

John Walley, NZMEA, Chief Executive

July 2008

Agenda for Change

It is often said; "nothing endures but change", and this is the message the New Zealand Manufacturers and Exporters Association (NZMEA) is sending to political parties in 2008 with our Agenda for Change.

The New Zealand economy is entering a period of rapid change. Local policy settings have amplified the impact of the global credit crunch and local responses to strong inflationary pressures have damaged the tradeable sector. The economy is slowing quickly with the Reserve Bank indicating an easing bias later this year. The exchange rate has fallen and we are in, or nearly in, the part of the business cycle that favours tradeables. It is hard to escape the view that policy settings make the business cycle worse as opposed to dampening its effect on the economy. We think there has to be a better way than accepting the defeatist view that there is nothing that can be done. We need a system that controls inflation without impacting on the exchange rate and fights to keep productive activity in New Zealand.

A survey conducted by the NZMEA asked manufacturers and exporters for the policy changes they want to see implemented to drive export led growth. Those responses indicated three key issues: whether they favour a savings based approach to controlling inflation, tax rule changes aimed at encouraging innovation including a Capital Gains Tax, and creating incentives to work with by using tax thresholds rather than initiatives like 'Working for Families'. The leadership of all political parties have been asked for their policy response on these key issues.

To date we have received responses from both National and the Green Party and we await responses from the others, including the Government. Both National and the Greens admitted that there were problems with the current system of using the OCR to control inflation, however neither party offered a solution with both stating that they were still in the process of formulating policy in this area.

The Greens wrote of their intent to create a more equitable tax system for the tradable sector but again failed to offer an alternative policy.

National ruled out the idea of a Capital Gains Tax (CGT) and stated that targeted tax incentives aimed at productive business should not be necessary as such businesses should be able to compete in the market without such support. While this Association recognises that a number of businesses do fail, and this can simply be the product of a competitive marketplace, the bias against productive investment created by tax policy can be a major contributor to export failure. This policy stance disregards the impact on international competitiveness of the support and assistance given to manufacturers and exporters in other jurisdictions. Economic success for New Zealand is not about "business" it is about "tradeables". If tradeables succeed the economy will succeed, if tradeables fail so will our economy. This is a key point of difference that drives our policy advocacy.

The number of companies that have moved offshore in the past few years demonstrates that the manufacturing sector is at a watershed and action must be taken if we are to reverse this trend. As we lose more capability we undermine our ability to respond to future opportunities as complex supply chains break.

With exchange rates set to drop, margins will improve for exporters, but this will not bring back the companies and jobs that have already left, nor those in the process of leaving. It is critical to our economic future that policy settings change to lower risks to exporters, encourage productive investment and offer broader support to productive enterprise.

We need a coherent Agenda for Change. We will be posting all responses on the web site – follow the "Agenda for Change" link off the front page at www.mea.org.nz.

Inside this issue:

<i>Commentary</i>	1
<i>NZMEA Media Release</i>	2
<i>Useful Tools - Bonuses and Incentive Payments</i>	3
<i>NZMEA HR Advisory Services</i>	3
<i>Business is in Growth Mode, but is it Fast Enough?</i>	4
<i>Director's Duties - Reckless Trading</i>	5
<i>Supply Chain Efficiency - It's a Big Deal</i>	6
<i>Employers Providing Immigration Advice After 4 May 2009</i>	7
<i>MEAssist</i>	8
<i>Workshops & Programmes</i>	8

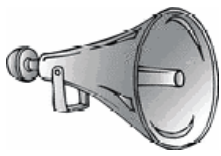
MEA on the web

Visit our new website

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Situation Tenuous as Confidence Drops

The latest New Zealand Manufacturers and Exporters Association (NZMEA) Survey of Business Conditions completed during June 2008, shows total sales in May 2008 decreased 3.71% (export sales increased by 8.13% with domestic sales decreasing 15.3%) on May 2007.

The NZMEA survey sample this month covered NZ\$469m in annualised sales, with an export content of 56%.

Net confidence dropped to -40, down from the -33 result reported last month.

