



MUA SUBMISSION INTO THE INQUIRY INTO THE POLICY, REGULATORY, TAXATION,
ADMINISTRATIVE AND FUNDING PRIORITIES FOR AUSTRALIAN SHIPPING

Senate Rural and Regional Affairs and Transport References Committee

A PLAN TO SAVE THE AUSTRALIAN SHIPPING AND MARITIME INDUSTRIES

**Good for the economy, employment, the environment
and national security**



5 March 2019

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Table of Contents

Acronyms and abbreviations used in this submission	3
Explanation of shipping terms used in this submission	5
About the Maritime Union of Australia	6
Executive summary	7
The policy objective for Australian shipping – a summary	9
The rationale for the policy objective – a summary	9
Strengthening maritime cabotage is the key to revitalising Australian shipping – a summary ...	13
Complementary initiatives to support regulatory and legislative reforms	15
Recommendations to the Committee made in this submission	19
Part A – The case for revitalising Australian shipping	27
The policy objective for Australian shipping	27
The rationale for the policy objective	28
A maritime and trading nation with a long coastline needs a strong and viable shipping industry	28
Rebuilding an Australian shipping industry is good for the Australian economy.....	31
Australian ships will reduce the outflow of payments to foreign corporations for shipping	32
services.....	32
Creation of a level playing field for Australian ships will provide fair competition with road and	32
rail, and with international ships, helping develop the national freight and passenger transport	32
network and modal choice for shippers	32
Australian ships are efficient and reliable	37
Australian ships are safe, and relatively safer than foreign ships	37
Revitalising Australian shipping will create new jobs and secure the maritime skills base, helping	38
create a more seamless transport and logistics labour market	38
Shipping is central to the efficiency and productivity of other industries.....	45
Increased use of Australian ships to move Australia’s freight and passengers is good for the	45
environment.....	45
Australian ships are central to providing fuel security for the nation	49
Australian ships are required as part of the nation’s maritime security	51
Increased use of Australian ships will help eliminate the worst features of international Flag of	53
Convenience (FOC) shipping in Australian waters	53
Strengthening maritime cabotage is the key to revitalising Australian shipping	55
Ship data for Australia	58
Seafarer employment in Australia	59
Part B – Addressing the terms of reference	62
The policy principles to guide a better regulatory, taxation, administrative and funding	62
framework for Australian shipping	62

ToR i: New investment in Australian ships and building a maritime cluster in Australia	63
ToR ii: The establishment of an efficient and commercially-oriented coastal ship licensing system and foreign crew visa system	72
ToR iii: The interaction with other modes of freight transport, non-freight shipping and government shipping.....	84
ToR iv: Maritime security, including fuel security and foreign ship and crew standards;	94
ToR v: Environmental sustainability (of shipping);	98
ToR vi: Workforce development and the seafarer training system	100
ToR vii: Port infrastructure, port services and port fees and charges	111
Development of a wide-ranging industry policy package to complement regulatory, fiscal and workforce development support for shipping	115
Improving the cost competitiveness of Australian shipping	117
Appendix 1: Tables showing various aspects of the Australian coastal shipping fleet 2012 to 2019	118
Appendix 2: Nations of importance to Australia which retain maritime cabotage.....	122
Appendix 3: The proposed Object clause for an amended CT Act	124
Appendix 4: Proposed functions for a new Australian Coastal Ship Licencing Authority	125
Appendix 5: An outline of the proposed new temporary licence (TL) application process in the Coastal Trading (Revitalising Australian Shipping) Act 2012 (CT Act) for cargo ships	126
Appendix 6: Comparison of vessel safety standards under the Navigation Act and the National Law Act.....	129

Acronyms and abbreviations used in this submission

ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACSLA	Australian Coastal Ship Licencing Authority
AGSR	Australian General Shipping Register
AIS	Australian Industry Standards
AISC	Australian Industry and Skills Committee
AISR	Australian International Shipping Register
AMC	Australian Maritime College
AMDC	Australian Maritime Defence Council
AMSA	Australian Maritime Safety Authority
AORS	Auxiliary Oiler Replenishment Ship
BITRE	Bureau of Infrastructure, Transport and Regional Economics
CDI	Chemical Distribution Institute
CLIA	Cruise Line International Association
COAG	Council of Australian Governments
COA	Contracts of Affreightment
COST	Certificate of Safety Training
CSL	Canada Steamship Line
CT Act	<i>Coastal Trading (Revitalising Australian Shipping) Act 2012</i>

Customs Act	<i>Customs Act 1901</i>
DCV	Domestic commercial vessel
DIBP	Department of Immigration and Border Protection
DWT	Deadweight Tonnage (a measure of how much weight a ship can carry, not its weight, empty or in any degree of load)
EAP	Employee Assistance Provider
EEZ	Exclusive Economic Zone
ETVs	Emergency towage vessels
FMG	Fortescue Metals Group
FOC	Flag of Convenience
FSC	Flag State Control
FWO	Fair Work Ombudsman
GDP	Gross Domestic Product
GL	General License
GPH	General Purpose Hand
GT	Gross Tonnes
GTO	Group Training Organisation
IEA	International Energy Agency
ILO	International Labour Organisation
IMO	International Maritime Organisation
IR	Integrated Rating
ISPS	International Ship and Port Facility Security Code (IMO)
ITF	International Transport Workers Federation
LMIA	Labour Market Impact Assessment (Canada)
LNG	Liquefied Natural Gas
MAR	Maritime (Training Package)
MCV	Maritime Crew Visa (subclass 988 visa)
METL	Maritime Employees Training Ltd
MGL	Modified General Licence
MIAL	Maritime Industry Australia Ltd
MLC	Maritime Labour Convention
MO	Marine Orders (made under the Navigation Act)
MSIC	Maritime Security Identification Card
MSMD	Minimum Safe Manning Document
MTOFSA	<i>Maritime Transport and Offshore Facilities Security Act 2003</i>
MUA	Maritime Union of Australia
NES	National Employment Standards (in the <i>Fair Work Act 2009</i>)
National Law Act	<i>Marine Safety (Domestic Commercial Vessel) National Law Act 2012</i>
NCVER	National Centre for Vocational Education Research
Navigation Act	<i>Navigation Act 2012</i>
NFA	Naval Flag Administrator
NIEIR	National Institute of Economic and Industry Research
NOPSEMA	National Offshore Petroleum Safety and Environmental Management Authority
NSCV	National Standard for Commercial Vessels
NTC	National Transport Commission
NWS	North West Shelf
OCIMF	Oil Companies International Marine Forum
OPGGS Act	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>
PAYGO	Pay-As-You-Go
PCS	Port State Control

PwC	PricewaterhouseCoopers Australia
RAV	Regulated Australian vessel
R&D	Research and development
RIS	Regulation Impact Statement
RTO	Registered Training Organisation
Seacare	Seafarers Safety, Rehabilitation and Compensation Authority
Seafarers Act	<i>Seafarers Rehabilitation and Compensation Act 1992</i>
SMG	Strategic Marine Group Pty Ltd
SMS	Safety management system
SR Act	<i>Shipping Registration Act 1981</i>
SOLAS	Safety of Life at Sea Convention (an IMO Convention)
SSO	Skills Service Organisation (formerly known as a Skills Council)
STCW	Standards of Training, Certification and Watchkeeping for Seafarers (an IMO Convention)
TEU	Twenty-foot equivalent (containers)
TFES	Tasmanian Freight Equalisation Scheme
TGL	Transitional General Licence
TIR	Trainee Integrated Rating
TL	Temporary Licence
TSS	Temporary Skill Shortage visa (subclass 482) (replaced the subclass 457 visa)
UNCLOS	United Nations Convention on the law of the sea, 1982
VET	Vocational Education and Training

Explanation of shipping terms used in this submission

Australian ship refers to a ship which is either (i) on the Australian General Shipping Register (AGSR), employing Australian national seafarers (or non-nationals holding an appropriate work visa); or (ii) a foreign ship operating in coastal trade (i.e. operating inter-State, which by law is required to hold a Temporary License issued under the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (CT Act), a ship exempt from the CT Act (as listed in s10 of that Act); or a ship operating intra-state, which employs Australian seafarers. A foreign registered ship with a non-national crew engaged in coastal trading under Licence, or intra-state without the need for a licence, is not therefore an Australian ship for the purposes of this submission.

Australian shipping refers to all ship activity in Australian waters as well as to shipping activity involved in the transportation of Australian exports originating at an Australian port or which transports Australia's imports with an Australian port as its destination.

Flag of Convenience (FOC) ships refers to ships where beneficial ownership and control of a ship is found to lie elsewhere than in the country of the flag the ship is flying. The ITF has designated 35 countries as FOC registries.

Foreign ship refers to any ship registered in a foreign registry, whether or not a FOC ship.

Shippers means cargo interests – those entities requiring sea transportation of their products.

Ships is generally preferred to use of the word **vessel** in this submission, but vessel is used where the discussion relates to legislation where the term vessel is invariably used.

About the Maritime Union of Australia

This submission has been prepared by Maritime Union of Australia (MUA). The MUA is a Division of the 120,000-member Construction, Forestry, Maritime, Mining and Energy Union. The MUA represents some 13,000 Australian seafarers, stevedores, and other maritime workers, equating to more than 90% of Australia's maritime workforce. The MUA is an affiliate of the 20-million-member International Transport Workers' Federation (ITF). MUA members work as seafarers in coastal shipping, in the offshore oil and gas industry, as divers and on inshore workboats and ferries.

Executive summary

A combination of administrative and policy negligence by the Commonwealth Department of Infrastructure, Regional Development and Cities, flaws in the 2012 shipping reform legislative package that were ruthlessly exploited by shippers, ship operators and ship’s agents in a race to the bottom, and a complicit shipping policy position adopted by the Abbott, Turnbull and Morrison governments has resulted in failure of national maritime cabotage in Australia. Corporate greed, exploitation and sectional interests have prevailed over the national interest.

A 2016 report to the Maritime Union of Australia (MUA) prepared by the Strategic Marine Group Pty Ltd (SMG) advised that:

“While reviewing more than 8,000 applications to obtain licences for foreign ships to carry cargo on the Australian coast, SMG uncovered evidence of how prominent business entities are exploiting loopholes in the current shipping legislation and how the department running the licencing scheme appears under resourced to adequately monitor such manipulation.”

As a result, Australian owned and operated ships (ships on the Australian General Shipping Register (AGSR) and seafarer employment has continued to spiral downward. Seventeen (17) Australian cargo ships have been lost to the Australian coast since the election of the Abbott Government in September 2013, resulting in the loss of at least 544 seafarer jobs, as shown in Table 1.

Table 1: Australian ships lost to the Australian coast and not replaced by an Australian ship since the election of the Abbott Turnbull Morrison Government - September 2013 to February 2019

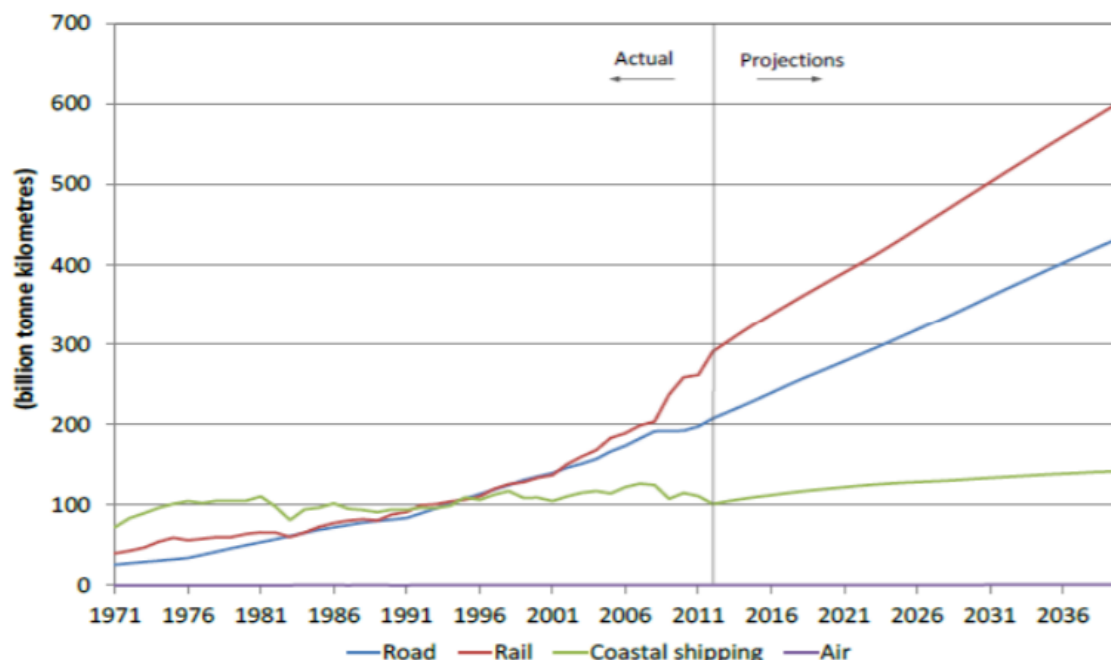
2019	The foreign registered and Australian crewed MV Mariloula (operating under a Transitional General Licence [TGL]) was withdrawn by BHP from the Port Hedland to Port Kembla iron ore supply chain servicing BlueScope’s steelworks because there is no penalty or disincentive to retire Australian ships from coastal trade under the <i>Coastal Trading (Revitalising Australian Shipping) Act 2012</i> (CT Act). BlueScope will still transport substantial quantities of domestic iron ore.
2019	The foreign registered and Australian crewed MV Lowlands Brilliance (operating under a TGL) was withdrawn by BHP from the Port Hedland to Port Kembla iron ore supply chain servicing BlueScope’s steelworks because there is no penalty or disincentive to retire Australian ships from coastal trade under the CT Act. BlueScope will still transport substantial quantities of domestic iron ore.
2018	The Australian registered and Australian crewed CSL Iron Chieftain was retired due to significant fire damage in April 2018. BlueScope subsequently took the management of its coal shipping in-house and uses international vessels on TMs to carry these cargos.
2017	The Australian registered and Australian crewed CSL Thevenard went to dry dock in Singapore and the crew were terminated. The ship is now operating full time in Australia as the <i>Acacia</i> with a Bahamas flag and international crew (General License [GL] relinquished).
2017	The Australian registered and Australian crewed CSL Whyalla (ex-CSL Sams) was withdrawn from its SA iron ore transshipment role in September 2017.
2016	The Australian crew were removed from the foreign registered CSL Brisbane . The ship was renamed the <i>Adelie</i> and is now operating full time in Australia under the Bahamas flag and with an international crew (TGL relinquished).
2016	The foreign registered TGL and Australian crewed British Fidelity was withdrawn from coastal trade by BP – Australia’s last petroleum tanker. BP still ships a very large amount of clean petroleum around the coast.
2016	The foreign registered TGL but Australian crewed CSL Melbourne carrying Rio Tinto alumina was withdrawn – the same volume of alumina still requires transporting.

2016	The Australian registered and Australian crewed MV Portland transporting Alcoa alumina was replaced by foreign registered ships with foreign crew using a Temporary Licence (TL) – the same volume of alumina requires transporting.
2015	The foreign registered and Australian crewed Alexander Spirit was withdrawn from service by Caltex due to closure of the Kurnell refinery.
2015	The foreign registered and Australian crewed Hugli Spirit was withdrawn from service by Caltex. Caltex still ships substantial quantities of petroleum around the coast. .
2015	The foreign registered and Australian crewed British Loyalty was withdrawn from service by BP. BP still transports a very large amount of clean petroleum around the coast..
2014	The foreign registered and Australian crewed Tandara Spirit was withdrawn from service by Viva.
2014	The foreign registered and Australian crewed CSL Pacific withdrawn from coastal trading and scrapped.
2014	The foreign registered and Australian crewed Pacific Triangle was withdrawn by BHP due to a closure of a blast furnace at the Port Kembla steelworks. The amount of iron ore being shipped to Port Kembla has since recovered and increased.
2013	The Australian registered and Australian crewed Lindesay Clarke was withdrawn from Alcoa’s alumina trade due to the closure of Point Henry smelter by Alcoa.
Total – 16 ships lost; 512 seafarer jobs lost	

In every case where the trade volume remains (the majority of cases) the Australian crew were replaced by non-national crew when an Australian ship was lost to the coast.

This decline in Australian maritime capability has reached a crisis point. Figure 1 shows that under current policy settings, coastal shipping’s share of the domestic freight market will continue to decline relative to road and rail. More Australian ships could be lost to the Australian coast under a business as usual scenario. This is unacceptable and requires a whole of government response.

Figure 1: Actual and projected domestic freight task, by mode 1972 to 2040



Source: Department of Infrastructure, Regional Development and Cities, *Report of the Inquiry into National Freight and Supply Chain Priorities*, March 2018

It is time to restate and actively support a new national shipping policy for Australia that rebuilds the Australian shipping industry.

The policy objective for Australian shipping – a summary

The policy objective for Australian shipping

The national policy objective for Australian shipping must be to rebuild and sustain an Australian shipping industry by incentivising investment in modern and efficient ships owned and or operated by Australian entities that are deployed in the Australian domestic and international shipping task, across all aspects of the maritime industry, including support for Defence and Border Force, and which maintains and grows Australian seafarer employment and maritime skills.

In a nutshell, Australia needs to restore a responsible maritime cabotage regime, implemented through a range of policy instruments.

The Regulation Impact Statement (RIS) that accompanied introduction of the 2012 shipping reforms set out the clear policy intent of the legislative package at that time, noting that it was to provide competitive neutrality while addressing wider strategic objectives, describing the policy objective in these terms:

“..it will strengthen support for Australian shipping operators in order to level the playing field between domestic and foreign shipping, while still enabling the participation of foreign operators in the movement of coastal cargo. New legislation incorporating revised licensing arrangements would focus more on the policy intent of building a viable and revitalised Australian shipping industry in order to maintain a domestic shipping industry that will not only be able to compete in the domestic market but function as a source of maritime expertise on which our regulatory agencies and port operators depend. Without action to address this declining industry Australia will find itself without a domestic shipping industry and perhaps more importantly without the means to facilitate and regulate the exports on which its economy depends.”¹

That policy should remain the objective, instructed by experience over the nearly 6 years since the 2012 reforms commenced on 1 July 2012.

There are strong and persuasive reasons why the Australian Government must adopt and implement a national maritime cabotage policy that rebuilds the Australian shipping industry. These include:

The rationale for the policy objective – a summary

A maritime and trading nation with a long coastline and growing freight and passenger transport demand needs a strong and viable shipping industry

Australia’s marine industries contributed \$74.2 billion to the national economy in 2013-14. This accounts for 4.8 per cent of national Gross Domestic Product (GDP) and directly and indirectly provides almost 400,000 jobs. Water-based transport of passengers and freight contributed \$3.85 billion to the national economy in 2013-14.

Ten per cent of the world’s sea trade passes through Australian ports and over 95 per cent of Australian exports are transported by sea. The Australian coastline is over 60,000 kilometres in length

¹ Department of Infrastructure and Transport, Reforming Australia’s Shipping, *Regulation Impact Statement* approved by the Department of Finance, August 2011

and its search and rescue region covers more than 10 per cent of the earth's surface. Per capita, Australia has more cruise passengers than any other nation, making it the fourth-largest cruise market in the world.

Shipping is central to the supply chains of almost every Australian industry – resources, manufacturing, agriculture, aquaculture/fishing, tourism, wholesale and retail distribution and construction. Ships should be capturing a greater share of the domestic freight market (currently capturing just 17%) and passenger market. Australian ships should figure prominently in the ship transportation mix.

The domestic freight task increased by 50% in the ten years to 2016 and is forecast to grow another 52% by 2036. There is no reason why national policy cannot be set to ensure ships capture greater market share.

Three prospective offshore oil and gas projects are in the planning phase, including Scarborough, Equus, and Browse. The first of these is planned to commence in 2021.

Planning is underway and funding has been secured for Australia's first offshore wind energy project involving construction of 250 windmills in Commonwealth waters, potentially supplying up to 20% of Victoria with renewable energy. More projects should follow.

Australian demand for cruises has grown 18.5 per cent a year since 2008. A number of cruise lines have announced new ship deployments in the region resulting in more ships homeporting in Brisbane, Melbourne, Fremantle and regional ports.

Each of these creates opportunity for Australian ships, under the right policy settings.

Rebuilding an Australian shipping industry is good for the Australian economy

The shipping industry already contributes over Aus\$20 billion to the Australian economy annually. It creates direct employment for over 30,000 people, indirect employment to over 11,000 people and contributes significantly to taxation revenue.

A revitalised shipping industry can be a major economic contributor to Australia and reduce capital outflows to foreign corporations. Australian shipping can help support many small businesses that provide services to ships.

Australian ships will reduce the outflow of payments to foreign corporations for shipping services

In 2016-17, freight transport services, primarily transporting Australian resource and agricultural exports in foreign owned ships, were Australia's 8th largest goods and services import, costing the nation \$8.7 billion, yet shipping services did not rate among Australia's top 25 goods and services exports.

This a significant drain on the balance of payments. It can be reduced under new policy settings for Australian shipping. Australia should not be completely reliant on foreign ships for its economic security.

A 2016 report to the MUA which researched and analysed of the east coast seaborne bulk commodity trades, prepared by the Strategic Marine Group Pty Ltd (SMG), concluded that the current legislation (CT Act), coupled with proposed Government amendments to that legislation (represented by the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017 which remains before the Parliament) would further entrench foreign control of Australia's maritime supply chain, with the

economic benefits of the nation's huge trade going offshore rather than helping to sustain a viable merchant shipping fleet and the wide variety of technical and commercial skills associated with it.

Creation of a level playing field for Australian ships will provide fair competition with road and rail, and with international ships, helping develop the national freight and passenger transport network and modal choice for shippers

No government subsidy flows to ships or shipping companies, yet ships compete with road and rail on the longer haul routes. Both road and rail are subsidised by government. Creating a level playing field among all freight modes is required to provide fair competition for ships to successfully compete in the national freight market.

The benefit is improved modal choice and a competitive freight market for shippers of cargo.

Australian ships are efficient and reliable

Australian ships are efficient and reliable, on all the following measures:

- Labour efficiency - Crew sizes on Australian ships are among the lowest in the world.
- Productivity performance - labour utilisation, managerial practice and ship utilisation (all features of productivity performance) are the best in the world.
- Ship maintenance and dry docking – notwithstanding the age of Australian ships, they operate at optimal performance and in so doing extend the periods between dry docking which is a major operational cost for ship owners/operators.
- Ship stevedoring (loading and unloading) – Australian ships load and discharge cargoes at rates equivalent to global shipping best practice.
- Ship turnaround times – as a good comparative example, the just in time performance of the four Australian ships that transport Liquefied Natural Gas (LNG) from the North West Shelf (NWS) LNG Joint Venture project have matched or bettered the turnaround times of the non-Australian registered LNG ships servicing that project.
- Ship emission efficiency – shipping is the most energy efficient mode of bulk transport and only a modest contributor to overall carbon dioxide (CO₂) emissions. Australian ships have adopted the July 2011 International Maritime Organisation (IMO) mandatory emission reduction measures, in particular the Energy Efficiency Design Index (EEDI) for new ships and the Ship Energy Efficiency Plan (SEEMP) for all ships.

Australian ships are safe, and relatively safer than foreign ships

Australian owned and operated ships which are on the Australian General Shipping Register (AGSR) (and are regulated under the Navigation Act) and which employ Australian national seafarers are safe, and relatively safer than foreign ships, particularly foreign FOC ships, because:

- They are regulated under the comprehensive Flag State Control (FSC) requirements of the Australian Maritime Safety Authority (AMSA) which until around 2012 was regarded as one of the world's most active maritime regulatory agencies and which previously upheld the strongest interpretation of International Maritime Organisation (IMO) safety Conventions; and
- The Australian seafarers that are employed on such ships are subject to Australian labour and safety laws, and to high quality seafarer training and qualifications.

In contrast, foreign ships operating in Australian waters, the vast majority of which are FOC ships:

- Are regulated by foreign ship regulatory agencies which adopt a more liberal interpretation of IMO safety Convention standards (and where corruption and lack of resources is more likely to distort compliance);

- Are regulated by AMSAs Port State Control (PSC) requirements when in Australian waters, which is risk based and not comprehensive; and
- Are not subject to any mandatory labour standards (only to the general International Labour Organisation (ILO) labour standards conventions applicable to the foreign seafarers employed on such ships, and to the International Transport Workers Federation (ITF) global labour agreements and inspection regime).

The result is that Australian ships are better maintained, better managed and adopt better safety management systems. In addition, the crew are better trained, adopt better safety management practices and are less likely to be fatigued.

Revitalising Australian shipping will create new jobs and secure the maritime skills base, helping create a more seamless transport and logistics labour market

The MUA estimates that under a reformed cabotage policy, an additional 55 ships could enter domestic service in Australia over the next 5-10 years, creating nearly 1,800 new seafarer jobs, an increase of 22 per cent over current seafarer employment levels. An additional 55 ships would represent a 358 per cent increase in the major trading fleet² which at January 2019 stands at just 12 ships.

New ships will provide the nursery for seafarer training requiring seetime experience to achieve competency standards and secure the maritime skills required by a shipping nation. With appropriate changes to seafarer qualifications, along with better integration of the seafarer certification arrangements applying under the *Navigation Act 2012* (Navigation Act) and the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (National Law Act), and better support from the industry Skills Service Organisation, Australian Industry Standards (AIS), a more seamless, mobile and functional transport and logistics labour market can be established.

Shipping is central to the efficiency and productivity of other industries

Shipping is a vital service supporting other wealth generating industries. Ships are critical to the supply chains for all facets of manufacturing, resources and energy including petroleum products, agriculture, aquaculture, fishing, tourism (including the growing marine tourism and cruise sectors), wholesale and retail distribution, and construction.

Ships are central to Defence and border protection and for supplying coastal regions and communities with vital supplies. A robust domestic shipping industry is required to provide maritime skills to support Border Force and Defence workforce needs, scheduled to expand significantly as a result of the \$80 billion Defence shipbuilding and Navy expansion program.

Increased use of Australian ships to move Australia's freight and passengers is good for the environment

Policy which increases shipping's share of the national freight and passenger market and increases the level of Australian ships in particular in those markets is good for the environment at three levels:

- It will reduce road congestion, in cities and on the highways, making cities cleaner, roads safer and reduce the costs of congestion;

² The major trading fleet is a term used by the Bureau of Infrastructure, Transport and Regional Economics (BITRE) in its publication *Australian Seafreight*. BITRE defines a major trading ship as a ship in the Australian trading fleet that has deadweight tonnage greater than or equal to 2,000 tonnes. See *Australian Seafreight 2014-15* P61, https://bitre.gov.au/publications/2018/files/asf_2015_16.pdf

- It will make a significant contribution to reducing national greenhouse gas emissions consistent with Australia's commitment to the Paris Climate Conference targets and to the International Maritime Organisation (IMO) ships' CO2 emissions reduction strategy; and
- It will help protect Australia's oceans, coastlines and marine tourism icons such as the Great Barrier Reef from marine accidents and marine pollution.

Australian ships are central to providing fuel security for the nation

There are now no Australian registered clean petroleum product tankers in the Australian coastal trading fleet, yet the equivalent of 60 ships are required to meet Australia's fuel supply needs. A proportion of these 60 ship equivalents, in the order of 10 ships as a minimum, must be Australian registered to secure the nation's fuel requirements.

The MUA commissioned report, *Australia's Fuel Security: Running on Empty* recommends that the Commonwealth, in consultation with stakeholders, investigate options to equitably apportion the differential costing for operating Australian petroleum tankers if a comprehensive risk assessment of fuel supply chain issues indicates that retention of a minimum number of tankers owned, managed and crewed by Australians, is justified on national security grounds.

Australian ships are required as part of the nation's maritime security

Using Australian owned, operated and crewed ships for Australia's domestic freight and passenger shipping requirements significantly reduces the security threat posed by shipping.

The increased use of Australian ships utilising Australian seafarers will provide the nation with a large degree of control over its trade dependency, and its sea routes, that is an essential part of the nation's economic independence, its defence and its border security. Australia's sovereignty and security should not be solely dependent on the economic infrastructure (like ships, and manufacturing inputs) of foreign governments and foreign corporations, given regional geopolitical tensions and uncertainty in trade stability.

Merchant ships and Australian merchant seafarers are, and have always been, an essential part of the nation's economic security, and national defence capability, in both wartime and peacetime, including use in alleviation of humanitarian crises.

Increased use of Australian ships will help eliminate the worst features of international Flag of Convenience (FOC) shipping in Australian waters

The Interim (but final) Report of the Senate Rural and Regional Affairs and Transport References Committee's Inquiry into the Increasing Use of so-called Flag of Convenience Shipping in 2016 found that shipping plays an essential role in Australia's national transport infrastructure framework, and that the increasing occurrence of FOC ships operating in and around Australia will continue to be detrimental to the local shipping industry, and place Australia at a competitive disadvantage.

The substitution of foreign ships by Australian ships, with higher ship safety standards, better crew training and management, and adherence to national labour standards, is an important strategy for eliminating the worst features of FOC shipping in Australian waters.

[Strengthening maritime cabotage is the key to revitalising Australian shipping – a summary](#)

Australian maritime cabotage needs to be strengthened if it is to serve the policy objective to rebuild and sustain an Australian shipping industry, resulting in a fleet of modern and efficient ships owned and or operated by Australian entities that are deployed in the Australian domestic and international shipping task, across all aspects of the maritime industry, including support for Defence and Border Force, and which maintains and grows Australian seafarer employment and maritime skills

The MUA is not advocating for the reservation of all domestic shipping for Australian registered and crewed ships. That is, we are not seeking to impose a US Jones Act solution for Australia. But we are vitally concerned that the current ineffective cabotage regime, which in hindsight has not secured any Australian ships in domestic trade, is being exploited to the detriment of the national interest. The remaining Australian registered and crewed ships are not there because of cabotage laws but as a consequence of industrial negotiation and commercial opportunity by shipping operators committed to the Australian maritime industry.

What the MUA is advocating is for partial reservation for Australian ships, that can be supplemented by foreign registered ships in some trades under specified circumstances through a commercially oriented ship licencing system. The model we are advocating is similar to the Canadian model of cabotage, that is integrated with a foreign seafarer visa regime based on a Canadian first employment policy.

We believe that a bedrock of Australian registered and crewed ships, complemented by foreign ships, will meet the policy objective to rebuild the Australian shipping industry. We are advocating for full reservation of Australian ships in specified national interest trades and for strategic fleet ships, and partial reservation in all other trades. Such an approach is economically and commercially responsible. It will provide flexibility for shippers of cargo, will revitalise Australian shipping and provide employment security for Australian seafarers whilst simultaneously retaining the maritime skills base.

This modest brand of cabotage will protect the national interest and is fully affordable.

National maritime cabotage laws are the rule, not the exception, across the globe. There are 91-member states of the United Nations that have cabotage laws, comprising 70% of the states of the IMO. Cabotage exists along their coastlines of about 80% of the world nations.

The strengthening of maritime cabotage that we advocate, consistent with international practice, can be achieved by:

- Amending the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (CT Act);
- Repealing Part B of the Seagoing Industry Award 2010;
- Amending the Fair Work Regulations 2009;
- Amending the *Customs Act 1901* (Customs Act);
- Repealing certain provisions in the *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012*;
- Repealing the Australian International Shipping Register (AISR) provisions in the *Shipping Registration Act 1981* (SR Act);
- Reforming the Maritime Crew Visa system;
- Applying the *Australian Jobs Act 2013* to shipping for major LNG projects; and
- Amending the *Navigation Act 2012*.³

³ Amending the Navigation Act will provide safer, more efficient Australian ships, crewed by seafarers holding internationally recognised certificates and associated VET and tertiary qualifications.

Complementary initiatives to support regulatory and legislative reforms

This submission proposes several priority initiatives to complement regulatory and legislative reforms.

Taxation incentives

The priority reform to complement changes to regulation is that the Commonwealth Government improve shipping and seafarer tax incentives and in some instances, extend the eligibility of the taxation incentives. For ship owners and ship operators the key priority is to resolve the design flaw in the current income tax exemption provision that applies to eligible shipping operators, whereby under the current design, the benefits to shipowners may effectively be clawed back when exempt profits of shipping operators are distributed to investors. This is a critical reform to restore and encourage investment in Australian ships.

The proposed reform of the shipping taxation incentives is aimed at ensuring Australian incentives are comparable with the shipping tax incentives provided in nations such as Singapore and Hong Kong and to create a positive investment climate for investors which will also help build a maritime cluster in Australia.

Establishing a strategic fleet

The establishment of a national strategic fleet of ships which are of strategic significance to the nation and which provide a social and or community service benefit will be an important initiative in rebuilding the Australian shipping industry.

It will be important that the establishment of a national strategic fleet be guided by an expert task force to guide the commercial and security elements in establishing such a fleet and to ensure there is wide stakeholder support.

Creating a maritime cluster

If there is policy, administrative and funding support from government and from industry, there is no reason why a maritime cluster cannot be created in Australia, to emulate successful maritime clusters in countries such as Norway, the Netherlands, the UK and Singapore.

The core of an Australian maritime cluster could revolve around:

- Australia as a shipper of product to world markets – as a major user of the globe’s ship charter services, and as a hub marketer of resource products.
- Australia’s coastal shipping sector, particularly if it develops in ways proposed in this submission.
- The nation’s expertise and innovation in supply chain management.
- The nation’s ports sector.
- The nations expertise in offshore oil and gas exploration, construction, production and transportation – where ships, platforms and marine systems are a central element of that sector. This expertise could be extended to offshore wind energy projects.
- Defence shipbuilding and the marine innovation that will arise from the current Aus\$80 billion investment.
- Civilian shipbuilding, particularly aluminium hulled ships for both civilian and defence needs.
- Large cruise shipping.
- Expedition cruise shipping and other forms of marine tourism.

- Marine and oceanographic research and the nation's responsibilities in the Southern Ocean and Antarctic.
- Aquaculture.
- The many Universities with a focus on ports, shipping and the marine environment.
- A highly skilled seafaring and maritime workforce.

The MUA proposes that the Australian Government establish an Australian maritime cluster development task force to advise the government on the development of a maritime cluster in Australia, in parallel with implementation of the regulatory, taxation and maritime skill development proposals in this submission.

Integration of sea freight shipping with other modes of freight transport, non-freight shipping and government shipping

Sea freight shipping, non-freight shipping and government shipping needs to be considered as a vital and integrated component of the maritime sector's contribution to Australian freight and passenger transport network, to its industrial base, to its import and export needs, and to its security.

Australia needs to re-imagine its national freight and logistics network, and restore sea freight policy and planning so that it is given equal weighting in policy and planning with all the other freight modes. A fully integrated national freight transportation system, integrated with the international supply chains that feed the national freight system is essential if Australia is fully develop an efficient, innovative and high productivity national freight transport network.

Sea freight transport and the role of ships in the national freight network has not been given adequate attention in national freight transport and port policy and planning in recent decades. We think that implementation of many of the recommendations in the report of the Inquiry into National Freight and Supply Chain Priorities, undertaken in full consultation with shipping industry stakeholders provides a good framework to restore freight shipping in the national freight transport strategy.

This submission articulates a number of policy proposals to ensure that non-sea freight shipping is also integrated into national maritime policy and that these segments of the industry can also flourish and add value to the economy and opportunities for employment of Australians. Particular and tailored policies are required for segments such as:

- The large cruise ship sector;
- The expedition cruise ship sector;
- The passenger ferry sector;
- The offshore oil and gas industry sector;
- The offshore wind energy sector;
- Government ships (Navy, Border Force, marine rescue, research); and
- Towage ships.

Better integration between the Navigation Act and National Law jurisdictions for ship and seafarer safety

Australia cannot rebuild a viable, commercial and sustainable shipping industry if its ship and seafarer safety legislation and regulatory system is undermining the very skills base and the requirements of ships to be crewed by internationally (STCW) certificated seafarers, required for a revitalised shipping industry.

It is critical to the safety and viability of an Australian coastal trading fleet that ships which are seagoing commercial vessels, as well as high risk vessels, be regulated by the Navigation Act and brought up to the minimum international standards contained in the IMO Conventions, and removed from National Law Act jurisdiction.

The current dual legislative system and its administration is currently undermining ship, seafarer, cargo and passenger safety and requires urgent review. This submission proposes that a review be established to achieve a more workable integration of this legislation and the regulatory system that oversees implementation of the legislation.

Workforce development

The MUA proposes that government establish a multi stakeholder maritime workforce development task force that is fully funded to build on the work of the previous Maritime Workforce Development Forum undertaken in the period 2011 to 2013 up until release of the Maritime Workforce Development Strategy in May 2013, and that inter alia, the Task Force:

- Undertake a review of current and future maritime workforce capabilities.
- Review the core competencies that currently underpin seafarer qualifications to ensure that the competencies reflect required industry skills and not just the safety aspects required by the regulator.
- Conduct a review of training providers approved to deliver seafarer qualifications to identify offerings, trends in enrolments and completion rates, location of offerings and their pricing principles aimed at ensuring training is delivered in a more cost-effective way.

We also propose that the Australian Industry Skills Committee (AISC) fund Australian Industry Standards to arrange a high level conference comprising owner/operators and employer representatives with an interest in the Navigation Act and STCW standards, the MUA representing Ratings, AMSA and METL as the only group training organisation in the industry to prepare a new national framework of Ratings qualifications and Skill Sets, including a timetable, not exceeding 18 months, for implementation of a new Ratings qualifications framework.

In addition, it will be important that the national government work with the States/NT to fully fund a limited number of approved RTOs, subject to quality, adoption of innovative delivery methods and cost conditions, to deliver the new Ratings qualifications and Skill Sets over a 10 year forward program as an essential part of the overall revitalisation of the Australian shipping industry.

Port infrastructure, port services and port fees and charges

There are many ways that the State and the NT governments can adopt policy and practices to support national shipping policy. For example, the National Ports Strategy 2011 needs to be refreshed and updated, one objective being to ensure there is overall policy coordination for port development in Australia, and that the strategy helps guide State and NT initiatives that can facilitate the revitalisation and growth of Australian coastal shipping.

One important feature of a new National Port Strategy is that provide direction for ports to ensure that port services required for coastal sea freight services are incorporated into their port master plans.

We have identified a lack of research and data as a major gap in national ports policy and strategy. We have proposed a stocktake of all current intra-state shipping activity, along with emerging opportunities for increasing coastal interstate and intrastate shipping activity, to examine port usage

and port infrastructure requirements so that port master planning better accommodates the needs and future opportunities for Australian coastal shipping.

We support the view of the Qld Government in its submission to the 2017 Inquiry into National Freight and Supply Chain Priorities that there is a need for commodity-based supply chain investigations to provide a better understanding of the limitations and constraints to the efficient and productive movement of freight from origin to destination. It is our view that these investigations need to be integrated with industry policy objectives of government so that incentives for more value-added production and processing are adequately supported by services such as transport, port and shipping access to markets.

Another important feature of a new National Ports Strategy is that identify and coordinate measures to keep port fees and charges for coastal shipping low, to develop principles for consistency in port fees and charges at Australia's ports, and importantly, that it examine and promote the options for differential port pricing charges that distinguish between Australian coastal ships and foreign ships trading internationally.

We also propose that the Australian Government support changes to regulatory fees and charges imposed by AMSA aimed at supporting Australian coastal shipping.

Carbon emissions from ships and ports can be significantly reduced by investing in facilities to allow ships to plug into renewable energy sources while in port. Again, a review of the National Ports Strategy should advise on how this can be achieved on a national scale to achieve scale efficiencies.

Procurement

We propose that the Commonwealth and each State and the NT Government review their Procurement Policy to ensure it includes provisions relating to the transportation and logistics aspects of supply and disposal with a view to ensuring that suppliers are required as a condition of supply to consider the most efficient and cost effective transport mode in sourcing and supplying goods to the end users.

Procurement policy needs to establish guidance for suppliers that use shipping in the supply of goods, so there is a clear commitment to use Australian ships with Australian crews for the Australian coastal legs of their supply chains in transporting goods for government.

Development of a wide-ranging industry policy package to complement regulatory, fiscal and workforce development support for shipping

This submission outlines a package of proposals for Government action that will be required to provide the incentives and supportive measures to rebuild the Australian shipping industry.

The package of proposals will require implementation over a 3 to 10-year timescale. Success will be enhanced if there is overall coordination of the threads of policy, legislative and administrative action, and resources appropriately allocated, which will need continuous oversight, review and evaluation.

The support of stakeholders and access to critical commercial expertise on key aspects of the policy will be essential if the package of proposals is to be effectively implemented, if there is to be strong industry support and for new investment in Australian ships to be forthcoming.

Furthermore, the package of proposals will need to be adequately funded over the forward estimates.

Improving the cost competitiveness of Australian shipping

This submission proposes a number of reforms which will improve the cost competitiveness of Australian shipping, and reduce costs for shippers, ship owners and ship operators/charterers. The key proposals that address cost competitiveness are:

- Improving the benefits, and extending the eligibility, of the shipping taxation incentives.
- Repealing Part B of the Seagoing Industry Award 2010 so there are no Award entitlements to be paid to non-national seafarers of ships issued with a Temporary Licence to operate in coastal trade.
- Reducing ship licensing costs by placing the licensing system on a commercial footing.
- Reducing port and regulator-imposed charges for Australian ships.
- Facilitation of take-up of new energy saving technologies to reduce ship operating costs.
- Improving supply chain integration and coordination.
- Improving the skills and capabilities of the maritime workforce.

Recommendations to the Committee made in this submission

Recommendation 1

That the Committee recommend that the Australian Government adopt a new national policy objective for Australian shipping, being to rebuild and sustain an Australian shipping industry by incentivising investment in modern and efficient ships owned and or operated by Australian entities that are deployed in the Australian domestic and international shipping task, across all aspects of the maritime industry, including support for Defence and border protection, and which maintains and grows Australian seafarer employment and maritime skills.

Recommendation 2

That the Committee recommend to the Australian Government that the national policy objective for Australian shipping (outlined in Recommendation 1) be implemented by strengthening Australian maritime cabotage through:

- * Amending the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (CT Act);
- * Repealing Part B of the Seagoing Industry Award 2010;
- * Amending the Fair Work Regulations 2009;
- * Amending the *Customs Act 1901* (Customs Act);
- * Repealing certain provisions in the *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012*;
- * Repealing the Australian International Shipping Register (AISR) provisions in the *Shipping Registration Act 1981* (SR Act);
- * Reforming the Maritime Crew Visa system;
- * Applying the *Australian Jobs Act 2013* to shipping for major LNG projects; and
- * Reforming the *Navigation Act 2012*.

Recommendation 3

That the Committee recommend to the Australian Government that it review and report on ways to better integrate Naval shipbuilding with the increase in investment in commercial ships that will arise from implementation of a positive maritime cabotage policy for Australia (as proposed in Recommendation 1).

Recommendation 4

That the Committee recommend to the Australian Government that it implement the reforms to shipping taxation incentives as outlined in this submission as a critical support measure to stimulate investment in new Australian ships that will be necessary to implement a new national shipping policy.

