



Ports Australia

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SENATE STANDING COMMITTEE ON RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION BIOSECURITY AMENDMENT (ENHANCED RISK MANAGEMENT) BILL 2021

Ports Australia is pleased to provide a submission to the Senate Standing Committee on Rural and Regional Affairs and Transport Legislation to contribute to the review of the Biosecurity Amendment (Enhanced Risk Management) Bill 2021 (*Biosecurity Amendment Bill*).¹ Ports Australia acknowledges the importance of Australia's biosecurity, and that it is a shared risk and responsibility.

The Australian ports are key infrastructure that allows for the movement of freight and passengers intrastate, interstate and internationally, with over 98% of international trade by weight conducted via the country's ports.² Hence Australia's ports play an important role in biosecurity.

An appropriate approach to managing biosecurity cannot be underestimated, with the strength of the approach having direct implications for the health and welfare of Australians, Australia's flora, fauna, land and agriculture, and in turn industry and the economy. The human health implications having been particularly underscored in the previous year and a half.

As the port industry has not yet been provided with an opportunity to feedback on the *Biosecurity Amendment Bill*, Ports Australia is grateful to the Senate Standing Committee on Rural and Regional Affairs and Transport Legislation for notifying Ports Australia of the introduction of the *Biosecurity Amendment Bill* and the opportunity to now provide input. It is important that the maritime industry is engaged to provide feedback in these matters, especially as these amendments seek to address biosecurity risks related to human health, with some highlighted during the Ruby Princess event and the associated Special Commission of Inquiry into the Ruby Princess.

This submission seeks to support the Senate Standing Committee on Rural and Regional Affairs and Transport Legislation by outlining the impact of enacting this legislation from the port and maritime industry perspective, with the aim of assisting the Commonwealth of Australia to enhance the current biosecurity approach in its robustness and effectiveness.

Ports Australia is the peak industry body representing both publicly and privately owned port authorities and corporations across Australia. Ports Australia is governed by a Board of Directors comprising the Chief Executive Officers of 11 port corporations from across Australia.

¹ *Biosecurity Amendment (Enhanced Risk Management) Bill 2021 (Cth)*.

² Bureau of Infrastructure, Transport and Regional Economics (BITRE) 2014, Containerised and non-containerised trade through Australian ports to 2032–33.



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As a whole, the proposed amendments made by the Department of Agriculture, Water and Environment represent a welcome improvement to the management of biosecurity risks. However, it is to be highlighted that the *Biosecurity Amendment Bill*, retains the use of the mechanism of “negative pratique”, which is inconsistent with international definitions and commercial shipping practice, and poses human health risks to maritime workers. As such, Ports Australia strongly recommends Australia’s alignment with the international definition of pratique.

It should be noted that in March 2020 the cruise vessel Ruby Princess entered port observing the rules of the system that were in place at the time and whilst the proposed revisions to the Biosecurity Act 2015 would serve to may make the legal management of a repeat vessel and its activities clearer once the vessel was alongside; they do not address the practical issues of confusion and uncertainty prior to berthing that were a key component of the Ruby Princess incident.

This submission provides information on key elements surrounding the negative pratique matter including:

1. the international definition of pratique and the discrepancy with the Australian approach;
2. the health and safety risks related negative pratique;
3. the supply chain efficiency impacts related to negative pratique; and
4. the regulatory impacts of the continuation of pratique.

1. Inconsistencies with international definition of pratique

The World Health Organization International Health Regulations 2005 defines pratique as:

permission for a ship to enter a port, embark or disembark, discharge or load cargo or stores;
permission for an aircraft, after landing, to embark or disembark, discharge or load cargo or stores;
and permission for a ground transport vehicle, upon arrival, to embark or disembark, discharge or load cargo or stores.³

In Australia, the Biosecurity (Negative Pratique) Instrument 2016 prescribes the following classes of vessels for the purpose of negative pratique:

- Class 2 – vessels where there is an individual with signs or symptoms or possible exposure to a listed human disease, or a death onboard (as advised through a pre-arrival report or otherwise)
- Class 3 – non-commercial vessels, for example private yachts
- Class 4 – vessels, other than non-commercial vessels, that fail to submit a pre-arrival report.⁴

If a vessel falls into any of these categories, it will be subject to negative pratique under section 49 of the Biosecurity Act 2015.⁵ The stated effect of a vessel subject to negative pratique is that it will not be able to disembark passengers or unload goods until a biosecurity officer affirmatively grants pratique. Whilst a vessel will not be able to unload as a result of being subject to negative pratique, it does not mean that the vessel cannot dock at a port.

Accordingly, this mechanism overlooks the important function of pratique to assess biosecurity risks prior the ship being granted permission to enter a port. A number of entities within the maritime industry rely upon the administration of pratique occurring prior to the vessel being granted permission to enter a port, including

³ World Health Organization 2015, International Health Regulations (3rd ed.).