The current performance index (a combination of profitability and cash flow) is at 100, up from the previous month's 98, the change index (capacity utilisation, staff levels, orders and inventories) stayed at 100, and the forecast index (investment, sales, profitability and staff) is at 101, up on the previous month's result of 99.8. Anything less than 100 indicates a contraction.

The reported constraints were: 10% capacity, 20% staff and markets 70%.

Staff numbers for May increased year on year by 7.46%.

"Comments from manufacturers and exporters indicate worries about the future. Sales are holding up now but there are few forward orders and confidence figures are reflecting that uncertain future. The rising cost of raw materials, energy and transport fuel are eating into profit margins for manufacturers as they are for the rest of the economy," says Chief Executive John Walley.

"Concerns about the viability of thinning supply chains affecting the cost and supply of goods required are continuing as suppliers lose 'critical mass' and yet more activity moves offshore. The relocation of some large

manufacturers offshore has made supply more difficult, reducing the international competitiveness of New Zealand's manufacturers."

"Skilled staff shortages in the workforce, particularly engineers and accountants, were identified as concerns. The 'brain drain' to Australia was in the headlines when the survey was open, contributing to this sentiment. This must be a major concern for our future."

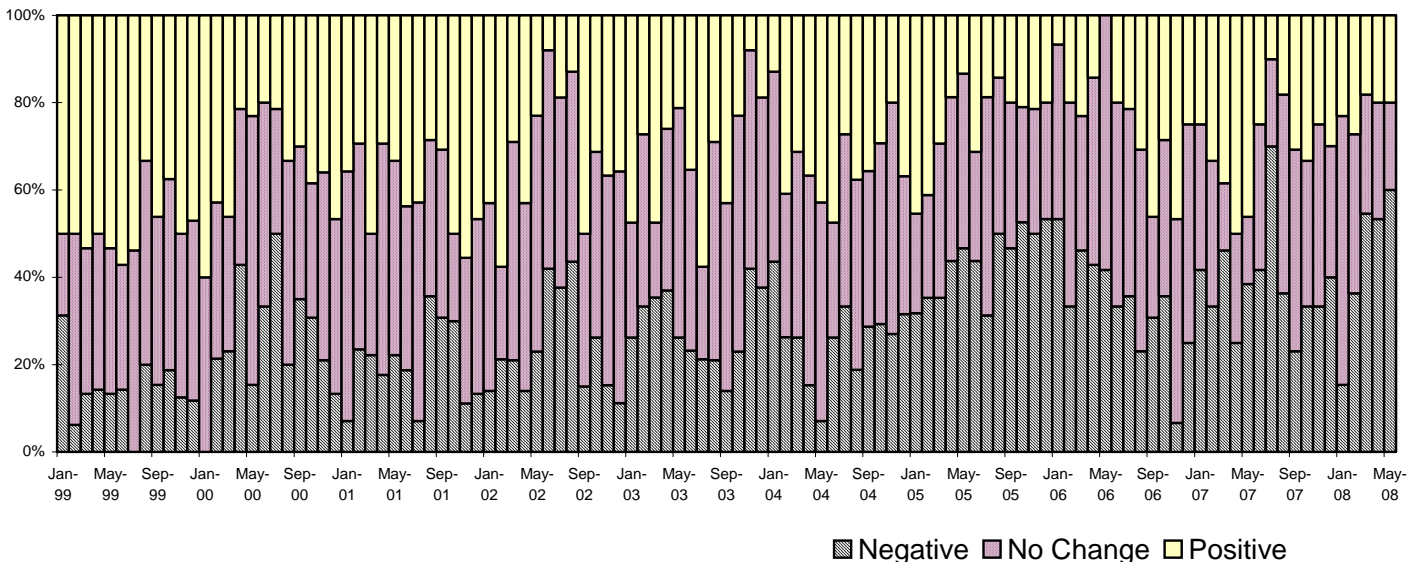
"Better returns on sales to Australia due to the improving exchange rate are positive, underpinning the increased export sales, but margins remain under pressure. The reduction of sales in the domestic sector reflects problems faced in the rest of the economy. Recent figures show a reduction in business borrowing, indicating that pressures previously seen in the tradeable sector have spread to the domestic sector."

"There is a hope that the long period of pain due to high exchange rates will come to an end, but that hope is edged with sadness that the suffering will now be passed on to the domestic sector."

