



# REBUILDING VICTORIA'S COASTAL SHIPPING

FOR MORE AND BETTER JOBS, SAFER SHIPS,  
AND A CLEANER ENVIRONMENT



A SUBMISSION TO THE VICTORIAN COASTAL SHIPPING REVIEW

26 JULY 2019 • MARITIME UNION OF AUSTRALIA  
A DIVISION OF THE CONSTRUCTION FORESTRY MARITIME MINING & ENERGY UNION

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## Acronyms and abbreviations used in this submission

ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACSLA	Australian Coastal Ship Licencing Authority
AGSR	Australian General Shipping Register
AIS	Australian Industry Standards
AISC	Australian Industry and Skills Committee
AISR	Australian International Shipping Register
ALC	Australian Logistics Council
AMC	Australian Maritime College
AMDC	Australian Maritime Defence Council
AMSA	Australian Maritime Safety Authority
AORS	Auxiliary Oiler Replenishment Ship
BITRE	Bureau of Infrastructure, Transport and Regional Economics
BOOT	Better off overall test (a <i>Fair Work Act 2009</i> concept)
CDI	Chemical Distribution Institute
CLIA	Cruise Line International Association
COAG	Council of Australian Governments
COA	Contracts of Affreightment
COST	Certificate of Safety Training
CSL	Canada Steamship Line
CT Act	<i>Coastal Trading (Revitalising Australian Shipping) Act 2012</i>
Customs Act	<i>Customs Act 1901</i>
DCV	Domestic commercial vessel
DIBP	Department of Immigration and Border Protection
DWT	Deadweight Tonnage (a measure of how much weight a ship can carry, not its weight, empty or in any degree of load)
EAP	Employee Assistance Provider
EEZ	Exclusive Economic Zone
ESC	Essential Services Commission (Victoria)
ETVs	Emergency towage vessels
Eoi	Expression of Interest
FMG	Fortescue Metals Group
FOC	Flag of Convenience
FSRU	Floating storage and regassification unit
FSC	Flag State Control
FWO	Fair Work Ombudsman
GDP	Gross Domestic Product
GL	General License
GPH	General Purpose Hand
GT	Gross Tonnes
GTO	Group Training Organisation
IEA	International Energy Agency
ILO	International Labour Organisation
IMO	International Maritime Organisation
IR	Integrated Rating

ISPS	International Ship and Port Facility Security Code (IMO)
ITF	International Transport Workers Federation
LMIA	Labour Market Impact Assessment (Canada)
LNG	Liquefied Natural Gas
MAR	Maritime (Training Package)
Marine Safety Act	<i>Marine Safety Act 2010</i> (Vic)
MCV	Maritime Crew Visa (subclass 988 visa)
METL	Maritime Employees Training Ltd
MGL	Modified General Licence
MIAL	Maritime Industry Australia Ltd
MLC	Maritime Labour Convention
MO	Marine Orders (made under the <i>Navigation Act 2012</i> )
MSIC	Maritime Security Identification Card
MSMD	Minimum Safe Manning Document
MTOFSA	<i>Maritime Transport and Offshore Facilities Security Act 2003</i>
MUA	Maritime Union of Australia
NES	National Employment Standards (in the <i>Fair Work Act 2009</i> )
National Law Act	<i>Marine Safety (Domestic Commercial Vessel) National Law Act 2012</i>
NCVER	National Centre for Vocational Education Research
Navigation Act	<i>Navigation Act 2012</i>
NFA	Naval Flag Administrator
NIEIR	National Institute of Economic and Industry Research
NOPSEMA	National Offshore Petroleum Safety and Environmental Management Authority
NSCV	National Standard for Commercial Vessels
NTC	National Transport Commission
NWS	North West Shelf
OCIMF	Oil Companies International Marine Forum
OPGGS Act	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>
PAYGO	Pay-As-You-Go
PCS	Port State Control
PDS	Victorian 2050 Port Development Strategy
PoM	Port of Melbourne Group, trading as the Port of Melbourne (the leaseholder)
Port Management Act	<i>Port Management Act 1995</i> (Vic)
PwC	PricewaterhouseCoopers Australia
QLC	Queensland Logistics Council
RAV	Regulated Australian vessel
R&D	Research and development
RIS	Regulation Impact Statement
RO-RO	Roll On-Roll Off shipping
RTO	Registered Training Organisation
Seacare	Seafarers Safety, Rehabilitation and Compensation Authority
Seafarers Act	<i>Seafarers Rehabilitation and Compensation Act 1992</i>
SMG	Strategic Marine Group Pty Ltd
SMS	Safety management system
SR Act	<i>Shipping Registration Act 1981</i>
SOLAS	Safety of Life at Sea Convention (an IMO Convention)
SSO	Skills Service Organisation (formerly known as a Skills Council)