Recommendation 5

That the Committee recommend to the Australian Government that it establish an Australian maritime cluster development task force to advise the Government on the development of a maritime cluster in Australia, in parallel with implementation of the regulatory, taxation and maritime skill development proposals in this submission.

Recommendation 6

That the Committee recommend to the Australian Government that it adopt the detailed regulatory and administrative reforms outlined in response to ToR ii in this submission as the basis for development of a shipping reform legislative package to underpin development of a Bill or Bills to give effect to a new national shipping policy.

Recommendation 7

That the Committee recommend to the Australian Government that it initiate a review of the operation of the *Australian Jobs Act 2013* to identify legislative and or administrative changes that could be made to ensure that a fair share of the transportation services for the carriage of LNG to export markets are delivered in ships operated by Australian entities that employ Australian seafarers.

Recommendation 8

That the Committee recommend to the Australian Government that it undertake an urgent review of:
* The impact of the implementation and operation of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (National Law Act) with a focus on the way that the coming into force of the National Law Act has rapidly degraded standards of ship safety, cargo integrity, passenger safety, occupational health and safety, crew certification and associated VET qualifications, particularly relative to the much higher and internationally recognised standards given effect by the *Navigation Act 2012*, and that a key task of the review be:

^ To develop a new application framework for these two Acts that applies the Navigation Act and IMO Convention standards to commercial vessels as the default standard, to include a provision for statutorily defined ships to be regulated under different standards. It is the view of the MUA that a new application provision require that all commercial vessels must be regulated by the *Navigation Act 2012*, except those which:

- Voyage only within 12nm of the coast and a safe haven.
- Are 24m or under in length.
- Carry less than 50 passengers.
- Are fishing vessels under 35m in length.
- Do not carry dangerous or polluting cargoes, including oil and gas.
- Do not proceed on voyages of more than 36 hours in length.
- Do not carry out 'high risk' operations.

Note 1: Vessels greater than 24m and less than 80m and not engaged in high risk operations can apply to be regulated under the National Law providing the vessel remains in smooth waters or partially smooth waters.

Note 2: Vessels carrying more than 50 passengers and under 24m in length may apply to be regulated under the National Law providing the vessel remains in smooth waters or partially smooth waters.

Note 3: 'High risk' operations include tugs, ro-ros, dredgers, tankers, passenger vessels carrying more than 50 passengers and high-speed craft 12m and over in length. The national regulator may add (but not remove) vessels and classes of vessels to the schedule of 'high risk' vessels at any time.

Note 4: Vessels other than tankers regulated under the Navigation Act but less than 80m long, with less than 3000kw engine power, and of less than 3000GRT and operating only in smooth waters or partially smooth waters may apply to use the General Purpose Hand qualification as part of their Minimum Safe Manning, subject to an assessment of required STCW short courses according to vessel operational functions and equipment

^ The arrangements for issuing Minimum Safe Manning Documents (MSMDs) for ships, requiring a new procedure that provides for stakeholder participation in determining minimum safe manning, and the operational and crew qualifications conditions to be included in MSMDs.

Recommendation 9

That the Committee recommend to the Australian Government that AMSA suspend its current MO505 review process and not bring in a revised Marine Order until other review processes have settled a more effective and durable safety regulatory system for Australian ships.

Recommendation 10

That the Committee recommend to the Australian Government that it consult with maritime industry stakeholders regarding the impact on the Australian shipping industry from implementation of key recommendations from the Report of the Inquiry into National Freight and Supply Chain Priorities as noted in this submission.

Recommendation 11

That the Committee recommend to the Australian Government that it consult with maritime industry stakeholders to consider the options for establishing a coordination group to identify cross-trades and other logistic and supply chain opportunities in Australia's domestic bulk commodity shipping trades aimed at helping reduce the cost of ships which currently sail unloaded over long distances on ballast legs of cargo voyages.

Recommendation 12

That the Committee recommends to the Australian Government that it:

- * Repeal the Ministerial exemption from the operation of the CT Act that applies to large cruise ships
- * Create a new Division in the CT Act for the issue of licences for large cruise ships to operate in Australia
- * Ensure that the CT Act/Regulations are amended so that the expedition cruise sector is designated by the Australian Coastal Ship Licencing Authority as a national interest shipping trade, route or market segment that is reserved for ships on the Australian General Shipping Register that are issued with a General License.

Recommendation 13

That the Committee recommend to the Australian Government that it request the Transport and Infrastructure Ministerial Council to coordinate a review of State and NT procurement policy to ensure that a proportion of replacement public and private passenger ferries are built in Australian shipyards, with specified levels of Australian materials and labour content.

Recommendation 14

That the Committee recommend to the Australian Government the urgent development of a regulatory framework to support offshore renewable energy development. This regulatory framework must be developed separately from the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) and the OPGGS Act due to vested petroleum industry interests. Workers in offshore wind energy must have the same work health and safety rights as other seafarers and shoreside workers, and not be subject to the poorer provisions of the OPGGS Act.

Recommendation 15

That the Committee recommend to the Australian Government that it amend the definition of core shipping activities in the *Shipping Reform (Tax Incentives) Act 2012* to include:

- * Ships that are used wholly or mainly in, or in any operations or activities associated with or incidental to, exploring or exploiting the mineral and other non-living resources of the seabed and its subsoil, aimed at providing incentives for offshore oil and gas vessel owners/operators to register their vessel on the AGSR; and
- * Ships that are used in the construction and servicing of offshore wind turbines, which are proposed for inclusion in the National Strategic Fleet.

Recommendation 16

That the Committee recommend to the Australian Government that it work with the state and NT governments to ensure that partnerships or cooperative agreements as an employment engagement method in the harbour towage industry are outlawed throughout Australia and that the states and NT take action to prohibit the transition of harbour towage contracts to partnership or cooperative arrangements, through the actions of state and NT port authorities with responsibility for managing harbour towages services in their ports.

Recommendation 17

That the Committee recommend to the Australian Government that it ensure that the Defence Department and industry, through the Australian Maritime Defence Council (AMDC):

- * Keep under review for application to appropriate Defence Force support ships, the Navy alternative crewing model involving merchant civilian seafarers; and
- * Maintains merchant civilian crewing on all current support ships utilising various alternative merchant civilian crewing models.

Recommendation 18

That the Committee recommend to the Australian Government that:

- * Border Force ships be included as part of the National Strategic Fleet; and

* Consider a return to merchant civilian crewing, or an integrated crewing model, for Border Force ships as part of the strategy to create an integrated workforce model across the government fleet, similar to the arrangements being progressed by Navy.

Recommendation 19

That the Committee recommend to the Australian Government that:

- * It reviews the adequacy of the maintenance of just one marine rescue and salvage ship, the *Coral Knight* stationed at Cairns, in light of the uncompleted actions set out in the Reef 2050 Plan and the North East Shipping Management Plan to manage shipping impacts on the Great Barrier Reef.
- * That such a review considers the case for Australia to increase the capacity of Australia's marine rescue and salvage capability, particularly along the Qld coast, which could extend to other social and disaster relief functions.

Recommendation 20

That the Committee recommend to the Australian Government that it implement key recommendations in the Interim Report of the 2016 Senate Inquiry into the Increasing use of so-called Flag of Convenience shipping in Australia that address maritime security.

Recommendation 21

That the Committee recommend to the Australian Government that

- * The Department of Home Affairs be required to review all maritime security plans to ensure there are standardised and effective procedures for visitors to ships, including welfare and labour organisations, to access those ships through port operator's terminals, and that such procedures be developed in consultation with seafarer welfare, labour and employer organisations; and
- * That resultant procedures be made available on request by a seafarer welfare, labour and employer organisations so that manufactured situations to prevent access cannot be allowed to occur as is now regularly the case.

Recommendation 22

That the Committee recommend to the Australian Government:

- * That the definition of a national strategic fleet for inclusion on a reformed CT Act include a requirement for there to be specified minimum fleet of clean petroleum product tankers on the AGSR to be engaged in international supply chains to contribute to provision of national fuel security.
- * That a comprehensive national security risk assessment of fuel supply chain issues be undertaken to assess the minimum number of clean petroleum product tankers, being greater than 10, to be owned, managed and crewed by Australians to guarantee Australia's fuel security consistent with Australia's IEA obligations.
- * That in relation to the specified minimum fleet of clean petroleum product tankers for placement on the AGSR as part of the National Strategic Fleet, that the Commonwealth, in consultation with stakeholders, investigate options to equitably apportion the differential costing for operating Australian those petroleum tankers.

Recommendation 23

That the Committee recommend to the Australian Government that:

- * It implement those recommendations in the Interim Report of the 2016 Senate Inquiry into the Increasing use of so-called Flag of Convenience shipping in Australia that address foreign ship and crew

standards, and that to give effect to those recommendations, AMSA be required, in consultation with stakeholders, to undertake a review of AMSA Marine Order 11 (Living and working conditions on vessels) made under the Navigation Act.

* That AMSA, in consultation with Hunterlink, employers of seafarers, shipping industry associations and unions, be tasked with development of a Marine Order that establishes a process for the provision of early intervention and counselling resources and services available to crews on international ships.

* That AMSA be funded to provide the administration of a system of early intervention and counselling (EAP) services for crews on international ships, including payment of market based (but capped) fees to the EAP service provider for provision of such services to international seafarers on ships voyaging to and from Australia.

Recommendation 24

That the Committee recommend to the Australian Government that:

* It ensures that Australia be an early adopter of ship pollution prevention standards, technology and practice ahead of the International Maritime Organisation (IMO), such as use of lower sulphur fuels or better alternative fuels like LNG and biofuels, optimized engines, exhaust after-treatment, such as selective catalytic reduction (SCR), optimised steaming rates, use of shoreside electricity (from renewables), and improved auxiliary engines aimed at a more rapid reduction of ship emissions under the IMO trajectory.

* It authorises AMSA in its role as Australia's representative in the International Maritime Organisation (IMO), to take a lead on seeking to expedite global adoption of improved ship pollution prevention technologies and practices.

* It expedites a review of the Australian heavy vehicle charging regime, which uses a pay-as-you-go (PAYGO) model, to ensure it moves to full cost attribution of road user costs aimed at creating competitive neutrality among all freight modes.

* It expedites the re-establishment of a national system of safe rates in the road transport industry, aimed at establishing safe standards of work including fair payments and conditions through a chain of responsibility model that will help achieve greater consistency in labour costs across all freight modes to achieve competitive neutrality in the freight transport industry.

Recommendation 25

That the Committee recommend to the Australian Government that it:

* Acknowledge that Australia cannot rebuild a viable, commercial and sustainable shipping industry if its ship and seafarer safety legislation and regulatory system is undermining the very skills base and the requirements of ships to be crewed by internationally (STCW) certificated seafarers, that will be necessary for a revitalised shipping industry.

* Establish a multi stakeholder maritime workforce development task force that is fully funded to build on the work of the previous Maritime Workforce Development Forum undertaken in the period 2011 to 2013 up until release of the Maritime Workforce Development Strategy in May 2013, and that inter alia, the Task Force:

^ Undertake a review of current and future maritime workforce capabilities and skill needs having regard to the MIAL Seafaring Skills Census Report 2018, taking account of industry skill requirements, especially in management of cargoes, emerging technologies that could impact on job roles and skill requirement including the opportunities for better integration of commercial maritime skills and qualifications with those required for Navy, Border Force and other government ship operations; and

^ Review how onboard maritime skills and qualifications can be integrated into onshore roles to help achieve better labour mobility, workforce flexibility and career paths for all occupational groupings in the shipping industry.

^ Review the core competencies that currently underpin seafarer qualifications to ensure that the competencies reflect required industry skills and not just the safety aspects required by the regulator.

^ Conduct a review of training providers approved to deliver seafarer qualifications to identify offerings, trends in enrolments and completion rates, location of offerings and their pricing principles.

* Propose that the AISC authorise and fund Australian Industry Standards to abandon its current approach to reviewing the Maritime Training Package affecting the Ratings stream, and to arrange a high level conference, to be independently facilitated, comprising owner/operators and employer representatives with an interest in the Navigation Act and STCW standards, the MUA representing Ratings, AMSA and METL as the only group training organisation in the industry to prepare a new national framework of Ratings qualifications and Skill Sets, including a timetable, not exceeding 18 months, for implementation of a new Ratings qualifications framework, and that AISC adequately fund curriculum development and approval of the necessary changes to the Training Package to meet such a timeframe.

* Work with the States/NT to fully fund a limited number of approved RTOs, subject to quality, innovation in delivery methods and cost conditions, to deliver the new Ratings qualifications and Skill Sets over a 10 year forward program as an essential part of the overall revitalisation of the Australian shipping industry.

Recommendation 26

That the Committee recommend to the Australian Government that it review the National Ports Strategy 2011, one objective being to ensure there is overall policy coordination for port development in Australia, and that the strategy helps guide State and NT initiatives that can facilitate the revitalisation and growth of Australian coastal shipping through better port planning, better port infrastructure and a more tailored fees and charges regime that supports Australian shipping.

Recommendation 27

That the Committee recommend to the Australian Government that it undertake commodity-based supply chain investigations to provide a better understanding of the limitations and constraints to the efficient and productive movement of freight from origin to destination, and that these investigations be integrated with industry policy objectives of government so that incentives for more value-added production and processing are adequately supported by services such as transport, port and shipping access to markets.

Recommendation 28

That the Committee recommend to the Australian Government that it ensure that a refreshed national shipping policy be fully integrated with broader industry policy development and implementation, and that to oversee this industry policy integration a Unit be established in the Industry Department as a joint venture with the Infrastructure/Transport Department, with responsibility for working with other agencies of Government responsible for the various elements of shipping policy and with industry stakeholders to ensure shipping industry policy is integrated with national industry policy and strategy.

Recommendation 29

That the Committee recommend to the Australian Government that it fully fund over the forward estimates, the implementation of all elements of the policy package, which includes:

- * The legislative reforms, requiring consultation, drafting and shepherding through the Parliament, including resourcing of task forces to support legislative development;
- * The establishment of a new statutory authority, the Australian Coastal Ship Licencing Authority; Investment in National Strategic Fleet ships (could be integrated with the Defence and Border Force budgets);
- * The establishment and operation of a Maritime Workforce Development Task Force (that will require funds for ongoing workforce surveys, and for training system reviews contemplated as part of its work);
- * The establishment and operation of a task force to examine the scope to develop a maritime cluster in Australia, which if agreed would need a permanent unit in an agency of government to oversee the development of the maritime cluster;
- * The review of the integration between the Navigation Act and National Law Act and associated review of AMSA Marine Orders;
- * Refreshing the National Ports Strategy;
- * Implementation of key recommendations in the Report of the Inquiry into National Freight and Supply Chain Priorities;
- * Implementation of some recommendations in the Interim Report of the Senate Inquiry into FOC shipping; and
- * A shipping industry development unit located in an agency of government to coordinate and oversee all elements of the reform package.

Part A – The case for revitalising Australian shipping

The policy objective for Australian shipping

The national policy objective for Australian shipping must be to rebuild and sustain an Australian shipping industry by incentivising investment in modern and efficient ships owned and or operated by Australian entities that are deployed in the Australian domestic and international shipping task, across all aspects of the maritime industry, including support for Defence and border protection, and which maintains and grows Australian seafarer employment and maritime skills.

In a nutshell, Australia needs to restore a responsible maritime cabotage regime, implemented through a range of policy instruments – regulation, taxation and investment incentives, administrative support and adequate funding.

In 2011, in advance of passage of the 2012 shipping reform package the Regulation Impact Statement (RIS) set out the policy intent of the legislative package, noting that it was to provide competitive neutrality while addressing wider strategic objectives, describing the policy objective in these terms:

“.....it will strengthen support for Australian shipping operators in order to level the playing field between domestic and foreign shipping, while still enabling the participation of foreign operators in the movement of coastal cargo. New legislation incorporating revised licensing arrangements would focus more on the policy intent of building a viable and revitalised Australian shipping industry in order to maintain a domestic shipping industry that will not only be able to compete in the domestic market but function as a source of maritime expertise on which our regulatory agencies and port operators depend. Without action to address this declining industry Australia will find itself without a domestic shipping industry and perhaps more importantly without the means to facilitate and regulate the exports on which its economy depends.”⁴

Regrettably, the 2012 legislative package has not achieved those objectives. Hence, it is time to restate and implement refreshed policy intentions as outlined above.

This in fact is a recommendation of the 2016 Senate Inquiry into the Increasing use of so-called Flag of Convenience shipping in Australia. It recommended that the Commonwealth:

“undertake a review of the Australian maritime sector, with a view to building on the 2012 [shipping] reforms aimed at growing the Australian-registered shipping industry in the future”.⁵

Recommendation 1

That the Committee recommend that the Australian Government adopt a new national policy objective for Australian shipping, being to rebuild and sustain an Australian shipping industry by incentivising investment in modern and efficient ships owned and or operated by Australian entities that are deployed in the Australian domestic and international shipping task, across all aspects of the

⁴ Department of Infrastructure and Transport, *Reforming Australia’s Shipping*, Regulation Impact Statement approved by the Department of Finance, August 2011

⁵ Senate Rural and Regional Affairs and Transport References Committee, Interim Report on the *Increasing use of so-called Flag of Convenience shipping in Australia*, May 2016 P40
https://www.apf.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Shipping/Second_Interim_Report

maritime industry, including support for Defence and border protection, and which maintains and grows Australian seafarer employment and maritime skills.

The rationale for the policy objective

A maritime and trading nation with a long coastline needs a strong and viable shipping industry

According to the latest data produced by the Australian Institute of Marine Science (AIMS) Australia's marine industries contributed \$74.2 billion to the national economy in 2013-14. This accounts for 4.8 per cent of national Gross Domestic Product (GDP) and directly and indirectly provides almost 400,000 jobs. Water-based transport of passengers and freight contributed \$3.85 billion to the national economy in 2013-14, offshore oil and gas exploration and extraction around \$30 billion, civil and Defence shipbuilding and repair \$3.0 billion and marine tourism \$23.8 million. These data are provided in Table 2.

Table 2: Total contribution to output from marine-related activities in 2013-14 (\$ million)

Marine resource activities and industries	
Fishing	
Marine-based aquaculture	\$994.4
Commercial fishing (wild captures fisheries)	\$1,503.3
Recreational fishing	\$2,164.8
Offshore oil & gas exploration and extraction	
Oil exploration	\$3,512.0
Oil production	\$9,144.5
LPG	\$1,265.1
Natural gas	\$16,304.7
Marine-related service activities and industries	
Boat/ship building, repair & maintenance services and infrastructure	
Shipbuilding & repair (civil and defence)	\$2,966.0
Boatbuilding & repair (including recreational vessels)	\$1,235.0
Marinas and boating infrastructure	\$699.3
Marine equipment retailing	\$1,393.0
Marine tourism and recreational activities	
Domestic consumption of tourism goods and services	\$23,815.3
International consumption of tourism goods and services	\$4,239.0
Water Transport	
Water-based transport of passengers and freight	\$3,847.0
TOTAL (measurable value from marine-related activities)	\$73,083.3
TOTAL (measurable value from marine-related activities using previous definition for comparison with 2011-12 data)	\$53,783.2

Source: Australian Institute of Marine Science (AIMS), Index of the Maritime Industry, 2016

As an island nation Australia is heavily reliant on shipping which plays a strategic and important role in the economy. Ten per cent of the world's sea trade passes through Australian ports and over 95 per cent of Australian exports are transported by sea. Domestic sea freight and marine passenger demand as well as international trade is growing every year. The domestic freight task increased by 50% in the ten years to 2016 and is forecast to grow another 52% by 2036.⁶

The global large cruise industry is growing, and Australia is a key home port in the global cruise market. An independent assessment by AEC Group revealed that cruise tourism was worth \$4.8 billion to the

⁶ Department of Infrastructure, Regional Development and Cities, *Report of the Inquiry into National Freight and Supply Chain Priorities*, March 2018, https://infrastructure.gov.au/transport/freight/freight-supply-chain-priorities/files/Inquiry_Report.pdf

Australian economy in direct and indirect economic output during the 2017-18 financial year. The report revealed that 1,236 ship visits to Australian ports led to 3.5 million passenger and crew visit days which raised \$2.3 billion in direct economic output and \$2.5 billion in indirect and induced output, as well as \$2.6 billion in value-added dollars.⁷

Domestic cruise ships, i.e., ships with Australia homeports, accounted for 92% of the total passenger port days with 2.8 million days. Passenger port days generated by these domestic ships increased by 33% over 2015-16.⁸ Australian demand for cruises has grown 18.5 per cent a year since 2008. A number of cruise lines have announced new ship deployments in the region resulting in more ships homeporting in Brisbane, Melbourne, Fremantle and regional ports.⁹ Globally, there are 109 new cruise ships set to be delivered between 2018-2027 at a total cost of more than US\$58 billion.¹⁰

Further, three prospective offshore oil and gas projects are in the planning phase - Scarborough, Equus, and Browse. The first of these is planned to commence in 2021.¹¹ Each will require ships for the construction phase, the operational phase and for the transportation of gas to markets.

Each of these creates opportunity for Australian ships, under the right policy settings.

At the same time Australian owned and operated ships and seafarer employment has continued to spiral downward and that trend is likely to continue under current policy settings. It has reached a crisis point. Figure 2 shows that under current policy settings, coastal shipping's share of the domestic freight market will continue to decline relative to road and rail.

Figure 2: Actual and projected domestic freight task, by mode 1972 to 2040

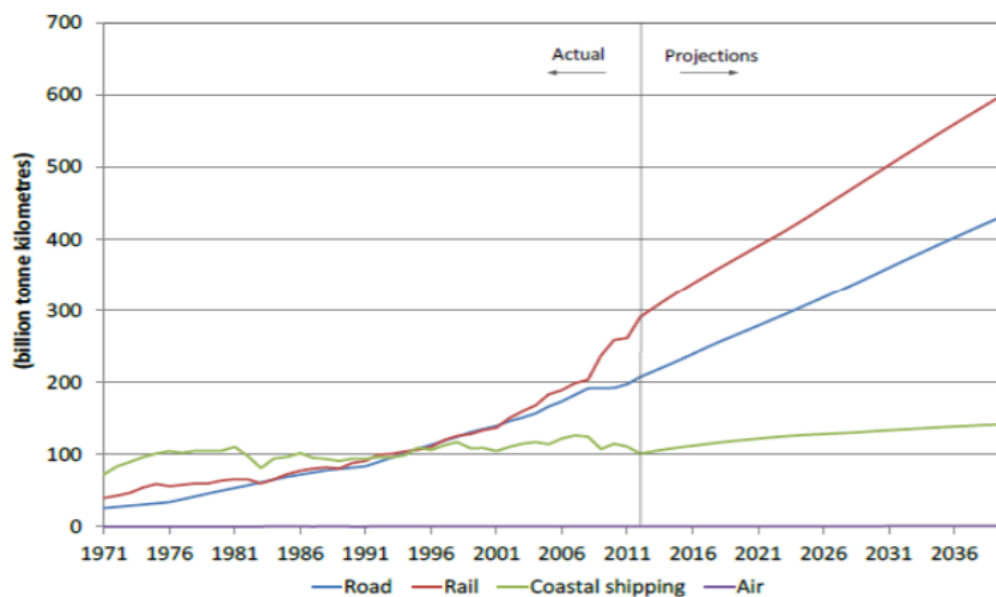
⁷ Travel Weekly, 15 October 2018, *Cruise Tourism Generates Nearly \$5 Billion Annually For The Australian Economy, A New Report Has Found*, <http://www.travelweekly.com.au/article/nearly-5-billion-pumped-into-aussie-economy-via-cruise-tourism-annually/>

⁸ Cruise Lines International Association (CLIA), *Cruise Tourism's Contribution to the Australian Economy 2016-17* https://www.cruising.org.au/Tenant/C0000003/5677_CLIA_Economic_Impact_Statement_Web.pdf

⁹ Cruise Lines International Association (CLIA), *Cruise Industry Ocean Source Market Report - Australia 2017*, [https://www.cruising.org.au/Tenant/C0000003/Cruise%20Industry%20Source%20Market%20Report%20\(1\).pdf](https://www.cruising.org.au/Tenant/C0000003/Cruise%20Industry%20Source%20Market%20Report%20(1).pdf)

¹⁰ Ibid

¹¹ Australian Energy Market Operator (AEMO), *Western Australia Gas Statement of Opportunities*, December 2018 P3 https://www.aemo.com.au/-/media/Files/Gas/National_Planning_and_Forecasting/WA_GSOO/2018/2018-WA-GSOO.pdf



Source: Department of Infrastructure, Regional Development and Cities, *Report of the Inquiry into National Freight and Supply Chain Priorities*, March 2018

In addition, the current exemption from the operation of the CT Act for large cruise ships and the undermining of the expedition cruise sector by the administration of the CT Act provides no prospect to strengthen Australian content in the cruise sector, or for the nation to benefit from the operation of cruise ships in Australia.

A strong shipping industry will improve national productivity by helping diversify the economy and will complement the resources, manufacturing, agriculture, energy supply and marine tourism sectors. It will help to expand the tax base, and provide a new target for investment, including foreign investment, which underpins sustainable economic growth, productivity improvement and employment.

A strong shipping industry provides improved supply chain options and supply chain integration for shippers, in domestic freight distribution and for exporters and importers.

Australia has long freight transport corridors, an enormous coastline, and high levels of population density in the major cities. Shipping must part of the long-term solution for Australia's domestic freight distribution networks.

Australia is a major supplier of raw materials for manufacturing, of energy for homes and enterprises and of food for Asia. Shipping is the conveyor belt to Asia and the globe. It is part of the nation's critical infrastructure.

Australian businesses and Australian workers should be able to benefit from a revitalised Australian shipping industry, and not be locked out as they are now under current policy settings, which is heavily biased to support foreign shipping and foreign seafarer employment.

There are many Australian companies which, under the right policy settings, would prefer the operational certainty of owning or operating their own ships because they can see a competitive advantage in controlling their transportation requirements in the face of costly bottlenecks and the costs of unreliability in just-in-time supply chains. Manufacturers and resource companies want certainty and reliability in the supply chain – which cannot be gained from the speculative use of the current voyage based coastal trading licence system. There is also a drive for a more integrated

national transport policy, in the context of future carbon constraints – that place sea transport as a much more attractive option than long-haul trucking and in many cases, rail.

Rebuilding an Australian shipping industry is good for the Australian economy

In February 2015 the then Australian Shipowners Association (now Maritime Industry Australia Ltd [MIAL]) engaged PricewaterhouseCoopers Australia (PwC) to assess the shipping industry's contribution to the Australian economy. PwC found that the Australian shipping industry in 2012-13 directly contributed as follows:

- Added Aus\$9 billion to Gross Domestic Product (GDP);
- Created employment for nearly 31,000 people; and
- Delivered over Aus\$900 million to national tax revenue.¹²

In addition to the direct contribution, PwC found that the shipping industry also indirectly contributed to the economy, which in 2012-13 meant an additional:

- \$11.8 billion in GDP;
- Employment for 13,927 people; and
- \$387 million in taxation revenue.¹³

PwC concluded that it could be expected that Australia would have a strong and broad shipping industry given that it has:

- The fifth largest shipping task in the world, due to:
 - Significant raw commodities for export;
 - Reliance on significant imports by sea;
 - A long coast line with geographically diverse populations and industries;
 - Major offshore oil and gas industries;
 - The world's fastest growing cruise industry; and
 - Responsibility for part of the Antarctic region;
- Considerable defence and border protection activity; and
- Highly active ports requiring a range of on-water services.

PwC also concluded that these natural advantages have not translated into a strong economic contribution from the local Australian shipping industry, principally because of the lack of fiscal benefits available to the shipping industry in Australia.

In contrast to the Australian position, PwC found a significant number of developed and developing countries have implemented attractive fiscal policies to encourage the growth of their respective shipping industries. These policies have delivered significant economic and fiscal benefits.

For example, the tonnage tax introduced by the United Kingdom (UK) in 2000 is estimated to have resulted in the contribution of the UK shipping industry to economic output being two to three times

¹² MIAL, Pricewaterhouse Coopers (PwC) report, *Economic contribution of the Australian maritime industry*, February 2015 Pi.
https://www.google.com/search?q=MIAL+pwc+report&rlz=1C1CHZL_enAU697AU697&og=MIAL+pwc+report&aqs=chrome..69j57.5761j0j8&sourceid=chrome&ie=UTF-8 and <https://www.mial.com.au/our-work/the-maritime-sector-contributed-over-20-billion-to-the-australian-economy>

¹³ Ibid Pi

higher than would otherwise have been the case. The UK evidence referenced by PwC is contained in a report prepared by Oxford Economics for Maritime UK in 2013.¹⁴ Oxford Economics found that:

- The UK shipping industry has, in general, enjoyed buoyant growth over the past decade, following the introduction of the tonnage tax in 2000. In total, the shipping industry supported almost £12.5B (Aust\$22.5 billion) in UK GDP, 287,000 jobs (of which 48,200 were UK-based) and £2.8 billion (Aust\$5.4 billion) in tax receipts.
- The maritime services sector made an estimated £13.8 billion (Aust\$23.5 billion) direct value-added contribution to GDP in 2011, equivalent to 0.9% of the UK economy.
- Once multiplier effects are accounted for, the sector makes a value-added contribution to GDP of £31.7 billion (Aust\$54 billion), equivalent to 2.1% of the UK economy.

If an Australian analysis along the lines of the UK analysis was undertaken and included the benefit arising from a circumstance where a proportion of the ships transporting Australia's minerals and energy to world markets were on the Australian International Shipping Register (AISR) (or were otherwise connected to Australia through employment or registration in the absence of registration on the AISR), which would result in ship support services like technical management, crewing, bunkering and or provisioning being sourced in Australia, then again, the benefits would undoubtedly be shown to far outweigh the costs.

Australian ships will reduce the outflow of payments to foreign corporations for shipping services

In 2016-17, freight transport services, primarily transporting Australian resource and agricultural exports in foreign owned ships, was Australia's 8th largest goods and services import, costing the nation \$8.7 billion, yet freight transport services did not rate among Australia's top 25 goods and services exports.¹⁵

This indicates the huge potential to build an export service industry that could replace a large proportion of that multi-billion-dollar cost the nation is paying for the shipping services required to export its resource and agricultural commodities and to import its manufactured goods.

The cost of freight transport services to the nation will increase if more Australian ships are replaced in the coasting trade by foreign registered ships.

Creation of a level playing field for Australian ships will provide fair competition with road and rail, and with international ships, helping develop the national freight and passenger transport network and modal choice for shippers

It is estimated that across Australia, roads received \$25 billion in public funding and rail received \$8.3 billion in public funding in 2013-14.¹⁶ In contrast, no Commonwealth or State taxation revenue is

¹⁴ Oxford Economics, *The Economic Impact of the UK Maritime Services Sector*, February 2013 - http://www.ukchamberofshipping.com/media/filer_public/c9/ea/c9ea03a4-2344-43ee-bb60-dc5386e3c08c/economic_impact_of_uk_maritime_services_sector_-_feb_2013_including_regional.pdf

¹⁵ Department of Foreign Affairs and Trade, *Australia's top 25 imports, goods and services, 2016/17 and Australia's top 25 exports, goods and services, 2016/17* – <https://dfat.gov.au/trade/resources/trade-statistics/trade-in-goods-and-services/Pages/australias-trade-in-goods-and-services-2017.aspx>

¹⁶ ABS (2015, c, e, h), BITRE estimates. See Teresa Lloyd, "The Strategic Fleet and the National Interest", *Lloyds DCN*, October 2018.

currently allocated, directly or indirectly, to support the domestic shipping industry.¹⁷ The cost of the Tasmanian Freight Equalisation Scheme (TFES) is not a subsidy to ships or ship operators, as it flows to exporters (shippers).

Ports are paid for by port fees paid by ship operators, and navigation by water is free. Therefore, ships require no sea side or navigation infrastructure funding from Government, resulting in its access being cost neutral.

Although it is argued that the 2012 shipping taxation incentives are a form of indirect forgone tax revenue, the fact that there has been such a low take-up of the tax incentives means that forgone revenue is negligible, and even more negligible when weighed against the benefits of increased economic activity from Australian shipping.¹⁸

It is well accepted for example that road network average road user charges under PAYGO (fuel excise and vehicle registration) do not convey signals to road users about the costs of using roads. Nor do those charges send price signals to road providers about the demand for different roads. The result is a disconnect between road charges when they are not linked to road spending, that leads to inefficient taxpayer funded spending decisions. The current road and rail access charging regimes provide an artificial price advantage to road freight in particular. Rail access charges account for 30-40% of a rail freight's operational costs, while road charges accounts for around 5-10% of road freights operating costs.

Government subsidisation of road and rail transport modes significantly disadvantages coastal shipping and distorts the national freight market. Ships do not face a level playing field. This needs to change.

Shipping is competitive with road and rail notwithstanding the subsidisation of road and rail

All the evidence shows that ships are highly price competitive with road and rail, the two main competitors to ships in the domestic freight market. A 2008 report on an *Economic Appraisal of Australia's Shipping Future*, prepared for the Department of Infrastructure, Transport, Regional Development and Local Government found that coastal shipping exhibited a 10-20% freight rate advantage over rail.¹⁹

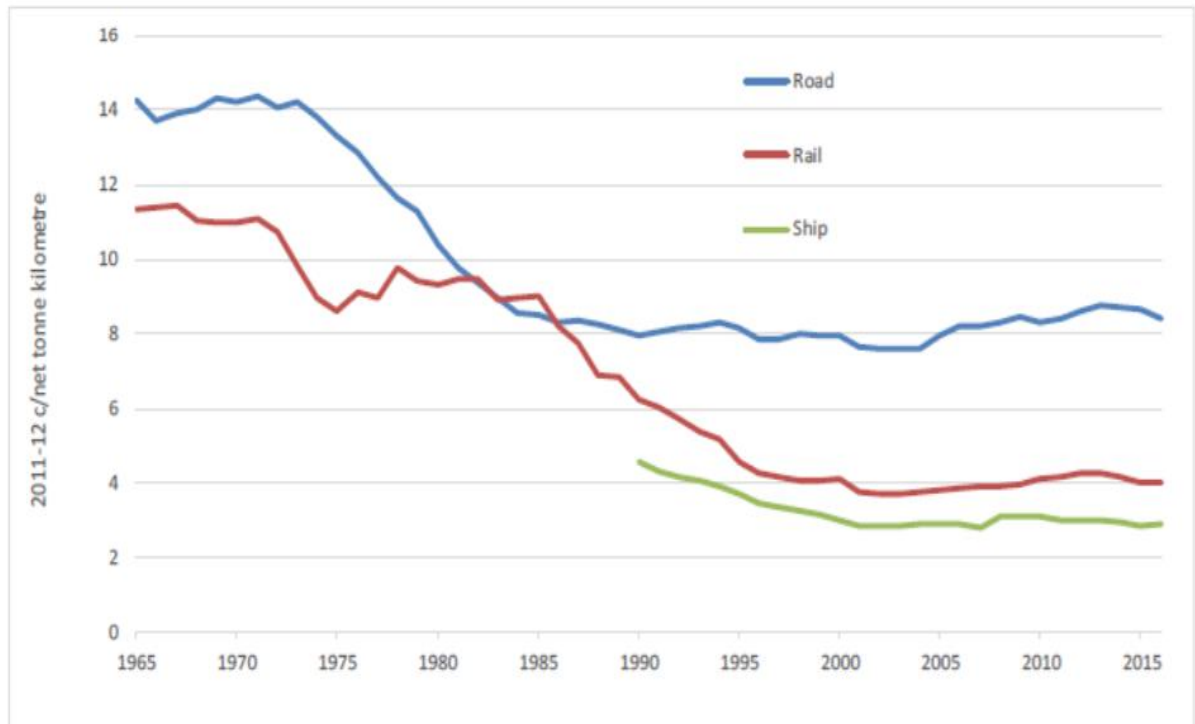
Figure 3 shows that sea freight rates are highly competitive with road and rail and that the decline in sea freight rates over the period 1990 to 2015 has bettered the productivity performance of road freight and matched rail freight productivity.

Figure 3: Real interstate road, rail and sea freight rates

¹⁷ A very small amount of government revenue is currently forgone where ship owners and ship operators have accessed Commonwealth shipping taxation incentives, and in the case of Victoria, where some port charges favour coastal shipping relative to foreign shipping.

¹⁸ In 2018 there were just 20 Certificates issued to companies seeking an Income Tax Exemption, 4 Certificates issued for the Refundable Tax Offset, 2 Certificates for Accelerated Depreciation and zero Certificates issued for Rollover Relief.

¹⁹ Meyrick and Associates *Economic Appraisal of Australia's Shipping Future*, prepared for the Commonwealth Department of Infrastructure, Transport, Regional Development and Local Government, December 2008



Source: Department of Infrastructure, Regional Development and Cities, *Report of the Inquiry into National Freight and Supply Chain Priorities*, March 2018

In a study published in 2010, the National Institute of Economic and Industry Research (NIEIR)²⁰ compared the characteristics of the sea, rail and road freight modes. It found that shipping is able to offer competitive service/cost packages where:

- Freight origins and destinations are right on the wharf or, where this ideal condition is not met, intermodal costs are low;
- Flows are of the order of several thousand tonnes a day; or
- Flows are moderate and frequency of service is not important, so that the flow can be interrupted while loading builds up to shiploads. This last attribute is characteristic of bulk commodities of low value per tonne, because stockpiling costs for such commodities are relatively low.

NIEIR found that the competitiveness of coastal shipping vis-à-vis other land-based alternatives increases at higher volumes and over longer distances. It concluded that on the Australian coast, where trade volumes are quite low compared to the European or American coasts, the key challenge for the shipping industry to be able to compete with alternative land-based transport modes is to capture sufficient trade volumes to justify reasonably frequent service. It identified the key factor in getting those volumes as the ability to consolidate larger parcels of cargo under long term contracts of affreightment (COA).

More recent research involving a survey of nearly 600 Australian shippers by the University of Sydney shows that while shippers showed a general preference for established road and rail alternatives, they did identify value in obtaining increases in reliability within short sea services. Furthermore,

²⁰ Manning, Ian and Brain, Peter, *Australian Coastal Shipping: Its future Role*, National Institute of Economic and Industry Research, 2007, published March 2010

respondents indicated interesting shifts in preferences across modal alternatives under the presence of integrated short sea shipping services. The authors concluded that:

*“Given the choice of domestic or foreign flag, the research has demonstrated that the buyer of shipping services in this market will not necessarily support “national flag” shipping through a willingness to pay a premium price, but that the value of national flag shipping may well be tied to its ability to integrate services in the last mile, e.g. in terms of meeting delivery windows and reliability requirements. Given the current revisions planned for Australia’s coastal shipping permitting regulations, this implies that public policy planners may wish to consider approaches that will assist coastal operators in integrating their services with land-based delivery”.*²¹

Elsewhere in this submission, the concept of a centralised coordination body to create logistics chain efficiencies by aggregating cargoes for cross trading to reduce supply chain costs is addressed.

Additionally, an important component of implementation support for Australian coastal shipping needs to be encouraging service integration as is being developed by some freight logistics companies such as Hutchison Port Holdings and Qube Logistics, which is developing the Moorebank Logistics Park, predicted to become the largest intermodal freight precinct in Australia, to include a rail freight shuttle service from Port Botany.

It is simply not true that the Australian trading fleet is uncompetitive in terms of operating costs and labour arrangements in the domestic freight market. When compared to road, rail and air, ships are price competitive in many domestic freight routes, and in addition they offer shippers other competitive advantages such as the capacity to move large volumes of cargo in a single shipment, an option for shippers of cargo that is oversize and would not be suitable for road or air, and in many cases, rail transport, they save inventory costs by acting as inventory warehouses while in transit, and they do not cause congestion or accidents by competing in transport corridors that are also used by citizens – a factor in the competitiveness and efficiency of both road and rail transport.

It is true that Australian ships have a cost structure that impacts on their price competitiveness relative to international ships, which are bound by an entirely different set of labour, tax, safety and other laws. This was acknowledged by the Government in its April 2014 Options Paper, where the Government acknowledged that:

*“Ships registered in foreign countries may be subject to less stringent requirements around workforce pay and conditions, safety, security, environment, taxation, and other fees, charges and levies under the rules of their flag state when compared to Australian ships”*²²

This creates a different cost structure for those ships, enabling them to offer lower freight rates, particularly when carriage of domestic cargo on a spot market basis is “bonus” cargo i.e. it does not need to be factored into the business case for those international ships, which can already turn a profit on each voyage without the need for “bonus” spot cargo on a route the ship was already plying.

It is obvious therefore that no freight mode would be price competitive if it operated in a market where a competitor had a cost structure based on the price of labour somewhere between 25% and 30% of Australian labour costs.

²¹ Noetic Infrastructure Solutions, *National Shipping Legislation – A review of Australian Coastal Shipping*, May 2014 (prepared for the Maritime Union of Australia), unpublished

²² Department of Infrastructure and Regional Development, Options Paper: *Approaches to regulating coastal shipping in Australia*, April 2014, http://www.infrastructure.gov.au/maritime/business/coastal_trading/review/files/Options_Paper_Approaches_to_regulating_coastal_shipping_in_Australia.pdf

Furthermore, Australian labour and immigration laws do not permit non-nationals to work in Australian domestic industries at rates of pay that are only 25% to 30% of the Australian market rate.

The question arises as to why this should be permitted in the Australian domestic freight market? No cogent and sustainable argument has been mounted for such a policy position, and no proponent of such a policy has been able to explain why Australia should breach international human rights conventions to achieve such an outcome.

This competitive imbalance is one reason why so many nations have adopted various forms of legislated support for their domestic shipping industry – to enable their domestic fleet to compete on a fair competitive basis. That principle has underpinned Australian maritime laws since early last century. What the previous Labor Government was attempting to do with its shipping laws was to create a better balance in the fair competition equation, which had become unbalanced under the former Howard Government’s use of the permit guidelines which bent the competitive position almost entirely towards foreign registered ships such that it created unfair competition.

Fair competition should be guided by a number of underpinning principles, aimed at improving allocative efficiency. These include:

- Competitive neutrality, or where that is not possible in the short to medium term, adoption of countervailing policy measures to replicate competitive neutrality;
- Consistency in application of national regulatory and planning principles across all freight modes and across all jurisdictions; and
- Integration of externality costs into regulatory pricing decisions and cost benefit analyses for transport planning.

