



Australian Government

Department of Infrastructure and Regional Development

**Secretary
Dr Steven Kennedy PSM**

Dr Jane Thomson
Committee Secretary
Senate Rural and Regional Affairs and Transport Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Dr Thomson

Inquiry into the Provisions of the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017

Thank you for your invitation to make a submission to the Senate Rural and Regional Affairs and Transport Legislation Committee's inquiry into the provisions of the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017.

I provide the attached submission to assist the Committee with its inquiry. The appropriate contact in my Department for further information is Ms Stephanie Werner, General Manager, Maritime and Shipping Branch, on 02 6274 7652 or Stephanie.werner@infrastructure.gov.au.

Yours sincerely

Steven Kennedy

9 November 2017



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Senate Rural and Regional Affairs and Transport Legislation Committee

Inquiry into the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017

*Submission by the Department of Infrastructure and
Regional Development*

November 2017

Introduction

1. This submission is provided by the Department of Infrastructure and Regional Development (the Department) in response to the invitation to make a submission from the Committee. The submission addresses the issues around the current coastal trading regime in Australia and details the purpose of the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017 (the Bill) in addressing those issues.
2. The Bill does not propose substantial changes to the current coastal trading regime, instead making amendments to reduce red tape and simplify the administration of the regime. The benefits of the changes will be reduced costs and administrative burden for industry and for government.

Current coastal trading regime

3. The Coastal Trading Act establishes a three-tier licensing system for coastal trading: general licence, temporary licence and emergency licence. A fourth category, transitional general licence, is a transitional mechanism from the previous provisions of Part VI of the *Navigation Act 1912*.

General Licence

4. A general licence is available to vessels on the Australian General Shipping Register and provides unrestricted access to engage in coastal trading in Australian waters for a period of five years.
5. The licence affords holders the opportunity to compete for trade on the Australian coast and is intended to maximise the use of vessels registered in the Australian General Shipping Register in coastal trading.
6. Each seafarer working on the vessel must be an Australian citizen or permanent resident or hold a visa with appropriate work rights. A copy of the licence must be displayed on the vessel and the holder of the licence must comply with the relevant reporting requirements. The vessel must continue to be registered on the Australian General Shipping Register to hold a general licence.

Transitional General Licence

7. A transitional general licence is available to eligible vessels that held a licence under the previous arrangements in place under Part VI of the *Navigation Act 1912*. A transitional general licence is intended to assist ships operating under the former arrangements to transition to Australian registration, is issued for a period of five years and may be renewed once. A transitional general licence affords the ship it is issued to the same rights as a general licence. There are currently two transitional general licences, both held by Teekay Shipping (Australia) Pty Ltd.

Temporary Licence

8. A temporary licence may be granted to a shipper, or the owner, charterer, master or agent of a vessel registered on the Australian International Shipping Register or under a law of a foreign country and provides restricted access to engage in specific coastal trading voyages over a 12 month period.

9. Applications for new temporary licences must include a minimum of five voyages – for cruise shipping this means five port to port journeys, not five stops on a single ticket. The same requirement applies to cargo, with a licence being required for each port to port cargo movement conducted by the ship.
10. Temporary licences can be varied after they are issued, to either add additional voyages or to amend the details of already authorised voyages (for example to vary departure or arrival dates or the number of passengers or amount of cargo to be carried).
11. Information about all applications is provided by the Department to all general licence holders and allows them to provide notice that a general licensed vessel is available to conduct any of the notified voyages. This triggers a mandatory consultation process between the shipper and the general licence holder that may be arbitrated by the Department.
12. This is a competitive process and does not automatically grant voyages to Australian operators. A decision is made by the Minister or his delegate and a challenge does not guarantee that the temporary licence application will be rejected. Few applications are contested, no licences have been contested in the past 22 months, but this process reduces productivity and increases uncertainty as the applicant should not load cargo in a mandated consultation period as the licence may not be approved.
13. Once issued, a copy of the licence must be displayed on the vessel and the holder of the licence must comply with the relevant conditions and reporting requirements.

Emergency Licence

14. An Emergency Licence may be granted to a shipper, or the owner, charterer, master or agent of a vessel registered in the Australian General Shipping Register, the Australian International Shipping Register or under a law of a foreign country to respond to significant national emergencies, as outlined in the regulations, for a period of no more than 30 days.
15. The licence allows an applicant to respond to a specific emergency of a kind identified in the regulations and must give details of each aspect of the intended voyages including the reasons why the voyages cannot be undertaken by a vessel authorised to be used to engage in coastal trading under a general licence.
16. A copy of the licence must be displayed on the vessel and the holder of the licence must comply with the relevant conditions and reporting requirements.
17. No emergency licence has been applied for since the commencement of the Coastal Trading (Revitalising Australian Shipping) Act 2012.

Issues with the current regime

18. Between 2004-05 and 2014-15, shipping's share of Australian freight fell from approximately 25% to around 17%, while the volume of freight across Australia grew by around 55%. Between

2010 and 2030, Australia's overall freight task is expected to grow by about 80%. Coastal shipping, in contrast, is only forecast to increase by around 15% in the period to 2030. There is a question over whether shipping should increase its share of the task given it is a cheap, safe, efficient and environmentally friendly mode of transport.