"Although the situation is improving for exporters, uncertainty means that many are reluctant to invest in capacity expansion. A key question is - will it now be just once more around the trade cycle or will there be a serious attempt to focus policy on supporting the tradeable sector?"

The Canterbury Manufacturers' Association (CMA) has broadened the scope of its survey to include respondents throughout New Zealand. As a result, the survey will now be released by New Zealand Manufacturers and Exporters Association (NZMEA).

Confidence



Useful Tools – Bonuses and Incentive Payments

Employers are always looking for new ways to attract and retain employees to their business, as well as increasing productivity and performance. Offering employees bonuses and incentive payments is becoming a popular way of doing this.

A bonus or incentive payment is a payment made over and above a base salary and forms part of a total remuneration package. Bonuses are payments often linked to individual merit or performance, but can also be based on an organisation's overall performance. Often an employer will set down certain criteria or Key Performance Indicators ("KPIs") that have to be met before a bonus will be paid.

A recent survey showed that only 46.1% of top executives and 27.4% of general staff receive bonuses in New Zealand, with amounts averaging \$31,144 (top executives) and \$4,161 (general staff) being paid (McBride HR, *Trends and Challenges in Remuneration Management*, April 2008). These figures are low in comparison with other countries, and indicate that New Zealand employers are not making the most of including these payments within remuneration packages.

Incentive payments and bonuses need to be used in a way that strikes the right balance between an employee's need for certainty (if they achieve a certain level of individual or team performance, the reward will be paid) and the employers need to use these tools in a way that actually increases performance and productivity, as well as attracting and retaining good staff. If bonuses and incentives are *not* linked to performance in some way, they are merely an additional cost with little additional benefit.

In our view, care should be taken when including bonus or incentive payment clauses in your employment agreement. These clauses must protect the employer by giving them the most flexibility over when and how much the bonus or incentive payment is to be paid. However, as noted in a recent Employment Relations Authority decision:

"The potential for dispute is increased because of the employee's expectation to maximise and the employers desire to minimise." (*Andrew Watson v Microsoft New Zealand Ltd*, 1 May 2008 ERA WA54/08)

In drafting such clauses employers should consider setting down clear expectations of performance criteria and KPIs, and providing reasons for paying or withholding a payment of a bonus or incentive. Additionally, employers must be aware that they may be required to pay holiday pay on any performance incentive/bonus payments.

These clauses need to be drafted and applied in the correct way to ensure that they operate in the best way possible for your organisation. We recommend seeking advice before you include bonus or incentive clauses in your agreements, or to seek a review of your existing clauses and policies.

This article was provided by Brannigans Human Capital. If you require further information relating to this topic please contact the NZMEA at mea@mea.org.nz or phone 03 353 2540.



NZMEA HR Advisory Services

Penny Shaw, Senior Consultant - Brannigans Human Capital: Penny has experience in the facilitation of a wide range of HR functions including employment relations, performance management, negotiating skills, recruitment and selection and human resource audits.

Sarah Bradshaw - McPhail Gibson & Zwart: Sarah is experienced in drafting employment agreements/contracts for service interpretation of all legislation relevant to employment issues, attendance at mediation, advocating in the Employment Relations Authority and the Employment Court and conducting of disciplinary meetings for employers.

Juanita Wilson - Next Step Solutions: Juanita offers a practical, common sense approach to HR challenges in the areas of manufacturing, retail, distribution, administration and professional environments, advice on HR, health and safety process and systems, recruitment and selection, skill assessments, performance review systems, training and development and change management.

For any human resource/employment questions please contact:

NZMEA HR Advisory Services on our website: www.mea.org.nz, or phone: 03 353 2540, or email: meassist@mea.org.nz.



Business is in Growth Mode, but is it Fast Enough?

ANZ sees the privately-owned business sector as the most vital part of the New Zealand economy, making up more than 25 percent of domestic revenues and a very large part of the business scene.

In releasing its latest survey of the sector, The Privately Owned Business Barometer 2008, ANZ comments on the need for sound strategic planning to grow and protect the wealth-generating potential of privately-owned companies.

