
   a) Define a framework for and maintain oversight of strategic “New Zealand Inc” interests.
   b) Establish a coherent management structure for command control and co-ordination of the response (“front” and “rear”).
   c) Collaborate with government (central regional local) entities to plan and reinforce the response, and sustain it over time.
   d) Conduct effective oil pollution combat operations (safely and lawfully).
   e) Manage interfaces with salvage providers and enablers for operations and manage relationships with owners and insurers.
   f) Maintain awareness of wider (non-oil) pollution risks to the coastal environment and bio-systems.
   g) Use statutory powers to facilitate the response consistent with New Zealand law and New Zealand Inc interests.
   h) Ensure the investigation of facts and their potential use for both criminal and civil liability purposes is integrated into initial response operations and wider policy frameworks.
   i) Develop and maintain media and political confidence in the response.
   j) Create appropriate points of information and engagement between the response, affected communities and non-governmental organisations.
   k) Ensure that Incident Command Centre corporate and administrative functions are properly deployed and performing as required.
l) Establish financial control system and appropriate budgetary accountabilities for resourcing outlays of all New Zealand–directed response entities (of a standard to meet “hostile” scrutiny in compensation or liability settlement actions).

22.4. The Reviewer also recommends the following specific steps relevant to the key principles above.

1. Response management structure
   a) Create a new management structure for a future Tier 3 response to a major casualty that distinguishes between tactical command and the high-level control and coordination functions described in the report (captured in Figure 5, p 65).
   b) Consider, in relation to the structure in 1(a), the value of a more-inclusive concept of surge capability that would orient all staff to MNZ’s response mission and align them on a contingency needs basis to the response functions currently divided between the Maritime Incident Response Team (MIRT) and National Response Team (NRT).
   c) Review for a future Tier 3 response, ways and means of achieving optimal integration between the frontline and rear management (MIRT and NRT).

2. Cross-government coordination
   a) Reassess (with reference to Figure 4, p 55) the roles of the Director of MNZ, Deputy Director of MNZ and the Executive Team in a future Tier 3 response to better enable MNZ as response lead agency and the Ministry of Transport as coordination lead agency jointly to provide awareness and oversight of New Zealand’s interests and strategic risk.
   b) Review the need for formal response-related understandings with agencies/departments that are likely to contribute to a future MNZ-led Tier 3 response or who may require MNZ as a partner in a comparable emergency. This should be done in consultation with the Officials Committee for Domestic and External Security Coordination and the Ministry of Civil Defence and Emergency Management.
   c) Reconsider, within reasonable bounds of cost, MNZ’s approach to Tier 3 exercises in order to incorporate some element of interoperability with central government agency partners, particularly those with specific mandates in relation to environmental pollution and protection such as the Department of Conservation.
   d) Consult with the Department of the Prime Minister and Cabinet and other relevant stakeholders about finding a place in the future national Civil Defence Emergency Management exercises programme for a maritime casualty scenario that, within bounds of affordability, would test response readiness at a whole-of-government level.

3. Salvage
   a) Clarify further the salvor liaison and salvage superintendency roles and functions for Tier 3 responses.
   b) Consult with regional partners and industry (and London Offshore Consultants) about a programme of activity that would ensure a minimum level of contingent capability is trained and exercised for salvage-related tasks.
4 Environmental
   a) Notwithstanding its own legislatively prescribed oil pollution functions, MNZ should advocate for and contribute to a wider response policy framework that addresses non-oil pollution and natural resource protection in both its marine jurisdiction and the coastal zone.
   b) Review contractual and functional arrangements for wildlife protection in a future Tier 3 response in consultation with Massey University, the Department of Conservation and a cross-section of regional partners.

5 Community involvement
   a) Reconsider the current policy settings in the national strategy, national marine oil spill contingency plan and MIRT guidelines for Tier 3 responses in respect of community relations functions as distinct from media services functions.
   b) Develop, in consultation with regional partners, systems and practices to enable the managed engagement of volunteers from affected communities and other concerned citizens in the appropriate aspects of future Tier 3 response operations.
   c) Consult appropriately and develop policy and plans for liaison with Māori interests, communications with affected regional iwi and hapū and their managed engagement in a future Tier 3 response.