The Full Federal Court judgement in *CSL Australia Pty Limited v Minister for Infrastructure and Transport* in 2014 made an important observation on the issue of competition. It said that:

“The multifactorial aims of the regulatory framework may, to a degree, have some tension amongst them, for example, the promotion of competition in coastal trading with the maximisation of the use of General Shipping Register vessels. The notion of promotion of competition in coastal trading has a number of elements. One aspect, referred to in the report of the Parliamentary Standing Committee in 2008 is the competition between coastal shipping and road and rail transport in the domestic transport sector. This aspect is reflected also in para (c) of s3(1). This perspective of competition would or might see (as stated at [3.29] of the Standing Committee’s Report) Australian ships, using Australian crew being employed “when at all possible” in the carriage of domestic cargo. The promotion of such domestic competition would or may see Australian ships being given the right to carry coastal trade cargo, even in the face of cheaper (or more “competitive”) freight alternatives from foreign ships. In other words, the promotion of domestic “competition” may not lead to the lowest freight rate for an Australian shipper, when set against foreign-registered competition. That said, the reforms to the taxation system, the setting up of an Australian International Register and the pressure of foreign-registered vessels having the opportunity to participate in the coasting trade would or may be seen to promote the efficiency of Australian shipping and to foster a greater capacity to compete realistically with foreign-registered shipping.”²³

²³ Full Federal Court *CSL Australia Pty Limited v Minister for Infrastructure and Transport* [2014] FCAFC 10 26 February 2014, Para 166

Australian ships are efficient and reliable

Australian shipping is among the world's most efficient, on a range of measures:

- Labour efficiency - Crew sizes on Australian ships are among the lowest in the world for the types of ships in the Australian fleet. Furthermore, Australian Ratings are the only multi-skilled ratings in the world, with proficiency in both deck and engineroom competencies, hence the name Integrated Rating.
- Labour costs, labour utilisation, managerial practice, ship utilisation (all features of productivity performance) are central to the Blue Water Labour Relations Compact²⁴ which accompanied the 2012 shipping reforms, and which is being implemented by the social partners.
- Ship maintenance and dry docking – notwithstanding the age of Australian ships, the quality of the crew, working in combination with good managerial practice, are able to keep the ships operating at optimal performance and in so doing extend the periods between dry docking. Dry docking is a major operational cost for ship owners/operators.
- Ship stevedoring (loading and unloading) – Australian ships load and discharge cargoes at rates equivalent to global shipping best practice.
- Ship turnaround times – as a good comparative example, the just in time performance of the four Australian LNG ships that have transported LNG from the NWS LNG Joint Venture project have matched or bettered the turnaround times of the non-Australian registered LNG ships servicing that project.
- Ship emission efficiency – shipping is the most energy efficient mode of mass transport and only a modest contributor to overall carbon dioxide (CO₂) emissions. Australian ships have adopted the July 2011 IMO mandatory emission reduction measures, in particular the Energy Efficiency Design Index (EEDI) for new ships and the Ship Energy Efficiency Plan (SEEMP) for all ships.

Australian ships are safe, and relatively safer than foreign ships

Australian owned and operated ships which are on the AGSR (and are regulated under the Navigation Act) and which employ Australian national seafarers are safe, and relatively safer than foreign ships, particularly foreign FOC ships, because:

- They are regulated under the comprehensive Flag State Control requirements of the Australian Maritime Safety Authority (AMSA) which until around 2012 was regarded as one of the world's most active maritime regulatory agencies and which previously upheld the strongest interpretation of International Maritime Organisation (IMO) safety Conventions; and
- The Australian seafarers employed on such ships are subject to Australian labour and safety laws, and to high quality seafarer training and qualifications.

In contrast, foreign ships operating in Australian waters, the vast majority of which are FOC ships:

- Are regulated by foreign ship regulatory agencies which adopt a more liberal interpretation of IMO safety Convention standards (and where corruption and lack of resources is more likely to distort compliance);
- Are regulated by AMSAs Port State Control requirements when in Australian waters, which is risk based and not comprehensive; and

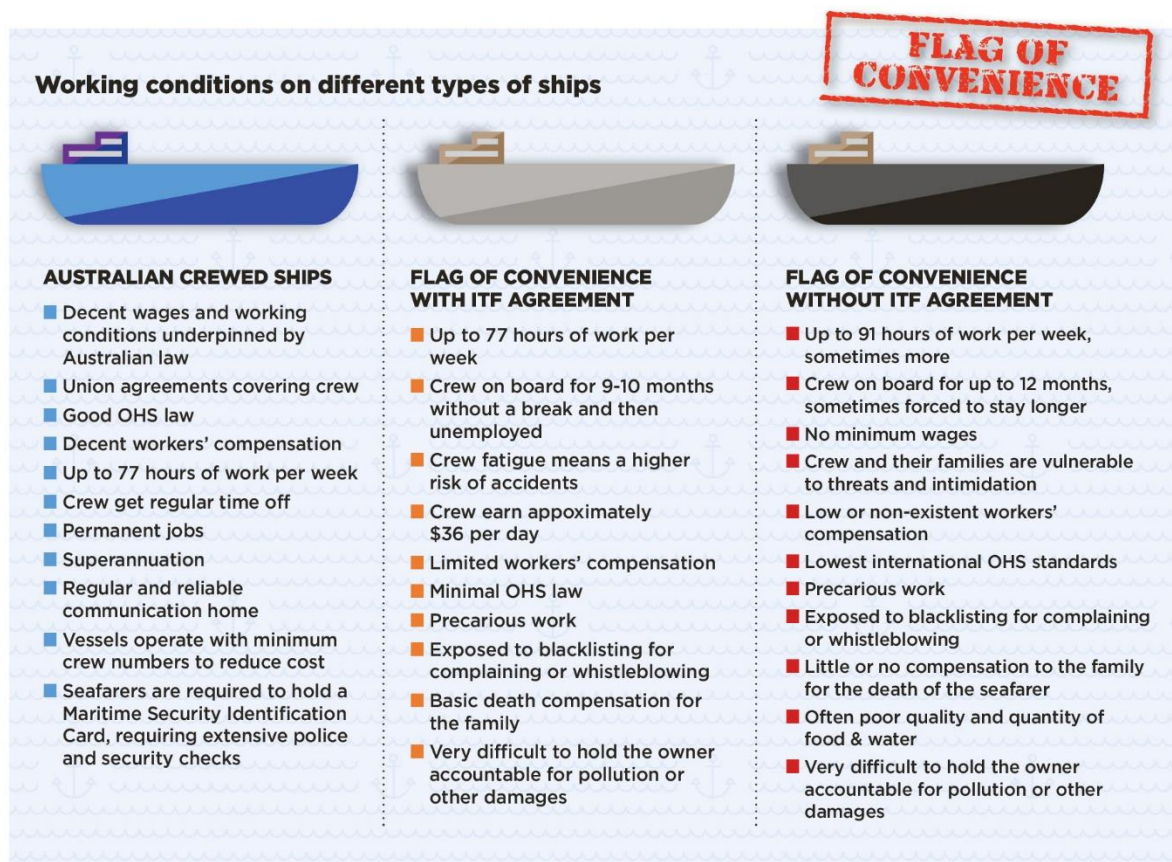
²⁴ ASA and MUA/AMOU, *Bluewater Labour Relations Compact, May 2012*

- Are not subject to any mandatory labour standards (only to the general ILO labour standards conventions, and to the ITF global labour agreements and inspection regime) applicable to the foreign seafarers employed on such ships.

The result is that Australian ships are better maintained, better managed and adopt better safety management systems. In addition, the crew are better trained, adopt better safety management practices and are less likely to be fatigued.

A summary of the contrasting working conditions that underpins ship safety is shown in Figure 4.

Figure 4: A comparison of working conditions contrasting Australian ship standards with foreign ship standards



Source: Maritime Union of Australia and International Transport Workers Federation

Revitalising Australian shipping will create new jobs and secure the maritime skills base, helping create a more seamless transport and logistics labour market

This submission estimates that the number of seafarers holding current AMSA certification employed in Australia is in the order of 7,000-8,000 (excluding the fishing sector) – see the section on seafarer employment below.

It should be noted however, that AMSA issues certificates to two categories of seafarer: (i) those employed on generally larger ships (legislatively described as regulated Australian vessels or RAVs) which are permitted to voyage internationally, and which are regulated under the *Navigation Act 2012*. Seafarers on these ships hold internationally recognised certificates issued in accordance with

AMSA Marine Orders 70, 71, 72 and 73²⁵ based on the IMO STCW Convention; and (ii) those employed on generally smaller ships (legislatively described as domestic commercial vessels or DCVs) which remain in Australian waters and which are regulated under the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (National Law Act). Seafarers on these ships are required to hold domestic certificates issued in accordance with AMSA Marine Order 505²⁶.

Of the estimated 7,000-8,000 certificated seafarers employed in Australia the vast majority (probably in the order of 90%) are employed on DCVs holding Marine Order 505 certificates.

It is the small and declining number of seafarers employed on RAVs (or eligible to be employed on RAVs) holding Marine Order 70, 71, 72 and 73 certificates where the crisis in the maritime skills base lies. It is the seafarers holding these certificates that transition into the vast range of inshore and onshore occupations requiring underpinning seafarer qualifications, such as marine pilots, harbourmasters, managerial positions in shipping and shipper companies, in regulators like AMSA, in marine training and in logistics more broadly.

Under the policy settings advocated in this submission, we estimate that seagoing seafaring employment could expand to around 9,800, an increase of 22.0 per cent, predominantly seafarers with international certification that can be employed on ships designated as RAVs.

This potential increase in seafaring employment would result from investment in additional large Australian crewed ships (predominantly RAVs) that would be required to be either registered on the AGSR or would be foreign ships licensed to operate in coastal trading employing Australian crew. Details on the ships where this potential increase in employment could arise are provided in Table 3.

Table 3: Trades where cargo volumes indicate Australian ships could be sustained under a positive regulatory framework supported by taxation incentives and establishment of a strategic fleet

Shipping trade	Number of additional Australian ships	Employment impact – additional Australian seafarers
Bulk liquids (small multipurpose tankers)	1	32
Liquefied Petroleum Gas (specialised LPG tankers)	2	64
Liquid Ammonia (specialised ammonia/LPG tanker)	1	32
Refined Petroleum Product Tankers – domestic MR size	3	96

²⁵ The following seafarer certificates may be issued under Marine Orders 70, 71, 72 and 73: (a) Marine Cook; (b) Master <24 m FG; (c) Watchkeeper Deck <500 GT; (d) Mate <500 GT; (e) Watchkeeper Deck; (f) Chief Mate <3000 GT; (g) Master <500 GT; (h) Chief Mate; (i) Master <3000 GT; (j) Master; (k) Electro-technical officer; (l); Engineer Watchkeeper (Motor); (m) Engineer Watchkeeper (Steam); (n) Engineer Watchkeeper (Steam and Motor); (o) Engineer Class 2 (Motor); (p) Engineer Class 2 (Steam); (q) Engineer Class 2 (Steam and Motor); (r) Engineer Class 1 (Motor); (s) Engineer Class 1 (Steam); (t) Engineer Class 1 (Steam and Motor); (u) Navigational Watch Rating; (v) Engine Room Watch Rating; (w) Able Seafarer — Deck; (x) Able Seafarer — Engine; (y) Integrated Rating; and (z) Chief Integrated Rating.

²⁶ The following seafarer certificates mentioned in the National Standard for Domestic Commercial Vessels (NSCV) Part D may be issued under Marine Order 505: (a) General Purpose Hand; (b) Coxswain Grade 2 NC (Near Coastal); (c) Coxswain Grade 1 NC; (d) Master <24 m NC; (e) Master (Inland waters); (f) Master <35 m NC; (g) Mate <80 m NC; (h) Master <80 m NC; (i) Marine Engine Driver Grade 3 NC; (j) Marine Engine Driver Grade 2 NC; (k) Marine Engine Driver Grade 1 NC; (l) Engineer Class 3 NC.

Refined Petroleum Product Tankers –international imports LR size ²⁷	10	320
Coal Tar, Liquid Carbon Pitch, Asphalt, Bitumen (specialised heated tankers)	1	32
Dry Bulk: Alumina	2	64
Dry Bulk: Bauxite (90,000 DWT bulk carriers)	6	192
Dry Bulk: Small cargos less than 10,000 tonnes (10,000-15,000 DWT multipurpose bulk carriers)	2-4	64
Dry Bulk: Medium cargos up to 45,000 tonnes ²⁸	8-12	256
Dry Bulk: Iron Ore (170,000 DWT)	4-5	128
Containers (1,500 TEU container and ro-ro ship)	3	96
General Cargo (Ro-ro, breakbulk and project cargo ships)	2	64
Qld coastal shipping service	2	64
LNG tankers ²⁹	7	224
Offshore wind construction vessel ³⁰	1	32
Total	55-62	1,760³¹

Source: MUA analysis, based on a review of all coastal cargo volumes, February 2019. Supporting details available on request.

The entry of 55 additional Australian ships to Australian coastal trading (the conservative estimate – could be up to 62 ships), of which we estimate the overwhelming majority, if not all, would be RAVs, represents a 358 per cent increase in the large Australian fleet, which at January 2019 stands at just 12 ships (down from 14 at 30 June 2016 and 20 at 30 June 2011³²). It also represents an increase in seafarer employment of at least 1,760 seafarers, virtually all of whom would require internationally recognised seafarer certificates (and associated high end VET and university qualifications). This represents an increase in seafarer employment of at least 22 per cent over current levels of seafarer employment (estimated at 8,000 – see section below on seafarer employment in Australia).

²⁷ These are National Strategic Fleet ships.

²⁸ Dry bulk medium cargoes and dry bulk iron ore include ships that should be re-introduced to replace those Australian ships withdrawn from coastal trade where cargo volumes remain e.g. *MV Mariloula*, *MV Lowlands Brilliance* in iron ore and the *CSL Iron Chieftain*, *CSL Thevenard*, *CSL Brisbane*, *CSL Melbourne*, *MV Portland* etc in other trades.

²⁹ This is only a small proportion (less than 10%) of the ships required to transport Australian LNG to export markets (requiring about 40-50 unique ships. Estimate derived from *Australian Sea Freight 2014-15*, Table 4.5 Number of port calls, by ship type).

³⁰ This is a National Strategic Fleet ship.

³¹ The crewing numbers (16 per swing or 32 per ship) are based on Minimum Safe Manning requirements, not operational manning, which could be higher. Where the ship numbers include a range, the lower number is used for calculation purposes.

³² Bureau of Infrastructure, Transport and Regional Economics (BITRE), *Australian Sea Freight 2015-16*, Pvi https://bitre.gov.au/publications/2018/files/asf_2015_16.pdf. Australian Sea freight says: “In 2015-16, there were 116 vessels in the Australian trading fleet, with a total deadweight tonnage of 5.1 million tonnes and total gross tonnage of 3.7 million. The total deadweight tonnage and gross tonnage of the Australian trading fleet increased 6.8 and 4.9 per cent per annum in trend terms respectively over the five years to 2015-16. The number of major (deadweight tonnage greater than 2 000 tonnes) Australian registered ships with a general licence dropped by one to 14 in 2015-16 with the removal of Alcoa’s Portland. This compares to 20 major Australian registered ships with a coastal trade licence in 2010-11. The total deadweight tonnage and gross tonnage of these ships declined by 23.4 and 15.6 per cent per annum in trend terms respectively over the five years to 2015-16.”

The analysis behind the data in Table 3 derives from detailed research of cargo volumes based on Temporary Licence data produced by the Department of Infrastructure, Regional Services and Cities. It shows where trade volumes, currently carried by GL and TL ships, is sustaining a dedicated ship of a size and type suited to the trade. In many cases, the additional ships represent a replacement of ships with a TL with a ship that is a GL (or under the new regulatory framework proposed in this submission, a Modified GL ship [Australian crewed but foreign registered]).

These additional Australian ships would have a significant multiplier effect in terms of domestic maritime employment, and demand for support services covering ship finance, ship insurance, ship chartering (and legal services that attach to finance, insurance and chartering), ship crewing, ship provisioning and bunkering all of which occurs offshore where ships are foreign owned, foreign registered and foreign crewed. The Oxford Economics study for the UK showed a multiplier effect of around 1:2 for the maritime industry, meaning that for each new seafaring job created, there are around 2 additional jobs created in the wider maritime sector.

Maritime Industry Australia Ltd (MIAL), representing maritime industry companies, has identified the importance of maintaining a core maritime skills base, at the very least to ensure the efficient functioning of over 70 ports around the country, critical infrastructure and safety roles as well as supporting major projects, such as in offshore oil and gas, which are critical to the nation's economy.³³

Policy makers have in the past struggled to identify where the opportunities for Australian ships to increase market share in the freight market might derive from. The Qld Sea Freight Action Plan identifies a number of opportunities in Qld, which could be replicated in other regions. These opportunities include:

- Over Size Over Mass and project cargo to Gladstone, Mackay and Townsville from Brisbane. For example, specialist heavy lift international shipping lines could discharge project cargo at the Port of Brisbane and utilize the services of an intrastate coastal shipping service to move project cargo to suitably located regional ports to maintain the tight timeframes that these specialist ships operated within as part of their schedule of global port calls.³⁴
- General freight movements north and south, including community supply cargoes for Mackay and Townsville from Brisbane and return containers for export, and import TEU cargoes for Townsville and Brisbane for regional distribution - for example, containerised exports of sugar, grain, cotton, fruit, vegetables and beef moved through regional ports and transhipped at the Port of Brisbane for on-carriage to international and/or domestic markets. AgForce has identified an opportunity to transport fertiliser by sea freight that is currently moved by B-double as far north as almost Cairns. AgForce believes there is an opportunity for large volumes of fertiliser to be moved by coastal ships subject to sea freight rates.³⁵
- Freight for the Northern Territory and Northern Australia; and
- Out turn freight from coastal ports.³⁶

In its 2016 report to the MUA on Coastal Shipping Research & Analysis of the east coast seaborne bulk commodity trades, SMG developed a methodology for assessing ship suitability for cross trading,

³³ MIAL, *Seafaring Skills Census 2018*, CEO Overview, <https://www.mial.com.au/our-work/seafaring-skills-census>

³⁴ Ibid P32

³⁵ Ibid P35

³⁶ Qld Sea Freight Action Plan *Coastal Shipping Addendum* May 2014 <https://www.parliament.qld.gov.au/documents/committees/THLGC/2014/INQ-CSF/bp-11Nov2014-attchA-part2.pdf>; Report of the Qld Parliament's Transport, Housing and Local Government Committee Report No. 59, 'Inquiry into Coastal Sea Freight' P30

aimed at assisting with determinations on where the opportunities lie in Australian bulk commodity shipping to improve cross trading to reduce shipping costs (empty ballast legs being a big factor in costs in Australian coastal trade given the length of the coastline and large distances between centres of population and ports).

SMG created a matrix using the types of ships found in the coastal trade matched with the major bulk commodities required in Australian manufacturing. This matrix provides a map to demonstrate the process which a chartering manager might follow in assessing whether or not an empty ship on a ballast leg is suitable for a cargo which is on offer at a nearby port. The matrix provided in Table 4 shows whether or not a particular ship or sub category of its type is suitable for carrying any of the range of commodities. A green square in the matrix indicates that it is probably suitable. A red square indicates it is not suitable for that ship/commodity combination.

Table 4: Matrix for assessment of ships suitable for cross-trading

Ship type & characteristics	Commodity/Ship suitability																				
	Alumina	Amm. Nitrate	Bauxite	Cement	Clinker	Coal	Coke	Dolomite	Ferrous Metals	Fly Ash	Gypsum	Iron Ore	Lead and Alloys	Magnetite	Manganese	Mineral Sands	Paraoethite	Sugar - Raw	Sugar refined	Zinc Concentrate	
Small Handysize (Geared)	Green	Green	Red	Red	Red	Green	Green	Green	Green	Red	Green	Green	Green	Green	Green	Green	Green	Green	Green	Red	Green
Medium Handysize (geared)	Green	Green	Red	Red	Red	Green	Green	Green	Green	Red	Green	Green	Green	Green	Green	Green	Green	Green	Green	Red	Green
Handymax (Gearless)	Green	Green	Red	Red	Red	Green	Green	Green	Green	Red	Green	Green	Green	Green	Green	Green	Green	Green	Green	Red	Green
Panamax	Green	Green	Green	Green	Green	Green	Green	Green	Green	Red	Green	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red
Self unloader (belt)	Red	Red	Red	Red	Green	Red	Red	Red	Red	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
Pneumatic Self Unloader	Red	Red	Red	Green	Red	Red	Red	Red	Red	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
Multi purpose project MPP	Green	Green	Red	Red	Red	Red	Green	Green	Red	Green	Red	Green	Green	Green	Green	Green	Green	Green	Green	Red	Green
Refined sugar ship	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Green	Red

Source: Strategic Marine Group Pty Ltd, *Coastal Shipping Research & Analysis of the east coast seaborne bulk commodity trades*

The matrix is then used to assess each ship type and specific ports and commodities using a range of operational, chartering and contractual factors such as:

- Depth available at the loading and unloading berth.
- Safe berth or not (long enough to berth safely).
- Compatibility with cargo handling equipment (on board/ashore).
- Ships gear needed or not.
- Cargo handling infrastructure.
- Cargo parcel size and financial viability.
- Compatibility of commodities and potential contamination.
- Hold cleaning delays and additional voyage costs.
- Level of hold cleanliness required.

SMG applied this methodology in the Australian context, finding that that the small to medium size Handysize bulk carrier is the ship most suited to carrying a wide range of commodities, gaining a score of 12 matches across a range of 20 dry bulk commodities. This is followed closely by multi-purpose ships (MPPs) which scores 11 out of a possible 20. The results are summarised in Table 5.

Table 5: Ships ranked by suitability for cross trading

Ship type	No.
Small Handysize (geared)	12
MPP	11
Handymax	6
Medium Handy	5
S/U belt	4
Panamax	3
S/U pneumatic	2
Refined sugar ship	1

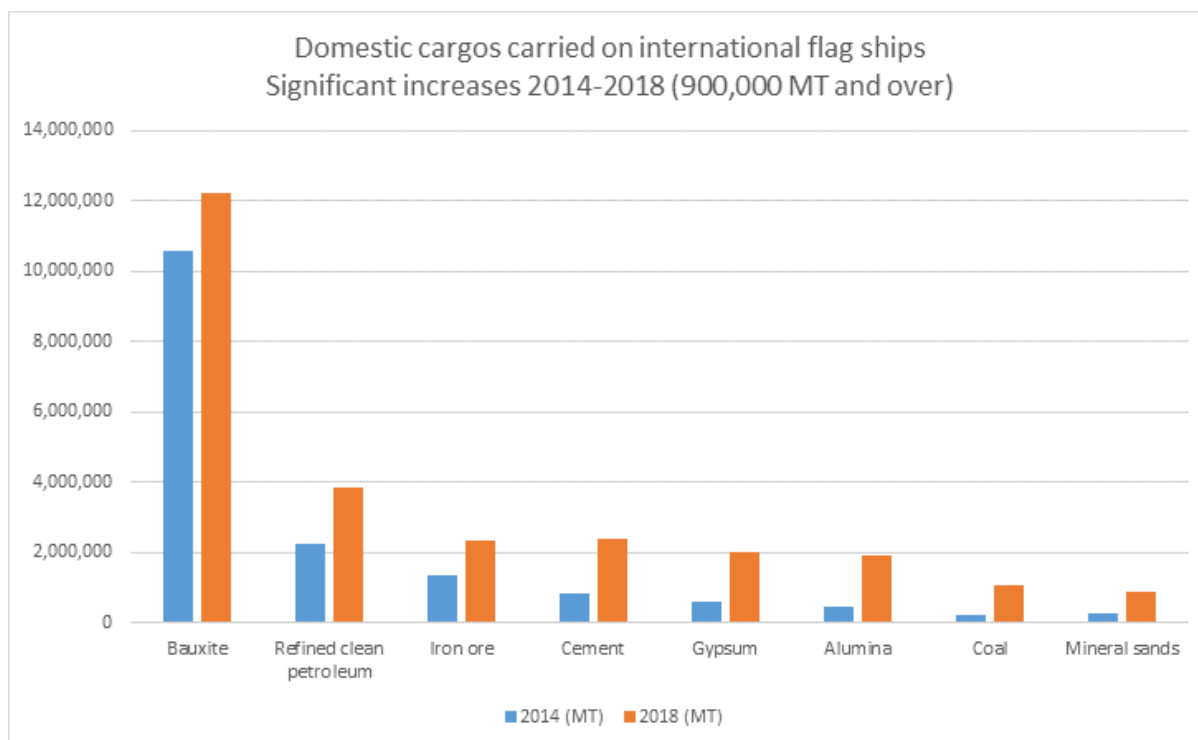
Source: Strategic Marine Group Pty Ltd, *Coastal Shipping Research & Analysis of the east coast seaborne bulk commodity trades*

Note: MPP = multi-purpose ship; S/U = self-unloading ship (requiring minimal landside stevedoring).

SMG suggested in its report the establishment of a centralised coordination body to create logistics chain efficiencies including to assist in aggregating cargoes for cross trading to reduce supply chain costs. SMG suggested that the Hunter Valley Coal Chain Coordinator might be a good model to examine in considering this proposal.

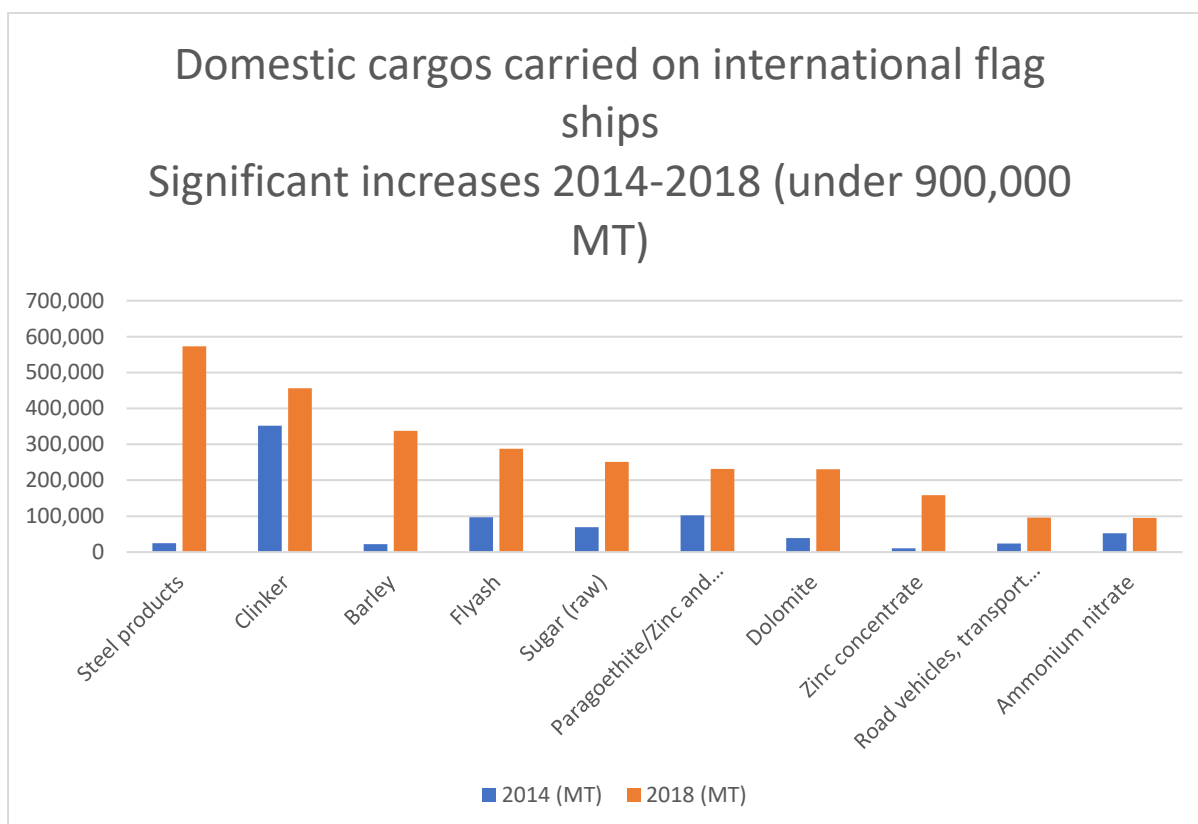
The data in Figures 5(a) and 5(b) show both overall volumes of cargo and increases in domestic cargo trade volume carried in foreign registered ships, indicating that there is significant potential for Australian ships to capture a greater share of the domestic seafreight market.

Figure 5(a): Domestic cargoes carried on international flag ships - Significant increases 2014-2018 (900,00MT and over)



Source: MUA, March 2019

Table 5(b): Domestic cargoes carried on international flag ships - Significant increases 2014-2018 (under 900,00MT)



Source: MUA, March 2019

Shipping is central to the efficiency and productivity of other industries

Shipping is a vital service supporting other wealth generating industries. Ships are critical to the supply chains for all facets of manufacturing, resources and energy including fuel (and in the case of ships, the entire offshore oil and gas industry at every phase [exploration, construction, production and transportation], agriculture, aquaculture, fishing, tourism (including the growing marine tourism and cruise sectors), wholesale and retail distribution, and construction.

Key manufacturing industries such as steel (requiring iron ore and coal), aluminium (requiring bauxite and alumina), petroleum (requiring crude oils and condensates), gas (requiring liquid gas inputs), chemical and explosives production (requiring ammonium nitrate, acids etc), building products (requiring gypsum, sands etc); food processing (requiring sugar, salt, food concentrates) and agriculture (requiring fertiliser) are reliant on ships for supply of key bulk commodity inputs and distribution of outputs for their efficient operation.

Service industries like transport and shipping in particular, given shipping's efficiency is only guaranteed at scale (volume/distance factors), are dependent on the health of the industries they service, as well as the freight volumes and geographical location of freight sources and market destinations.

In those circumstances an industry policy for shipping (or rail, or road transport) by necessity needs to be integrated with industry policy for other sectors such as manufacturing, particularly the heavy manufacturing subsectors like aluminium, steel, petroleum products, vehicles and vehicle components, shipbuilding, construction materials (cement, mineral sands), as well as mining and mining equipment, energy, agriculture (fertiliser, grains, machinery, livestock), aquaculture, fishing, and tourism.

Bulk commodity ships and other large ships support a range of other shipping services including towage, pilotage, bunkering, waste removal, firefighting, salvage and marine rescue and well as requiring port services and stevedoring.

Ships are central to Defence and border protection and for supplying coastal regions and communities.

Each of these segments of the shipping industry requires appropriate policy, regulatory, administrative and funding support if they are to flourish and create a genuine maritime cluster in Australia.

Increased use of Australian ships to move Australia's freight and passengers is good for the environment

Policy which increases shipping's share of the national freight and passenger market and increases the level of Australian ships in particular in those markets is good for the environment at three levels:

- It will reduce road congestion, in cities and on the highways, making cities cleaner, roads safer and reduce the costs of congestion;
- It will make a significant contribution to reducing national greenhouse gas emissions consistent with Australia's commitment to the Paris Climate Conference targets and to the IMO ships' CO2 emissions reduction strategy; and
- It will help protect Australia's oceans, coastlines and marine tourism icons such as the Great Barrier Reef from marine accidents and marine pollution.

Ships are the least energy intensive of all the freight modes i.e. ships emit the lowest emissions on a tonne kilometre basis of any other freight mode.

If Australia is to reduce its emissions from the transport sector, currently emitting 14-15% of the nation's greenhouse emissions, with freight transport contributing around 6% of total emissions, then it needs to be considering the role of shipping in the freight transport mix. This is especially important given that the national freight task continues to grow.

In a study undertaken by the Australia Institute in 2007 it found that while shipping accounts for approximately 25 per cent of the domestic freight task (now down to 17%, with a consequential increase in rail and road transport emissions) it only contributes 4% of freight emissions, in contrast to road freight, which carries less than 40% of freight, but is responsible for over 80% of freight emissions. These differences are due to the energy and emission intensities of the transport modes. The study concluded that any mode shifting to sea freight would result in an improvement in the greenhouse performance of the domestic freight sector.³⁷

The report also noted that in contestable freight corridors such as the East-West corridor, there is potential to move more than 200 container shiploads (of 1700 TEUs) off the road and onto ships. That equates to reducing 26,637 truck movements (222 trucks) annually off the E-W highways (86,569 truck movements [or 594 trucks] if the N-S corridor is included), with substantial reductions in greenhouse emissions from the freight transport sector.³⁸

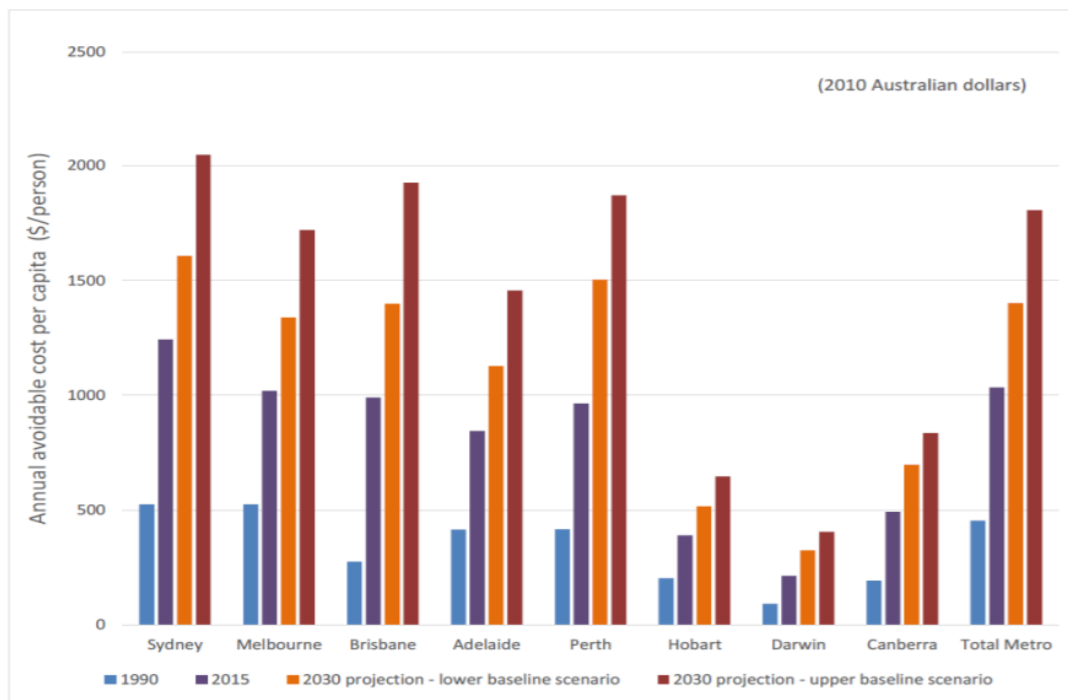
Air and marine pollution and urban congestion mitigation efforts are directly linked to freight transport policy choices. Shipping has a major role to play in reducing atmospheric emissions, marine pollution (particularly from accidents leading to bunker fuel and cargo spills) and urban congestion.

The congestion difficulties in Sydney, Melbourne, Brisbane and Perth affect all parts of the country through bottlenecks in the import/export gateways, and congestion costs are rising. Congestion costs for all the major cities are expected to rise by between 60 and 100% over the period to 2030. Figure 6 demonstrates the overall costs of traffic congestion.

Figure 6: Average per capita congestion costs for Australian metropolitan areas

³⁷ Andrew Macintosh, Australia Institute, *Climate Change and Australian Coastal Shipping*, Discussion Paper Number 97, October 2007 - <http://www.tai.org.au/node/1390> (14 May 2014)

³⁸ MUA analysis based on data in the Australia Institute report.



Source: Department of Infrastructure, Regional Development and Cities, *Report of the Inquiry into National Freight and Supply Chain Priorities*, March 2018

Some argue that providing a regulatory framework that promotes foreign registered ships with a lower cost base is the answer to the emissions and congestion issues (the argument being that if it is cheaper, then demand will increase). Such a proposition is naive and simplistic. Foreign registered ships operate under lower standards than Australian ships and their crews are not as well trained. The ability of Government to influence ship standards is dependent on control over the regulation of foreign shipping. Effective control over emissions and other ship safety attributes can only occur if the ships are Australian and under the Flag State Control (FSC) responsibility of AMSA. Investment in new Australian ships with lower emissions and more suitable to shipper requirements in the domestic freight market will play a major role in reducing emissions and congestion costs, making cities more liveable.

The *Inquiry into Coastal Sea Freight* carried out by the Queensland Parliament's Transport, Housing and Local Government Committee in 2014 details the benefits to the Queensland economy of a regular intrastate sea freight service. Among the benefits identified was reduction in road and rail congestion, a reduction in road infrastructure maintenance, and improvements in road safety. For example:

- It was estimated that 200,000 annual TEUs of containers travelling on rail and road between Townsville and Brisbane could potentially be transported by coastal shipping. At the time it was estimated that there are 10 trains per week servicing one of the major grocery retailers between Rockhampton and Cairns from Brisbane, equating to around 1,200 TEU per week that could be delivered by ship; and
- 60,000 tonnes of fertilizer which travels from Townsville to Brisbane per annum by rail and road, could be transported by ship.³⁹

Other benefits identified in the report are:

³⁹ Report of the Qld Parliament's Transport, Housing and Local Government Committee Report No. 59, *'Inquiry into Coastal Sea Freight'* P30 (referencing TMR, Sea Freight Action Plan, July 2014)

- Lower carbon emissions and improved environmental sustainability arising from a potential shift from road transport to both rail and ships, which have a far lower energy intensity than trucks; and
- Greater freight system resilience, particularly for Northern Queensland. It noted that roads can be cut off due to storms, while ships can continue to operate.

It is well known that Australia is exceedingly vulnerable to marine pollution.⁴⁰ Under the *United Nations Convention on the Law of the Sea, 1982 (UNCLOS)*, Australia has the rights and responsibilities over an approximate 16 million square kilometres of water, including the Exclusive Economic Zone (EEZ).⁴¹ That is more than double that of Australia's land mass, making Australia's oceans the third largest and the most diverse on the planet. Australia's oceans are also home to many underwater seascapes and provide a sanctuary for numerous bio-diverse marine species.

The total arrivals of international ships into Australian ports has increased 62% since 2002, with 28,502 individual port calls in 2017.⁴² Despite improvements in ship design and AMSA's best efforts to inspect ships, the result is an increase in the sources of operational pollution, such as the release of biocides from toxic chemicals used in anti-fouling paints of all ships, dumping of wastes including oily wastes, and the transfer of invasive alien species through ballast water. Increasing ship traffic also increases the risk of maritime accidents including oil spills.

AMSA Port State Control inspectors found 40 detainable deficiencies directly relating to pollution prevention in 2014. A total of 385 detainable deficiencies were found on 269 international ships in 2014, and many of these were for problems which could result in incidents with a significant environmental impact (for example: hours of rest, fire safety, safety of navigation, dangerous goods, structural conditions, alarms).⁴³

The FOC system has direct environmental consequences as registering a ship in a different Flag State can create an effective cover for ship owners who do not wish to be prosecuted or identified in the wake of a marine pollution incident.⁴⁴

The environment and natural treasures like the Great Barrier Reef are put at immediate risk through irresponsible shippers and shipowners, and even the regulation around deliberate dumping and accidental spills is not enough to protect Australia from crippling clean-up bills. The very elements of cheap shipping are those that conspire to harm our pristine coast.

Eight years after creating the largest single damage to the Great Barrier Reef, the clean-up and remediation of the *Shen Neng 1* impact site is still incomplete, with toxic materials scattered over a 400,000m² area. The Commonwealth sued shipowners in the Australian Court for \$194 million in damages, but due to deficiencies in law was compelled to settle out of court for \$39 million.

In May 2018 Australia committed to an International Maritime Organisation (IMO) decision to reduce sulphur emissions by 3 per cent over the next two years, and to halve greenhouse gas (GHG) emissions from ships by 2050. From January 1, 2020, the limit for the approved amount of sulphur contained in ship fuel oil will drop from 3.5 per cent to 0.5 per cent.

⁴⁰ See Report from the House of Representatives Standing Committee on Transport, Communications and Infrastructure, *Ships of Shame – inquiry into ship safety*, December 1992.

⁴¹ M White, *Australasian Marine Pollution Laws*, Federation Press, 2nd ed., 2007.

⁴² AMSA, Port State Control 2002 report and 2017 report.

⁴³ AMSA, Port State Control 2014 Report, p. 20.

⁴⁴ T Shaughnessy & E Tobin, *Flags of Inconvenience: Freedom and Insecurity on the High Seas*, p. 20

Maritime Industry Australia Ltd (MIAL), the Australian maritime industry's peak representative body, has committed to adopt the new standards, as well as step up exploration of the use of alternative fuels such as biofuels.⁴⁵ One of its member companies, SeaRoad Shipping, has taken the lead by specifying that its new ships are LNG powered, setting an example for the industry, while Siem Offshore's new offshore support vessel, the *Siem Thiima*, is LNG powered.

Policy which results in investment in new and modern ships presents an opportunity to lead the globe on ship pollution prevention measures, ensuring that Australian ships gain a stronger market share in the freight and passenger markets. The added benefit is that road congestion and safety is improved by reducing truck road movements whilst simultaneously ensuring the marine environment is protected. However, this needs to be coupled with stronger domestic incentives and support measures to achieve take up of the ship pollution reduction technologies that are currently available.

The International Council on Clean Transportation found that lower sulphur fuels, optimized engines, and exhaust after-treatment, such as selective catalytic reduction (SCR), have been shown to significantly improve the environmental performance of ships. Other measures such as shoreside electricity and improved auxiliary engines can reduce emissions generated while ships are docked at port. It also found that the feasibility and cost-effectiveness of these measures has been demonstrated at several ports., and that such measures are very cost-effective compared to remaining pollution control options for other mobile and stationary sources, especially in countries that have adopted a range of regulations to limit land-based emissions.⁴⁶

Australian ships are central to providing fuel security for the nation

A Senate Inquiry report in 2015 documented Australia's fuel security crisis.⁴⁷ Since 2010-11, Australia's net petroleum stockholdings have fallen from its International Energy Agency (IEA) obligations of 90 days' worth, in the event of market failure, to just 50 days. The Government's Australian Petroleum Statistics published in November 2018 indicate this would amount to just 21 days of petrol for automobiles, 18 days of diesel and 20 days of aviation fuel.⁴⁸ Fuel security is also critical to the nation's overall economic security and Defence capability.

There are now no Australian-crewed tankers supplying fuel to the nation, down from 12 tankers in the year 2000. This has led to a substantial loss of maritime jobs and training opportunities and has undermined the security of the nation's petroleum supply chains, at a time when the nation's business and citizens rely on the equivalent of approximately 60 fulltime ships to keep the nation supplied with

⁴⁵ ABC web news, 2 May 2018, *Australia's shipping industry to halve toxic emissions by 2050 with dramatic drop of sulphur in fuel* <https://www.abc.net.au/news/rural/2018-05-02/australia-shipping-industry-halving-toxic-fuel-emissions/9716812>

⁴⁶ The International Council on Clean Transportation, *Air Pollution and Greenhouse Gas Emissions from Ocean-going Ships: Impacts, Mitigation Options and Opportunities for Managing Growth*, March 2017 https://www.theicct.org/sites/default/files/publications/oceangoing_ships_2007.pdf

⁴⁷ Senate Standing Committees on Rural and Regional Affairs and Transport, *Australia's transport energy resilience and sustainability* 25 June 2015 https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Transport_energy_resilience/Report

⁴⁸ ABC Radio, 23 January 2019, *Government accused of doing 'bugger all' to shore up Australia's fuel security*, <https://www.abc.net.au/news/2019-01-23/government-accused-of-doing-little-to-improve-fuel-security/10732978> and Francis, John and Maritime Union of Australia, *Australia's Fuel Security: Running on Empty*, November 2018 P3

fuel. These imports currently all take place on foreign owned, foreign operated and foreign crewed ships.⁴⁹

This loss of Australian ships means that if the government needed to requisition fuel tankers to keep Australia supplied at a time of geopolitical or economic crisis, there are simply no Australian tankers available to them. Australia is hostage to foreign governments and foreign corporations for its fuel security. This is in stark contrast to the nation's strategic allies who, in the case of the USA has a Military Sealift Command, and in the case of the UK, has a Royal Fleet Auxiliary that includes petroleum tankers that can be statutorily requisitioned in times of emergency (but which at all other times operate commercially). The Australian Navy has only two petroleum tankers (auxiliary oiler replenishment ships) and itself relies on foreign ships for supply of Defence fuel needs.

