

The Senate

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Rural and Regional Affairs and  
Transport References Committee

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Policy, regulatory, taxation, administrative  
and funding priorities for Australian  
shipping

December 2020

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# Contents

<b>Members .....</b>	<b>iii</b>
<b>List of Recommendations .....</b>	<b>xi</b>
<b>Chapter 1 – Background.....</b>	<b>1</b>
Referral .....	1
Conduct of the inquiry .....	1
Acknowledgements .....	2
References .....	2
Structure of the report .....	2
An overview of shipping .....	3
International shipping.....	3
A brief history of international shipping and trade .....	4
Global trade patterns.....	6
Australian shipping.....	6
The history of shipping policy in Australia .....	7
Recent shipping industry reforms .....	10
Senate Rural and Regional Affairs and Transport Committees' inquiries.....	14
Shipping Legislation Amendment Bill 2015 .....	15
Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017 .....	15
Increasing use of so-called Flag of Convenience shipping in Australia .....	16
<b>Chapter 2 – Australian shipping .....</b>	<b>19</b>
Overview .....	19
Coastal shipping.....	19
Australia's coastal shipping framework.....	21
Coastal trading licences .....	21
Regulation of cruise shipping in Australia .....	23
Regulations in other jurisdictions around the world.....	23
Views on Australia's coastal shipping .....	25
International shipping.....	27
International trade routes and cargo shipping.....	28
Australian International Shipping Register .....	28

Views on international shipping .....	29
Part X of the Competition and Consumer Act .....	29
Australian International Shipping Register .....	30
<b>Chapter 3 – Promoting shipping as an effective mode of transport.....</b>	<b>33</b>
Overview .....	33
Suggestions to promote the use of shipping .....	33
Improve flexibility .....	33
Improve interactions with other modes and reduce intermodal constraints .....	34
Create a level playing field across modes .....	35
Support resource and energy shipping .....	38
Support Tasmanian shipping.....	39
Support cruise shipping.....	39
Suggestions to promote the use of Australian ships and crews.....	40
Reform the CT Act .....	40
Prioritise Australian ships at domestic ports.....	42
Introduce a bunker fuel rebate.....	43
Reform the Shipping Registration Act.....	43
Require ships to register .....	43
Reform seafarers' remuneration .....	44
Improve wage parity between domestic and foreign-crewed ships .....	44
Increase maritime tax incentives .....	45
Reform the foreign crew visa system.....	46
An overview of the foreign crew visa system .....	46
Views on the foreign crew visa system .....	47
Develop a strategic fleet.....	47
Develop a maritime cluster .....	48
An overview of maritime clusters.....	48
Australia's shipbuilding industry .....	49
Views on developing a maritime cluster.....	50
Committee view and recommendations.....	51
Level playing field across modes .....	51
Resource and energy shipping.....	51

Tasmanian shipping .....	52
CT Act.....	52
Port delays, port costs, and bunker fuel .....	53
Seafarers’ remuneration.....	53
Taxation arrangements .....	53
Foreign crew visa system.....	54
Strategic fleet .....	55
Maritime cluster .....	55
International shipping.....	55
<b>Chapter 4 – Workforce training and development .....</b>	<b>57</b>
Overview .....	57
Australian government support .....	58
Seafarer training and certification .....	59
Australian Maritime College at the University of Tasmania.....	59
Australian Industry Standards .....	60
AMSA .....	60
Key areas of discussion .....	61
Complexity .....	61
Training gaps.....	61
Declining opportunities .....	62
Ageing workforce and skills shortages.....	63
Committee view and recommendations.....	64
<b>Chapter 5 – Environmental sustainability.....</b>	<b>67</b>
Overview .....	67
Regulatory framework .....	68
The Australian Maritime Safety Authority .....	68
The IMO’s Marine Environmental Protection Committee.....	69
Key areas of discussion .....	69
Great Barrier Reef .....	69
Long-term sustainability plan.....	71
Queensland parliamentary inquiry.....	71
Greenhouse gas emissions.....	72

Sulphur emissions .....	73
Port waste reception facilities .....	74
Spillages .....	74
Committee view and recommendations.....	76
Great Barrier Reef .....	76
Greenhouse gas emissions.....	76
Port waste reception facilities .....	76
Spillages .....	77
<b>Chapter 6—Security and standards .....</b>	<b>79</b>
Overview .....	79
Fuel security.....	79
Fuel management in Australia.....	80
Coastal trading of petroleum products.....	80
Australia’s stockholding obligations.....	81
Liquid Fuel Security Review .....	81
Views on fuel security .....	81
Homeland security.....	83
Safety and standards .....	86
AMSA's role.....	87
ATSB’s role.....	88
Maritime Labour Convention .....	89
Views on safety and standards .....	90
Committee view and recommendations.....	92
Fuel security.....	92
Homeland security .....	92
Safety and standards .....	93
<b>Chapter 7—Port infrastructure and services .....</b>	<b>95</b>
Overview .....	95
Infrastructure .....	95
Port infrastructure .....	95
Ports management.....	97
Privatisations and the 'landlord' model of port management .....	98

Security and immigration arrangements at major ports.....	99
Recent government initiatives and inquiries .....	100
Long term planning and ports capacity .....	100
Integration of ports into planning systems .....	102
Infrastructure constraints at Australian ports .....	104
Interaction with other modes of freight transport .....	107
Reforming funding arrangements for other transport modes .....	108
Port services.....	109
Port fees and charges.....	109
General comments on appropriateness of ports charges in Australia .....	111
Container and stevedore charges.....	111
Port delays, container management and demurrage practices.....	116
Passenger fees at Australian ports .....	118
Committee view and recommendations.....	118
<b>Coalition Senators - Dissenting Report .....</b>	<b>121</b>
<b>Appendix 1—Submissions and additional information .....</b>	<b>123</b>
<b>Appendix 2—Public hearings and witnesses .....</b>	<b>125</b>



# List of Recommendations

## Recommendation 1

- 3.81 The committee recommends that the Australian government quantifies and reviews the level of subsidisation across competing modes of transport to ensure that shipping is able to compete on an equal basis in accessing the infrastructure and markets it requires to operate.

## Recommendation 2

- 3.83 The committee recommends that the Australian government reviews Australia's coastal trading framework to ensure that Australian shipping supports the growth of emerging markets and trade, such as coastal LNG trading, offshore wind energy, and the expedition cruise sector.

## Recommendation 3

- 3.85 The committee recommends that the Australian government continues to fund the operation of the Tasmanian Freight Equalisation Scheme and the Bass Strait Passenger Vehicle Equalisation Scheme.

## Recommendation 4

- 3.88 The committee recommends that the current licencing system be urgently reformed to clarify its objective; expand its scope, including covering intrastate trading; reform the application process and provisions along commercial lines; and introduce a new type of temporary licence for operators who meet minimum Australian content requirements.

## Recommendation 5

- 3.92 The committee recommends that the Australian government requires foreign-flagged vessels to pay crew wages equal to those of Australian vessels while operating in Australian waters.

## Recommendation 6

- 3.94 The committee recommends that the Australian government reviews the maritime tax concessions currently in place to ensure that Australia's tax system is competitive with other jurisdictions, and that it promotes the use of Australian ships and crews.

## Recommendation 7

- 3.96 The committee recommends that the Australian government strengthens background checks to obtain a Maritime Crew Visa to better align with

those required for applicants applying for a Maritime Security Identification Card, and monitor the ongoing applicability of the visa.

#### **Recommendation 8**

3.97 The committee recommends that the Australian government reviews whether the existing Maritime Crew Visa system is being exploited by sponsors to allow foreign maritime workers to be transferred to occupations which are not eligible for sponsorship.

#### **Recommendation 9**

3.98 The committee recommends that the Australian government retains the existing Maritime Crew Visa for seafarers on foreign ships undertaking short port calls as part of a continuing international voyage; and introduce a new, or special conditions, Maritime Crew Visa that enables foreign seafarers to be in Australia for periods of up to 45 days for one of six specified purposes, being:

- ships undertaking interstate coastal voyages authorised by a temporary licence issued under the *Coastal Trading (Revitalising Australian Shipping) Act 2012*;
- ships undertaking repairs, maintenance, or dry docking in Australia;
- mother ships at anchorage in a roadstead in coastal waters awaiting barge loading;
- ships docked or at anchorage holding inventory such as refined petroleum product awaiting access to an onshore storage facility or oil awaiting refining;
- ships involved in production and processing, e.g. marine products; and
- ships held at an anchorage point or wharf for biosecurity reasons, or if detained by the Australian Maritime Safety Authority.

In all other circumstances foreign seafarers be required to hold a Temporary Skill Shortage visa (Subclass 482), similar to the Canadian system.

#### **Recommendation 10**

3.100 The committee recommends that the Australian government commits to establish a strategic fleet, and that a strategic fleet taskforce be established to advise on the legislative, operational, funding, and requisitioning arrangements necessary to establish a strategic fleet.

#### **Recommendation 11**

3.102 The committee recommends that the Australian government establishes an Australian maritime cluster development taskforce to advise on the development of a maritime cluster in Australia.

### **Recommendation 12**

**3.105** The committee recommends that Part X of the *Competition and Consumer Act 2010* be reformed to ensure that it supports operators' continued access to frequent and reliable liner cargo shipping services at competitive rates and to ensure that liner service providers do not engage in anti-competitive behaviour.

### **Recommendation 13**

**4.38** The committee recommends that the Australian government identifies, develops, and implements policies to arrest the decline in Australia's maritime employment opportunities, and promotes seafaring as a career for younger Australians. This process should be guided by a maritime workforce development stakeholder forum.

### **Recommendation 14**

**5.46** The committee recommends that the Australian government adequately resources the Great Barrier Reef Marine Park Authority to ensure it can effectively prevent and respond to shipping incidents into the future.

### **Recommendation 15**

**5.51** The committee recommends that the Australian government works with state and territory governments to develop a consistent national approach to the provision of waste reception services in ports.

### **Recommendation 16**

**5.53** The committee recommends that the Australian government strengthens the Australian Maritime Safety Authority's ability to detain ships which have caused, or are suspected of having caused, environmental damage, irrespective of the type of event which caused the damage.

### **Recommendation 17**

**5.54** The committee recommends that the Australian government considers all options, including ratifying the Nairobi International Convention on the Removal of Wrecks, to improve its management of wreck identification and removal in Australia, and strengthens its ability to recover any costs incurred recovering and removing cargo which has fallen overboard from a ship.

### **Recommendation 18**

**6.62 The committee recommends that the Australian government develops a fuel security strategy, which will include proposals to transition to locally-sourced fuels as well as address supply issues.**

### **Recommendation 19**

**6.63 The committee recommends that the Australian government meets its obligations as a member of the International Energy Agency to maintain emergency oil stocks equivalent to at least 90 days of annual net oil imports.**

### **Recommendation 20**

**6.65 The committee recommends that the Australian government develops a national security strategy, supported by an Australian shipping capability, to ensure that Australia's supply of essential items is not disrupted during crises and emergencies.**

### **Recommendation 21**

**6.70 The committee recommends that the Australian government continues to advocate for improved safety standards, including work health and safety standards; working conditions; and wages for international seafarers, and rigorously enforces all existing protections and standards.**

### **Recommendation 22**

**6.71 The committee recommends that the Australian government, in consultation with key stakeholders, improves counselling resources available on international vessels through the development of a Marine Order regarding employee assistance programs.**

### **Recommendation 23**

**6.72 The committee recommends that the Australian government improves safety on domestic vessels, including by expanding the jurisdiction of the Australian Transport Safety Bureau to include incidents on domestic vessels; and that the Australian government commissions an independent review of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* to consider whether it provides clear and simple standards for training, crewing, and qualifications to improve marine safety on domestic commercial vessels.**

### **Recommendation 24**

**6.73 The committee recommends that the Australian government amends the *Navigation Act 2012* to restore an appropriate balance in ships that are**

covered by the Navigation Act as Regulated Australian Vessels, and those covered by the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* as Domestic Commercial Vessels, to ensure the Navigation Act provides the default standards for Australian commercial ships.

#### **Recommendation 25**

7.88 The committee recommends that the Australian government reviews the regulatory arrangements for Australia's privatised ports to ensure that they are fit-for-purpose and achieve optimal outcomes for the broader economy.

#### **Recommendation 26**

7.91 The committee recommends that the Australian government works with state and territory governments to review land usage around Australia's key ports, with the aim of reducing congestion and ensuring adequate land is available for future port expansion.

#### **Recommendation 27**

7.92 The committee recommends that the Australian government works with state and territory governments to review the National Ports Strategy to ensure that there is a nationally consistent approach to managing and regulating port infrastructure and port services in ways that support the development of Australian shipping.

#### **Recommendation 28**

7.95 The committee recommends that the Australian government works with state and territory governments to investigate the increased use of infrastructure charges by stevedoring companies at Australian ports and to assess whether they should be regulated.



# Chapter 1

## Background

### Referral

1.1 On 5 December 2018, the following matters were referred to the Senate Rural and Regional Affairs and Transport References Committee (the committee) for inquiry and report by the second sitting day in August 2019:

The policy, regulatory, taxation, administrative and funding priorities for Australian shipping, with particular reference to:

new investment in Australian ships and building a maritime cluster in Australia;

the establishment of an efficient and commercially-oriented coastal ship licensing system and foreign crew visa system;

the interaction with other modes of freight transport, non-freight shipping and government shipping;

maritime security, including fuel security and foreign ship and crew standards;

environmental sustainability;

workforce development and the seafarer training system;

port infrastructure, port services and port fees and charges; and

any related matters.<sup>1</sup>

1.2 This inquiry lapsed at the end of the 45<sup>th</sup> Parliament; however, on 23 July 2019, the Senate agreed to the committee's recommendation that this inquiry be re-adopted in the 46<sup>th</sup> Parliament for inquiry and report by 5 December 2019.<sup>2</sup>

1.3 On 15 October 2019, the Senate granted an extension of time to report until the Wednesday of the first sitting week in June 2020.

1.4 On 9 June 2020, the Senate granted a further extension of time to report until 9 December 2020.

1.5 On 9 December 2020, the Senate granted a further extension of time to report until 15 December 2020.

### Conduct of the inquiry

1.6 The committee received 30 public submissions. A list of submissions is included at Appendix 1, and public submissions have also been published on the committee's webpage.

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<sup>1</sup> *Journals of the Senate*, No. 136, 5 December 2018, pp. 4441-4442.

<sup>2</sup> *Journals of the Senate*, No. 5, 23 July 2019, p. 186.

- 1.7 All correspondence and evidence previously received for the inquiry during the 45<sup>th</sup> parliament was made available to the committee.
- 1.8 The committee held two public hearings in relation to the inquiry in the 45<sup>th</sup> parliament. The hearings were held in Melbourne on 13 and 14 March 2019.
- 1.9 In the 46<sup>th</sup> parliament, the committee held an additional three days of hearings in Canberra on 6 February 2020, 8 September 2020, and 9 September 2020.<sup>3</sup>

## **Acknowledgements**

- 1.10 The committee would like to thank all the organisations and individuals who provided written submissions to the inquiry, or provided evidence at the public hearings held in Melbourne and Canberra.

## **References**

- 1.11 References in this report are to individual submissions as received by the committee; not to a bound volume. References to Committee Hansard are to official Hansard transcripts, unless otherwise stated. Please be aware that page numbers may vary between proof and official Hansard transcripts.

## **Structure of the report**

- 1.12 Chapter 1 provides background and context to the committee's inquiry. The chapter includes an overview of shipping, including international shipping and global trade patterns; Australian shipping; the evolution of domestic shipping policies, regulatory initiatives, and incentives which have been proposed over time in an effort to reinvigorate and grow Australia's maritime and shipping sector; and key government reforms over the last decade. In undertaking this inquiry, the committee also drew on information and evidence gathered during previous inquiries it, and others, have undertaken. The chapter concludes with a discussion of these.
- 1.13 Chapter 2 provides an overview of, and discussion on, Australia's coastal shipping framework and the three-tiered licencing system in place since 2012. It also provides a discussion on international shipping, the availability of liner cargo shipping services, and Australia's international shipping register.
- 1.14 Chapter 3 begins by providing a cross-section of suggestions made by participants to promote the general use of shipping (i.e. irrespective of the ship and crews nationality) as an effective and efficient mode of transport. It then continues by highlighting a number of suggestions aimed at specifically promoting the use of Australian ships and Australian crews. For example, expanding taxation concessions and developing a strategic fleet.

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<sup>3</sup> A list of the witnesses who appeared at the hearings across both parliaments is included at Appendix 2.

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- 1.15 Chapter 4 outlines some of the concerns raised in relation to maritime training and development, including the complexity of the qualifications framework; gaps in training; declining opportunities; the ageing workforce; and skills shortages.
  - 1.16 Chapter 5 examines the issue of environmental sustainability, including the relevant regulatory frameworks and various proposals which aim to minimise the impact of shipping on the environment—including the reduction of sulphur content in fuel.
  - 1.17 Chapter 6 provides a discussion on security issues, focusing on fuel security in Australia and homeland security. The chapter also examines general maritime safety and the role ship and crew standards play in promoting it. This section also discusses the key role that AMSA has in enforcing compliance with various standards and the ATSB's role in investigating accidents and other occurrences, with the aim of improving safety and public confidence.
  - 1.18 Chapter 7 examines the issue of port infrastructure, including the interface of shipping with other modes of freight transport and the constraints on current infrastructure. It also outlines some of the issues relating to port services, including port fees and charges; container and stevedore charges; port automation and the impact these have on competition.

### **An overview of shipping**

- 1.19 The following section<sup>4</sup> provides a brief history of international shipping, including an overview of global trade patterns and current trends, as well as discussing the domestic Australian shipping industry.

#### *International shipping*

- 1.20 Shipping plays a vital and significant role in today's global economy, with transportation via sea routes long considered the most efficient and economical mode of transport. As the world has continued to develop, and the ship-building industry has continued to grow, proximity to new materials and access to markets are the primary factors which have shaped the world economy. Given today's trade patterns and shipping routes, international trade has evolved to the point where almost no individual country can be fully self-sufficient. Every country is involved, at one level or another, in obtaining the commodities it lacks, and selling those it produces.

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<sup>4</sup> The following section is based on information contained in HoustonKemp Economists, *Containerised trade trends and implications for Australian ports: A report for Port of Newcastle*, January 2019; Department of Infrastructure and Regional Development, Bureau of Infrastructure, Transport and Regional Economics, Research Report 138, *Containerised and non-containerised trade through Australian ports to 2032–33*, December 2014; and Department of Infrastructure, Regional Development and Cities, *Submission 15*.

1.21 Shipping has always provided the only really cost-effective method of bulk transport over any great distance, and the development of shipping and the establishment of a global system of trade have moved forward simultaneously. As the movement of goods and trade has continued to grow, shipping has become the primary mode of transport for the vast majority of trade goods world-wide, and advances in technology have seen shipping become an increasingly more efficient and faster method of transport. Over the past forty years total seaborne trade has more than quadrupled and continues to grow steadily. In the context of the global economy, the contribution made by shipping as a major industry in its own right is significant, and this has become increasingly so for the developing world.

### **A brief history of international shipping and trade**

1.22 With approximately 80 per cent of global trade by volume being carried by sea and handled by ports, maritime transport plays a central role in international trade. As countries around the world have become increasingly connected and interdependent, the scale of global trade has also continued to increase. In 1960 global merchandise exports totalled US\$130.5 billion, while in 2017 this had risen to US\$17.7 trillion. This represents a growth of 9 per cent annually and, when expressed as a proportion of Gross World Product (GWP), global merchandise exports reached 21.9 per cent (compared to approximately 9.6 per cent in 1960).<sup>5</sup>

1.23 Since the 1950s this growth has been driven by reductions in trade barriers, the increasing influence of the World Trade Organisation (WTO) and efforts to promote and increase competition. The increase in global merchandise exports has also had a major impact on how countries produce and consume goods. The immediate post-war years saw the production and consumption of goods largely taking place within countries' borders. However, during the past 25–30 years, global trading has seen the place of production increasingly separated from the place of consumption.

1.24 East Asia provides one example of the benefits that have flowed from a competitive, multilateral trade system. Starting with Japan in the 1960s, post war agricultural and war-torn economies (including Hong Kong, Singapore, South Korea and China) have evolved and become developed economies. Improved economies have led to higher standards of living, and a growing middle class, which in turn has seen East Asia match North America and Europe as a driver of global consumption.

1.25 Increasing global trade has also brought about changes to shipping practices, and, as the dominant mode of freight transport, the shipping industry has sought to improve the efficiency of global supply chains. In practical terms this

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<sup>5</sup> HoustonKemp Economists, *Containerised trade trends and implications for Australian ports: A report for Port of Newcastle*, January 2019, p. 2.

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has meant a growth in containerised trade, which, in comparison to earlier forms of shipping, seeks to minimise freight handling costs.

- 1.26 The development of containerisation has dramatically decreased the cost of shipping general cargo merchandise and, as noted previously, has made it economically viable to separate the production of a vast amount of manufactured goods from the location of their consumption. At the same time, reduced trade barriers (which have resulted from the development of a multilateral trade system) have enabled the establishment of global supply chains that span multiple countries. These supply chains have been able to take advantage of the comparative benefits offered by various countries, and by doing so have been able to increase the efficiency with which merchandise, goods, and services are produced.
- 1.27 As volumes have increased the size of container ships has also increased. These days the largest container ships, by length and tonnage, are approximately 400 metres long, weigh 218 000 gross tons, and have 200 000 deadweight tonnage (DWT) of carrying capacity.<sup>6</sup>
- 1.28 There are, however, both practical and economic limits to how much larger container ships will be able to grow; particularly given the physical constraints of port facilities, and the cost of using the larger container ships outside the world's larger, better-equipped ports. Because of their size, the Ultra Large Container Ships (ULCS) have an impact on both physical space and the use of equipment, and to service these larger vessels efficiently ports need to have appropriately sized infrastructure.
- 1.29 Economic limitations can also have an impact on the use of larger container ships outside major ports such as Shanghai, Singapore, and Rotterdam. ULCS are most efficient when their capacity is sufficiently used to transport cargo between ports that have invested in appropriate infrastructure, and that can accommodate the large container ships.<sup>7</sup>
- 1.30 Larger container ships are frequently used on the long distance east-west routes between the large transshipment ports that serve as hubs in the network, such as the high-density Shanghai–Rotterdam route. The east-west routes are complemented by north-south routes that connect countries and regions including Australia, Africa, South America, and North America to global transshipment ports in a relay pattern. Australia is also served by a north-south

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<sup>6</sup> HoustonKemp Economists, *Containerised trade trends and implications for Australian ports: A report for Port of Newcastle*, January 2019, p. 26.

<sup>7</sup> If the full carrying capacity of a ULCS is not used, then the cost per TEU will be higher than that of smaller container ships. The decreasing return to scale means that there could be limits to what is economic, which in turn raises the prospect of container ships that are too large to operate economically, despite their apparent economies of scale.

route that connects Australian ports to global transshipment hubs in Singapore, Shanghai, Hong Kong, and other East Asian countries on a relay pattern.

### Global trade patterns

1.31 Global trade patterns, which are currently dominated by east-west flows, can impact the availability of container shipping services to and from Australia. In broad terms, Australia's isolation and geography does also restrict access to some of the main container shipping routes. This means that:

- Australia has a lower frequency of liner shipping services, meaning it can be challenging to access container shipping services of adequate frequency and reliability; and
- a larger amount of Australian container imports and exports transition through transshipment hubs, such as Singapore, where delays can result in additional cost on Australian import/export supply chains.<sup>8</sup>

1.32 Australia exports a substantial volume of bulk cargo, including commodities such as iron ore and coal. To ship these types of commodities, exporters generally charter vessels for a specific voyage (or series of voyages to a specific place). As a result, Australia generally does not have problems accessing adequate bulk shipping services.

### *Australian shipping*

1.33 Australia is the fifth largest user of shipping services in the world.<sup>9</sup> Many of Australia's import and export commodities are relatively dense, low trade commodities. As a result, shipping accounts for more than 98 per cent of Australia's total trade by weight. In 2012–13, total trade in commodities through Australian ports was 1.1 billion tonnes—comprising 992.7 million tonnes of exports and 140.2 million tonnes of imports. Sea freight accounted for 99.7 and 98.4 per cent of Australia's total merchandise exports and imports by mass, respectively, in the same year.<sup>10</sup>

1.34 A smaller, but vital, part of Australia's domestic freight task (approximately 15 per cent), is carried by coastal shipping. In 2016–17, 35.2 tonnes of cargo was carried under coastal trading licence. Coastal trading is discussed further in chapter 2.

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<sup>8</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 40.

<sup>9</sup> The following section is also based on information contained in HoustonKemp Economists, *Containerised trade trends and implications for Australian ports: A report for Port of Newcastle*, January 2019; Department of Infrastructure and Regional Development, Bureau of Infrastructure, Transport and Regional Economics, Research Report 138, *Containerised and non-containerised trade through Australian ports to 2032–33*, December 2014; and Department of Infrastructure, Regional Development and Cities, *Submission 15*.

<sup>10</sup> Bureau of Infrastructure, Transport and Regional Economics, Research Report 138, *Containerised and non-containerised trade through Australian ports to 2032–33*, December 2014, p. 1.

1.35 Australia's maritime trade is largely dominated by the export of mining and agricultural products, and we are one of the top five international exporters of bauxite, alumina, iron ore, coal and liquefied natural gas. Statistics cited by the Department of Infrastructure, Regional Development and Cities<sup>11</sup> indicated that in 2015–16:

- 1597 million tonnes of cargo moved across Australian wharves, an increase of 3.1 per cent on the previous financial year;
- the combined value of Australia's seagoing international imports and exports was over \$400 billion; and
- there were 30 056 arrivals by 5540 individual international ships to Australian ports.<sup>12</sup>

1.36 A variety of container ships are currently used to facilitate trade between Australia and international markets. However, as a consequence of the global trend toward the use of the larger container ships, Australian ports are increasingly visited by these larger vessels. In 2017, for example, approximately half of the container ships visiting Australian ports were over 50 000 tonnes (with a capacity of approximately 5000 to 8000 twenty-foot equivalent units (TEU) or more).

### **The history of shipping policy in Australia**

1.37 Throughout the inquiry, stakeholders made the point that, as an island nation, Australia is dependent on a first-class shipping industry, especially with regards to defence, trade, and economic welfare. Stakeholders also pointed to Australia's increasing reliance on shipping and argued that the shipping industry, which plays a central role in Australia's supply chain, trade, and transport systems, is vital to the national economy.<sup>13</sup>

1.38 While international shipping and coastal shipping are two distinct market sectors (each with a separate policy history), the two are inter-related. Stakeholders suggested that just as understanding the history of global trade and international shipping provides context to recent developments in coastal shipping policy, the key to understanding the current status of Australia's

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<sup>11</sup> Please note that references to the Department of Infrastructure, Regional Development and Cities also refer to its successor organisation: the Department of Infrastructure, Transport, Regional Development and Communications.

<sup>12</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 40.

<sup>13</sup> See, for example, Australian Maritime College, *Submission 23*; The Australian Institute of Marine and Power Engineers, *Submission 27*; Ports Australia, *Submission 18*; Minerals Council of Australia, *Submission 17*; CSL Australia, *Submission 16*; Department of Infrastructure, Regional Development and Cities, *Submission 15*; Toll Group, *Submission 14*; Maritime Industry Australia Limited, *Submission 13*; Centre for Supply Chain and Logistics, Deakin University, *Submission 11*; and Maritime Union of Australia, *Submission 10*.

maritime and shipping sectors is to undertake a historical examination of shipping policies, regulatory initiatives, and incentives over time.<sup>14</sup>

- 1.39 Historically, coastal trading (and various aspects of maritime navigation) was regulated by the *Navigation Act 1912* (the Navigation Act). Under the Navigation Act, all ships engaged in coastal trading were required to hold a licence, and at the time of the Act's commencement the conditions placed on licence holders largely related to standardised pay, seafarers' conditions, and employment levels. The Navigation Act also contained Australia's cabotage regime<sup>15</sup> and endeavoured to balance the need for services with the availability of British, and then Australian, ships.<sup>16</sup>
- 1.40 Single and continuing voyage permits, which allowed an unlicensed British ship to engage in coastal trading, were initially introduced in 1921. Generally, these types of permits were only granted when the minister was certain that no licensed ship was available (or that the service as carried out by a licensed ship would not be adequate).<sup>17</sup>
- 1.41 In September 1969, the government-owned Australian National Line (ANL) began international services. These services, launched at a time of increasing 'containerisation', offered 'the prospect of reducing crewing requirements and costs – something long seen as precluding Australian involvement internationally'.<sup>18</sup> ANL entered the United States and Europe trade at a time when the cost effect of container operations were largely unknown. The company also entered the Japan trade, and used it as an opportunity to

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<sup>14</sup> See, for example, the Chamber of Minerals and Energy of Western Australia, *Submission 29*; Australian Institute of Petroleum, *Submission 20*; Minerals Council of Australia, *Submission 17*; CSL Australia, *Submission 16*; and the Department of Infrastructure, Regional Development and Cities, *Submission 15*.

<sup>15</sup> Cabotage refers to the transport of goods (or passengers) between two locations in the same country by a vessel (or aircraft) registered in another country. Australian shipping is subject to a number of regulators whereby vessels are required to register and obtain licences to operate along Australia's coastline.

<sup>16</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 48.

<sup>17</sup> Single and continuing voyage permits could be issued unconditionally, or subject to any condition set by the relevant Minister.

<sup>18</sup> Australasian Transport Research Forum 2016 Proceedings, Potterton, P., *Australian Shipping policy: what drives or constrains success?*, 16–18 November 2016, p. 8.

introduce roll-on/roll-off<sup>19</sup> technology (which had been successful in the Bass Strait market) into a deep sea trade.<sup>20</sup>

- 1.42 Internationally, economic conditions during the 1970s were difficult, and ANL was faced with an uncompetitive cost structure and high crewing levels on the one hand, and a shortage of owner-supplied equity finance and high debt servicing costs on the other.<sup>21</sup> Recession conditions and financial losses in the early 1980s saw ANL receive a financial assistance package from the incoming Hawke Labor Government in 1983, and the company rationalised its services—both domestically and internationally—and withdrew from the United States trade.
- 1.43 At the same time, the Hawke Labor government also adopted (and extended) a strategy to revitalise the Australian shipping industry put forward by Sir John Crawford.<sup>22</sup> The focus of the strategy was on providing benefits to bulk international shipping, and it recommended that investment allowances, linked to crewing reductions, should apply to international shipping (as well as to coastal shipping).<sup>23</sup>
- 1.44 By 1994, with a reform program implemented by the Shipping Industry Reform Authority (and the shipping industry having invested approximately \$1.6 billion in new shipping), Australia had one of the youngest fleets in the world—at an average age of eight years.<sup>24</sup> Between 1988 and 1994, 36 new vessels were introduced into Australia's fleet—which represented a turnover of approximately 45 per cent.
- 1.45 The early 1990s saw structural reform of government enterprises and a policy focus which gave serious consideration to the sale of companies such as ANL. The Keating Labor Government's proposal to sell 49 per cent of ANL was,

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<sup>19</sup> Roll-on/roll-off, RORO, or ro-ro ships are vessels designed to carry wheeled cargo such as cars, trucks, trailers and railroad cars, that are driven on and off the ship on their own wheels or using a platform vehicle. These vessels have either built-in or shore-based ramps that allow the cargo to be efficiently rolled on and off the vessel when in port.

<sup>20</sup> Australasian Transport Research Forum 2016 Proceedings, Potterton, P., *Australian Shipping policy: what drives or constrains success?*, 16–18 November 2016, p. 8.

<sup>21</sup> Australasian Transport Research Forum 2016 Proceedings, Potterton, P., *Australian Shipping policy: what drives or constrains success?*, 16–18 November 2016, p. 9.

<sup>22</sup> Sir John Crawford had been appointed, in 1982, by the preceding Fraser Coalition Government to examine ways to revitalise Australia's shipping industry.

<sup>23</sup> Australasian Transport Research Forum 2016 Proceedings, Potterton, P., *Australian Shipping policy: what drives or constrains success?*, 16–18 November 2016, p. 9.

<sup>24</sup> House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Rebuilding Australia's Coastal Shipping Industry: Inquiry into coastal shipping policy and regulation*, October 2008, p. 41.

however, met with opposition—particularly from the Australian Council of Trade Unions—and the sale proposal was withdrawn in September 1994.<sup>25</sup>

- 1.46 In 1996, the incoming Howard Coalition Government introduced a budget which withdrew all existing financial assistance measures for the shipping industry. The introduction of any new measures was made conditional on the cessation of labour pooling arrangements for seafarers. In 1997, following negotiation, the pooled labour scheme was abolished and replaced by company employment.
- 1.47 In November 1997, legislation was introduced into Parliament and set the groundwork for the privatisation of ANL. In 1998, the company was sold, with its trading name, to CMA CGM, a large French shipping line.<sup>26</sup>
- 1.48 The 1990s also saw the end of an historic monopoly by Australian and New Zealand flagged vessels for trade between the two countries.<sup>27</sup> However, regime changes made between 1921 and 2006 had the effect of gradually easing access to coastal trading for foreign-flagged ships— particularly when it was deemed necessary to supplement the Australian fleet.<sup>28</sup>

### **Recent shipping industry reforms**

- 1.49 In October 2008, the House of Representatives Standing Committee for Infrastructure, Transport, Regional Development and Local Government tabled its report *Rebuilding Australia's Coastal Shipping Industry*.<sup>29</sup> The Chair's foreword noted that:

The strongest argument for revitalising Australia's coastal shipping industry is an economic one. A strong domestic shipping industry can assist in the alleviation of land transport bottlenecks, infrastructure constraints and environmental impacts, as well as provide economic benefits derived from the creation of local employment and the growth of

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<sup>25</sup> Australasian Transport Research Forum 2016 Proceedings, Potterton, P., *Australian Shipping policy: what drives or constrains success?*, 16–18 November 2016, p. 9.