⁴ *Biosecurity (Negative Pratique) Instrument 2016* (Cth).

⁵ *Biosecurity Act 2015* (Cth).



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port authorities, marine pilots, port operators, charterers and receivers of cargo; and it is critical that pratique is administered in a way that ensures the health and safety of all parties involved.

2. Health and safety impacts

Marine pilots are generally the first direct human interaction for ships entering one of the commercial ports in Australia. A marine pilot will meet an incoming ship at the pilot boarding ground, go aboard and provide advice and assist the navigating crew to safely navigate the vessel into the port and to its allocated berth or anchorage.

Port authorities and employers of marine pilots hold work health and safety obligations in relation to marine pilots and other employees including exposure to human health risks on board ships arriving in its commercial ports. The COVID-19 pandemic has heightened the need for these entities to obtain further information in relation to the human health risks to which port authority staff may be exposed.

The Department of Agriculture, Water and Environment is provided with pre-arrival information from the vessels at or prior to entry into the Australian territory. This information should be used to determine whether or not to grant a vessel pratique prior to the ship requesting entry into the port and prior to a marine pilot being allocated to a vessel. Particularly where a vessel has failed to submit a pre-arrival report, or if the vessel has advised in its pre-arrival report matters reaching a particular threshold of human health risk, a vessel should be denied entry into the port until the biosecurity risks on board have been properly assessed.

The granting of pratique provides a port authority with a greater level of certainty that the human health risks have been identified and assessed prior to the marine pilot boarding the ship. Fully assessing human health risks prior to permitting the pilot to board has other strong potential benefits for reducing potential community transmission, allaying potential fears of a heavily unionised working environment, and ensuring that the risk to marine pilots is minimised or mitigated. The potential risk of transmission to both pilots and the community is critical to note, and Ports Australia suggests that this could be rectified with the revision of negative pratique.

Ports Australia is concerned that the use of human biosecurity group directions could be utilised in place of appropriately identifying and minimising the risk to marine pilot and other maritime workers. For context, pilotage in each of the commercial ports in Australia is mandatory for vessels over a designated size. Marine pilots require several years of training to carry out unsupervised pilotage functions at a single port or at limited numbers of ports. Consequently, pilots are limited in number, and so any direction to isolate by one or more marine pilots exposed to the biosecurity risk on board a commercial vessel will have significant impact on pilotage service providers' ability to service pilotage in a port and potentially create delays in the commercial shipping operations and ultimately the economy of the relevant state and of Australia.

3. Supply chain operations impacts

Port authorities control the time and manner in which each ship may enter its ports and proceed to utilise berth infrastructure to load or unload cargo or embark or disembark passengers. The grant of pratique is one of the commercial factors that demonstrates that a vessel is ready in all respects to accept or discharge its cargo or passengers while at berth.

If a vessel is not ready to commence operations before proceeding to a berth, then this reduces the efficiency of the port as the vessel is utilising a working berth that potentially could be allocated to another vessel as well



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as requiring other services such as stevedores to be on standby while the issues restricting the commencement of operations are being resolved. Depending on the nature of the biosecurity issue on board a ship, once the ship is alongside a berth this could lead to significant delays before a ship is ready to commence cargo operations or passenger movements.

Should the biosecurity risk be identified and notified to port authorities and port operators prior to the ship being granted entry into port, these entities will have the opportunity to take one of a number of options to ensure the efficient operation of the port including:

- delaying entry into the port;
- directing the vessel to a non-working berth or anchorage; and/or
- advising port users of any potential delay in the vessel's anticipated stay to properly manage other intended port stays.

4. Regulatory impacts

The reliance on a mechanism of negative pratique means that port authorities are left to either:

- Deny entry into a port of all vessels which have been classified as negative pratique; and/or
- Independently request and assess the biosecurity risks on board to determine whether there is a risk to the marine pilot and other maritime workers or whether the vessel may be significantly delayed at berth by reason of the biosecurity risk on board.

Ports Australia particularly notes that the regulatory burden of requiring the vessel to submit two streams of information, the impact to the state maritime industries who are required to independently assess the biosecurity risks on board and the cost of delay of vessels gaining entry to the port has not been included in the regulatory burden estimate of the Regulatory Impact Statement.

At present, there exists an opportunity to enhance Australia's approach to biosecurity, particularly to strengthen controls and systems around human health risks. To achieve this end, Ports Australia considers it imperative to align the definition of pratique with the international definition.

Significant attention to this review is required to ensure that an accurate evaluation of the current biosecurity approach is conducted, particularly in regard to negative pratique. It is imperative that this approach meets the needs of Australia, and by aligning the Australian pratique approach with the international one, Australia will be better poised to manage inbound human health risks. Ports Australia welcomes further consultation on the *Biosecurity Amendment Bill*, and would be pleased to assist the Senate Standing Committee on Rural and Regional Affairs and Transport Legislation, should further information from a port industry perspective be required.



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