The findings from this year's report suggest that most owners are confident about prospects for their business but are focused on achieving modest organic growth in both the short and medium terms.

"Clearly it is currently a testing environment for business. But from a strategic perspective there's no better time to make big gains than when competitors are equally challenged," says Nigel Williams - Managing Director, Institutional Corporate and Commercial.

The challenge for business is to look beyond organic growth and seize the prospects that exist.

"In particular, we believe there will be an increasing number of consolidation opportunities across a range of industries, with the decision by some owners to exit presenting acquisition opportunities for those looking to grow faster."

There is also a once in a generation opportunity for business to open new markets in the booming economies of Asia where access is being facilitated by completed or prospective free trade agreements.

To seize opportunities, be they in Asia or elsewhere, to grow domestically, or to release the wealth built in their businesses, business owners require a solution so simple as to be over-looked – think long-term, have a vision, have a plan for achieving it that identifies who is needed to achieve it, then just get on with it.

The privately-owned business sector has been very successful and is rightly identified as the engine room of the economy for its power to create wealth and jobs.

The recently published ANZ Privately-Owned Business Barometer 2008 found that many of those surveyed were not adverse to risk or using debt to realise growth objectives. But many indicated a lack of time, management skills or independent advice to analyse the opportunities.

The Barometer findings show that business owners are aware of the issues but few had a formal plan.

"Our fear is that by not making plans, business owners will limit the opportunities for themselves, their families and the businesses – and thus the wider New Zealand economy."

"To assist, ANZ has formed a specialist team to help business identify the possibilities or point to the people who can help proactively plan for growth and change."

The ANZ Privately Owned Business Barometer surveys 300 business owners for their view on growth, change of ownership and governance, and access to advice.

The full ANZ Privately-Owned Business Barometer can be viewed at: www.anzbarometer.co.nz.



Nigel Williams, Managing Director,
Institutional Corporate & Commercial.

ANZ, part of ANZ National Bank Limited, a subsidiary of Australia and New Zealand Banking Group Limited (ANZ Group).

Director's Duties – Reckless Trading

With the changing economic climate, and company profitability and financial performance coming under pressure, there is a greater likelihood that duties of directors will be scrutinised.

The key duty in this context is the duty under Section 135 of the Companies Act in relation to reckless trading. Section 135 provides that a director must not agree, cause or allow the business of the company to be carried on in a manner likely to create substantial risk of serious loss to the company's creditors.

In the event that a company becomes insolvent and is placed into liquidation, the Liquidator of the company, who is faced with a significant shortfall to unsecured creditors, will consider whether the directors are in breach of this duty and should be personally liable with some, or all of the loss creditors.

The million dollar question is, at what point should the company have ceased trading? This will depend on the nature of the company and circumstances, but Mr Justice Young does provide some assistance in the South Pacific Shipping case where he stated:

"No one suggests that a company must cease trading the moment it becomes insolvent (in a balance sheet sense). Cessation of a business may inflict serious loss on creditors and, where there is a probability of salvage, such loss can fairly be regarded as unnecessary. The cases, however, make it perfectly clear that there are limits to the extent to which directors can trade companies while they are insolvent (in a balance sheet sense to which I have referred) in the hope that things will improve. In most of the cases, the time allowance has been limited to a matter of months."

A Liquidator of a company will look at the point that the directors should have ceased trading and assess the notional loss to creditors, had the company been placed into liquidation at that point. As a matter of law, the directors will be liable for the difference between the loss creditors at that point and the loss creditors at the point when the company ultimately went into liquidation. If the loss creditors at the date in which the company should have ceased trading is say \$300,000, but the ultimate loss creditors in the liquidation is \$1.5m, then the directors are potentially liable for the difference being \$1.2m.

Whether a company has reached this point is not always an easy question to answer, and if in doubt, it will be important for the directors to obtain expert legal and accounting advice.

It should be appreciated that expert advice on whether to continue trading or not can provide a defence under the Act.

In most cases where the directors have been found liable for reckless trading, the Courts have been highly critical of a lack of proper corporate governance and inadequate accounting systems. The board's failure to discharge its duty under Section 194 to maintain proper accounting records is often pleaded alongside Section 135 in reckless trading cases.