The MUA commissioned report *Australia's Fuel Security: Running on Empty* of November 2018 identifies four strategic risks that could heighten Australia's fuel security crisis in the coming period:

- Disruption to liquidity in the banking system, which would impact on the commerciality of ships to supply fuel;
- Geopolitical disputes, which could impact on access to trade routes and refinery suppliers;
- Loss of maritime skills in Australia, diminishing the nation's ability to operate ships in petroleum supply chains; and
- Transparency in reporting of available fuel stocks notwithstanding the passage in August 2017 of the *Petroleum and Other Fuels Reporting Act 2017*.

The report did not advocate any particular number of petroleum tankers that should be Australian operated and Australian crewed as a necessary requirement to secure Australia's fuel supplies. However, it recommended that the Commonwealth, in consultation with stakeholders, investigate options to equitably apportion the differential costing for operating Australian petroleum tankers if a comprehensive risk assessment of fuel supply chain issues indicates that retention of a minimum number of tankers owned, managed and crewed by Australians, is justified on national security grounds.⁵⁰

This recommendation is consistent with the proposal in the MIAL *Coastal Trading Green Paper: A Maritime Transition* of 2016 which proposed the creation of a national strategic fleet, defined as ships that offer strategic national interest benefits to the nation.⁵¹

The Green Paper noted that the circumstances of Australia are different to the UK and US, which already have "strategic" fleets, and could mean that an appropriate strategic fleet for Australia is not as heavily influenced by the military and defence needs of the nation but perhaps be more aligned with supply chain security and trade facilitation given the nation's reliance on sea transport. The Paper suggested that an appropriate test to apply at first instance when determining what a strategic fleet ship might be could be to identify where there is sufficient cargo to warrant a stable and permanent presence.⁵² The MUA commissioned paper on fuel security strongly suggests that petroleum supply and distribution, requiring petroleum product tankers meets the MIAL cargo demand test, and is therefore one of the most important cargoes that requires strategic fleet ships.

⁴⁹ Francis, John and Maritime Union of Australia, *Australia's Fuel Security: Running on Empty*, November 2018 P2

⁵⁰ Ibid P4

⁵¹ Maritime Industry Australia Ltd (MIAL) *Coastal Trading Green Paper: A Maritime Transition*, 2016, <https://mial.com.au/files/Coastal%20Trade%20Green%20Paper.pdf>

⁵² Ibid P7

However, as will have been noted from the Executive Summary and detailed in addressing Term of Reference ii, this submission takes a slightly different approach to MIAL and advocates for full reservation of Australian ships in specified national interest trades and for partial reservation in all other trades.

Importantly, it also advocates for the identification of strategic fleet ships, which by definition must be Australian ships. This submission proposes that a fleet of no less than 10 petroleum product tankers dedicated to the transportation of clean petroleum products from international refineries or storage facilities to Australia should be regarded as forming part of the national strategic fleet.

Such an approach will provide an important plank in maintaining Australian economic security and sovereignty, is economically and commercially responsible, and will help revitalise Australian shipping, providing employment security for around 350 Australian seafarers whilst helping re-establish the maritime skills base.

Australian ships are required as part of the nation's maritime security

Using Australian owned, operated and crewed ships for an increased share of Australia's domestic freight and passenger shipping requirements significantly reduces the security threats posed by shipping.

The increased use of Australian ships will provide the nation with a large degree of control over its trade dependency, and its sea routes, that is an essential part of the nation's economic independence, its defence and its border security. Merchant ships and Australian merchant seafarers are, and have always been, an essential part of the national defence capability, in both wartime and peacetime, including in humanitarian missions.

Australian domestic shipping provides a significant national security contribution to the nation. AGSR ships use only seafarers who have successfully submitted to rigorous criminal background checking identified in the *Maritime Transport and Offshore Facilities Security Act 2003* (MTOFSA). In contrast, foreign seafarers working on international ships transiting Australian waters or operating in coastal trade under licence need only to have been granted an electronically generated Maritime Crew Visa (MCV – Visa Subclass 988) which involves a substantially lower standard of scrutiny. It is a seafarer crew transit visa, not a work visa.

High consequence and dangerous cargoes, like weapons grade ammonium nitrate for the mining industry, is predominantly traded on the Australian coast on foreign ships with crew sourced from nations where those citizens pose a higher security risk than Australian nationals. These countries come under close scrutiny from a strategic security perspective while their seafarers are permitted to serve on ships navigating into and around the nation's ports, with only minimal security monitoring.

The security threats of FOC shipping were outlined by the Department of Immigration and Border Protection (DIBP) in its submission to the Senate Inquiry on the Increasing use of so-called Flag of Convenience shipping in Australia in 2015.⁵³ The DIBP made the startling revelation that:

“The Department notes that while a significant proportion of legitimate sea trade is conducted by ships with FOC registration, there are features of FOC registration, regulation and practice that organised crime syndicates or terrorist groups may seek to exploit.

⁵³ Senate Rural and Regional Affairs and Transport References Committee, *Inquiry into the Increasing Use of so-called Flag of Convenience Shipping*, July 2017 – Submission No.21
https://www.apf.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Shipping/Submissions

These features are:

- *a lack of transparency of the identity of shipowners and consequent impediment to holding the owner to account for a ship's actions; and*
- *insufficient flag state regulatory enforcement and adherence to standards.*⁵⁴

A lack of transparency through concealed ownership in some FOC registries is caused by a flag state not requiring disclosure of ownership as a condition for registering ships (some flag states actively advertise secrecy as a benefit of registering ships to their flag). Further, timely verification and validation of a ship's registration can often be delayed where flag state registries are managed by third parties or if flag states do not respond to enquiries.

In addition, FOC registered ships often have complex financial and ownership arrangements (such as ownership through shell companies) that make it difficult to identify the individuals and organisations involved in their operations, factors that can make FOC ships more attractive for use in illegal activity, including by organised crime or terrorist groups.

This means that FOC ships may be used in a range of illegal activities, including illegal exploitation of natural resources, illegal activity in protected areas, people smuggling, and facilitating prohibited imports or exports.

Some flag states require adherence to minimum required standards of shipboard practice instead of best practice. These flag states may also have poor governance and compliance regimes and fail to adhere to international maritime conventions and standards.

Limited compliance regimes and lack of adherence to international conventions and standards can contribute to a decreased or limited crew capability and diminish a ship's general sea-worthiness. Both factors can contribute to a heightened risk to the environment or other shipping, potentially leading to a compromise to biosecurity, for example through poor ballast water management or by causing marine pollution.

In summary, the DIBP concluded that:

*"The regulatory, registration and compliance practices of the so-called FOC states have the potential to create vulnerabilities for Australia's enforcement of laws in its maritime domain. These vulnerabilities add to the attractiveness of FOC shipping to entities such as organised crime syndicates and other entities seeking to illegally exploit natural resources both within and outside the AEEZ."*⁵⁵

In contrast, all Australian maritime workers are required under the *Maritime Transport and Offshore Facilities Security Act 2003* (MTOFSA) to undergo the most invasive and intrusive background checks in order to be issued with a Maritime Security Identification Card (MSIC) and strict ongoing checks apply to all Australian maritime workers. This can often take up to two months and consider an applicant's entire history before a decision is made to issue the MSIC.

Often ships' agents send entire crew lists to the government for approval days before arrival. In many cases FOC ships trade exclusively in coastal shipping for long durations, years in fact (such as in the cases of the *Gas Defiance*, *Gas Shuriken* and *Wincanton*) by rotating international crew through Australian airports.

⁵⁴ Ibid

⁵⁵ Ibid P5

It is this double standard which alarms the security agencies, and which creates a gap in national security and border protection arrangements, which needs to be acted upon. It is a contradiction that MSIC cards are critical to port security, yet only Australian nationals are required to hold them what increasingly it is non-national seafarers working on ships entering Australian ports.

Increased use of Australian ships will help eliminate the worst features of international Flag of Convenience (FOC) shipping in Australian waters

Most of the world's estimated 1.3 million seafarers are from Philippines, China, India, Turkey, the Ukraine and Indonesia.⁵⁶ Yet most ownership of ships remains in traditional maritime countries such as Germany, Greece, Japan, the UK, Norway, Denmark, Japan, Korea, the US, China and Singapore.⁵⁷ In between seafarers and ship owners are frequently layers of international sub-contracting that obscures the fundamental employment relationship between them and can make accountability very difficult.

The world's largest ship registers are FOCs: Panama with 21% of the world's fleet by tonnage, Liberia with 12%, and the Marshall Islands with 9%. Together with other major FOC registers in the Bahamas, Malta, and Cyprus these flags make up over 53% of the world's deadweight tonnage.⁵⁸

A Flag of Convenience ship is one that flies the flag of a country other than the country of "Beneficial Ownership". Shipowners are attracted by cheap registration fees, low or no taxes, freedom to employ cheap labour, and little regulatory oversight in what has become an international race to the bottom.

The ITF maintains that the FOC system provides clear opportunities for irresponsible ship owners and operators to exploit seafarers and to seek competitive advantage from denying crew their human and workers' rights.

It is not uncommon for ships to be owned in one country, have their cargos managed by a different company in another country, have the ship and its crew managed from a third country, have the ship registered in a fourth country, with crew recruited and employed by agencies in multiple other countries.

The ITF believes there should be a 'genuine link' between the real owner of a ship and the flag the ship flies, in accordance with UNCLOS. There is no "genuine link" in the case of FOC registries.⁵⁹

Flagging out to an FOC registry has exploded since about 2004 as shown in Figure 7. It was not always the case. In 1966 only 13% of the fleet was registered out. In 2016 it was over 70%.⁶⁰

Figure 7: Trends in the flagging out of ships 1989-2015

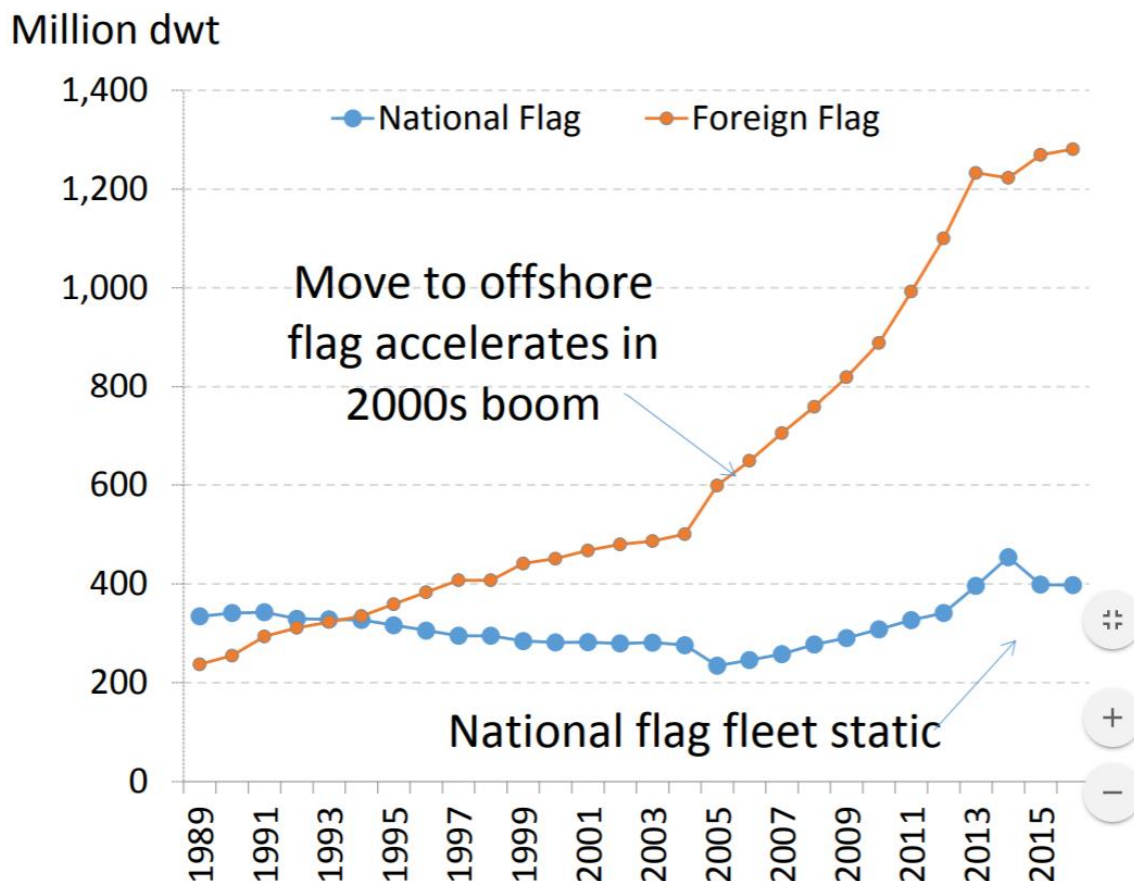
⁵⁶ David Walters and Nick Bailey, 2013, *Lives in Peril: Profit or Safety in the Global Maritime Industry?* New York: Palgrave MacMillan, p.86-87.

⁵⁷ UNCTAD, Review of Maritime Transport 2014, p.39.

⁵⁸ UNCTAD, Review of Maritime Transport 2014, p.44.

⁵⁹ See ITF, 2010, *Mexico City Policy: ITF policy on minimum conditions on merchant ships*, Statement of Principles and Definition of a flag of convenience, p.12. Policy statement on sub-standard Shipping by the Marine Transport Committee of OECD, 2002, cited in the Report of the Secretary General: Consultative Group on Flag State Intervention. Oceans and the Law of the Sea. United Nations, March 2004.

⁶⁰ Dr. Martin Stopford, President, Clarkson Research, *Challenges in the world maritime industry*, Presentation to OECD Workshop on Maritime Clusters and Global Challenges, December 2016
<http://www.oecd.org/sti/ind/Session%2020-%20Torsten%20Schramm%20-%20Web.pdf>



Source: Dr. Martin Stopford, President, Clarkson Research, *Challenges in the world maritime industry*, Presentation to OECD Workshop on Maritime Clusters and Global Challenges, December 2016

The problem of FOCs is compounded by the inability and unwillingness of the flag state to enforce international minimum social standards on their ships, including respect for basic human and trade union rights, freedom of association and the right to collective bargaining with bona fide trade unions.

The Senate Rural and Regional Affairs and Transport References Committee’s *Inquiry into the Increasing Use of so-called Flag of Convenience Shipping* examined the problem of FOC shipping in Australia. Its Interim Report⁶¹ in 2016 made the following findings:

- The issues with FOC ships operating in Australian and international waters are considerable, and it is going to take a concerted global effort to address these concerns. The prevailing international business environment has a preference for cheap labour and the payment of no or minimal tax, with both conditions supported by many FOC arrangements.
- The lack of a genuine link between a ship's flag and the owner of a ship presents real challenges internationally in terms of accountability and assessment of risk. The reduced transparency that comes from using FOC registration may present a business benefit to ship owners and operators, but it greatly decreases the ability of national authorities to verify who is entering the country, and therefore to determine threats to national security.
- While Australia should take the steps necessary to protect its coastal shipping industry and the people it employs, until there is an international approach to address the deficiencies in FOC shipping, and enforce international conventions and regulatory oversight, it will remain an uphill battle.

⁶¹ While this is technically the second Interim Report, it is also the final report as the Committee’s report was tabled in the Parliament just before the Parliament was prorogued before the July 2016 Federal election.

The committee's Interim Report found that shipping plays an essential role in Australia's national transport infrastructure framework, and that the increasing occurrence of FOC ships operating in and around Australia will continue to be detrimental to the local shipping industry, and place Australia at a competitive disadvantage.

It is clear that FOC ships present numerous risks to seafarer safety and wellbeing. The case studies presented in the Committee report are not exhaustive, yet demonstrate these risks. This is in addition to the considerable job losses experienced by Australian seafarers, who are being replaced by foreign workers at an alarming rate. The replacement of Australian workers with foreign crew will continue to deplete the maritime skills base in Australia, and make it harder to reinvigorate the industry in the future.

The committee suggested that reduced costs in shipping should not be sought by paying inappropriate wages to foreign crew. If a business is endeavouring to reduce its overhead and increase its profits, it should not be through the payment of wages that do not meet Australia's minimum wage standards.⁶²

The Committee recommended:

*"That the Australian Government undertake a comprehensive whole-of-government review into the potential economic, security and environmental risks presented by flag of convenience vessels and foreign crews."*⁶³

Regrettably the Australian Coalition government responded in June 2018 to say that it does not support this recommendation.⁶⁴

The substitution of foreign ships by Australian ships, with higher ship safety standards, better crew training and management, and adherence to national labour standards, will be an important strategy for eliminating the worst features of FOC shipping in Australian waters.

Strengthening maritime cabotage is the key to revitalising Australian shipping

National maritime cabotage laws are the rule, not the exception, across the globe. There are 91-member states of the United Nations that have cabotage laws, comprising 70% of the states of the IMO. Cabotage exists along their coastlines of about 80% of the world nations.⁶⁵

Maritime cabotage is an international maritime law concept that provides for nations to reserve domestic cargo, passenger and in some cases other forms of sea transportation for national registered and or national crewed ships operating between domestic ports, to provide fair competition in light of the globalisation of the shipping industry. The US Marine Administration defines cabotage as the body of law that deals with the right to trade or transport in coastal waters or between two points in a country. A country's cabotage laws are designed primarily to guarantee the participation of its citizens in its own domestic trade.⁶⁶

⁶² Senate Rural and Regional Affairs and Transport References Committee, *Inquiry into the Increasing Use of so-called Flag of Convenience Shipping*, July 2017, p.66.

⁶³ Ibid, Recommendation 7.

⁶⁴ Australian Government, *Australian Government response to the Senate Rural and Regional Affairs and Transport References Committee Report: Inquiry into the Increasing Use of so-called Flag of Convenience Shipping*, June 2018, p.8.

⁶⁵ Seafarers Rights International (SRI), *Cabotage Laws of the World 2018*, P10/11

<https://seafarersrights.org/seafarers-subjects/cabotage/>

⁶⁶ Ibid P37

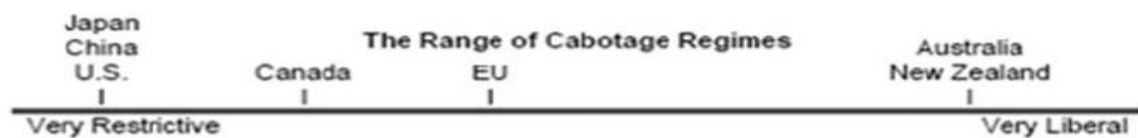
All of Australia’s key Defence allies and trading partners maintain some form of maritime cabotage. None of our key Defence allies or major trading partners has removed or is contemplating complete removal of maritime cabotage as planned by the Abbott, Turnbull and Morrison Governments, noting that the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017 remains before the Parliament.

It is true, with the exception of the USA, that a number of our Defence allies and trading partners have modified their cabotage provisions over the past decade as part of the response to globalisation and to stimulate foreign investment in their domestic shipping industries. However, none of those nations has taken the extreme path of complete removal of cabotage to the point where national flag ships are disadvantaged in domestic trade as is the case in Australia.

Details on the cabotage policy of nations of importance to Australia which maintain maritime cabotage is provided in **Appendix 2**.

Figure 8 below shows that Australian cabotage is already one of the most liberal in the world, and that a strengthening of cabotage will not create a policy difference with Australia’s trading partners or Defence allies.

Figure 8: Range of Cabotage Regimes in Selected Countries

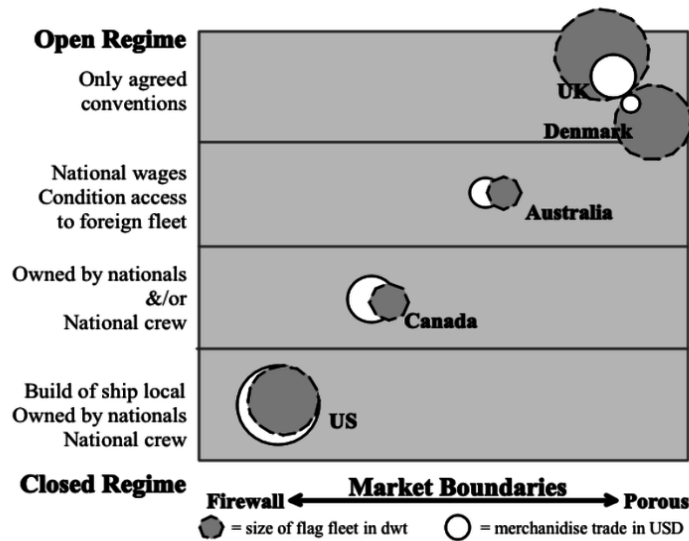


Source: Brooks (2009)⁶⁷

Australian maritime cabotage needs to be strengthened if it is to serve its policy objective as articulated on P5 of this submission. To achieve that outcome, we want to shift Australian cabotage closer to the Canadian system of cabotage. The position of Australian cabotage relative to Canada at present is shown in Figure 9. Australian cabotage needs to be less porous and less open if it is to be effective.

Figure 9: The position of Australian cabotage relative to Canada (and other jurisdictions)

⁶⁷ Brooks, Mary R. (2009) "Liberalization in Maritime Transport" ITF Paper 2009-2. OECD-International Transport Forum, Paris.



Source: Brooks (2013)

The MUA is not advocating for the reservation of all domestic shipping for Australian registered and or crewed ships. That is, we are not seeking to impose a US Jones Act solution for Australia.

Rather, the MUA is advocating for a partial reservation for Australian ships, that can be supplemented by foreign registered ships under specified circumstances. We believe that a bedrock of Australian registered and crewed ships, complemented by foreign ships, will meet the policy objective to rebuild Australian shipping. Such an approach is economically and commercially responsible, will revitalise Australian shipping and provide employment security for Australian seafarers whilst simultaneously retaining the maritime skills base.

The strengthening of maritime cabotage that we advocate can be achieved by:

- Amending the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (CT Act);
- Repealing Part B of the Seagoing Industry Award 2010;
- Amending the Fair Work Regulations 2009;
- Amending the *Customs Act 1901* (Customs Act);
- Repealing certain provisions in the *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012*;
- Repealing the Australian International Register (AISR) provisions in the *Shipping Registration Act 1981* (SR Act);
- Reforming the Maritime Crew Visa system;
- Applying the Australian participation provisions of the *Australian Jobs Act 2013* to the sea transportation elements of major LNG projects; and
- Amending the *Navigation Act 2012*.

Details are outlined in responding to Term of Reference ii (the establishment of an efficient and commercially-oriented coastal ship licensing system and foreign crew visa system) – see the section of the submission addressing ToR ii The establishment of an efficient and commercially-oriented coastal ship licensing system and foreign crew visa system.

Recommendation 2

That the Committee recommend to the Australian Government that the national policy objective for Australian shipping (outlined in Recommendation 1) be implemented by strengthening Australian maritime cabotage through:

- * Amending the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (CT Act);
- * Repealing Part B of the Seagoing Industry Award 2010;
- * Amending the Fair Work Regulations 2009;
- * Amending the *Customs Act 1901* (Customs Act);
- * Repealing certain provisions in the *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012*;
- * Repealing the Australian International Shipping Register (AISR) provisions in the *Shipping Registration Act 1981* (SR Act);
- * Reforming the Maritime Crew Visa system;
- * Applying the *Australian Jobs Act 2013* to shipping for major LNG projects; and
- * Amending the *Navigation Act 2012*.

Ship data for Australia

The MUA has undertaken an analysis and categorisation of ships in the Australian coastal trade so that we can better understand the composition of the Australian coastal shipping fleet. The focus is on cargo ships (some of which also carry passengers). As a result of this analysis and categorisation, we have compiled the following tables (at January 2019):

- The Australian-registered major coastal trading ships (see details in Table 7 in **Appendix 1**):
 - This lists ships, using the Bureau of Infrastructure, Transport and Regional Economics (BITRE) definition of “major trading ships” which is: Ships owned or operated by Australian companies at the end of the financial year, over 2,000 deadweight tonnage (DWT), and for which 80% or more of their voyages called at an Australian port. It excludes ships that only carry passengers.⁶⁸
- Foreign registered major coastal trading ships (see details in Table 8 in Appendix 1):
 - Comprising foreign registered coastal trading ships larger than 2,000 DWT.
- Australian-registered major international trading ships (see details in Table 9 in Appendix 1):
 - Comprising Australian registered ships over 2,000 DWT for which more than 20% of their voyages called at an overseas port.
- Government ships and other ships (see details in Table 10 in Appendix 1).

A summary of key data in these tables is shown in Table 6.

Table 6: Summary of key data on ships in the Australian coastal shipping fleet

Ship data (at February 2019)	Number of ships	Estimate of the number of seafarers employed on these ships
Number of Australian-registered (on the AGSR) major coastal trading ships	17	544 (based on a 2-crew system of 16 seafarers per swing)
Number of Australian-registered major coastal trading ships holding a General Licence (GL)	13 ⁶⁹	

⁶⁸ See BITRE publication *Australian Sea Freight 2014-15*, Chapter 5 for more details, https://bitre.gov.au/publications/2018/asf_2015_16.aspx

⁶⁹ Four ships operate intrastate and are not required under the CT act to hold a licence to trade intrastate.

Number of Australian-registered major coastal trading ships that are defined as a RAV	10	
Number of Australian-registered major coastal trading ships that employ Australian seafarers	17	
Number of major overseas-flagged coastal trading ships	27	648 (based on a crewing complement of 24 on a single swing system)
Number of major overseas-flagged coastal trading ships that employ Australian crew	7	224
Number of major overseas-flagged coastal trading ships that employ non-national crew	20	480
Number of Australian-registered major international trading ships (LNG carriers)	4	128
Number of foreign registered major international trading ships (LNG carriers)	40+ (MUA estimate)	960
Number of government ships that operate as part of blue-water fleet	5	160
Number of Australian registered coastal trading ships removed and not replaced by an Australian ship since the 2012 shipping reforms commenced	8	256
Number of foreign registered Australian crewed coastal trading ships removed since the 2012 shipping reforms commenced	14	448
Total number of coastal trading ships removed since 2012	28	896
Total number of ships removed from the Australian coast and not replaced by an Australian ship since the Abbot Government came to power in 2013	16	512

Source: MUA, February 2019

Seafarer employment in Australia

There remains a paucity of accurate data on maritime employment in Australia, particularly seafarer employment.

Australian Industry Standards (AIS), the Skills Service Organisation (SSO) for the transport and logistics sector, has published maritime employment data in its Maritime Skills Forecast 2018, derived from the Australian Bureau of Statistics (ABS) 2016 Census – Employment, Income and Education.⁷⁰

The AIS Skills Forecast shows that there are 11,529 maritime workers in Australia at 30 June 2016. The Forecast notes however that training data and AMSA active seafarer certification figures suggest a considerably larger workforce than the Census reports. It also shows that total vocational education and training (VET) Activity data records approximately 4,000 commencing enrolments in the maritime

⁷⁰ Australian Industry Standards (AIS), *Skills Forecast 2018*, P20
https://www.australianindustrystandards.org.au/wp-content/uploads/2018/12/Maritime-Skills-Forecast-2018-Final_v2.pdf

industry per year which, for an industry that requires recertification every five years, would suggest a workforce that is at least 35 per cent larger than the Census total. If correct, the maritime workforce is in the order of 15,500.

Data provided in the Annual Report of the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare) reports that there were 5,140 employees covered by the workers' compensation legislation for seafarers, the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act), over the year 2017-18.⁷¹ These seafarers worked on 168 ships:

- 97 involved in the offshore oil and gas industry;
- 46 in the bluewater sector (cargo and passenger ships);
- 11 in dredging; and
- 14 in other sectors.

The Seafarers Act does not cover ships trading intra-state, so coverage under that Act excludes many seafarers working on harbour and river ferries, inshore vessels such as bunker barges, on aquaculture vessels and intrastate trading ships like the 20 plus ships operated by SeaSwift in Qld and NT that only voyage intrastate. It also excludes seafarers on fishing vessels the majority of whom are allegedly not employees, but independent contractors paid on a share catch basis.

AMSA ship registration data shows there are some 400 workboats, water taxis, tugs, research ships and charter ships operating intrastate. These would employ another 1,000-1,500 seafarers.⁷²

This suggests that Seacare seafarer employee data is an underestimate of seafaring employment in Australia.

In 2012, under the auspices of the Maritime Workforce Development Forum, the Department of Infrastructure and Transport conducted a census of the Australian maritime sector. 92 maritime organisations employing workers with Australian Maritime Safety Authority (AMSA) certificates or equivalent qualifications participated in the census. Participating organisations represented the breadth of the maritime industry including 'blue water', offshore, ports, class societies, crew management, towage and dredging, maritime safety regulators and the cruise industry.

The census data revealed employment of 3,941 seafarers with AMSA certifications (or equivalent international certificates but excluding state certificates). Responding organisations reported employing 38,186 shore-based staff.

The MIAL Seafaring Skills Census Report 2018, based on a data gathering methodology that was similar to the 2012 government census, revealed that there are 5,646 seafarers (with internationally recognised certificates/qualifications), of which 4,669 are employed on ships and 977 in onshore jobs.⁷³

Taking into account data from all sources, the MUA estimates that the number of seafarers holding current AMSA certification⁷⁴ employed in Australia is in the order of 7,000-8,000 (excluding the fishing

⁷¹ Seafarers Safety, Rehabilitation and Compensation Authority, Annual Report 2017/18 P3, https://www.seacare.gov.au/_data/assets/pdf_file/0006/191670/Seacare_Annual_Report_2017-18.pdf

⁷² AMSA, List of Registered Ships, <https://www.amsa.gov.au/vessels-operators/ship-registration/list-registered-ships>

⁷³ Maritime Industry Australia Ltd (MIAL), *Seafaring Skills Census Report 2018*, <https://www.mial.com.au/> P5

⁷⁴ The certification refers predominantly to STCW certification, but includes some with non-STCW certification working on larger DCVs that should be RAVs. AMSA report there are some 36,000 people employed on DCVs, including fishing.

sector, launches and a range of other smaller ships, that are and should remain as DCVs based on statutorily defined as proposed elsewhere in this submission).

While numerically small relative to employment in some other industries, the strategic role of seafarers as ship's crew and in the national transport and logistics system is significant. Seafarers:

- Must be capable of managing a range of unique hazards while at sea where they are responsible for a multi-million-dollar asset, a crew, and a cargo that invariably is worth millions of dollars (or passengers' lives).⁷⁵
- Must participate efficiently in just in time supply chains where access to port slots and cargo delivery is time critical and where thousands of business are dependent on precise cargo delivery and arrival schedules to meet customer needs.
- Provide the core skills and attributes for many onshore roles in the transport and logistics industry. A European Commission (EC) study⁷⁶ found that:
 - Deck officers are suited to remain in the maritime industry as pilots, with the water police, as vessel service traffic officers, as lockmasters, as superintendents with shipping and ship management companies, as inspectors and surveyors, in various functions with the ports, with the maritime administration and education or in a range of functions in the general logistics industry. It found that former deck officers are valued as leaders and will often find employment in middle management in generalist functions within administration, general management, sales, HR, education, and in classification societies.
 - Engineering officers are in demand as inspectors and surveyors with shipping, management, classification and insurance companies, or in operational functions with shipping and management companies, shipyards, and engine manufacturers, with maritime service and repair and in various functions as superintendents.

Onshore career paths for Ratings is more problematic, and is a matter requiring attention. This is addressed in responding to Term of Reference vi (Workforce development and the seafarer training system).

⁷⁵ A typical 280,000 deadweight tonne iron ore carrier costs around US\$80 million, while a 250,000-tonne cargo of iron ore is valued at around US\$18 million (at the 24 January 2019 spot price of US\$74/tonne – see MarketIndex <https://www.marketindex.com.au/iron-ore>).

⁷⁶ European Commission, *The Mapping of Career Paths in the Maritime Industries* A project by Southampton Solent University for the European Community Shipowners' Associations (ECSA) and the European Transport Workers Federation (ETF), 2004, https://www.ecsa.eu/images/files/downloads_publications/054.pdf

Part B – Addressing the terms of reference

The policy principles to guide a better regulatory, taxation, administrative and funding framework for Australian shipping

- That maritime cabotage be retained and strengthened as a national policy priority for Australia and that as far as possible this be a bi-partisan position that guides national shipping industry policy:
 - This principle is consistent with the shipping policies of all of Australia’s major Defence allies and trading partners.
- That maritime cabotage be implemented through a system of economic and employment regulation in a partnership between government (Australian and State/NT), industry and unions involving the conditional licencing of ships to operate in coastal freight and passenger trades:
 - This principle is consistent with arrangements applying in comparable nations such as Canada.
- That the new investment in ships, shipping infrastructure and shipping services that will be required to give effect to a new commitment to maritime cabotage be facilitated through tailored taxation and investment facilitation measures:
 - This principle is consistent with the maritime policies of key maritime clusters such as Singapore, London and Denmark.
- That international seafarers engaged on foreign registered ships operating under license in the Australian coastal trade i.e. while they are working in Australia, be subject to Australian immigration laws requiring work visas with similar minimum standards applicable to a Temporary Skill Shortage (TSS) subclass 482 visa, and payment of market rates based on current enterprise agreements for coastal trading ships i.e. it include, inter alia, a labour market testing provision and payment of market rates defined as the going collective agreement rate for the shipping trade:
 - This principle is consistent with the Canadian coastal trading system, which includes a Labour Market Impact Assessment (LMIA) to accompany a Canadian work visa application for seafarers engaged on foreign ships which have applied for a license under the Canadian Coastal Shipping Act to operate in Canadian waters.
- That a new national shipping industry priority be to increase Australian participation in international shipping aimed at reducing the cost of purchasing shipping services to export the nation’s resource and agricultural products and to import manufactured goods and petroleum products; and to provide employment for Australian and regional seafarers:
 - This principle is consistent with the policies of Australia’s trading partners such as Japan, Korea and China.
- That national shipping policy be integrated with Defence strategies to develop interoperability between the workforce needs of the Defence forces and the civilian seafarer labour market:
 - This principle reinforces existing collaboration between the Navy and the civilian shipping industry under the auspices of the Australian Maritime Defence Council (AMDC).

- That Australia commit to take a global and regional leadership role for advancing the tertiary training and vocational education and training of seafarers and associated shore side maritime skills, including at managerial level, to ensure Australia maintains a maritime skills base; and moves to the leading edge of ship, maritime and transport and logistics industry innovation and is prepared for a wave of new technology impacting on the industry.
- That the costs of Australian shipping relative to international shipping be reduced through a combination of commercial, regulatory, labour relations, taxation, supply chain and industry policy measures:
 - This principle is consistent with the Object in the CT Act.
- That the revitalisation of an Australian shipping industry be acknowledged as a long-term plan involving regulatory, taxation, technological, labour market, administrative and funding measures as an industry policy package that will require a 15 to 20-year time horizon for success, to be periodically reviewed and refined.

ToR i: New investment in Australian ships and building a maritime cluster in Australia

Stimulating investment in ships and sea freight infrastructure will facilitate the revitalisation of Australian freight and passenger shipping

Introduction

There has been negligible investment in Australian commercial trading ships in the past decade. The key exceptions are:

Coastal trading

- The delivery of the *Searoad Mersey II* in December 2016, the first new ship in the 21st Century specifically designed and commissioned for the Bass Strait freight trade, which represented an investment of more than Aus\$110 million. The *Searoad Mersey II* was built in Germany while painting of underwater areas of the hull and, subsequently, commissioning of the LNG fuel supply system was carried out in Denmark. The *Searoad Mersey II* is Australian registered and Australian crewed, and operates in Australian coastal trade. The SeaRoad Shipping company has stated that its aim is to commission construction of a new sister ship to the *Searoad Mersey II* as soon as market conditions and shipyard availability permit⁷⁷;
- Toll Shipping's commitment in 2018 to invest Aus\$170 million on purchase of 2 ships for its Bass Strait trade. The new 700 TEU purpose-built ships are due to commence operations in March 2019 and will replace Tolls two existing ships. The ships, named *Tasmanian Achiever II* and *Victorian Reliance II* will be Australian registered on the AGSR and employ Australian seafarers.
- The purchase by Inco Ships of two second hand bunker barges in 2016 (built in Vietnam in 2011). These ships, the *ICS Reliance* and *ICS Allegiance* are foreign registered in the Bahamas and are crewed by Australian seafarers. Inco Ships also purchased a second-hand product/chemical tanker in 2017 (built in China in 2012), the *ISC Integrity*. It is registered in the Bahamas but crewed by Australian seafarers.
 - The total investment in Australian coastal cargo trading shipping the last 5 years is therefore less than Aus\$500 million. While the companies that have made these investments in an uncertain shipping policy climate are to be commended, the level of

⁷⁷ SeaRoad Q&A on the *Searoad Mersey II*, December 2016
http://www.searoad.net/srwebsite/html/pdf/20161211_Media%20Release_QandA.pdf

that investment is a strong indicator of the sorry state of the Australian domestic shipping industry.

- TT line announced in 2018 before the Tasmanian State election that they would build two new Ro- Pax Ships for the Bass Strait, due to be introduced in 2nd and 4th quarter 2021. The two replacements for the current *Spirit of Tasmania I* and *Spirit of Tasmania II* ships are being built at the German Flensburger Schiffbau-Gesellschaft (FSG) shipyard.
- Introduction of the *John Duigan* by Bass Island Line (a subsidiary company of Tasports) in the 2nd quarter of 2018 to replace the *Toll Investigator*.

It should be noted that the SeaRoad Shipping and Toll Shipping investments are investments in replacement ships, not additional ships in coastal trading.

Offshore oil and gas

- The Siem Offshore provision in 2017 of the *Siem Thiima* to operate as part of Woodside's fleet under a five-year charter deal with Siem Offshore. The ship, built in 2016 and used initially in Norway, was delivered to Woodside in the first quarter of 2017. The *Siem Thiima* is the first LNG-powered offshore support vessel in Australia. It is foreign registered in Norway but crewed by Australian seafarers.

International trading

- The construction of twelve new cape size iron ore carriers for Fortescue Metals Group (FMG), of which eight have been delivered (over 2016 to 2018) and are in service. These ships were built in China at a cost of approximately Aus\$100M each. These ships are not registered on either the Australian General Shipping Register nor Australian International Ship Register, but are registered in Hong Kong, and operate with full foreign crews.

Coastal trading and international trading

- The construction of nine new post panamax bauxite carriers for Rio Tinto. These ships were built in Japan at a cost of approx. Aus\$70 million each. These ships are not registered on either the Australian General Shipping Register nor Australian International Ship Register, but are registered in Singapore, and, with the exception of 4 of those ships, operate with full foreign crews. As a result of industrial negotiations in 2010, facilitated by the then Government, culminating in the Rio Tinto Framework Agreement 2010, 4 of those ships are Australian crewed.

Government ships

- Delivery of Australia's new icebreaker *RSV Nuyina* to be operated by the Australian Antarctic Division (AAD), funded by the Australian Government. It was built for Serco as it was the only tenderer due to penalties in the contract that other potential ship providers could not mitigate against. Serco/Defence Maritime Services (DMS) have a crewing management contract for 10 years. The *RSV Nuyina* is due to be in Hobart in mid 2020 in order to undertake the 2020-21 Antarctic season. It will replace the *Aurora Australis*.
- Delivery of the *RV Investigator* for the CSIRO in December 2014. It was funded by the Australian Government, and built for Teekay Shipping. It replaced the *RV Southern Surveyor*. It is Australian registered and Australian crewed.

To put the FMG ship investment in perspective, the eight ships it owns and are now in service transport about 20% of its iron ore output annually, meaning that it still charters some 32 shipments of iron ore (may not be 32 different ships) in foreign owned ships annually.

Similarly, the nine bauxite ships owned by Rio Tinto are supplemented by an additional 21 foreign registered ships employing foreign crew to transport its bauxite from Weipa and Gove (most going to Gladstone for alumina processing but some being directly exported to China). Its own ships therefore provide around 42% of its bauxite transportation needs, but due to the way Rio Tinto organises its ships, only 33% by volume of its shipments to Gladstone are transported in ships utilising Australian crew, in breach of the requirements under the Rio Tinto Framework Agreement 2010.⁷⁸

Australia receives almost zero economic benefit from Australian company ownership of foreign registered ships that trade internationally (unless crewed by Australian seafarers), with the exception that Australian financial institutions may have provided ship financing, some legal services may have been provided locally and the charter cost (for FMG and Rio Tinto an internal accounting cost) flows back to an Australian corporation rather than offshore to foreign corporations.⁷⁹ There is generally no Australian employment, no Australian crew agency support, no maintenance and repair undertaken in Australia, and no ship provisioning from Australia.

If the shipping policy advocated in this submission were to eventuate, resulting in our estimation an investment in up to 55 additional ships in Australian coastal trade, that would represent a massive injection of capital into the Australian maritime industry. While it would not be expected that all that investment would be in newbuilds (the majority being either bareboat charters [assuming the ship financing arrangement permit a change in ship registration] or purchase of existing ships) it could be expected that around 20-30 or 36-54 per cent of those additional ships would be newbuilds. At an estimated average cost of Aus\$80 million the total newbuild investment would be in the order of Aus\$1.6 billion to \$2.4 billion over 5-10 years. Assuming a 30% discount on the newbuild price for purchase of existing ships, that would result in a further injection of some Aus\$1.96 billion to \$1.4 billion for a total investment of Aus\$3.56 to Aus\$3.8 billion.

Notwithstanding the paucity of investment in new Australian freight tonnage in recent decades (particularly in bulk commodity ships), Australia maintains a healthy domestic shipbuilding industry that could readily cater for some of Australia's domestic freight ship requirements under a revitalised shipping policy framework.

Although Australia has invested heavily in naval shipbuilding, it is not likely that there would be spare shipyard capacity in the next decade or more to build the hulls for these new commercial ships in Australia. However, as only about 30% of the value of shipbuilding lies with the shipyard; the rest, 70% of the value, lying in the supply chain, Australian naval suppliers could supply ship systems and equipment and undertake final fitout in Australia.

This would have major technology transfer benefits, help flatten the boom-bust cycle in Australian shipbuilding and create additional employment for shipyard and marine supply chain workers.