6 Administration
   a) Consider for future Tier 3 response planning a senior front-line role for response administration as a whole and a mandate to ensure the administrative elements of the ICC can become connected systemically to the response and attain reasonable functionality as soon as practicable.
   b) Consider allocating the role in recommendation 6(a) to the General Manager, Corporate Services.
   c) Develop, by leveraging MNZ’s new competency matrix, an inventory of response-relevant experience and competencies of all current and recent employees for use in a future Tier 3 incident.
   d) Have regard for this purpose to the recommendations about regional amalgamation by Thompson Clarke Shipping and the human capability aspects of Tier 3 response capability by the late John Lee-Richards in their respective 2010 and 2011 reports.87
   e) Reassess, within reasonable bounds of affordability, ways and means for MNZ-managed training and exercising to balance the testing of pollution combat capabilities with also testing the readiness of selected ICC/MIRT and NRT administration functions.

22.5. Maritime New Zealand (MNZ) and appropriate external expert advisers should also give due scrutiny to the technical recommendations (see Annex A).

Annexes

Annex A: Technical suggestions received

Various parties expressed concerns or made suggestions about technical matters. They are consolidated in Table 2.

Table 2: Consolidated technical suggestions

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Purpose</th>
<th>Retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase a 4 ½ or 6 inch hose (no length specified)</td>
<td>To increase speed of any transfer of oil from tank(s) of a casualty to a bunkering asset</td>
<td>As part of Marine Pollution Response Service (MPRS) equipment</td>
</tr>
<tr>
<td>Purchase a dead bunker barge (with room for a crane)</td>
<td>To assist management of container debris or transfer of oil from a casualty</td>
<td>To be decided, perhaps retain at the busiest New Zealand port</td>
</tr>
<tr>
<td>Ensure New Zealand Inc contributes to the down time cost and maintenance of bunker or container barge should such be held by a private operator</td>
<td>To assist management of container debris or oil transfer during any response</td>
<td>As part of New Zealand capability (perhaps retain at the busiest New Zealand port)</td>
</tr>
<tr>
<td>Retain a stock of GPS pingers that could be attached to containers</td>
<td>To assist the tracking of containers that may spill from any casualty</td>
<td>As part of Marine Pollution Response Service equipment</td>
</tr>
<tr>
<td>Establish causes of utility and utilisation limitations of on-water oil removal assets, such as booms and skimmers, deployed by Maritime New Zealand / Incident Command Centre and consider alternative sea-booming equipment.</td>
<td>To guide further asset acquisition choices and inform further oil spill response doctrine and plans To guide MPRS advice and Oil Pollution Advisory Committee decisions</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Purpose</th>
<th>Relationship with</th>
</tr>
</thead>
<tbody>
<tr>
<td>Develop a Memorandum of Understanding to enable speedy translation and transcribing of interview information</td>
<td>To more quickly process master and crew statements</td>
<td>Ministry of Justice</td>
</tr>
<tr>
<td>Develop a Memorandum of Understanding with the Department of Conservation to enable full scope of its legislative mandate to apply</td>
<td>To assist the protection of flora, fauna, coastline and shoreline during an incident</td>
<td>Department of Conservation, Ministry for the Environment, Te Puni Kōkiri</td>
</tr>
<tr>
<td>Develop the relationship and profile of Maritime New Zealand at the Officials Committee for Domestic and External Security Coordination</td>
<td>To develop connections across government and a clear understanding of Maritime New Zealand's mandate</td>
<td>Ministry of Civil Defence and Emergency Management (Department of Internal Affairs), Security and Risk Group in Department of the Prime Minister and Cabinet</td>
</tr>
<tr>
<td>Recommendation</td>
<td>Purpose</td>
<td>Relationship with</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------------</td>
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<td>----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Develop or update Memoranda of Understanding with regional and local authorities</td>
<td>To clarify the meaning of fair and reasonable costs and establish guidelines for seconding local government staff to future responses</td>
<td>Maritime New Zealand, regional and local authorities</td>
</tr>
<tr>
<td>Consider reinstating a statutory receiver of wrecks</td>
<td>To establish a mechanism to better superintend salvage activities at the point after declaration of total loss</td>
<td>New Zealand Inc, Ministry of Transport, Maritime New Zealand</td>
</tr>
<tr>
<td>Adopt the Bonn Agreement oil on water categories&lt;sup&gt;1&lt;/sup&gt;</td>
<td>To align the aerial observation regime to that used internationally</td>
<td>Regional (and military) staff who frequently investigate reports of oil on water</td>
</tr>
<tr>
<td>Train local authority personnel so that Tier 2 response decisions practice this skill, where applicable, and call on these staff for aerial observation work during a Tier 3 response.</td>
<td>To strengthen scientific corroboration of aerial observation data and increase defensibility of data in court To increase consistency, effectiveness and efficiency of aerial observation data and analysis</td>
<td></td>
</tr>
<tr>
<td>Source or develop a dedicated training programme for oil pollution environmental advisors at local authority level</td>
<td>To have environmental advice available in more depth for a Tier 3 response</td>
<td>Regional responder training programme</td>
</tr>
<tr>
<td>Undertake more training on tikanga Māori (Māori culture)</td>
<td>To have seamless partnering with local iwi that enables better information about culturally sensitive sites and issues concerning pollution of flora and fauna to be better managed</td>
<td>Iwi at central and regional government level as part of regional responder network</td>
</tr>
<tr>
<td>Create standard operating procedures and templates that will support the engagement of contractors during a response</td>
<td>To establish contracts, employment agreements, and health and safety and pastoral care processes and appropriate remuneration rates that support the mobilisation and surge capability required during a response</td>
<td>Paid responders and contractors</td>
</tr>
</tbody>
</table>