<sup>26</sup> Australasian Transport Research Forum 2016 Proceedings, Potterton, P., *Australian Shipping policy: what drives or constrains success?*, 16–18 November 2016, p. 9 and Rural and Regional Affairs and Transport References Committee, *Committee Hansard*, 13 March 2019, p. 13.

<sup>27</sup> Since 1974 the monopoly had been enforced by an accord between the maritime unions of Australia and New Zealand respectively.

<sup>28</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 48.

<sup>29</sup> The Chair of the House of Representatives Committee was Ms Catherine King and the Deputy Chair was Mr Paul Neville. Other MPs on the committee were Ms Jodie Campbell, Mr Jason Clare, Mrs Sophie Mirabella, the Hon. Dr Sharman Stone, Mr Darren Cheeseman, Mrs Joanna Gash, Mr Brett Raguse and Mr Jon Sullivan.

maritime services. Australian defence, maritime safety and security could also benefit from an expanded coastal shipping sector.<sup>30</sup>

1.50 The House of Representatives committee's report made a series of recommendations, and also argued that any new policy framework for Australia's coastal shipping industry should include:

- reform of Part VI of the *Navigation Act 1912*, the *Navigation (Coasting Trade) Regulations 2007* and the *Ministerial Guidelines for Granting Licences and Permits to Engage in Australia's Domestic Shipping*;
- the implementation of a single national approach to maritime safety for commercial vessels;
- the introduction of an optional tonnage tax regime in Australia that is linked to mandatory training requirements;
- the re-introduction of accelerated depreciation arrangements;
- a one year review of the Maritime Crew Visa;
- amendments to the *Seafarers' Rehabilitation and Compensation Act 1992* and the *Occupational Health and Safety (Marine Industry) Act 1993*;
- the creation of a national port development plan to address current and potential capacity constraints in Australia's ports;
- the creation of a national maritime training authority and the introduction of a national training vessel;
- a review of Section 23 AG of the *Income Tax Assessment Act 1936*; and
- the creation of a reform implementation group to implement any future Commonwealth Government reforms.<sup>31</sup>

1.51 In December 2010, the then Minister for Infrastructure and Transport, the Hon. Anthony Albanese MP, released a discussion paper which outlined a framework for reform of Australia's shipping industry. The framework was intended to:

- ensure Australia has a viable shipping industry, which is able to provide adequate coastal shipping services at a reasonable price for both customers and consumers (and which reinvests in its vessels when they reach the end of their economic lives);
- ensure Australian shipping maintains—and potentially grows—its share of the national transport system to meet the growing transport task efficiently, effectively, safely and with the least impact on the environment;

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<sup>30</sup> House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Rebuilding Australia's Coastal Shipping Industry: Inquiry into coastal shipping policy and regulation*, October 2008, p. v.

<sup>31</sup> House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Rebuilding Australia's Coastal Shipping Industry: Inquiry into coastal shipping policy and regulation*, October 2008, p. xiii.

- provide opportunities to increase Australia's participation in international shipping, which reflects the significance of shipping to Australia's trade base and the links between strong domestic and international sectors;
- create more opportunities for Australian seafarers; and
- secure the maritime skills base necessary to provide regulatory and land based maritime services—as well as the sea based services.<sup>32</sup>

1.52 Specifically, the minister's discussion paper proposed a number of measures which were designed to address the issues identified during the House of Representatives committee's inquiry, and 'reverse the decline in the Australian registered fleet' and the pool of Australian maritime skills. The measures proposed included:

- regulatory reforms to modernise the current legislation and provide a more robust regulatory framework for ships and shippers;
- establishment of an Australian international register to support Australian shipping in international trades;
- taxation incentives to encourage investment in Australian ships and skills development; and
- a coordinated approach to developing workforce capability across the whole of industry (to build and maintain a maritime skills base into the future).<sup>33</sup>

### *Consultation*

1.53 The Gillard Labor Government—through the Department of Infrastructure and Transport—sought input from a broad cross-section of maritime and related industries and from the public. Submissions were received from industry, representative groups, research organisations, training organisations, unions and shipping operators. The minister's Industry Reference Groups were also involved in the development of the proposed regulatory, fiscal and workforce skills measures that were outlined in the minister's discussion paper.

1.54 The Department of Infrastructure and Transport's regulation impact statement noted that the submissions received and the work of the Industry Reference Groups reflected broad support for the intent of the shipping policy reforms. Shippers argued that access to flexible, low cost shipping was important to their business (in a competitive world economy). It was also noted, however, that there was a lack of consistency regarding how reform could (or should) be

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<sup>32</sup> Department of Infrastructure and Transport, Regulation Impact Statement, *Reforming Australia's Shipping: A framework to revitalise the Australian shipping industry*, August 2011, p. i.

<sup>33</sup> Department of Infrastructure and Transport, Regulation Impact Statement, *Reforming Australia's Shipping: A framework to revitalise the Australian shipping industry*, August 2011, p. ii.

achieved.<sup>34</sup> The key themes which emerged during the consultation process were summarised as follows:

- shippers support an efficient and internationally competitive domestic shipping industry, but have concerns that government intervention could increase freight rates and make some marginal trades uneconomic;
- shippers expressed concern that restricting the use of Continuing Voyage Permits and Single Voyage Permits could lead to different modal choices;
- stakeholders may have different views on productivity gains, but there is general agreement on the range of fiscal and regulatory measures required;
- there is broad support for an optional tonnage tax, withdrawal of royalty withholding tax, accelerated depreciation, concessional seafarer taxation and changes to the cabotage regime (with a view to an increased Australian presence in the coastal trade);
- there is broad support for the development of a second shipping register (because it would enable Australian shipping to compete for effectively in the international sphere);
- there is a willingness on the part of industry and unions to develop a 'compact' that will underpin the proposed reforms; and
- the new regulatory regime needs to consider the operational flexibility that shipping and shippers indicate exists in the current regulatory framework.<sup>35</sup>

1.55 In 2012, the Gillard Labor Government introduced a package of legislation which included various tax incentives and measures designed to increase the competitiveness of Australian ships and provide them with advantages over foreign ships, in terms of operational and scheduling flexibility. The new legislation included:

- the Coastal Trading (Revitalising Australian Shipping) Bill 2012;
- the Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Bill 2012;
- the Shipping Registration Amendment (Australian International Shipping Register) Bill 2012;
- the Shipping Reform (Tax Incentives) Bill 2012; and
- the Tax Laws Amendment (Shipping Reform) Bill 2012.

1.56 The key reforms introduced in the new legislation included:

- tax measures to remove barriers to investment in shipping and to foster the global competitiveness of the shipping industry – including the Seafarers

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<sup>34</sup> Department of Infrastructure and Transport, Regulation Impact Statement, *Reforming Australia's Shipping: A framework to revitalise the Australian shipping industry*, August 2011, p. viii.

<sup>35</sup> Department of Infrastructure and Transport, Regulation Impact Statement, *Reforming Australia's Shipping: A framework to revitalise the Australian shipping industry*, August 2011, p. viii.

- offset (which provided a tax subsidy via the tax system for ships employing Australian crews);
  - the establishment of the Australian International Shipping Register (AISR) to encourage Australian companies to participate in the international shipping trade;
  - a new regulatory framework (including a three-level licensing regime for coastal trading); and
  - the establishment of a Maritime Workforce Development Forum to progress key maritime skills and training priorities.<sup>36</sup>
- 1.57 When it commenced in 2012, the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (CT Act) replaced the single and continuing voyage permit system with a three-tiered licence system. The updated system provided Australian-flagged ships with unlimited access to the coastal trade, while permitting foreign-flagged ships to operate under temporary licences for up to 12 months.<sup>37</sup>
- 1.58 Two further bills, the Shipping Legislation Amendment Bill 2015 (2015 Bill) and the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017 (2017 Bill), were subsequently introduced to reform the regulatory structure of the shipping industry. The 2015 Bill was subsequently negatived in the Senate and the 2017 Bill lapsed at the end of the 45<sup>th</sup> Parliament; hence, neither came in to force.
- 1.59 The Senate Rural and Regional Affairs and Transport Legislation Committee (the legislation committee) undertook inquiries into the provisions of both of these bills, and these inquiries are discussed in further detail in the following section.

### **Senate Rural and Regional Affairs and Transport Committees' inquiries**

- 1.60 The committee has, over many years, maintained a strong interest in Australia's shipping industry. The ongoing themes, and issues of concern, stakeholders have raised with the committee over the years include Australia's maritime capability, coastal trading policy and legislation, the use of 'flag of convenience' shipping, the maritime workforce, maritime security, and the creation of a strategic fleet and a maritime cluster.
- 1.61 The legislation committee has undertaken a number of inquiries in relation to shipping and maritime legislation. As noted above, in recent years these have included inquiries into the provisions of the 2015 Bill and the 2017 Bill.

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<sup>36</sup> Parliamentary Library, *Bills Digest No. 53, 2015–16*, Shipping Legislation Amendment Bill 2015, 23 November 2015, p. 7.

<sup>37</sup> Since it came into force in 2012, only consequential amendments have been made to the Coastal Trading Act.

Further, the committee also inquired into the increasing use of so-called flag of convenience shipping in Australia. These inquiries are briefly discussed below.

### *Shipping Legislation Amendment Bill 2015*

1.62 In 2015, after consultation with industry, the Turnbull Coalition Government introduced the Shipping Legislation Amendment Bill 2015 in an attempt to reform the coastal shipping sector. Amongst other things, the bill proposed to amend the CT Act by creating a single permit system and removing the competitive process and the three-tier licensing system.<sup>38</sup> On 25 June 2015, the Senate referred the provisions of the bill to the legislation committee for inquiry and report by 12 October 2015.<sup>39</sup>

1.63 In its final report, the legislation committee highlighted the failure of the existing CT Act, stating that it had ‘failed to revitalise coastal shipping – indeed it seems, perversely, to have facilitated its continuing decline, making it often more economic to import goods than to ship them locally’.<sup>40</sup> It concluded that the bill was a response to this failure and would benefit the economy generally by removing impediments, leveraging strengths, and reducing costs. Further, it would likely give Australian producers access to cheaper, more flexible, and more responsive options for transport.<sup>41</sup>

1.64 Although the legislation committee recommended the bill be passed, it was subsequently negated in the Senate and did not come in to force.

### *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*

1.65 In 2017, the Turnbull Coalition government introduced the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017. The bill sought to amend the CT Act to simplify coastal trading regulation, reduce administrative imposts, expand coverage, and provide clarity on a number of technical matters.<sup>42</sup> On 19 October 2017, the Senate referred the provisions of the bill to the legislation committee for inquiry and report by 4 December 2017.<sup>43</sup>

1.66 In its final report, the legislation committee stated that, although the bill did not propose substantial changes to the existing coastal trading regime, it believed the bill would ‘reduce red tape and simplify the administration of the

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<sup>38</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 48.

<sup>39</sup> *Journals of the Senate*, No. 102, 25 June 2015, pp. 2828–2831.

<sup>40</sup> Senate Rural and Regional Affairs and Transport Legislation Committee, *Shipping Legislation Amendment Bill 2015 [Provisions]*, October 2015, p. 30.

<sup>41</sup> Senate Rural and Regional Affairs and Transport Legislation Committee, *Shipping Legislation Amendment Bill 2015 [Provisions]*, October 2015, p. 31.

<sup>42</sup> Explanatory Memorandum, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017*, p. 1.

<sup>43</sup> *Journals of the Senate*, No. 67, 19 October 2017, p. 2138.

coastal trading regime'. The committee also noted that the changes would result in decreased costs and reduced administrative burdens for both the government and industry.<sup>44</sup>

- 1.67 Although the legislation committee recommended the bill be passed, it subsequently lapsed at the end of the 45<sup>th</sup> Parliament and did not come in to force.

### *Increasing use of so-called Flag of Convenience shipping in Australia*

- 1.68 On 18 June 2015 the Senate referred the following matters to the committee for inquiry:

The increasing use of so-called Flag of Convenience shipping in Australia, with particular reference to:

- (a) the effect on Australia's national security, fuel security, minimum employment law standards and our marine environment;
- (b) the general standard of Flag of Convenience vessels trading to, from and around Australian ports, and methods of inspection of these vessels to ensure that they are seaworthy and meet required standards;
- (c) the employment and possible exposure to exploitation and corruption of international seafarers on Flag of Convenience ships;
- (d) discrepancies between legal remedies available to international seafarers in state and territory jurisdictions, opportunities for harmonisation, and the quality of shore-based welfare for seafarers working in Australian waters;
- (e) progress made in this area since the 1992 House of Representatives Standing Committee on Transport, Communications and Infrastructure report *Ships of shame: inquiry into ship safety*; and
- (f) any related matters.<sup>45</sup>

- 1.69 Flag of convenience (FOC) shipping refers to those vessels that travel internationally, but are not registered to the state it is most closely associated with. Regardless of where a ship may be operating, the national registration determines the applicable laws governing all the activities on the ship.<sup>46</sup>

- 1.70 FOC registration is most commonly used as a means of reducing or minimising operating costs and other financial imposts, including:

- reducing the tax burden for ship owners;

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<sup>44</sup> Senate Rural and Regional Affairs and Transport Legislation Committee, *Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017 [Provisions]*, December 2017, p. 31.

<sup>45</sup> *Journals of the Senate*, No. 98, 18 June 2015, p. 2708.

<sup>46</sup> Senate Rural and Regional Affairs and Transport References Committee, *Increasing use of the so-called Flag of Convenience shipping in Australia*, July 2017, p. 2.

- making the vessel subject to less stringent labour legislation, thereby reducing wages and the financial burden of enforcing higher working conditions and safety standards;
  - minimising currency exchange and investment controls that ship owners are subject to; and
  - avoiding costs from meeting more stringent safety or inspection regimes for vessels.<sup>47</sup>
- 1.71 As highlighted by the committee, it is often argued that FOC registration is used by shipping owners to maintain anonymity, and avoid the employment, tax and environmental requirements and restrictions in place at what would normally be considered the ship's country of origin.
- 1.72 In the committee's final report, it made a number of recommendations. Specifically, the committee recommended:
- the Fair Work Ombudsman implement a program of inspection for ships with foreign seafarers, to verify that the wages paid on board accord with Australian legal requirements;
  - the Australian government provide adequate funding to the Fair Work Ombudsman to implement an inspection program of ships with foreign crews, to assess the payment of wages;
  - the Australian government implement clear guidelines and procedures to direct authorities on how to respond to deaths that occur on shipping vessels travelling in or to Australian waters, including how to engage with a vessel's flag state in a timely manner to progress appropriate investigations;
  - the Australian government consider any possible amendments to legislation governing federal investigative authorities, to provide clarity on jurisdictional responsibility for investigating deaths at sea, when they occur on shipping vessels travelling in Australian waters. The Australian government should progress jurisdictional issues with the states and the Northern Territory at COAG to ensure satisfactory outcomes;
  - the re-establishment of the Maritime Workforce Development Forum, or a similar advisory body. The advisory group would comprise a variety of key maritime industry stakeholders and provide advice to government on new Australian shipping policies and workforce development and training opportunities;
  - the Australian government undertake a focussed and targeted review of the Australian maritime industry, with a view to growing and supporting the Australian maritime industry and developing policies that appropriately manage the operation of flag of convenience vessels in Australian waters; and

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<sup>47</sup> Senate Rural and Regional Affairs and Transport References Committee, *Increasing use of the so-called Flag of Convenience shipping in Australia*, July 2017, pp. 2–3.

- 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.<sup>48</sup>

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<sup>48</sup> Senate Rural and Regional Affairs and Transport References Committee, *Increasing use of the so-called Flag of Convenience shipping in Australia*, July 2017, p. vii.

# Chapter 2

## Australian shipping

### Overview

- 2.1 Australia has the fifth largest shipping task in the world due to its exportation of significant raw commodities; reliance on imports arriving by sea; and long coast line, with diverse populations and industries. Further, it has a major offshore oil and gas sector; the world's fastest growing cruise industry; responsibility for parts of the Antarctic region; material defence and border protection activities; and very active ports.<sup>1</sup>
- 2.2 Over 99 per cent of Australia's imports and exports, by volume, and over 79 per cent, by value, are dependent on shipping. Preliminary data provided by the Bureau of Infrastructure and Transport Research Economics (BITRE) indicated that, in 2016–17, 5879 uniquely identified cargo ships made a total of 32 801 port calls at Australian ports, including 5743 cargo ships making 17 068 voyages to Australian waters from overseas ports.<sup>2</sup>
- 2.3 The broader Australian maritime industry consists of a range of sectors, including coastal shipping; offshore oil and gas exploration and extraction; towage and port operations; ferries and tourism; and fishing and aquaculture.<sup>3</sup> PwC estimated that, in 2012–13, the Australian maritime industry directly contributed \$9 billion to gross domestic product (GDP); employed 31 000 people; and contributed over \$900 million in taxation revenue. Further, the industry also indirectly contributed to the economy by employing an additional 13 927 people, and adding a further \$11.8 billion to GDP and \$387 million to taxation revenue.<sup>4</sup>

### Coastal shipping

- 2.4 In Australia, coastal trading refers to the movement of freight and passengers by ship between ports (and typically between states) around the Australian coast. This is often referred to as 'cabotage'. The movement of freight, or passengers on a round trip, i.e. commencing and concluding at the same port, is not, however, considered coastal trading.<sup>5</sup>

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<sup>1</sup> PwC, *The economic contribution of the Australian maritime industry*, February 2015, pp. ii–iii.

<sup>2</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 5.

<sup>3</sup> Australian Institute of Marine and Power Engineers, *Submission 27*, [p. 3].

<sup>4</sup> PwC, *The economic contribution of the Australian maritime industry*, February 2015, p. i.

<sup>5</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 5.

- 2.5 Approximately 15 per cent of Australia's total domestic freight task is carried by coastal shipping.<sup>6</sup> This substantial domestic freight task is delivered by a number of vessels, such as dry bulk carriers; liquid-bulk carriers; container ships; general cargo ships; and roll on-roll off vessels commonly operating under charter services or liner services.<sup>7</sup>
- 2.6 The Department of Infrastructure, Regional Development and Cities (the Department)<sup>8</sup> notes that coastal shipping's share of Australia's domestic freight task has declined from 25 per cent to 15 per cent between 2004–05 and 2014–15, and that coastal shipping is expected to only grow by 15 per cent between 2010 and 2030, during a time when Australia's domestic freight task is projected to grow by 80 per cent.<sup>9</sup> This is despite domestic shipping being well suited to moving large volumes of low-urgency products as, over longer distances, it can do this at lower economic and environmental costs than road and rail.<sup>10</sup>
- 2.7 Although 15 per cent of Australia's total domestic freight task being carried by coastal shipping, Australia has a small number of Australian owned or operated vessels within the maritime industry. Hence, commercial domestic shipping is primarily undertaken by foreign-flagged ships operating with temporary licenses issued under the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (CT Act), with only a small number of Australian vessels participating in this trade.<sup>11</sup>
- 2.8 In 2016–17, 35.2 million tonnes of cargo was carried under coastal trading licenses. By volume, 67.6 per cent of this trade was carried under temporary licences; 28.1 per cent under general licences; and 4.3 per cent under transitional general licences (i.e. foreign-flagged vessels utilising Australian crews).<sup>12</sup>
- 2.9 In 2019, the Australian-flagged fleet consisted of 52 vessels holding general licenses under the CT Act, with only sixteen of these vessels in the Australian major trading fleet, which includes vessels over 2000 Dead Weight Tonnes (DWT). In its submission to the inquiry, the Department noted that this fleet has declined from 30 in 2006–07. The remaining 36 smaller vessels consisted of

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<sup>6</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 5.

<sup>7</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 6.

<sup>8</sup> Please note that references to the Department of Infrastructure, Regional Development and Cities also refer to its successor organisation: the Department of Infrastructure, Transport, Regional Development and Communications.

<sup>9</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 6.

<sup>10</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 5.

<sup>11</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, pp. 5–6.

<sup>12</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 16.

a mixture of barges; landing craft; catamarans; and passenger vessels, ranging from 40 DWT to 1909 DWT.<sup>13</sup>

- 2.10 PwC attributes this to a lack of effective fiscal benefits available for owners and operators of Australian vessels. PwC also notes that a significant number of other countries have implemented policies to encourage the growth of their shipping fleets and that these policies have delivered significant fiscal and economic benefits for their domestic economies.<sup>14</sup>

### *Australia's coastal shipping framework*

- 2.11 Coastal shipping in Australia is currently regulated under the CT Act which commenced on 1 July 2012. The CT Act is administered by the Department, which grants licenses, on behalf of the minister, authorising vessels to carry cargo and passengers between ports within Australia.<sup>15</sup>

- 2.12 The new legislation replaced the previous permit system, under the *Navigation Act 1912*, with a three-tiered licence system, giving Australian-flagged ships unlimited access to the coastal trade, while also permitting foreign-flagged ships to operate under a temporary licence for up to 12 months.<sup>16</sup> The object of these changes were to provide a regulatory framework for coastal trading in Australia which:

- promotes a viable shipping industry that contributes to the broader Australian economy;
- facilitates the long term growth of the Australian shipping industry;
- enhances the efficiency and reliability of Australian shipping as part of the national transport system;
- maximises the use of vessels registered in the Australian General Shipping Register (AGSR) in coastal trading;
- promotes competition in coastal trading; and
- ensures efficient movement of passengers and cargo between Australian ports.<sup>17</sup>

### **Coastal trading licences**

- 2.13 As part of the CT Act, all domestic maritime movements of cargo, or passengers on interstate voyages, must be authorised by one of three types of licence: general licences, temporary licences, and emergency licences.<sup>18</sup> This

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<sup>13</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, pp. 6–7.

<sup>14</sup> PwC, *The economic contribution of the Australian maritime industry*, February 2015, p. iii.

<sup>15</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 13.

<sup>16</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 48.

<sup>17</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 13.

<sup>18</sup> A fourth class of licences, transitional general licences, were previously available to foreign-flagged ships which were crewed by Australians and licenced under the prior framework.

tiered licensing system aims to promote the use of Australian ships by allowing them both unrestricted access to coastal trade and the opportunity to compete for voyages intended to be conducted by foreign ships.<sup>19</sup>

#### *General licences*

2.14 General licenses are available to Australian-flagged vessels listed on the AGSR. These licences provide unrestricted access to engage in coastal trading in Australian waters for a period of five years. Each seafarer working on a general licence vessel must be an Australian citizen, permanent resident, or hold a visa with appropriate work rights.<sup>20</sup>

#### *Temporary licences*

2.15 Foreign-registered vessels and those registered in the Australian International Shipping Register (AISR) require a temporary licence to engage in coastal trading in Australian waters. A temporary licence covers a period of 12 months and, unlike a general licence, which enables a vessel to have unrestricted access to coastal trading, is restricted to the matters authorised in the licence.<sup>21</sup>

2.16 Further, an application for a temporary licence must be for a minimum of five voyages. If a temporary licence holder wishes to vary the details of approved voyages beyond legislated tolerance limits, an additional application must be submitted. Similarly, if additional voyages are to be added, a separate application must also be submitted.<sup>22</sup>

2.17 Information about each application for a temporary licence is provided to all general licence holders, who are permitted to provide a 'notice in response' indicating that they are able to undertake any, or all, of the voyages on a temporary licence application. A 'notice in response' triggers a mandatory consultation process between the shipper and the general licence holder which may be arbitrated by the Department.<sup>23</sup> Third parties who would be directly affected if an application were granted may also give the responsible minister written comments on a temporary licence application.<sup>24</sup>

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Ships operating under these licences had the same access and rights as ships operating under a general licence. The Department noted that all transitional general licences have now been surrendered, and this type of licence is no longer granted.

<sup>19</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 13.

<sup>20</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 15.

<sup>21</sup> Coastal Trading (Revitalising Australian Shipping) Bill 2012, Revised Explanatory Memorandum, p. 23.

<sup>22</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 15.

<sup>23</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 15.

<sup>24</sup> Coastal Trading (Revitalising Australian Shipping) Bill 2012, *Revised Explanatory Memorandum*, p. 26.

### *Emergency licenses*

2.18 Emergency licenses may be granted, for a period of no more than 30 days, to a shipper; or to the owner, charterer, master or agent of a vessel, to respond to significant national emergencies.<sup>25</sup> This licence allows an applicant to respond to significant national emergencies, such as cyclones, earthquakes, floods, thunderstorms, tsunamis and wildfires (which endanger, or threaten to endanger life, property or the environment, and which require a significant and coordinated response).<sup>26</sup>

### **Regulation of cruise shipping in Australia**

2.19 Australia's cruise market is dominated by large international companies, such as Carnival Cruise Line, Royal Caribbean, and P&O Cruises. Prior to the COVID-19 pandemic, the industry in Australia had been growing strongly with, for example, passenger numbers increasing by 21 per cent in 2016 compared with the preceding year. This resulted in over 1.34 million passengers undertaking cruises during that year.<sup>27</sup>

2.20 According to the Department, most Australian cruise vessels do not hold a general licence under the CT Act as they typically undertake round-trips to and from the same port and, hence, are not considered coastal trading. For example, this includes trips around Sydney harbour and from Cairns to the Great Barrier Reef.<sup>28</sup>

2.21 For the majority of international cruise vessels, the minister has provided an exemption, under section 11 of the CT Act, from the requirements of the CT Act.<sup>29</sup> The most recent exemption came into force on 1 January 2019 and exempts vessels which are:

- in-excess of 5000 gross tonnes;
- capable of a speed of 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.<sup>30</sup>

### *Regulations in other jurisdictions around the world*

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<sup>25</sup> Coastal Trading (Revitalising Australian Shipping) Bill 2012, *Revised Explanatory Memorandum*, pp. 37–38.

<sup>26</sup> Coastal Trading (Revitalising Australian Shipping) Regulation 2012, reg. 4.3.1.

<sup>27</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 8.

<sup>28</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 8.

<sup>29</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 8.

<sup>30</sup> Section 11 exemption for cruise vessels 2019 under the *Coastal Trading (Revitalising Australian Shipping) Act 2012*, 13 September 2018.

- 2.22 Maritime cabotage regimes vary significantly around the world. Some jurisdictions have 'open coastlines' with unrestricted access to coastal trading, whereas others have 'closed coastlines' where foreign companies are banned from engaging in this trade.<sup>31</sup> Of the 140 countries around the world with a coastline, 91 have cabotage laws restricting foreign vessels and foreign crews from entering the coastal trade. These laws exist in every region of the world, and across jurisdictions with substantially different political, economic, and legal systems.<sup>32</sup>
- 2.23 Research undertaken by Seafarers' Rights International indicated that cabotage laws have endured for centuries, and that their early rudimentary principles date back to 1381 and the reign of King Richard II of England.<sup>33</sup> This research also investigated the policy objectives and motivations of cabotage regimes around the world, and found that they are usually in place to:
- promote fair competition;
  - retain skills in the local workforce;
  - promote jobs;
  - promote the domestic maritime industry;
  - improve safety;
  - protect the marine environment;
  - maintain national security and defence capabilities; and
  - provide an essential public service.<sup>34</sup>
- 2.24 Canada has a similar system to Australia in that coastal trading licences are issued to residents requesting permission for foreign-flagged vessels to enter Canadian waters to perform a service or activity, over a specified period of time, where there are no suitable domestic vessels available. Approved vessels are allowed to operate under their flag state's labour rules while in Canadian waters, with their crews being granted temporary foreign worker permits.<sup>35</sup>
- 2.25 The United States has a strict regime in place where, under the *Merchant Marine Act of 1920* (commonly known as the Jones Act), all domestic cargoes are carried by US-built and registered vessels owned and operated by US citizens.<sup>36</sup> The Secretary-Treasurer of the Seafarers International Union of

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<sup>31</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 49.

<sup>32</sup> Ms Deirdre Fitzpatrick, Executive Director, Seafarers' Rights International, *Committee Hansard*, 6 February 2020, p. 2.

<sup>33</sup> Ms Deirdre Fitzpatrick, Executive Director, Seafarers' Rights International, *Committee Hansard*, 6 February 2020, p. 2.

<sup>34</sup> Ms Deirdre Fitzpatrick, Executive Director, Seafarers' Rights International, *Committee Hansard*, 6 February 2020, p. 2.

<sup>35</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 49.

<sup>36</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 49.

North America, Mr Dave Heindel, believes the United States' regime is the 'purest cabotage that exists',<sup>37</sup> describing its requirements as follows:

[T]he Jones Act and related maritime cabotage laws require that waterborne cargo and passengers moving between ports in the United States must be transported on vessels that are owned by US citizens, built by US shipyards and documented under US laws. As a result, such vessels are wholly subject to US laws, including that of requiring employment of US citizen crews.<sup>38</sup>

- 2.26 In 2005, Indonesia moved to tighten its coastal trading regime after having previously allowed foreign-flagged vessels. Through a number of reforms, maritime cabotage in Indonesia is now solely reserved for domestically-flagged ships.<sup>39</sup>
- 2.27 In contrast to the United States and Indonesia, other countries, such as China, South Korea, and Brazil, have moved to relax their cabotage regimes. Further, a small number of countries, such as the United Kingdom, the Netherlands, Denmark, New Zealand, and South Africa, currently have no cabotage restrictions in place at all.<sup>40</sup>

### *Views on Australia's coastal shipping*

- 2.28 The committee heard a wide range of views on Australia's coastal shipping and its legislative framework. A number of participants were critical of the current state of coastal shipping and the changes introduced in 2012 by the CT Act. Some submitters stated that it had failed to achieve its objective of revitalising Australian shipping, restricted competition, and that it was being exploited by various actors within the industry. Others were concerned with the framework's lack of flexibility around licence approvals, variations, and tolerance levels. These issues, and others, are discussed in more detail below.
- 2.29 Reflecting on the state of coastal shipping in Australia and its broader importance to Australia's supply chain competitiveness, Dr Hermione Parsons, from the Centre for Supply Chain and Logistics at Deakin University, said in her evidence to the committee:

Unfortunately, in Australia we are severely limited because we don't have coastal shipping. Even though we're an island—the largest island and smallest continent—we are at a disadvantage compared to other countries

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<sup>37</sup> Mr Dave Heindel, Secretary-Treasurer, Seafarers International Union of North America, *Committee Hansard*, 6 February 2020, p. 6.

<sup>38</sup> Mr Dave Heindel, Secretary-Treasurer, Seafarers International Union of North America, *Committee Hansard*, 6 February 2020, p. 6.

<sup>39</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 49.

<sup>40</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 49.

because we don't have an active and effective coastal shipping opportunity for businesses, and our vast distances mean this is even more significant.<sup>41</sup>

- 2.30 The Minerals Council of Australia (MCA) focused its critique on the CT Act, stating that it made 'retrograde changes' to competition rules that failed to revitalise the domestic shipping fleet as intended, and also made the remaining Australian vessels more expensive than their international counterparts. It also notes that the participation of foreign ships has been a longstanding feature of Australia's coastal shipping trade and believes that their participation is essential to the efficient and timely movement of freight.<sup>42</sup>
- 2.31 The Maritime Union of Australia (MUA) also believes the CT Act is flawed and has been exploited by a number of industry participants, resulting in a 'downward spiral' in the number of Australian-owned and operated ships and the level of seafarer employment.<sup>43</sup>
- 2.32 The Australian Institute of Marine and Power Engineers (AIMPE) pointed to the more than 14 000 temporary licences the Department has issued since 2012, and argued that when these licences are issued, it effectively transfers economic activity from an Australian operator, employing Australian seafarers, to a foreign operator, employing foreign seafarers. AIMPE argued that, because foreign operators do not pay the same level of corporate taxes, and seafarers employed by these operators do not pay the same level of income tax, they have a much lower cost structure. Therefore, the current system is 'stacked against the Australian maritime industry'.<sup>44</sup>
- 2.33 The Australian Institute of Petroleum (AIP) notes that its members are commonly constrained by approval times and tolerance levels for cargo size and departure dates under the temporary licencing system of the CT Act. The AIP states that this impacts on its members' ability to effectively respond to supply disruptions by securing larger cargo sizes; bringing forward or delaying loading; and rescheduling cargo to alternative ports.<sup>45</sup>
- 2.34 In its submission to the inquiry, Shipping Australia Limited (SAL) claims that the CT Act, through its policy intent and creation of additional red tape, has had a detrimental effect on the movement of domestic cargo by ships. It states that:

This regime has proven to be inefficient and burdensome on shippers and the shipping industry, restricting access to the Australian market and

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<sup>41</sup> Dr Hermione Parsons, Professor and Director, Centre for Supply Chain and Logistics, Deakin University, *Committee Hansard*, 13 March 2019, p. 60.

<sup>42</sup> Minerals Council of Australia, *Submission 17*, [p. 2].

<sup>43</sup> Maritime Union of Australia, *Submission 10*, p. 7.

<sup>44</sup> Australian Institute of Marine and Power Engineers, *Submission 27*, [p. 5].

<sup>45</sup> Australian Institute of Petroleum, *Submission 20*, p. 5.