⁷⁸ Rio Tinto's failure to comply with the Rio Tinto Framework Agreement 2010 is detailed in the Maritime Union of Australia (MUA) submission to the Qld Parliament's Transport and Public Works Committee *Inquiry into a sustainable Queensland intrastate shipping industry* [Submission entitled *Rebuilding Queensland's Coastal Shipping Industry: For more and better jobs, safer ships and a cleaner environment* of 21 January 2019 – see Submission No. 24, P11] <https://www.parliament.qld.gov.au/work-of-committees/committees/TPWC/inquiries/current-inquiries/8Shipping>

⁷⁹ In 2016/17, freight transport services were Australia's 8th largest goods and services import, costing the nation \$8.7 billion. See Department of Foreign Affairs and Trade, *Australia's top 25 imports, goods and services, 2016/17 and Australia's top 25 exports, goods and services, 2016/17* – <https://dfat.gov.au/trade/resources/trade-statistics/trade-in-goods-and-services/Pages/australias-trade-in-goods-and-services-2017.aspx>

According to Austrade, Australian shipbuilders and marine suppliers have an impressive record of efficiency and innovation in ferries, super yachts, patrol boats, fishing boats, recreational vessels and marine equipment. Austrade states that Innovation, design capabilities and workmanship are the hallmarks of Australian-made marine products.

Austrade says that Australian marine equipment and accessory manufacturers have gained global recognition for a diverse range of marine hardware, components and accessories, and this capability will increase as the Navy shipbuilding program rolls out.

Austrade notes that as a maritime nation with a diverse marine environment, the industry has always had to be responsive to customer needs – from fishing vessels to steel tugs for offshore oil and fast ferries and that Australia has developed niche markets in:

- Fishing vessels, tugs and offshore oil and gas industry vessels built using steel.
- Custom-built ferries for environmentally sensitive river and estuary systems.
- High-speed car and passenger ferries. Since the Australian company Incat introduced its first 20 metre catamaran in 1978, Australia has supplied the world with more than 50 per cent of all the high-speed car/passenger ferries.⁸⁰

Integration of Naval shipbuilding with the increase in investment in additional commercial ships that will arise from implementation of a positive maritime cabotage policy is an appropriate strategic and policy response for the Australian Government to consider.

Recommendation 3

That the Committee recommend to the Australian Government that it review and report on ways to better integrate Naval shipbuilding with the increase in investment in commercial ships that will arise from implementation of a positive maritime cabotage policy for Australia (as proposed in Recommendation 1).

The regulatory, taxation, administrative and funding priorities to stimulate investment in ships, seafarers and sea freight infrastructure

There are three main problems with the 2012 shipping reform package that has impeded new investment in Australian ships:

- Uncertainty in the policy and political environment since the change of Government in 2013 shortly after the 2012 shipping reform package commenced on 1 July 2012;
- Uncertainty caused by the way the 2012 regulatory provisions were administered by the Commonwealth Department of Infrastructure, Regional Development and Cities contrary to key provisions in the Object of the CT Act and consequential legal challenges that spun out over 2012 to 2014; and
- Flaws in the shipping tax incentives that resulted in Australian tax incentives being uncompetitive with other nations such as Singapore, Hong Kong, UK and Denmark.

A number of these issues were addressed in a 2016 analysis of the east coast seaborne bulk commodity trades prepared for the MUA by SMG which indicated that coastal commodity movements remain significant in all trades. The SMG analysis concluded that it is apparent that there are sufficient volumes of cargo being moved to justify the use of dedicated Australian ships but notwithstanding

⁸⁰Austrade, Transport Industry Capability Reports, *Shipbuilding (commercial)*
<https://www.austrade.gov.au/International/Buy/Australian-industry-capabilities/Transport>

this, the number of GL and TGL ships is declining. The SMG report explained the reasons why GL and TGL ships are being replaced as follows:

- Financial - primarily due to the additional cost of Australian crews (\$4.7 million per annum, on average) – in circumstances where legislative support for Australian ships is insufficient to prevent replacement of Australian ships by foreign ships.
- Competition between the various shippers dealing in the same commodity, where freight is a differentiator on the end price.
- Coastal seaborne trade bearing the cost of its infrastructure in and around ports whereas its road and rail competitors enjoy infrastructure access at a much lower price, despite the economies of scale and lower environmental impact of ships.
- Shipping simply is not a core business for the vast majority of shippers and cargo interests, in Australia and it is therefore being freely outsourced with no legislative disincentive.
- Broadly speaking, there are no Australian-domiciled pure shipowners with sufficient capital or financial capability to challenge the issue of TLs by introducing new shipping capacity. Toll and SeaRoad are the exceptions but apparently on the basis of their provision of a sea-highway connecting Tasmania to the mainland.
- There is little government supported incentive for shippers to utilise GLs other than the taxation benefits of the *Shipping Reform (Tax Incentives) Act 2012*, which have proven to be inadequate.

Central to the mix of solutions proposed by SMG is a requirement for better fiscal support for Australian ships, combined with regulatory and logistic support. There are clearly a range of interrelated factors that have combined to dissuade ship owners, ship operators and investors from investing in Australian ships. This needs to be addressed under a new national shipping policy.⁸¹

The priority reform to complement changes to the regulatory framework proposed in response to ToR ii below, that will address the fiscal barriers outlined above, is that the Commonwealth Government improve shipping and seafarer tax incentives⁸² to:

For ship owners and ship operators:

- Resolve the design flaw in the current income tax exemption provision that applies to eligible shipping operators, whereby under the current design, the benefits to shipowners may effectively be clawed back when exempt profits of shipping operators are distributed to investors. To address this flaw, the Commonwealth Government needs to amend the shipping income tax exemption provisions in various tax laws⁸³ to:
 - Introduce deemed franking credits in respect of dividends to resident shareholders; and

⁸¹ Strategic Marine Group Pty Ltd, *Coastal Shipping Research & Analysis of the east coast seaborne bulk commodity trades*, A report prepared for the Maritime Union of Australia, July 2016.

⁸² There are four shipping tax incentives: They are:

- Shipping Exempt Income tax incentive for **Australian operators** of Australian registered eligible vessels on qualifying shipping income;
- Accelerated depreciation and rollover relief for **Australian corporate owners** of Australian registered eligible vessels;
- Refundable tax offset for **Australian corporate employers** who employ eligible Australian seafarers on overseas voyages performed by Australian registered eligible vessels; and
- Exemption from royalty withholding tax for **foreign owners** of eligible vessels leased under a bareboat or demise charter to an Australian resident company.

⁸³ These are: The *Income Tax Assessment Act 1997* and the *Income Tax Assessment Act 1936* (as amended by the *Tax Laws Amendment (Shipping Reform) Act 2012*).

- Introduce a dividend withholding tax exemption in respect of dividends to non-resident shareholders.
- Amend the definition of core shipping activities to include ships that are used wholly or mainly in, or in any operations or activities associated with or incidental to, exploring or exploiting the mineral and other non-living resources of the seabed and its subsoil. To achieve this, the exclusion of offshore industry vessels in s10(4)(c) of the *Shipping Reform (Tax Incentives) Act 2012* would need to be removed:
 - The possible extension of the taxation incentives to vessels operating in the offshore oil and gas industry is aimed at providing incentives for those vessel owners/operators to register their vessel on the AGSR, which is a core eligibility requirement to gain access to the tax incentives. It would also require the owner/operator of such ships to have in place a training plan that meets the training requirements specified in Part 2 of the Shipping Reform (Tax Incentives) Regulation 2012 i.e. to have a cadet/trainee in Master, Engineer and Rating/Steward on each ship accessing the tax incentive. This concession to the offshore sector is designed to help build the maritime cluster.
- Amend the eligibility for access to the Shipping Exempt Income tax incentive for Australian operators so it applies to operators of modified general licence (MGL) ships (a proposed new licence type applying to foreign ships employing Australian seafarers).
- Amend the GST and Customs duty requirements so that Australian ships are not disadvantaged relative to foreign registered ships when operating in coastal trade.
- Legislate a ships capital grant scheme similar to that which was in place from 1987 to 1996 under the *Ships (Capital Grants) Act 1987*.

For seafarers:

- Amend the *Income Tax Assessment Act 1997* at s61-705 (Who is entitled to the seafarer tax offset), so the offset is available in respect of all seafarers, regardless of occupational classification, and to seafarers engaged on a wider range of shipping activities and ships than currently applies (including for Australian seafarers engaged on foreign registered ships).
 - This is particularly important given the MUA proposal to establish a new coastal shipping licence, the modified general licence, which applies to foreign ships with Australian crews.
- Amend the *Income Tax Assessment Act 1997* to allow Australian resident seafarers employed by foreign corporations in foreign shipping activities, to manage their own tax affairs. Rather than the shipowner, operator or employer needing to claim a tax rebate, from Government, each individual seafarer should be able to seek an exemption by themselves when lodging a tax return if they are an Australian taxpayer, so as to bypass any administration or involvement with the ATO by the foreign employer, as is the case in all other nations. This would provide a complimentary seafarer income tax structure for those not employed by Australian companies or on Australian registered ships (so Australian's are treated on an equivalent basis as their international counterparts, aimed at encouraging foreign ship owners and operators to employ Australian seafarers):
 - It should be noted that the Australian labour costs of Australian deck officers and engineers are consistent with the labour costs for international deck officers and engineers in the international seafarer labour market given the shipping tax incentives offered by most foreign countries. However, due to Australian seafarer tax

arrangements, Australian seafarers are disadvantaged in the global seafarer labour market by their home nation income tax requirements.

This package of reforms is aimed at ensuring Australian shipping tax incentives are comparable with the shipping tax incentives provided in nations such as Singapore and Hong Kong aimed at creating a positive investment climate for investors.

Recommendation 4

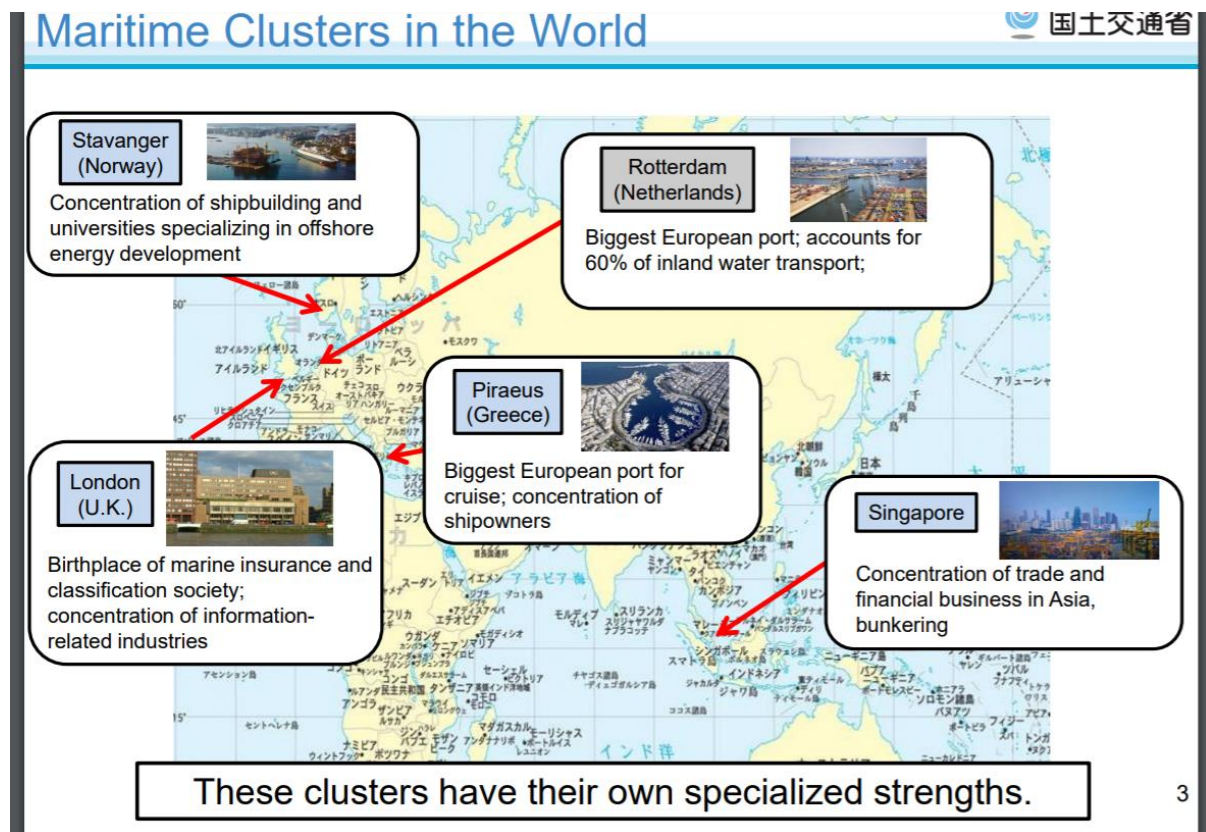
That the Committee recommend to the Australian Government that it implement the reforms to shipping taxation incentives as outlined in this submission as a critical support measure to stimulate investment in new Australian ships that will be necessary to implement a new national shipping policy.

With the right policy settings Australian can create a maritime cluster

If there is policy, administrative and funding support from government and from industry, there is no reason why a maritime cluster cannot be created in Australia.

Successful maritime clusters have developed in Europe and Asia as shown in Figure 10.

Figure 10: Key maritime clusters across the world



Source: Presentation by Dr. Shin Otsubo, Deputy Director-General for Engineering Affairs, Ministry of Land, Infrastructure, Transport and Tourism, *Japan Maritime Cluster in Japan - Shipbuilding and WP6*, OECD Workshop on Maritime Clusters and Global Challenges, December 2016
<http://www.oecd.org/industry/ind/workshoponmaritimeclustersandglobalchallenges.htm>

An examination of maritime cluster development in Europe indicates that main goal from government and industry support for maritime clusters has been increased competitiveness of the sector through long-term internal and external collaboration between companies, research and development (R&D) and educational institutions. As far as Denmark is concerned the main achievements of the commitment to cluster development have been:

- Stronger interaction and collaboration;
- Common strategic focus;
- Increased innovation and entrepreneurship;
- Better access to competence;
- Stronger global orientation;
- Improved attractiveness of the industry sector; and
- Increased value creation and competitiveness.⁸⁴

The GCE Blue Maritime cluster on the west coast of Norway is a good example of a maritime cluster. It is one of the world's most complete maritime clusters and a competitive hub in advanced offshore vessels for the global oil and gas industry. The cluster, through a high rate of innovation, a culture for pioneering entrepreneurship, focus on quality and good business practice has gained a significant share of the global offshore vessel market. Areas of interest within the cluster include:

- Virtual prototyping;
- Simulation driven innovation;
- Big data;
- Robotics
- Advanced manufacturing;
- Mechatronics;
- Advanced Marine Operations; and
- Human Factor driven operations.

The GCE Blue Maritime cluster involves:

- 18 Shipping companies;
- 14 Design enterprises;
- 14 Shipyards;
- 172 Equipment suppliers;
- Over 22,500 employees are employed within the cluster partners; and
- Turnover in Euros is 9.5 B per annum.⁸⁵

In France the goals of its maritime cluster are:

- Gathering the whole maritime sectors (every kind of activities and structures) linked with the blue economy.
- Fostering synergies between members, stimulating business and foremost, sustainable development.
- To influence policy and decision makers to consider blue economy growth as central to tomorrow's economy and for the future of the planet.⁸⁶

⁸⁴ Bjørn Arne Skogstad, Manager, Norwegian Centres of Expertise and Global Centres of Expertise, Innovation Norway, Presentation to OECD Workshop on Maritime Clusters and Global Challenges, *Development and benefits of maritime clusters Norwegian cluster policy*

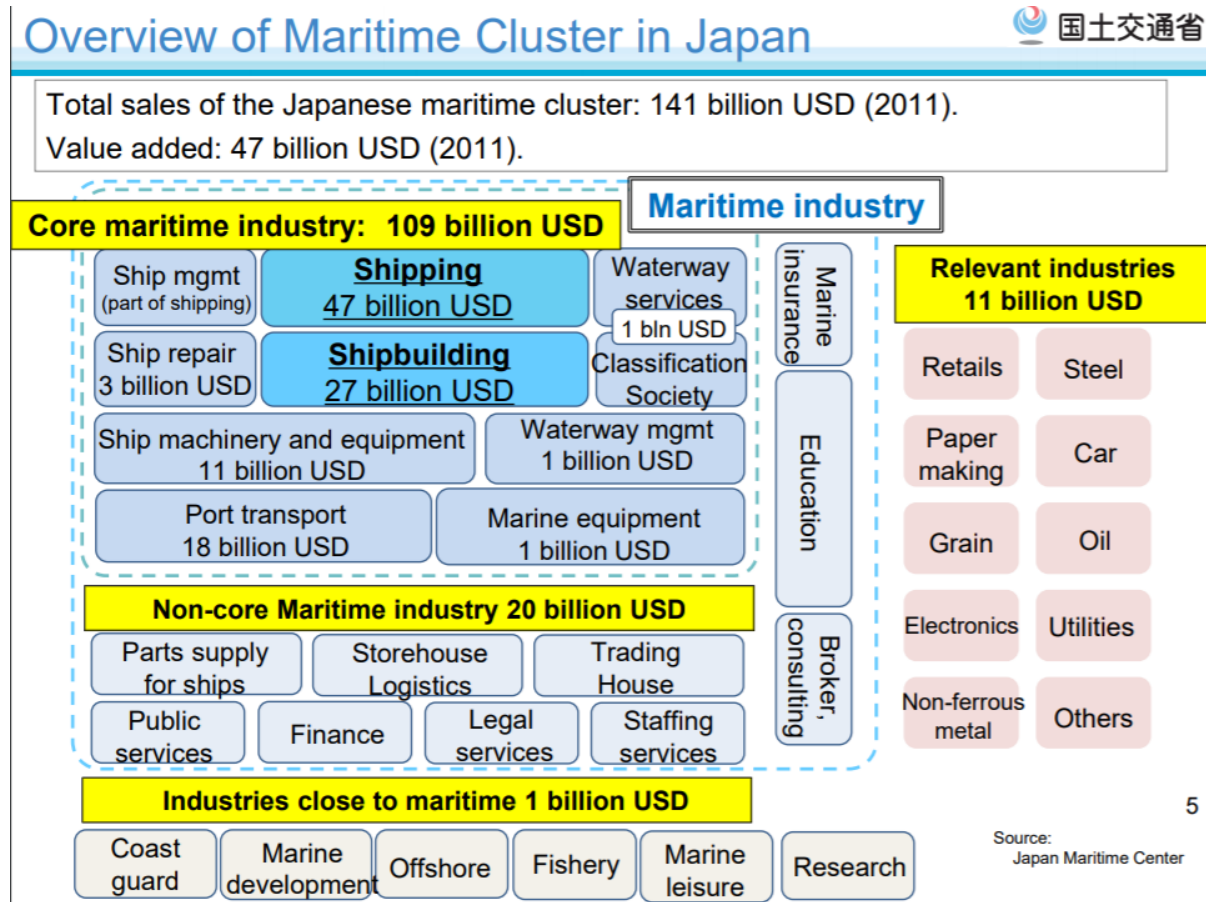
<http://www.oecd.org/industry/ind/workshoponmaritimeclustersandglobalchallenges.htm>

⁸⁵ Ibid

⁸⁶ Frédéric Moncany de Saint-Aignan, President, French Maritime Cluster, Presentation to OECD Workshop on Maritime Clusters and Global Challenges, *French Maritime Cluster: Heading for blue growth* December

Japan is also promoting development of a maritime cluster as shown in Figure 11.

Figure 11: Overview of Japan’s maritime cluster



Source: Presentation by Dr. Shin Otsubo, Deputy Director-General for Engineering Affairs, Ministry of Land, Infrastructure, Transport and Tourism, *Japan Maritime Cluster in Japan - Shipbuilding and WP6*, OECD Workshop on Maritime Clusters and Global Challenges, December 2016
<http://www.oecd.org/industry/ind/workshoponmaritimeclustersandglobalchallenges.htm>

The core of an Australian maritime cluster could revolve around:

- Australia as a shipper of product to world markets – as a major user of the globe’s ship charter services, and as a hub marketer of resource products.
- Australia’s coastal shipping sector, particularly if it develops in ways proposed in this submission.
- The nation’s expertise and innovation in supply chain management.
- The nation’s ports sector.
- The nations expertise in offshore oil and gas exploration, construction, production and transportation – where ships, platforms and marine systems are a central element of that sector.
- Development of an offshore wind energy sector and associated specialised construction vessels and equipment.

2016, http://www.oecd.org/sti/ind/Session%204_d%20-%20Frederic%20Moncany%20de%20Saint-Aignan%20-%20Web.pdf

- Defence shipbuilding and the marine innovation that will arise from that Aus\$80 billion investment.
- Civilian shipbuilding, particularly aluminium hulled ships for both civilian and defence needs.
- Large cruise shipping.
- Expedition cruise shipping and other forms of marine tourism.
- Marine and oceanographic research and the nation's responsibilities in the Southern Ocean and Antarctic.
- Aquaculture.
- The many Universities with a focus on ports, shipping and the marine environment.
- A highly skilled seafaring and maritime workforce.

The MUA proposes that the Australian Government establish an Australian maritime cluster development task force to advise the government on the possible development of a maritime cluster in Australia, in parallel with implementation of the regulatory, taxation and maritime skill development proposals in this submission.

Recommendation 5

That the Committee recommend to the Australian Government that it establish an Australian maritime cluster development task force to advise the Government on the possible development of a maritime cluster in Australia, in parallel with implementation of the regulatory, taxation and maritime skill development proposals in this submission.

ToR ii: The establishment of an efficient and commercially-oriented coastal ship licensing system and foreign crew visa system

The regulatory, taxation, administrative and funding priorities to establish of an efficient and commercially-oriented coastal ship licensing system and foreign crew visa system

The priority reforms to overarch changes to shipping taxation incentives identified in response to ToR i above, is that the Commonwealth Government:

- Reform the ship licencing and associated provisions in the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (CT Act);
- Repeal Part B of the Seagoing Industry Award 2010;
- Amend the Fair Work Regulations 2009;
- Reform the *Customs Act 1901* (Customs Act);
- Repeal certain provisions in the *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012*;
- Repeal the Australian International Register (AISR) provisions in the *Shipping Registration Act 1981* (SR Act);
- Reform the Maritime Crew Visa (MCV) system;
- Apply the Australian participation provisions of the *Australian Jobs Act 2013* to the sea transportation elements of major LNG projects; and
- Amend the *Navigation Act 2012*.

Reform of the CT Act

The main amendments to the CT Act proposed by the MUA are to:

- Amend the Object clause in the CT Act:

- The objective is to remove ambiguity in the Object as identified in Australian Court judgements, and to make it explicit that the primary Object of the CT Act is to provide preferential treatment for Australian ships in coastal trade. The proposed new Object is set out in **Appendix 3**.
- Extend the operation of the CT Act to include ships trading intrastate:
 - The objective is threefold:
 - (i) To streamline and harmonise the economic regulation of all Australian coastal shipping;
 - (ii) To restore the economic regulation of intrastate shipping as previously applied in Qld and WA prior to commencement of the *Marine Safety (Domestic Commercial Ship) National Law Act 2012* (National Law Act) and reform of State marine Regulations; and
 - (iii) To ensure that coverage of the economic regulation of shipping is consistent with the coverage of marine safety law, shipping industry workers' compensation law and of shipping industry occupational health and safety law (subject to passage of a modified Seafarers and Other Legislation Amendment Bill 2016⁸⁷).
- Remove Emergency licences as a licence type that can be issued under the CT Act
 - As not a single Emergency licence has been issued in over 6 years since the CT Act commenced in 2012 it is clearly of no value to industry and should be removed as a licence type. The MUA nevertheless proposes that the Authority have the power to issue a TL for a ship to transport small volume and specialist cargoes on an irregular basis and at short notice under specified conditions – See Appendix 5.
- Extend the types of ships that the CT Act applies to
 - The objective is fourfold:
 - (a) To extend the operation of the Act to Defence Force auxiliary fleet ships (that that will in future be defined as Strategic Fleet ships) that may be civilian crewed and operate at times as a commercial ship.
 - (b) To extend the operation of the Act to some types of offshore ships e.g. ships transporting oil/condensate/gas from offshore facilities to a mainland refinery, storage or other facility.
 - (c) To extend the operation of the Act to large fishing or aquaculture ships and fishing fleet support ships such as fish factory ships i.e. to those 35 metres in length and above.
 - (d) To extend the operation of the Act to a ship used as temporary bulk or liquid storage facility.
 - (e) To clarify the operation of the Act to large passenger ships that are currently the subject of an exemption, requiring a new Division in the CT Act to deal with temporary licences for large passenger ships.
 - (f) To extend the operation of the Act to ships operating intrastate.
- Establish a coastal ship licencing authority
 - The objective is to provide for the establishment and operation of an independent industry body (a statutory authority e.g. an Australian Coastal Ship Licencing Authority) to supervise the licencing of ships consistent with legislated criteria to be utilised in considering applications for ship licences. This is designed to introduce commercial principles into ship licencing and to remove the role of Departmental officers in

⁸⁷ The Seafarers and Other Legislation Amendment Bill 2016 remains in the Parliament due to Senate opposition to the Bill arising from strong trade union and shipping industry representations that the Bill should not be passed in its current form. One provision in the Bill is to align the *Occupational Health and Safety (Maritime Industry) Act 1993* with the model *Work Health and Safety Act 2011* (which would further harmonise work health and safety law in Australia).

determining commercial decisions about coastal ship operations. The proposed functions of the Authority are set out in **Appendix 4**.

- Strengthen the application process for a General Licence (GL) consistent with the revised Object clause and the proposed establishment of an Australian Coastal Ship Licencing Authority:
 - The objective is to:
 - (a) Specify the type of work visa that a non-national seafarer must hold to be eligible to be employed on GL ship, noting that s13(2)(b)(iii) of the CT Act contemplates that seafarers on GL ships may be holders of a temporary visa;
 - (b) Specify the marine qualifications that seafarers must hold to be eligible to be employed on GL ship, noting that temporary visa holders may hold an internationally recognised certificate that is not accompanied by an Australian VET qualification;
 - (c) Require that the Authority must take into account certain matters when deciding on an application for a GL. For example, to enhance Australia's supply chain security, it might be appropriate that legislation require a specified level of "Australian connection or content" in the transportation components of critical economic cargoes, particularly energy, including refined petroleum products, as well as high value cargoes e.g. LNG, and other trades such as high consequence cargos (e.g. ammonium nitrate), high security cargos (e.g. weapons, munitions, explosives) and dangerous cargos (e.g. Av gas, other liquid and gas fuel);
 - (d) Specify a timeframe under which the Authority must provide reasons for a decision not to approve a GL application;
 - (e) Specify that a GL must be immediately made available to any crew member or authorised officer of a seafarer representative organisation upon request;
 - (f) Specify the timeframe for the Authority to give written notice of the cancellation to the holder of a GL;
 - (g) Specify the timeframe by which the Authority must cause a summary of the information contained in the annual reports provided by GL holders to be published on the Authority's website;
 - (h) Strengthen the procedure for surrendering a GL; and
 - (h) Provide a procedure for the intended withdrawal of a GL ship from a coastal trade.
- Provide for a new licence type, a modified general licence (MGL) (whereby the ship is foreign registered but employs Australian crew) being a licence granted to a ship that:
 - (i) Operates under a demise charter as defined by s9 of the *Shipping Registration Act 1981* (SR Act) and is not registered on the AGSR;
 - (ii) Uses an Australian port as its home port;
 - (iii) Is crewed by Australian national seafarers sourced from an Australian crewing corporation; and
 - (iv) Is operated by an Australian corporation, or a corporation that operates in Australia, even if its ship chartering operations are conducted by a subsidiary or unit of the company located outside Australia.
- Strengthen the application process for the issuing of Temporary Licences (TL) **for cargo ships**, consistent with the revised Object clause and the proposed establishment of an Australian Coastal Ship Licencing Authority:
 - The objective is to:
 - a) Amend the contestability provisions by replacing the current provisions with a requirement for commercial negotiations between: (i) the GL holder who contests for a TL cargo; and (ii) the shipper of the cargo requiring transportation services to settle the terms for provision of a GL ship/s in a trade and for settling an appropriate balance between GL ships and TL ships in each trade where the trade volume requires ship capacity beyond the capacity of a suitable and available GL

- ship/s (in circumstances where the GL holder has first right to provide the TL ship or ships);
- b) Establish a government tender process for the supply of GL ships where no suitable GL ship (or ships) is available to meet the shipper's transportation needs;
 - c) Provide for commercial arbitration to help facilitate fair commercial outcomes; and
 - d) Provide for establishment of price reviews/price monitoring by the ACCC or another body to eliminate price gouging in ship trades where there is only one ship supplier:
 - ❖ A summary of the operation of the proposed new TL application process for cargo ships is provided at **Appendix 5**.
- Provide a separate application process for issuing Temporary Licences (TL) **for passenger ships**, consistent with the revised Object clause and the proposed establishment of an Australian Coastal Ship Licencing Authority. Note that this provision is predicated on repeal of the Ministerial exemption for large cruise ships. Note also that the current exemption does not apply to Bass Strait passenger services (though this route is proposed for declaration by the Authority as a National interest shipping trade, route or market segment).
 - The objective is to provide a separate process for dealing with applications for TLs for passenger ships that is distinguished from the process for dealing with applications for TLs for cargo ships. The key features of a TL licencing process for passenger ships are:
 - (i) That (a) A holder of a General Licence (GL, or a holder of a modified general licence – a MGL) for one or more ships; or (b) The owner, charterer or agent of a non-licenced ship or ships, may apply for a TL for a large passenger ship (large passenger ships to be defined so that, inter alia, they do not include expedition cruise ships);
 - (ii) An application for a TL for passenger ships may be for one or more ships;
 - (iii) The Authority must issue a TL to the ship or ships subject to the application, for a period of up to 3 years, subject to conditions, such as
 - (a) The applicant must advise the Authority, no later than 1 year before expiry of the licence period, of any reason why it cannot transition at least 1 of its TL ships to a GL or MGL ship, on commencement of the next licencing period; and
 - (b) A formal commitment to employ and train crew (marine and non-marine) from Australia and the nations of the South West Pacific including PNG, Timor Leste and Indonesia; and
 - (c) A commitment to secure a union negotiated collective agreement for seafarers on the ship, that is based on the ITF Total Crew Cost (TCC) Agreement, and
 - (d) A commitment to secure a union negotiated collective agreement for all non-marine crew on the ship.
 - Note that an unlicenced large passenger ship will be permitted to dock, but will not be permitted to embark or disembark passengers, at more than one Australian port.

Note that the intention of this legislative package is that GL ships will be eligible for all the shipping tax incentives, while a MGL ship will be eligible for only some of the tax incentives.

- Update definitions in the CT Act. Key new definitions include:
 - *National interest shipping trades, routes or market segments* means shipping trades, routes and markets which are declared by the Authority as being of such national significance that all coastal shipping in the declared trade, route or market segment must take place in GL ships. It is intended that these include, among possible others:
 - (i) Ships servicing Bass Strait;
 - (ii) Ships servicing remote and regional communities;

(iii) Ships servicing the supply chains (to be defined in the CT Act) of key national economically significant industry sectors, such as: steel, aluminium and energy manufacture/production (industries to be defined and be specified in Regulations).

(iii) Ships providing expedition cruise services.

Note i: These ships are cabotage ships; and operate under the provisions of the CT Act. Ships under (i), (ii) and (iv) must be on the AGSR and have a GL; while ships under (iii) can be either AGSR ships issued with a GL, or foreign ships issued with a modified general licence (MGL), meaning they must be crewed by Australians.

➤ *National strategic fleet ships*, means ships which are of national strategic importance to the nation, and provide a social and or community service benefit to the nation. National Strategic Fleet ships include:

(i) Emergency towage vessels (ETVs - marine rescue and salvage ships) operated by AMSA;

(ii) Research, supply and oceanographic ships such as those operated by or chartered to the CSIRO, the Australian Antarctic Division of the Department of Environment and Energy, and marine authorities such as the Great Barrier Reef Marine Park Authority;

(iii) Border Force ships;

(iv) Certain Defence/Navy ships such as auxiliary fleet ships (particularly non-combat ships such as Navy training ships, AORs, supply ships etc);

(v) Training ships such as those operated by the Australian Maritime College (AMC);

(vi) A core fleet of clean petroleum product tankers involved in international supply chains and providing national fuel security; and

(vii) Offshore wind construction ships.

Note i: The proposal is that these ship categories be specified in Regulations. These are not cabotage ships and are not subject to the main provisions of the CT Act but for national strategic and security reasons must be on the AGSR (and if involved in coastal trading, hold a GL), and in the case of certain Defence/Navy ships, operate under the Naval Flag Administrator. It is intended that commercial ships in the Strategic Fleet be entitled to the shipping tax incentives.

Note ii: Offshore wind turbine installation ships are included because of their strategic significance in developing Australia's renewable energy resources required to meet Australia's greenhouse gas emissions target. These ships are in limited supply internationally, and only a small proportion are equipped to build the large turbines further offshore that are proposed for Australia. They are purpose-built ships with more deck space than a typical offshore oil and gas support ship, they cope with more severe weather and as a result can reduce overall installation durations. They require support to ensure that Australia can access the limited global supply of these specialist ships for offshore wind farm construction.

Repeal Part B of the Seagoing Industry Award 2010

Repealing Part B of the Seagoing Industry Award 2010 and amending Part 4. Coverage so the Award covers employers, except employers of seafarers on ships issued with a Temporary Licence under the CT Act, will have the effect of removing the application of Australian Award provisions to non-national seafarers employed on ships issued with a Temporary Licence. With those changes, the MUA is of the view that repeal of Part B of the Award will not result in Part A of the Award applying to such seafarers. Notwithstanding such amendments to the Award, the *Fair Work Act 2009* will continue to apply to seafarers on ships issued with a TL, meaning that seafarers on TL ships will continue to be entitled to the benefit of the National Employment Standards (NES). On repeal of Part B therefore, non-national seafarers on ships issued with a TL will, under the proposal for a new type of maritime crew visa for

non-national seafarers on TL ships set out in this submission, need to hold that new type of maritime crew visa that will require payment of market rates (based on the Canadian seafarer visa system), as well as being entitled to the benefits of the NES. The MUA will confer with MIAL, the ITF and the Fair Work Ombudsman to establish an orderly way to apply the NES to seafarers on TL ships.

If there were to be barriers to, or delay in, the repeal of Part B of the Seagoing Industry Award 2010 and it continues in force, the MUA foreshadows that it may propose to Government that it amend the definition of coastal trading in Division 3 (Geographical application of the Act) in Regulation 1.15B (Definitions for Division 3) of the Fair Work Regulations 2009 so that Part B of the Award applies to:

- All voyages undertaken while a Temporary Licence (TL) is in force, not just the third and subsequent voyages. This has proven to be an administrative nuisance and serves no policy purpose); and
- The ballast legs of TL voyages, noting that there are some parties, including the Fair Work Ombudsman (FWO), who believe that Part B only applies when TL ships are loaded with cargo or passengers.

Amend the Fair Work Regulations 2009

If the MUAs proposed amendments to the CT Act as outlined above are adopted, then consequential amendments to the Fair Work Regulations 2009 will be required e.g. removal of Emergency Licence as a licence type mentioned in Regulation 1.15D and 1.15E of the Regulations, and inclusion of a new licence type – the MGL.

Reform the Customs Act 1901

The main amendments proposed by the MUA are to:

- Exempt specified ships from the importation requirements under the Customs Act and Regulations:
 - The main objective is to facilitate access to Australia by foreign registered ships for limited periods to undertake specific commercial activities that add to the maritime cluster such as: (i) ship repair, maintenance and dry docking; (ii) temporary storage ships to hold inventory such as petroleum product; (iii) mother ships awaiting loading from coastal barges; and or (iv) ship based production and processing e.g. fish products.
 - Under current arrangements, these categories of ship are invariably considered to be imported, resulting in the Maritime Crew Visa (MCV – a transit visa) ceasing to have effect after 5 days (where the duration of the ship activity will invariably exceed 5 days), meaning crew on board such ships are required to have a valid work visa to remain in Australia after the 5 day limit of their MCV. This adds major costs to the commercial activity.

Repeal certain provisions in the Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012

- It is proposed that the Transitional General Licence (TGL) provisions in Part 3 of the CT Consequential Amendments and Transitional Provisions Act be repealed given that there are now no TGLs remaining in force following BHPs withdrawal of the *Mariloula* and *Lowlands Brilliance* from Australian coastal trade.

Repeal the Australian International Register (AISR) provisions in the Shipping Registration Act 1981 (SR Act)

- It is proposed that the Australian International Shipping Register (AISR) provisions in the *Shipping Registration Act 1981* be repealed, along with repeal of associated Regulations and Determinations:
 - Not a single ship has been registered on the AISR, for a variety of reasons going to: lack of promotion of the Register in the international shipowner market; a lack of policy certainty at Government level; notwithstanding the availability of tax incentives, the AISR was not regarded as competitive with other major maritime clusters such as Singapore where Government support is much stronger and sustained; and lack of Australian shipowners with sufficient capital and entrepreneurial vision to invest in ships, in circumstances where other aspects of national shipping policy were not considered to provide policy certainty. For those reasons there does not appear to be sound reasons to maintain the option of an AISR.

Reform the Maritime Crew Visa (MCV) system

The main amendments proposed by the MUA are to:

- Close loopholes in the current subclass 988 Maritime Crew Visa (MCV) system for foreign seafarers
 - The objective is fourfold:
 - (i) To create a new and separate 'maritime crew visa' for non-nationals employed on ships issued with a TL under the CT Act that contains the labour market testing requirements of a work visa, such as the Subclass 482 Temporary Skill Shortage (TSS) visa, and payment of market rates (similar to the arrangements operating under the Canadian *Coasting Trade Act 1992* and Canada's Labour Market Impact Assessment (LMIA) requirements);
 - (ii) To amend the approval requirements for obtaining an existing MCV (Maritime Crew visa (subclass 988)) so that the security, character and identify checking is strengthened consistent with and equivalent to the security, character and identity checking required for the issue of a Maritime Security Identification Card (MSIC) under the *Maritime Transport and Offshore Facilities Security Act 2003*;
 - (iii) To remove the loopholes in visa sponsoring arrangements to eliminate the practice of employers sponsoring foreign maritime workers in permissible occupations and then transferring those workers to maritime occupations that are not eligible for sponsorship e.g. Integrated Rating (those occupations specified in AMSA Marine Order 73); and
 - (iv) Strengthen the role of AMSA in assessing the marine qualifications of workers sponsored by employers under a work visa for employment in maritime occupations.

Recommendation 6

That the Committee recommend to the Australian Government that it adopt the detailed regulatory and administrative reforms outlined in response to ToR ii in this submission as the basis for development of a shipping reform legislative package to underpin development of a Bill or Bills to give effect to a new national shipping policy.

Applying the Australian participation provisions of the Australian Jobs Act 2013 to the sea transportation elements of LNG projects

It is the submission of the MUA that more needs to be done to ensure adherence with the object of the *Australian Jobs Act 2013* in relation to offshore and onshore LNG projects. A key objective of the Act is to provide that an Australian Industry Participation plan for a major project will ensure that Australian entities have full, fair and reasonable opportunity to bid for the supply of key goods or services for the project.

It is our assessment that Australian Industry Participation plans for LNG projects are either not, or not adequately, providing for Australian entities to have full, fair and reasonable opportunity to bid for the transportation services involving the movement of LNG from Australian LNG projects to overseas markets.

There are now 10 producing LNG projects in Australia, requiring the equivalent of approximately 40-50 LNG tankers to transport the LNG cargo to overseas markets. Just four of those ships (less than 10%) are Australian registered employing Australian seafarers. They are all operated by North West Shelf Shipping Services Company (NWSSSC) for Woodside's NWS LNG project, the first Australian LNG project to commence operations, in 1989.

Six new LNG projects have commenced since the Australian Jobs Act commenced in 2013. Not one Australian LNG ship is utilised, nor is one Australian seafarer employed in the transportation of LNG by those 6 projects.

It is the view of the MUA that one of the key reasons why the Australian jobs Act has failed to secure any level of Australian participation in the transportation of LNG from these projects is that the project proponent submitting the Australian Industry Participation plans has failed to properly specify the standards for shipping services for the project that are to be acquired by the procurement entity as required by s35(1)(e)(i) of the Act, and that the Authority has failed to address this in its compliance role.

If the project proponent was specifying appropriate labour standards for the workforce elements of the shipping services required for the transportation of Australian LNG, being the International Labour Organisation (ILO) Core Labour Conventions⁸⁸, given effect through the *Fair Work Act 2009*, and the Modern Awards and enterprise agreements made under that Act, then Australian entities may have had a full, fair and reasonable opportunity to bid for those transportation services.

In the absence of those labour standards, foreign shipping service providers have been given a free ride and monopoly access to those LNG transportation services, contrary to the national interest rationale for introduction of the Australian Jobs Act.

The MUA proposes that either the administration of the Australian Jobs Act be strengthened, or it be amended to ensure that a fair share of the commercial opportunities, such as the transportation of LNG to foreign markets under long term contracts of affreightment (COA), are taken up by Australian entities.

Recommendation 7

That the Committee recommend to the Australian Government that it initiate a review of the operation of the *Australian Jobs Act 2013* to identify legislative and or administrative changes that could be made to ensure that a fair share of the transportation services for the carriage of LNG to export markets are delivered in ships operated by Australian entities that employ Australian seafarers.

Amend the Navigation Act 2012

Note: Amending the Navigation Act is also addressed under ToR vi: Workforce development and the seafarer training system)

⁸⁸ ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

Better integration between the Navigation Act and National Law jurisdictions for ship and seafarer safety

Australian ship and seafarer safety are currently regulated under two Acts, the *Navigation Act 2012* (*Navigation Act*) and the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (National Law Act).

The Navigation Act applies the standards of the International Maritime Organisation (IMO) Conventions such as the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended; the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 and by the Protocol of 1997 (MARPOL); the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) as amended, including the 1995 and 2010 Manila Amendments,⁸⁹ while the National Law Act applies Australian standards designed by the States/NT and originally only intended for small inshore vessels, essentially operating in coastal waters (3 nautical miles from the territorial sea baseline)⁹⁰.

These standards for DCVs are codified in the National Standards for Commercial Vessels (NSCVs). The NSCVs provide standards for vessel survey, construction, equipment, design, operation and crew competencies for domestic commercial vessels.⁹¹ The key NSCVs that are relevant to this inquiry are Part D, Crew competencies and Part E Operations, noting that the NSCVs operate as addendums to the Marine Orders 500 series that relate to DCVs, and that AMSA is currently re writing those standards to include them in new versions of Marine Orders e.g. MO505 is currently being re worked to incorporate NSCV Part D. MO504 (Certificates of Operation) has already been updated as of 1 July 2018, so that NSCV Part E is no longer independently in force.

We are particularly concerned that AMSA has ignored industry views in its consultation draft for a revised MO505, which in its current form would further erode ship safety standards. In light of this Senate inquiry, the current Senate Inquiry into AMSA, and the proposal we have outlined in this submission for a complete rethink of the dual system of ship safety regulation that currently exists, we urge the Committee to recommend that AMSA suspend its MO505 review process until other review processes have settled a more effective and durable safety regulatory system for Australian ships.

Part of the current problem is the peculiar construction of the application provisions of the Navigation Act and National Law Act, combined with their administration by AMSA under Marine Orders, which has resulted in a serious compromise of ship, cargo and passenger, and seafarer safety standards in Australia.