Note

Annex B: Roles of the Secretary of States Representative for Maritime Salvage and Intervention and the Maritime Emergency Response Commander, a Synopsis

Introduction

The need for specific powers designed to enable a government to intervene in the public interest when facing the threat of marine pollution became clear following the Torrey Canyon incident in 1967.88

Secretary of States Representative for Maritime Salvage and Intervention

The role of Secretary of States Representative for Maritime Salvage and Intervention (SOSREP) was created in 1999 as part of the United Kingdom Government’s response to Lord Donaldson’s review of salvage and intervention and their command and control. This review and its subsequent report were prompted by the Sea Empress incident in 1996.89

Lord Donaldson observed that “salvage by committee”, as witnessed during the Sea Empress incident, was generally ineffective and inefficient. In his opinion, what was needed in such emergencies was a single voice, able to make and enforce decision on behalf of the United Kingdom Government and in the overriding public interest and if necessary to override any and all other interested parties.

This apparently led to the idea of a SOSREP. Donaldson recommended that the SOSREP should be free to act on behalf of the Secretary of State, independently and without recourse to a higher authority. Indeed, he was explicit in saying that, “We cannot overemphasise that whilst the Chief Executive and Ministers will ultimately be accountable for the decisions of the SOSREP, whilst operations are in progress they must either back him or sack him”.

This is understandable when there are substantially more ships transiting the English Channel in a week, for example, than transit the Great Barrier Reef in a year (in Australia there have been 20 comparable accidents since 2006). By the time the Donaldson Review was published, many of the powers of intervention and direction had already been established through legislation such as the Merchant Shipping Act 1995 as amended by the Merchant Shipping and Maritime Security Act 1997 and the Dangerous Vessels Act 1985. These powers meant the Secretary of State or his duly authorised representative (SOSREP) could intervene in any salvage situation or situation with a specific risk of pollution.

In 2002, and following the introduction of the Offshore Installations (Emergency Pollution Control) Regulations, the SOSREP also became the representative for the Secretary of State for the Department of Trade and Industry (now the Department for

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88 The Torrey Canyon was a supertanker than shipwrecked off the coast of Cornwall, England in 1967.
Energy and Climate Change), for dealing with incidents from the oil and gas offshore sector within the United Kingdom Continental Shelf.

The normal arrangement is for the SOSREP to exercise operational control of salvage activities proposed or being carried out by the commercial salvors appointed by the ship owners. The SOSREP uses all available information to assess whether the proposed salvage actions are in the public interest. The SOSREP also considers what should happen if the current salvage plan goes wrong or the incident escalates in severity. The SOSREP either tacitly approves or intervenes.

The SOSREP is empowered to exercise intervention powers to whatever extent is required in the public interest and may take control of the salvage operation by issuing directions. The SOSREP is not responsible for at-sea or shoreline clean-up activities.

The SOSREP is supported by a salvage control unit that comprises a small group of specified people who alone can represent key interests such as those of the salvor, the shipowner, or a harbour authority. It also includes any advisors felt necessary, for example, a distressed cargo specialist. The unit is not a committee – at all times the final decisions are the SOSREP’s sole responsibility.

The office of SOSREP moved to Portland Maritime Rescue Coordination Centre during the early hours of 20 January 2007 and established a salvage control until that included officers from the Counter Pollution and Response Branch (based in headquarters) to support SOSREP activities with appropriate resources.

In the MSC Napoli incident, initially a purely maritime matter, the search and rescue was conducted at sea, initially in the French zone of the English Channel. The SOSREP gave directions for salvage actions in accordance with the procedures described in the national contingency plan. The setting up of response units and the Environment Group were also in accordance with the plan.