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resulting in the limitation of access of local businesses to efficient and cost-effective shipping services.<sup>46</sup>

- 2.35 The South Australian Freight Council (SAFC) advocates for the streamlining of licence approvals, variation processes, and tolerances. It also notes that international vessels transiting around Australia with spare capacity could, with the right legislative framework in place, be marginally priced to deliver a lowest-cost transportation option.<sup>47</sup>
- 2.36 The Australian Competition and Consumer Commission (ACCC) highlights that Australia's coastal shipping regulatory regime continues to impede foreign shipping lines from effectively competing with Australian vessels for domestic trade, and has deterred international lines from carrying domestic cargo despite the obvious efficiencies that may result. It submits that:
- ... easing the regulatory burden on foreign-flagged ships in conducting coastal trades could induce market entry by international shipping lines. This market entry is likely to result in greater competition and lower shipping costs, with flow-on effects of lower prices for manufacturing inputs and consumer goods. This can have significant benefits for the wider Australian economy, even if the vessels are international-flagged rather than Australian-flagged shipping.<sup>48</sup>
- 2.37 The MCA noted that Productivity Commission estimates indicate that the Australian economy would benefit by between \$19 million and \$36 million per year from the removal of restrictions on coastal shipping.<sup>49</sup>
- 2.38 In contrast to the above, CSL Australia states that the decline in the number of Australian-flagged and crewed vessels since 2012 has little to do with the CT Act. It believes that the decline is primarily a result of 'timing and circumstance', and states that any legislative framework would have likely struggled in a low international shipping charter market with a high exchange rate, coupled with an aged Australian fleet and high replacement costs. It concludes that these 'macro environmental factors, together with the high operating cost base of Australian vessels assisted in the dramatic decline of Australian vessels, particularly in the dry bulk fleet'.<sup>50</sup>

## **International shipping**

- 2.39 Australia's international maritime trade is dominated by the export of bulk mining and agricultural products, and is among the top five international exporters of bauxite, alumina, iron ore, coal, and liquefied natural gas. In 2015–

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<sup>46</sup> Shipping Australia Limited, *Submission 5*, [pp. 1–2].

<sup>47</sup> South Australian Freight Council, *Submission 21*, [p. 2].

<sup>48</sup> Australian Competition and Consumer Commission, *Submission 4*, pp. 1–2.

<sup>49</sup> Minerals Council of Australia, *Submission 17*, [p. 2].

<sup>50</sup> CSL Australia, *Submission 16*, p. 2.

16, Australia's seagoing international imports and exports had a combined value of over \$400 billion, and there were 30 056 arrivals by 5540 international ships to Australian ports.<sup>51</sup>

### *International trade routes and cargo shipping*

2.40 Although not impacting access to bulk shipping services, the east-west flow of global trade patterns affects the availability of container shipping services to, and from, Australia. As mentioned in chapter 1, this impacts the domestic economy in two key ways:

- a lower frequency of liner shipping services, resulting in challenges accessing frequent and reliable container shipping; and
- a larger amount of Australian container imports and exports transiting through transshipment hubs, such as Singapore, potentially resulting in delays and additional costs.<sup>52</sup>

2.41 Due to this low frequency of liner shipping services, Part X of the *Competition and Consumer Act 2010* (CC Act) operates with the intent of ensuring operators have continued access to frequent and reliable liner cargo shipping services at internationally competitive freight rates. It establishes a regulatory system for international liner cargo shipping services regarding the registration of conference agreements.<sup>53</sup>

2.42 The parties to a conference agreement are required to negotiate with registered representative shipper bodies and, if the conference agreement is registered, are given partial and conditional exemptions from cartel conduct, contracts that restrict dealings or affect competition, and exclusive dealings.<sup>54</sup>

### *Australian International Shipping Register*

2.43 In 2012 the *Shipping Registration Act 1981* (Shipping Registration Act) was amended to incorporate provisions which created the AISR. The AISR provides an alternative registration option for ships that are predominantly engaged in international trading, and hoped to address the cost disadvantage experienced by Australian companies operating in the global shipping market, while also maintaining high safety and environmental standards.<sup>55</sup>

2.44 The Australian Shipping Registration Office within the Australian Maritime Safety Authority (AMSA) is responsible for the registration of Australian ships

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<sup>51</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 40.

<sup>52</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 40.

<sup>53</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, pp. 40–41.

<sup>54</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 41.

<sup>55</sup> For further information please visit: [https://www.infrastructure.gov.au/maritime/business/coastal\\_trading/aisr.aspx](https://www.infrastructure.gov.au/maritime/business/coastal_trading/aisr.aspx)

on the register. Reflecting the policy intent to build Australia's domestic maritime skills base by providing opportunities for Australians to gain the necessary international seafaring experience, at least two senior positions, i.e. engineering and deck officers, are to be filled by Australians. And to increase the AISR's competitiveness, international labour terms and conditions apply to seafarers working on registered ships engaged in international trading.<sup>56</sup>

- 2.45 A number of other maritime countries also have international registers for domestic ship owners. These registers offer some of the benefits of open registers, such as the ability to utilise crews of different nationalities, while maintaining the link between the ownership/management of the vessel and the national flag. A noted benefit of this approach is that it allows maritime safety regulators to maintain control over safety and environmental standards, as well as enforcement and compliance activities.<sup>57</sup>

### *Views on international shipping*

#### **Part X of the Competition and Consumer Act**

- 2.46 A number of inquiry participants were critical of Part X of the CC Act. For example, the ACCC itself recommended that it be repealed, and that exemptions for agreements between shipping lines be subject to the same process as other industry sectors through Part VII of the CC Act. It notes that such a reform would be consistent with recommendations made by the 2015 Competition Policy Review.<sup>58</sup>
- 2.47 The Freight and Trade Alliance and Australian Peak Shippers Association (Joint Submitters), in their joint submission to the inquiry, highlighted the ineffectiveness of Part X of the CC Act and suggested that it does not provide Australian shippers with the level of intended protection.<sup>59</sup> It also noted that, due to the consolidation of the liner shipping industry, the need to register under Part X is becoming increasingly unnecessary.<sup>60</sup>
- 2.48 Reflecting on this consolidation process, Mr Travis Brooks-Garrett from the Australian Peak Shippers Association stated in evidence to the committee that:

[i]n the last three or four years things have changed ... The shipping lines have gone through a period of unprecedented consolidation ... I think

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<sup>56</sup> Shipping Registration Amendment (Australian International Shipping Register) Bill 2012, *Explanatory Memorandum*, p. 2.

<sup>57</sup> Shipping Registration Amendment (Australian International Shipping Register) Bill 2012, *Explanatory Memorandum*, [p. 1].

<sup>58</sup> Australian Competition and Consumer Commission, *Submission 4*, p. 1.

<sup>59</sup> Freight and Trade Alliance/Australian Peak Shippers Association, *Submission 9*, p. 4.

<sup>60</sup> Freight and Trade Alliance/Australian Peak Shippers Association, *Submission 9*, p. 5.

something like the top seven shipping lines represent 80 per cent of the global capacity.<sup>61</sup>

2.49 Notwithstanding its deficiencies, the Joint Submitters stated that ‘Australia’s major exporters are clear in their view that Part X protections (minimum services levels and minimum notification periods, in particular) are critical to the functioning of our export economy’.<sup>62</sup> Noting that the ACCC has called for the repeal of Part X, they conclude that this should not occur until equivalent or strengthened protections for exporters are put in place:

To repeal the only protections that exist for our exporters, without first having equivalent protections in place, would be foolhardy and dangerous to our national interests.<sup>63</sup>

### **Australian International Shipping Register**

2.50 A number of inquiry participants were critical of the AISR and recommended it be reformed or repealed. For example, CSL Australia noted in its submission to the inquiry that there were zero vessels registered on the AISR, and suggested that this was a result of the benefits of registration not being competitive when compared to the alternatives.<sup>64</sup>

2.51 Maritime Industry Australia Limited (MIAL) believes that the AISR needs reforming to improve its competitiveness against alternatives and to attract registrations. It states that the register could grow if the Shipping Registration Act was reformed to:

- broaden the types of vessels and activities that are eligible;
- require a minimum Australian crew component, rather than designated roles;
- remove references to a single bargaining unit as the exclusive means of determining terms and conditions on board AISR vessels;
- implement improvements to the process of obtaining certificates of equivalence; and
- implement improvements to the survey requirements for re-flagging in Australia.<sup>65</sup>

2.52 The MUA also noted that not a single ship has been registered on the AISR and called for the relevant provisions in the Shipping Registration Act to be repealed. It suggested a number of reasons explaining this low level of interest in the register, including a lack of promotion; policy certainty; competitiveness

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<sup>61</sup> Mr Travis Brooks-Garrett, Director, Secretariat, Australian Peak Shippers Association, *Committee Hansard*, 13 March 2019, p. 36.

<sup>62</sup> Freight and Trade Alliance/Australian Peak Shippers Association, *Submission 9*, p. 5.

<sup>63</sup> Freight and Trade Alliance/Australian Peak Shippers Association, *Submission 9*, p. 5.

<sup>64</sup> CSL Australia, *Submission 16*, p. 7.

<sup>65</sup> Maritime Industry Australia Limited, *Submission 13*, p. 15.

when compared to foreign alternatives; investment capital; and entrepreneurial vision.<sup>66</sup>

- 2.53 A green paper (the Coastal Trading Green Paper) prepared by Ms Teresa Lloyd, in consultation with the broader industry, suggests that the AISR be reformed to provide a platform whereby ships registered on it are competitive with foreign ships in the coastal trade. It proposes that the AISR provisions within the Shipping Registration Act be amended to, amongst other things, remove the time off the coast requirements; broaden the number of eligible vessels; and alter the requirement that designated roles be held by Australians to a more flexible approach whereby a minimum Australian crew component must be met.<sup>67</sup>

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<sup>66</sup> Maritime Union of Australia, *Submission 10*, p. 78.

<sup>67</sup> Ms Teresa Lloyd, *Coastal Trading Green Paper: A Maritime Transition*, 2016, pp. 3 and. 8.



# Chapter 3

## Promoting shipping as an effective mode of transport

### Overview

3.1 This chapter provides a cross-section of suggestions made by inquiry participants to promote the general use of shipping as an effective and efficient mode of transport, irrespective of where a ship is registered or the nationality of its crew. It also highlights a number of key suggestions aimed at specifically promoting the use of Australian ships and Australian crews, such as reforming the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (CT Act), creating a strategic fleet, and extending taxation concessions to make Australia's taxation system internationally competitive.

### Suggestions to promote the use of shipping

3.2 Inquiry participants provided a number of suggestions to improve the utilisation of ships in Australia's transportation task. At a high-level, these suggestions relate to improving the industry's flexibility and ability to quickly respond in a fluid operating environment; improving interactions with other transport modes and reducing intermodal constraints; and creating a level playing field between the different modes. Specific suggestions were also provided for the resources and energy sector; Tasmanian shipping; and cruise shipping. These are discussed in more detail below.

#### *Improve flexibility*

3.3 Stakeholders stressed the importance of having access to a flexible shipping industry which allows for frequently changing operational, commercial and weather conditions, and minimises trade disruptions and cost overruns.

3.4 The Chamber of Minerals and Energy of Western Australia (CME) advocated for regulatory and administrative change which increases the maximum licencing period and streamlines the application and variation processes. It stated that its member companies experienced a number of key issues with the current system when planning and negotiating long-term shipping contracts:

- the maximum licencing period of 12 months, coupled with a four-week lead time to finalise an application, results in scheduling complexity and regulatory reporting burden;
- unless a variation is applied for, there is no flexibility to deviate from the ports, sailing dates, and volumes originally stated in the licencing application; and

- the formal variation process is slow and rigid, and is often unable to respond in a reasonable timeframe.<sup>1</sup>
- 3.5 It was also argued by the CME that, in the past, domestic shipping has not been efficient or effective enough to respond to the peaks (spot trading) of global commodity cycles making access to international ships vital—particularly as demand continues to outstrip supply.<sup>2</sup>
- 3.6 Given the above, the CME concluded that current licensing procedures are impractical, onerous, and cumbersome and:
- ... [o]ther than enabling preferential treatment of domestic ships, the system as it is does not encourage a competitive shipping industry. There is a cost to the public, through higher cost of goods, in forcing the resources sector to use uncompetitive and unresponsive domestic shipping services.<sup>3</sup>
- 3.7 As noted in chapter 2, the South Australian Freight Council (SAFC) also has concerns regarding the inflexible nature of the CT Act. To promote the efficient utilisation of spare capacity of international vessels transiting around Australia, it supports removing the 5 voyage requirement for obtaining a temporary licence under the CT Act and streamlining the approval and variation processes, and tolerances.<sup>4</sup>

#### *Improve interactions with other modes and reduce intermodal constraints*

- 3.8 Evidence provided to the inquiry expressed support for shipping as a primary mode of transport—particularly noting its efficiency in the movement of freight—to and from transport terminals, and around the country. Stakeholders argued that the focus for the transport sector should be on reducing land-based transport congestion, and addressing some of the infrastructure constraints currently associated with moving freight to and from intermodal transport terminals.<sup>5</sup>
- 3.9 Ports Australia notes that the effective use of all three modes of transport can lead to optimal social and economic outcomes, and that efficient connectivity across modes should be a key consideration. Given this, it is concerned that there is a current lack of suitable road infrastructure at ports, and that road trains are being diverted, resulting in higher costs and delays.<sup>6</sup>

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<sup>1</sup> Chamber of Minerals and Energy of Western Australia, *Submission 29*, p. 6.

<sup>2</sup> Chamber of Minerals and Energy of Western Australia, *Submission 29*, p. 6.

<sup>3</sup> Chamber of Minerals and Energy of Western Australia, *Submission 29*, p. 6.

<sup>4</sup> South Australian Freight Council, *Submission 21*, p. 2.

<sup>5</sup> Please note these topics are also discussed in further detail in chapter 7 – Port infrastructure and services.

<sup>6</sup> Ports Australia, *Submission 18*, p. 4.

- 3.10 Ports Australia is also concerned with the underutilisation of the rail network for freight movements to and from ports. It submits that this is due to a number of reasons, such as port-rail interface issues; conflicts with passenger movements; inconsistent state and territory regulations and operating conditions; and maintenance and investment costs that are not supported by required utilisation rates. It suggests that reform is critical to maximise rail network capacity and, hence, improve the viability of shipping.<sup>7</sup>
- 3.11 The SAFC notes the critical nature of Australia's ports and their role in maintaining Australia's economic growth. It states that these assets are facing a number of threats which need to be permanently addressed. For example, it submitted that increasing congestion on transport links to Australia's major container ports is a rising problem for Australia, as it increases, amongst other things, time, fuel and wage costs for businesses and the economy.<sup>8</sup>
- 3.12 SAFC also stated that industry is increasingly concerned with the growth in residential construction around ports. It submits that this causes a number of issues, such as increased conflict with residents; increased congestion on shared roads; reduced land availability for port activities; and reduced options for future port expansion. It concludes that protection of key transport facilities, and the associated transport corridors leading to them, is vital to transport efficiency.<sup>9</sup>

### *Create a level playing field across modes*

- 3.13 Ports Australia notes that there is a clear imbalance in Australia's transport mix, impacting on Australia's ability to effectively move domestic freight. It submits that, although Australia's domestic freight task grew by 50 per cent between 1999-00 and 2015-16, coastal shipping's contribution only grew by 1 per cent; contrasting markedly with an increase of 210 per cent for rail and 61 per cent for road.<sup>10</sup>
- 3.14 The Maritime Union of Australia (MUA) highlighted that, across Australia, roads and rail received a combined \$33.3 billion in public funding in 2013-14, whereas no Commonwealth or state taxation revenue was allocated to the domestic shipping industry.<sup>11</sup> It concluded that:

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<sup>7</sup> Ports Australia, *Submission 18*, p. 4.

<sup>8</sup> South Australian Freight Council, *Submission 21*, p. 3.

<sup>9</sup> South Australian Freight Council, *Submission 21*, p. 3.

<sup>10</sup> Ports Australia, *Submission 18*, p. 4.

<sup>11</sup> Maritime Union of Australia, *Submission 10*, pp. 32–33.

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.<sup>12</sup>

3.15 In their submission, Ports Australia also discussed the disparity in government support across transport modes being a key reason for coastal shipping only accounting for 15 per cent of domestic trade. It submits that Australia needs to decide whether it wants shipping to be a viable transport option, and how it can be effectively supported and utilised.<sup>13</sup>

3.16 The general manager of business development and inland business at ANL Container Line Pty Ltd (ANL), Mr Chris Schultz, questioned the lack of support for Australia's coastal shipping industry:

We [ANL Container Line Pty Ltd] think Australia, as an island nation, is crying out for it. We've got 95 per cent of the population within 100 kilometres of a port. We've got vast distances that we need to cover. We spend billions of dollars on road and rail funding but not one dollar on coastal shipping. How can that be?<sup>14</sup>

3.17 Dr Hermione Parsons, from the Centre for Supply Chain and Logistics at Deakin University, was direct in her observations regarding Australia's lack of coastal shipping:

Critical to Australia's supply chain competitiveness and its ability to have a very strong future as an economy is the ability to have streamlined, effective, efficient and productive supply chains and logistics chains. Fundamental to that is being able to use all the tools that a company requires. In this case, it's a ship, a train, a truck or a plane. Unfortunately, in Australia we are severely limited because we don't have coastal shipping. Even though we're an island—the largest island and smallest continent—we are at a disadvantage compared to other countries because we don't have an active and effective coastal shipping opportunity for businesses, and our vast distances mean this is even more significant.<sup>15</sup>

It's astonishing to me that we're working in South-East Asia with developing economies that are acutely aware of the importance of coastal shipping and using the sea as a conduit, and yet we are so complacent and also almost bigoted towards one mode over another. We are not agnostic. I think there's a form of bigotry towards road and away from more suitable modes.<sup>16</sup>

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<sup>12</sup> Maritime Union of Australia, *Submission 10*, p. 33.

<sup>13</sup> Ports Australia, *Submission 18*, pp. 2–3.

<sup>14</sup> Mr Chris Schultz, General Manager, Business Development and Inland Business, ANL Container Line Pty Ltd, *Committee Hansard*, 13 March 2019, p. 16.

<sup>15</sup> Dr Hermione Parsons, Industry Professor and Director, Centre for Supply Chain and Logistics, Deakin University, *Committee Hansard*, 13 March 2019, p. 60.

<sup>16</sup> Dr Hermione Parsons, Industry Professor and Director, Centre for Supply Chain and Logistics, Deakin University, *Committee Hansard*, 13 March 2019, p. 61.

If you look at multimodal efficiency in any other economy where it works and where the economy is doing really well in the supply chain, and if you look at sophisticated economies in Europe and all sorts of different places, you will see that coastal shipping and shipping are fundamental tools that are put into the kitbag of the logistics companies.<sup>17</sup>

- 3.18 The Australian Competition and Consumer Commission (ACCC) is concerned that heavy vehicles may not be paying an appropriate price for the use of Australian roads and submits that, if prices were set on an independent basis, i.e. at arms-length from government, it would allow for a more informed basis to choose the most efficient transport mode for moving freight around Australia.<sup>18</sup> If these prices took into account all the costs involved in road transportation, it may improve the competitiveness of coastal shipping as an alternative.
- 3.19 In his evidence to the committee, Mr Peter van Duyn, from the Centre for Supply Chain and Logistics at Deakin University, commented on the relatively low cost of road freight in Australia, noting that this could be a result of trucking being a very competitive industry operating on small margins; externalities not being effectively priced; and roads being funded by taxpayers. He also noted that some countries in Europe have introduced regulations to account for externalities, such as pollution.<sup>19</sup>
- 3.20 The SAFC indicated that rising charges at all major Australian ports has made coastal shipping less competitive against other domestic transport modes. It is concerned that this may negatively impact modal shift and, hence, reduce the potential benefits accruing to the economy and freight owners from an efficient coastal trade.<sup>20 21</sup>
- 3.21 The CME submitted that the increasing cost of shipping has pushed domestic freight to international ships and land-based modes of transport, such as road and rail. It noted its support for moves to reduce land-based transport congestion, identify current infrastructure constraints, and increase the efficiency of shipping freight.<sup>22</sup> It was argued these types of actions could result in long-lasting cross-sectoral economic benefits. In particular the CME:

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<sup>17</sup> Dr Hermione Parsons, Industry Professor and Director, Centre for Supply Chain and Logistics, Deakin University, *Committee Hansard*, 13 March 2019, p. 61.

<sup>18</sup> Australian Competition and Consumer Commission, *Submission 4*, pp. 6–7.

<sup>19</sup> Mr Peter van Duyn, Industry Researcher and Maritime Logistics Expert, Centre for Supply Chain and Logistics, Deakin University, *Committee Hansard*, 13 March 2019, p. 61.

<sup>20</sup> South Australian Freight Council, *Submission 21*, [p. 2].

<sup>21</sup> Please note the topic of rising charges at Australian ports is further discussed in chapter 7 – Port infrastructure and services.

<sup>22</sup> Chamber of Minerals and Energy of Western Australia, *Submission 29*, p. 5.

... supports diversification of the industry in providing competitive alternative modes of transport to carry freight to regions such as the Pilbara, Kimberley, Goldfield and the South West. A competitive shipping industry would unlock access to these remote areas, overcoming roadblocks arising from seasonal flooding, cyclones and bushfires.<sup>23</sup>

### *Support resource and energy shipping*

- 3.22 The Australian Aluminium Council (ALC), representing Australia's bauxite mining, alumina refining, and aluminium smelting industry, notes that the shipping of bulk materials from mines to refineries, and from refineries to smelters, is a critical part of the aluminium supply chain.<sup>24</sup> It is concerned about the costs that may be involved in any government intervention aimed at increasing the broader strategic benefits that shipping provides, such as workforce development and seafarer training. The ALC notes that, although these benefits may be deemed worthwhile, due to the potential increased costs, any intervention to promote the utilisation of Australian shipping should be rigorously tested.<sup>25</sup>
- 3.23 The Minerals Council of Australia (MCA) is a strong advocate for reform as it believes that retaining the existing regulatory framework will negatively impact employment in Australian industries which rely upon the efficient transport of freight by sea, such as the minerals sector.<sup>26</sup> As mentioned in chapter 2, it stated that the CT Act made 'retrograde changes to competition rules that have failed to revitalise the domestic shipping fleet as intended and made the remaining Australian vessels more expensive than international vessels'.<sup>27</sup>
- 3.24 Australia's largest natural gas producer, Woodside, supports continued access by foreign-flagged ships in coastal trading; the contestability regime where there is Australian capacity; and a simplified licencing system for foreign vessels when there is no Australian capacity.<sup>28</sup>
- 3.25 Woodside also notes that LNG trading could commence on Australia's east coast with the proposed development of LNG import terminals. Given that there are currently no available Australian LNG carriers with sufficient capacity to service such a trade, and the existing minimum voyages

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<sup>23</sup> Chamber of Minerals and Energy of Western Australia, *Submission 29*, p. 5.

<sup>24</sup> Australian Aluminium Council, *Submission 19*, p. 1.

<sup>25</sup> Australian Aluminium Council, *Submission 19*, p. 2.

<sup>26</sup> Minerals Council of Australia, *Submission 17*, [p. 2].

<sup>27</sup> Minerals Council of Australia, *Submission 17*, [p. 2].

<sup>28</sup> Woodside, *Submission 30*, p. 13.

requirement is likely to impede it, Woodside suggests a class of licence for foreign LNG carriers which could facilitate this new market.<sup>29</sup>

- 3.26 The Australian Institute of Petroleum (AIP) notes the importance of shipping as a critical component for the reliable supply of crude oil and petroleum products into Australia. AIP states that 'the ability to utilise cost effective and efficient shipping is central to the supply chain ... [and] AIP and member companies are concerned to ensure that Australia's regulatory environment further assists the industry in its shipping task and provides a level playing field between imported petroleum products and those produced in the domestic refineries'.<sup>30</sup>

### *Support Tasmanian shipping*

- 3.27 As an island state, Tasmania is heavily reliant on shipping services to support its communities and grow its economy. By weight, over 99 per cent of goods leaving and arriving in Tasmania are transported by sea, and a number of Bass Strait island communities depend on regular and reliable shipping connections.<sup>31</sup>
- 3.28 Reflecting this reliance on shipping, and the fact that the cost of shipping across the Bass Strait is higher than equivalent road transport distances, the Australian government introduced the Tasmanian Freight Equalisation Scheme (TFES) in 1976. The aim of the TFES was to place Tasmanian shippers on an equal footing to other Australian producers. Further, in 1996, the Australian government also introduced the Bass Strait Passenger Vehicle Equalisation Scheme to reduce the costs of sea travel on Bass Strait for passengers and vehicles.<sup>32</sup>
- 3.29 The Tasmanian government's submission asks the Australian government consider its unique challenges, such as its dependence on domestic and international shipping connections, and that it develop a policy and regulatory environment that ensures a safe, secure, reliable, cost efficient and sustainable shipping service for Tasmania.<sup>33</sup>

### *Support cruise shipping*

- 3.30 Cruise Lines International Association (CLIA), the regional office of the world's largest cruise industry association, notes that the cruise industry has enjoyed a decade of growth, and that it is one of the most successful aspects of

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<sup>29</sup> Woodside, *Submission 30*, p. 13.

<sup>30</sup> Australian Institute of Petroleum, *Submission 20*, p. 9.

<sup>31</sup> Tasmanian Government, *Submission 26*, p. 1.

<sup>32</sup> Tasmanian Government, *Submission 26*, p. 5.

<sup>33</sup> Tasmanian Government, *Submission 26*, p. 1.

the domestic tourism industry. Notwithstanding, CLIA states that there are a number of regulatory and infrastructure barriers that may constrain further growth and that, as the industry is highly competitive and mobile, there is a risk that these barriers could even cause a future contraction.<sup>34</sup>

3.31 CLIA identified the three key barriers facing the cruise industry in Australia as:

- regulatory settings affecting domestic cruising, such as a lack of certainty over licencing exemptions and the importation of ships at dry-dock facilities;
- a lack of investment in port-related infrastructure; and
- the burden of government and port charges.<sup>35</sup>

3.32 CLIA believes there are a number of steps the Australian government can take to overcome these barriers, such as creating a regulatory environment which supports the domestic cruise and dry-dock industries; limiting additional costs imposed on the industry; and working with the NSW government to overcome berthing capacity problems in Sydney.<sup>36</sup>

### **Suggestions to promote the use of Australian ships and crews**

3.33 The committee heard a number of suggestions aimed at increasing the number of Australian ships and Australian crews. These ranged from amendments to the CT Act and reforms to the taxation system, to the development of a strategic fleet and a maritime cluster. A selection of these proposals is discussed below.

#### *Reform the CT Act*

3.34 As highlighted in chapter 2, the MUA believes the CT Act is flawed in its current state and submitted to the inquiry a number of key changes which it believes will improve Australia's cabotage regime. Specifically it recommends that:

- the object clause be amended to make it explicit that the primary objective of the CT Act is to provide preferential treatment for Australian ships in coastal trade;
- the operation of the CT Act be extended to include ships trading intrastate;
- emergency licences under the CT Act be removed;
- the types of ships the CT Act applies to be extended to include, for example, large fishing and aquaculture ships, and those carrying oil, condensate, and gas from offshore facilities to mainland refineries;
- a statutory coastal ship licencing authority be created;

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<sup>34</sup> Cruise Lines International Association, *Submission 24*, [p. 1].

<sup>35</sup> Cruise Lines International Association, *Submission 24*, [pp. 5–6].

<sup>36</sup> Cruise Lines International Association, *Submission 24*, [p. 12].

- the application process for general licences be strengthened in accordance with the new object clause and licencing authority;
  - a new licence type, i.e. a modified general licence, be introduced for foreign-registered, but Australian crewed, ships;
  - the application process for the issuance of temporary licences for cargo ships be strengthened in accordance with the new object clause and licencing authority;
  - a separate application process for the issuance of temporary licences for passenger ships in accordance with the new object clause and licencing authority; and
  - additional definitions be added regarding national interest trades; routes; and segments, and the national strategic fleet.<sup>37 38</sup>
- 3.35 The MUA notes that the intention of these reforms is to ensure that ships operating under a general licence under the CT Act are eligible for all the various shipping tax incentives, whereas those operating under a modified general licence will only be eligible for a subset of them.<sup>39</sup>
- 3.36 A green paper (the Coastal Trading Green Paper) prepared by Ms Teresa Lloyd,<sup>40</sup> in consultation with the broader industry, also supported changes to the CT Act. Amongst other things, these reforms included clarifying the Act's object to remove ambiguity; introducing a new preferential temporary licence (TL+) where an operator meets minimum Australian content requirements; streamlining the application process; and reforming the contestability provisions.<sup>41</sup>
- 3.37 The Australian Institute of Marine and Power Engineers (AIMPE) told the committee that since the introduction of the CT Act a trend has emerged whereby some companies rotate the foreign flag vessels they use, so that they are not using the same ship, or ships, all the time. It was argued that these companies are exploiting the temporary licence system in the same way as those companies which consistently deploy the same ship, or ships, carrying the same Australian coastal cargoes.<sup>42</sup>
- 3.38 An example provided by AIMPE indicated that one international operator acquired temporary licences for approximately 800 voyages and used more

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<sup>37</sup> Maritime Union of Australia, *Submission 10*, pp. 72–76.

<sup>38</sup> The Maritime Union of Australia also recommended further reforms, outside of the CT Act, to Australia's broader cabotage regime. A listing of these can be found on page 14 of Submission 10.

<sup>39</sup> Maritime Union of Australia, *Submission 10*, p. 75.

<sup>40</sup> Ms Lloyd is the CEO of Maritime Industry Australia Ltd (MIAL); however, the green paper does not necessarily express the views of MIAL.

<sup>41</sup> Ms Teresa Lloyd, *Coastal Trading Green Paper: A Maritime Transition*, 2016, pp. 7–8.

<sup>42</sup> Australian Institute of Marine and Power Engineers, *Submission 27*, [p. 8].

than 140 different ships to carry out those trips. It was argued that this type of manipulation of the temporary licence system should be 'addressed by the imposition of limitations on the number of temporary licences that a company or group can receive each year'.<sup>43</sup>

- 3.39 The Department of Infrastructure, Regional Development and Cities (the Department)<sup>44</sup> noted that it is currently working with stakeholders on coastal trading reform; however, in evidence provided to the committee the Assistant Secretary of Maritime and Shipping, Mr Andrew Johnson, stated that the proposals will not fundamentally change the system. Specifically he indicated that the discussions are 'focused on options that would improve the way the existing process works and how the licence process works', and that:

[i]t's really about making the existing system work better without changing the fundamentals as to how it operates and what the legislation provides in terms of supporting Australian shipping and the movement of cargo around the coast.<sup>45</sup>

### *Prioritise Australian ships at domestic ports*

- 3.40 Due to demand spikes, vessel schedules, weather events, and other unforeseen circumstances, CSL Australia notes that congestion at berths in Australian ports can lead to delays of up to 20 days, and sometimes even longer. The costs of these delays are borne by cargo owners under a compensation method which imposes a financial penalty known as 'demurrage'.<sup>46</sup>
- 3.41 CSL Australia notes that demurrage rates can reflect the charter market or, in longer-term contracts, the operating costs of a vessel. Given this, it was submitted that, for the same time delay, cargo owners utilising foreign ships could incur significant less demurrage costs than domestic alternatives and, hence, reduce the cost competitiveness of Australian ships.<sup>47</sup>
- 3.42 To mitigate this, CSL Australia suggests that Australian vessels be prioritised across Australian ports. It claims that such an approach could see decreased freight costs for cargo owners and improved supply chain stability. Further,

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<sup>43</sup> Australian Institute of Marine and Power Engineers, *Submission 27*, [p. 8].

<sup>44</sup> Please note that references to the Department of Infrastructure, Regional Development and Cities also refer to its successor organisation: the Department of Infrastructure, Transport, Regional Development and Communications.

<sup>45</sup> Mr Andrew Johnson, Assistant Secretary, Maritime and Shipping, Department of Infrastructure, Transport, Regional Development and Communications, *Committee Hansard*, 9 September 2020, p. 6.

<sup>46</sup> CSL Australia, *Submission 16*, p. 4.

<sup>47</sup> CSL Australia, *Submission 16*, p. 4.

shipowners could benefit from scheduling efficiencies, fewer delays, and increased revenues by undertaking a greater number of voyages each year.<sup>48</sup>

- 3.43 In alignment with the above, the Coastal Trading Green Paper also suggested port planning processes provide priority access to ports and berths for domestic ships, as well as shore side facilities for their cargos. It also submitted that this could be complemented by discounts on, or exemptions from, port fees for Australian ships.<sup>49</sup>

#### *Introduce a bunker fuel rebate*

- 3.44 CSL Australia submits that Australian vessels are disadvantaged when purchasing bunker fuel. It states that the price of bunker fuel in Singapore is approximately 25 per cent lower than that of Australian ports, such as Gladstone and Melbourne, and that foreign vessels commonly purchase enough fuel from Asian ports for a return voyage prior to trading on the Australian coast.<sup>50</sup> CME also noted this price differential and stated that '[s]ustained high fuel prices [add] to the difficulty in securing competitive domestic shipping contracts'.<sup>51</sup>

- 3.45 Given this price discrepancy, CSL Australia proposes the introduction of a 25 per cent bunker fuel rebate for Australian vessels on both laden and ballast legs of a trip. Such a rebate could reduce freight costs and lessen the disparity between Australian and foreign vessels.<sup>52</sup>

#### *Reform the Shipping Registration Act*

##### **Require ships to register**

- 3.46 The AIMPE argued that a particular loophole in the Shipping Registration Act, which allows vessels to operate in Australian waters continuously without registering, has contributed to the decline of Australia's shipping industry.<sup>53</sup> The AIMPE provided a number of examples of ships operating continuously in Australian waters under repeat temporary licences and argued that:

The business model is clearly not a temporary arrangement it is a long-term operating model designed to avoid the application of Australian laws which comes with Australian registration and obtaining a General Licence under the coastal trading legislation.<sup>54</sup>

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<sup>48</sup> CSL Australia, *Submission 16*, p. 4.

<sup>49</sup> Ms Teresa Lloyd, *Coastal Trading Green Paper: A Maritime Transition*, 2016, p. 9.

<sup>50</sup> CSL Australia, *Submission 16*, p. 4.

<sup>51</sup> Chamber of Minerals and Energy of Western Australia, *Submission 29*, p.6.

<sup>52</sup> CSL Australia, *Submission 16*, p. 5.