STCW	Standards of Training, Certification and Watchkeeping for Seafarers (an IMO Convention)
SWA	Safe Work Australia
TEU	Twenty-foot equivalent (containers)
TFES	Tasmanian Freight Equalisation Scheme
TGL	Transitional General Licence
Transport Integration Act	<i>Transport Integration Act 2010</i> (Vic)
TIR	Trainee Integrated Rating
TL	Temporary Licence
TSS	Temporary Skill Shortage visa (subclass 482) (replaced the subclass 457 visa)
UNCLOS	United Nations Convention on the law of the sea, 1982
VET	Vocational Education and Training
VPCM	Victorian Ports Corporation (Melbourne) trading as Victorian Ports, Melbourne

## Explanation of shipping terms used in this submission

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

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

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

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

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

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

## About the Maritime Union of Australia

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

## Preamble

The Maritime Union of Australia (MUA) welcomes the opportunity to address the terms of reference for the Victorian Coastal Shipping Review in this submission. The union requests a meeting with Garry Button, CEO Freight Victoria, to discuss the union's submission.

We address each of the terms of reference in the following sections. For convenience, we have grouped the terms of reference under two broad headings: (i) Part A – The case for revitalising Victorian coastal shipping as part of the plan to rebuild Australian shipping, addressing terms of reference 1 to 3; and (ii) Part B: The actions that the Victorian Government needs to take to revitalise Victorian coastal shipping and build the domestic maritime industry, addressing terms of reference 4 to 7.

We commence however by putting the case for revitalising Australian coastal shipping of which the part that can be played by the Victorian Government will be critical to that revitalisation.

### The policy objective for Australian shipping

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

In a nutshell, Australia needs to restore a responsible maritime cabotage regime, implemented through a range of policy instruments – regulation, taxation and investment incentives, administrative support and adequate funding. Success will be dependent on strong coordination at national and state/NT levels.

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

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

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

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<sup>1</sup> Department of Infrastructure and Transport, *Reforming Australia's Shipping*, Regulation Impact Statement approved by the Department of Finance, August 2011

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

*“undertake a review of the Australian maritime sector, with a view to building on the 2012 [shipping] reforms aimed at growing the Australian-registered shipping industry in the future”.*<sup>2</sup>

State and NT governments can play a vital role in supporting the revitalisation of Australian shipping. This was recognised by the Qld Parliament which initiated an inquiry into Qld coastal shipping in 2018. That inquiry reported on 24 May 2019, and provided a number of positive recommendations that support the growth of Australian coastal shipping.<sup>3</sup>

## The rationale for the policy objective

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

According to the latest data produced by the Australian Institute of Marine Science (AIMS) Australia’s marine industries is one of the country’s fastest growing, and in total directly contributed \$39.8 billion to value-add in 2015-16, with a further indirect \$31.6 billion of value-add in other industries. This amounts to a total economic contribution of \$71.4 billion in value-add, or 4.3 per cent of national gross domestic product in that year.

The AIMS research estimated that the marine industry’s total employment was as 393,000 FTE workers: 197,000 FTE workers directly employed in the industry, with a further 196,000 FTE workers in indirect employment (considering upstream industries only). This is shown in Table 1.

**Table 1: Direct and indirect employment (FTE) by marine sub-sector, 2015-16**

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<sup>2</sup> Senate Rural and Regional Affairs and Transport References Committee, Interim Report on the *Increasing use of so-called Flag of Convenience shipping in Australia*, May 2016 P40  
[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport/Shipping/Second\\_Interim\\_Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Shipping/Second_Interim_Report)

<sup>3</sup> Qld Parliament, Report of the Inquiry into a sustainable Queensland intrastate shipping industry, Report No. 23, 56th Parliament Transport and Public Works Committee, 24 May 2019,  
<https://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2019/5619T808.pdf>

	Direct employment (FTE)	Indirect employment (FTE)	Total (FTE)
<b>Marine resource activities and industries</b>			
<b>Fishing</b>			
Marine-based aquaculture	3,105	2,414	5,519
Commercial fishing (wild captures fisheries)	5,043	4,531	9,573
Recreational fishing	n/a	14,671	14,671
<b>Offshore oil &amp; gas exploration and extraction</b>			
Oil exploration	5,018	3,439	8,457
Oil production	2,826	10,197	13,022
LPG	311	1,124	1,435
Natural gas	9,410	33,958	43,369
<b>Marine-related service activities and industries</b>			
<b>Boat/ship building, repair &amp; maintenance services and infrastructure</b>			
Shipbuilding & repair (civil and defence)	7,326	12,327	19,653
Boatbuilding & repair (including recreational vessels)	3,071	4,314	7,384
Marinas and boating infrastructure	3,766	3,002	6,767
Marine equipment retailing	2,803	915	3,718
<b>Marine tourism and recreational activities</b>			
Domestic consumption of tourism goods and services	119,833	87,761	207,594
International consumption of tourism goods and services	23,786	17,420	41,205
<b>Water transport</b>			
Water transport	10,560	9,599	20,159

Note: Each sub-sector was analysed separately. Consequently, the values in the 'indirect employment' column are not additive. Total indirect employment was estimated by removing activity associated with 'marine sub-sectors' to avoid double-counting.