In accordance with the Anglo-French Joint Maritime Contingency Plan (Mancheplan), the SOSREP consulted with the French maritime authorities by telephone and together they made an initial assessment of the situation of the Napoli.

The SOSREP exercised the powers of intervention and direction in relation to the Napoli incident. All subsequent activities concerned with the salvage of the Napoli were at the discretion or with the tacit approval of the SOSREP.

Maritime Emergency Response Commander

In 2004, following concerns raised by the towage industry, the Australian Government initiated the House of Representatives Standing Committee on Transport and Regional Services Inquiry: Ship Salvage into Maritime Salvage in Australian Waters, which culminated in the Neville Report. Adopting the recommendations of the Neville Report, the Australian Transport Council (now the Standing Council on Transport and Infrastructure) endorsed the establishment of an integrated national approach to the provision of emergency response arrangements, involving the:

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• establishment of minimum levels of emergency towage arrangements
• appointment of the national decision-maker for the management of marine casualties (the Maritime Emergency Response Commander (MERCOM))
• amendments to the powers of intervention to mitigate or eliminate the risk of significant pollution during a marine casualty or emergency.

The National Maritime Emergency Response Arrangements (NMERA) were agreed by federal and state ministers in February 2008. The Australian Maritime Safety Authority (AMSA) is responsible for managing the emergency towage programme and appointing the MERCOM.

In March 2012, in a review of the Australian National (Pollution of the Sea) Plan and Australia’s National Maritime Emergency Response Arrangements, several observations were made about the role of the MERCOM in practice. It was brought to the review team’s attention that, although the legislative powers provided to the MERCOM in the Protection of the Sea (Powers of Intervention) Act 1981 are broad and consistent with international law, they apply only where there is, or is likely to be, a discharge of oil or a noxious substance. Incidents such as the Mimasaka incident (off the New South Wales coast in October 2010) highlight the need for such powers to be available for safety reasons (that is, where there is no immediate threat of a pollution incident). The addition of powers, such as can be found in the United Kingdom’s Marine Safety Act 2003, would mean that the MERCOM could take decisive action in the early stages of an incident, and not have to wait until the loss of oil or a noxious substance becomes a likely outcome.

The review team thought consideration should be given to amending the Powers of Intervention Act 1981 to address this issue using the United Kingdom’s Marine Safety Act 2003 as a possible guiding example. The states and the Northern Territory (with exception of Western Australia) have implemented complementary powers of intervention into their legislation. However, as part of the 2006 amendments, should there be a conflict over directions issued, the directions issued by AMSA will prevail over other directions.

Comparison of the two roles

The Australian system has similarities with the UK system but also important differences.

The UK SOSREP position is a full-time role, reporting directly to the Secretary of State (Minister). However, the MERCOM has other duties within the AMSA organisational structure, as Group Manager of the Marine Environment Division, and reports to the Deputy Chief Executive of AMSA with a further two levels before the Minister (the Chief Executive and AMSA Board). It is appropriate that the position of MERCOM is not a full-time position, taking into account the level of shipping traffic and SOSREP/NMERA incidents in the United Kingdom compared with in Australia. (Substantially more ships transit the English Channel in a week than transit the Great Barrier Reef in a year.)

The MERCOM needs to have a high degree of credibility and acceptance by NMERA stakeholders. The MERCOM also needs to have an understanding, backed by experience, of the shipping industry, marine safety, ship operations and marine emergency response. Previous MERCOMs may not have fully met the requirements. There is a perception amongst stakeholders that maritime skills and experience are diminishing at a high level.
in both the states and Northern Territory and the Commonwealth, and that this will present AMSA with significant challenges in the future.

The United Kingdom has appointed a Deputy to SOSREP. The primary reason for this is that the United Kingdom’s SOSREP has two “hats”, one for shipping and one for offshore installations, so works to two Ministers. The Deputy SOSREP focuses on offshore activities, for example UK incidents such as the Australian Montara oil well blowout or the US Deep Water Horizon incident.

Regional pollution and salvage officers act as understudies for the SOSREP. The current SOSREP was a senior Maritime and Coastguard Agency manager and a Deputy SOSREP for four years before his recent appointment to SOSREP.

In Australia, the MERCOM role can be appointed on a temporary basis to the AMSA general managers of the Emergency Response Division, Maritime Operations Division, Maritime Standards Division and the Deputy Chief Executive. The Salvage and Intervention Manager is considered the understudy to the MERCOM. The Deputy Chief Executive and these operational general managers all have a suitable marine background and experience to provide the MERCOM position with considerable resilience.