<sup>53</sup> Australian Institute of Marine and Power Engineers, *Submission 27*, [p. 7].

<sup>54</sup> Australian Institute of Marine and Power Engineers, *Submission 27*, [pp. 7–8].

3.47 Given this, the AIMPE suggests that, in alignment with aviation laws which make it an offence to fly a plane between two Australian airports if it is not registered in Australia, any vessel operating in Australian waters for more than 30 days be required to register under the Shipping Registration Act.<sup>55</sup>

### *Reform seafarers' remuneration*

#### **Improve wage parity between domestic and foreign-crewed ships**

3.48 Over many years, numerous industry stakeholders have indicated that higher operating costs, especially labour costs, for Australian flagged and crewed vessels is the major reason for their lack of competitiveness. The Department provided figures to the inquiry indicating that the cost of employing Australians at the able seaman level is up to six times that of employing international seafarers in the equivalent position. Given that it is estimated that 40 per cent of operating costs for ships are crew costs, this can be a significant financial disincentive to utilise Australian crews.<sup>56 57</sup>

3.49 The SAFC also linked high Australian wages to the decline in the number of Australian registered vessels by stating that '[t]here is no doubt that the marked differential in Australian and international wages for seafarers is, at least in part, responsible for this'.<sup>58</sup>

3.50 Quantifying the difference in transport costs for the petroleum industry, in its submission to the inquiry, the AIP stated that an Australian tanker crew costs between \$9 and \$10 million per annum. It noted that this far exceeds the cost of a New Zealand crew at \$4.5 million; as well as both British and European crews, which cost between \$3.5 million to \$4 million per annum.<sup>59</sup>

3.51 For ships participating in coastal trading, the Department raised the suggestion that by making foreign-flagged vessels meet the same requirements as Australian vessels while in Australian waters the wage cost differential could be reduced and, hence, make Australian-crewed ships more competitive.<sup>60</sup> Currently, foreign-flagged vessels operating under temporary licences are required to pay, from the third voyage onwards in Australian waters, crew wages in accordance with Part B of the Seagoing Industry Award 2010. The Department notes that, although higher than the minimum wages

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<sup>55</sup> Australian Institute of Marine and Power Engineers, *Submission 27*, [p. 7].

<sup>56</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 21.

<sup>57</sup> Seafarer wages are also discussed in chapter 6 – Security and standards.

<sup>58</sup> South Australian Freight Council, *Submission 21*, [p. 2].

<sup>59</sup> Australian Institute of Petroleum, *Submission 20*, p. 5.

<sup>60</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 11.

established under the Maritime Labor Convention, Part B wages are lower than Part A wages paid to Australian seafarers.<sup>61</sup>

### *Increase maritime tax incentives*

- 3.52 There are a number of tax concessions already in place for Australian-flagged vessels which provide income tax exemptions for operators; accelerated depreciation and roll-over relief for owners; a refundable tax offset for employers; and an exemption from royalty withholding tax.<sup>62</sup>
- 3.53 The Department noted that, in 2017, in response to a discussion paper it issued, a number of participants suggested extending the tax incentives for businesses and crews to encourage the use of Australian-flagged vessels. For example, such changes could include reforming the existing accelerated depreciation regime; providing additional relief to employers of Australian seafarers; and the providing direct tax incentives and exemptions to domestic mariners.<sup>63</sup>
- 3.54 In a 2015 report on Australia's maritime industry, PwC proposed extending the existing taxation incentives while also introducing a number of new measures. Specifically it proposed the extension of the income tax exemption; accelerated depreciation regime; and the seafarer tax offset, while also introducing deemed franking credits and reforming the Australian International Shipping Register (AISR).<sup>64</sup>
- 3.55 PwC submitted that, with these changes in place it 'anticipate[s] that Australian owned or operated vessels would grow with a resultant increase in the size of the maritime industry'.<sup>65</sup> Based on internal modelling and the experiences of other countries, the total potential economic benefits to the Australian economy could be significant: an additional \$4.25 billion in economic output; 9147 additional jobs; and \$867 million in additional taxation revenue.<sup>66</sup>
- 3.56 A number of these suggestions, and others, were also advocated for by other inquiry participants. These included the introduction of deemed franking credits and a dividend withholding exemption for non-resident shareholders;

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<sup>61</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 11.

<sup>62</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 10.

<sup>63</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 10.

<sup>64</sup> PwC, *The economic contribution of the Australian maritime industry*, February 2015, pp. 25–26.

<sup>65</sup> PwC, *The economic contribution of the Australian maritime industry*, February 2015, p. iii.

<sup>66</sup> PwC, *The economic contribution of the Australian maritime industry*, February 2015, pp. iii–iv.

the revision and extension of the seafarer tax offset; and the extension of exemptions to Australia's offshore industry.<sup>67</sup>

- 3.57 Woodside submitted that Australia's existing taxation arrangements make it difficult to compete with other countries, such as the United Kingdom, Singapore, and Norway.<sup>68</sup> The AIMPE highlighted that one of Australia's closest neighbours, Singapore, favours maritime companies and is proactive in its support for maritime industry activities. For example, in 2011 Singapore announced a zero taxation policy in relation to corporate income from the maritime sector.<sup>69</sup>

### *Reform the foreign crew visa system*

#### **An overview of the foreign crew visa system**

- 3.58 Australia has a universal visa requirement with applicants required to meet identity, character, security, and other requirements relevant to the visa for which they apply. Foreign sea crew and supernumerary crew, including accompanying spouses and dependent children, are able to apply for a Maritime Crew Visa (MCV).<sup>70</sup>
- 3.59 According to the Department of Home Affairs, a MCV allows non-citizens to enter and temporarily remain in Australia as a member of the crew of a non-military ship to undertake work that meets the normal operational requirements of that ship. MCVs are valid for three years and permit multiply entries.<sup>71</sup>
- 3.60 MCV applicants must meet public interest criteria and, once issued with a MCV, abide by a number of restrictions regarding:
- working in Australia other than as a member of the crew of a non-military ship;
  - arriving in Australia by air without holding another visa; and
  - automatically ceasing their visa if they fail to sign on to a vessel within five days of arrival or if their vessel is imported or entered for home consumption under the *Customs Act 1901*.<sup>72</sup>
- 3.61 MCVs that are found to be non-genuine can be ceased prior to, or on a person's arrival in Australia, under the *Migration Act 1958*.<sup>73</sup>

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<sup>67</sup> See: ANL Container Line, *Submission 7*, p. 9; CSL Australia, *Submission 16*, p. 5; Maritime Industry Australia Limited, *Submission 13*, pp. 4–5.

<sup>68</sup> Woodside, *Submission 30*, pp. 10–11.

<sup>69</sup> Australian Institute of Marine and Power Engineers, *Submission 27*, [p. 5].

<sup>70</sup> Department of Home Affairs, *Submission 3*, p. 4.

<sup>71</sup> Department of Home Affairs, *Submission 3*, p. 4.

<sup>72</sup> Department of Home Affairs, *Submission 3*, p. 4.

### Views on the foreign crew visa system

3.62 There were a number of viewpoints put forward by inquiry participants regarding the foreign crew visa system. For example, the MUA believes the MCV needs significant reform to close a number of loopholes in the current system for foreign seafarers and recommends:

- creating a new and separate 'maritime crew visa' for non-nationals employed on ships issued with a temporary licence under the CT Act. Such a visa would contain the labour market testing requirements of a work visa, such as the Subclass 482 Temporary Skill Shortage visa, and payment of market rates;
- amending the approval requirements for obtaining an existing MCV so that the security, character and identity checking is strengthened and consistent with the equivalent checks required for the issuance of a Maritime Security Identification Card under the *Maritime Transport and Offshore Facilities Security Act 2003*;
- remove loopholes in visa sponsoring arrangements to eliminate the practice of employers sponsoring foreign maritime workers in permissible occupations and then transferring them to maritime occupations that are not eligible for sponsorship; and
- strengthen the role of AMSA in assessing the marine qualifications of workers sponsored by employers under a work visa for employment in maritime occupations.<sup>74</sup>

3.63 In contrast, the CLIA submitted that the foreign crew visa system works 'reasonably well' for cruise shipping; however, it highlighted the ongoing issue of visas being invalidated when a cruise ship enters a dry-dock-facility to undertake repairs and maintenance and is imported under the *Customs Act 1901*.<sup>75</sup>

3.64 The broader issues raised by inquiry participants on the use of foreign-crewed vessels, such as security and exploitation, is further discussed in chapter 6 – Security and standards.

### *Develop a strategic fleet*

3.65 A number of inquiry participants advocated the creation of an Australian strategic fleet. For example, the MUA submitted that:

The establishment of a national strategic fleet of ships which are of strategic significance to the nation and which provide a social and or

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<sup>73</sup> Department of Home Affairs, *Submission 3*, p. 5.

<sup>74</sup> Maritime Union of Australia, *Submission 10*, p. 78.

<sup>75</sup> Cruise Lines International Association, *Submission 24*, p. 10.

community service benefit will be an important initiative in rebuilding the Australian shipping industry.<sup>76</sup>

3.66 In establishing a strategic fleet, Maritime Industry Australia Limited (MIAL) identified its three key objectives as:

- providing sufficient numbers of vessels to ensure adequate training and experience-building opportunities to secure the strategic skillset the nation requires;
- having sufficient vessels of certain types available to secure Australian critical infrastructure and supply chains; and
- ensuring sufficient suitable vessels are available for requisitioning, should the nation require such support.<sup>77</sup>

3.67 Such a fleet would operate in commercial trades by private enterprises and be available for requisition by the government in times of war or national emergency. As MIAL notes, however, Australian ships with Australian crews are financially uncompetitive and, for a strategic fleet to exist, incentives must be put in place.<sup>78</sup> CSL Australia submits that the funding requirement for each vessel could be up to \$5 million per year at current wage levels and conditions and would offset the differential between domestic and foreign operating costs.<sup>79</sup>

3.68 It is envisaged that these vessels could also be utilised by Australian seafarers to train on, while also providing opportunities for engineers and officers to gain the high-level skills and experience necessary for port service roles, such as pilots and harbour masters, and shore-based technical superintendent positions.<sup>80</sup>

3.69 It was noted that the creation of a strategic fleet is not too dissimilar to the vessels which were owned and operated by the Australian Coastal Shipping Commission and the Australian National Line between 1956 and 1998. This fleet was available for requisition by the government as a merchant fleet, and the vessels were equipped to handle additional seafarers and passengers, and designed for the transportation and landing of military vehicles.<sup>81</sup>

### *Develop a maritime cluster*

#### **An overview of maritime clusters**

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<sup>76</sup> Maritime Union of Australia, *Submission 10*, p. 15.

<sup>77</sup> Maritime Industry Australia Limited, *Submission 13*, p. 17.

<sup>78</sup> Maritime Industry Australia Limited, *Submission 13*, p. 17.

<sup>79</sup> CSL Australia, *Submission 16*, p. 8.

<sup>80</sup> CSL Australia, *Submission 16*, p. 7.

<sup>81</sup> CSL Australia, *Submission 16*, p. 8.

- 3.70 A maritime cluster refers to a group of companies in the maritime industry which are located in a close proximity to one another. Such an arrangement can deliver a range of benefits to their constituent entities, such as creating competitive advantages through mutually beneficial relationships between the companies within the cluster. Crucially, they also provide access to know-how, as it's easier to share knowledge, best practice, and recruit qualified people when similar companies are located in close proximity to each other. A similar environment exists in the information technology industry in Silicon Valley in California.
- 3.71 A number of maritime clusters have successfully been developed in Europe and Asia. For example, on the west coast of Norway the Global Centre of Expertise (GCE) Blue Maritime Cluster consists of 18 shipping companies; 14 design enterprises; 14 shipyards; 172 equipment suppliers; and over 22 500 employees. It has a turnover of approximately \$9.5 billion euros per annum and focuses on a number of key areas, such as: virtual prototyping; simulation driven innovation; big data; robotics; advanced manufacturing; mechatronics; advanced marine operations; and human factor driven operations.<sup>82</sup>
- 3.72 In its submission, the Department noted that the Organisation for Economic Co-operation and Development (OECD) identified four key policy instruments for governments to support the growth of maritime clusters: development support; financial investment; coordination and information sharing; and human capital matching.<sup>83</sup>

### **Australia's shipbuilding industry**

- 3.73 Although Australia's local commercial shipbuilding industry has declined due to foreign competition, Australia still maintains a significant industry. Companies such as Austal, ASC Shipbuilding Pty Ltd, Bae Systems Australia, and Thales Australia build and maintain large ships for both military and civilian purposes.<sup>84</sup>
- 3.74 According to departmental figures, in 2017–18 military-related shipbuilding accounted for 57.3 per cent of the market; ship repairs and maintenance accounted for 20.5 per cent; commercial shipbuilding accounted for 16.7 per cent; and submarine construction accounted for 5.5 per cent.<sup>85</sup>
- 3.75 A Naval Shipbuilding Program has also been established which will see more than 50 navy vessels built in Adelaide and Perth.<sup>86</sup> In his evidence to the

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<sup>82</sup> Maritime Union of Australia, *Submission 10*, p. 70.

<sup>83</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 11.

<sup>84</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 28.

<sup>85</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 28.

<sup>86</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 28.

committee, the Deputy Secretary of National Naval Shipbuilding within the Department of Defence, Mr Tony Dalton, stated that:

At the moment the government is planning to invest between \$168 billion and \$183 billion across shipbuilding and upgrade programs between now and the 2050s. That's a remarkable degree of investment and a remarkable vote of confidence in the ability of Australians to build complex ships in Australia competitively with the international market. I think that augurs well for the future, and we'll be able to build the facilities around it that will then provide opportunities for not only naval shipbuilding but domestic shipbuilding of a commercial nature as well.<sup>87</sup>

3.76 Mr Dalton also suggested that this large investment within the naval shipbuilding industry would benefit the broader industry:

I think it's reasonable to suggest that the work that we're putting into the shipbuilding, in particular in Western Australia, will make them much more competitive and will introduce modern shipbuilding techniques that are equally applicable to both commercial and naval shipbuilding ... I think the program will make shipbuilders, particularly in Western Australia, more competitive in an international market and more competitive to produce ships domestically outside of the naval shipbuilding program.<sup>88</sup>

### **Views on developing a maritime cluster**

3.77 Although supporting increased competition in the shipping industry, the CME warned against sinking significant amounts of taxpayer money into developing a new maritime cluster in Australia. It noted that, although Australia possesses maritime research centres and a high-tech ship building industry, it does not possess a comparative advantage in shipping services. Hence, it submitted that existing shipping hubs, such as those in Singapore, Hong Kong, and Dubai, may be better suited to attracting the expertise and knowledge required to form a maritime cluster.<sup>89</sup>

3.78 The Centre for Supply Chain and Logistics at Deakin University also noted that there are currently only a small number of Australian-flagged vessels with Australian crews, and that to create a maritime cluster of industries associated with shipping, a larger fleet of Australian vessels would be necessary.<sup>90</sup>

3.79 The MUA believes that, with the right policy, administrative, and funding support from government and industry, a successful maritime cluster could be created in Australia. It proposes that such a cluster could revolve around:

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<sup>87</sup> Mr Tony Dalton, Deputy Secretary, National Naval Shipbuilding, Department of Defence, *Committee Hansard*, 8 September 2020, p. 18.

<sup>88</sup> Mr Tony Dalton, Deputy Secretary of National Naval Shipbuilding, Department of Defence, *Committee Hansard*, 8 September 2020, p. 16.

<sup>89</sup> Chamber of Minerals and Energy of Western Australia, *Submission 29*, p. 5.

<sup>90</sup> Centre for Supply Chain and Logistics, *Submission 11*, p. 4.

- Australia as a shipper of product to world markets – as a major user of ship charter services and a hub marketer of resource products;
- Australia's coastal shipping sector;
- expertise and innovation in supply chain management;
- Australia's ports sector;
- Australia's expertise in offshore oil and gas exploration, construction, production and transportation;
- defence shipbuilding and the marine innovation that will come from the current \$80 billion investment;
- civilian shipbuilding – particularly aluminium hulled ships for both civilian and defence needs;
- large cruise shipping;
- marine and oceanographic research;
- various universities with a focus on ports, shipping and the marine environment; and
- a highly skilled seafaring and maritime workforce.<sup>91</sup>

## Committee view and recommendations

### *Level playing field across modes*

3.80 The committee notes the shrinking contribution of Australia's coastal shipping trade in Australia's growing domestic freight task. The committee believes there is an uneven playing field, due to government subsidisation of road and rail transport, which disadvantages coastal shipping as a viable alternative. This is further compounded by the fact that, as indicated by the ACCC, heavy vehicles may not be paying an appropriate price for the use of Australian roads, and that there are increasing charges at Australian ports.

### Recommendation 1

**3.81 The committee recommends that the Australian government quantifies and reviews the level of subsidisation across competing modes of transport to ensure that shipping is able to compete on an equal basis in accessing the infrastructure and markets it requires to operate.**

### *Resource and energy shipping*

3.82 Efficient bulk shipping is vital to the international competitiveness of Australia's energy and resource industries. The committee acknowledges concerns raised by industry in relation to the existing regulatory framework and agrees that there is a role for foreign-flagged ships where there is no available Australian capacity. It also notes the concerns raised regarding the

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<sup>91</sup> Maritime Union of Australia, *Submission 10*, pp. 15–16.

complexity of the licencing system and the proposal to introduce a new class of licence to service future coastal LNG trading.

### **Recommendation 2**

**3.83 The committee recommends that the Australian government reviews Australia's coastal trading framework to ensure that Australian shipping supports the growth of emerging markets and trade, such as coastal LNG trading, offshore wind energy, and the expedition cruise sector.**

#### *Tasmanian shipping*

3.84 As an island state without a road or rail connection to the Australian mainland, the committee acknowledges Tasmania's reliance, and the reliance of a number of Bass Strait island communities, on dependable and frequent shipping. Given this, the committee strongly supports the continuation of the Tasmanian Freight Equalisation Scheme and the Bass Straight Passenger Vehicle Equalisation Scheme, and advocates for other initiatives which promote safe and cost effective shipping while also recognising Tasmania's unique challenges.

### **Recommendation 3**

**3.85 The committee recommends that the Australian government continues to fund the operation of the Tasmanian Freight Equalisation Scheme and the Bass Straight Passenger Vehicle Equalisation Scheme.**

#### *CT Act*

3.86 The committee notes the widespread disappointment across the shipping industry with the licencing system implemented in 2012 by the CT Act. The committee believes that a strong licencing regime for participants in Australia's coastal trade is essential to promote Australian shipping, and that it is obvious that the current arrangements are inadequate and not fit-for-purpose.

3.87 The committee also considers that it is timely to consider if the coastal trade licencing system should be extended to cover intrastate trading as well as interstate trading, noting that harmonisation is already a feature of other maritime regulatory schemes covering ship safety and work health and safety.

### **Recommendation 4**

**3.88 The committee recommends that the current licencing system be urgently reformed to clarify its objective; expand its scope, including covering intrastate trading; reform the application process and provisions along commercial lines; and introduce a new type of temporary licence for operators who meet minimum Australian content requirements.**

### *Port delays, port costs, and bunker fuel*

3.89 The committee notes evidence indicating that, due to the way demurrage rates are determined, Australian ships are disproportionately disadvantaged by time delays at domestic ports, and that they also commonly incur higher bunker fuel costs than their foreign competitors who can refuel at international ports with lower prices. Given this inequity, the committee highlights suggestions raised during the inquiry to prioritise Australian ships at domestic ports and provide Australian ships with a bunker fuel rebate and priority access to berthing slots. The committee also notes that some ports provide differential pricing practices which assist Australian ships, a practice that could be extended on a nationally consistent basis.

### *Seafarers' remuneration*

3.90 Evidence provided to the committee highlighted the discrepancy in wages between Australian-crewed ships and their foreign-crewed competitors. It is obvious to the committee that any commercial operator would preference a crew with a significantly lower wages bill, and that immediate action is needed to reduce this cost differential.

3.91 This is a central concern of the committee, as it believes this to be a key reason for the lack of Australian-crewed ships. The committee is of the opinion that foreign seafarers are not fairly remunerated under existing arrangements and, hence, strongly supports suggestions to increase wages for these mariners so that they better align with their Australian counterparts.

### **Recommendation 5**

**3.92 The committee recommends that the Australian government requires foreign-flagged vessels to pay crew wages equal to those of Australian vessels while operating in Australian waters.**

### *Taxation arrangements*

3.93 The committee believes that Australia must have a competitive taxation system to promote Australian shipping, and notes a number of suggestions raised by submitters which the government could pursue. These include extending the seafarer tax offset, income tax exemption, and accelerated depreciation regime; and introducing deemed franking credits and a dividend withholding exemption for non-residents.

### **Recommendation 6**

**3.94 The committee recommends that the Australian government reviews the maritime tax concessions currently in place to ensure that Australia's tax system is competitive with other jurisdictions, and that it promotes the use of Australian ships and crews.**

### *Foreign crew visa system*

3.95 The committee is concerned that the requirements to obtain a Maritime Crew Visa are inadequate and need strengthening, specifically around security, character, identity checking, and the misapplication of the MCV as a domestic work visa. The committee notes the features of the Canadian model that integrates its maritime crew visa system with its coastal trading regulatory system. Furthermore, the committee is concerned about suggestions that the Maritime Crew Visa system currently allows employers to sponsor maritime workers in permissible occupations, but then subsequently transfer them to non-permissible occupations.

### **Recommendation 7**

**3.96 The committee recommends that the Australian government strengthens background checks to obtain a Maritime Crew Visa to better align with those required for applicants applying for a Maritime Security Identification Card, and monitor the ongoing applicability of the visa.**

### **Recommendation 8**

**3.97 The committee recommends that the Australian government reviews whether the existing Maritime Crew Visa system is being exploited by sponsors to allow foreign maritime workers to be transferred to occupations which are not eligible for sponsorship.**

### **Recommendation 9**

**3.98 The committee recommends that the Australian government retains the existing Maritime Crew Visa for seafarers on foreign ships undertaking short port calls as part of a continuing international voyage; and introduce a new, or special conditions, Maritime Crew Visa that enables foreign seafarers to be in Australia for periods of up to 45 days for one of six specified purposes, being:**

- **ships undertaking interstate coastal voyages authorised by a temporary licence issued under the *Coastal Trading (Revitalising Australian Shipping) Act 2012*;**
- **ships undertaking repairs, maintenance, or dry docking in Australia;**
- **mother ships at anchorage in a roadstead in coastal waters awaiting barge loading;**
- **ships docked or at anchorage holding inventory such as refined petroleum product awaiting access to an onshore storage facility or oil awaiting refining;**
- **ships involved in production and processing, e.g. marine products; and**
- **ships held at an anchorage point or wharf for biosecurity reasons, or if detained by the Australian Maritime Safety Authority.**

**In all other circumstances foreign seafarers be required to hold a Temporary Skill Shortage visa (Subclass 482), similar to the Canadian system.**

### *Strategic fleet*

3.99 The committee is supportive of exploring the idea of creating a strategic fleet, which would operate on a commercial basis, but be available for requisition by government in times of war or crisis. The committee envisages that such a fleet would also provide vessels for seafarers to train on, gain sea time necessary to meet the IMO STCW Convention requirements, and build up their experience at sea.

### **Recommendation 10**

**3.100 The committee recommends that the Australian government commits to establish a strategic fleet, and that a strategic fleet taskforce be established to advise on the legislative, operational, funding, and requisitioning arrangements necessary to establish a strategic fleet.**

### *Maritime cluster*

3.101 The committee acknowledges the potential benefits that a maritime cluster can provide industry participants, and notes that a number have been successfully developed in Europe and Asia. The committee notes the emerging opportunities for Australian shipping, and related onshore maritime activity, arising from the energy and industrial transformation trends in the Australian economy. The committee is supportive of the Australian government pursuing the maritime cluster concept, and assessing its viability in an Australian context through the creation of a maritime cluster development taskforce.

### **Recommendation 11**

**3.102 The committee recommends that the Australian government establishes an Australian maritime cluster development taskforce to advise on the development of a maritime cluster in Australia.**

### *International shipping*

3.103 The committee acknowledges that global trade patterns affect the availability of container shipping services in Australia, and highlights the importance of policies which ensure operators have continued access to frequent and reliable liner cargo shipping services at competitive rates.

3.104 Given this, the committee is concerned that Part X of the *Competition and Consumer Act 2010* is not fit-for-purpose, with both industry and the ACCC calling for it to be repealed or reformed. The committee accepts that, if it is to be repealed, other protections must be put in place first to protect Australian exporters.

**Recommendation 12**

**3.105** The committee recommends that Part X of the *Competition and Consumer Act 2010* be reformed to ensure that it supports operators' continued access to frequent and reliable liner cargo shipping services at competitive rates and to ensure that liner service providers do not engage in anti-competitive behaviour.

# Chapter 4

## Workforce training and development

### Overview

- 4.1 This chapter examines workforce development and seafarer training issues, such as maritime education and qualifications; training gaps and complexity; declining opportunities; the ageing workforce; and skills shortages.
- 4.2 Australia's maritime workforce consists of ship crew; harbour masters; marine pilots; tug operators; and maritime surveyors. It is one of the oldest workforces in Australia, with over half the workers over the age of 45 and the number of younger people entering the industry declining due to a lack of employment opportunities and a shortage of training berths.<sup>1</sup>
- 4.3 In 2012, when the Coastal Trading (Revitalising Australian Shipping Bill) 2012 was introduced into the House of Representatives, the then Minister for Infrastructure and Transport, the Hon. Mr Anthony Albanese MP, stated in his second reading speech:
- Like many industries, the maritime sector is also feeling the pressures of an ageing workforce. We must attract new recruits; but we also need to have enough ships so that cadets can gain the required sea time to obtain their qualifications.
- In the absence of domestic shipping capacity we will be unable to train our own seafarers and will be reliant on the international market place to provide us with our maritime safety and environmental regulators.<sup>2</sup>
- 4.4 As a trading nation and an island, Australia will always require maritime skills to ensure that ships operate safely and that sensitive marine environments, such as the Great Barrier Reef, Torres Strait, and Coral Sea, are protected. Hence, a key issue for the industry going forward is ensuring that critical skills are developed and maintained in Australia.<sup>3</sup>
- 4.5 To obtain the necessary qualifications to undertake the various roles across the maritime industry, those entering the workforce are required to complete several years of training in accordance with a number of international conventions, such as the International Convention for the Safety of Life at Sea 1974 and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978.<sup>4</sup>

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<sup>1</sup> Department of Industry, Regional Development and Cities, *Submission 15*, p. 23.

<sup>2</sup> The Hon. Anthony Albanese MP, Minister for Infrastructure and Transport, *House of Representatives Hansard*, 22 March 2012, p. 3934.

<sup>3</sup> Department of Industry, Regional Development and Cities, *Submission 15*, p. 23.

<sup>4</sup> Department of Industry, Regional Development and Cities, *Submission 15*, p. 23.

- 4.6 AMSA states that the maintenance of a trained workforce will require:
- appropriate standards;
  - forecasting of future training needs;
  - an ability to anticipate advances in technology (and the corresponding skills and expertise for seafarers); and
  - an ability to adapt to technological change.<sup>5</sup>
- 4.7 Shipping Australia Limited (SAL) also noted that training requirements are changing as technologies develop. For example, it submitted that, with the development of autonomous vessels and technology-based operational systems, new skills will be required and traditional skills will become redundant.<sup>6</sup>

### **Australian government support**

- 4.8 In their submission to the inquiry, the Department of Education and Training<sup>7</sup> highlighted a number of support mechanisms the Australian government funds to develop the maritime workforce and improve seafarer training. These include the Skilling Australians Fund; the National Institutes Program; VET student loans program; and Australian apprenticeships.<sup>8</sup>
- 4.9 The Australian government has also set up a Maritime Industry References Committee (MIRC) to improve the currency of nationally-recognised seafarer training and its alignment with national regulatory requirements. The MIRC is comprised of a number of key organisations across the sector and is responsible for developing a maritime training package covering occupations such as general-purpose hands; coxswains; marine-engine drivers; marine engineers; marine surveyors; deck officers; and ship masters.<sup>9</sup>
- 4.10 Another key output of the MIRC is a skills forecast report which provides stakeholders with information on the industry's outlook, new and emerging skills, and any associated training needs. For example, in 2018 the report highlighted the need for the workforce to respond to new and emerging technologies, such as automation, big data, and cyber security. It also identified regulatory requirements, environmental pressures, an ageing workforce, increased competition for skilled workers, skills shortages, and the availability of, and access to, training, as key risks.<sup>10</sup>

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<sup>5</sup> Australian Maritime Safety Authority, *Submission 28*, p. 6.

<sup>6</sup> Shipping Australia Limited, *Submission 5*, p. 6.

<sup>7</sup> Please note that references to the Department of the Education and Training also refer to its successor organisation: the Department of Education, Skills and Employment.

<sup>8</sup> Department of Education and Training, *Submission 22*, pp. 3–5.

<sup>9</sup> Department of Education and Training, *Submission 22*, pp. 5–6.

<sup>10</sup> Department of Education and Training, *Submission 22*, p. 6.

## Seafarer training and certification

- 4.11 Australia has a strong, and enduring, reputation for its seafarer training capabilities. SAL highlighted this in its submission by noting the number of foreign seafaring students who have trained at Australian institutions since the 1980s, and who have, subsequently, been employed at the highest levels in the industry by leading shipping companies.<sup>11</sup> In 2017, there were 6633 students enrolled in maritime vocational education and training courses in Australia; increasing from 3062 in 2014.<sup>12</sup>
- 4.12 The following discussion provides an overview of Australia's key institutions with regards to training, standards, and certification.

### *Australian Maritime College at the University of Tasmania*

- 4.13 The Australian Maritime College (AMC) at the University of Tasmania is Australia's national institute for maritime training, education, research, and consultancy. As a specialist institute of the University of Tasmania, it plays a lead role in building the skilled workforce required across the maritime sector by providing courses in maritime business and international logistics; ocean seafaring; maritime engineering and hydrodynamics; and coastal seafaring.<sup>13</sup>
- 4.14 AMC is a founding member of the International Association of Maritime Universities. It employs approximately 200 staff from 37 countries and has alumni working in more than 60 countries around the world. Its students have access to the southern hemisphere's most advanced collection of maritime facilities, including experimental tanks and basins; laboratories; simulation technologies; survival and marine firefighting centres; and a training vessel.<sup>14</sup>
- 4.15 AMC facilitates significant research across maritime renewable energy; naval architecture; offshore engineering; human-centred design, sustainable ports, and underwater robotics. It does this by addressing challenges across five cross-disciplinary research themes:<sup>15</sup> maritime education, training and research; engineering in extreme environments; maritime human factors; sustainable ports, shipping, and logistics; and learning advances in maritime education and training.<sup>16</sup>
- 4.16 AMC is also a strategic partner of the Naval Shipbuilding College, and collaborates with industry; government; and academia, to deliver the competencies required for Australia's naval shipbuilding program. This is

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<sup>11</sup> Shipping Australia Limited, *Submission 5*, [p. 6].

<sup>12</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 25.

<sup>13</sup> Australian Maritime College, *Submission 23*, pp. 1–2.

<sup>14</sup> Australian Maritime College, *Submission 23*, pp. 2, 3 and 5.

<sup>15</sup> For further information on each key research theme, please see pages 3 and 4 of submission 23.

<sup>16</sup> Australian Maritime College, *Submission 23*, pp. 2–3.

essential given that it is estimated that 25 000 personnel will be needed, directly and indirectly, to support the continuous shipbuilding program; and the domestic naval shipbuilding workforce is expected to grow by 5200 workers within the next five years.<sup>17</sup>

- 4.17 In his evidence to the inquiry, the principal of the AMC, Mr Michael van Balen, highlighted the significant investment the college is currently undertaking to expand its facilities:

A defence and maritime innovation and design precinct is now under development on AMC's Launceston campus. With a significant funding grant from the Department of Defence recently approved, the scope of enhancements to AMC's maritime engineering and hydrodynamics research facilities will also make a substantial contribution to the naval shipbuilding program and to other maritime industry sectors with potential to expand shipping operations.<sup>18</sup>

### *Australian Industry Standards*

- 4.18 Australian Industry Standards is the government-funded not-for-profit organisation responsible for skills standards. It currently administers the Maritime Training Package which comprises 26 different maritime qualifications for near coastal and ocean going operations.<sup>19</sup>

### *AMSA*

- 4.19 AMSA is responsible for the management of Australia's maritime certification system. Amongst other things, it issues certificates of competency recognising international seafarer qualifications under Marine Order 70 (Seafarer Certification). These require the completion of an approved course of study at an approved organisation; completion of appropriate qualifying sea service; completion of an oral examination; and a valid certificate of medical fitness. The related requirements for seafarers on domestic vessels operating commercially are provided under Marine Order 505 (Certificates of competency—national law).<sup>20</sup>
- 4.20 AMSA indicated that it is currently working with industry on ways to develop and maintain a workforce of trained seafarers, now and in to the future, and that achieving the appropriate level of trained seafarers will require significant planning. It noted that it takes years of training to attain the necessary

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<sup>17</sup> Australian Maritime College, *Submission 23*, p. 5.

<sup>18</sup> Mr Michael van Balen, Principal, Australian Maritime College, University of Tasmania, *Committee Hansard*, 9 September 2020, p. 30.

<sup>19</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 25.