The underlying problem with the interaction of the application provisions in the Navigation Act and National Law Act is that: (a) the Navigation Act application provision which determine which ships are regulated Australian vessels (RAVs) is based on: (i) the registration status of a vessel; (ii) whether the vessel is voyaging or intends to voyage overseas; and (iii) the AMSA certificates held by the vessel (essentially, certificates that allow the vessel to voyage overseas); and (b) the National Law Act which

⁸⁹ These Conventions, and a full list of IMO Conventions can be found at

<http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/Default.aspx>

⁹⁰ A full list of maritime boundary definitions can be found at <http://www.ga.gov.au/scientific-topics/marine/jurisdiction/maritime-boundary-definitions#heading-3>

⁹¹ Details on the NSCVs can be found on the AMSA website at <https://www.amsa.gov.au/about/regulations-and-standards/national-standard-commercial-vessels-ns cv>

covers all other vessels, known as domestic commercial vessels (DCVs). No public data is available to enable identification of a ship as a RAV or DCV, so the system is opaque.

If vessels are not a RAV they are by default covered by the National Law Act and are DCVs (noting that operators whose ship is not voyaging overseas and is not likely to in the near future, can opt-out of the Navigation Act jurisdiction by simply giving up the AMSA ship certificates irrespective of the class of vessel, the domestic voyaging arrangements or operational characteristics of the vessel in Australian waters).

The way the two Acts are now administered by AMSA means that invariably, the default standard of ship safety and seafarer certification/VET qualifications on Australian registered ships is the National Law Act jurisdiction or domestic commercial vessel (DCV) jurisdiction rather than the pre 2012 default standard which was the Navigation Act or regulated Australian vessel (RAV) jurisdiction, which is based on internationally recognised standards of the IMO maritime Conventions.

AMSA appears to be hastening and encouraging this reversal of standards by the use of a range of powers it has, including:

- The power under s320 of the Navigation Act whereby AMSA may recognise a certificate, or a class of certificates, issued in relation to a vessel under the National Law, a law of a State or Territory or a law of a foreign country if AMSA is satisfied: (a) that the certificate is the equivalent of, or that it is appropriate to recognise the certificate as the equivalent of, a certificate prescribed by the regulations (Marine Orders); or (b) that the class of certificates is the equivalent of, or that it is appropriate to recognise the class as the equivalent of, a class of certificates prescribed by the regulations.
- The powers AMSA has given itself through the making of Marine Orders by the Chief Executive Officer, most notably (i) Marine Order 21 (Safety and emergency arrangements) relating to crewing complements (manning standards); and (ii) Marine Orders 70-73 dealing with seafarer certification (and associated VET qualifications). MO70 deals with seafarer certification generally while the other deal with the 3 occupational categories on ships: Deck Officers (MO71), Engineers (MO72) and Ratings (MO73); as well as MO505 (for seafarers on DCVs).
- The power to issue exemptions for vessels, classes of vessels or operations which are frequently not transparent, not subject to internal checks and balances and issued in response to political or commercial pressure rather than objective risk analysis. One example is exemption 13/13A Marine Safety (Wildlife or other sightseeing) Exemption 2017. Any exemptions should only be issued after an appropriate risk assessment and vessel inspection, subject to the approval of two or more managers, and published on AMSA's website.
- The power to issue exemptions for qualifications (known as endorsement approvals) which increases the limitations of near coastal certificate of competency, allowing seafarers to work on larger or more powerful vessels. This is allowed in AMSA instrument 2014/22 The National Regulator Endorsements Approval 2014. The application of this instrument is not transparent and expands the reach of MO 505 without oversight or consultation.
- Discretionary powers given to AMSA managers with delegations, which for example, permits an AMSA officer to decide at their sole discretion when making a Minimum Safe Manning Document (MSMD) for a ship, the seafarer certificates that must be held by a particular category of seafarer that make up the minimum complement of crew specified in the MSMD for the particular ship, as well as discretion in the making of related determinations and issuing of exemptions.
- The powers under Marine Order 504 (Certificates of Operation) which came into force on 1 July 2018, and which solidified a major shift in AMSA's safety regulation role when it took over as the national regulator. It allows the vessel operator to operate a ship with uncertificated

crew without any kind of training, including survival training, operating out to 200nm, often in charge of the welfare of passengers, and at the sole discretion of the owner. The Certificates of Operation issued by AMSA under this Marine Order do not list the minimum crew or appropriate crew for the vessel. An owner can obtain a Certificate of Operation by declaring that they have a Safety Management System (SMS), but most vessel SMSs are not viewed by AMSA, a delegate, or an accredited surveyor.

The combination of the application provisions in the two Act and the powers AMSA has to determine the standards for seafarers on board ships means that: (i) too many ships that should be covered by the Navigation Act are now covered by the National Law Act; and (ii) ships that are RAVs under the Navigation Act can now voyage with crew who do not hold internationally recognised certificates.

This erosion of ship safety is compounded by the lack of appropriate VET qualifications for Ratings that are employed on both RAVs and DCVs. This is addressed in detailed under Term of Reference vi: Workforce development and the seafarer training system, below.

It is critical to the safety and viability of an Australian coastal trading fleet that ships which are seagoing commercial vessels, as well as high risk vessels, be regulated by the Navigation Act and brought up to the minimum international standards contained in the IMO Conventions, and removed from National Law Act jurisdiction. Table 11 in **Appendix 6** compares vessel safety standards under the Navigation Act and National Law Act demonstrating the vastly different standards in the two jurisdictions.

It is the submission of the MUA that a review of the operation of the Navigation Act and National Law Act take place as a matter of urgency. It is our view that one of the most critical tasks for a review is to develop a new integrated application framework for these two Acts that applies the Navigation Act and IMO Convention standards to all vessels as the default standard, to include a provision for statutorily defined ships to be regulated under different standards.

It is the view of the MUA that all commercial vessels shall be regulated by the *Navigation Act 2012*, except those which:

- Voyage only within 12nm of the coast and a safe haven,
- Are 24m or under in length,
- Carry less than 50 passengers,
- Are fishing vessels under 35m in length,
- Do not carry dangerous or polluting cargoes, including oil and gas,
- Do not proceed on voyages of more than 36 hours in length,
- Do not carry out 'high risk' operations,

Note 1: Vessels greater than 24m and less than 80m and not engaged in high risk operations can apply to be regulated under the National Law providing the vessel remains in smooth waters or partially smooth waters.

Note 2: Vessels carrying more than 50 passengers and under 24m in length may apply to be regulated under the National Law providing the vessel remains in smooth waters or partially smooth waters.

Note 3: 'High risk' operations include tugs, ro-ros, dredgers, tankers, passenger vessels carrying more than 50 passengers and high-speed craft 12m and over in length. The national regulator may add (but not remove) vessels and classes of vessels to the schedule of 'high risk' vessels at any time.

Note 4: Vessels regulated under the Navigation Act but less than 80m long, with less than 3000kw engine power, and of less than 3000GRT and operating only in smooth waters or partially smooth waters can apply to use the General Purpose Hand qualification as part of their Minimum Safe Manning.

It will also be important that a review address the arrangements for issuing MSMDs and the conditions included in MSMDs. In particular we propose that the procedure for determining minimum safe manning for all ships involve the principal stakeholders representing ship operators and seafarers, and that the review also identify the principles to be applied in determining the conditions attached to MSMDs in relation to the certificates and VET and tertiary qualifications to be held by each occupational role identified in the MSMD.

Recommendation 8

That the Committee recommend to the Australian Government that it undertake an urgent review of:
* The impact of the implementation and operation of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (National Law Act) with a focus on the way that the coming into force of the National Law Act has rapidly degraded standards of ship safety, cargo integrity, passenger safety, occupational health and safety, crew certification and associated VET qualifications, particularly relative to the much higher and internationally recognised standards given effect by the *Navigation Act 2012*, and that a key task of the review be:

^ To develop a new application framework for these two Acts that applies the Navigation Act and IMO Convention standards to commercial vessels as the default standard, to include a provision for statutorily defined ships to be regulated under different standards. It is the view of the MUA that a new application provision require that all commercial vessels must be regulated by the *Navigation Act 2012*, except those which:

- Voyage only within 12nm of the coast and a safe haven.
- Are 24m or under in length.
- Carry less than 50 passengers.
- Are fishing vessels under 35m in length.
- Do not carry dangerous or polluting cargoes, including oil and gas.
- Do not proceed on voyages of more than 36 hours in length.
- Do not carry out 'high risk' operations.

Note 1: Vessels greater than 24m and less than 80m and not engaged in high risk operations can apply to be regulated under the National Law providing the vessel remains in smooth waters or partially smooth waters.

Note 2: Vessels carrying more than 50 passengers and under 24m in length may apply to be regulated under the National Law providing the vessel remains in smooth waters or partially smooth waters.

Note 3: 'High risk' operations include tugs, ro-ros, dredgers, tankers, passenger vessels carrying more than 50 passengers and high-speed craft 12m and over in length. The national regulator may add (but not remove) vessels and classes of vessels to the schedule of 'high risk' vessels at any time.

Note 4: Vessels other than tankers regulated under the Navigation Act but less than 80m long, with less than 3000kw engine power, and of less than 3000GRT and operating only in smooth waters or partially smooth waters may apply to use the General Purpose Hand qualification as part of their Minimum Safe Manning, subject to an assessment of required STCW short courses according to vessel operational functions and equipment

^ The arrangements for issuing Minimum Safe Manning Documents (MSMDs) for ships, requiring a new procedure that provides for stakeholder participation in determining minimum safe manning, and the operational and crew qualifications conditions to be included in MSMDs.

Recommendation 9

That the Committee to recommend to the Australian Government that AMSA suspend its current MO505 review process and not bring in a revised Marine Order until other review processes have settled a more effective and durable safety regulatory system for Australian ships.

ToR iii: The interaction with other modes of freight transport, non-freight shipping and government shipping

Introduction

Sea freight shipping, non-freight shipping and government shipping needs to be considered as a vital and integrated component of the maritime sector's contribution to the Australian freight and passenger transport network, to its industrial base, to its import and export needs, and to its security.

Australia needs to re-imagine its national freight and logistics network, and restore sea freight policy and planning so that it is given equal weighting in policy and planning with all the other freight modes. A fully integrated national freight transportation system, integrated with the international supply chains that feed the national freight system is essential if Australia is fully develop an efficient, innovative and high productivity national freight transport network.

Sea freight transport and the role of ships in the national freight network has not been given adequate attention in national freight transport and port policy and planning in recent decades. This is evidenced by the fact that the National Transport Commission's (NTC) study "*Who moves what where*", which reported in 2017 fails to mention sea freight and shipping, notwithstanding that stakeholders the NTC consulted highlighted coastal shipping as being a strong substitute for land transport in freight⁹², and the study objective being to better inform future planning and policy development for freight transport.⁹³

Similarly, the 2018 report of the Inquiry into National Freight and Supply Chain Priorities did not include among its priority actions a single proposal or solution to resolve the low and declining share of sea freight in the national freight task which its report highlighted, notwithstanding the report found that:

"A nation-wide, consistent and integrated approach to freight and supply chain issues is needed to enhance the efficiency of the movement of freight."

In fact, the Inquiry seems to have accepted, without credible evidence, the discredited lobbying of shipper interests about shipping regulatory and cost burdens because it suggested that:

*"If there were a relaxation of cabotage restrictions and/or the introduction of autonomous ships, coastal shipping could offer an attractive option for inter/intrastate logistics. It will maximise the use of available shipping capacity on the Australian coast and consequently grow the share of the freight task."*⁹⁴

⁹² National Transport Commission, *Supporting good decisions to improve transport productivity: Project outcomes report* August 2017 [https://www.ntc.gov.au/Media/Reports/\(507CD955-8E47-1563-3C9B-748C8B8A46D7\).pdf](https://www.ntc.gov.au/Media/Reports/(507CD955-8E47-1563-3C9B-748C8B8A46D7).pdf)

⁹³ National Transport Commission, Media release - *NTC calls on Australia's transport industry to provide more data for a study on the nation's transport movements* 8 February 2016

⁹⁴ Department of Infrastructure, Regional Development and Cities, *Report of the Inquiry into National Freight and Supply Chain Priorities*, March 2018, https://infrastructure.gov.au/transport/freight/freight-supply-chain-priorities/files/Inquiry_Report.pdf

In addition, the proposed 2019 Productivity Commission review of rail and road operating frameworks, by its very title, has excluded ship operating frameworks from its upcoming review. This needs to be rectified before the review commences.

All special interest group lobbying and government reports that advocate for foreign ships to operate freely in the domestic freight market to the detriment of Australian ships with Australian nationals as employees are:

- Approving the use of non-national labour in the domestic labour market being paid in accordance with the labour standards of their country of origin;
- Endorsing the removal of Australian labour standards given effect through such Acts as the *Fair Work Act 2009* and *Work Health and Safety Act 2011* in a domestic labour market, and replacement of those standards with standards of developing nations; and
- Endorsing a dual system of maritime security for seafarers employed in the same roles – one for Australian nationals and one for foreign nationals (with lower standards) that undermines national security.

This needs to be called out for what it is – endorsement of human rights abuse and discrimination in the Australian domestic freight industry contrary to all international labour standards frameworks to which Australia is a signatory such as the ILO Core Labour Conventions, UN Guiding Principles on Business and Human Rights and OECD Guidelines for Multinational Enterprises, and the key international Environmental, Social and Governance (ESG) standards frameworks (e.g. the UN Global Compact and the UN supported Principles for Responsible Investment (PRI)) endorsed by virtually all the shippers that are either taking advantage of or are contributing to human rights abuse in the shipping industry, such as BHP and Rio Tinto.

Governments which promote or endorse such a policy are also complicit in human rights abuses, contrary to their international law obligations.

Sea freight shipping

Notwithstanding such a major error of judgement about Australian shipping made by the Expert Panel⁹⁵ that supervised the report of the Inquiry into National Freight and Supply Chain Priorities, its report contains some important priorities (recommendations) that, if implemented appropriately, will facilitate interaction of the sea freight mode with other modes of freight transport.⁹⁶ The key recommendations (with caveats as noted) which we believe should be actively progressed are:

An integrated approach

R 1.1: Fund the Department of Infrastructure, Regional Development and Cities to establish a dedicated freight and supply chain unit with responsibility for ongoing development and implementation of the National Strategy.

R 1.2: Increase the department's capacity for technological and operational trend analysis and enhance its engagement with industry on potential trends and innovation in the wider economy, the logistics sector and ensure regulations enable the adoption of new technology and innovation.

⁹⁵ Marika Calfas, Chief Executive Officer, NSW Ports; Nicole Lockwood, Chair Freight and Logistics Council Western Australia and Infrastructure Australia Board Member; Maurice James, Managing Director, QUBE Holdings Limited; and David Simon, Executive Chairman, Simon National Carriers and former Chair, Australian Trucking Association.

⁹⁶ Department of Infrastructure, Regional Development and Cities, *Report of the Inquiry into National Freight and Supply Chain Priorities*, March 2018, https://infrastructure.gov.au/transport/freight/freight-supply-chain-priorities/files/Inquiry_Report.pdf.

R 1.3: Encourage adoption of global data standards and collaborative electronic platforms across all freight modes to streamline the exchange, comparison, and understanding of data within the land, sea and air freight sectors.

R 1.7: Implement a market solution to road user charging for all heavy and light vehicles, with pricing linked to the level of road infrastructure investment required, and community service obligation payments (or similar alternative) made available for maintenance of low volume roads which are key components of regional and rural transport networks:

- We believe this recommendation is important in moving towards delivery of a level and fair playing field in terms of government subsidisation of road and rail transport which creates a distorted freight cost structure under which ships must compete for freight.

R 1.9: Review opportunities for reform to competition policy to recognise that vertical integration where one player may own and operate different parts of a supply chain (for example, a single owner of rails, train sets and intermodal terminals) may produce a more efficient outcome for customers than enforced structural separation.

R 1.12: The COAG Transport and Infrastructure Council establish cost reflective pricing principles to apply to all transport modes to ensure freight moves via the most efficient transport mode. This work could be initiated through a review of current arrangements by a body like the Productivity Commission.

- We support this recommendation in-principle, but do not have confidence in the Productivity Commission to undertake the review given its anti-shipping bias and lack of policy rigor exhibited in previous reports that impacted on shipping e.g. its 2014 report of its inquiry into Tasmanian Shipping and Freight.

Measurement of freight performance

R 2.2: Benchmark key export supply chain performance against international competitors.

R 2.4: Fund the Australian Bureau of Statistics to establish a transport satellite account to its national accounts that separately reports the value of freight transport for the economy as a whole (e.g. GDP, employment, etc.):

- Given our concern about the poor quality of data on seafaring and maritime employment, this is an important recommendation, which we think should be expanded in scope to ensure ABS data more adequately reports maritime and seafaring labour market characteristics.

R 2.5: Fund a freight observatory to collect, analyse and publish freight performance data for all freight modes and supply chains to better inform decision making and investment, with appropriate governance arrangements and the potential for this function to be held by an independent body that has industry confidence.

Planning for current and future needs

R 3.1: Review and map current and proposed future key freight routes for all freight modes to include freight corridors, intermodal terminals, ports, airports, industrial areas, shipping lanes and flight paths, which if not appropriately managed, can create inefficiencies in the freight system. These maps would inform funding decisions and land use planning processes:

R 3.2: Review supply chains and identify any points on the key freight routes where they could be significantly impacted by disruption (for example from climate change or other actions). In the absence of alternative supply chain options, enable mitigation strategies to be put in place to ensure ongoing freight accessibility.

R 3.3: Preserve and protect land, air and water transport corridors and buffer/transition zones, as well as land for future freight use in growth areas, such as projects for the development of an alternative rail alignment into Port Kembla, Western Sydney Airport freight related road and rail, a high capacity rail link to the Port of Brisbane and intermodal terminal and pipeline connections and future intermodal locations for Inland Rail.

R 3.4: Ensure all tiers of government integrate appropriate land use planning protections for existing freight related activities such as: preservation of industrial land; buffer zones around key freight hubs to allow 24-hour freight operations; protection of corridors and buffer zones (including sea channels to ports, pipelines and air corridors to airports) and sites for future freight purposes; protecting existing freight areas from urban encroachment; improving communication on current and future noise issues; and identifying land for current and future logistics uses, including urban freight facilities and consolidation centres.

R 3.7: Promote training and re-skilling of employees in the freight industry appropriate to current and future needs, within the context of technological advancement, for example, increasing automation.

- We have proposed the establishment of a multi stakeholder maritime workforce development task force to build on the work of the previous Maritime Workforce Development Forum, with one of its suggested tasks being the promotion of training and skilling/re-skilling of employees in the freight industry appropriate to current and future needs.

Act to deliver the priorities

R 4.12: Given the criticality of capital and maintenance dredging for securing shipping channels and berths, implement streamlined and timely regulatory approval processes, which are considerate of the environment, best practice and cost effective.

R 4.14: Reduce regulatory barriers to facilitate increased coastal shipping that supports the efficient movement and operation of domestic freight, and encourages coastal shipping as a viable and sustainable supply chain mode.

- We support the concept embodied in this recommendation but not the solution, which makes no mention of Australian shipping. The solution must be consistent with the proposals in this submission to be successful.

Communicate the importance of freight

R 5.5: Where absent, implement freight coordination bodies comprising representatives from government, industry and the community, similar to the Planning Coordination Forums at capital city airports.

- We support this recommendation in principle, provided trade unions are invited to participate as full members of any coordination bodies.⁹⁷

The SMG report which analysed the east coast seaborne bulk commodity trades noted that there is no centralising coordination group to identify cross-trades and other logistic and supply chain opportunities in Australia's domestic bulk commodity shipping industry. It noted that costs savings could be made by offsetting freight costs through the use of backhauls and cross-trades. The analysis noted that shippers tend to work independently of each other despite the fact that the Australian Competition and Consumer Commission (ACCC) will grant approval for competitors to jointly coordinate the purchase of shipping capacity (Gypsum Resources Australia, a joint venture between CSR and Boral, has an ACCC exemption to coordinate their shipping).

SMG proposed establishing a centralised coordination body to create logistics chain efficiencies and that the Hunter Valley Coal Chain Coordinator might be a good model to examine in this respect.

Recommendation 10

That the Committee recommend to the Australian Government that it consult with maritime industry stakeholders regarding the impact on the Australian shipping industry from implementation of key

⁹⁷ Department of Infrastructure, Regional Development and Cities, *Report of the Inquiry into National Freight and Supply Chain Priorities*, March 2018, P9-15, https://infrastructure.gov.au/transport/freight/freight-supply-chain-priorities/files/Inquiry_Report.pdf

recommendations from the Report of the Inquiry into National Freight and Supply Chain Priorities as noted in this submission.

Recommendation 11

That the Committee recommend to the Australian Government that it consult with maritime industry stakeholders to consider the options for establishing a coordination group to identify cross-trades and other logistic and supply chain opportunities in Australia's domestic bulk commodity shipping trades aimed at helping reduce the cost of ships which currently sail unloaded over long distances on ballast legs of cargo voyages.

Non-sea freight shipping

Non-freight shipping covers:

- Large cruise ships.
- Expedition cruise ships.
- Passenger ferries.
- Offshore oil and gas sector vessels.
- Offshore wind construction ships.
- Support ships – tugs, dredges and associated auxiliary fleet, bunker ships, pilot boats, work boats.
- Fishing ships and fishing fleet support ships (of 35 metres in length and above).
- Aquaculture work boats.
- Pearling ships.

Cruise ships

The key priorities are:

- Firstly, to repeal the Ministerial exemption from the operation of the CT Act that applies to large cruise ships. Increasingly, large cruise ships are carrying passengers between Australian ports as part of flexible itineraries and as Australian ports become further integrated into cruise destinations. This is particularly so for those cruise operators that base their ships in Australia. Ships providing such options for their passengers are involved, by definition, in coastal trading, where they embark or disembark passengers at more than one port in Australia.
 - On 16 August 2016 the Minister for Infrastructure and Transport, issued a direction that the CT Act does not apply to all cruise ships in excess of 5000 gross tonnes which are:
 - ❖ capable of a speed of at least 15 knots;
 - ❖ capable of carrying at least 100 passengers; and
 - ❖ utilised wholly or primarily for the carriage of passengers between any ports in the Commonwealth or in the Territories, except between Victoria and Tasmania.
 - The exemption had effect from 1 January 2018 (following an earlier exemption applying from 5 December 2012 to 31 December 2017), ceasing on 31 December 2018 (at the time of making this submission it is not known if a new exemption has been issued).
 - ❖ Repealing the exemption will provide for an amended CT Act to provide for the issuing of coastal trading licenses to large cruise ships and will ensure that the regulation of this important and growing sector of the shipping industry is integrated with the licencing provisions for cargo ships, but tailored specifically for the large cruise sector.
 - ❖ It is our view that if large cruise ship operators are prepared to commit to include Australian ports (with embarkation and disembarkation rights for passengers at those ports) which delivers major economic benefits to those port regions, then the company commitment to Australia should be rewarded with a degree of market

protection from foreign competition in the coastal trade. Access to a coastal trade licence might therefore be conditional on:

- ✓ The operator maintaining their ship management operations in Australia.
- ✓ The ship to which the license applies being home ported in Australia.
- ✓ Agreement to employ and train crew (marine and non-marine) from Australia and the nations of the SW Pacific including PNG, Timor Leste and Indonesia.
- ✓ A minimum training commitment (already required under the Shipping Reform (Tax Incentives) Regulation 2012 for entities that access certain shipping taxation incentives).
- ❖ The benefits that would flow to the ship operator are:
 - ✓ The right to embark and disembark passengers at more than one Australian port.
 - ✓ Access to some taxation incentives.
 - ✓ Access to Australian dry-docking facilities for ship maintenance without the ship being declared “imported” by the Australian Customs and Border Protection Service, thus avoiding the need for genuine work visas for crew at the expiry of 5 days, which is the limitation surrounding the conditions of the Maritime Crew Visa (MCV).
 - ✓ Emergency embarkation or disembarkation that would ordinarily be defined as coastal trading, rather than a passenger number threshold as proposed by the Cruise Line International Association (CLIA).
 - ✓ Provision for fleet wide licenses, with longer duration than the current 12 months (up to 3 years).
- The second priority is to ensure that the expedition cruise sector is designated by the proposed Australian Coastal Ship Licencing Authority as a national interest shipping trade, route or market segment that is reserved for ships on the AGSR that are issued with a GL:
 - We propose that the conditions of a GL for a “reserved” trade such as proposed for the expedition cruise sector include as a condition of licence:
 - ❖ A commitment to meet specified environmental standards;
 - ❖ Ship provisioning to meet specified Australian and local content levels:
 - ✓ Both the above are to ensure that passengers are assured of an authentic Australian “expedition” experience;
 - ❖ Indigenous collaboration to ensure a proportion of the crew and or onshore support staff are Indigenous; and
 - ❖ A minimum training commitment (already required under the Shipping Reform (Tax Incentives) Regulation 2012 for entities that access certain shipping taxation incentives).

Recommendation 12

That the Committee recommends to the Australian Government that it:

- * Repeal the Ministerial exemption from the operation of the CT Act that applies to large cruise ships
- * Create a new Division in the CT Act for the issue of licences for large cruise ships to operate in Australia
- * Ensure that the CT Act/Regulations are amended so that the expedition cruise sector is designated by the Australian Coastal Ship Licencing Authority as a national interest shipping trade, route or market segment that is reserved for ships on the Australian General Shipping Register that are issued with a General License.

Passenger ferries

The key priority is:

- As most passenger ferries operate under concessions to private operators issued by State Governments, we believe that much more should be done to ensure that a proportion of replacement ferries are built in Australian shipyards, with specified levels of Australian materials and labour content. This could be achieved through more astute use of State procurement policy and through tender arrangements when renewing ferry operating leases.

Recommendation 13

That the Committee recommend to the Australian Government that it request the Transport and Infrastructure Ministerial Council to coordinate a review of State and NT procurement policy to ensure that a proportion of replacement public and private passenger ferries are built in Australian shipyards, with specified levels of Australian materials and labour content.

Offshore oil and gas vessels

The key priority is:

- To amend the definition of core shipping activities in the *Shipping Reform (Tax Incentives) Act 2012* to include ships that are used wholly or mainly in, or in any operations or activities associated with or incidental to, exploring or exploiting the mineral and other non-living resources of the seabed and its subsoil. To achieve this, the exclusion of offshore industry vessels in s10(4)(c) of the *Shipping Reform (Tax Incentives) Act 2012* would need to be removed, and additionally, the commercial activities in s8(1)(c) (regarding the issuing of certificates) would need to be extended to include the ships described above:
 - The possible extension of the taxation incentives to vessels operating in the offshore oil and gas industry is aimed at providing incentives for vessel owners/operators to register their vessel on the AGSR, which is a core eligibility requirement to gain access to the tax incentives. It would also require the owner/operator of such ships to have in place a training plan that meets the training requirements specified in Part 2 of the *Shipping Reform (Tax Incentives) Regulation 2012* i.e. to have a cadet/trainee in Master, Engineer and Rating/Steward on each ship accessing the tax incentive. This concession to the offshore sector is designed to help build the maritime cluster.
 - ❖ Remaining excluded vessels would include:
 - (a) recreational vessels;
 - (b) fishing vessels and fishing fleet support vessels;
 - (c) inland waterways vessels;
 - (d) salvage vessels;
 - (e) tugboats;
 - (f) vessels operating wholly or mainly within a harbour;
 - (g) vessels operating wholly or mainly from a stationary position;
 - (h) government vessels;
 - (i) vessels owned or operated by: (i) the Australian Defence Force; or (ii) the defence force of another country;
 - (j) vessels of a kind specified under paragraph (5)(a) in the CT Act.
 - (5) The Minister may, by legislative instrument, specify: (a) kinds of vessels that are to be excluded vessels; and (b) kinds of vessels that are not to be excluded vessels. Despite subsection (4), a vessel of a kind specified under paragraph (b) is not an excluded vessel.

Offshore wind energy ships

The key priority is:

- The government and all sectors of Australian industry will need to take urgent action to reduce greenhouse gas emissions to avert catastrophic climate change. Offshore wind energy is an

important part of low-emissions electricity generation, and an established industry in many other parts of the world. However, development in Australia is currently stalled due to a lack of government action to address the lack of a regulatory framework for the development of offshore renewable energy projects. State planning jurisdiction extends only to state waters, and the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act) does not cover offshore renewable energy. A very significant offshore wind project is proposed for waters off the Gippsland coast of Victoria, which could generate up to 20 per cent of Victoria's electricity and involve 12,000 construction jobs. Despite the project being in development since 2012 and having received financial backing, the one-off licencing process undertaken by the Department of Energy and Environment has not yet resulted in the Minister allowing even for the wind, wave and current observations required to make detailed construction plans.⁹⁸

- Adding to these problems is the global shortage of specialised offshore wind construction vessels, which are in short supply due to a global boom in offshore wind construction projects. That is why the union is advocating for the inclusion of at least one offshore wind construction vessel in the Strategic Fleet, so the government can take steps to ensure that a vessel will be available when projects are ready to proceed.
- As it is proposed that such ships form part of the National Strategic Fleet, they too should be eligible for the shipping taxation incentives, and would need to be included in the definition of core shipping activities in the *Shipping Reform (Tax Incentives) Act 2012*.

Recommendation 14

That the Committee recommend to the Australian Government the urgent development of a regulatory framework to support offshore renewable energy development. This regulatory framework must be developed separately from the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) and the OPGGS Act due to vested petroleum industry interests. Workers in offshore wind energy must have the same work health and safety rights as other seafarers and shoreside workers, and not be subject to the poorer provisions of the OPGGS Act.

Recommendation 15

That the Committee recommend to the Australian Government that it amend the definition of core shipping activities in the *Shipping Reform (Tax Incentives) Act 2012* to include:

- * Ships that are used wholly or mainly in, or in any operations or activities associated with or incidental to, exploring or exploiting the mineral and other non-living resources of the seabed and its subsoil, aimed at providing incentives for offshore oil and gas vessel owners/operators to register their vessel on the AGSR; and
- * Ships that are used in the construction and servicing of offshore wind turbines, which are proposed for inclusion in the National Strategic Fleet.

Towage

The key priority is:

- To ensure that the Commonwealth work with the state and NT governments to ensure that partnership agreements (sometimes referred to as cooperative employment agreements) as an employment engagement method in the harbour towage industry is outlawed throughout

⁹⁸ Gibson, Beth, Offshore wind farm continues to be delayed due to lack of federal policy, Senate Estimates hears, 22 February 2019, ABC Gippsland. <https://www.abc.net.au/news/2019-02-22/offshore-wind-farm-delayed-due-to-lack-of-regulatory-framework/10833482>

Australia and that the states and NT take action to prohibit the transition of harbour towage contracts to partnership or cooperative arrangements, through the actions of state and NT port authorities with responsibility for managing harbour towages services in their ports.

- Partnership or cooperative agreements should be outlawed as an employment engagement method because they:
 - Do not fully meet the labour standards of ILO Conventions and the labour standards in state and national labour laws;
 - Are designed to remove employees from the national or state/NT industrial or safety legislative and regulatory regimes;
 - Are designed to avoid employer tax obligations by disposing of this responsibility and placing the onus and extended liabilities on workers;
 - Are a form of sham contracting to avoid legal responsibilities, as well as legislative, regulatory, and other jurisdictional obligations; and
 - Are not in the public interest.

Recommendation 16

That the Committee recommend to the Australian Government that it work with the state and NT governments to ensure that partnerships or cooperative agreements as an employment engagement method in the harbour towage industry are outlawed throughout Australia and that the states and NT take action to prohibit the transition of harbour towage contracts to partnership or cooperative arrangements, through the actions of state and NT port authorities with responsibility for managing harbour towages services in their ports.

Government ships

Government ships include:

- Ships owned or operated by the Australian Defence Force. For the purposes of this submission, the Defence Force ships being referred to are Defence Force support ships, being non-combat ships which may nevertheless be required to enter combat zones from time to time e.g. replenishment ships (2 auxiliary oiler replenishment ships (AORs) are currently being built in Spain for the Navy for delivery in 2019 and 2020 to replace the *HMAS Success* and *HMAS Sirius*. The AORs will provide operational support to the Navy's fleet by providing fuel, ammunition and stores. Other Defence Force support ships include troop carriers; hospital ships; training ships (like the *MV Sycamore*, a multi-role aviation training ship); Sydney Harbour tugs (the *Elwing* and *Waree*); submarine escape gear ships e.g. the *MV Besant*; and rescue gear ships e.g. the *MV Stoker*.
 - ❖ The Navy is highly satisfied with the civilian crews presently working on the aviation training ship the *Sycamore* and the *Ocean Protector*, which are managed by Teekay Shipping. DMS/Serco also provide civilian crews for the tugs *Elwing* and *Waree* and the escape/rescue ships *Besant* and *Stoker*.
- These types of Government ships, which are Australian registered and regulated by AMSA, lend themselves to either civilian crewing or a dual employment option that provides for the workforce to move between Defence personnel and private sector civilian crewing. The best crewing model for Defence under its emerging Total Workforce Model, being developed to meet its new workforce requirements as a result of the Navy shipbuilding program, was developed by Defence in partnership with industry.
 - ❖ The partnership was managed by a stakeholder Working Group on Manpower and Planning established under the auspices of the Australian Maritime Defence Council (AMDC) to explore opportunities for better integration of Navy alternative crewing

strategies and civilian workforce needs so there is an integrated national workforce development strategy across the Navy and the civilian workforces. The Working Group report is completed and is with Navy for consideration.

- ❖ Notwithstanding that the report concluding there are no insurmountable barriers for greater use of civilian crews on Defence support ships, Navy has decided against placing civilians on its two new oiler and supply ships (AORs), or on the tall ship *Young Endeavour*. The first new Defence support ships that would be appropriate for application of an alternative crewing model, are the replacement Navy hydrographic ship which is not due until 2025, followed by the replacement of the amphibious landing ship *HMAS Choules* in approximately 2030.
- Ships owned and or operated by Australian Border Force (customs and immigration ships like the armed patrol ship, the *Ocean Protector*, the *Thaiyak* [stationed at the Ashmore Reef National Nature Reserve and Cartier Island Marine Reserves] and the 8 Cape class patrol ships it operates [*Cape St George, Cape Byron, Cape Nelson, Cape Sorell, Cape Jervis, Cape Leveque, Cape Wessel, Cape York*):
 - Border Force has taken a different approach and crews its ships with civilians but not from the civilian seafarer labour market, but from its own direct employees (public servants). Previously its ships were crewed through the civilian seafarer labour market.
- Ships owned and or operated by marine statutory authorities such as AMSA e.g. salvage and rescue ships like the *Coral Knight* (Australian registered and Australian civilian crewed [non-public servants]); and
- Ships owned and or operated by Government research bodies such as CSIRO e.g. the *RV Investigator* (Australian registered and Australian civilian [non-public servants] crewed).

Australian Defence Force

The key priority is:

- That Defence and industry, through the AMDC, keep under review for application to appropriate Defence Force support ships the Navy alternative crewing model involving civilian seafarers; and
- To ensure that the Defence Force maintains civilian crewing on all current support ships currently utilising various alternative civilian crewing models.

Recommendation 17

That the Committee recommend to the Australian Government that it ensure that the Defence Department and industry, through the Australian Maritime Defence Council (AMDC):

- * Keep under review for application to appropriate Defence Force support ships, the Navy alternative crewing model involving merchant civilian seafarers; and
- * Maintains merchant civilian crewing on all current support ships utilising various alternative merchant civilian crewing models.

Australian Border Force

The main priority is:

- That Border Force ships be included as part of the National Strategic Fleet; and
- That the Australian Government consider a return to merchant civilian merchant fleet crewing, or an integrated crewing model, for Border Force ships as part of the strategy to create an integrated workforce model across the government fleet, similar to the arrangements being progressed by Navy.

Recommendation 18

That the Committee recommend to the Australian Government that:

- * Border Force ships be included as part of the National Strategic Fleet; and
- * Consider a return to merchant civilian crewing, or an integrated crewing model, for Border Force ships as part of the strategy to create an integrated workforce model across the government fleet, similar to the arrangements being progressed by Navy.

AMSA salvage and rescue ship/s

The main priority is:

- That the Australian Government and AMSA review the adequacy of the maintenance of just one marine rescue and salvage ship, the *Coral Knight*, stationed at Cairns in light of the uncompleted actions set out in the Reef 2050 Plan⁹⁹ and the North East Shipping Management Plan¹⁰⁰ to manage shipping impacts on the Great Barrier Reef.
 - We are concerned that no action has been taken on recommendations EBA7 and EBA8 from the original Reef 2050 Plan to improve the quality of ships transiting the reef, and that these recommendations have been watered down in the July 2018 version of the Plan. We note that the North East Shipping Management Plan says that one of the most important measures to reduce risk is Port State Control inspections by AMSA, yet we note a 23% decline in the number of Port State Control inspections carried out nationally since 2015, while the number of ship visits, including transits through marine heritage areas and along sensitive ocean coastlines on which Australia's marine tourism and fishing industries depend, continues to increase.

It is our assessment that there is a case to be made for Australia to increase the capacity of its marine rescue and salvage capability, which could extend to other social and disaster relief functions.

Recommendation 19

That the Committee recommend to the Australian Government that:

- * It reviews the adequacy of the maintenance of just one marine rescue and salvage ship, the *Coral Knight* stationed at Cairns, in light of the uncompleted actions set out in the Reef 2050 Plan and the North East Shipping Management Plan to manage shipping impacts on the Great Barrier Reef.
- * That such a review considers the case for Australia to increase the capacity of Australia's marine rescue and salvage capability, particularly along the Qld coast, which could extend to other social and disaster relief functions.

ToR iv: Maritime security, including fuel security and foreign ship and crew standards;

The policy, regulatory, taxation, administrative and funding priorities to improve maritime security, including fuel security and foreign ship and crew standards are as follows:

Maritime security

⁹⁹ Australian and Queensland Governments, *Reef Action Plan 2050*, July 2018 (updated version) and the 2017 Annual Report which summarises progress against Reef 2050 Plan actions between mid-2016 and mid-2017, <http://www.environment.gov.au/marine/gbr/long-term-sustainability-plan>

¹⁰⁰ North East Shipping Management Group, North East Shipping Management Plan, October 2014, <https://www.amsa.gov.au/marine-environment/marine-pollution/shipping-management-plans/north-east-shipping-management-plan>

The main priorities are that the key recommendations in the 2016 Senate Inquiry into the increasing use of Flag of Convenience shipping in Australia are implemented.¹⁰¹ The key recommendations for implementation are listed below:

Recommendation 2

4.13 The committee recommends that this review (of the Australian marine sector as proposed in Recommendation 1 of the report¹⁰²) include a comprehensive whole-of-government assessment of the potential security risks posed by flag of convenience ships and foreign crews.

Recommendation 5

4.16 The committee recommends that the Commonwealth immediately tighten the provisions for temporary licenses in Australian maritime law, to flag of convenience ships being used on permanent coastal freight routes if they fail to pay Australian award wages to their crew.

Recommendation 6

4.17 The committee recommends that the Commonwealth adopt a broader and more rigorous approach to the risk assessment and oversight of seafarers working in Australian waters on maritime visas, and better share this information across relevant Commonwealth and jurisdictional agencies.

Recommendation 8

4.19 The committee recommends that the Australian government look for ways to support the Maritime Labour Convention (MLC) to make flag of convenience shipping more accountable to international law and, when in Australian waters, to our national regulations.

Recommendation 20

That the Committee recommend to the Australian Government that it implement key recommendations in the Interim Report of the 2016 Senate Inquiry into the Increasing use of so-called Flag of Convenience shipping in Australia that address maritime security.

A second key priority is that there be a review all maritime security plans which are required under MTOFSA to ensure there are standardised and effective procedures for visitors to ships, including welfare and labour organisations, to access those ships through port operator's terminals. The procedure must be made available on request so that manufactured situations to prevent access cannot be allowed to occur as is now regularly the case.

Such a procedure is contemplated in the ILO Maritime Labour Convention (MLC). The Preamble to the ILO MLC states that "Considering that, given the global nature of the shipping industry, seafarers need special protection...". These protection and rights are given effect by the Australian MTOFSA security legislation, in particular Part 1, Division 2, s3(4)(ii) which specifies one purpose of the MTOFSA as being that the implementation of a security plan should make an appropriate contribution to the achievement of the maritime security outcomes, and that one maritime security outcome be that Australia's obligations under Chapter XI-2 of the International Convention for the Safety of Life at Sea

¹⁰¹ Senate Rural and Regional Affairs and Transport References Committee, *Interim Report on Increasing use of so-called Flag of Convenience shipping in Australia*, May 2016 P39-41

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Shipping/Second_Interim_Report

¹⁰² Ibid P9, Recommendation 1 - 4.12 The committee recommends that the Commonwealth undertake a review of the Australian maritime sector, with a view to building on the 2012 reforms aimed at growing the Australian-registered shipping industry in the future.

(SOLAS) Convention and the International Ship and Port Facility Security (ISPS) Code, including those with regard to the rights, freedoms and welfare of seafarers, are met.

One of the most significant rights for seafarers is the right of association, again included in the ISPS Code. Both the Code and the MTOFSA dictate that every port or terminate security plan must include procedures for access through that port for labour and welfare organisations.

This is generally respected and agreed. However recently some bulk cargo terminal operators have rejected the pre-existing access custom and practice and have stated that they do not recognise the ITF as an organisation with a right to access a ship through their terminals.

When referred to the Aviation and Maritime Security Division of the Department of Home Affairs its response has been supportive of terminal operators and erroneously given the operators the authority to prevent access with no reasons given.

The Maritime Transport and Offshore Facilities Security Regulations 2003 require port facility operators to have processes in place to maintain the security of their port facility. This includes procedures for facilitating access by visitors. However, approval to access a port facility is the responsibility of the port facility operator.

Effectively this has prevented ITF inspectors undertaking any scrutiny of foreign flagged, often substandard ships entering Australian ports and even worse, has prevented ITF inspectors from answering calls for help from seafarers in dire need of support and representation.

Seafarers are suffering and scrutiny of these ship is now becoming impossible. Nowhere in the ISPS code or the MTOSA or Regulations are terminal operators given rights to veto access. It is clear therefore that a review aimed at establishing appropriate procedures that are in compliance with Australia's IMO Convention obligations and sensible human rights practice be developed and implemented.

Recommendation 21

That the Committee recommend to the Australian Government that

- * The Department of Home Affairs be required to review all maritime security plans to ensure there are standardised and effective procedures for visitors to ships, including welfare and labour organisations, to access those ships through port operator's terminals, and that such procedures be developed in consultation with seafarer welfare, labour and employer organisations; and
- * That resultant procedures be made available on request by a seafarer welfare, labour and employer organisations so that manufactured situations to prevent access cannot be allowed to occur as is now regularly the case.