A number of incidents off the West Australian coast (for example, the Atlantic Eagle and Lugano incidents) indicate a distinct reluctance by AMSA to use the NMERA/MERCOM powers. It appears that AMSA staff are too occupied with legal meetings and risk mitigation discussions around who will pay the cost of the responses. A precautionary approach needs to be adopted to get the assets (emergency towing vessels) moving early.

Establishing defined trigger or decision points would assist with improving the capacity of the MERCOM to act. There is no clarity around when and how decisions are made by the MERCOM or the trigger points for action.

The MERCOM is restricted in decision-making by the existing organisational structure within AMSA. The MERCOM is part of AMSA and reports to AMSA management, who ultimately have the final say.

The MERCOM has indemnity powers that the states do not have. However, delaying intervention decisions in a spill situation increases the odds of the oil approach the shore, which puts the onus on the states (whose powers come into effect 3 nautical miles from shore). In the past, this has caused unnecessary conflict and friction between AMSA and the states.

Maritime skills and experience are diminishing at a high level in the states and Northern Territory and Commonwealth Authorities. The country is generally very “thin on the ground” when it comes to the required maritime expertise to respond to a big incident. Whilst the nature and characteristics of the MERCOM (the individual) are critical, there is no reason why the MERCOM function could not be achieved using a roster of suitable individuals. There should be more than one MERCOM (that is, one in each state)

Comment by the Reviewer

In the Rena incident, the powers available under New Zealand law to the Director of Maritime New Zealand (MNZ), National On-Scene Commanders and, to an extent, the local authorities (for example, in the Resource Management Act 1991 and Local
Government Act 2002) were sufficient to enable the coastal state to exert necessary influence over the salvage dimension of the response. Admittedly, the statutory decision-makers were not faced with an *in extremis* moment of choice over salvage options, the risks they created and the liability-related risks of an intervention such as was the case in the *Napoli* incident. The Reviewer was told that such a dilemma could have occurred had the salvors considered it possible to refloat *Rena* and move to a point of refuge in the Tauranga harbour approaches or the bay.

Of more relevance to the *Rena* situation were the issues of strategic oversight and systemic coherence, which the British and Australian regimes also aim to address. The appointment of the Director’s representative (and the coordination processes led by the Ministry of Transport at the rear) went some considerable way towards achieving comparable outcomes. In a future Tier 3 response, should the Director be drawn into a particular area of potential response failure in an operational role, the mandating of the Director’s representative and a clear of set of delegations within the MNZ Executive Team will be needed. Should proposals for national Civil Defence Emergency Management Controllers gain favour, one of them should be allocated to transport sector emergency responses, including significant maritime casualties.

That still leaves the question an effective authorising environment and management structure for the range of interactions between the coastal state and the salvage operators and their principals. It is not straightforward. It has been considered and revisited by MNZ several times (see para 4.31). The Reviewer has recommended (section 22, recommendation 3(a)) that MNZ does so again. It may be advisable to reconvene a working party of similarly broad composition to that which undertook the initial study in July 2001. Of particular importance for any such reconsideration, in light of the *Rena* experience, will be whether it is likely to be more effective to have a fully empowered salvage “superintendent” and a “one-stop-shop” located at the response front, with the Incident Command Centre, and what, in that case, should be the roles and responsibilities of the Maritime Incident Response Team, Maritime Incident Controller and Director of MNZ.

This annex draws also on information from the Australian 2012 review of the national plan.  

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Annex C: Participants in the independent review