<sup>20</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 25.

sea-time, competencies and experience across various operations; and the more highly skilled the role, the longer the training.<sup>21</sup>

- 4.21 Although the requirements depend on the level of qualification sought and the experience of the individual seafarer, positions such as master mariner can require up to 15 years of training as they may be responsible for a 300 000 DWT oil tanker or a cruise ship carrying 8000 passengers and crew.<sup>22</sup>
- 4.22 To emphasise the level of training some positions require, AMSA also pointed to the requirements to obtain the qualification 'coastal pilot'.<sup>23</sup> Under Marine Order 54 (Coastal Pilotage) 2014, coastal pilots and coastal pilotage providers are licensed and regulated by AMSA. Marine Order 54 requires prospective pilots to have a trainee pilot licence. To obtain a trainee pilot licence the applicant is required to hold an unlimited 'Masters' qualification, in addition to having 36 months of qualifying sea service as Master, navigating officer in charge of a watch, or a pilot on a vessel of at least 500 gross tonnage.<sup>24</sup>
- 4.23 Given the qualifications and experience that are necessary to become a coastal pilot, the majority of applicants are in the later stages of their career. To progress from trainee pilot to holding an unrestricted pilot licence involves an additional number of voyages, including check voyages (voyages under evaluation) and exams—a process that takes on average an additional 18 months.<sup>25</sup>

## Key areas of discussion

### *Complexity*

- 4.24 The industry's current qualifications framework was described as 'complex', and the structure of the legislation, regulations and standards as 'difficult to understand'. As a result of this type of stakeholder feedback, AMSA is currently reviewing Marine Order 505, mentioned above, which sets out the standard for certificates of competency for masters and crew of domestic commercial vessels.<sup>26</sup>

### *Training gaps*

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<sup>21</sup> Australian Maritime Safety Authority, *Submission 28*, p. 6.

<sup>22</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 25.

<sup>23</sup> Under Great Barrier Reef Marine Park legislation, vessels more than 70 metres in length and oil chemical and liquefied gas carriers are required to embark an AMSA-licensed coastal pilot when transiting through coastal pilotage areas in the northern part of the Great Barrier Reef Marine Park and the Torres Strait. As at late 2018, there were 84 active licensed coastal pilots.

<sup>24</sup> Australian Maritime Safety Authority, *Submission 28*, p. 7.

<sup>25</sup> Australian Maritime Safety Authority, *Submission 28*, p. 8.

<sup>26</sup> Australian Maritime Safety Authority, *Submission 28*, p. 7.

4.25 CSL Australia submitted that a gap currently exists for marine personnel to progress from an initial skillset to the highest marine qualifications. It expects this gap to continue to widen due to a lack of opportunities and incentives for seafarers to become masters, chief engineers, marine pilots, and harbour masters. It notes that, although the required experience could be gained on international voyages and international vessels, due to lower wages and the application of domestic income tax legislation, there is little financial incentive to do so. In conclusion CSL Australia states:

A strong united platform from the government to encourage entry level seafarers on the Australian coast, together with support for a financial incentive for international based Australian seafarers, would maintain the current high level of skill and experience that exists within the marine pilotage and port base services sectors today.<sup>27</sup>

### *Declining opportunities*

4.26 A number of submitters reflected on the continuing decline in employment levels for maritime workers.<sup>28</sup> The Australian Institute of Marine and Power Engineers (AIMPE) commented specifically on the decline in employment opportunities for its members over the past five years. The AIMPE attributed this decline to the cessation of a number of major offshore oil and gas developments and a decrease in the number of Australian crews involved in the coastal shipping sector.<sup>29</sup>

4.27 In support of its argument, AIMPE noted that all of the foreign-flagged, Australian crewed vessels issued with transitional general licences in 2012 have since been withdrawn from operating in Australia. The tankers servicing the coastal trade with petroleum products, and several Australian-flagged vessels have also been withdrawn—resulting in additional job losses for Australian seafarers. It was noted that the cargo carried by these vessels is now being carried by foreign-flagged ships (with foreign crews) operating under temporary licences.<sup>30</sup>

4.28 To promote seafaring as a career, and to recognise it as global profession, SAL submitted that Australia should support Australian seafarers who aspire to work on foreign-flagged ships.<sup>31</sup> The MIAL, however, noted that the use of

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<sup>27</sup> CSL Australia, *Submission 16*, pp. 8–9.

<sup>28</sup> See Australian Institute of Marine and Power Engineers, *Submission 27*; South Australian Freight Council, *Submission 21*; Ports Australia, *Submission 18*; CSL Australia, *Submission 16*; Maritime Industry Australia Limited, *Submission 13*; Australian Maritime Officers Union, *Submission 12*; and Maritime Union of Australia, *Submission 10*.

<sup>29</sup> Australian Institute of Marine and Power Engineers, *Submission 27*, [p. 4].

<sup>30</sup> Australian Institute of Marine and Power Engineers, *Submission 27*, [p. 4].

<sup>31</sup> Shipping Australia Limited, *Submission 5*, [p. 6].

foreign ships to gain sea time may not be as straightforward as it seems, submitting to the committee that:

[f]oreign flagged ships have their own training requirements and often all training spaces are already filled, leaving little availability for Australian cadets across the foreign fleet. Furthermore, the provision of maritime skills is not just an Australian problem. There is a critical shortage of training berths globally.<sup>32</sup>

### *Ageing workforce and skills shortages*

4.29 Ports Australia highlights that, due to the reduced number of Australian seafarers employed in shipping, there are less qualified and experienced Australian seafarers who can undertake key marine operational roles, such as harbour masters and marine pilots. It noted that a recent survey reported that 75 per cent of employers had experienced maritime skills shortages in the preceding 12 months.<sup>33</sup>

4.30 This was also a concern of Mr Dale Emmerton who, in his evidence to the inquiry, indicated that a key benefit of having an Australian domestic shipping industry was that it could supply qualified individuals for non-seagoing roles. Specifically he said that:

... one of the positives or necessities of having an Australian domestic shipping industry is there are a number of non-seagoing areas where people are employed who have to have a seagoing qualification. Some examples of that are marine pilots—every port company in Australia has a pilot or a number of pilots, all of whom need a marine qualification that, ostensibly, can't be provided by their existing employer; classification society surveyors who, generally, come with maritime qualifications that can't be passed up to them by their employer; and regulatory surveyors—by regulatory I mean Australian Maritime Safety Authority surveyors who, predominantly, are of a marine background, either engineer or deck officer.<sup>34</sup>

4.31 In February 2019, Maritime Industry Australia Limited (MIAL) released a census report indicating that, by 2023, an additional 542 seafarers would be required for jobs at sea, and an additional 173 seafarers for land-based positions.<sup>35</sup>

4.32 A number of key insights of the report were that that a significant portion of the additional positions were expected to be in senior roles, such as masters and engineers that require years of training; and that the small Australian fleet could negatively impact on Australia's ability to train seafarers for sea who

<sup>32</sup> Maritime Industry Australia Limited, *Submission 13*, p. 11

<sup>33</sup> Ports Australia, *Submission 18*, p. 7.

<sup>34</sup> Mr Dale Emmerton, *Committee Hansard*, 9 September 2020, p. 35.

<sup>35</sup> Department of Industry, Regional Development and Cities, *Submission 15*, p. 23.

could transition to various critical land-based positions. The report also identified cost as a key barrier to conducting additional seafarer training, and that a shortage of 560 seafarers is expected by 2023.<sup>36</sup>

- 4.33 In its submission, the Centre for Supply Chain and Logistics at Deakin University (CSLC) promoted the expansion and development of Australian educational institutions specialising in the provision of relevant training to help address the current skills shortage. It also noted that having more Australian-crewed vessels around Australia's coastline would benefit Australia's naval and border force agencies due to an increased availability of qualified and experienced maritime personnel. This would also assist filling land-based roles that require maritime-related knowledge.<sup>37</sup>
- 4.34 The ageing nature of the workforce was also of concern to Ports Australia, with figures indicating that the number of maritime workers under the age of 30 fell 11.7 per cent in the decade to 2016, and the number of workers aged 60 and over grew in-excess of 70 per cent. Ports Australia submitted that, in the future, due to the lack of experienced and qualified professionals entering the industry, Australia could experience reduced fuel security; import and export delays; increased costs and safety incidents; negative impacts on the sustainability of Australian businesses; and a reduced ability to support the Royal Australian Navy in times of conflict and emergency relief.<sup>38</sup>

### **Committee view and recommendations**

- 4.35 The committee notes that, due to declining industry trends, there are less qualified and experienced personnel available for key marine operational roles, and that 75 per cent of employers had experienced skills shortages.
- 4.36 The committee is concerned about the decline in the number of maritime workers under the age of 30 and the ongoing shortages of skilled seafarers. The committee highlights that this will have ramifications on fuel security; imports and exports; maritime safety; and the ability to effectively provide support in times of crisis and emergency.
- 4.37 The committee acknowledges concerns that there is a training gap for marine personnel to progress from an initial skillset to higher marine qualifications, and that this gap is likely to become more acute due to the lack of opportunities and incentives for seafarers to become masters, chief engineers, marine pilots, and harbour masters.

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<sup>36</sup> Department of Industry, Regional Development and Cities, *Submission 15*, p. 23.

<sup>37</sup> Centre for Supply Chain and Logistics, *Submission 11*, p. 6.

<sup>38</sup> Ports Australia, *Submission 18*, pp. 7–8.

**Recommendation 13**

**4.38** The committee recommends that the Australian government identifies, develops, and implements policies to arrest the decline in Australia's maritime employment opportunities, and promotes seafaring as a career for younger Australians. This process should be guided by a maritime workforce development stakeholder forum.



# Chapter 5

## Environmental sustainability

### Overview

- 5.1 This chapter outlines some of the environmental initiatives that have been introduced, or are actively being considered across the shipping industry. These initiatives include low sulphur fuel, the provision of adequate waste reception facilities in ports and port related facilities, and a significant reduction in greenhouse gas (GHG) emissions by 2050.
- 5.2 The Department of the Environment and Energy (the Department of the Environment)<sup>1</sup> pointed to the vital role Australia's marine environment plays in relation to Australia and its economy. In addition to providing benefits to human well-being,<sup>2</sup> the marine environment supports fisheries, marine tourism, resource exploration and mining. The 2015-2025 National Marine Science Plan has estimated that Australia's marine industries will contribute approximately \$100 billion to the economy by 2025—which is more than double the 2012 contribution.<sup>3</sup>
- 5.3 According to the Department of the Environment there are various threats and stressors which could potentially impact Australia's marine environment. These include the exploitation of resources, habitat destruction, ocean acidification, ocean warming and rising sea levels, and pollution. Shipping incidents can also cause substantial damage, and often require significant resources and effort to clean up and remediate.<sup>4</sup>
- 5.4 A reduction in the age of the ships that visit Australian ports, improvements to navigation technologies and ship routing measures have reduced the risks associated with accidents at sea, anchor scouring<sup>5</sup> and vessel groundings. The potential is always there, however, for incidents and accidents to cause damage to sensitive marine ecosystems. Some of Australia's unique places, for

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<sup>1</sup> Please note that references to the Department of the Environment and Energy also refer to its successor organisation: the Department of Agriculture, Water and the Environment.

<sup>2</sup> The Department of the Environment and Energy (*Submission 25*) cited the 2015-2025 National Marine Science Plan, which indicates that the marine environment contributes approximately \$25 billion annually in human benefits.

<sup>3</sup> Department of the Environment and Energy, *Submission 25*, [p. 1].

<sup>4</sup> Department of the Environment and Energy, *Submission 25*, [p. 1].

<sup>5</sup> A ship's anchor can shift, and its mooring chain swing across the seabed, causing abrasion of the seafloor and damage to ecosystems. This phenomenon is known as 'anchor scour'.

example the Great Barrier Reef World Heritage Area, are particularly vulnerable to damage from shipping accidents.<sup>6</sup>

## Regulatory framework

5.5 Australia's obligations in relation to standards to prevent pollution from ships are set out in International Maritime Organization (IMO) conventions, specifically the International Convention for the Prevention of Pollution from Ships (MARPOL).<sup>7</sup> Through the IMO, the Department of Infrastructure, Regional Development and Cities (Department of Infrastructure)<sup>8</sup> and Australian Maritime Safety Authority (AMSA) work to ensure that international maritime environmental protection standards are reflected in Australian legislation. These include standards on air and oil pollution, ballast water, toxic antifouling, garbage, and fuel efficiency.<sup>9</sup>

### *The Australian Maritime Safety Authority*

5.6 As set out in the *Australian Maritime Safety Authority Act 1990*, AMSA plays a central role in protecting the marine environment from pollution from ships and other environmental damage potentially caused by shipping.<sup>10</sup>

5.7 AMSA submitted that the organisation's objective is to minimise the impact of shipping on the environment, and the impact of marine pollution incidents should they occur, by:

- maintaining a regulatory system consistent with international standards;
- influencing the development, implementation, monitoring and enforcement of international environment protection stands and the operation of international liability and compensation schemes;
- providing timely and appropriate response to marine casualties; and
- providing ship-sourced pollution response services, consistent with international and regional obligations.<sup>11</sup>

5.8 AMSA also manages the National Plan for Maritime Environmental Emergencies and works with state and territory governments in relation to:

- shipping, ports, oil, salvage, exploration and chemical industries;
- emergency services and fire brigades nationally;

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<sup>6</sup> Department of the Environment and Energy, *Submission 25*, [p. 1].

<sup>7</sup> Australian Maritime Safety Authority, *Submission 28*, p. 5.

<sup>8</sup> Please note that references to the Department of Infrastructure, Regional Development and Cities also refer to its successor organisation: the Department of Infrastructure, Transport, Regional Development and Communications.

<sup>9</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 31.

<sup>10</sup> Australian Maritime Safety Authority, *Submission 28*, p. 5.

<sup>11</sup> Australian Maritime Safety Authority, *Submission 28*, p. 5.

- the maintenance of marine oil and chemical spill contingency plans;
- the maintenance of detailed state, local and industry contingency plans;
- the strategic positioning of emergency response equipment; and
- the oversight of a national training program.<sup>12</sup>

### *The IMO's Marine Environmental Protection Committee*

5.9 The Marine Environmental Protection Committee (MEPC) of the IMO is an international committee which considers the environmental sustainability of shipping. Under the IMO's remit through MARPOL, the MEPC provides for the international regulation of environmental issues and describes regulations relating to oil, chemicals carried in bulk, sewage, garbage and emissions from ships. Other matters the MEPC covers includes ballast water management, anti-fouling systems, ship recycling, pollution preparedness and response, and identification of special areas and sensitive sea areas.<sup>13</sup>

## **Key areas of discussion**

### *Great Barrier Reef*

5.10 The Great Barrier Reef is an Australian icon and the world's largest coral reef ecosystem. It has significant social, economic and cultural value, and is recognised around the globe. The diversity of its habitats and biodiversity make it one of the richest and most complex natural systems on Earth.<sup>14</sup>

5.11 Recognising the reef's global significance and importance, in 1981 it was included on the World Heritage list. The reef supports a wide range of activities, such as tourism; fishing; recreation; traditional use; research; defence; shipping; and port operations, and brings in billions of dollars to Australia's economy each year while also supporting 64 000 jobs.<sup>15</sup>

5.12 In the Great Barrier Reef Marine Park Authority's (GBR Authority) Great Barrier Reef Outlook Report 2009 (2009 Outlook Report), it noted that:

Shipping can potentially damage the Great Barrier Reef by collisions, groundings, introduction of invasive marine pests, oil and chemical spills, introduction of anti-fouling paints, waste disposal and anchor damage. Almost all ships travel safely along the designated shipping routes of the Great Barrier Reef with little if any impact. In the last 10 years there have been three or fewer major shipping incidents each year and, despite the

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<sup>12</sup> Australian Maritime Safety Authority, *Submission 28*, p. 5.

<sup>13</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 54.

<sup>14</sup> Department of the Environment and Energy, *Submission 25*, Attachment 1 (Great Barrier Reef Marine Park Authority, *Submission to the Queensland Parliamentary inquiry into a sustainable Queensland intrastate shipping industry*), p. 1.

<sup>15</sup> Commonwealth of Australia, *Reef 2015 Long-Term Sustainability Plan—July 2018*, July 2018, pp. 1 and 8.

increase in shipping traffic, the number of major incidents has been stable over that period.<sup>16</sup>

- 5.13 The 2009 Outlook Report also pointed out that, while it is possible, through careful management, to minimise the risk of major incidents, a predicted increase in shipping is likely to increase the possibility of a major incident.<sup>17</sup>
- 5.14 The grounding of the *Shen Neng 1* in 2010 provides an example of the large-scale damage which shipping incidents can cause to the Great Barrier Reef. The Department of the Environment submitted that this event either severely damaged or completely destroyed 115 000 square metres of the Douglas Shoal, and moderately damaged an additional 285 000 square metres.<sup>18</sup> Although these types of accidents are rare, this incident highlighted the extent of the damage they can cause, as well as a number of deficiencies in Australia's regulatory and operational arrangements relating to the protection of the marine environment.<sup>19</sup>
- 5.15 A 2014 report noted that, since 2000, mining and industrial activity has resulted in a significant increase in shipping in the Great Barrier Reef region. The report also predicted that the number of ships calling into ports bordering the region would increase by approximately 250 per cent over the next two decades, likely driven by growth in the mining and liquefied natural gas industry; port expansions; and general increases in trade.<sup>20</sup>
- 5.16 Noting the expected increase in shipping traffic volume, the GBR Authority submitted that adequate resources will be required to deliver measures to prevent and respond to shipping incidents. This includes resourcing ship monitoring and vessel traffic services, as well as the capability to rapidly respond following a shipping incident to minimise environmental damage. It also stated that '[m]anagement of the potential increases in consequential impacts of shipping may require an evaluation of current environmental monitoring regimes and the physical management of shipping in the Great Barrier Reef waters to mitigate environmental harm'.<sup>21</sup>

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<sup>16</sup> Great Barrier Reef Marine Park Authority, *Great Barrier Reef Outlook Report 2009*, July 2009, p. 76 cited in Queensland Parliament, Transport and Public Works Committee, *Report on the Inquiry into a sustainable Queensland intrastate shipping industry*, May 2019, p. 122.

<sup>17</sup> Great Barrier Reef Marine Park Authority, *Great Barrier Reef Outlook Report 2009*, July 2009, p. 77.

<sup>18</sup> Department of the Environment and Energy, *Submission 25*, [pp. 1–2].

<sup>19</sup> Please see page 2 of the Department of the Environment and Energy's submission (Submission 25) for further details.

<sup>20</sup> Great Barrier Reef Marine Park Authority, *Great Barrier Reef Outlook Report 2014*, 2014, p. 135.

<sup>21</sup> Department of the Environment and Energy, *Submission 25*, Attachment 1 (Great Barrier Reef Marine Park Authority, *Submission to the Queensland Parliamentary inquiry into a sustainable Queensland intrastate shipping industry*), p. 2.

### Long-term sustainability plan

- 5.17 In 2015, in response to a World Heritage Committee recommendation, the Australian and Queensland governments released the Reef 2050 Long-Term Sustainability Plan (the 2050 Plan).<sup>22</sup>
- 5.18 The 2050 Plan provides an overarching framework for management of the reef, and focuses on actions which address key threats and build the health and resilience of the reef in the face of a changing climate.<sup>23</sup>
- 5.19 Its implementation is led by the Australian and Queensland governments and the GBR Authority, and it is currently being updated as part of its first five yearly reviews. During August and September 2020, an updated 2050 Plan was released for a six-week public consultation period, and it is expected that a final updated plan will be released in early 2021.<sup>24</sup>

### Queensland parliamentary inquiry

- 5.20 A recent Queensland parliamentary inquiry into the state's intrastate shipping industry specifically considered 'options to minimise any potential impacts on the Great Barrier Reef from a strengthened intrastate shipping industry' as part of its terms of reference.<sup>25</sup>
- 5.21 In the inquiry's final report, a number of key impacts the shipping industry has had on the Great Barrier Reef were discussed. These impacts included shipping incidents resulting in spillages; the introduction of non-native species; increased noise pollution; dredging; dumping; and increased marine debris.<sup>26</sup>
- 5.22 To offset these risks, the report highlighted the existing mechanisms in place to protect the Great Barrier Reef, such as: zoning; monitoring regimes; the Great Barrier Reef and Torres Strait Vessel Traffic Vehicle Service; the Great Barrier Reef and Torres Strait Ship Reporting System; the Australian ship reporting system; port pilotage service; anchoring and mooring regulations; two-way

<sup>22</sup> Department of Agriculture, Water and the Environment, *Reef 2050 Long-Term Sustainability Plan*, <https://www.environment.gov.au/marine/gbr/publications/reef-2050-long-term-sustainability-plan-2018> (accessed 10 November 2020).

<sup>23</sup> Commonwealth of Australia, *Reef 2015 Long-Term Sustainability Plan—July 2018*, July 2018, p. 1.

<sup>24</sup> Department of Agriculture, Water and the Environment, *Reef 2050 Plan*, <https://www.environment.gov.au/marine/gbr/long-term-sustainability-plan> (accessed 10 November 2020).

<sup>25</sup> Please see page 1 of the Queensland Parliament's Transport and Public Works Committee's report on its inquiry into a sustainable Queensland intrastate shipping industry. This report is available at: <https://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2019/5619T808.pdf>

<sup>26</sup> Queensland Parliament, Transport and Public Works Committee, *Inquiry into a sustainable Queensland intrastate shipping industry—Report No. 23, 56<sup>th</sup> Parliament*, May 2019, pp. 122–125.

routes and areas to be avoided; conventions, treaties, and legislation; a north-east shipping management plan; and fuel standards.<sup>27</sup>

- 5.23 The report noted that ship groundings have decreased over time, which could be a result of higher quality ships and seafarer training; electronic navigation; port state control inspections; improved monitoring; and compulsory pilotage in high-risk areas.<sup>28</sup>

### *Greenhouse gas emissions*

- 5.24 The IMO is responsible for the emissions resulting from international shipping as, due to the industry's global and complex nature, they cannot be attributed to any particular jurisdiction and are not covered by the United Nations Framework Convention on Climate Change.<sup>29</sup>
- 5.25 Although international shipping is considered the most energy-efficient mode of transport, in 2012 it was estimated that it contributed approximately 2.2 per cent of global carbon dioxide emissions. Given this, and the expected increase in sea trade in the future, a global approach to improve the industry's energy efficiency and reduce emissions is considered necessary.<sup>30</sup>
- 5.26 In October 2016, the IMO agreed to develop a strategy to reduce greenhouse gas emissions from shipping and, in April 2018, adopted an initial strategy which was consistent with the Paris Agreement temperature goals. This strategy includes improving energy efficiency by at least 40 per cent by 2030 and progressing towards 70 per cent by 2050. Further, it aims to reduce total greenhouse gas emissions across the sector by 50 per cent by 2050, with a longer-term view of phasing them out completely.<sup>31 32</sup>
- 5.27 The MUA advocates for stronger domestic incentives to support investments in ship pollution reduction technologies and practices, and submits that Australia prioritise adoption of, amongst other things, low sulphur fuels, optimised engines, exhaust after-treatment, and alternative fuels, like LNG and biofuels, which have lower emissions.<sup>33</sup>
- 5.28 BioEnergy Australia, the national industry association promoting Australia's bio economy, noted the current global transition towards the use of biofuels in

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<sup>27</sup> Queensland Parliament, Transport and Public Works Committee, *Inquiry into a sustainable Queensland intrastate shipping industry—Report No. 23, 56<sup>th</sup> Parliament*, May 2019, pp. 128–132.

<sup>28</sup> Queensland Parliament, Transport and Public Works Committee, *Inquiry into a sustainable Queensland intrastate shipping industry—Report No. 23, 56<sup>th</sup> Parliament*, May 2019, p. 123.

<sup>29</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 31.

<sup>30</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 31.

<sup>31</sup> These efficiency gains and emissions reductions are to be compared to 2008 figures.

<sup>32</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, pp. 31–32.

<sup>33</sup> Maritime Union of Australia, *Submission 10*, p. 99.

the shipping sector, and highlighted that this will result in improved community health outcomes through reduced greenhouse gas emissions. It was, however, concerned that Australia has no national policy, and submitted that we are lagging behind other countries which have invested in the production of these products.<sup>34</sup>

### **Sulphur emissions**

- 5.29 International efforts to reduce the impact of emissions from ships have resulted in the reduction of the amount of sulphur permitted in ships' fuel oil. From 1 January 2020, sulphur content in shipping fuel was reduced from 3.5 per cent m/m to 0.5 per cent m/m. The new limit aims to reduce the impact of sulphur oxide and particulate matter emissions on the environment and human health, particularly for those people who live in port cities and coastal communities.<sup>35</sup>
- 5.30 As part of its oversight role, AMSA has engaged with the Australian and state governments, marine fuel oil suppliers, port authorities and shipping industry stakeholders to promote compliance with the new requirements, including those associated with the use of exhaust gas scrubbers.<sup>36</sup>
- 5.31 The shipping industry's shift toward using fuel with lower sulphur has been described as a positive initiative. It is however, also noted that while fuel with a lower sulphur content results in lower emissions, it also involves a higher cost.<sup>37</sup>

### *Emission Control Areas*

- 5.32 An increasing awareness of the impacts of shipping emissions, and the material difference in emissions standards between maritime and land transport, has resulted in a number of regions around the world introducing IMO-designated Emission Control Areas (ECAs). ECAs have more restrictive fuel standards in place, requiring a sulphur content of 0.1 per cent m/m.<sup>38</sup>
- 5.33 IMO-designation of an ECA requires evidence that the benefits of reducing sulphur emissions beyond the current global limit exceeds the economic costs incurred by the shipping sector.<sup>39</sup>
- 5.34 Since December 2016, cruise ships berthing in Sydney harbour have been issued with formal directions from AMSA to use either lower sulphur fuel or

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<sup>34</sup> BioEnergy Australia, *Submission 2*, [p. 3].

<sup>35</sup> Australian Maritime Safety Authority, *Submission 28*, p. 5.

<sup>36</sup> Australian Maritime Safety Authority, *Submission 28*, pp. 5–6.

<sup>37</sup> BioEnergy Australia, *Submission 2*, [p. 2].

<sup>38</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 32.

<sup>39</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 32.

implement alternative measures which achieve an equivalent outcome. The directions aim to reduce exhaust emissions of sulphur oxides and other particulates from cruise ships berthed in Sydney harbour.<sup>40</sup>

### *Port waste reception facilities*

- 5.35 Under MARPOL, Australia has an obligation to provide adequate waste reception facilities. The provision of facilities for the disposal of ships' waste aims to reduce the probability of ships illegally disposing waste at sea.<sup>41</sup>
- 5.36 Ports and port-related facilities are currently the responsibility of state and territory governments. A substantial number of ports, however, are managed as private commercial enterprises and existing regulation is not sufficient to guarantee appropriate disposal facilities are provided.<sup>42</sup> While some ports have established reception facilities for ships, the majority simply facilitate access to vessels for commercial contractors. When combined with Australia's biosecurity laws, which require specific handling and disposal of waste from international ships, Australia has one of the most expensive waste disposal services in the world.<sup>43</sup>
- 5.37 It was noted that, under current conditions, waste disposal can be 'cost prohibitive and act as a disincentive for ships to discharge their waste in Australia in accordance with international obligations'. Further, it was argued that the current situation has the potential to impact Australia's reputation internationally and increase the risk of pollution in Australian waters.<sup>44</sup>
- 5.38 AMSA submitted that to meet its international obligations under MARPOL, Australia needs to develop a consistent national approach to the provision of waste reception services in ports. For example, the option of incorporating waste disposal costs in berthing fees may provide the motivation for vessels to dispose of waste appropriately when operating in Australian waters, address the growing marine pollution problem, and improve the protection for Australian waters.<sup>45</sup>

### *Spillages*

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<sup>40</sup> Australian Maritime Safety Authority, *Sydney Harbour cruise ship emissions*, <https://www.amsa.gov.au/marine-environment/air-pollution/sydney-harbour-cruise-ship-emissions>, (Accessed 19 November 2020).

<sup>41</sup> Australian Maritime Safety Authority, *Submission 28*, p. 8.

<sup>42</sup> Australian Maritime Safety Authority, *Submission 28*, p. 8.

<sup>43</sup> Australian Maritime Safety Authority, *Submission 28*, p. 8.

<sup>44</sup> Australian Maritime Safety Authority, *Submission 28*, p. 8.

<sup>45</sup> Australian Maritime Safety Authority, *Submission 28*, pp. 8–9.

- 5.39 The detrimental effect of spillages also remains a key concern. These can take numerous forms, such as container spills; fuel spills; and oil spills, and can affect broad geographic areas and communities.
- 5.40 There are a number of recent examples of container spills off the coast of Australia. For example, on 1 June 2018 the container ship YM Efficiency lost 81 containers overboard near Newcastle; and on the morning of 24 May 2020, approximately 50 containers were lost overboard from the Singapore-flagged container ship APL England.
- 5.41 The YM Efficiency spill resulted in widespread pollution, requiring contractors to remove approximately 1040 tonnes of rubbish from around 400 kilometres of shoreline. This pollution included plastics, furniture, tyres, and papers products.<sup>46</sup>
- 5.42 The owner of the YM Efficiency, Taiwanese shipping company Yang Ming, and its insurer, have taken the position that the containers do not constitute pollution<sup>47</sup> and, as the chief executive officer of AMSA, Mr Mick Kinley, said in his evidence to the committee: '[t]he company and the insurers are of the view that they don't need to recover the containers...'.<sup>48</sup> This has resulted in AMSA undertaking the recovery operation and pursuing Yang Ming and its insurers to recover the associated costs.<sup>49</sup>
- 5.43 In further evidence to the inquiry, Mr Kinley highlighted the limitations on his ability to detain ships that have, or are suspected of having, spilled containers. He indicated that, although the regulator has clear legislation to detain ships suspected of causing an oil spill, and obtain financial security prior to their release, there isn't a similar mechanism to detain ships which spill containers.<sup>50</sup> He also noted that Australia is not a signatory to the Wreck Removal Convention, which may have assisted in the YM Efficiency case.<sup>51</sup>

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<sup>46</sup> Australian Maritime Safety Authority, *Operational updates–YM Efficiency*, <https://www.amsa.gov.au/news-community/campaigns/operational-updates-ym-efficiency> (accessed 8 November 2020)

<sup>47</sup> Australian Maritime Safety Authority, *Operational updates–YM Efficiency*, <https://www.amsa.gov.au/news-community/campaigns/operational-updates-ym-efficiency> (accessed 8 November 2020)

<sup>48</sup> Mr Mick Kinley, Chief Executive Officer, Australian Maritime Safety Authority, *Committee Hansard*, 14 March 2019, p. 8.

<sup>49</sup> Australian Maritime Safety Authority, *Operational updates–YM Efficiency*, <https://www.amsa.gov.au/news-community/campaigns/operational-updates-ym-efficiency> (accessed 8 November 2020)

<sup>50</sup> Mr Mick Kinley, Chief Executive Officer, Australian Maritime Safety Authority, *Committee Hansard*, 14 March 2019, p. 9.

<sup>51</sup> Mr Mick Kinley, Chief Executive Officer, Australian Maritime Safety Authority, *Committee Hansard*, 14 March 2019, p. 8.

## Committee view and recommendations

### *Great Barrier Reef*

- 5.44 The Great Barrier Reef is an Australian icon which is recognised around the world. The committee acknowledges its cultural, social, and economic significance, and that it supports one of Earth's richest natural systems. Given this, the committee strongly believes that the GBR must be adequately protected from threats posed by shipping.
- 5.45 The committee notes that, although groundings have become less frequent in recent times, due to, amongst other things, improved ships and seafarer training, the number of ships calling into ports bordering the GBR region is predicted to increase by 250 per cent over the next two decades. Given this, the committee supports adequate resourcing of the GBR Authority to ensure that it can effectively respond to incidents as they occur, while also proactively pursuing measures aimed at preventing them.

### **Recommendation 14**

- 5.46 The committee recommends that the Australian government adequately resources the Great Barrier Reef Marine Park Authority to ensure it can effectively prevent and respond to shipping incidents into the future.**

### *Greenhouse gas emissions*

- 5.47 The committee recognises that international shipping is considered the most energy-efficient mode of transport and, hence, strongly supports its continued role in global trade and meeting Australia's freight and transport tasks.
- 5.48 Notwithstanding this, the committee is also cognisant that international shipping contributes approximately 2.2 per cent of global carbon dioxide emissions, and, hence, supports measures which will reduce its environmental impact into the future. Consequently, the committee supports the IMO's plan to improve energy efficiency by at least 40 per cent by 2030, with the aim to progress towards 70 per cent by 2050; and to reduce greenhouse gas emissions of the sector by 50 per cent by 2050.

### *Port waste reception facilities*

- 5.49 The committee is very concerned that Australia has one of the most expensive waste disposal services in the world, and that this can act as a significant disincentive for ships to discharge their waste in accordance with international requirements.
- 5.50 Hence, the committee supports AMSA's submission that Australia needs a nationally consistent approach for the provision of port waste reception services which promotes the appropriate disposal of waste by ships when they are operating in Australian waters.

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**Recommendation 15**

**5.51 The committee recommends that the Australian government works with state and territory governments to develop a consistent national approach to the provision of waste reception services in ports.**

*Spillages*

**5.52 The committee is very concerned about recent container spillages off the coast of Australia and the level of pollution these incidents can cause. The committee notes that Australia is not a signatory to the Wreck Removal Convention, and is especially concerned by evidence provided by AMSA that it does not have the power to effectively detain ships that have, or are suspected of having, spilled containers.**

**Recommendation 16**

**5.53 The committee recommends that the Australian government strengthens the Australian Maritime Safety Authority's ability to detain ships which have caused, or are suspected of having caused, environmental damage, irrespective of the type of event which caused the damage.**

**Recommendation 17**

**5.54 The committee recommends that the Australian government considers all options, including ratifying the Nairobi International Convention on the Removal of Wrecks, to improve its management of wreck identification and removal in Australia, and strengthens its ability to recover any costs incurred recovering and removing cargo which has fallen overboard from a ship.**



# Chapter 6

## Security and standards

### Overview

- 6.1 Australia has a vast and complex maritime domain covering 53 million square kilometres, multiple jurisdictional zones, and vertical elements that span from outer space to the sea bed.<sup>1</sup> Our domestic economy relies on ocean shipping as the main means of exporting and importing goods, including strategic products such as crude oil. Hence, maritime security can impact on a broad variety of areas, such as trade, health, migration, and the environment. Further, as the recent bushfires have shown, it is essential that Australia has the shipping capability to effectively reach and assist isolated coastal communities via the sea.
- 6.2 Australia's maritime safety and security framework is managed by the Australian Maritime and Safety Authority (AMSA) and the Department of Home Affairs. Information provided to the inquiry suggested that, even though 5 879 ships made 32 801 calls to Australian ports in 2016-17, there were few safety or security incidents.<sup>2</sup>
- 6.3 This chapter begins with a discussion on fuel security in Australia. It then considers the role that Australian shipping can play in promoting broader homeland security, and concludes with a discussion on ship and crew standards, and how they can promote maritime security and safety.