Lastly, it is important to appreciate that all directors of the company are potentially liable for reckless trading, and the fact that a director may be non-executive and unaware of the precariousness of the company's financial position, is not a defence, although the Court will look at the respective culpability of the directors when assessing damages.

In summary, directors concerned about the viability of their business and ability to pay creditors going forward, should obtain professional advice. In obtaining this advice, it will be important to ensure that the advisers have accurate financial information. The advice will only be as good as the accuracy of the information provided by the company.

This article was provided by Goodman Steven Tavendale Reid. If you require further information relating to this topic please contact the NZMEA at mea@mea.org.nz or phone 03 353 2540.

Supply Chain Efficiency – It’s a Big Deal

How many manufacturers really understand or appreciate what happens to their products once they leave the factory door and head off to domestic or overseas markets? If they don’t take an interest in the efficiency of their supply chain, there is a good chance that distribution and storage costs are making a bigger dent on their bottom line than they need to.

Recent months have seen a sizeable increase in fuel, equipment and labour costs in the transport sector and inevitably these are being passed onto the end-user. For energy costs especially, there seems no end in sight and there are also pending emission costs to be faced. This upward price spiral makes it all the more imperative, therefore, for unnecessary costs and inefficiencies to be taken out of the supply chain wherever possible without sacrificing performance.

For a manufacturer intent on controlling internal operating costs, how can the negative impact of rising external transport costs be identified and best managed? One of the best ways is to get alongside a freighting logistics expert and closely examine all the components of your distribution and storage requirements. That expert should be familiar with ALL available modes of transport, which include road, rail and shipping.

In other words, you will benefit most from looking at the full inter-modal transport spectrum, rather than just one or two types of freight service. However complex or simple your logistical freight requirements are, it is a near certainty that some efficiencies can be found that will reduce costs and add value to your business.

Some questions to be asked, for example, include the following:

- Is just-in-time delivery absolutely essential for your products, or is there a workable alternative that would cost you less?
- Is storage or warehousing really necessary on your premises, or is an independent service more cost-effective overall?
- If your markets are in Auckland or offshore, is your product being consigned in the most cost-effective way for trans-shipment purposes?
- If you have products requiring temperature control, are you paying too much for cold chain storage or inefficient stock transfer?
- Is there a way to reduce cost by sharing facilities to consolidate products, manage local distribution, or centralise inward and outward goods?

On any of these supply chain matters, taking advice from a professional with inter-modal transport expertise is a worthwhile exercise. While the variables may seem daunting, an expert in the freight, distribution and storage sector will be able to tailor a solution to your company’s present or future needs. Make some time to find out what the benefits may be - after all, it’s your competitiveness and profitability that is at stake.

This article was provided by Pacifica Transport Group. If you require further information relating to this topic please contact the NZMEA at mea@mea.org.nz or phone 03 353 2540.

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Employers Providing Immigration Advice After 4 May 2009

From 4 May 2009 employers will no longer be able to provide immigration advice and assistance to their employees, as doing so will put the employer in breach of the Immigration Advisors Licensing Act 2006 (Act).

The Act has been introduced to regulate Immigration Advisers. There have been many cases of foreign nationals in New Zealand being provided incorrect immigration advice, charged exorbitant fees, and provided very poor service from Immigration Consultants who held themselves out as being professional Immigration Advisers.

Whilst the Act is aimed at regulating those working in the immigration advice industry, the effect of its provisions essentially limit the types of people who can give advice on an immigration matter. Advice is defined under the Act as:

“Using, or purporting to use, knowledge or experience in immigration to advise, direct, assist or represent another person in regard to an immigration matter relating to New Zealand, whether directly or indirectly and whether or not for gain or reward.”

Employers who advise an employee or potential employee on how to prepare an application to Immigration New Zealand (INZ) will (even though they charge no fee) be in breach of the Act.

Although an employer cannot provide advice, they can still continue to provide general immigration information to their employees that is readily available from INZ (e.g. application forms) and continue to support their employee’s applications by providing the required documents and employer forms requested by INZ.

Certain individuals are however exempt from the Act and can provide immigration advice and assistance after 4 May 2009 without being licensed.