19. Successive governments have explored different ways to regulate coastal shipping with the aim of increasing the number of Australian ships in both the international and coastal trading sectors. Never the less, foreign ships have always been necessary to satisfy the demand for shipping services, including in the coastal sector.
20. Since the implementation of the current regulatory regime in 2012, the decline in the number of Australian general licence vessels has continued, and the carrying capacity of these ships decreased by 69 per cent from 2011-12 to 2015-16. No ships have been registered on the Australian International Shipping Register (AISR) since its establishment in 2012. The AISR requires that the owner of a ship negotiate a collective agreement with a seafarers' bargaining unit before the ship can be registered and that the ship be engaged in predominantly international trade.
21. User and stakeholder feedback indicates that the current regulation of coastal shipping creates a range of administrative issues for shipping companies and Australian businesses that use coastal shipping, resulting in a substantial regulatory burden. This has prevented foreign shipping companies being able to participate in coastal shipping – even where there are no Australian vessels available to carry the goods.
22. In discussions with stakeholders, during consultation undertaken by Government in 2016 and 2017, concerns were raised about the current requirement to apply for voyages in groups of five or more, risks associated with the variation of voyages, and the inefficient process for providing opportunity to Australian operators to compete for cargo or passenger carrying opportunities even where no such Australian operators existed. Other concerns related to the existing tolerance provisions (date, volume) and the requirement to vary already authorised voyages in situations where the strict tolerance provisions could not be met. Stakeholders have argued that if the Government was not planning to proceed with wholesale reform of Australia's cabotage rules, the Coastal Trading Act should be amended to reduce red tape and remove the inflexibility within the current framework.
23. Stakeholders have advised the Department that for some dry bulk commodities, the cost of shipping the final product around Australia is now the same as shipping the product from overseas to Australia. For example the shipment of gypsum from Thailand is \$10 per tonne cheaper than shipping it around the Australian coast. This additional cost is a determining factor in choosing an international ship over an Australian flagged vessel when shipments carried around the Australian coast constitute tens of thousands of tonnes.
24. Another example of the unnecessary burdens on industry under the current regime, despite the fact there are no Australian registered crude oil or petroleum tankers with a general licence available to contest temporary license applications, every application to transport fuel around

the coast remains subject to a one or two business day delay due to the notice in response requirements of the Coastal Trading Act. This has resulted in a situation where businesses have spent more than 446 days since 1 June 2016 waiting for consultation with a general licence holder that doesn't exist.

25. Similarly, in the 2016-17 financial year, no general licence or transitional general licence vessels reported carrying any 'Other Bulk Liquids'. Despite this, in this same period, there were 200 days of consultation for temporary licence voyages carrying Other Bulk Liquids, including sulphuric acid, ethanol and molasses.
26. Users of coastal shipping services, particularly in the manufacturing, petroleum and primary industry sectors, would like to see further deregulation, which in their view would drive shipping costs down. For example, they have sought the removal of the application of the Fair Work Act to foreign-flagged vessels operating in the coastal shipping sector. They have also sought further loosening of licensing requirements. The majority of user and stakeholder feedback provided to the Department and the Minister for Infrastructure and Transport, the Hon Darren Chester MP, is that the Commonwealth's proposal to address administrative issues associated with the current regime will reduce regulatory burden.

Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017

27. In March this year, Minister Chester, released the Coastal Shipping Reform Discussion Paper (the discussion paper) seeking stakeholder comment on a series of proposed legislative amendments. The discussion paper took a pragmatic approach to coastal shipping reform by exploring amendments to the existing regime.
28. The proposed amendments were not intended to make wholesale changes to the current regime but rather retain its basic structure, while removing aspects which stakeholders reported were unreasonably limiting, inflexible, or onerous. The legislative amendments in the Bill were all detailed and explained in the discussion paper.
29. The Bill will:
 - remove the five-voyage minimum requirement to apply for a temporary licence;
 - streamline the processes for making changes to temporary licences by creating a single variation process;
 - amend voyage notification requirements so that notifications are only required when voyage details have changed from those approved on the licence;
 - amend the tolerance provisions for temporary licence voyages to better reflect industry practice;
 - allow for temporary licences to be issued in emergency situations;
 - amend the definition of coastal trading to include voyages commencing and concluding at the same port;
 - allow the coastal trading regime to include ships engaged in dry-docking;

- amend the definition of coastal trading to include voyages between ports and other defined places in Australian waters such as offshore facilities;
 - require temporary licence holders to provide a vessel's International Maritime Organization (IMO) number to assist with easy identification of vessels; and
 - make minor technical amendments to several definitions in the Coastal Trading Act that require clarification to assist with administration.
30. The Department notes that the 2015 Competition Policy Review ('Harper Review') recommended the removal of cabotage restrictions on coastal shipping 'unless it demonstrated that the benefits of the restrictions to the community as a whole outweigh the costs, and the objectives of the government policy can only be achieved by restricting competition'.
31. The 2016 Productivity Commission Inquiry into the regulation of Australian agriculture found that the objective of the reforms made in 2012 was to create a regulatory framework that 'maximises the use' of Australian vessels, but the effect is to increase the barriers to entry for foreign flagged vessels and the price of shipping faced by Australian farmers. The Commission recommended that as a matter of priority, the Australian Government should amend coastal shipping laws to substantially reduce barriers to entry for foreign vessels, to improve competition in coastal shipping services.
32. The current coastal trading regime was implemented in 2012 as part of an integrated suite of reforms designed to promote a viable Australian shipping industry and provide a stable fiscal and regulatory regime to encourage investment. It was intended to revitalise Australian shipping by providing Australian general licensed vessels with unrestricted, uncontested access to cargo and passengers. The proposed amendments to the current regime will not alter the original intent of the 2012 reforms.
33. In addition, the proposed changes will not take away protection from Australian flagged vessels operating under general licences. These Australian licensed vessels will still maintain unrestricted access to the Australian coast and have the opportunity to negotiate to perform coastal voyages they are interested in.
34. The changes in the Bill also make no changes to the application of the Fair Work Act 2009 (the Fair Work Act), and mandate the provision of additional identification information, a vessels IMO number, which should assist in enforcement of the Fair Work Act.