### Fuel security

- 6.4 Australia has enjoyed 40 years without a major disruption to domestic liquid fuel supplies and, hence, shortages are not something that the majority of Australians have experienced. Around 90 per cent of the fuel Australia uses is derived from oil that is sourced from overseas and, if all domestically produced oil was refined and used in Australia, it would only meet about 25 per cent of today's demand.<sup>3</sup>
- 6.5 Although Australia's dependence on imports potentially exposes it to a variety of threats, it is argued that, due to the size and maturity of the global oil market, such an approach can also be source of protection and reliability.<sup>4</sup>

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<sup>1</sup> Department of Home Affairs, *Submission 3*, p. 3.

<sup>2</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 29.

<sup>3</sup> Commonwealth of Australia, *Liquid Fuel Security Review—Interim Report*, 2019, pp. 1 and 3.

<sup>4</sup> Commonwealth of Australia, *Liquid Fuel Security Review—Interim Report*, 2019, p. 42.

- 6.6 Australia imports 60 per cent of its refined product and 80 per cent of the crude oil required for its domestic refineries. In 2017-18, Australia sourced its crude oil from 40 countries and refined products from 66 countries. Although the majority of Australia's imports come from Asia, many of the refineries in that region source their crude oil from the Middle East; hence, over 40 per cent of liquid fuel sold in Australia is derived from oil produced there.<sup>5</sup>
- 6.7 Australia's oil production makes up only 0.3 per cent of global output and, since 2000, production is down 59 per cent. Current forecasts indicate that, absent the discovery of new reserves, this trend will continue and that domestic production will continue to decline until at least 2030.<sup>6</sup>
- 6.8 Although Australia imports the majority of its oil, it does not have a domestic fleet of oil tankers. Hence, Australia's liquid fuel imports are supplied on ships which are foreign-crewed and foreign-owned.<sup>7</sup>

### *Fuel management in Australia*

- 6.9 Australia is considered an outlier in the global community in the way we manage our liquid fuel security. In contrast to other countries with similar economies, which see fuel security in the broader context of their strategic capabilities, Australia has chosen to pursue an approach that delivers fuel to Australians as cheaply as possible; i.e. pursue an efficient market with minimal government regulation and intervention.<sup>8</sup> Further, as there are substantial costs involved in building up industry-mandated or government-owned stocks, the Australian government does not have domestic stock holdings.<sup>9</sup>

### *Coastal trading of petroleum products*

- 6.10 Although in long-term decline, in addition to the role the shipping industry plays in facilitating international trade, coastal shipping continues to play a role in fuel distribution around Australia. In 2014-15, 8.3 million tonnes of petroleum products were shipped locally from Australian refineries to terminals around Australia, including those in northern Queensland; South Australia; north-west Western Australia; and Tasmania.<sup>10</sup>

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<sup>5</sup> Commonwealth of Australia, *Liquid Fuel Security Review—Interim Report*, 2019, p. 3.

<sup>6</sup> Commonwealth of Australia, *Liquid Fuel Security Review—Interim Report*, 2019, p. 4.

<sup>7</sup> Maritime Union of Australia, *Submission 10*, pp. 49–50.

<sup>8</sup> Commonwealth of Australia, *Liquid Fuel Security Review—Interim Report*, 2019, p. 2.

<sup>9</sup> Commonwealth of Australia, *Liquid Fuel Security Review—Interim Report*, 2019, p. 2.

<sup>10</sup> Australian Institute of Petroleum, *Submission 20*, pp. 2–3.

6.11 This reduction in the need for the coastal shipping of petroleum products is largely a result of the rationalisation of the domestic refining industry and competition from larger refineries in the Asian region.<sup>11</sup>

### *Australia's stockholding obligations*

6.12 As a member of the International Energy Agency (IEA), Australia has an obligation to maintain stocks equivalent to 90 days of its annual net imports. Although improving, as at December 2018 Australia held only 53 days of net imports. Notwithstanding the current counting methodology utilised by the IEA, this number would rise to 80 days if net imports included fuel currently being transported to Australia; i.e. fuel already loaded in ports of other member countries or held in tanker ships on the ocean.<sup>12</sup>

6.13 The Australian government argues that consumption cover is the preferred measure of Australia's domestic fuel security, as it measures the number of days that stocks will last under normal demand conditions. Under this measure, as at December 2018, Australia held 18, 22, and 23 days of petrol, diesel, and jet fuel, respectively.<sup>13</sup>

### *Liquid Fuel Security Review*

6.14 The government is currently undertaking a review into the security of Australia's liquid fuels. Amongst other things, this review is looking at how liquid fuel is supplied to Australia; the threats to fuel security; fuel pricing; and Australia's ability to withstand disruptions. On 4 April 2020, the government released an interim report which stated the following:

Early findings demonstrate that the liquid fuel market is increasingly complex and globally integrated, with a range of different players. Many factors, such as supply disruptions from natural disasters, are beyond the control of government. This means that fuel security is not a problem to be solved but, rather, something to be monitored and managed to minimise risks as the market adapts to our changing needs over time. Transparency in fuel supply chains is essential for industry and the Government to be able to effectively manage our fuel security.<sup>14</sup>

### *Views on fuel security*

6.15 Inquiry participants had varying perspectives on whether Australia has a fuel security issue. Rather than the amount of fuel Australia has stockpiled, a key concern raised with the committee was that Australia does not have a domestic shipping capability to transport oil, and currently relies completely on foreign-

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<sup>11</sup> Australian Institute of Petroleum, *Submission 20*, p. 3.

<sup>12</sup> Commonwealth of Australia, *Liquid Fuel Security Review—Interim Report*, 2019, p. 2.

<sup>13</sup> Commonwealth of Australia, *Liquid Fuel Security Review—Interim Report*, 2019, p. 2.

<sup>14</sup> Commonwealth of Australia, *Liquid Fuel Security Review—Interim Report*, 2019, p. 1.

crewed and owned ships. It was argued that this lack of a domestic capability could potentially expose Australia during times of emergency or conflict.

- 6.16 Both the Australian Maritime Officers Union (AMOU) and the Maritime Union of Australia (MUA) raised this issue in their respective submissions, stating that Australia has no oil tankers in its domestic fleet. The MUA noted that, although Australia requires approximately 60 ships operating full time to keep it supplied with fuel, there are zero Australian-crewed tankers.<sup>15</sup> AMOU highlighted that, in times of conflict or emergency, there would be no Australian-owned, registered, and crewed vessels which the government could utilise to transport vital fuel supplies.
- 6.17 AMOU also noted that the lack of tankers inhibits Australia's ability to ensure that there are adequate fuel reserves to meet its international obligations on fuel security.<sup>16</sup>
- 6.18 In contrast, the Australian Institute of Petroleum (AIP) claims that Australia does not have a fuel security issue. It submits that, since 2003, the domestic industry has integrated itself into the broader Asian market and established multiply reliable sources of supply within the region. Further, with the emergence of additional exporters, such as India and the United States, added diversity and flexibility is expected over time.<sup>17</sup>
- 6.19 AIP submits that a number of reviews have confirmed that the supply of liquid fuels is highly secure, competitively priced, and reliable.<sup>18</sup> Further, it argued that Australia has robust emergency response plans and arrangements in place to mitigate any disruption risks which may compromise Australia's access to these fuels.<sup>19</sup>
- 6.20 In his evidence to the committee, the Chief of Joint Capabilities within the Department of Defence, Air Marshal Warren McDonald, also argued that Australia does not have a fuel security issue. He stated that the defence force has access to 'as much fuel as we need', and that Australia has diversity in its supply chain.<sup>20</sup>
- 6.21 Professor Ross Garnaut provided the committee with a different perspective on achieving genuine long-term fuel security. In his evidence to the committee

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<sup>15</sup> Maritime Union of Australia, *Submission 10*, pp. 49–50.

<sup>16</sup> Australian Maritime Officers Union, *Submission 12*, p. 4.

<sup>17</sup> Australian Institute of Petroleum, *Submission 20*, pp. 5–6.

<sup>18</sup> Please see page 6 of *Submission 20* from the Australian Institute of Petroleum for further information on these prior reviews.

<sup>19</sup> Australian Institute of Petroleum, *Submission 20*, pp. 6–7.

<sup>20</sup> Air Marshal Warren McDonald, Chief of Joint Capabilities, Department of Defence, *Committee Hansard*, 9 September 2020, pp. 2–3.

he highlighted that the world is in the early stages of a massive energy transition within the transport industry, and that, within a few years, electric cars will have similar capital costs to those with internal combustion engines. He stated that these electric vehicles will use both less energy and energy in a cheaper form, and that Australia has the best resources in the developed world to provide this form of energy and is 'naturally the world's low-cost supplier'.<sup>21</sup> He also said:

The path to self-sufficiency in fuel, to reduced reliance on long transport chains to insecure parts of the world, is through acceleration of the transition to zero emissions fuel, which will be Australian renewable electricity, Australian hydrogen, Australian ammonia—not only Australian; it will be highly decentralised around Australia. So that is a path to genuine fuel security. I don't think that there's any security comparable in holding reserves of petroleum in the United States or anywhere in any single place in Australia. So that's my point about security. It will be cheaper, it will be more reliable, it will be Australian and it will be secure.<sup>22</sup>

- 6.22 BioEnergy Australia submitted that biofuels be considered as part of the solution to improving Australia's national fuel security. Noting the decline in domestic refining, and Australia's reliance on fuel imports, it stated that 'Australia would be exposed to catastrophic challenges should there be disruptions to the main shipping line to Australia'. Given this, BioEnergy Australia suggested that the 'production of biofuels in Australia [could] help diversify the sources of transportation fuels, including marine fuels, and decrease Australia's reliance on petroleum imports'.<sup>23</sup>

### Homeland security

- 6.23 A number of inquiry participants suggested there was a strong correlation between the number of Australian ships and the level of homeland security. For example, the MUA submitted that the security threats posed by shipping are significantly reduced if Australian owned, operated, and crewed ships are utilised for Australia's domestic freight and passenger task. It suggested that Australian ships improve the degree of control over its trade dependency and sea routes, which are essential to economic independence, defence, and border security.<sup>24</sup>
- 6.24 The Australian Institute of Marine and Power Engineers (AIMPE) also stressed the importance of policies which support Australia's maritime industry,

<sup>21</sup> Professor Ross Garnaut, *Committee Hansard*, 8 September 2020, p. 12.

<sup>22</sup> Professor Ross Garnaut, *Committee Hansard*, 8 September 2020, p. 12.

<sup>23</sup> BioEnergy Australia, *Submission 2*, [p. 5].

<sup>24</sup> Maritime Union of Australia, *Submission 10*, p. 51.

arguing that ‘it is not in Australia's national interest to have foreign personnel in complete control of vessels operating continuously in Australian waters’.<sup>25</sup>

- 6.25 In responding to questioning on the use of flag-of-convenience (FOC) shipping by organised crime and terrorists groups, the Assistant Secretary of Customs and Trade Policy within Australian Border Force, Mr Matthew Duckworth, outlined the risk management approach that Australian Border Force utilises when a ship enters Australian waters:

... when we look at the vessels that are coming into Australia, we are fundamentally applying the Customs Act and the legislation around that that is around managing the risks of vessels entering into Australia and then coming into ports or whatever they then do here. We have a full risk assessment process that we apply to every vessel that comes in, regardless of its flag. So, if a vessel were to be entering Australia, we would receive a series of reports on that vessel coming in—security reports, pending arrival reports and so on. That provides us with details on information such as the ownership of the vessel, the flag of the vessel, of course, and previous ports it has visited. It would include cargo, crew details, a full range of information. And we would then look to make an assessment of the risks of that ship and tailor any intervention accordingly. That's our approach regardless of the flag.<sup>26</sup>

- 6.26 Notwithstanding the above, the MUA maintained that foreign seafarers working on international ships transiting Australia, or employed in the coastal trade, undergo a far lower level of scrutiny than their Australian counterparts who are submitted to ‘rigorous criminal background checking’.<sup>27</sup> As coastal trading is predominantly undertaken by foreign-crewed vessels, this raised a key concern regarding the transportation of dangerous cargoes, such as weapons-grade ammonium nitrate.<sup>28</sup>

- 6.27 On the issue of dangerous goods, such as ammonium nitrate, the International Transport Workers’ Federation (ITF) also had major security concerns regarding its transportation by foreign-crewed ships around the Australian coast. The national coordinator of the ITF, Mr Dean Summers, said:

[T]hose areas where Australia considers cargoes to be essential or dangerous goods or those cargoes are ammonium nitrate, fuel or food—all the things that we hold dear to us—have to be carried on Australian ships, surely. By making it cheaper to exploit seafarers to carry those cargoes around the place, it just opens it up to security questions.

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<sup>25</sup> Australian Institute of Marine and Power Engineers, *Submission 27*, [p. 3].

<sup>26</sup> Mr Matthew Duckworth, Assistant Secretary, Customs and Trade Policy, Australian Border Force, *Committee Hansard*, 9 September 2020, p. 9.

<sup>27</sup> Maritime Union of Australia, *Submission 10*, p. 51.

<sup>28</sup> Maritime Union of Australia, *Submission 10*, p. 51.

We know now what ammonium nitrate—just one cargo—can do ... We've seen what happened [in Lebanon]. One shipload of that could do the same sort of damage in any Australian port. It is run exclusively around Australian ports under FOC shipping with vulnerable crew.<sup>29</sup>

6.28 In his evidence to the inquiry, the Secretary-Treasurer of the Seafarers International Union of North America, Mr Dave Heindel, highlighted the importance of maintaining a strong domestic fleet, and that the United States' longstanding cabotage regime has helped maintain homeland security. Specifically he said:

In the US a key component that helps maintain US national security is strong national cabotage laws... The US Department of Defense and the US Navy have consistently emphasised the fundamental importance of maintaining a strong domestic maritime fleet as well as a strong shipbuilding industry. For example, retaining our ability to construct and maintain military-useful commercial vessels has the added benefit of boosting US sea lift capacity, along with other strategic assets that would be lost without the Jones Act.<sup>30</sup>

6.29 The chair of the board of the Institute for Integrated Economic Research Australia, Retired Air Vice-Marshal John Blackburn AO, stated that at the heart of an Australian security strategy, there should be a maritime trade strategy that addresses Australian shipping. He continued:

Today in Australia neither a national security strategy or trade strategy exists. As an island nation at the end of global trade routes we're heavily reliant on just-in-time supply chains, with limited resilience in those chains and a very low tolerance for loss and assumption. Ninety-eight per cent of all our trade by volume is by sea. I posed the question last year: what would be the impact on the Australian way of life if these supply chains were interrupted even for a few weeks? Would we be prepared for the consequences, given that, for example, we import 90 per cent of our fuels, 90 per cent of our medicines and nearly all of our personal protective equipment? Now with the [COVID-19] pandemic we've seen some of the consequences in terms of medicines and PPE supplies. We've seen that the lowest cost comes at a high price in a crisis.<sup>31</sup>

6.30 Although recognising that global trade and diversity of supply are essential for Australia's economic and social wellbeing, Retired Air Vice-Marshal Blackburn suggested the need to redesign critical components of domestic capabilities and supply chains under a 'smart sovereignty model'. He envisages that an Australian shipping capability, including a strategic fleet, supplemented by

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<sup>29</sup> Mr Dean Summers, National Coordinator, International Transport Workers' Federation, *Committee Hansard*, 9 September 2020, p. 26.

<sup>30</sup> Mr Dave Heindel, Secretary-Treasurer, Seafarers International Union of North America, *Committee Hansard*, 6 February 2020, p. 6.

<sup>31</sup> Retired Air Vice Marshal John Blackburn AO, Board Chair, Institute for Integrated Economic Research Australia, *Committee Hansard*, 8 September 2020, p. 2.

domestic ports and their associated infrastructure, would be key components of such a model.<sup>32</sup>

- 6.31 Ms Cheryl Durant, also from the Institute for Integrated Economic Research, spoke about the benefits of having Australian crewed-vessels in times of crises, and the ability of coastal transport to reduce key vulnerabilities, some of which were exposed by the extreme bushfires over the 2019–20 summer. She provided the example of residents and tourists trapped on the beach at Mallacoota on New Year’s Eve, when raging bushfires had cut off all land-based links to the area. She noted that, although foreign-flagged, the first ship to arrive was Australian and New Zealand crewed, and was able to provide critical supplies of food and water long before a RAN ship could arrive and evacuate those trapped. She concluded that:

... when we're looking to what maritime and coastal transport might offer to Australia in the future, another thing it offers is de-risking the vulnerabilities of having those major road and rail routes cut in the event of continuing severe bushfires and continuing floods. The projections are that they will continue, and so it needs to be a factor.<sup>33</sup>

## Safety and standards

- 6.32 Reflecting the global nature of shipping, Australia's maritime safety regime is based on international safety standards set through the International Maritime Organisation (IMO). AMSA and the Department of Infrastructure, Regional Development and Cities (the Department)<sup>34</sup> work to ensure that these standards are reflected in Australian legislation. Further, the Australian Transport Safety Bureau (ATSB) is an independent agency which undertakes investigations on transport accidents, with the aim to the improve safety of, and public confidence in, aviation, marine and rail transport.
- 6.33 In Australia, the key Act establishing the domestic regulatory framework for international ship and seafarer safety is the *Navigation Act 2012* (The Navigation Act). In addition to establishing this regulatory framework, it also gives effect to key conventions and treaties developed by the IMO, the International Labour Organisation, and the United Nations Conferences.<sup>35</sup>

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<sup>32</sup> Retired Air Vice Marshal John Blackburn AO, Board Chair, Institute for Integrated Economic Research Australia, *Committee Hansard*, 8 September 2020, pp. 2–3.

<sup>33</sup> Ms Cheryl Durant, Fellow, Institute for Integrated Economic Research Australia, *Committee Hansard*, 8 September 2020, p. 4.

<sup>34</sup> Please note that references to the Department of Infrastructure, Regional Development and Cities also refer to its successor organisation: the Department of Infrastructure, Transport, Regional Development and Communications.

<sup>35</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 29.

6.34 Under various international conventions and the United Nations Convention of the Law of the Sea, Australia is responsible for checking and controlling ships in its territorial waters to ensure that they do not pose a threat to safety.<sup>36</sup>

#### *AMSA's role*

6.35 AMSA requires ships to be seaworthy, and uses various methods to ensure that appropriate standards are met. In addition to ship monitoring, risk assessment and information gathering arrangements, measures include:

- the Port State Control (PSC) system;
- an international reputation which deters substandard ships;
- compliance and enforcement arrangements;
- appropriately trained and experienced staff; and
- engagement with the International Maritime Organization (IMO), regional government meetings, and regular meetings with operators, builders, owners, crews and classification societies.<sup>37</sup>

6.36 AMSA stated that flag states are responsible for ensuring their ships are constructed, maintained, manned, and operated in accordance with international standards including the:

- International Convention for the Safety of Life at Sea;
- International Convention for the Prevention of Pollution from Ships;
- International Convention on Standards of Training, Certification and Watchkeeping for Seafarers;
- International Management Code for the Safe Operation of Ships and for Pollution Prevention; and
- IMO's Maritime Labour Convention 2006.<sup>38</sup>

6.37 AMSA advised that the internationally accepted method of confirming that foreign ships are in a seaworthy condition is PSC inspections. In addition to determining whether ships are seaworthy, these inspections ensure that foreign ships are operating in accordance with the relevant international safety and environmental protection conventions when in the port of another state.<sup>39</sup>

6.38 Appropriately qualified AMSA port marine surveyors (inspectors), appointed under the Navigation Act, undertake PSC inspections of ships in Australian ports. AMSA noted that it has 60 surveyors across 17 Australian ports, and that Australia has one of the world's highest rates of ship inspections.<sup>40</sup>

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<sup>36</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 29.

<sup>37</sup> Australian Maritime Safety Authority, *Submission 28*, p. 2.

<sup>38</sup> Australian Maritime Safety Authority, *Submission 28*, p. 2.

<sup>39</sup> Australian Maritime Safety Authority, *Submission 28*, p. 2.

<sup>40</sup> Australian Maritime Safety Authority, *Submission 28*, p. 3.

- 6.39 The Department stated that Australia is renowned for having a 'rigorous and effective flag and [PSC] regime'. It noted that, in 2017, AMSA conducted 3000 PSC inspections across 54 different Australian ports; from which 165 ships were detained.<sup>41</sup>
- 6.40 The international standards that apply to foreign-flagged vessels are the same as those that are applied to Regulated Australian Vessels (RAVs), which are subject to a flag-state control inspection program. The inspection program for foreign shipping focuses specifically on higher-risk ships, and is based on factors such as the type, age and inspection history of vessels.<sup>42</sup>
- 6.41 Over recent years, improvements in monitoring technology, has resulted in an increased oversight of shipping around the Australian coast. Emerging technologies such as Inmarsat polling, automatic identification systems (AIS), satellite AIS and shore-based radar allow for greater monitoring of ship activities, and the information gathered is used to target ships for inspection.<sup>43</sup>
- 6.42 Where ships are in breach of convention requirements, or are being poorly operated, AMSA states that it can issue them deficiencies, Further, if they are found to be unseaworthy, they can also be detained.<sup>44</sup>
- 6.43 Should a review of performance identify a ship or a company which poses an increased risk to the safety or welfare of seafarers, or jeopardises the protection of the environment, AMSA has the power to issue a direction notice. Under the Navigation Act, this notice can deny a ship access to Australian ports for a specified duration or requirement that it meet specific requirements when approaching or using Australian ports.<sup>45</sup> The duration that a ship is refused access escalates for repeated non-compliance, and AMSA notes that it has refused ships access for up to 12 months.<sup>46</sup>
- 6.44 AMSA submitted that PSC is a useful tool for promoting safe shipping internationally; however, it does not eliminate the need to ensure that ship owners and managers meet the requirements set out in international conventions and prioritise safety on vessels under their control.<sup>47</sup>

### *ATSB's role*

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<sup>41</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 29.

<sup>42</sup> Australian Maritime Safety Authority, *Submission 28*, pp. 2–3.

<sup>43</sup> Australian Maritime Safety Authority, *Submission 28*, p. 3.

<sup>44</sup> Australian Maritime Safety Authority, *Submission 28*, p. 4.

<sup>45</sup> Prior to the introduction of the *Navigation Act 2012*, the ability to ban a ship from Australian ports did not exist in Australian maritime legislation.

<sup>46</sup> Australian Maritime Safety Authority, *Submission 28*, p. 4.

<sup>47</sup> Australian Maritime Safety Authority, *Submission 28*, p. 4.

- 6.45 The ATSB is established by the *Transport Safety Investigation Act 2003* and conducts investigations in accordance with the provisions of the Act. It is an independent agency separate from transport regulators, policy makers and service providers.<sup>48</sup>
- 6.46 The ATSB's function is to improve safety and public confidence in the aviation, marine and rail modes of transport through:
- independent investigation of transport accidents and other safety occurrences;
  - safety data recording, analysis and research; and
  - fostering safety awareness, knowledge and action.<sup>49</sup>
- 6.47 The ATSB noted that it has undertaken 32 marine-specific investigations in the last 5 years and that it has, historically, received around 250 notifications a year; however, this number has increased in recent times and is now approaching 500. The ATSB submitted that it has the resources to undertake approximately seven investigations a year and, of the last seven it undertook, 10 systemic safety issues were identified, including:
- the use of electronic information systems versus paper systems;
  - deficiencies in safety management systems and risk assessments;
  - inadequate tug usage;
  - and other work health and safety issues, such as the use of scaffolding and floor rest equipment.<sup>50</sup>

### *Maritime Labour Convention*

- 6.48 The Maritime Labour Convention (MLC) defines the minimum employment and living standards on board for ships for seafarers, including:
- minimum age, medical fitness, training and recruitment;
  - conditions of employment, including pay, hours of work and rest, entitlement to leave, repatriation, compensation and access to training;
  - accommodation, recreational facilities, food and catering; and
  - health protection, medical care, welfare and social security protection.<sup>51</sup>
- 6.49 The MLC is implemented in Australia by the Navigation Act and Marine Order 11 (Living and working condition on vessels) 2015, and applies to international vessels visiting Australian ports as well as RAVs with a gross

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<sup>48</sup> Australian Transport Safety Bureau, *Overview of the ATSB*, [https://www.atsb.gov.au/about\\_atsb/overview/](https://www.atsb.gov.au/about_atsb/overview/) (accessed 17 November 2020).

<sup>49</sup> Australian Transport Safety Bureau, *Overview of the ATSB*, [https://www.atsb.gov.au/about\\_atsb/overview/](https://www.atsb.gov.au/about_atsb/overview/) (accessed 17 November 2020).

<sup>50</sup> Mr Stuart Macleod, Director, Transport Safety Investigations, Australian Transport Safety Bureau, *Committee Hansard*, 8 September 2020, pp. 36–37.

<sup>51</sup> Australian Maritime Safety Authority, *Submission 28*, p. 4.

registered tonnage of greater than 200 tonnes. AMSA monitors compliance with the MLC through its port and flag-state inspection regimes of foreign-flagged and Australian-flagged vessels.<sup>52</sup>

- 6.50 AMSA reported that, in 2018, it received 177 complaints related to alleged breaches of the MLC. Following investigations of these complaints, deficiencies were issued against 30 vessels, and 19 vessels were detained. AMSA noted that these complaints came from a variety of sources, including seafarers themselves; other government agencies; welfare groups; representative bodies; ship pilots; and members of the public.<sup>53</sup>

### *Views on safety and standards*

- 6.51 The MUA advocated for the continued improvement in working conditions, safety standards, and rates of remuneration for seafarers working in international shipping. In its submission, the MUA made a number of recommendations to improve standards, such as AMSA, in consultation with industry, reviewing Marine Order 11 (Living and working conditions on vessels).<sup>54</sup>
- 6.52 The MUA also suggests that the Australian government consider ways to improve early intervention and counselling resources available on international vessels. It proposes that AMSA, in conjunction with a number of other stakeholders, develops an appropriate Marine Order regarding the rights and obligations of masters, seafarers, and service providers in relation to employee assistance programs.<sup>55</sup>
- 6.53 When asked by the committee about its approach to ensuring that crews are being paid appropriately, AMSA indicated that the level of interrogation depends on the intelligence it has, but would likely include a review of appropriate records to see whether a seafarer is receiving the pay that his or her signed agreement stipulates.<sup>56</sup> However, in his evidence to the committee, the chief executive officer of AMSA, Mr Mick Kinley, highlighted an issue with relying on records:

... in the worst and most complex cases, they will have two sets of records. They will have the set of records which they show the inspector ... [b]ut

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<sup>52</sup> Australian Maritime Safety Authority, *Submission 28*, p. 4.

<sup>53</sup> Australian Maritime Safety Authority, *Submission 28*, pp. 4–5.

<sup>54</sup> Maritime Union of Australia, *Submission 10*, p. 97.

<sup>55</sup> Maritime Union of Australia, *Submission 10*, p. 98.

<sup>56</sup> Mr Wayne Cooper, Manager, Operations South, Australian Maritime Safety Authority, *Committee Hansard*, 14 March 2019, p. 2.

you will soon discover they have a separate lot which the crew are forced to sign.<sup>57</sup>

- 6.54 The national coordinator for the ITC, Mr Dean Summers, also spoke about the issue of the underpayment of wages:

The industry knows that, if you have a temporary licence and you continue to trade without paying your crew extra money, you can intimidate your crew not to ask for extra money, because there are obviously opportunities to punish those crew. If you get caught, all you have to do is just pay that money back. So it's a bit of a roll of the dice on a temporary licence whether you get caught paying the seagoing industry award wages or not. And the case is that we are daily contacted by seafarers asking us if they are open to getting the extra money for being on the coast.

... the problem is that some ships pay, some ships don't, some recognise their obligations under the law, some don't, and there's no punishment and no policing of it either.<sup>58</sup>

- 6.55 Reflecting on ship standards in the cruise industry, the CLIA noted that the industry is highly regulated and that cruise ships are subject to three layers of inspection and enforcement: flag states; port states; and classification societies.<sup>59</sup>
- 6.56 The CLIA also noted that, to the best of its knowledge, every country in which its members' ships are registered are white listed under the Tokyo MOU, the principal regional Port State Control authority for the Asia-Pacific region. It submitted that these countries ensure that ships registered with their country comply with international regulations and standards.<sup>60</sup>
- 6.57 Notwithstanding the above, Mr Summers from the ITC provided a scathing critique of the handling of the Ruby Princess cruise ship in early 2020. He submitted that the crew's human and legal rights were ignored and that he was unable to speak to the seafarers as a legal industrial representative. He also highlighted the lack of regard given to the crew's health by forcing it to sail with hundreds of active COVID cases on board:

The clincher for me ... is the fact that the commissioner who had responsibility for this under the COVID pandemic ... said that he knows there are 200 live cases of COVID on that ship and that there are another thousand workers on that ship but, despite that, he has orders to get that

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<sup>57</sup> Mr Mick Kinley, Chief Executive Officer, Australian Maritime Safety Authority, *Committee Hansard*, 14 March 2019, p. 3.

<sup>58</sup> Mr Dean Summers, National Coordinator, International Transport Workers' Federation, *Committee Hansard*, 9 September 2020, p. 25.

<sup>59</sup> Cruise Lines International Association, *Submission 24*, [p. 9].

<sup>60</sup> Cruise Lines International Association, *Submission 24*, [pp. 9–10].

ship away and he will force that ship to sail out of Port Kembla with sick seafarers alongside well seafarers.<sup>61</sup>

## Committee view and recommendations

### *Fuel security*

- 6.58 Australia imports approximately 90 per cent of its fuel, and that 40 per cent of the liquid fuel sold in Australia is sourced from crude oil originating in the Middle East. The committee believes that Australia's fuel security would be materially compromised if a large-scale crisis or emergency arose. This is further emphasised by the fact that, even if all domestically produced oil was refined and used in Australia, it would only meet about 25 per cent of demand.
- 6.59 This supply risk is also compounded by the fact that Australia does not currently meet its IEA obligations to maintain stocks equivalent to 90 days of annual net imports. The committee notes that Australia has only 53 days of net imports, and advocates that the Australian government meet all its international obligations.
- 6.60 The committee agrees with statements made by inquiry participants that Australia's long-term security will benefit from a transition to domestically produced environmentally friendly fuels, such as renewable electricity, hydrogen, and biofuels. Further, this will also reduce Australia's carbon footprint and help mitigate the impacts of climate change.
- 6.61 Given the above, the committee believes a review of liquid fuel security is long overdue, and supports measures which will mitigate threats to fuel security and increase Australia's ability to withstand supply disruptions into the future.

### **Recommendation 18**

- 6.62 The committee recommends that the Australian government develops a fuel security strategy, which will include proposals to transition to locally-sourced fuels as well as address supply issues.**

### **Recommendation 19**

- 6.63 The committee recommends that the Australian government meets its obligations as a member of the International Energy Agency to maintain emergency oil stocks equivalent to at least 90 days of annual net oil imports.**

### *Homeland security*

- 6.64 The committee agrees with suggestions that Australia should have a national security strategy, supported by an Australian shipping capability, which

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<sup>61</sup> Mr Dean Summers, National Coordinator, International Transport Workers' Federation, *Committee Hansard*, 9 September 2020, p. 28.

would ensure Australia's continued access to fuel; medicines; and personal protective equipment in times of crisis. This vulnerability has been highlighted by the 2020 global COVID pandemic. Further, an Australian shipping capability would be best placed to respond to emergencies where coastal communities are inaccessible by other means, such as that experienced by residents and visitors of Mallacoota in Victoria during the 2019–20 bushfire season.

### **Recommendation 20**

**6.65 The committee recommends that the Australian government develops a national security strategy, supported by an Australian shipping capability, to ensure that Australia's supply of essential items is not disrupted during crises and emergencies.**

#### *Safety and standards*

6.66 Recognising the international nature of shipping, the committee strongly supports the ongoing development of safety standards through the IMO. The committee also advocates for the continued improvement of working conditions, safety standards, qualifications, and rates of remuneration for seafarers.

6.67 The committee is very concerned about reports that seafarers are being exploited and not paid their appropriate wage, and that two sets of records are maintained by their employers with the aim to mislead regulators.

6.68 The committee supports the proposal that AMSA considers ways to improve early intervention and counselling resources available on international vessels, including through the development of a Marine Order relating to employee assistance programs.

6.69 The committee is concerned by evidence of the lack of safety, training and qualifications on some domestic vessels, and urges the relevant maritime authorities to close these gaps. Moreover, there is also evidence that domestic qualifications, training, and crewing standards are not adequate for larger vessels operating further offshore, as vessels operating interstate which previously required Navigation Act standards are now allowed to operate with domestic qualifications and crewing.

### **Recommendation 21**

**6.70 The committee recommends that the Australian government continues to advocate for improved safety standards, including work health and safety standards; working conditions; and wages for international seafarers, and rigorously enforces all existing protections and standards.**

**Recommendation 22**

6.71 The committee recommends that the Australian government, in consultation with key stakeholders, improves counselling resources available on international vessels through the development of a Marine Order regarding employee assistance programs.