Alex van Wijngaarden as National On-Scene Commander (Harbour Master, Marlborough District Council, Blenheim)
Allan Price, Unimar, Tauranga, Nelson
Andrew Baucke, Tauranga Area Manager, Department of Conservation, Tauranga
Andrew Berry, as former Manager, Marine Pollution Response Service, General Manager, Bullett Freight Systems Ltd, Auckland
Anne Greenwood, General Manager Human Resources, Maritime New Zealand, Wellington
Lieutenant Commander Andrew Lincoln, Royal New Zealand Navy, Assistant Director Strategic Commitments International, New Zealand Defence Force
Blair Harkness, Senior Communications Advisor, New Zealand Transport Agency, Wellington
Brett Gartrell, Associate Professor, Oiled Wildlife Unit, Massey University, Palmerston North
Bruce Anderson, as former General Manager Monitoring and Response, Maritime New Zealand, Wellington
Bruce Johnson, Deputy Secretary, Ministry of Transport, Wellington
Bruce Maroc, as former Deputy Director of Monitoring and Compliance (Maritime New Zealand), Country Manager, Lloyds Register, Auckland
Callum McLean, Unimar, Port Nelson, Nelson
Carl Magazinovic, Harbour Master, Bay of Plenty Regional Council, Tauranga
Catherine Taylor, as former Director of Maritime New Zealand, Tauranga
Chris Raley, Managing Director, Thompson Clarke Shipping, North Sydney, Australia
David Andrews, former Manager Planning and Assurance, Maritime New Zealand, Wellington
David Billington, as Tauranga Recovery and Response Manager, Rena Response and Recovery Unit, Tauranga
David Hunt, National Fire Co-ordinator, Operations Group, Department of Conservation, Wellington
David Ledson, Chair, Maritime New Zealand Authority, Wellington
David Weinstein, as Senior Advisor Maritime, Ministry of Transport, Wellington
Dayne Maxwell, Planning Leader, Marine Pollution Response Service Centre, Auckland
Eddie Grogan, General Manager Environmental Management, Bay of Plenty Regional Council, Tauranga
Eva Maxwell, as Shoreline Duty Officer, Administrator, Marine Pollution Response Service Centre, Auckland
Gregory Meikle, as Regional On Scene Commander, Bay of Plenty Regional Council, Tauranga
Helen McConnell, Oiled Wildlife Response Project Administrator, Institute of Veterinary, Animal and Biomedical Services, Massey University, Palmerston North
Himiora Faulkner, Environmental Officer, Te Runanga o Ngai Te Rangi Iwi Trust, Mt Maunganui
Ian Clark, as Finance Officer and Rena Records Recovery Project Coordinator, Tauranga
Captain Ian Niblock, as National On-Scene Commander, General Manager Marine Services, Darwin Port Corporation, Fort Hill Wharf, Darwin NT
Jason Walker-Downs, Te Runanga o Ngai Te Rangi Iwi Trust, Mt Maunganui
Jenny Gunn, Human Resources Advisor, Maritime New Zealand, Wellington
Jillane Fleming, as Financial Officer/Accountant, Mt Maunganui South
Jo-Anna Nolan, Readynet, Emergency Management Associates, Wellington
Joan Smith, as Senior Policy Advisor Funding Review, Maritime New Zealand, Wellington
John D Owen, Senior Claims Manager, Team Piraeus, The Swedish Club, Greece
Captain Jonathon Walker, Regional Director
Asia/Australasia, London Offshore Consultants, Singapore
Karen Chapman, Business Analyst, Information Services, Corporate Services, Maritime New Zealand, Wellington
Inspector Karl Wright-St Clair, Area Prevention Manager, Western Bay of Plenty, Tauranga Police Station, Tauranga
Keeson Sharp, as Runner in the Incident Command Centre, Information Technology Officer Rena Response Unit, Tauranga
Keith Manch, Director Maritime New Zealand (Designate), Wellington
Ken McCarthy, Rena Finance Manager, Maritime New Zealand, Wellington
Ken Wyatt, Maritime Safety Inspector, Maritime New Zealand, Tauranga
Kenny Crawford, Manager International Shipping, Maritime New Zealand, Wellington
Kerri Morgan, Lecturer in Avian and Wildlife Health, Institute of Veterinary, Animal and Biomedical Services, Massey University, Palmerston North
Lindsay Sturt, Deputy Director, Maritime New Zealand, Wellington
Malcolm Reid-Tait, Desktop and Server Support, Information Services, Maritime New Zealand, Wellington
Mark Cairns, Chief Executive, Port of Tauranga, Tauranga
Mark Cavanagh, Oil Spill Equipment Technician, Marine Pollution Response Service Centre, Auckland
Mark Lytollis, Manager Admin Property and Procurement, Corporate Services, Maritime New Zealand, Wellington
Martin Matthews, Chief Executive, Ministry of Transport, Wellington
Mary-anne MacLeod, Chief Executive, Bay of Plenty Regional Council, Tauranga
Matthew Andrews, Crown Counsel, Crown Law, Wellington
Matthew Dean, as Technical Advisor, Rena Investigation Team, Maritime New Zealand, Wellington
Matthew Nolan, Readynet, Emergency Management Associates, Wellington
Dr Matthew SR Palmer, Barrister, Thorndon Chambers, Wellington
Mick Courtnell, as National On-Scene Commander, Maritime Pollution Response Coordinator, Harbourmaster’s Office, Auckland Council, Auckland
Neil Lloyd, Operations Manager, Braemar Howells, Tauranga
Ngawiki Dickson of Motiti Island, Tauranga
Nick Quinn, as National On-Scene Commander, Australian Marine Oil Spill Centre, Canberra, Australia
Nigel Clifford, as Director’s Representative, General Manager Safety and Response Services, Maritime New Zealand, Wellington
Pat Helm, Advisor Security and Risk Group, Department of the Prime Minister and Cabinet, Wellington
Paul Fantham, as Manager, Rena Investigation Team, Maritime New Zealand, Wellington
Paul James, Deputy Chief Executive Policy, Regulatory and Ethnic Affairs Branch, Department of Internal Affairs, Wellington
Paul Van’t Hof, Salvage Project Manager, Switzerland
Paul Vorwerk, as Principal Environmental Advisor, Policy and Regulatory, Maritime New Zealand, Wellington
Air Commodore Peter M Port ONZM, Assistant Chief Strategic Commitments and Intelligence, ACSCI, New Zealand Defence Force
Pim de Monchy, as Rena Volunteer Co-ordinator, Bay of Plenty Regional Council, Tauranga
Rachel Jones. Regional Director, Te Puni Kokiri, Whakatane
Reece Golding, Rena Incident Command Centre Manager, Rena Response and Recovery Unit, Tauranga
Reon Tuanau, RMU Manager, Te Runanga O Ngai Te Rangi Iwi Trust, Mt Maunganui
Renny van der Velde, as MIRT Controller, Group Manager Maritime Security and Incident Response, Maritime New Zealand, Wellington