Fuel security

The key priorities are:

- That the regulatory changes proposed in this submission requiring amendment of the CT Act (detailed in our response to Term of Reference ii), include a legislative provision for establishment of a National Strategic Fleet, and that the definition of a national strategic fleet include a requirement for there to be specified minimum fleet of clean petroleum product tankers on the AGSR to be engaged in international supply chains to contribute to provision of national fuel security;

- That a comprehensive national security risk assessment of fuel supply chain issues be undertaken to assess the minimum number of clean petroleum product tankers, being greater than 10, to be owned, managed and crewed by Australians to guarantee Australia's fuel security consistent with Australia's IEA obligations; and
- That in relation to the specified minimum fleet of clean petroleum product tankers for placement on the AGSR as part of the National Strategic Fleet, that the Commonwealth, in consultation with stakeholders, investigate options to equitably apportion the differential costing for operating Australian those petroleum tankers.

Recommendation 22

That the Committee recommend to the Australian Government:

- * That the definition of a national strategic fleet for inclusion on a reformed CT Act include a requirement for there to be specified minimum fleet of clean petroleum product tankers on the AGSR to be engaged in international supply chains to contribute to provision of national fuel security.
- * That a comprehensive national security risk assessment of fuel supply chain issues be undertaken to assess the minimum number of clean petroleum product tankers, being greater than 10, to be owned, managed and crewed by Australians to guarantee Australia's fuel security consistent with Australia's IEA obligations.
- * That in relation to the specified minimum fleet of clean petroleum product tankers for placement on the AGSR as part of the National Strategic Fleet, that the Commonwealth, in consultation with stakeholders, investigate options to equitably apportion the differential costing for operating Australian those petroleum tankers.

Foreign ship and crew standards

The main priorities are that key recommendations in the 2016 Senate Inquiry into the Increasing use of so-called Flag of Convenience shipping in Australia be implemented, in particular those identified in the section above headed Maritime security, and those following:

Recommendation 7

4.18 The committee recommends that the Australian Government continue to work with international agencies, including the International Labour Organisation (ILO), to improve the working conditions, safety standards, and rates of remuneration for seafarers working in international shipping.

To give effect to Recommendation 7, AMSA should undertake, in consultation with stakeholders and the ILO, a review of Marine Order 11 (Living and working conditions on vessels) made under the Navigation Act. Marine Order 11 addresses:

- Requirements for seafarers working on vessels.
- Conditions of employment.
- Accommodation and food and catering.
- Health protection, medical care, welfare and social security protection.
- Noise levels on board vessels.
- Additional requirements for living and working conditions on regulated Australian vessels.

Recommendation 9

4.20 The committee recommends that the Commonwealth consider ways to improve the early intervention and counselling resources available to crews on international vessels, including those operating on flag of convenience registers.

Following consultation with Hunterlink, a global Employee Assistance Provider (EAP) with a track record of assisting seafarers with early intervention support, counselling and other mental health services, we propose that AMSA, in consultation with Hunterlink, employers of seafarers, shipping industry associations and unions, be tasked with development of a Marine Order that establishes a process for the provision of early intervention and counselling resources and services available to crews on international ships.

It is our view that a Marine Order should establish, inter alia:

- Obligations on the Master of a ship to ensure that seafarers requesting EAP services are assisted in obtaining such services;
- The rights of seafarers to obtain EAP support and services, free from interference or discrimination and which respects confidentiality;
- The rights and obligations of EAP service providers to provide such services, including access to ships, and reporting;
- The role and functions of AMSA in overseeing EAP support services for international seafarers.

It is our submission that AMSA be funded to provide the administration of such a system, including payment of market based (but capped) fees to the EAP service provider for provision of EAP services to international seafarers.

Recommendation 23

That the Committee recommend to the Australian Government that:

* It implement those recommendations in the Interim Report of the 2016 Senate Inquiry into the Increasing use of so-called Flag of Convenience shipping in Australia that address foreign ship and crew standards, and that to give effect to those recommendations, AMSA be required, in consultation with stakeholders, to undertake a review of AMSA Marine Order 11 (Living and working conditions on vessels) made under the Navigation Act.

* That AMSA, in consultation with Hunterlink, employers of seafarers, shipping industry associations and unions, be tasked with development of a Marine Order that establishes a process for the provision of early intervention and counselling resources and services available to crews on international ships.

* That AMSA be funded to provide the administration of a system of early intervention and counselling (EAP) services for crews on international ships, including payment of market based (but capped) fees to the EAP service provider for provision of such services to international seafarers on ships voyaging to and from Australia.

ToR v: Environmental sustainability (of shipping);

The policy, regulatory, taxation, administrative and funding priorities to improve the environmental sustainability of shipping are:

Investment in new energy efficient ships

The highest priority action that can be taken to improve the environmental sustainability of ships operating in Australian waters is to strengthen national maritime cabotage through amendment of the CT Act, supported by taxation incentives, both of which will result in investment in new energy efficient ships in the domestic freight and passenger market, and reduce dependency on older less energy efficient ships and foreign ships which apply lower safety and environmental standards.

Policy which results in investment in new energy efficient Australian ships adopting the latest shipboard environmentally sustainable technologies combined with better port environmental

management practices presents an opportunity for Australia to lead the globe on ship pollution prevention measures, ensuring that Australian ships gain a stronger market share in the domestic freight and passenger markets.

However, regulatory and taxation policy measures that encourage investment in Australian ships will need to be coupled with stronger domestic incentives and support measures to achieve take up of the ship pollution reduction technologies and ship operational practices so investment in the most energy efficient ships is achieved.

The second order priority is therefore that Australia be an early adopter of ship pollution prevention standards, technology and practice such as use of lower sulphur fuels or better alternative fuels like LNG and biofuels, optimized engines, and exhaust after-treatment, such as selective catalytic reduction (SCR) and optimised steaming rates, all of which have been shown to significantly improve the environmental performance of ships. Other measures such as shoreside electricity (particularly if sourced from renewables), and improved auxiliary engines can reduce emissions generated while ships are docked at port.

This will not occur if Australia simply conforms with the slow-moving environmental reforms being progressed by the IMO. Australia needs to take a lead in the international forums promoting marine emissions reduction outcomes by adopting a package of incentives that contain a regulatory component setting a higher compliance bar than applied internationally, that contains commercial inducements through industry policy measures such as linking environmental standards to access to incentives (like ship capital grants) and taxation assistance (like accelerated depreciation), better research and development and innovation support and better education and training across the maritime sector. There needs to be far better integration of technology diffusion from the massive investment in Defence shipbuilding with the commercial shipping sector.

A consequential benefit from reforming shipping regulation, shipping taxation measures and support for take up of leading ship technologies and operational practice is that it will provide a much more efficient and productive freight sector resulting in a reallocation of modal share, one consequence of which will be to reduce truck movements, improve road congestion and road safety whilst simultaneously reducing emissions from freight transport.

Such policies dovetail well with calls to review the Australian heavy vehicle charging regime, which uses a pay-as-you-go (PAYGO) model to determine annual registration and fuel-based road user charges. However, the PAYGO system is not working to meet its objectives. National Transport Commission (NTC) data shows that in 2014-15, heavy vehicle operators paid combined road user charges and registration fees revenues of about A\$3 billion. However, this only makes up about 12.5% of all government outlays on roads that are now over \$24 billion per annum.

The PAYGO system was introduced in Australia in 1992 to help recover the marginal or attributable costs of road wear and tear for each heavy vehicle type and to recover a share of common road costs which benefit all road users, such as street lighting, rest bays and signage ensure heavy vehicles pay their share of road spending.¹⁰³ The shortfall between the charges for heavy vehicles and the money spent on things like road system maintenance, construction costs, road crashes involving heavy trucks, emissions, pollution and urban road congestion amounts to a taxpayer subsidy for the industry of at least A\$3 billion per annum.¹⁰⁴

¹⁰³ National Transport Commission (NTC) website, *Heavy vehicle charges*, <https://www.ntc.gov.au/heavy-vehicles/heavy-vehicle-charges/>

¹⁰⁴ The Conversation, 23 June 2017, *Trucks are destroying our roads and not picking up the repair cost* <https://theconversation.com/trucks-are-destroying-our-roads-and-not-picking-up-the-repair-cost-79670>

The subsidisation issue is compounded by the fact that the PAYGO system is open to political interference, such as the 2017 decision to freeze heavy vehicle charges at 2017-18 levels for a two-year period (2018-19 and 2019-20) which distorts the rationale for, and principles for operation of, the PAYGO system.

Shipping reforms also dovetail well with policy commitments to re-establish a national system of safe rates in the road transport industry, aimed at establishing safe standards of work including fair payments and conditions through a chain of responsibility model.¹⁰⁵

Policies which reduce freight mode subsidisation and help ensure underlying cost base consistency across the freight transport labour market will help achieve competitive neutrality in the national freight market and move toward fair competition among all freight modes.

Recommendation 24

That the Committee recommend to the Australian Government that:

- * It ensures that Australia be an early adopter of ship pollution prevention standards, technology and practice ahead of the International Maritime Organisation (IMO), such as use of lower sulphur fuels or better alternative fuels like LNG and biofuels, optimized engines, exhaust after-treatment, such as selective catalytic reduction (SCR), optimised steaming rates, use of shoreside electricity (from renewables), and improved auxiliary engines aimed at a more rapid reduction of ship emissions under the IMO trajectory.
- * It authorises AMSA in its role as Australia's representative in the International Maritime Organisation (IMO), to take a lead on seeking to expedite global adoption of improved ship pollution prevention technologies and practices.
- * It expedites a review of the Australian heavy vehicle charging regime, which uses a pay-as-you-go (PAYGO) model, to ensure it moves to full cost attribution of road user costs aimed at creating competitive neutrality among all freight modes.
- * It expedites the re-establishment of a national system of safe rates in the road transport industry, aimed at establishing safe standards of work including fair payments and conditions through a chain of responsibility model that will help achieve greater consistency in labour costs across all freight modes to achieve competitive neutrality in the freight transport industry.

ToR vi: Workforce development and the seafarer training system

The policy, regulatory, taxation, administrative and funding priorities to improve workforce development and the seafarer training system are:

The highest priority action required (as proposed earlier in this submission) is that the Australian Government undertake an urgent review of the impact of the implementation (over a transition period from 2013 to 30 June 2018) and operation (under AMSA's management) of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (National Law Act) on ship safety, ship operations, occupational health and safety and seafarer certification and VET qualifications. The review needs to focus on the way that the coming into force of the National Law Act has rapidly degraded standards of ship safety, cargo integrity, passenger safety, occupational health and safety, crew certification and associated VET qualifications, particularly relative to the much higher and

¹⁰⁵ AFR, 18 December 2018, *Labor commits to minimum 'safe pay rates' for Uber and the gig economy*, <https://www.afr.com/news/policy/industrial-relations/labor-commits-to-safe-rates-transport-minimum-payments-for-uber-and-the-gig-economy-20181217-h197mc>

internationally recognised standards given effect by the Navigation Act (which implements Australia's obligations to conform with IMO Conventions (like the Standards of Training, Certification and Watchkeeping for Seafarers (STCW) Convention).

The way the two Acts are now administered by AMSA means that invariably, the default standard of ship safety and seafarer certification/VET qualifications on Australian registered ships is the National Law Act jurisdiction or domestic commercial vessel (DCV) jurisdiction rather than the pre 2012 default standard which was the Navigation Act or regulated Australian vessel (RAV) jurisdiction, which is based on internationally recognised standards of the IMO maritime Conventions.¹⁰⁶

The transition from the Navigation Act jurisdiction to the National Law Act jurisdiction in Australia, accompanied as it is by a largely self-regulated system put in place by AMSA, at the behest of noisy and self-interested lobbyists from (mainly) the fishing and yachting sectors, is inappropriate and counterproductive, and is contrary to all international best practice and lessons from shipping industry regulatory failure across both the developed and developing world.

The rapid escalation of a lowering of standards by AMSA is a danger to ships and seafarers, is a danger to cargoes and passengers, it is a danger to the marine environment and to ports, and is not in the national interest. It will inevitably lead to a catastrophic event that will further damage Australia's international maritime reputation. The review must commence with the fundamental principle that Australian maritime safety be regulated under the internationally recognised standards of the Navigation Act, drawn from the core IMO Conventions, with limited exceptions for certain types or classes of ships, for certain types of ship operations and for the geographic operation of certain ships.

The significant increase in the number of ships now covered by the lower and non-internationally recognised standards in the National Law Act i.e. for ships that are now DCVs or which retain RAV status but are operated by seafarers with National Law Act standards of seafarer certification and VET qualifications (or in fact have no certified or qualified seafarers in some occupational streams on board), combined with the reduced number of major trading ships on the AGSR in Australia for reasons outlined earlier in this submission, is entirely incompatible with the policy intentions of governments and parties committed to rebuild the Australian shipping industry and to rebuild the maritime skills base.

The Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development said this in the Foreword to the MIAL Seafaring Skills Census Report 2018¹⁰⁷:

Maintaining an effective maritime trade will rely on our access to maritime skills. Australia needs to preserve and grow the number of qualified mariners to meet the needs of a wide range of sectors, including off-shore, dredging, dive support, bunkering, towage, pilotage, passenger and tourism, fishing and aquaculture, research and government. Australia's shore-based roles will also continue to rely on these skills including for harbour masters, surveyors and regulators.

Australia cannot rebuild a viable, commercial and sustainable shipping industry if its ship and seafarer safety legislation and regulatory system is undermining the very skills base and the requirements of

¹⁰⁶ The core IMO Conventions are: The International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended; the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997 (MARPOL); and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) as amended, including the 1995 and 2010 Manila Amendments.

¹⁰⁷ Maritime Industry Australia Ltd (MIAL), *Seafaring Skills Census Report 2018*, <https://www.mial.com.au/> P2

ships to be crewed by internationally (STCW) certificated seafarers, required for a revitalised shipping industry.

Only ships crewed by seafarers with internationally recognised certificates and associated VET qualifications (as required under the Navigation Act) are accepted internationally as suitable for trainee and cadet seafarers to undertake seetime, and for certificated seafarers to gain the experience for employment on gas ships, chemical ships, petroleum and crude oil tankers and certain dry bulk ships (which all require specified periods of experience on ships maintaining IMO standards) that are chartered by reputable shippers.

This is clearly evident from the results of the MIAL Seafaring Skills Census Report 2018.¹⁰⁸ That report found, based on the views of maritime organisations that employ internationally certified seafarers on board ships and ashore, that an additional 560 internationally certified and qualified seafarers will be required (under current shipping policy settings) in the next 5 years to 2023, an 11.6% increase.

If policy settings are altered as proposed in this submission, and up to 55 additional Australian crewed ships are added to the domestic Australian fleet (the overwhelming majority, if not all, expected to be RAVs) then over 2,500 additional internationally certificated seafarers will be required by 2023 and up to 2028.

This will be unattainable if the degradation of standards is not arrested and the Navigation Act standards that underpin the skills base required by the Australian maritime industry do not once again become the default standards for ships in the cargo sector (dry, liquid and gas), passenger sector, offshore oil and gas sector, towage sector, dredging sector, and for a vast array of other ships servicing the larger ships such as bunkering and salvage ships, as well as government ships etc.

There are several legislative flaws that are now apparent that will need to be addressed, inter alia, in the review we propose. These include:

- First, the construction of the application provisions in the Navigation Act which determine whether a ship is a regulated Australian vessels (RAV). The application provision contains 3 elements: (i) the registration status of a vessel; (ii) whether the vessel is voyaging or intends to voyage overseas (exclusively a ship operator decision); and (iii) the AMSA certificates held by the vessel (essentially, certificates that allow the vessel to voyage overseas) – that meet the standards in international conventions applying to all internationally operating ships. The problem is the element that pertains to the holding of voyage certificates. A ship owner or operator can opt out of that requirement with no barriers or checks and balances whatsoever – by simply giving up those certificates for any period the owner or operator decides. This has resulted in gaming behaviour by ship owners/operators, particularly rife in the offshore oil and gas sector. AMSA has been complicit in this gaming behaviour, suggesting a high level of vessel owner/operator capture.
- Second, a peculiar provision in the Navigation Act (s320) that enables AMSA to recognise seafarer certificates issued under the National Law Act as the equivalent of certificates issued under the Navigation Act (and MOs issued pursuant to that Act). This means for example, that AMSA may recognise a seafarer certificate such as the General Purpose Hand (a VET Certificate Level I qualification) as equivalent to a seafarer certificate for an Integrated Rating (a VET Certificate Level III qualification). Notwithstanding this is a major legal contradiction, AMSA has proceeded to actively apply this provision, resulting in it being considered a pariah in the international maritime community.

¹⁰⁸ Ibid, P5

- Third, the provisions in Marine Order 21 (Safety and emergency arrangements) 2016 (MO21) which is the MO that establishes the basis for AMSA to issue Minimum Safe Manning Documents (MSMDs) for ships. Under this MO:
 - An owner of a RAV may apply for an exemption of the vessel from a requirement of the MO, meaning that the ship may operate without a MSMD, allowing the owner or operator to crew the ship as they wish, notwithstanding it may remain a RAV. This effectively overrides the seafarer certification and VET qualifications for RAVs required by Marine Orders 70 to 73.
 - A person may apply to AMSA for approval to use an equivalent certificate, again undermining the provisions of the Navigation Act and Marine Orders 70 to 73. The certificates referred to in MO73 (the MO for Ratings occupations) can be found below.¹⁰⁹
 - For ships, including RAVs, that are less than 3,000 gross tonnes (GT) AMSA may determine that a ship can be crewed by: (i) a master who holds a specified certificate of competency issued under Marine Order 505 (Certificates of competency) 2013; and (ii) a specified number of officers who hold specified certificates of competency issued under MO505; and (iii) a specified number of other seafarers, such as Ratings, who hold specified certificates of competency issued under MO505 (the certification standards for DCVs); or AMSA may specify seafarer certificates that may be held by seafarers on board the vessel instead of specified certificates of competency.
 - AMSA has discretion to define an occupation in a MSMD, resulting for example in a Rating being defined as a person holding no specified seafarer certificate.

The powers that AMSA has under the two Acts, and the powers it has given itself under Marine Orders (which cannot be challenged as they are not a legislative instrument that can be disallowed by the Parliament) means that Australia is not in compliance with its obligations under the IMO Conventions. A seafarer certificate, such as one issued under MO505, that does not require seetime experience is not in compliance with the intent of the IMO STCW Convention.

While these provisions may have been included in the legislation to provide some flexibility to be applied in exceptional circumstances, AMSA has vigorously applied these provisions in such a way that they are now the rule rather than the exception, presumably for the senior executives of AMSA to curry favour with the Morrison Government's deregulatory agenda, at the expense of maritime safety and the development of the Australian maritime industry.

No public data is available to assess the extent of use of these exemptions nor to enable identification of a ship as a RAV or DCV. The regulatory system administered by AMSA is opaque.

This situation is compounded by the fact that Australian Industry Standards, the Skills Service Organisation (skills council) for the transport and logistics industry, with the apparent acquiescence of the industry employer associations such as the Australian Mines and Metals Association (AMMA) have combined to use the legislative flaws and contradictions in law to further undermine Ratings occupational qualifications. In particular they have undermined the historical Integrated Rating benchmark (a VET Certificate Level III qualification) as the pre-eminent Ratings qualification in the Australian maritime industry, in both bluewater shipping and in the offshore oil and gas sectors, the two dominant segments of seafarer employment in Australia.

¹⁰⁹ Seafarer occupations are grouped into 3 broad categories: (i) Deck officers (ships masters); (ii) Ship's engineers; and (iii) Ratings (which includes catering occupations). Current Ratings occupations include: (i) Navigational Watch Rating; (ii) Engine Room Watch Rating; (iii) Able Seafarer-Deck; (iv) Able Seafarer-Engine; (iv) Integrated Rating; (v) Chief Integrated Rating; (vi) Marine Cook; and (vii) General Purpose Hand.

Prior to 2013 when the National Law Act and MO505 commenced, there was widespread acceptance that the Integrated Rating qualification was the preeminent and base level qualification for Ratings occupations on ships across all sectors of the industry – cargo ships, offshore oil and gas ships, towage ships, dredging ships etc, regardless of the geographical area of operation of a ship (with only minor, industrially negotiated exceptions approved by industrial tribunals). The entire industrial relations framework for the industry was founded on this custom and practice as can be seen from an examination of the shipping industry's Modern Awards.¹¹⁰

The fact is that by virtue of the new jurisdictional arrangements and by employers taking advantage of the ability to switch ships from RAVs to the become DCVs, aided and abetted by AMSA, that a vast range of ships in the offshore oil and gas industry, coastal trading sector (particularly smaller operations such as the SeaSwift operations in Qld/NT), in towage and dredging are now DCVs where, under MO505, the only AMSA certified Ratings qualification is a General Purpose Hand (GPH) – often, incorrectly, referred to as Deckhand. This has caused unnecessary industrial disruption and disputation, as well as undermining job security, severely delaying the settlement of new EBAs in many instances, at significant cost to the industry.

AMSA Marine Orders made under both the Navigation Act and National Law Act which specify the occupational certificates that apply to seafarers (on which VET qualifications are largely based) on (i) RAVs; and (ii) DCVs, are vastly different, with the RAV Marine Orders following international standards based on the IMO Standards of Training, Certification and Watchkeeping for Seafarers (STCW) Convention, while the DCV Marine Orders are based on the previous state based National Standards for Commercial Vessels (NSCV) which were designed for small fishing vessels, launches, small aquaculture vessels, small marine tourism vessels, inshore ferries and the like.

AMSA MO505 (Certificates of competency-national law) 2013 provides for only one Ratings certificate, General Purpose Hand (GPH), where the competencies are specified in the National Standard for Commercial Vessels (NSCV) Part D (Crew competencies). NSCV Part D requires a GPH to have completed a General Purpose Hand course at VET Certificate 1 level.

The Certificate I in Maritime Operations (General Purpose Hand Near Coastal) (MAR10318) contains just 8 Units of Competency and require no sea time experience. Furthermore, the safety standards (the Shipboard Safety Skill Set – formerly known as the Elements of Shipboard Safety (ESS)) in the GPH qualification do not match the safety standards required for the STCW Convention, known as the Certificate of Safety Training (COST). It is a patently inadequate occupational qualification for seafarers on all but the smallest of vessels operating in limited geographical areas, like yachts and launches. It is totally unsuited to offshore oil and gas industry support vessels, small trading ships etc for voyaging in Near Coastal waters (which includes operations out the boundary of the EEZ [200 nautical miles] and above the continental shelf).

The design of the legislation and AMSAs regularly practice has resulted in many large ships approved to operate in near coastal waters (i.e. out to the EEZ) being now defined as DCVs, regardless of industry sector, and falling under the National Law Act. As a consequence they are subject to a far lower standards regime including seafarer qualifications/licensing, and can result in two ships of the same class and size working under the same operational conditions, being in different regulatory jurisdictions – if for example the operator of one vessel chooses to retain AMSA certificates mentioned in s15 of the Navigation Act, in such circumstances where an offshore vessel may need to be

¹¹⁰ See for example the classification structure in Clause 13 of the *Seagoing Industry Award 2010* which specifies only occupations associated with AMSA seafarer certificates for RAVs listed in MO2 70-73, https://www.fwc.gov.au/documents/documents/modern_awards/pdf/ma000122.pdf

redeployed to another region and hence “voyage overseas”, while another operator of exactly the same vessel type chooses not to retain those certificates, and no exemption is sought.

Furthermore, at present, there is no VET qualification for ratings occupations between the GPH Certificate Level 1 and the Integrated Rating Certificate Level III qualification, a situation which is especially inappropriate for the crewing of:

- Towage ships.
- Dredging ships.
- Offshore oil and gas sector support ships like anchor handlers and supply ships.
- Wind turbine installation and support ships.
- Smaller cargo ships like MPPs.
- Project cargo ships.
- Larger fishing ships.
- Transshipment ships.
- Bunkering ships.
- Pearling ships.
- Smaller expedition cruise/passenger ships.
- A range of government ships like the Cape size Border Force ships.

Moreover, virtually no industry sector has embraced the GPH qualification, with the possible exception of in-shore passenger ferry operators like Sydney Ferries, and they too are calling for a new VET qualification at Certificate II Level.

This situation is totally unsatisfactory and a danger to ships, passengers and more particularly to seafarers. It makes a mockery of the VET system and Skills Service Organisation mission as being professional service organisations supporting Industry Reference Committees (IRCs) in their work developing and reviewing training packages to ensure training packages “meet the needs and concerns of employers, employees, training providers, and people seeking training qualifications.”¹¹¹

Neither AMSA nor Australian Industry Standards have taken timely or appropriate steps to rectify this serious problem in the VET qualifications structure for Ratings, notwithstanding repeated representations from the MUA and concerns by many employers.

At the date of this submission, and nearly 6 years after the National Law Act came into effect, there is still no finalised proposal in the MAR Maritime Training Package Project being managed by Australian Industry Standards to develop qualifications reflecting the full spectrum of seafarer skills and attributes required for the range of seafarer roles on a raft of ship types, particularly those that AMSA actions have now defaulted into the National Law/DCV jurisdiction, including many ships in the offshore oil and gas industry, ships in the intra-state cargo shipping sector, especially ships servicing remote and regional and island communities, ships involved in the expedition cruise sector, marine tourism ships, ships engaged in bulk cargo transshipment activity, in inshore bunkering and other marine support services, in dredging, in fishing, in pearling or in aquaculture.

The one possible exception is towage where preparatory work is underway within Australian Industry Standards to develop a Skills Set tailored for ratings on towage ships. Even this is unsatisfactory as there is no base VET qualification e.g. a VET Certificate Level II encompassing for example the Deck or Engine room watchkeeping certificate, for towage ships, on which to add-on specialist or tailored competencies packaged as a Skill Set. Skills Sets should not replace core VET qualifications which are

¹¹¹ Australian Industry and Skills Committee (AISC), *Skills Service Organisations*, <https://www.aisc.net.au/content/skills-service-organisations>

required for workforce mobility and career advancement. Rather, they should reflect the actual competencies required for productive performance of the skills required to operate particular classes or types of ships under the conditions of operation of the ship type and in the geographical area the ship will operate in.

Some work is also scheduled for roll on/roll off and passenger ship operations.

The MUA nevertheless understands that sometime in 2019-20 the General Purpose Hand-Near Coastal qualification is to be reviewed by Australian Industry Standards in relation to its application to harbour ferries, marine tourism ships, pearling and fishing ships. We do not know why the review is limited to these types of ships. This is unsatisfactory and Australian Industry Standards does not have a consensus from affected stakeholder to proceed with a review under the proposed narrow terms of reference.

The second key priority is to re-establish a multi stakeholder maritime workforce development task force that is fully funded, to build on the work of the previous Maritime Workforce Development Forum undertaken in the period 2011 to 2013 up until release of the Maritime Workforce Development Strategy in May 2013.

An initial priority of the task force will be to once again undertake an audit of current and future maritime workforce capabilities and skill needs, though stakeholders may be willing to use the MIAL Seafaring Skills Census Report 2018 as the current audit. Audits will nevertheless be required at 3 yearly intervals.

Insofar as future skills needs are concerned, the review would need to take particular account of:

- The Skill Sets required by international forums such as the Oil Companies International Marine Forum (OCIMF) and the Chemical Distribution Institute (CDI) based on the seafarer skills matrices such bodies utilise, which go beyond the minimum regulatory requirements of the STCW Convention, as administered by AMSA:
 - OCIMF for example uses a matrix for tankers which complies with the OCIMF requirements for operators who are members with oil tankers in their fleet. The matrix provides an overview on crew including onboard and planned crew (relievers) for each ship in a member's fleet. Information on officers is based on essential data: rank, nationality, certificate of competency, issuing country, endorsements, radio qualification etc. Seafarer experience is calculated based on:
 - ❖ Years with the operator.
 - ❖ Years in rank.
 - ❖ Years on specific type of tanker.
 - ❖ Years on all type of tanker.
 - ❖ Years as Watchkeeping officer.
 - ❖ English proficiency.
 - ✓ Similar requirements exist for organisations representing owners/operators of chemical tankers, gas ships and for certain types of dry bulk cargo ships e.g. iron ore.
- Emerging technologies that could impact on job roles and skill requirement including the opportunities for better integration of commercial maritime skills and qualifications with those required for Navy, Border Force and other government ship operations.
- How onboard maritime skills and qualifications can be integrated into onshore roles to help achieve better labour mobility, workforce flexibility and career paths for all occupational groupings in the shipping industry, but particularly for Ratings, who, as can be seen from the MIAL Seafaring Skills Census Report 2018, have limited opportunities to transition into

onshore shipping sector roles. However, there is no reason Ratings could not become proficient in a range of onshore logistics roles in stevedoring, warehousing, and in a range of roles in other transport modes to improve their lifelong employability utilising their core maritime qualifications and experience.

- The core competencies that currently underpin seafarer qualifications to ensure that the competencies reflect required industry skills and not just the safety aspects required by the regulator or industry forums such as the OCIMF:
 - For example, an examination of the 22 Units of Competency that make up the Certificate III in Maritime Operations (Integrated Rating) (MAR30218) reveals that over 65% cover basic and routine procedural and safety competencies required by the regulator and derived from the STCW Convention requirements, while only about 35% cover technical and operational skills that are important for ship productivity, and for specialised cargo operations. Digital literacy for example is almost completely absent in the Ratings qualifications and Skill Sets, notwithstanding major advances in electronics and automated systems onboard ships, and the digitisation of logistics and computer systems for ordering parts, stores and provisioning. In a recent report for the National Centre for Vocational Education Research (NCVER) on skills in the emerging digital economy prepared by the Royal Melbourne Institute of Technology (RMIT), it noted that it would be expected that people working across the broader maritime transport industry would require a significant level of digital skills, in the operation of ships, for example, but it found this is not reflected in seafarer qualifications.¹¹²
 - ❖ It will be important that a review of digital skills that are emerging as ship technologies advance for Ratings occupations are included in reformed Ratings qualifications. Competencies around data analytics, process improvement, robotics, advanced electronics, cyber-security and material requirements planning need to be considered in such a review. This is supported by the Maritime Skills Forecast 2018 which states that:

*“The future of the industry will be characterised by integration of software systems, with increasing potential for remote operations and automation of vessels. This may require a change in the skill needs of the workforce from “on-board” operational based skills, to remote operations, navigation, and interpreting large volumes of data from remote communication systems. Technological innovations are rapidly changing the shape of the Maritime industry globally. Building on established technologies, companies are employing new innovations at a rapid pace. New technological innovations shaping the maritime sector include robotics and automation, interconnected sensors and Big Data, remote propulsion and powering, autonomous and ‘smart’ vessels, deep ocean mining, and marine biotechnologies.”*¹¹³
 - ❖ In addition, leadership and management competencies, social media competencies and collaboration competencies may also be appropriate for Ratings occupations.

The ITF has recognised the importance of establishing benchmarks for skills and qualifications. In its 2018 Congress report it noted that new technology-intensive jobs in transport will require a wide-ranging set of new skills. Formalising and regulating the skills and qualifications necessary for particular tasks will allow easier regulation, including of wage levels. The ITF report called on employers and unions to work closely with standards bodies to specify and catalogue the

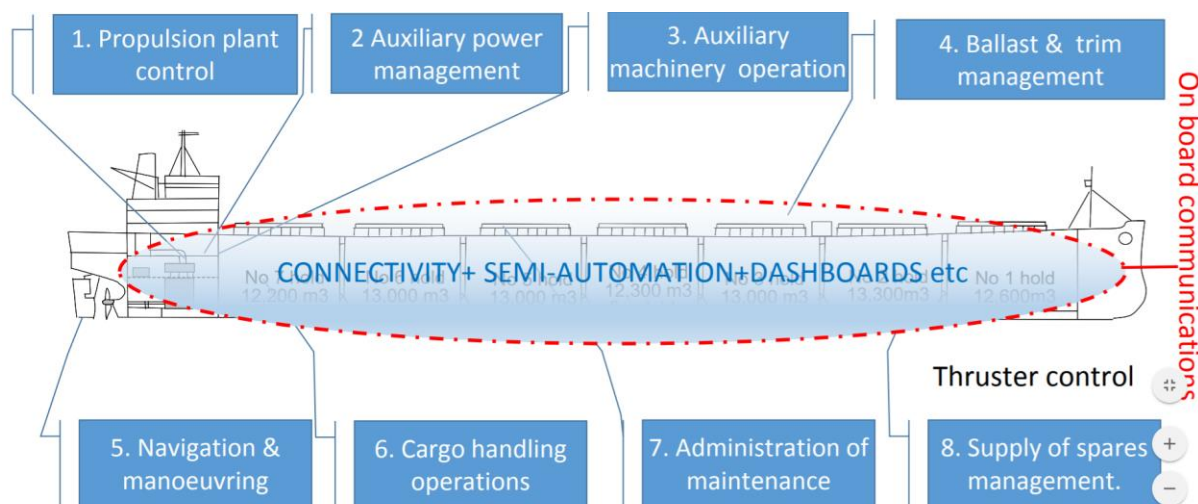
¹¹² Victor Gekara, Alemayehu Molla, Darryn Snell, Stan Karanasios, Amanda Thomas, RMIT University, *Developing appropriate workforce skills for Australia’s emerging digital economy: working paper 2017* https://www.ncver.edu.au/data/assets/pdf_file/0035/968813/Developing-appropriate-workforce-skills.pdf

¹¹³ AIS, *Maritime Skills Forecast 2018*, P15, https://www.australianindustrystandards.org.au/wp-content/uploads/2018/12/Maritime-Skills-Forecast-2018-Final_v2.pdf

requirements for new jobs. Transferable qualifications will assist workers and employers in identifying and acquiring needed skills, and developing a ready supply of qualified workers who can work in different firms and sub-sectors. Strengthening the use of high-quality apprenticeships in transport is another critical aspect of preparing for new skills requirements.¹¹⁴

Figure 12 provides a visual overview of the areas of ship operations where high order skills will in future be required to operate smart ships.

Figure 12: Areas of high order skills required to operate smart ships



Source: Presentation by Dr. Martin Stopford, President, Clarkson Research, *Challenges in the world maritime industry*, OECD Workshop on Maritime Clusters and Global Challenges, December 2016
<http://www.oecd.org/industry/ind/workshoponmaritimeclustersandglobalchallenges.htm>

Another important priority area of examination by the proposed maritime workforce development task force is to undertake a review of the training providers approved to deliver seafarer qualifications and Skill Sets, to identify offerings, trends in enrolments and completion rates, location of offerings and importantly costs.

It is understood that despite a continuing high level of employment in occupational categories such as Marine Cook and Chief Integrated Rating, the demand for training in these occupations has significantly declined, impacting on training provider offerings in core seafarer qualifications and Skill Sets. If valid, data and reasons are needed to assess if systemic and or funding changes are required in the training delivery system for seafarers.

Australian Industry Standards reports that the MAR Maritime Training Package is in the Scope of Registration of 73 Registered Training Organisations (RTOs). This seems excessive considering the number of seafarers commencing a course delivering a qualification or Skill Set approved by the Australian Industry and Skills Committee (AISC), about 5,000 annually. Australian Industry Standards reports that commencing enrolments fell by 12.9 per cent in the three years to 2016.

The MIAL Seafaring Skills Census Report 2018 reported that cost was by far the largest barrier to training seafarers. The proposed review needs to undertake a root and branch review of how training providers are pricing the delivery of training to ensure that prices are properly related to actual delivery cost including trainer costs and capital costs, to quality, especially when there is considerable anecdotal evidence of vastly differing quality standards, poor oversight of delivery standards by AISC

¹¹⁴ ITF *Transport Workers Building Power: ITF Congress Theme Document* October 2018, P31

and AMSA, and price gouging by some private training providers. Access to delivery of training should also be undertaken given that it is not only the cost of course delivery but the cost of accommodation and travel to enrol trainees and cadets at the limited number of physical locations offering STCW education and training courses. We suggest that government support schemes such as the UK SMART scheme be considered.¹¹⁵

Maritime Employees Training Ltd (METL), the largest trainer of Ratings in Australia, and a Group Training Organisation (GTO), has also observed a significant decline in the numbers of Integrated Ratings being trained in recent years. METL notes that Hunter TAFE in Newcastle NSW is no longer delivering a course for the qualification of Certificate III Maritime Operations – Integrated Rating, while the Australian Maritime College (AMC) at Launceston and South Metropolitan TAFE in Fremantle (previously Challenger TAFE) are only delivering one or two Integrated Ratings course per year, with student number between 7 and 12 for each course. A significant portion of those have been Trainee Integrated Ratings (TIRs) managed by METL. METL has noted that neither AMC or South Metropolitan TAFE are planning to deliver an IR course in first semester 2019.

METL understands that less Ratings training is being commenced because employers are unable to offer the TIRs positions on ships when they complete their training. METL is aware that cost of training is an issue for some employers, particularly in the cargo sector, with a reluctance to commence a TIR in training because they believe they are funding training for the “end-user”, which could be employers in another sector of the industry or shore-based employers who rely on maritime skills.

METL observes that trainees are also seemingly more reluctant to “self-fund” their training, as they are now more aware of lack of opportunities to gain sea-service due the reduced number of Australian coastal trading ships that are RAVs, required by AMSA for undertaking sea tome to gain the necessary AMSA seafarer certificates and associated VET qualifications. This has also contributed to the reduced numbers of TIRs.

METL believes there should be a common pool of industry funding supported by all users of maritime skills, including funds contributed by shore-based employers and other end users of qualified seafarers, to train TIRs by gaining experience across the different segments of the Australian fleet. METL advises that this can be coordinated through a GTO such as METL. The GTO provides seamlessly coordinated off-the-job and on-the-job training and employment, and enables rotation amongst different employers and vessel types, thus leading to enhanced training outcomes (ultimately a more sea-ready seafarer). Whilst METL has established successful long-term partnership with a small number of key seafarer employers, the industry at large has not taken advantage of METLs GTO service. METL understands, however, that industry broadly supports the GTO concept.

One of the more prohibitive costs of training seafarers, is that of the travel and accommodation required to attend one of only 3 RTOs delivering internationally recognised seafarer training, now essentially only available in Launceston Tasmania and Fremantle WA. This is true for both initial training and further training post issue of the seafarer licence and VET qualification. Through partnerships with established AMSA accredited RTOs, METL is well placed to provide its Maritime Training Centre facilities in Fremantle to help service the large number of seafarers residing in WA or travelling through Perth for work in the offshore oil and gas industry.

¹¹⁵ An analysis of the UK SMART scheme is contained in the Oxford Economics report entitled *An independent review of the economic requirement for trained seafarers in the UK Final Report to DfT and Review Panel* December 2011.

These proposals favoured by METL were an important component of the 2013 Maritime Workforce Development Strategy, which we believe should be revived, contemporised and funded for implementation as a key element of the rebuilding of Australian shipping.

It is our submission that the current seafarer qualifications framework, at least in the Ratings sphere, lacks a coherent structure and is not appropriately preparing the maritime workforce of the future. We also submit that the content of seafarer qualifications, particularly in the VET Certificate 1 to Certificate IV levels has not kept pace with the requirements of ship owners and operators, does not match the skills required for the various segments of the shipping industry, has failed to keep pace with advances in ship technologies and operating systems, nor with the requirements of industry forums seeking to lift the quality of ship safety, largely driven by the availability of seafarer skills/competencies.

Currently the system is heavily weighted toward the deregulation agenda of the regulator, AMSA, and not sufficiently driven by industry requirements. Regrettably, Australian Industry Standards is complicit in this deregulation agenda, and has not listened to industry, particularly the representatives of those segments of industry reliant of the Navigation Act/STCW standards. We are concerned that the current Maritime Training Package Project being overseen by Australian Industry Standards Australia is failing to address these issues and that there is no sense of urgency about reforming maritime qualifications.

The MUA submits that in the Ratings stream, there should be:

- A comprehensive hierarchy of Rating VET qualifications from Certificate Level I (entry level) to Certificate Level IV, that caters for the full range of ship types, ship operating features and geographical operation of ships, that provides a base VET qualification for each seafarer certificate level in MO505 (once it is reformed) and MO73, integrated across both the DCV and RAV system, and which meets the requirements of the STCW and other relevant IMO Conventions; and
- That these core VET qualifications be supplemented by a comprehensive package of Skill Sets that provide the skills, competencies and experience required by ship owners, operators and employers (guided by the standards set by international maritime forums, which invariably exceed the minimum requirements of the regulator) for the various types and classes of ship and their operational requirements:
 - We note that Australian Industry Standards proposes to develop Skill Sets for global maritime distress and safety systems, oil chemical tanker cargo, liquefied gas tanker, oil tanker cargo, and gas and low flashpoint fuels. This initiative confirms the importance of the MUA framework, and is strongly supported.¹¹⁶

The MUA proposes that the AISC authorise and fund Australian Industry Standards to abandon its poorly integrated, uncoordinated and incrementalist approach to reviewing the Maritime Training Package affecting the Ratings stream, and to arrange a high level conference to be independently facilitated, comprising owner/operators and employer representatives with an interest in the Navigation Act and STCW standards, the MUA representing Ratings, AMSA and METL as the only group training organisation in the industry to prepare a framework of Ratings qualifications and Skill Sets based on the principles outlined. The conference should also prepare a timetable, not exceeding 18 months, for implementation of the new Ratings qualifications framework, and that AISC adequately fund curriculum development and approval of the necessary changes to the Training Package to meet such a timeframe.

¹¹⁶ AIS, *Maritime Skills Forecast 2018*, P31, https://www.australianindustrystandards.org.au/wp-content/uploads/2018/12/Maritime-Skills-Forecast-2018-Final_v2.pdf

We also propose that the Commonwealth and States/NT fully fund a limited number of approved RTOs, subject to quality, innovation in delivery methods and cost conditions, to deliver the new Ratings qualifications and Skill Sets over a 10 year forward program as an essential part of the overall revitalisation of the Australian shipping industry.

Recommendation 25

That the Committee recommend to the Australian Government that it:

* Acknowledge that Australia cannot rebuild a viable, commercial and sustainable shipping industry if its ship and seafarer safety legislation and regulatory system is undermining the very skills base and the requirements of ships to be crewed by internationally (STCW) certificated seafarers, that will be necessary for a revitalised shipping industry.

* Establish a multi stakeholder maritime workforce development task force that is fully funded to build on the work of the previous Maritime Workforce Development Forum undertaken in the period 2011 to 2013 up until release of the Maritime Workforce Development Strategy in May 2013, and that inter alia, the Task Force:

^ Undertake a review of current and future maritime workforce capabilities and skill needs having regard to the MIAL Seafaring Skills Census Report 2018, taking account of industry skill requirements, especially in management of cargoes, emerging technologies that could impact on job roles and skill requirement including the opportunities for better integration of commercial maritime skills and qualifications with those required for Navy, Border Force and other government ship operations; and
^ Review how onboard maritime skills and qualifications can be integrated into onshore roles to help achieve better labour mobility, workforce flexibility and career paths for all occupational groupings in the shipping industry.

^ Review the core competencies that currently underpin seafarer qualifications to ensure that the competencies reflect required industry skills and not just the safety aspects required by the regulator.

^ Conduct a review of training providers approved to deliver seafarer qualifications to identify offerings, trends in enrolments and completion rates, location of offerings and their pricing principles.