**Recommendation 23**

6.72 The committee recommends that the Australian government improves safety on domestic vessels, including by expanding the jurisdiction of the Australian Transport Safety Bureau to include incidents on domestic vessels; and that the Australian government commissions an independent review of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* to consider whether it provides clear and simple standards for training, crewing, and qualifications to improve marine safety on domestic commercial vessels.

**Recommendation 24**

6.73 The committee recommends that the Australian government amends the *Navigation Act 2012* to restore an appropriate balance in ships that are covered by the Navigation Act as Regulated Australian Vessels, and those covered by the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* as Domestic Commercial Vessels, to ensure the Navigation Act provides the default standards for Australian commercial ships.

# Chapter 7

## Port infrastructure and services

### Overview

7.1 This chapter outlines evidence received by the committee in relation to shipping infrastructure in Australia, including linkages between ports and other transport infrastructure. It further discusses services offered by ports in Australia, focussing particularly on fees and charges associated with port usage and how these affect freight supply chains.

### Infrastructure

7.2 The committee heard a range of views on the current adequacy and future needs of infrastructure for commercial shipping in Australia. Concerns were raised both in relation to the key infrastructure at ports themselves, as well as intermodal infrastructure enabling freight to efficiently transfer between shipping and other transport modes.

#### *Port infrastructure*

7.3 There are over 60 ports in Australia which have been publicly gazetted by the Australian government. Of these, the Bureau of Infrastructure, Transport and Regional Economics (BITRE) has identified 17 nationally significant ports based on activity measures (namely ship calls or visits, throughput, and international sea trade values).<sup>1</sup>

7.4 The Department of Infrastructure, Regional Development and Cities (the Department of Infrastructure)<sup>2</sup> noted in its submission that Australian ports vary in their characteristics and scale of operation, and can be grouped into three types: specialised bulk ports, regional ports and mixed multicargo ports.<sup>3</sup> The Department of Infrastructure explained these three port types as follows:

- *Specialised bulk ports* generally focus on one or two export bulk commodity operations and transfer little cargo for the general community, and are more likely to be privately operated. These ports generally have specialist infrastructure dedicated to each bulk cargo type and are located close to agricultural production areas, mines or manufacturing facilities.

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<sup>1</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 34.

<sup>2</sup> Please note that references to the Department of Infrastructure, Regional Development and Cities also refer to its successor organisation: the Department of Infrastructure, Transport, Regional Development and Communications.

<sup>3</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 34.

- *Regional seaports* are typically state government owned and dominated by a number of bulk commodities, but also provide facilities for general cargo that may include containers and may provide services for fishing fleets or offshore oil and gas supply vessels. Due to their location, regional seaports may also be central to a region's tourism efforts by providing water-based recreational facilities such as marinas and cruise ship facilities.
- *Mixed multicargo ports* tend to be capital or major city based and have high trade throughput, particularly in relation to containers and break bulk cargoes such as automotive vehicles and heavy machinery, although bulk commodities are also often handled. As they are usually managed as landlord ports, mixed multicargo ports offer a more diverse range of services and, as such, a broader mix of public and private investment exists.<sup>4</sup>

7.5 The ports of Melbourne, Sydney and Brisbane are the primary entry points for Australia's container freight, which is then trucked interstate between major population centres throughout the country.<sup>5</sup>

7.6 The 17 nationally significant ports identified by BITRE are outlined in Table 7.1 and Figure 7.1.

**Table 7.1 Australia's significant ports by type**

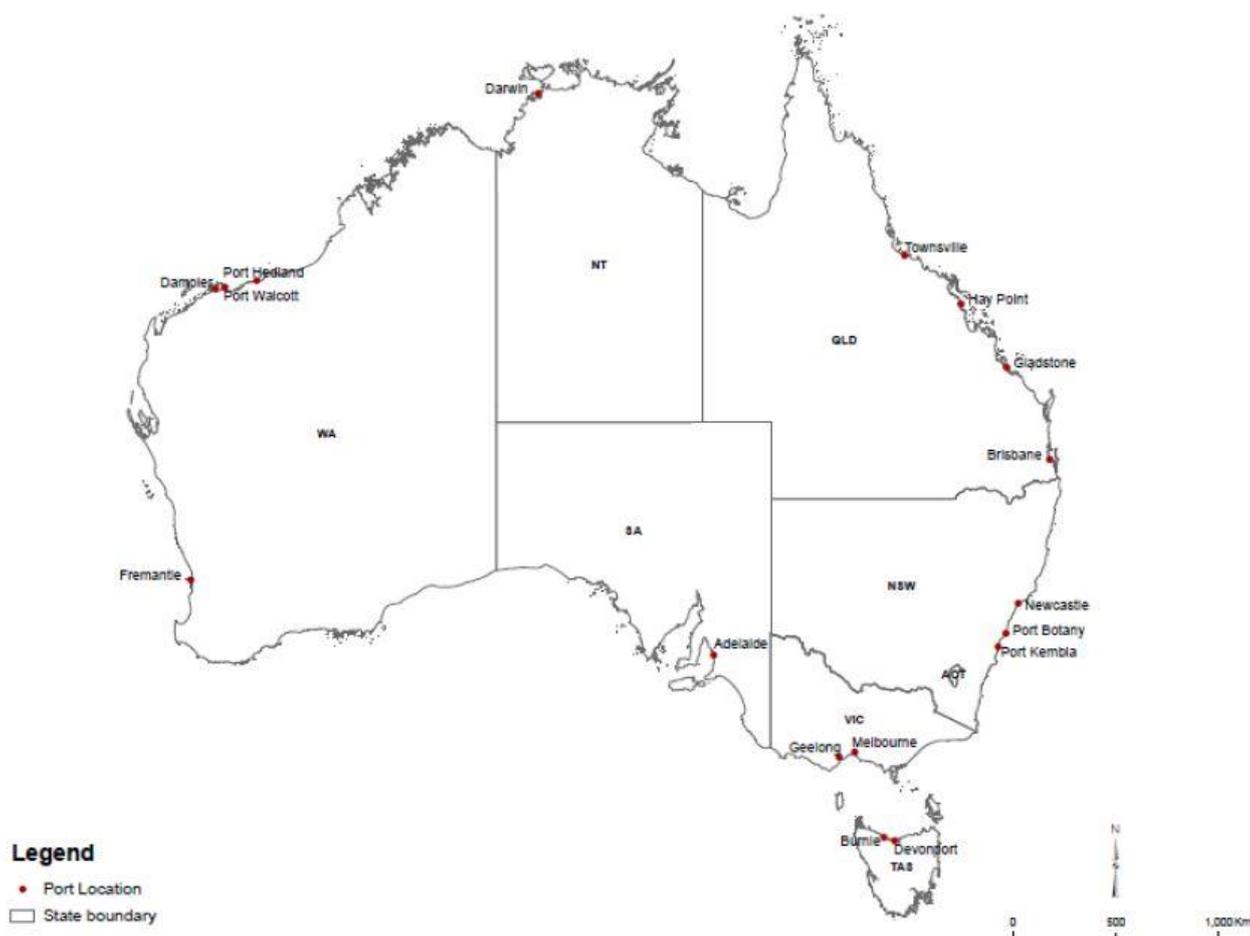
<b>Mixed Ports</b>	<b>State/Territory</b>	<b>Specialised Bulk Ports</b>	<b>State/Territory</b>
Adelaide	South Australia	Dampier	Western Australia
Brisbane	Queensland	Gladstone	Queensland
Burnie	Tasmania	Hay Point	Queensland
Darwin	Northern Territory	Newcastle	New South Wales
Devonport	Tasmania	Port Hedland	Western Australia
Fremantle	Western Australia	Port Walcott	Western Australia
Geelong	Victoria		
Melbourne	Victoria		
Port Botany/ Sydney	New South Wales		
Port Kembla	New South Wales		
Townsville	Queensland		

<sup>4</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 34.

<sup>5</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 47.

Source: Bureau of Infrastructure, Transport and Regional Economics, *Ports: job generation in the context of regional development*, September 2014, p. 6.

**Figure 7.1 Australia's Major Ports**



Source: Bureau of Infrastructure, Transport and Regional Economics, *Ports: job generation in the context of regional development*, September 2014, p. 5.

## Ports management

7.7 Responsibility for the establishment, operation and regulation of ports in Australia rests with state and territory governments.<sup>6 7</sup> Australian ports are generally managed by a port authority in which the relevant state or territory public authorities may or may not be a stakeholder. The Department of Infrastructure submitted that the core functions of the port authority can be broadly classified into three areas:

- Regulatory functions: providing maritime services (e.g. harbour control and pilotage) and emergency pollution response; providing for customs and quarantine requirements; maintaining maritime safety; and promoting general efficiency of the port.

<sup>6</sup> The only exceptions to this arrangement are ports in the Indian Ocean Territories and Norfolk Island, which are the responsibility of the Commonwealth.

<sup>7</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 34.

- Landowner functions: providing port planning and development; navigational aids; breakwaters; entrance channels; and maintaining basic port infrastructure, such as wharves and berths.
- Operator functions: providing cargo handling services and other value-adding functions, such as warehousing, storage, and towage.<sup>8</sup>

### **Privatisations and the 'landlord' model of port management**

7.8 Australia's medium and large mixed use ports operate under the 'landlord' model of port management:

Under this model, the port authority may act as both regulatory body and landlord, while operational functions (especially cargo handling) are carried out by private companies. However, with increasing privatisation, governments typically retain the regulatory function and all other functions are managed by the private 'landlord' operator.<sup>9</sup>

7.9 Recent significant port privatisations by state and territory governments in Australia include the Port of Brisbane in 2010; Port Botany and Port Kembla in 2013; Port of Newcastle in 2014; Port of Darwin in 2015; and Port of Melbourne in 2016.<sup>10</sup>

7.10 The Department of Infrastructure noted that privatisation of Australia's ports 'remains an area of contention for a range of sectors within the business community'. It stated:

In most cases, the transfer of ownership of Australian ports has provided opportunities for improvement in economic efficiency and overall operational performance. However, ports display natural monopoly characteristics raising the need to maintain adequate regulatory frameworks to clarify service goals and protect consumer interests.<sup>11</sup>

7.11 The Australian Competition and Consumer Commission (ACCC) commented at length in its submission on the impact of privatisations at major Australian ports:

Governments have privatised much of Australia's critical freight infrastructure in the past decade... However, the privatisation of monopoly infrastructure in the absence of appropriate regulation has led to sub-optimal outcomes for consumers and the economy. For example, soon after privatisation, the new operators of the Port of Newcastle significantly increased access charges to users of the port.

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<sup>8</sup> Australian Government, *Inquiry into National Freight and Supply Chain Priorities: Supporting Paper No. 2 Maritime Freight*, March 2018, pp. 7–8.

<sup>9</sup> Australian Government, *Inquiry into National Freight and Supply Chain Priorities: Supporting Paper No. 2 Maritime Freight*, March 2018, p. 8.

<sup>10</sup> Australian Competition and Consumer Commission, *Submission 4*, p. 5.

<sup>11</sup> Australian Government, *Inquiry into National Freight and Supply Chain Priorities: Supporting Paper No. 2 Maritime Freight*, March 2018, p. 8.

The ACCC considers that, if implemented appropriately, the privatisation of state assets can realise economic benefits for the users of the asset and the general community. Private owners may develop operating efficiencies and adopt innovative ways of delivering services to customers. However, these efficiencies will only be realised where there is strong potential for competition. In the absence of competition due to monopoly or near monopoly characteristics, there needs to be an appropriate structure and/or sufficient regulatory oversight to ensure that competition in related markets is not hindered by the transaction. The privatisation process should therefore be focussed on achieving competitive and efficient outcomes to protect the long-term interests of users and consumers.<sup>12</sup>

7.12 The ACCC submitted that tailored regulatory frameworks are required to address industry-specific access and pricing issues upfront during privatisation processes, and warned that when these issues are not addressed three particular problems can arise:

- worsening or entrenching a market structure that is not sufficiently competitive, or impeding the development of a competitive market structure;
- selling a monopoly or near monopoly asset to a bidder with existing or potential upstream or downstream interests in related markets, without ensuring that appropriate third party access arrangements will exist; and
- selling monopoly or near monopoly assets without sufficient controls on pricing, to ensure that excess public monopoly returns are not merely transformed into private monopoly excess returns.<sup>13</sup>

7.13 The ACCC stated further that where privatisation processes involve potentially anti-competitive contracts, arrangements or understandings, it will investigate and may take court action. In this regard the ACCC noted that it commenced court proceedings in late 2018 against companies in the NSW Ports group. These proceedings relate to contracts entered into as part of the 2013 privatisation of Port Botany and Port Kembla, which the ACCC alleges 'had the purpose, or were likely to have the effect of, substantially lessening competition in the market for the supply of port services for container cargo in New South Wales'.<sup>14</sup>

### **Security and immigration arrangements at major ports**

7.14 The Department of Home Affairs requires ports and port facilities to have a security assessment and security plan approved by the Secretary of the Department of Home Affairs. International ports are designated as such under relevant Commonwealth legislation so that Australian Border Force and other

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<sup>12</sup> Australian Competition and Consumer Commission, *Submission 4*, p. 5.

<sup>13</sup> Australian Competition and Consumer Commission, *Submission 4*, p. 5.

<sup>14</sup> Australian Competition and Consumer Commission, *Submission 4*, p. 6.

agencies can exercise powers relating to issues such as biosecurity, immigration, and customs at designated areas within port precincts.<sup>15</sup>

- 7.15 The Department of Home Affairs noted in its submission that port operators seeking to introduce international services at a port where no border services are provided, or where there is a change to an existing business model that impacts on border services capabilities, need to apply to the department. The department then assesses proposals to determine whether they are in the national interest, and coordinates advice to the Australian government in consultation with other relevant agencies.<sup>16</sup> Port operators are responsible for costs associated with relevant infrastructure and facilities required to support international services, including costs incurred by the Australian government for establishing a border services capability at the port.<sup>17</sup>

#### *Recent government initiatives and inquiries*

- 7.16 Several government inquiries and processes in recent years have sought to improve the planning of ports and related infrastructure at a national level.

#### **Long term planning and ports capacity**

- 7.17 The need for long term planning and capacity building at Australia's ports was highlighted in evidence to the committee. Key issues raised included:
- the need for better integration between the ports sector and planning systems at all levels of government;
  - congestion and encroachment issues arising from the environments in which major ports are situated; and
  - limitations in the vessels that can be received at Australian ports.

#### *National Ports Strategy*

- 7.18 Infrastructure Australia and the National Transport Commission developed Australia's first National Ports Strategy in 2011, which was endorsed by COAG in July 2012.<sup>18</sup> The overarching purpose of the strategy was to drive the development of 'efficient, sustainable and safe ports and related freight logistics, that together balance the needs of a growing Australian community and economy, with the quality of life aspirations of the Australian people'.<sup>19</sup> It identified four specific priorities:

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<sup>15</sup> Department of Home Affairs, *Submission 3*, p. 6.

<sup>16</sup> Department of Home Affairs, *Submission 3*, p. 7.

<sup>17</sup> Department of Home Affairs, *Submission 3*, p. 7.

<sup>18</sup> National Transport Commission, *National Ports Strategy*, available at <https://www.infrastructureaustralia.gov.au/publications/national-ports-strategy-2011> (accessed 4 June 2019).

<sup>19</sup> Infrastructure Australia and the National Transport Commission, *National Ports Strategy*, 2011, p. 17.

- planning for relevant ports (including integrated planning at all levels of government);
- ensuring plans can be executed;
- improving landside efficiency, reliability, security and safety of container ports; and
- promoting clarity, transparency and accountability.<sup>20</sup>

#### *Inquiry into National Freight and Supply Chain Priorities*

7.19 In 2017 the Australian government appointed an expert panel to lead an inquiry into National Freight and Supply Chain Priorities, for consideration by the COAG's Transport and Infrastructure Council.<sup>21</sup> The final report for the inquiry (Freight Inquiry report) was released in May 2018, and the Council announced at that time that it would use the priorities identified in the report as a starting point for the development of a 20 year National Freight and Supply Chain Strategy and Action Plan.<sup>22</sup>

7.20 The Freight Inquiry report identified five critical action areas that must be addressed to lift freight productivity and efficiency for Australia:

- a nation-wide, consistent and integrated approach to freight and supply chain issues;
- measurement of freight performance;
- planning for current and future needs by integrating the conduct of freight supply chains into land, sea and air use planning systems in states and territories;
- clear action to deliver identified priorities; and
- communication of the importance of freight.<sup>23</sup>

7.21 The Department of Infrastructure noted that feedback received from Ports Australia during the Freight Inquiry concluded that 'terminal capacity at most ports across Australia can meet needs for the next 20 years with reasonable investment'.<sup>24</sup>

#### *National Freight and Supply Chain Strategy*

<sup>20</sup> Infrastructure Australia and the National Transport Commission, *National Ports Strategy*, 2011, p. 8.

<sup>21</sup> Department of Infrastructure, Transport, Cities and Regional Development, 'Inquiry into National Freight and Supply Chain Priorities', <https://www.infrastructure.gov.au/transport/freight/freight-supply-chain-priorities/index.aspx> (accessed 5 June 2019).

<sup>22</sup> Australian Government, 'National Freight and Supply Chain Strategy', <https://www.infrastructure.gov.au/transport/freight/national-strategy.aspx> (accessed 6 June 2019).

<sup>23</sup> Australian Government, *Inquiry into National Freight and Supply Chain Priorities: Report*, March 2018, pp. 7–8.

<sup>24</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 34.

- 7.22 Following the delivery of the Freight Inquiry report, a National Freight and Supply Chain Strategy (the Strategy) was developed to deliver a nationally coordinated and well-planned freight system for Australia. The Strategy was developed by all levels of government, with input from industry, and hopes to improve efficiency and international competitiveness; provide safe, secure, and sustainable operations; deliver a fit-for-purpose regulatory environment; promote innovative solutions to meet freight demand; build a skilled and adaptable workforce; and develop an informed understanding, and acceptance of, freight options.<sup>25</sup>
- 7.23 The strategy hopes to achieve these goals by taking action across four critical areas:
- smarter and targeted infrastructure;
  - enable improved supply chain efficiency;
  - better planning, coordination and regulation; and
  - better freight location and performance data.<sup>26</sup>

### **Integration of ports into planning systems**

- 7.24 The Department of Infrastructure stated in its submission to the inquiry that the sustainable development of the port sector 'depends to a large extent on the relationship and interaction between the sector and the planning system':

Ports, which in many cases may be in or near to major urban centres, generate large volumes of traffic, noise and emissions and are often located at a unique interface between sensitive land and marine environments. This can lead to the important role of ports in facilitating economic activity being overshadowed by the seemingly conflicting demands of a port's development, the development of the city, and protecting the marine environment.<sup>27</sup>

- 7.25 The Department of Infrastructure observed that the national ports policy encouraged the long-term planning of all nationally significant ports, and that most port operators 'have now completed masterplans and sought to integrate them within the existing planning hierarchy to offer clarity to all stakeholders regarding the future development plans for each port'.<sup>28</sup>
- 7.26 The Department of Infrastructure stated that despite this, 'progress has been difficult', and commented that a key outcome of the Freight Inquiry was 'the desire from industry for governments to better reflect future port requirements in local and regional planning systems'.<sup>29</sup>

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<sup>25</sup> Australian Government, *National Freight and Supply Chain Strategy*, August 2019, p. 6.

<sup>26</sup> Australian Government, *National Freight and Supply Chain Strategy*, August 2019, p. 6.

<sup>27</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 34.

<sup>28</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, pp. 34–35.

<sup>29</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 35.

7.27 The South Australian Freight Council (SAFC) argued that protection of key transport facilities, such as ports and the corridors that lead to them, are an interlinked requirement for ongoing improvements in transport efficiency. It submitted that:

[P]lanning powers are held by state and local governments, which have competing pressures due to the high proportion of their revenue tied to property development and stamp duty.

There needs to be an increased focus on long term protection of ports and related freight corridors through planning systems in order to protect the operations of these vital economic assets for future generations. This will require national leadership—likely through COAG—and full implementation by all jurisdictions.<sup>30</sup>

7.28 SAFC contended that planning around ports should be based on a 'principle of prior use', such that ports and related operations that have been using these areas for decades 'should not be impeded in continuing to operate by new entrants into these areas'.<sup>31</sup>

7.29 The Chamber of Minerals and Energy of Western Australia (CME) submitted that 'long-term integrated planning is required to support efficient transport connections and intermodal hubs between port precincts with access by multiple users'.<sup>32</sup> It stated further:

The Western Australian resources sector uses a combination of transport modes for both domestic and international trade. In master planning of port precincts, it is important there is consideration of new and emerging industries such as lithium. Unencumbered access between general cargo areas of ports, rail depots and highway road systems should not be overlooked in facilitating commodity movement from pit-to-port, reducing the likelihood of future bottlenecks and congestion caused by poor infrastructure design.

Strategic coordination, planning and design of competing land uses, landside and seaside infrastructure is therefore vital.<sup>33</sup>

7.30 RDA Tasmania and the Tasmanian Logistics Committee noted that, in 2018, TasPorts released its long term masterplan which 'included a vision [for] improving the port infrastructure of Tasmania's major ports'. They noted that this plan aims to improve port access for the existing fleet of vessels; better accommodate the cruise ship market; improve freight movement efficiencies; and provide a platform for the adoption of new technologies into the future.<sup>34</sup>

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<sup>30</sup> South Australian Freight Council, *Submission 21*, p. 3.

<sup>31</sup> South Australian Freight Council, *Submission 21*, p. 4.

<sup>32</sup> Chamber of Minerals and Energy of Western Australia, *Submission 29*, p. 2.

<sup>33</sup> Chamber of Minerals and Energy of Western Australia, *Submission 29*, p. 7.

<sup>34</sup> RDA Tasmania/Tasmanian Logistics Committee, *Submission 8*, p. 5.

*Alternate planning strategies for smaller ships and ports*

7.31 Gilead Logistic Services, an Australian transportation and logistics consultancy, argued that rather than focussing on upgrading existing major port infrastructure, Australia should explore opportunities to develop smaller, automated ports as a means of increasing transport productivity:

Spending an infrastructure dollar on a small automated port has the possibility of offering far higher payback than spending on new high cost coastal rail alignments, coastal heavy axle road upgrades, and large/mega port feeder & development projects of any description where capacity requirements are downgraded after service displacement by more economically efficient direct services.<sup>35</sup>

**Infrastructure constraints at Australian ports***Congestion and encroachment on port land*

7.32 The Department of Infrastructure submitted that increases in container throughput at Australian ports 'have contributed to high levels of traffic congestion in port-linked road systems and amenity and road safety concerns for residents in adjacent communities'. It stated that the reasons for these outcomes are:

- the management of peak demand for container pick up and drop off;
- truck turnaround times at the port;
- congestion at the port and in the areas around the port; and
- the relatively low mode share of rail haulage of containers.<sup>36</sup>

7.33 The SAFC submitted that congestion of transport links to ports is a rising problem for Australia's major container ports, with negative impacts both on businesses and the economy.<sup>37</sup>

7.34 SAFC noted further concern with the growth in residential building being permitted in areas surrounding ports—both new residential developments in areas that were previously commercial or industrial precincts adjacent to ports, and higher residential densities in existing areas close to ports. It stated that these trends raise issues for port operators including:

- Conflict with residents due to port operations externalities (light, noise, traffic etc.).
- Conflict and additional cost due to increased congestion on key roads leading to and from ports.
- Reduced land available for associated port activities such as logistics and warehousing. Industrial activities, while critical to port operations and

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<sup>35</sup> Gilead Logistic Services Pty Ltd, *Submission 1*, pp. 1–2.

<sup>36</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 35.

<sup>37</sup> South Australian Freight Council, *Submission 21*, p. 3.

economic growth, cannot compete with the rates for land developers are willing to pay.

- Reduced options available for future port expansion needs—either due to the land not being available or to port developments not being permitted due to nearby new residential accommodation.<sup>38</sup>

7.35 The Department of Infrastructure stated that efficient supply chains require operational flexibility. This allows for freight movements to occur at all times of the day and for operators to take advantage of reduced road congestion during off-peak times. Given this, the department submitted that industry is concerned with the extent of residential developments located near ports, such as that at Fishermans Bend near the Port of Melbourne, which may inhibit their ability to operate 24 hours a day, 7 days a week.<sup>39</sup>

7.36 RDA Tasmania and the Tasmanian Logistics Committee highlighted that the geographic expansion of some Australian ports, such as the Port of Melbourne, will be limited in the future. They argued that long-term strategic planning between government, shippers, and port authorities is essential to anticipate these constraints and to develop contingencies to help mitigate them.<sup>40</sup>

#### *Dredging and requirements to cater for larger vessels*

7.37 The Department of Infrastructure observed that increasing vessel size has been a trend in the global shipping industry since the introduction of containerisation, and commented that this poses an infrastructure challenge for Australian ports:

Australian ports and port operations may need to make significant adjustments and investment to accommodate future demand for larger ships. Larger ships require deeper waters and longer berths, as well as wider channels and fit-for-purpose loading and unloading facilities and handling capacity. This may place new demands for upgraded port infrastructure, such as cranes, and maintenance, such as dredging. Physical and geographic constraints at some ports may also not be able to accommodate the access requirements for larger ships.<sup>41</sup>

7.38 The Department of Infrastructure noted that few Australian ports are naturally deep, and that a key service provided by ports is to dredge access channels and turning basins to provide appropriate water depths along waterside facilities.<sup>42</sup> It commented that dredging activities have become increasingly problematic in recent years:

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<sup>38</sup> South Australian Freight Council, *Submission 21*, p. 3.

<sup>39</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, pp. 35–36.

<sup>40</sup> RDA Tasmania/Tasmanian Logistics Committee, *Submission 8*, p. 7.

<sup>41</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 38.

<sup>42</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 35.

[C]ommunity opposition and efforts by authorities to protect coastal ecosystems have led to environmental controls on dredging operations to become more stringent, with the potential to increase costs particularly at ports where dredged materials must be now be disposed of on land as opposed to sea as has traditionally been the case.<sup>43</sup>

7.39 Mr Brett Charlton, Chairman of the Tasmanian Logistics Committee, noted that in the Tasmanian context there are potential issues with ship size and harbour depth which will likely necessitate freight from Tasmania continuing to be transhipped via Melbourne rather than directly to international ports:

[T]he growth in the size of vessels and our port capacities for international ships dictates that we will require a coastal service to be able to feed into Melbourne as a hub... We can't get direct access to an international port out of Tasmania in the future, I believe.

...

It's not deep enough. There have been some studies in the past where they've looked at it, and TasPorts's future plan certainly is still keen to look into that. My personal opinion is that, when you look at the size of the vessels from Panamax to Neopanamax and the amalgamation of shipping lines around the world, there seems to be a very big hub sort of model ...<sup>44</sup>

*Lack of appropriate port facilities for roll-on roll-off coastal freight*

7.40 Several submitters and witnesses commented that some Australian ports need to invest in infrastructure to cater for roll-on, roll-off (RORO) cargo if coastal shipping is to become viable around Australia.

7.41 Mr Chris Schultz, General Manager of Business Development and Inland Business for ANL Container Line, stated that a significant barrier to increased coastal shipping on Australia's east coast is the lack of appropriate ports infrastructure for coastal cargo:

Part of [the problem] is access to the ports; privatised ports now [need] to invest in coastal facilities [to] have a RORO—roll-on, roll-off—ramp, which is the most efficient type of loading for coastal cargo because you can load multiple containers at the same time. Those ramps don't exist anymore. I can't charter or buy a ship and get to a RORO ramp in Melbourne, Sydney or Brisbane right now.<sup>45</sup>

7.42 Mr Steve Borg, Executive General Manager, Tasmania and Shipping at Toll Group, told the committee that when considering whether Toll could provide a freight shipping service from Brisbane to Northern Queensland, one key

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<sup>43</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 35.

<sup>44</sup> Mr Brett Charlton, Chairman, Tasmanian Logistics Committee, *Committee Hansard*, 13 March 2019, pp. 27–28.

<sup>45</sup> Mr Chris Schultz, General Manager, Business Development and Inland Business, ANL Container Line Pty Ltd, *Committee Hansard*, 13 March 2019, p. 19.

impediment was the need for port upgrades, including the capability for ports to take RORO freight.<sup>46</sup>

#### *Capacity for cruise ship berthing in Sydney*

7.43 The Cruise Lines International Association (CLIA) submitted that while the cruise industry has experienced strong growth in Australia in recent years, future growth is threatened due to the limited availability of berthing facilities in Sydney.<sup>47</sup> CLIA noted that the NSW government has committed to developing a strategic business case for the development of a third cruise terminal in Sydney, and urged the Australian government to partner with this initiative and contribute funding to the development of such a terminal as a national infrastructure priority.<sup>48</sup>

#### *Interaction with other modes of freight transport*

7.44 Appropriate connectivity between different modes of transport is critical to the efficiency of freight movements in Australia. Ports Australia observed in its submission that the effective use of rail, road and shipping in this task 'can lead to optimal social and economic outcomes'.<sup>49</sup>

7.45 The committee heard that each freight mode 'can be complementary as rail and shipping for example, will generally require road freight at either end of the supply chain'.<sup>50</sup> As noted in previous chapters, however, domestic freight movement in Australia is heavily skewed towards road and rail transport.

7.46 Ports Australia advocated for 'a balance of all three transport modes', and observed that transport connectivity across the transport modes is a key part of Australia's ports. It stated that when such connectivity is lacking at ports, this can result in significant economic costs and unnecessary delays in the movement of goods.<sup>51</sup>

7.47 Ports Australia described specific issues that decrease transport connectivity at ports. In relation to roads connectivity, issues faced include: turning performance of freight vehicles; road space requirements; entry length onto main roads and highways; approach visibility; and vertical (overhead) clearance.<sup>52</sup> Further:

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<sup>46</sup> Mr Steve Borg, Executive General Manager, Tasmania and Shipping, Toll Group, *Committee Hansard*, 14 March 2019, p. 28.

<sup>47</sup> Cruise Lines International Association, *Submission 24*, p. 8.

<sup>48</sup> Cruise Lines International Association, *Submission 24*, p. 8.

<sup>49</sup> Ports Australia, *Submission 18*, p. 4.

<sup>50</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 43.

<sup>51</sup> Ports Australia, *Submission 18*, p. 4.

<sup>52</sup> Ports Australia, *Submission 18*, p. 4.

An example of this lack of connectivity is illustrated when bulk grain goods are diverted from the Port of Gladstone through to the Port of Townsville as road trains are not able to enter the Port at Gladstone due to a lack of suitable road infrastructure. Synergy Economic Consulting estimates the increased transport costs of traversing an additional 900 kilometres (circa) to be around \$3,000 per day for a typical road movement of a B Double road train between Gladstone and Townsville (this includes no adjustment for a backhaul movement).<sup>53</sup>

- 7.48 In relation to rail connectivity, Ports Australia stated that the 'biggest concern is the underutilisation of the network for freight movement to and from the port, impacting the ability of shipping to be effective':

This has occurred for various reasons including, port-rail interface issues (e.g. a lack of adequate below-rail infrastructure, lack of flexibility in train windows and unreliable train departure and arrival times), conflicts with passenger movements on the same lines, inconsistent state and territory network regulations and operating conditions, and maintenance and investment costs that are not supported by required utilisation rates.<sup>54</sup>

- 7.49 Ports Australia argued that it is critical to reform railway access to ports in order to maximise the network capacity:

Current access requirements add significant costs and impediments to railway operations. These impediments include high administrative and compliance costs, constraints on the infrastructure providers' ability to deliver and price service efficiently, reduced incentives to invest in infrastructure facilities and inefficient investment in related markets.<sup>55</sup>

- 7.50 SAFC contended that prioritising and developing rail connectivity to ports will help address congestion and other landside issues facing freight transport:

Rail—and in particular short haul rail with appropriately placed intermodal terminals—is one of the solutions available to ease the pressures outlined above. Rail transport reduces road congestion, and facilitates the efficient use of cheaper land distant from ports for warehousing and logistics activities. Government planning should encourage short haul rail activities, and protect both current and future rail corridors for 24hr operation.<sup>56</sup>

### **Reforming funding arrangements for other transport modes**

- 7.51 The ACCC commented on the way roads are funded and priced in Australia compared to other transport modes, such as rail. It argues that this has implications for the efficiency by which roads are provided, priced, and used, and also undermines confidence in the way that heavy vehicle road usage

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<sup>53</sup> Ports Australia, *Submission 18*, p. 4.

<sup>54</sup> Ports Australia, *Submission 18*, p. 4.

<sup>55</sup> Ports Australia, *Submission 18*, pp. 4–5.

<sup>56</sup> South Australian Freight Council, *Submission 21*, p. 4.

prices are determined. It notes that over the last decade, the argument for reform has only strengthened:

It has now been over ten years since the Productivity Commission called for reforms to the way that roads are funded, following its review of road and rail freight infrastructure pricing. During this time, the academic and policy arguments for reform have only strengthened with various publicly and privately-funded reports and inquiries advocating for change, most notably the 2015 final report of the Competition Policy Review.<sup>57</sup>

7.52 As noted in chapter 3, the ACCC expressed support for implementing proposed reforms whereby road charges for heavy vehicles would be determined by an independent regulator instead of governments:

[This] would improve confidence that heavy vehicles are paying an appropriate price for the use of roads. In turn, it would also provide a more informed basis for the choice of efficient transport mode for moving freight within Australia.<sup>58</sup>

## Port services

7.53 The committee heard evidence relating to the services offered by Australian ports, with a particular focus on the impact of various fees and charges levied on ship owners and freight operators for utilising ports services and infrastructure.