Richard Hunter, as Temporary Master – Awanuia, Warkworth

Richard Lough, Senior International Shipping and Coastal Advisor, International Shipping, Maritime Standards, Wellington

Richard Stevens, as Reviewer of New Zealand’s Oil Pollution & Response Capability, Project Director, Thompson Clarke Shipping, North Sydney, Australia

Richard van der Spoel, Marine Surveyor, Braemar Howells, Tauranga

Rob Mackie, Department of the Prime Minister and Cabinet, Wellington

Rob Service, Duty National On-Scene Commander, Training leader and National On Scene Commander, Marine Pollution Response Service Centre, Auckland

Roger Brown, Ministry of Transport, Wellington

Ron Devlin, Area Commander, Tauranga Fire Service, Tauranga

Russell Wood, General Manager Corporate Services, Maritime New Zealand, Wellington

Scott Read, as Deputy National On-Scene Commander, Technical Services Leader, Marine Pollution Response Service Centre, Auckland

Sharyn Forsyth, General Manager, Maritime Standards New Zealand, Wellington

Sian Howard, Ministry for Primary Industries, Wellington

Sid Wellik, Principal Solicitor, Legal Services, Maritime New Zealand, Wellington

Simon Coubrough, Senior Regulatory Advisor, Maritime New Zealand, Wellington

Stephanie Winson, General Manager Legal and Policy, Legal Services, Maritime New Zealand, Wellington

Stephen Hunt, Deputy Director of Strategic Commitments, New Zealand Defence Force, Wellington

Stephen Rogers, Senior Solicitor, Department of Internal Affairs, Wellington

Steve Brazier, Director, Security and Risk Group, Department of the Prime Minister and Cabinet, Wellington

Steve van der Splinter, as former Maritime Investigation Manager, Maritime New Zealand, Wellington

Stuart Crosby, Mayor, Tauranga City Council, Council’s Administration Bldg, Tauranga

Suzanne Pollard, as Communications Leader in the Incident Command Centre Tauranga, Wellington

Toby Stone, as Advisor to the Incident Command Centre Salvage Liaison Unit, Tauranga (General Manager Marine Environment Division, Australian Maritime Safety Authority, Canberra, Australia)

Toni Pressman-Hyde, as Executive Assistant to the National On-Scene Commander, Planning and Training Officer, Marine Pollution Response Service Centre, Auckland

Vicky Cunanan, Human Resources Officer, Maritime New Zealand, Wellington

Warwick Murray, Group Manager, Land Management at Environment Bay Of Plenty Regional Council
### Annex D: Involvement of the Marine Pollution Response Service and National Response Team in oil spill incidents and exercises

**Table 3: Oil spill incidents and exercises involving the Marine Pollution Response Service and/or the National Response Team, since 2006**