* Propose that the AISC authorise and fund Australian Industry Standards to abandon its current approach to reviewing the Maritime Training Package affecting the Ratings stream, and to arrange a high level conference, to be independently facilitated, comprising owner/operators and employer representatives with an interest in the Navigation Act and STCW standards, the MUA representing Ratings, AMSA and METL as the only group training organisation in the industry to prepare a new national framework of Ratings qualifications and Skill Sets, including a timetable, not exceeding 18 months, for implementation of a new Ratings qualifications framework, and that AISC adequately fund curriculum development and approval of the necessary changes to the Training Package to meet such a timeframe.

* Work with the States/NT to fully fund a limited number of approved RTOs, subject to quality, innovation in delivery methods and cost conditions, to deliver the new Ratings qualifications and Skill Sets over a 10 year forward program as an essential part of the overall revitalisation of the Australian shipping industry.

ToR vii: Port infrastructure, port services and port fees and charges

The policy, regulatory, taxation, administrative and funding priorities to improve port infrastructure, port services and the port fees and charges regime to facilitate the revitalisation of Australia shipping are:

National ports strategy

That the Commonwealth review and contemporise the National Ports Strategy 2011, developed by Infrastructure Australia and the National Transport Commission, one objective being to ensure there is overall policy coordination for port development in Australia, and that the strategy helps guide State and NT initiatives that can facilitate the revitalisation and growth of Australian coastal shipping.

Port infrastructure to support coastal shipping

One important feature of a new National Port Strategy is that provide direction for ports to ensure that port services required for coastal sea freight services are incorporated into their port master plans and in particular, to ensure that berthing and loading/unloading facilities are fit-for-purpose and guaranteed for coastal ships at each port and that the cost of port services for Australian ships are kept to a minimum. This was a specific recommendation in the report of the Qld Transport, Housing and Local Government Committee inquiry into coastal sea freight in 2014 which was supported by the Qld Government in June 2015.

It seems that however, that there remain weaknesses in port master planning in relation to coastal shipping requirements. For example, in the most recent port master plan under development in Qld for the Port of Townsville, released for public consultation on 5 November 2018, there is no reference to coastal shipping, nor to the port services or wharfside infrastructure that might facilitate an expansion of coastal shipping or development of coastal shipping services in Qld.

While the draft master plan for the Port of Townsville refers to the need for fit for purpose sea channels, swing basins and wharfage that facilitates ship access to ports, it appears to do so in the absence of any contemporary analysis of the ship types and ship technologies that are likely to use the port over the next 5 to 20 years, with a specific focus on coastal shipping, including intrastate shipping.

The plan rightly notes that the development and maintenance of appropriate infrastructure that can facilitate trade is a primary element of port planning and operations. The establishment and ongoing management of waterside infrastructure, including shipping channels, ship berths and swing basins, is as important as the development and maintenance of landside infrastructure such as roads, railways and port terminals (Ports Australia, 2016).¹¹⁷

It is our assessment that this omission arises because there has been no nationally coordinated analysis of coastal freight trends, patterns, and flows, emerging markets, emerging ship and landside stevedoring technologies, ship types for particular cargoes e.g. self-discharging ships and so on that would provide port master planners with data to forecast likely infrastructure needs that would facilitate the growth of Australian coastal shipping.

We see this lack of research and data as a major gap in national ports policy and strategy. It is our submission that the Australian Government confer with State Governments and the NT to undertake a stocktake of all current intra-state shipping activity, along with emerging opportunities for increasing coastal interstate and intrastate shipping activity, to examine port usage and port infrastructure requirements so that port master planning better accommodates the needs and future opportunities for Australian coastal shipping.

¹¹⁷ Advision/Department of Transport and Main Roads, *Priority port master planning, Evidence base documentation, Priority Port of Townsville*, December 2016 - <https://www.tmr.qld.gov.au/business-industry/Transport-sectors/Ports/Sustainable-port-development-and-operation/Master-planning-for-priority-ports/Master-planning-for-the-priority-Port-of-Townsville>

The Australian Government, in collaboration with State governments (and the NT) should also take a lead on researching and publishing information and data on megatrends in freight and logistics as a service industry to the economy, noting that economies are becoming more service oriented, and production systems more decentralised, with consequences for freight logistics, such as reduced demand for traditional bulk cargoes, and more demand for containerised cargo.

We support the view of the Qld Government in its submission to the 2017 Inquiry into National Freight and Supply Chain Priorities that there is a need for commodity-based supply chain investigations to provide a better understanding of the limitations and constraints to the efficient and productive movement of freight from origin to destination¹¹⁸. It is our view that these investigations need to be integrated with industry policy objectives of government so that incentives for more value-added production and processing are adequately supported by services such as transport, port and shipping access to markets.

Such research will identify opportunities to make better use of sea transport in unlocking future export potential, and in reducing pressure on land-based transport modes, as an important aspect of national freight transport policy.¹¹⁹

Carbon emissions from ships and ports can be significantly reduced by investing in facilities to allow ships to plug into renewable energy sources while in port. Again, a review of the National Ports Strategy should advise on how this can be achieved on a national scale to achieve scale efficiencies.

Port fees and charges and a port access regime

A second important feature of a new National Ports Strategy is that identify and coordinate measures to keep port fees and charges for coastal shipping low, to develop principles for consistency in port fees and charges at Australia's ports, and importantly, that it examine and promote the options for differential port pricing charges that distinguish between Australian coastal ships and foreign ships trading internationally.

There is already an example of differential pricing in Victoria at the Port of Melbourne, where there is an exemption from its Channel Deepening Infrastructure fee for ship movements between Tasmania and the Port of Melbourne, directly relevant to the three Australian operators of Bass Strait freight and passenger services.

Differential port pricing is one of the most important initiatives that State and Territory governments can take in helping facilitate Australian coastal shipping. National coordination would assist the States and NT in implementing such practices.

A second key priority for improving port infrastructure, port services and the port fees and charges regime is that State Governments take steps to complement the proposed new national regulatory framework that supports Australian shipping by ensuring that ships granted a general licence to operate in coastal trading have priority berthing slot access to ports, particularly in congested bulk ports like Gladstone and Newcastle. Such a measure would reduce port time delays and avoid the higher demurrage costs incurred by ships issued with a GL, when delayed at port, due to their higher operating costs relative to foreign ships and TL ships.

¹¹⁸ Qld Government submission to the National Freight and Supply Chain Priorities Inquiry – 7 August 2017 - https://infrastructure.gov.au/transport/freight/freight-supply-chain-submissions/Dept_of_Transport_and_Main_Roads_QLD.pdf

¹¹⁹ Ibid

We also submit that the Australian Government support changes to regulatory fees and charges imposed by AMSA aimed at supporting Australian coastal shipping. The following changes are proposed for the three levies charged by AMSA:

- The Marine Navigation Levy is a charge against commercial shipping which is levied to recover all costs of operating the Commonwealth's marine aids to navigation system
 - This Levy could be amended so that domestic commercial trading ships and passenger ships are exempt. The levy revenue could be maintained through a combination of increased charges for foreign registered commercial ships, extending the charge to Defence for its ships and imposing the charge on all foreign registered ships.
- The Marine Navigation (Regulatory Functions) Levy is used to fund AMSA's maritime safety regulation activities, covering safety of both ships and crew.
 - This Levy could be restructured so that it was increased for Port State Control functions (applicable to foreign registered ships visiting Australian ports) and reduced for Australian registered ships.
- The Protection of the Sea Levy is a charge against ships based on the "potential polluter pays" principle. The levy applies to ships which are 24 metres or more in length and have on-board 10 tonne or more of oil in bulk as fuel or cargo.
 - This Levy could be amended so that Australian registered domestic commercial trading and passenger ships, which adopt higher safety standards, could pay a reduced rate, while foreign registered ships which pose a greater risk to our sea lanes and marine environment, pay a higher fee.

Procurement

Commonwealth and State Governments, as a large purchaser of goods and services to support the operations of government, all have procurement policies.

We believe it would be appropriate for the Commonwealth and each State and the NT Government to review their Procurement Policy to ensure it includes provisions relating to the transportation and logistics aspects of supply and disposal with a view to ensuring that suppliers are required as a condition of supply to consider the most efficient and cost effective transport mode in sourcing and supplying goods to the end user.

Many Commonwealth and State government supplies will by necessity be sourced from interstate or overseas, providing opportunities to use coastal shipping in the freight logistics chain in supplying those goods, be they construction materials, plant and equipment, vehicles, machinery, paper and other office supplies, food and beverages, uniforms etc.

The Procurement Policy needs to establish guidance for suppliers that use shipping in the supply of goods, so there is a clear commitment to use Australian ships with Australian crews for the Australian coastal legs of their supply chains in transporting goods for government.

Recommendation 26

That the Committee recommend to the Australian Government that it review the National Ports Strategy 2011, one objective being to ensure there is overall policy coordination for port development in Australia, and that the strategy helps guide State and NT initiatives that can facilitate the revitalisation and growth of Australian coastal shipping through better port planning, better port infrastructure and a more tailored fees and charges regime that supports Australian shipping.

Recommendation 27

That the Committee recommend to the Australian Government that it undertake commodity-based supply chain investigations to provide a better understanding of the limitations and constraints to the efficient and productive movement of freight from origin to destination, and that these investigations be integrated with industry policy objectives of government so that incentives for more value-added production and processing are adequately supported by services such as transport, port and shipping access to markets.

Development of a wide-ranging industry policy package to complement regulatory, fiscal and workforce development support for shipping

This submission outlines in some detail a package of proposals for Government action that will be required to provide the incentives and supportive measures to rebuild the Australian shipping industry. We hope the Committee is persuaded by our submission and recommends the adoption of the MUA proposals, which form a coherent reform package.

The package of proposals will require implementation over a 3 to 10-year timescale and will only succeed if there is overall coordination of the threads of policy, legislative and administrative action, which will need continuous oversight, review and evaluation. The support of stakeholders and access to critical commercial expertise on key aspects of the policy will be essential if the package of proposals is to be effectively implemented, if there is to industry support and for new investment in Australian ships to be forthcoming.

Furthermore, the package of proposals will need to be adequately funded over the forward estimates. The key elements of the package that require funding include:

- The legislative reforms, requiring consultation, drafting and shepherding through the Parliament:
 - We note for example that the ALP Opposition has announced support for establishment of a national strategic fleet and that it would if elected establish a taskforce to guide the creation of the fleet. There are several elements of the policy package that require task forces that bring together critical shipping industry expertise to ensure the policy is commercially sustainable and has stakeholder support. These task forces will need to be adequately resourced;
- The establishment of a new statutory authority, the Australian Coastal Ship Licencing Authority;
- Investment in National Strategic Fleet ships (could be integrated with the Defence and Border Force budgets, and in the case of offshore wind, renewable energy funding);
- The establishment and operation of a Maritime Workforce Development Task Force (that will require funds for ongoing workforce surveys, and for training system reviews contemplated as part of its work);
- The establishment and operation of a task force to examine the scope to develop a maritime cluster in Australia, which if agreed would need a permanent unit in an agency of government to oversee the development of the maritime cluster;
- The review of the integration between the Navigation Act and National Law Act and associated review of AMSA Marine Orders;
- Refreshing the National Ports Strategy;
- Implementation of key recommendations in the Report of the Inquiry into National Freight and Supply Chain Priorities;

- Implementation of some recommendations in the Interim Report of the Senate Inquiry into FOC shipping; and
- A shipping industry development unit located in an agency of government to coordinate and oversee all elements of the reform package.

It will be important that the shipping policy package be linked as appropriate to other elements of Government industry development policy. There are already important industry policies being implemented that lend themselves to integration with a new national shipping policy, such as:

- Defence shipbuilding;
- Advanced manufacturing;
- National Freight and Supply Chain Strategy;
- National Ports Strategy;
- Participating in the digital economy;
- Resources 2030 Taskforce;
- Industry Growth Centres;
- Northern Australia agenda; and
- Growing Australian industries through trade.

We are aware that the ALP Opposition has made some key industry policy announcements covering:

- Creation of an Australian Manufacturing Future Fund that will support innovative Australian manufacturing firms - shipping is vital to manufacturing supply chains.
- A commitment to boost Australia's national R&D effort to 3 per cent by 2030 – this submission notes the opportunities for better integration of Defence and commercial shipping R&D and technology diffusion.
- An Australian Investment Guarantee (AIG) - accelerated depreciation incentives for new capital equipment investments – this submission proposes new shipping industry investment incentives which need to dovetail into national investment enhancing measures.
- Support for the key directions in the Innovation and Science Australia report of November 2017 entitled *Australia 2030: prosperity through innovation*.
- Support for the direction of the *Grow. Make. Prosper; The Decadal Plan for Australian Agriculture* report produced by the Australian Academy of Science's National Committee for Agriculture, Fisheries and Food – agricultural and food sector value adding and export need to be integrated with shipping supply chains.
- Support for a number of industry plans:
 - National Shipbuilding Plan.
 - National Rail Plan.
 - Plan for Australian Metals Manufacturing and Jobs.

The MUA proposes that the Australian Government ensure that a refreshed national shipping policy be fully integrated with broader national industry policy development and implementation and that responsibility for this outcome be integrated with the functions of the shipping industry development unit proposed above.

Recommendation 28

That the Committee recommend to the Australian Government that it ensure that a refreshed national shipping policy be fully integrated with broader industry policy development and implementation, and that to oversee this industry policy integration a Unit be established in the Industry Department as a joint venture with the Infrastructure/Transport Department, with responsibility for working with other agencies of Government responsible for the various elements

of shipping policy and with industry stakeholders to ensure shipping industry policy is integrated with national industry policy and strategy.

Recommendation 29

That the Committee recommend to the Australian Government that it fully fund over the forward estimates, the implementation of all elements of the policy package, which includes:

- * The legislative reforms, requiring consultation, drafting and shepherding through the Parliament, including resourcing of task forces to support legislative development;
- * The establishment of a new statutory authority, the Australian Coastal Ship Licencing Authority; Investment in National Strategic Fleet ships (could be integrated with the Defence and Border Force budgets, and in the case of offshore wind, renewable energy funding);
- * The establishment and operation of a Maritime Workforce Development Task Force (that will require funds for ongoing workforce surveys, and for training system reviews contemplated as part of its work);
- * The establishment and operation of a task force to examine the scope to develop a maritime cluster in Australia, which if agreed would need a permanent unit in an agency of government to oversee the development of the maritime cluster;
- * The review of the integration between the Navigation Act and National Law Act and associated review of AMSA Marine Orders;
- * Refreshing the National Ports Strategy;
- * Implementation of key recommendations in the Report of the Inquiry into National Freight and Supply Chain Priorities;
- * Implementation of some recommendations in the Interim Report of the Senate Inquiry into FOC shipping; and
- * A shipping industry development unit located in an agency of government to coordinate and oversee all elements of the reform package.

Improving the cost competitiveness of Australian shipping

This submission proposes a number of reforms which will improve the cost competitiveness of Australian shipping, and reduce costs for shippers, ship owners and ship operators/charterers. The key proposals that address cost competitiveness are:

- Improving the benefits, and extending the eligibility, of the shipping taxation incentives.
- Repealing Part B of the Seagoing Industry Award 2010 so there are no Award entitlements to be paid to non-national seafarers of ships issued with a Temporary Licence to operate in coastal trade.
- Reducing ship licensing costs by placing the licensing system on a commercial basis.
- Reducing port and regulator-imposed charges for Australian ships.
- Facilitation of take-up of new energy saving technologies to reduce ship operating costs.
- Improving supply chain integration and coordination.
- Improving the skills and capabilities of the workforce.

Appendix 1: Tables showing various aspects of the Australian coastal shipping fleet 2012 to 2019

Table 7: Australian-registered major coastal trading ships at February 2019

Ship name	DWT	Year built	Operating as major coastal trader?	CT Act General Licence?	RAV or DCV?	Status
Spirit of Tasmania I	5,651	1998	Yes	Yes	RAV	Bass Strait Cargo and Passenger trade
Spirit of Tasmania II	5,651	1998	Yes	Yes	RAV	Bass Strait Cargo and Passenger trade
Searoad Tamar	9,958	1991	Yes	Yes	RAV	Bass Strait Cargo and Passenger trade
Searoad Mersey II	7,980	2016	Yes	Yes	RAV	Bass Strait Cargo and Passenger trade
Tasmanian Achiever II	12,000	2018	Yes*	Yes	RAV	Bass Strait Cargo and Passenger trade
Victorian Reliance II	12,000	2018	Yes*	Yes	?	Bass Strait Cargo and Passenger trade
Newcastle Bay	2,750	1991	Yes	Yes	?DCV	Community cargo - QLD
Trinity Bay	3,158	1996	Yes	Yes	?DCV	Community cargo - QLD
Accolade II	8,140	1982	Yes - intrastate	Yes	RAV	Dry bulk - Cement
Goliath	15,539	1993	Yes	Yes	RAV	Dry bulk- Cement
Aurora Australis	3,911	1990	Yes	Yes	RAV	Scientific vessel
Aburri	3,300	1995	Yes - intrastate	No	DCV	Transhipment of zinc concentrate in Bing Bong, NT.
Wunma	5,140	1999	Yes - intrastate	No	?DCV	Returned to transshipping zinc concentrate in Karumba, Qld after being laid up in PNG March 2016- October 2018.
Donnacona	28,115	2001	Yes - intrastate	Yes	RAV	Iron ore transhipment in Cape Preston WA
Larcom	3,963	2013	Yes - intrastate	No	?DCV	Gladstone bunker barge. Flagged in Australia Aug 2013.
Toll Osprey	2,045	2013	Yes	Yes	?DCV	Regional construction projects.
Spencer Gulf	4,766	2006	Yes - intrastate	No	DCV	Whyalla iron ore transhipment
TOTAL 2019			17	13	9 RAVs	

Table 8: Major foreign registered coastal trading ships at February

Ship name	Flag	DWT	Year built	Majority Coastal Trading?	Australian crewed	Status
RTM Weipa	Singapore	90,338	2007	Yes	Australian crewed	Rio Tinto bauxite carrier
RTM Wakmatha	Singapore	89,605	2007	Yes	Australian crewed	Rio Tinto bauxite carrier
RTM Piiramu	Singapore	89,861	2008	Yes	Australian crewed	Rio Tinto bauxite carrier
RTM Twarra	Singapore	89,861	2009	Yes	Australian crewed	Rio Tinto bauxite carrier
ICS Reliance	Bahamas	6,105	2011	Yes	Australian crewed	Geelong-Melbourne bunker barge – Viva/Inco Ships
ICS Allegiance	Bahamas	6,105	2011	Yes	Australian crewed	Geelong-Sydney bunker barge – Viva/Inco Ships
ICS Integrity	Bahamas	7,535	2012	Yes	Australian crewed	Geelong-Sydney bunker barge – Viva/Inco Ships
RTM Gladstone	Singapore	90,338	2009	Yes	Not Australian crewed	Rio Tinto bauxite carrier
RTM Dias	Singapore	88,000	2013	Yes	Not Australian crewed	Rio Tinto bauxite carrier
RTM Flinders	Singapore	88,000	2013	Yes	Not Australian crewed	Rio Tinto bauxite carrier
Azalea Wave	Liberia	95,584	2013	Yes	Not Australian crewed	Rio Tinto bauxite carrier
Raga	Panama	95,666	2013	Yes	Not Australian crewed	Rio Tinto bauxite carrier
Sargam	Japan	95,671	2012	Yes	Not Australian crewed	Rio Tinto bauxite carrier
ICS Silver Lining	Antigua & Barbuda	12,578	2005	Yes since March 2013	Not Australian crewed	General cargo ship operated by Inco Ships for Nyrstar
Wincanton	Marshall I.	9,203	2000	Yes since January 2010	Not Australian crewed	Ammonia tanker operated by Orica
Acacia (ex-CSL Thevenard)	Bahamas	40,734	1981	Yes	Australian crew removed October 2017	CSL dry bulk – gypsum, cement, clinker, flyash

Ship name	Flag	DWT	Year built	Majority Coastal Trading?	Australian crewed	Status
Adelie (ex-CSL Brisbane)	Bahamas	45,630	1999	Yes	Australian crew removed July 2016	CSL dry bulk – mineral sands, gypsum, clinker, calcite
Stadacona	Bahamas	32,452	1984	Yes since before 2012	Not Australian crewed	CSL dry bulk – gypsum, cement, clinker, flyash
Luga (ex-Alcem Lugait)	Bahamas	28,808	1984	Yes since before 2012	Not Australian crewed	CSL dry bulk – cement and flyash
CSL Reliance	Bahamas	49,463	2002	Yes since March 2017	Not Australian crewed	CSL dry bulk – mineral sands, dolomite, gypsum
Glory Atlantic	Norway NIS	20,200	2006	Yes since Sept 2014	Not Australian crewed	CSL dry bulk – cement and flyash
Kondili	Bahamas	28,442	2006	Yes	Not Australian crewed	CSL dry bulk – cement
Nacc Napoli	Panama	28,300	2009	Yes	Not Australian crewed	CSL dry bulk – cement
Gas Defiance	Marshall I	5,105	2008	Yes since 2008	Not Australian crewed	LPG tanker, mainly Queensland and NSW. Operated by Origin Energy.
Gas Shuriken	Marshall I	5,025	2008	Yes since 2008	Not Australian crewed	LPG tanker, mainly Queensland and NSW. Operated by Origin Energy.
Oslo Bulk 5	Singapore	8,043	2010	Yes since November 2016	Not Australian crewed	Mainly fertiliser and ammonium nitrate for Orica, Ameropa, and Incitec Pivot
Asphalt Transporter	Cyprus	9,221	2008	Yes	Not Australian crewed	Carries Hard pitch and tar for aluminium smelters (Rio Tinto and Alcoa), Teekay Australia holds TLs
TOTAL				27		
Number of which are Australian crewed				7		

Table 9: Australian-registered major international trading ships

Ship name	DWT	Year built	Operating as major international trader in September 2017?	Details
Northwest Sanderling	66,810	1989	Yes	LNG exports
Northwest Sandpiper	66,768	1993	Yes	LNG exports
Northwest Snipe	66,695	1990	Yes	LNG exports
Northwest Stormpetrel	66,875	1994	Yes	LNG exports
TOTAL			4	

Table 10: Government ships and an FSO that operate as part of bluewater fleet

Ship name	Flag	DWT	Year built	Details
MATB Sycamore	Australia (Naval)	744	2017	Training ship. Operated by Teekay for the Australian Navy
Ocean Shield	Australia	4,500	2012	Australian Customs and Border Protection
Coral Knight	Australia	1,472	2014	Operated by Teekay for Great Barrier Reef protection.
Dampier Spirit	Bahamas	106,668	1988	FSO, operated by Teekay as part of its blue-water fleet.
Ocean Protector	Australia (Naval)	4,628	2007	Operated by Teekay for the Australian Navy

Appendix 2: Nations of importance to Australia which retain maritime cabotage

USA. US cabotage is contained in the US *Merchant Marine Act 1920* (commonly referred to as the Jones Act) which reserves to US-registered ships, which must also be US citizen crewed and constructed in the US, the right to transport cargo and passengers between US ports. US cabotage policy is bi-partisan and has been confirmed as central to US Defence and maritime security by successive Presidents from both major parties over the past 2 centuries.

Canada. Canadian cabotage is contained in the Canadian *Coasting Trade Act*. It provides for licenses to be issued to foreign ships where no Canadian ship is available or suitable but under strict conditions, requiring a proper market evaluation of the application for a license. Importantly, the Act and associated regulations and guidelines requires foreign ships crew members engaged on ships under a license to require a work permit to operate in the Canadian coastal trade. To obtain a work permit requires a Labour Market Impact Assessment (LMIA) to be undertaken to support the work permit application. If there are Canadian seafarers available to fill the roles, the assessment and hence the work permit might be refused. This acts to support the Canadian cabotage system by limiting the number of licensees issued to foreign ships. Foreign flag ships operating under waiver carried about 2.7 percent of all coasting trade traffic in 2006, indicating very few licenses are issued.

Indonesia. Cabotage principles were implemented when the domestic shipping industry in Indonesia almost collapsed in the period up to 2005 as a result of foreign ships engaging in coastal sea transportation. The Indonesian government implemented a cabotage policy in 2005. Indonesia's shipping and offshore marine industry underwent major changes since the introduction of a comprehensive Maritime Law No 17 of 2008 which was aimed at providing business opportunities and greater market share to Indonesian companies. Article 8 of the Maritime Law No 17 of 2008 sets out the following principles:

- That activities relating to domestic sea transportation must be performed by an Indonesian Sea carriage company using an Indonesian registered ship which are manned by Indonesian crews; and
- Non-Indonesian sea registered ships are prohibited from carrying passengers and / or goods between islands or ports in Indonesian waters.

The impact of the enactment of Maritime Law No 17 of 2008 also required Indonesian shipping companies with foreign shareholders to own at least one self-propelled ship of more than 5000 gross tonnage. It is also a requirement that all ships operating in Indonesian waters to observe the cabotage principles whether or not they are engaged in domestic sea transportation activities. Companies are required by law to establish and licence themselves as "Indonesian Sea Carriage Companies" and is required to be incorporated in Indonesia and must observe the 49% foreign ownership limit. The implementation of the cabotage law also paved the way for liberalization of port management and private sector participation in port development.

In 2011 some exemptions were provided for certain offshore oil and gas ships as Indonesia did not have sufficient offshore ships on its register. Exemptions for oil and gas survey ships, offshore constructions ships, dredging, salvaging and underwater works expired in December 2014. In December 2015, the current exemptions for jackups, semisubmersibles, deepwater drill ships, tender-assist and swamp bridge rigs will also expire. Many of these ships are now being built in Indonesia.

China. China maintains a domestic maritime cabotage policy through its Water Transport Management and Registration Regulations of May 1987. There has been some relaxation of the provisions on a port by port basis, allowing Chinese owned, but foreign registered ships, to carry container cargo between specified domestic ports.

Japan. Maintains a system of maritime cabotage given effect by Article 3 of the Ships Act. The Japanese system allows ships of a limited number of foreign countries to operate in the coastal trade as a part of reciprocal trade arrangements when granted a permit from the Ministry of Land, Infrastructure, Transport and Tourism.

Brazil. Brazilian Law 9.432/97 (“Brazilian Shipping Act”) - created the Brazilian Especial Register (REB) and several incentives for the Brazilian flag/BSC and the shipbuilding sector in Brazil, also established a set of rules creating restrictions to foreign owners and ships to operate in cabotage, offshore support navigation, port navigation and also inland/river navigation. Only Brazilian shipping companies are allowed to charter foreign ships into the Brazilian jurisdictional waters. Brazilian flag ships, as general rule, also have the priority to operate in such navigation activities, meaning foreign ships are only authorized to operate in case of non-availability of Brazilian flag. In essence the law requires foreign carriers engaged in cabotage trades to have one domestic registered ship in their fleet.

India. India maintains a system of maritime cabotage under its Merchant Shipping Act. In 2005 the rules were partially relaxed to allow foreign carriers to engage in intra-port container movements between some ports, aimed at inducing feeder competition. Foreign companies can purchase Indian shipping companies to engage in trade and can charter Indian registered ships to undertake coastal trade. A freight tax is imposed on foreign ships engaged in inter-port trade.

European Union. In Europe, an EU-flag ship is eligible to participate in the cabotage trades of any other EU state. Within Europe, each country may impose crew nationality requirements, ship ownership requirements and fiscal requirements on owners. In addition, States that retain some restriction on access for foreign ships usually maintain a waiver system based on the condition of non-availability or unsuitability of a national- or EU-flag ship. The widening of the cabotage area has enabled more than shuttle services to develop, so that operators can optimize their offerings to suit opportunities. This liberalization enlarged the region in which short sea services could operate and gave European ship operators the longer routes that enabled short sea to compete effectively with land-based transport.

Appendix 3: The proposed Object clause for an amended CT Act

Amend s3(1) by repealing the current Object and replacing it with the following:

The object of this Act is to provide a regulatory framework for coastal trading in Australia that:

- (a) Maximises the use of ships registered in the Australian General Shipping Register in coastal trading; and
- (b) Facilitates the long-term growth of the Australian shipping industry; and
- (c) Enhances the utilisation, efficiency and reliability of Australian ships as part of the national transport and logistics system; and sea passenger transport system; and
- (d) Supports the development and maintenance of a national strategic fleet in the national interest; and
- (e) Promotes competition between Australian providers of coastal trading ships and fair competition with road and rail modes in domestic freight transport; and
- (f) Promotes a narrowing of the cost gap between Australian ships and international ships in coastal trade; and
- (g) Quarantines for GL ships, national interest trades, routes or market segments.

Appendix 4: Proposed functions for a new Australian Coastal Ship Licencing Authority

(1) The functions of the Authority are:

- (a) To promote the Object of this Act;
- (b) To manage and supervise the Australian coastal ship licencing system;
- (c) To issue coastal ship licences;
- (d) To monitor the use of TL ships that supplement GL and MGL ships;
- (e) To manage a procurement process for supply of GL ships;
- (f) To secure additional market share for GL ships in coastal trade and to encourage the use of long-term contracts of affreightment (COAs) for freight transportation;
- (g) To declare national interest shipping trades, routes or market segments within defined supply chains;
- (h) To establish and facilitate dialogue between:
 - (i) agencies of Government that build, operate and maintain ships (or manage tenders for these functions), and regulate maritime matters, including Defence/Navy, Australian Border Force, CSIRO, marine management and mapping authorities and AMSA;
 - (ii) commercial shipping interests; and
 - (iii) seafarer representative organisations:
to maximize merchant civilian participation in provision of government ships, shipping services, support and maintenance, including the maintenance of a National Strategic Fleet;
- (i) To ensure that Australian ships are available to help deliver domestic fuel security for both civilian and Defence requirements;
- (j) To promote and advocate for fair competition between shipping, and road and rail modes, in domestic freight transport;
- (k) To publish monthly statistics on coastal trade and coastal ship operations including licenses issued, based on specified data sets;
- (l) To report annually on the performance of its functions and the operation of this Act;
- (m) To perform such other functions as are conferred on it by or under any other Act or regulations;
and
- (n) To perform functions incidental to any of the previously described functions.

Appendix 5: An outline of the proposed new temporary licence (TL) application process in the Coastal Trading (Revitalising Australian Shipping) Act 2012 (CT Act) for cargo ships

- The licensing process outlined here is based on the assumption that a shipper will have commenced discussions with a ship provider regarding the transportation of the shipper's cargo prior to the licence application process commencing.
- The formal process therefore commences with an application for a TL to the Australian Coastal Ship Licencing Authority (ACSLA [the Authority]) by a ship provider – either:
 - A holder of a general licence (GL); or
 - A holder of a modified general licence (MGL); or
 - The owner, charterer or agent of a non-licenced ship (a foreign registered ship):
 - ❖ Note that under the proposed new provisions, unlike the current CT Act, neither the master of a ship, nor a shipper is eligible to apply for a TL.
 - ❖ Note also that under the proposed new provisions, the TL attaches to a ship and there must be a separate application for each ship for which a TL is being sought.
 - ❖ It is proposed that it be a requirement that the TL application specify what supply chain the cargo is a part of to enable the Authority to assess whether the TL is in a trade that is defined as a national interest trade.
- Upon receipt of an application for a TL the Authority must:
 - First, determine that the application falls outside a national interest shipping trade, route or market segment and is not for a ship that is included as a National Strategic Fleet Ship;
 - Second notify all GL and MGL holders of the application; and
 - Third, invite GL and MGL holders to advise the Authority if they believe they have, or could, within a reasonable time to meet the shipper's transportation requirements, secure a suitable and available GL or MGL ship (or ships) to meet the transportation requirements of the shipper.
- If the Authority is advised by one or more GL or MGL holders that it believes it has or could secure a suitable and available ship or ships to meet the shippers' requirements, the Authority must:
 - Require each such GL and or MGL holder to enter into commercial discussions with the shipper of the cargo with an intent that the GL or MGL holder enter into a charter party agreement with the shipper; and
 - Require each GL and or MGL holder, and the shipper, to each separately report on the outcome of those commercial discussions. The report must include:
 - ❖ Advice on whether agreement for provision of one or more GL or MGL ships by a GL or MGL holder has been reached;
 - ❖ Advice on whether there is agreement to use a combination of GL/MGL and TL ships to meet the shipper's transportation requirements; and
 - ❖ In circumstances where no agreement is reached, the reasons for the failure to reach agreement.
- If the Authority is advised by GL and or MGL holders that no suitable GL or MGL ship is available or could be secured within a reasonable time to meet the shippers' transportation requirements the Authority may:

- Call tenders for the supply of one or more GL and or MGL ships where the Authority determines that the trade could commercially sustain a GL or MGL ship; and or
- Issue a TL to a ship or ships for the transportation of the shippers' cargo requirements, pending the outcome of the tender process.
 - ❖ Note that a TL has a maximum duration of 3 years.
- The Authority may require a GL and or MGL holder and a shipper to undertake a commercial arbitration process in circumstances where no agreement is reached on use of the GL/MGL holder's GL/MGL ship or ships, where the reasons for a failure to reach agreement indicate that commercial arbitration may provide assistance in reaching agreement.
- If the Authority is advised by a GL and or MGL holder and the shipper that agreement has been reached to charter one or more GL and or MGL ships, the TL application is considered to have lapsed.
- If the Authority is advised by a GL and or MGL holder and the shipper that agreement has been reached to charter one or more GL or MGL ships, to be supplemented by one or more TL ships, the Authority must proceed to grant one or more TLs.
- If the Authority is advised that the GL and or MGL holder does not wish to offer a TL ship to the shipper where cargo volumes require ship capacity in excess of the capacity of the GL/MGL ship or ships, the shipper is authorised to seek to secure a TL ship from an owner, charterer or agent, who must then apply to the Authority for a TL for the ship.
- If on completion of a tender process, a suitable GL or MGL ship becomes available to transport the shipper's cargo, the Authority must consult with the shipper, the owner/operator/charterer or agent of the GL or MGL ship and the charterer of the TL ship that is undertaking the shipper's transportation requirements, to arrange a transition from use of the TL ship to the GL or MGL ship, over a reasonable time period that does not prejudice commercial interests.
- The Authority is authorised to consider and grant applications for a TL for a ship to transport small volume cargoes on an irregular basis and at short notice on the following conditions:
 - The cargo comprises 6 or less TEUs;
 - The cargo comprises no more than 2 vehicles or 2 items of machinery;
 - The cargo comprises break bulk cargo of no greater than 25 tonnes in total;
 - The cargo comprises no more than 5,000 litres of liquids;
 - The TL has a maximum duration of 14 days and cannot be extended; and
 - The Authority is not permitted to grant more than four such TLs to an applicant in any 12-month period.
- The Authority shall monitor and keep under review the use of TL ships in each trade, along with trade volume trends, to ensure that TL ships are not accessing cargo volumes that could viably sustain the use of a GL or TGL ship, and to ensure that there is no gaming behavior regarding supply chains that are intended to be included in national interest shipping trades, routes or market segments that would undermine the Object of the Act:
 - Where the Authority assesses that trade volumes in a trade or supply chain where cargo is contestable and could viably sustain one or more additional GL and or MGL ships, the Authority must take that assessment into account when considering new or renewed applications for a TL for a trade.

- Price inquiries and or price surveillance of monopoly ship service providers - The Authority may at its sole discretion request the Minister to arrange under s95H of the *Competition and Consumer Act 2010*, for the Australian Competition and Consumer Commission (ACCC) or another body to hold an inquiry into the pricing practices of the holders of ship licences granted by the Authority and or to undertake price surveillance of licence holders under part VIIA of the *Competition and Consumer Act 2010*, where the license holder is the sole ship provider to the shipper.

Appendix 6: Comparison of vessel safety standards under the Navigation Act and the National Law Act

Table 11: Comparison of vessel safety standards under the *Navigation Act 2012* and under the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*.

<i>Navigation Act 2012</i>	<i>Marine Safety (Domestic Commercial Vessel) National Law Act 2012</i>
<p>Survey</p> <p>Physical standards of vessels set by Classification Societies, IMO conventions and codes and marine orders. Vessels are issued with a series of internationally recognised certificates and inspected by AMSA surveyors and class surveyors on a regular basis, with inspections occurring every 12 months. Specific IMO codes and Marine Orders apply to the construction and equipment of certain vessels (see MO31 & Nav Act Chapter 3). Passenger vessel Certificates of Survey are only valid for 1 year.</p>	<p>Physical standards of vessels set by the NSCV Part C (National Standard for Commercial Vessels) and recognised organisations (class societies) for vessels over 35m and over. Issued with Certificates of Survey (MO 503) valid for 5 years, with periodic survey frequency based on a risk category.</p>
<p>Working Conditions</p> <p>The Navigation Act (Chapter 2), Maritime Labour Convention (MLC) and MO11 set out the employment and accommodation standards for seafarers, including the physical accommodation, work agreements, hours of work and rest, regulations regarding the provision of food and water, catering facilities, sanitary facilities, regulations concerning repatriation, exemption from serving on jury, and seafarers not to be wrongfully be left behind.</p>	<p>Maritime Labour Convention does not apply. No regulations for working and living conditions are in the DCV Act. These are in the Nav Act as the environment in which seafarers live and work presents unique challenges.</p>

Navigation Act 2012	Marine Safety (Domestic Commercial Vessel) National Law Act 2012
<p>Manning*</p> <p>The Navigation Act, (Chapter 2, Part 4, Division 2) states that AMSA may make a written determination for a vessel regarding the minimum complement of crew. MO 21 (Safety and Emergency Arrangements, Division 2, Section 9) refers to the Principles of Minimum Safe Manning (IMO Res A.1047(27)), that the Minimum Safe Manning Document (MSMD) must be kept on board, and a copy must be available in a location such that the seafarer can access it without the need to ask.</p> <p><i>*Manning and crewing both refer to the number and qualifications of persons on board, however, internationally, the word manning is used, so generally refers to Navigation Act vessels, whilst the crewing is used for domestic vessels.</i></p>	<p>Crewing*</p> <p>MO 21 Division 2 applies to DCVs – however unless vessels are not required by SOLAS to have MSMDs, (i.e. on an overseas voyage) section 9 does not apply. Marine Order 504, Schedule 1, Section 6, has defined the minimum crew allowed for a specific type of vessel, and expects the operator to determine the ‘appropriate crewing’ based on a list of factors that must be considered. The reasoning behind this ‘self-determination’ must be kept on board with the vessel’s documentation. There is no requirement for consultation with crew or for checking with surveyors or AMSA. There is no guidance regarding working hours, and ‘uncertified crew’ can be part of not only the ‘minimum’ crew but also the ‘appropriate crew’. Many operators crew their vessels such that ‘uncertified crew’ are standing a navigation watch by themselves.</p>
<p>Safety and Emergency Arrangements</p> <p>Marine Order 21 incorporates many safety arrangements found in SOLAS (as the minimum international standard). This includes Division 3 – Emergency procedures, including alarm signals, abandon ship signals, emergency drills, training, passenger lists, emergency management plans, emergency instructions for passengers, emergency duties for seafarers, assignment of survival craft. It also includes regulations on the carriage of portable gas detectors.</p>	<p>There are sections of MO21 Division 2 which relate to pilot boarding arrangements and steering drills on board DCVs.</p> <p>For Domestic Commercial Vessels, these procedures should be included in the vessels ‘Safety Management System’ as per the requirements of Marine Order 504, Schedule 1. This is based on the operator’s own risk assessments and tasks on board, and include an emergency plan, briefings for passengers, maintenance schedules. The owner and crew must also receive ‘sufficient’ training in operations and emergency procedures.</p>

Navigation Act 2012	Marine Safety (Domestic Commercial Vessel) National Law Act 2012
<p>Operating Standards</p> <p>Marine Order 28 (Operation Standards and Procedures) includes the standards of watchkeeping, including recording hours of rest and complying with the Minimum Safe Manning Document. Section 17 specifically states that watchkeepers comply with watchkeeping standards set out in STCW. STCW states the specific duties that a holder of a Certificate of Competency may perform, including holding a navigational watch, and the fundamental principle that a Navigational watch rating assist the watchkeeper as a lookout at all times, and may only leave the bridge during daylight if they are able to be called to the bridge quickly.</p>	<p>STCW does not apply to DCVs. There is no requirement in the DCV Act that provides for a navigational lookout, or that watchkeepers maintain the minimum required standard. Even the duties and functions of a 'deck watchkeeper' are not defined in NSCV part D, or elsewhere in the National Law. This has resulted in the practice of uncertified crew, particularly on fishing vessels, holding a 'steering watch', under the supervision of the Master – who is asleep nearby.</p>
<p>Specific vessel risks</p> <p>Marine Orders 32, 33, 34, 35, 41, 42, 43, 49, 50, 51, 52, 53, 57 and 60 all contain regulations based on minimum international standards and codes for specific types of vessels and cargoes and operations that pose unique risks. Some of these include dangerous cargoes, helicopter operations, securing cargoes, bulk carriers and training vessels.</p>	<p>None of these marine orders apply to Domestic Commercial Vessels.</p>
<p>Safety Management</p> <p>Marine Order 58 relates to the Safe Management of Vessels and gives effect to the International Safety Management (ISM) Code. It requires companies operating vessels to have has their Safety Management System audited and approved by the regulator, and certificates issued as appropriate.</p>	<p>Marine Order 504 requires vessel owners to sign a declaration that they have a Safety Management System in place before AMSA will issue a Certificate of Operation. The SMS may never be inspected or audited before this is issued.</p>

Navigation Act 2012	Marine Safety (Domestic Commercial Vessel) National Law Act 2012
<p>Safety and Skills training</p> <p>Navigation Act vessels are required to ensure every person on board, including hospitality crew has basic safety training to the required international standard. This is a week-long course, covering security, personal safety, firefighting, sea survival and first aid. All crew on passenger vessels are also required to obtain certification regarding Crowd Management, Crisis Management and Human Behaviour to ensure they are equipped to manage passengers in the event of an onboard emergency/evacuation. Deck and Engine Crew are also required to gain appropriate certification for the emergency and operational roles they have on board, including operating lifeboats and rescue boats and fast rescue craft, tanker familiarisation for oil and chemical or gas vessels, advanced firefighting, confined space entry, and designated security duties. In addition, a competent and qualified integrated rating who is able to work unsupervised, will have at least 12 months sea time, experience and a Certificate III in Marine Operations.</p>	<p>Marine Order 504 allows crew to sail as ‘uncertificated’ this can include all hospitality crew, as well as deck and engine crew. The onus is on the owner to ensure that the crew is provided with “<i>so far as reasonably practicable, such information, instruction, training or supervision to people on board the vessel as is necessary to ensure their safety.</i>” Marine Safety (Domestic Commercial Vessel) National Law, Schedule 1 Part 3, Division 1, Section 12.</p> <p>Completing such courses as the ‘shipboard survival skill set’ and the ‘General Purpose Hand is voluntary, and onboard training is considered sufficient by most owners.</p> <p>Crew then have no approved training on personal safety, practical survival and firefighting training, passenger management, confined space entry etc.</p>
<p>Additional provisions</p> <p>Under the Navigation Act, there are certain other provisions which are not allowed for in the National Law, including drug and alcohol tests, the Master’s ability to detain crew or passengers, penalties for harming a seafarer, obstructing a vessel, and taking a vessel to sea without charts.</p>	