### *Port fees and charges*

7.54 The Department of Infrastructure explained that charges are incurred for all ships entering a port, based on tonnage and volume and the duration of time spent in port. These can be differentiated into ship-based charges (paid by ship owners for a port visit once the ship comes into harbour) and cargo-based charges, which are levied on the volume of cargo to be loaded.<sup>59</sup> The Department of Infrastructure provided a breakdown of typical charges, shown in Table 7.2.

**Table 7.2 Port Charges**

<b>Ship-based Charges</b>	
Conservancy / Navigation	Navigation service charges levied by public authorities, which cover calls by a vessel at one or more ports over a specified period.
Pilotage	Paid per movement when using the services of a

<sup>57</sup> Australian Consumer and Competition Commission, *Submission 4*, p. 6.

<sup>58</sup> Australian Consumer and Competition Commission, *Submission 4*, p. 7.

<sup>59</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 36.

	marine pilot in a pilotage area.
Towage	Levied by tug boat operators for tugs required for berthing, unberthing and shifting inside the harbour.
Mooring/Unmooring (Line Handling)	Charged to vessels using mooring and unmooring services when entering or leaving the port, or for movements in the port, levied by the port authority, stevedoring company or other providers.
Tonnage	Based on the gross tonnage of the vessel levied by the port authority to recover costs and resources associated with provision and maintenance of port and harbour facilities.
Berth Hire / Site Occupation	Charged to vessels that remain alongside a port berth, including time when not working cargo. May be included in stevedore charge.
Security	Recovery of cost of providing maritime security of common user and waterside areas.
<b>Cargo-based charges</b>	
Wharfage	Levied by the port authority on each unit of cargo for accommodation at wharf provided during loading or storage.
Cargo storage	Levied by port authority on goods remaining on the wharf, berth or separate from the port. May involve additional loading expenses.
Port Access Charge / Harbour Dues	Levied on specific commodities that have required investment in significant capital projects.
Stevedoring	Levied by stevedoring companies for handling cargo.

Source: Department of Infrastructure, Regional Development and Cities, *Submission 15*, pp. 36–37.

7.55 The Department of Infrastructure stated that port operators may also earn income from leasing land and facilities to port tenants including terminal operators, stevedoring firms, cargo handling companies, tugboat operators and mooring service providers, who in turn charge users on a fee for service basis.<sup>60</sup>

<sup>60</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 37.

7.56 Primary responsibility for economic regulation of charges at ports rests with state and territory governments, which generally prefer price monitoring and transparency regimes rather than economic regulation of prices.<sup>61</sup> In addition to state and territory regulation, the ACCC has responsibilities for:

- monitoring the prices, costs and profits of container terminal operator companies at the ports of Adelaide, Brisbane, Burnie, Fremantle, Melbourne and Sydney (Botany) through a direction from the federal Treasurer under Part VIIA of the *Competition and Consumer Act 2010* (CC Act); and
- monitoring and enforcing the Port Terminal Access (Bulk Wheat) Code of Conduct, a mandatory Code prescribed under the CC Act which regulates the conduct of bulk wheat port terminal operators.<sup>62</sup>

### **General comments on appropriateness of ports charges in Australia**

7.57 The Centre for Supply Chain and Logistics at Deakin University commented on the necessity of having fair and appropriate pricing arrangements in place at Australia's ports:

[P]orts need to act responsibly in their pricing and charging policies. A number of ports in Australia have recently been privatised and there seems to be little oversight of their pricing mechanisms since privatisation. This has resulted in recent steep increases in charges levied by port companies and other port users operating in this environment. Most ports operate as a monopoly and to ensure they do not abuse this position, oversight by the responsible government agency is required.<sup>63</sup>

7.58 The CME submitted:

As ports are natural monopolies, CME is supportive of ongoing reforms to increase the governance and transparency of how ports operate. An increase in fees and charges levied at ports should be determined by considering taxation principles such as willingness to pay and benefits-received, etc. This will provide port users with increased certainty on how fees are set on an ongoing basis.<sup>64</sup>

### **Container and stevedore charges**

7.59 Container stevedores are responsible for lifting containerised cargo on and off container ships at ports, and play a crucial role in the supply chain for seaborne cargo.

7.60 Stevedore firms compete for contracts to supply their services to shipping lines. In the Australian industry, shipping lines generally negotiate service agreements with stevedoring companies for a two or three year term, and use

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<sup>61</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 38.

<sup>62</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 38.

<sup>63</sup> Centre for Supply Chain and Logistics, *Submission 11*, p. 6.

<sup>64</sup> Chamber of Minerals and Energy of Western Australia, *Submission 29*, p. 7.

the same stevedore for the same service in all Australian ports.<sup>65</sup> The Department of Infrastructure submitted that this preference is 'due to the favourable rates offered for volume as well as a view that this model allows the lines to gain better berthing windows'.<sup>66</sup>

- 7.61 The Department of Infrastructure observed further that 'in the absence of considerable dissatisfaction or a compelling alternative', shipping lines tend to re-sign rather than change stevedore; moreover, there tends to be limited variation in price for similar commercial conditions across stevedoring companies.<sup>67</sup>
- 7.62 Two stevedoring firms, DP World and Patrick, accounted for approximately 86 per cent of the national share of stevedoring crane lifts in 2017–18.<sup>68</sup> This share has declined in recent years due to the entry of new stevedoring companies on the eastern seaboard, namely: Hutchison, which commenced operations in 2013 and now operates terminals in Sydney and Brisbane; and VICT, which entered in 2017 and operates a terminal at Melbourne's Webb Dock.<sup>69</sup>

*Introduction of 'infrastructure access charges' imposed by stevedores<sup>70</sup>*

- 7.63 A number of submitters and witnesses expressed concern at the level of charges imposed by stevedoring companies operating at Australian ports, and increases to those charges in recent years.
- 7.64 The committee heard that in recent years, stevedore companies have changed how they structure their fees. The Department of Infrastructure submitted that traditionally, the costs charged by stevedores to shipping lines under their service agreements were recovered by the shipping lines through commercial arrangements with the shipping cargo owners (that is, importing and exporting companies). Since 2010, however, stevedores have begun rebalancing their charges towards recovering an increased proportion of revenue from infrastructure surcharges, which are levied on land-side transport operators when they pick up or drop off cargo containers at ports.<sup>71</sup>

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<sup>65</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 37.

<sup>66</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 37.

<sup>67</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, p. 37.

<sup>68</sup> Australian Competition and Consumer Commission, *Container stevedoring monitoring report 2017-18*, October 2018, p. 15.

<sup>69</sup> Australian Competition and Consumer Commission, *Container stevedoring monitoring report 2017-18*, October 2018, pp. 15–16.

<sup>70</sup> Infrastructure access charges are also known as terminal access charges.

<sup>71</sup> Department of Infrastructure, Regional Development and Cities, *Submission 15*, pp. 37–38.

7.65 The ACCC noted that while in 2013 only stevedores in Brisbane applied an infrastructure charge, since 1 July 2018, all stevedores in Adelaide, Brisbane, Fremantle, Sydney and Melbourne have applied an infrastructure charge. It stated:

The significant increases in the infrastructure charges have been led by stevedore DP World, with other stevedores generally being quick to follow. The increase in charges has been most notable in Melbourne, where DP World's charge has increased from \$3.45 per container in April 2017 to \$85.30 from 1 January 2019.<sup>72</sup>

7.66 A summary of recent increases to stevedore infrastructure charges (now known also as terminal access charges) at major Australian ports was reported by the ACCC in October 2020, and is shown in Figure 7.2.

**Figure 7.2 Changes in terminal access charges per full container**

		DP World		Patrick		Hutchison			VICT			Flinders Adelaide <sup>3</sup>	
		Jun-19	Jun-20	Jun-19	Jun-20	Jun-19	Jun-20	Since <sup>1</sup>	Jun-19	Jun-20	Since <sup>2</sup>	Jun-19	Jun-20
<b>Adelaide</b>	Imports											\$28.96	\$29.60
	Exports											+1.6%	+2.2%
<b>Brisbane</b>	Imports		\$109.50 +68.1%	\$71.50 +86.9%	\$110.00 +53.8%	\$33.10	\$50.00 +51.1%	\$94.78 +89.6%					
	Exports	\$65.15 +68.1%	\$79.50 +22.0%	\$82.50 +15.4%									
<b>Fremantle</b>	Imports	\$8.22	\$45.00 +447.4%	\$7.50	\$50.00 +566.7%								
	Exports	+0.0%		+0.0%	\$25.00 +233.3%								
<b>Melbourne</b>	Imports	\$85.30 +73.4%	\$125.00 +46.5%	\$82.50 +73.7%	\$125.80 +52.5%				\$85.00 +77.1%	\$121.80 +43.3%	\$131.03 +7.6%		
	Exports		\$79.50 -6.8%	\$82.50 +0.0%									
<b>Sydney</b>	Imports	\$63.80	\$112.10 +75.7%	\$77.50 +61.5%	\$114.50 +47.7%	\$35.84	\$63.11 +76.1%	\$88.83 +40.8%					
	Exports	+69.5%	\$79.50 +24.6%	\$82.50 +6.5%		+243.0%							

Note: Prices are exclusive of GST.  
<sup>1</sup> Hutchison applied a new charge in Brisbane from 27 July 2020 and in Sydney from 8 September 2020.  
<sup>2</sup> VICT applied a new charge from 1 August 2020.  
<sup>3</sup> Flinders Adelaide charges were effective from 1 July each year.

Source: ACCC, *Container stevedoring monitoring report 2019–20, October 2020*, p. 16.

7.67 Submitters and witnesses pointed to several cost pressures that had underpinned stevedores' efforts to recover more revenue from land-side infrastructure charges, namely:

- falling prices negotiated by stevedores in their service agreements with shipping lines, due to:
  - increasing competition between stevedores (primarily as a result of the introduction of new stevedores VICT and Hutchison into the market in recent years); and

<sup>72</sup> Australian Competition and Consumer Commission, *Submission 4*, pp. 3–4.

- increased bargaining power of shipping lines resulting from consolidation within that sector;
- increased operating costs for stevedores, including rents charged by recently privatised ports, and increased council rates and land taxes.<sup>73</sup>

*Impact of stevedore infrastructure charges on the supply chain*

7.68 The committee heard that land transport operators are passing on the costs of stevedore infrastructure charges to cargo owners, generally with an administrative fee.<sup>74</sup>

7.69 The ACCC explained that land transport operators and cargo owners have very little control over the infrastructure charges they are paying:

In the supply chain, shipping lines choose the stevedore that will service the ship. Land transport operators do not have a choice and must go to the stevedore to which they are directed. Land transport operators therefore cannot choose a stevedore that has a lower infrastructure charge. Cargo owners have a choice of which shipping line and land transport operator to use, but not the stevedore.<sup>75</sup>

7.70 Mr Travis Brooks-Garrett of the Australian Peak Shippers Association (APSA) commented:

[A]s a shipper or as a transport operator, you don't get to pick which terminal you pick your box up at. What's happened is that it's an incentive for a shipping line to use a terminal where there's a higher infrastructure charge, because those costs have been passed to the land side. If you're an importer—if you're a Woolworths or a Target—the shipping line will say, 'You're picking your box up from this place,' and then you just have to incur whatever the gate fee is. If you're an exporter, it's the same thing if you want to drop your box off. Market dynamics don't get a run.<sup>76</sup>

7.71 The ACCC submitted that increasing infrastructure charges mean that stevedores are able to 'earn a growing proportion of their revenues in a market which their market power is stronger relative to the more competitive market in which they provide services to shipping lines', and concluded:

Given this, there is an incentive for stevedores to increase the charges. Without constraint, they may be able to set the charges at levels greater than necessary to recover costs and earn an adequate rate of return. The outcome may be that land transport operators bear the additional cost if

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<sup>73</sup> Australian Competition and Consumer Commission, *Submission 4*, p. 4; Freight & Trade Alliance and the Australian Peak Shippers Association, *Submission 9*, p. 6; Mr Peter van Duyn, Maritime Logistics Expert, Centre for Supply Chain and Logistics, *Committee Hansard*, 13 March 2019, p. 63.

<sup>74</sup> Mr Travis Brooks-Garrett, Director, Secretariat, Australian Peak Shippers Association, *Committee Hansard*, 13 March 2019, pp. 42–43.

<sup>75</sup> Australian Competition and Consumer Commission, *Submission 4*, p. 4.

<sup>76</sup> Mr Travis Brooks-Garrett, Director, Secretariat, Australian Peak Shippers Association, *Committee Hansard*, 13 March 2019, *Committee Hansard*, 13 March 2019, p. 43.

they cannot pass them on, or where they do, that importers and exporters will pay higher charges than otherwise. It may be only the shipping lines that benefit from the increased competition between stevedores at the east coast ports.<sup>77</sup>

*Impact of increasing infrastructure charges on Australian businesses*

7.72 Freight and Trade Alliance (FTA) and the APSA described recent increased stevedore infrastructure charges as 'a disaster for Australian exporters'.<sup>78</sup>

Mr Brooks-Garrett outlined the impacts on some specific businesses:

For one major Australian exporter of flour, starch, gluten and stockfeed, shipping 22,140 containers in 2018, these new charges have cost them \$833,571 in extra costs. With the infrastructure charges increasing again [in March 2019] this will increase the annual impact on just these charges on their business to \$1,595,000 in 2019. For one major Australian exporter of paper and recyclables, shipping 42,122 containers in 2018, these new charges cost them \$1,585,893; that number will increase to \$3,062,400 in 2019... For one major Australian exporter of grain and meat in regional New South Wales, one of this area's largest employers, shipping 18,016 containers in 2018, these new charges cost them \$678,302 per annum. At a time of drought, even with their softer export volumes this year, with a soft grain season, their 2019 increase will still see them paying \$893,200 in extra charges. It is a crisis for Australian exporters[.]<sup>79</sup>

7.73 FTA and APSA argued that the burden of increased infrastructure charges is being exacerbated by shipping lines refusing to pass on concomitant savings to shippers:

[S]hipping lines have increased the Terminal Handling Charges that they are charging shippers, at a time when Australian shippers are now also paying the stevedores for the same in-terminal services via landside "infrastructure charges". Shippers are paying twice for the same services, and both of those prices are increasing. It is unsustainable, it is without international parallel, and it requires the urgent intervention of the Australian Government.<sup>80</sup>

7.74 RDA Tasmania and the Tasmanian Logistics Committee submitted that increased infrastructure charges from stevedores leave Tasmanian exporters particularly disadvantaged:

Left without any contractual or regulatory oversight, these [increased infrastructure] charges have left Tasmania increasing susceptible to loss in

<sup>77</sup> Australian Competition and Consumer Commission, *Submission 4*, p. 4.

<sup>78</sup> Freight and Trade Alliance/Australian Peak Shippers Association, *Submission 9*, p. 6.

<sup>79</sup> Mr Travis Brooks-Garrett, Director, Secretariat, Australian Peak Shippers Association, *Committee Hansard*, 13 March 2019, p. 42.

<sup>80</sup> Freight and Trade Alliance/Australian Peak Shippers Association, *Submission 9*, p. 6.

market share and poorer economic outcomes due to an inability to remain competitive in overseas markets.<sup>81</sup>

- 7.75 Their submission argued that without swift and direct action to address this issue, 'Australian economic performance will suffer and this in turn could potentially lead to job losses in major industry sectors and loss of market share internationally'. It recommended that legislative and regulatory action be taken to protect against any unreasonable cost increases by port operators.<sup>82</sup>
- 7.76 The Tasmanian government submitted similarly that increased infrastructure charges 'will likely impact supply chain costs for Tasmanian businesses who tranship containerised goods through the Port of Melbourne', and noted that it had made various representations on this issue and would 'continue to work with all parties to ensure that supply chains remain cost effective'.<sup>83</sup>
- 7.77 Given the concerns about the direct impacts of these charges on Australian businesses, and the broader potential impacts on the freight supply chain in Australia, some submitters called for stevedore infrastructure charges to be directly regulated.<sup>84</sup>
- 7.78 The ACCC noted that regulatory responsibility for the economic regulation of stevedores and ports rests with state governments, and suggested a detailed examination of increased stevedore infrastructure charges by state governments 'and if warranted, a regulatory response'.<sup>85</sup>

### **Port delays, container management and demurrage practices**

- 7.79 The committee heard concerns relating to industry practices around the detention of shipping containers and related delays at Australian ports.
- 7.80 CSL Australia submitted that congestion at berths and ports around Australia 'can lead to delays of up to 20 days or more' for coastal vessels, with congestion attributable to demand spikes, vessel schedules, weather events and other unforeseen factors.<sup>86</sup> The cost of port delays is borne by the cargo owner, whereby they must pay demurrage and/or detention fees to the shipping line when contractual timeframes for loading and unloading containers are exceeded.
- 7.81 As mentioned in chapter 3, CSL Australia highlighted there is a significant disparity in the demurrage fees charged by foreign vessels chartered to ship

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<sup>81</sup> RDA Tasmania and the Tasmanian Logistics Committee, *Submission 8*, pp. 8–9.

<sup>82</sup> RDA Tasmania/Tasmanian Logistics Committee, *Submission 8*, p. 9.

<sup>83</sup> Tasmanian Government, *Submission 26*, p. 6.

<sup>84</sup> RDA Tasmania/Tasmanian Logistics Committee, *Submission 8*, p. 9; Freight & Trade Alliance/Australian Peak Shippers Association, *Submission 9*, p. 6.

<sup>85</sup> Australian Competition and Consumer Commission, *Submission 4*, p. 4.

<sup>86</sup> CSL Australia, *Submission 16*, p. 4.

cargo to Australia, and those charged by Australian vessels, with fees for Australian vessels significantly higher due to the need to recover operating costs.<sup>87</sup> It argued that establishing Australian vessel priority at Australian ports would benefit Australian cargo owners by increasing the stability of freight costs and supply chains.<sup>88</sup>

7.82 FTA and APSA commented that container detention and demurrage practices are becoming an increasing issue in Australia and other parts of the world. They argued that while shipping lines 'have every right to be recompensed for extended equipment use, shippers should not be forced to pay for events that are outside of their control'.<sup>89</sup> FTA and APSA gave some examples of recent practices in Australia that give cause for concern, namely:

- Australian shippers being charged container detention fees by some shipping lines for the duration of an industrial dispute at Melbourne's Webb Dock, during which time it was impossible for shippers to collect their containers from the port;
- some shipping lines continuing to charge demurrage and detention fees to Australian shippers for containers held at ports on Christmas Day, despite there being limited ability for shippers to collect containers on that day; and
- shipping lines charging detention fees for late container de-hire in cases where the Australian Border Force has initiated "border holds" for specific containers or containers are being inspected at the Container Examination Facility.<sup>90</sup>

7.83 FTA and APSA noted further that there is a lack of clarity in how shipping lines' detention and demurrage policies are applied and how disputes are settled, with several shipping lines 'having no written policy on how to handle disputed invoices and no clear policy or process in how they should be managed'.<sup>91</sup>

7.84 It was noted that regulators in the United States have begun proactively responding to concerns in this area by opening an investigation into conditions and practices relating to detention, demurrage, and free time in international ocean borne commerce.<sup>92</sup> FTA and APSA stated 'Australian shippers strongly believe that regulators should follow the lead of the U.S. to develop standard and transparent industry practices'.<sup>93</sup>

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<sup>87</sup> CSL Australia, *Submission 16*, p. 4.

<sup>88</sup> CSL Australia, *Submission 16*, p. 4.

<sup>89</sup> Freight and Trade Alliance/Australian Peak Shippers Association, *Submission 9*, p. 7.

<sup>90</sup> Freight and Trade Alliance/Australian Peak Shippers Association, *Submission 9*, pp. 7–8.

<sup>91</sup> Freight and Trade Alliance/Australian Peak Shippers Association, *Submission 9*, p. 7.

<sup>92</sup> Freight and Trade Alliance/Australian Peak Shippers Association, *Submission 9*, p. 7.

<sup>93</sup> Freight and Trade Alliance/Australian Peak Shippers Association, *Submission 9*, p. 8.

### Passenger fees at Australian ports

7.85 CLIA submitted that, relative to many other global cruise destinations, 'Australia is a high cost jurisdiction for cruise operators', noting port fees in particular:

Port fees in the key gateway port of Sydney are currently around \$40 per passenger per port visit, meaning that a ship such as *Ovation of the Seas* (at maximum passenger capacity of 4,900 passengers) is required to pay a base berthing fee of almost A\$200,000 per visit. This level of fees then tends to be seen as a benchmark by other key Australian ports. Homeporting a cruise ship in Australia therefore carries an enormous cost, since cruise ships carry out continual itinerary cycles to and from the port, usually returning to the base port every 7-14 days.<sup>94</sup>

7.86 CLIA noted further that the rate of Australia's Passenger Movement Charge is among the highest in the world, and expressed concern at 'the high level of cost being imposed on cruise operators and the threat this poses to the competitiveness of Australia as both a location for ships to be homeported and as a destination'.<sup>95</sup>

### Committee view and recommendations

7.87 The committee notes the significant port privatisations that have occurred over the last decade, and is concerned that this transfer of ownership to the private sector has not been accompanied by adequate regulation. Although the committee recognises the potential economic benefits that can result from the privatisation of government assets, it is the committee's strong view that those assets representing natural monopolies, such as port infrastructure, be adequately regulated to promote optimal outcomes for the Australian economy.

### Recommendation 25

**7.88 The committee recommends that the Australian government reviews the regulatory arrangements for Australia's privatised ports to ensure that they are fit-for-purpose and achieve optimal outcomes for the broader economy.**

7.89 The need for long-term planning and capacity building at Australian ports is essential. Although the committee notes the extensive work already progressed to deliver a nationally coordinated freight and supply chain, it is obvious that there is an ongoing need to better integrate the ports sector and planning systems across governments.

7.90 The committee notes that this issue is particularly acute where residential developments have progressed in areas surrounding key port infrastructure. As highlighted by inquiry participants, this commonly results in conflicts

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<sup>94</sup> Cruise Lines International Association, *Submission 24*, p. 9.

<sup>95</sup> Cruise Lines International Association, *Submission 24*, p. 9.

between port operators and local residents; increased congestion on shared infrastructure, such as roads; and reduced land available for existing port activities and expansion into the future.

#### **Recommendation 26**

**7.91 The committee recommends that the Australian government works with state and territory governments to review land usage around Australia's key ports, with the aim of reducing congestion and ensuring adequate land is available for future port expansion.**

#### **Recommendation 27**

**7.92 The committee recommends that the Australian government works with state and territory governments to review the National Ports Strategy to ensure that there is a nationally consistent approach to managing and regulating port infrastructure and port services in ways that support the development of Australian shipping.**

7.93 The committee notes the widespread concern of shippers regarding container detention and demurrage practices in Australia and overseas. The committee highlights evidence indicating that there is a complete lack of clarity on how container detention and demurrage practices are applied and how disputes are settled.

7.94 The committee is very concerned about the market power of stevedoring companies and the increasing prevalence of infrastructure charges imposed by them at Australian ports. As emphasised by inquiry participants, these charges have had an adverse impact on Australian exporters, and the committee acknowledges calls for them to be appropriately regulated by state governments.

#### **Recommendation 28**

**7.95 The committee recommends that the Australian government works with state and territory governments to investigate the increased use of infrastructure charges by stevedoring companies at Australian ports and to assess whether they should be regulated.**



# Coalition Senators - Dissenting Report

- 1.1 We wish to thank all witnesses who participated in this Inquiry and gave their time, expertise and effort to provide evidence to this Committee. This Inquiry has spanned across the 45<sup>th</sup> and 46<sup>th</sup> Parliaments, with all the evidence from the original inquiry being made available to the succeeding one. From the outset of their involvement, Senators McDonald and Rennick were optimistic about, and excited by, the prospect of investigating the revitalization of the Australian shipping industry.
- 1.2 With approximately 99% of Australian exports and a significant portion of domestic freight depending on maritime transport, the benefits of a strong and sustainable shipping industry are obvious. Unfortunately, the Australian shipping industry is currently in decline and has been for some time. Despite the length of the inquiry and the volume of evidence, the Coalition Senators do not agree with the overall tone and position of the recommendations outlined in the report. Furthermore, we believe that many of these recommendations will lead to greater industry decline.
- 1.3 Some of the most worrying recommendations include wage manipulations, possible changes to tax concessions, increasing the power of overseeing authorities, increasing training requirements and qualifications for crew as well as other increases in burdensome bureaucracy. When considering such recommendations it is important to acknowledge that cost and regulatory burden are the predominant causes of Australian shipping's inability to compete internationally.
- 1.4 It is our belief that many of the proposed recommendations will increase regulation, decrease efficiency and further increase costs for businesses and end-customers. This would have devastating effects on the industry and the wider economy. Increased transport costs for shipping would see even greater substitution towards road and rail transport. This will further congest land transport bottlenecks and increase existing infrastructure stresses. Reduced throughput and higher marginal costs would also likely jeopardise the viability of ports and the jobs they provide.
- 1.5 An affordable, competitive shipping industry is not just about direct jobs; there are many other economic benefits, such as improving the viability of manufacturing. As it stands container transport rates are often higher between Australian capital cities than those between major international locations and Australian ports. Such prohibitive maritime transport costs are undermining investor confidence in other, seemingly unrelated industries, particularly those located in rural/regional areas.

- 1.6 With Australia facing a “freight challenge” over coming decades, which will see the freight task increase by over 35% by 2040, the need to increase our transportation capacity has never been more important. Sea transport should be of particularly interest as a solution, because aside from the ports themselves there are very little infrastructure costs incurred by government which will also reduce costs for consumers. In an unmanipulated economic/industrial environment, maritime transport should be extremely efficient.
- 1.7 COVID-19 has very clearly demonstrated the importance of maintaining critical supply lines within Australia. Throughout the pandemic the maritime part of our supply chain has performed well and has continued the vital function of importing and exporting supplies. What this event has done though, is prove once again the substantial value of this industry and of the need to ensure it remains sustainable.
- 1.8 We are great supporters of Australian shipping and believe it is critically important to the success of this country. We cannot though support many of the recommendations within this report for fear of inadvertently further burdening and weakening the industry.

**Senator Susan McDonald**  
**Deputy Chair**

**Senator Gerard Rennick**  
**Member**

# Appendix 1

## Submissions and additional information

### *Submissions received during the 45<sup>th</sup> Parliament*

- 1 Gilead Logistics Services Pty Ltd
- 2 Bioenergy Australia
- 3 Department of Home Affairs
- 4 Australian Competition & Consumer Commission
- 5 Shipping Australia
- 6 Queensland Government
- 7 ANL Container Line Pty Ltd
- 8 RDA Tasmania and Tasmanian Logistics Committee
- 9 Freight & Trade Alliance (FTA) and the Australian Peak Shippers Association (APSA)
- 10 Maritime Union of Australia Division, CFMMEU
- 11 Centre for Supply Chain and Logistics
- 12 Australian Maritime Officers Union
- 13 Maritime Industry Australia Ltd
- 14 Toll Group
- 15 Department of Infrastructure, Regional Development and Cities
- 16 CSL Australia
- 17 Minerals Council of Australia
- 18 Ports Australia
- 19 Australian Aluminium Council Ltd
- 20 Australian Institute of Petroleum
- 21 SA Freight Council
- 22 Department of Education and Training
- 23 Australian Maritime College
- 24 Cruise Lines International Association
- 25 Department of the Environment and Energy
- 26 Tasmanian Government
- 27 Australian Institute of Marine and Power Engineers (AIMPE)
- 28 Australian Maritime Safety Authority
- 29 The Chamber of Minerals and Energy of Western Australia

### *Submissions received during the 46<sup>th</sup> Parliament*

- 30 Woodside Energy Ltd



# Appendix 2

## Public hearings and witnesses

*Wednesday, 13 March 2019*

Stamford Plaza

111 Little Collins Street

Melbourne

*Maritime Industry Australia*

- Ms Teresa Lloyd, Chief Executive Officer
- Ms Sarah Cerche, Director, Workplace Relations Domestic and International

*ANL*

- Mr Chris Schultz, General Manager, Business Development and Inland Business
- Mr Ian Redfern, General Manager, Projects

*Regional Development Australia (Tasmania) and Tasmanian Logistics Committee*

- Mr Mike Brindley, Regional Development (North West), RDA Tasmania
- Mr Brett Charlton, Chairman, Tasmanian Logistics Committee
- Mr Craig Perkins, CEO and Director of Regional Development, RDA Tasmania

*Australian Peak Shippers Association (APSA) and Freight and Trade Alliance (FTA)*

- Mr Neil Chambers, Director, Container Transport Alliance Australia
- Mr Travis Brooks-Garrett, Director, APSA Secretariat

*Maritime Union of Australia (MUA)*

- Mr Padraig Crumlin, Divisional National Secretary
- Mr Will Tracey, Deputy National Secretary

*Centre for Supply Chain and Logistics, Deakin University*

- Dr Hermione Parsons, Industry Professor and Director
- Mr Peter Van Duyn, Maritime Logistics Expert

*Thursday, 14 March 2019*

Stamford Plaza

111 Little Collins Street

Melbourne

*Australian Maritime Safety Authority*

- Mr Mick Kinley, Chief Executive Officer
- Mr Gary Prosser, Deputy Chief Executive Officer
- Mr Wayne Cooper, Manager, Operations South
- Mr Brad Groves, General Manager, Standards

*Australian Maritime Officers Union*

- Mr Jarrod Moran, Senior Industrial Officer

*TOLL Group*

- Mr Steve Borg, Executive General Manager, Tasmania and Shipping
- Ms Susannah Thelander, Project Director, New Vessels Project
- Ms Sophie Finemore, Senior Manager, Government Relations

*Department of Infrastructure, Regional Development and Cities*

- Ms Pip Spence, Deputy Secretary
- Mr Andrew Johnson, General Manager, Maritime and Shipping Branch

*Department of Home Affairs*

- Ms Leanne Loan, Assistant Secretary, Maritime, Training and Card Security Branch, Aviation and Maritime Division
- Mr Matthew Duckworth, Assistant Secretary, Customs and Border Revenue, Infrastructure, Transport Security and Customs Group
- Dr Maria Fernandes Dias, A/g Assistant Secretary Compliance and Community Protection Policy Branch Immigration, Citizenship and Multiculturalism Policy Division, Policy Group
- Mr Gerard Rodrigues, Superintendent, Customs Compliance and Operations, ABF

*Thursday, 6 February 2020*  
Australian Parliament House  
Canberra

*Seafarers' Rights International*

- Ms Deirdre Fitzpatrick, Executive Director

*Seafarers' International Union of North America*

- Mr Dave Heindel, Secretary Treasurer

*Seafarers' International Union of Canada*

- Mr Jim Given, President

*Maritime Union of Australia*

- Mr Ian Bray, Assistant National Secretary

*Maritime Union of New Zealand*

- Mr Joe Fleetwood, National Secretary

*International Transport Workers' Federation*

- Ms Jacqueline Smith, Maritime Co-ordinator

*Norwegian Seafarers' Union*

- Mr Johnny Hansen, President

*Tuesday, 8 September 2020*  
Australian Parliament House  
Canberra

*Institute for Integrated Economic Research Australia*

- Air Vice-Marshal (Retd) John Blackburn AO, Board Chair
- Ms Cheryl Durrant, Fellow

*Professor Ross Garnaut, Private Capacity*

*Department of Defence*

- Mr Tony Dalton, Deputy Secretary – National Naval Shipbuilding

*Coral Expeditions*

- Mr Mark Fifield, Group General Manager – Director
- Mr Jeff Gillies – Commercial Director

*Maritime Union of Australia*

- Mr Pdraig Crumlin, National Secretary
- Mr Jason Campbell, Tasmanian Branch Secretary-Vice President
- Mr Paul Garrett, Sydney Branch Assistant Secretary

*Australian Maritime Safety Authority (AMSA)*

- Mr Mick Kinley, Chief Executive Officer
- Ms Sachi Wimmer, Deputy Chief Executive Officer
- Mr Allan Schwartz, General Manager Operations

*Australian Transport Safety Bureau (ATSB)*

- Mr Greg Hood, Chief Commissioner
- Mr Colin McNamara, Chief Operating Officer
- Mr Patrick Hornby, General Counsel
- Mr Stuart Macleod, Director – Transport Safety Investigations

*Wednesday, 9 September 2020*

Australian Parliament House

Canberra

*Department of Defence*

- Air Marshall Warren Macdonald, Chief of Joint Capabilities
- Commodore Nathan Robb, Director General, Fuel Services, Joint Logistics Command
- Dr Robert McGregor, Assistant Secretary, Major Powers, Strategic Policy and Intelligence Group
- Rear Admiral Mark Hammond, Deputy Chief of Navy; Chair, Australian Maritime Defence Council

*Department of Infrastructure, Transport, Regional Development and Communications*

- Mrs Jessica Hall, First Assistant Secretary
- Mr David Hallinan, Deputy Secretary
- Mr Andrew Johnson, Assistant Secretary – Maritime and Shipping Branch

*Department of Home Affairs*

- Ms Jodie Bjerregaard, Assistant Secretary – Temporary Visa Program Branch, Immigrations Programs Division

*Border Force*

- Mr Matthew Duckworth, Assistant Secretary – Customs and Trade Policy

*Treasury*

- Mr Paul McCullough, First Assistant Secretary, Corporate and International Tax Division
- Mr Simon Winckler, Manager, Corporate and International Tax Division

*Maritime Industry Australia Limited (MIAL)*

- Ms Teresa Lloyd, Chief Executive Officer
- Ms Sarah Cerche, Director, Workplace Relations – Domestic and International

*International Transport Workers' Federation*

- Mr Dean Summers, National Coordinator

*Australian Maritime College*

- Mr Michael van Balen, Principal

*Mr Dale Emmerton, Private Capacity*

*Woodside*

- Mr David Sproule, General Manager, Shipping
- Mr Craig Jennings, Opportunity Manager, Power & New Markets
- Mr Stuart Sisley, Marine Excellence Manager

*Northern Territory Coroner*

- Mr Kelvin Currie, Deputy Coroner