<table>
<thead>
<tr>
<th>Exercise</th>
<th>Location</th>
<th>Date</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hardrock</td>
<td>Marlborough</td>
<td>May 2006</td>
<td>Tier 3</td>
</tr>
<tr>
<td>Manaia</td>
<td>Northland</td>
<td>May 2007</td>
<td>Tier 2 with deployment of some National Response Team (NRT) Tier 3</td>
</tr>
<tr>
<td>Revolt</td>
<td></td>
<td>August 2007</td>
<td>Marine Pollution Response Service, National On-Scene Commander, Environmental Team and Taranaki region involvement</td>
</tr>
<tr>
<td>Cleanup</td>
<td>Otago</td>
<td>April 2009</td>
<td>Tier 3</td>
</tr>
<tr>
<td>Glorious Wonder</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Silverfern</td>
<td>Marsden Point</td>
<td>August 2010</td>
<td>Marine Pollution Response Service, National On-Scene Commander and Silverfern Involvement</td>
</tr>
<tr>
<td>Peregrine</td>
<td>Auckland</td>
<td>May 2011</td>
<td>NRT workshop with exercise</td>
</tr>
</tbody>
</table>

Notes: * Excludes Tier 1 and Tier 2 exercises or incidents unless NRT was involved. International exercises occur yearly with some Marine Pollution Response Service involvement (not listed above).

**Table 4: Smaller exercises involving the Marine Pollution Response Service and/or National Response Team, and using WebEOC**

<table>
<thead>
<tr>
<th>Exercise</th>
<th>Location</th>
<th>Date</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>OMV</td>
<td></td>
<td>November 2007</td>
<td>Marine Pollution Response Service (MPRS), media, Maritime Incident Response Team (MIRT), and OMV</td>
</tr>
<tr>
<td>Edith</td>
<td></td>
<td>December 2007</td>
<td>MPRS, MIRT, and National On-Scene Commander involvement</td>
</tr>
<tr>
<td>Coromandel</td>
<td>Cape Colville</td>
<td>February 2010</td>
<td>MPRS, MIRT and National Response Team (NRT) notified</td>
</tr>
<tr>
<td>Bream Bay</td>
<td>Northland</td>
<td>May 2010</td>
<td>MPRS, some NRT and regional team involved</td>
</tr>
<tr>
<td>Reef</td>
<td>Maui A</td>
<td>July 2010</td>
<td>MPRS</td>
</tr>
<tr>
<td>Resolution</td>
<td>Maui A</td>
<td>August 2011</td>
<td>MPRS and MIRT involvement</td>
</tr>
<tr>
<td>Taharoa</td>
<td></td>
<td>September 2011</td>
<td>MPRS and MIRT involvement; NRT asked to login to give availability</td>
</tr>
<tr>
<td>Express</td>
<td>Lytellton</td>
<td>September 2012</td>
<td>MPRS, MIRT, National On-Scene Commander, and region</td>
</tr>
</tbody>
</table>

Notes: There have been several other callouts to the NRT requesting team members to log in to WebEOC and give their availability, so it can be seen how many people are available at any given time. All responses have been positive. The Oil Spill Duty Officers often deal with Tier 1 and Tier 2 incidents, offering support and advice to the Regional On-Scene Commander (this is not included in the table).
### Annex E: History of the exclusion zone

**Table 5: History of the exclusion zone**

<table>
<thead>
<tr>
<th>Date</th>
<th>Exclusion zone</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 October 2011</td>
<td>1 kilometre from <em>Rena</em></td>
<td>Primarily to keep people away from the wreck as there had been reports of sightseeing vessels near the grounded ship, but also to avoid disruption to the response and because boats in the area put themselves and others at a safety risk.</td>
</tr>
<tr>
<td>10 October 2011</td>
<td>Extended to 10.5 nautical miles (2.8 kilometres) from <em>Rena</em></td>
<td>At the request of the National On-Scene Commander to ensure response teams had clear access to <em>Rena</em></td>
</tr>
<tr>
<td>21 October 2011</td>
<td>Increased to cover much larger area</td>
<td>At the request of Maritime New Zealand, mainly because of the oil slick and wide spread of containers and other debris</td>
</tr>
<tr>
<td>18 November 2011</td>
<td>Reduced to 3 nautical miles (5.556 kilometres)</td>
<td>The oil and containers coming from the grounded ship were contained, reducing the risk of injury or damage due to navigational safety hazards</td>
</tr>
<tr>
<td>29 February 2012 – present</td>
<td>Reduced to 2 nautical miles (3.7 kilometres)</td>
<td>The extent of the salvage operation was reduced.</td>
</tr>
</tbody>
</table>

Source: Report of Bay of Plenty Regional Council.
References