These individuals include:

- Lawyers;
- People who provide advice in an informal or family context only, as long as the advice is not provided systematically or for a fee;

- Public service staff who provide immigration advice within the scope of their employment; and
- Community law centre and citizen advice bureau staff.

As employers are not exempt, those who wish to continue to give immigration advice and assistance to their employees will have two options.

First, the employer nominates an existing employee to apply for and obtain an Immigration Advisers license. Once obtained the license will need to be renewed each year and evidence of ongoing training and professional development will be required.

Second, the employer outsources any immigration advice either to a person who is licensed or to one of the exempt persons listed above.

Further information on the Act and its requirements can be found at www.iaa.govt.nz.

This article was provided by Lane Neave. If you require further information relating to this topic please contact the NZMEA at mea@mea.org.nz or phone 03 353 2540.

MEAssist

To network with other NZMEA Members or get assistance from our Associate Membership
Contact: meassist@mea.org.nz or call 0800 353 2540

NZMEA's Associate Membership includes a wide range of specialists, consultants and service providers who can assist NZMEA Members with:

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| <ul style="list-style-type: none">➤ Strategic Business Development➤ Business & Technology Planning➤ Business Coaching➤ Market Research & Marketing➤ Export Marketing➤ Advertising & Branding➤ Communications & PR➤ Import & Export➤ Customs, Logistics & International Freight Forwarding Services, <u>plus 'less-than-container' services</u>➤ Finance, FOREX & Banking➤ Accounting, Payroll & TAX➤ Investment Capital➤ Insurance➤ Debt Collection➤ Business Sales & Valuation➤ Research & Development Services➤ Product & Prototype Development➤ Intellectual Property & Patent Registration➤ Total Product Design➤ Engineering Analysis, CAD & FEA➤ Project Management➤ Operations Management➤ Theory of Constraints➤ Lean & Agile Manufacturing➤ Kanban, Production Planning & Scheduling➤ Condition Monitoring - Products & Services | <ul style="list-style-type: none">➤ ERP, MRP Solutions➤ Supply Chain Management➤ IT Systems – Design & Implementation➤ Internet Telephony➤ Website & Software Development➤ Industrial Automation & Control➤ Recruitment & Selection➤ Human Resources Management➤ Conflict Resolution & Mediation➤ Employee & Immigrant Settlement Management➤ Management, Leadership & Team Training➤ Training Analysis➤ Knowledge & Information Management➤ Employment Law➤ Change Management➤ Temporary Staff➤ Technical Publications➤ Business Graphics & Printing➤ Energy, Water & Waste Auditing➤ QC & QS Management➤ Health & Safety Systems & Training➤ International Travel➤ Fire Evacuation & Compliance➤ Drug Testing➤ Maintenance & Asset Management➤ Factory & Plant Efficiency & Utilisation➤ Strategic Pricing |
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NZMEA networks relationships and transactions between manufacturers FREE of charge.

Where the NZMEA stimulates a transaction with Associate Members a standard charge, or referral fee applies. This is invoiced to the Associate Member providing the service. These fees vary between Associates and reflect a wide variety of pricing models. The fee is constructed to be less than the usual marketing overhead recovery component of an Associate's pricing which enables a saving for Associates while using competitive market pricing which benefits all parties involved.



Workshops/Programmes/Special Interest Sessions

Events are open to all members of your staff and to members and non-members of the NZMEA. For more information or to register on-line, visit www.mea.org.nz - Events/Training.

Date:

Tuesday 22 July
Wednesday 23 July
Thursday 24 July
Starting 30 July

Wednesday 6 August

Date:

Friday 25 July, 7.30am

Workshop

Training the Trainer (Full day workshop)
Communication and Motivation (Half day workshop)
Six Sigma Capability (Half day workshop)
Production the TOC Way Workshop
(Two full days held at Skope Industries, Christchurch) Dates are: 30 & 31 July
Coping with the Unexpected (Half day workshop)

Special Interest Session

The Economic Outlook – New Zealand Inc. Pass, Fail or Deferred?
A breakfast presentation providing an update on the New Zealand Economy by Cameron Bagrie, Chief Economist from the ANZ National Bank.

The authentic voice for manufacturers and exporters