Source: Australian Institute of Marine Science (AIMS), Index of the Maritime Industry, 2018

Water-based transport of passengers and freight contributed \$3.5 billion to the national economy in 2015-16, offshore oil and gas exploration and extraction around \$23.3 billion, civil and Defence shipbuilding and repair \$2.3 billion and marine tourism \$30.9 billion.<sup>4</sup> These data are provided in Table 2.

**Table 2: Summary statistics for Australian marine subsectors, 2015-16**

<sup>4</sup> Australian Institute of Marine Science (AIMS), *The AIMS Index of the Maritime Industry, 2018*  
<https://www.aims.gov.au/documents/30301/2131287/2018+AIMS+Marine+Index/359c78b9-e86a-459f-a360-a69269a97a57>

	Industry Value-add (2015-16 \$m)	Value of Production (2015-16 \$m)	Industry employment (2015-16)	Other
<b>Marine resource activities and industries</b>				
<b>Fishing</b>				
Marine-based aquaculture <sup>28</sup>	n/a	\$994	5,385 employees, 78% full-time share	-
Commercial fishing (wild capture fisheries) <sup>29</sup>	n/a	\$1,503	5,600 employees, 78% full-time share	-
Recreational fishing <sup>30</sup>	n/a	\$2,200 (expenditure)	n/a	3.36m fishers in 2000-01, 82% marine fishing
Indigenous fishing <sup>31</sup>	n/a	n/a	In 2000-01, around 37,000 indigenous people participated	2000-01 harvest: 1.89m fish, 0.84m crustaceans, 1.15m molluscs, 0.93m others
<b>Offshore oil &amp; gas exploration and extraction</b>				
Oil exploration <sup>32</sup>	n/a	\$1,278	n/a	-
Oil production <sup>33</sup>	n/a	\$4,968	n/a	-
LPG <sup>34</sup>	n/a	\$547	n/a	-
Natural gas <sup>35</sup>	n/a	\$16,546	n/a	-
<b>Marine-related service activities and industries</b>				
<b>Boat/ship building, repair &amp; maintenance services and infrastructure</b>				
Shipbuilding & repair (civil and defence) <sup>36</sup>	\$1,023	\$2,251	7,703 employees	-

	Industry Value-add (2015-16 \$m)	Value of Production (2015-16 \$m)	Industry employment (2015-16)	Other
Boatbuilding & repair (including recreational vessels) <sup>37</sup>	\$358	\$1,154	5,025 employees	-
Marinas and boating infrastructure <sup>38</sup>	n/a	\$719	3,270 employees (2014-15)	-
Marine equipment retailing <sup>39</sup>	\$213	\$1,350	3,460 employees	Wages & salary \$166.2m
<b>Marine tourism and recreational activities</b>				
Domestic consumption of tourism goods and services <sup>40</sup>	\$14,701	\$25,760	193,000 tourism-related employees	Assumption: 40% of domestic tourism
International consumption of tourism goods and services <sup>41</sup>	\$2,918	\$5,112	18,300 tourism-related employees	Assumption: 19% of international tourism
Aquaria <sup>42</sup>	n/a	n/a	n/a	2006-07: \$304m retail sales, \$233m gross value of production.
<b>Water transport</b>				
Water-based transport of passengers and freight <sup>43</sup>	\$1,208	\$3,437	9,000 employees	-
<b>Marine environment management</b>				
Marine safety (Australian Maritime Safety Authority – AMSA) <sup>44</sup>	n/a	n/a	384 AMSA Employees (2014-15)	Operating expenditure \$204.4m

Source: Australian Institute of Marine Science (AIMS), Index of the Maritime Industry, 2018

## Footnotes to Table 2

28 ABARES (2017)

29 Ibid.

30 DAFF (2003). The \$2.7 billion expenditure figure is based on the 2003 study, inflated to 2015-16\$ (from \$1.855 billion in 2000-01). Only marine fishing was included, by applying the share of harvest of marine species (offshore, coastal and estuary) relative to all harvest (which also includes river and lakes/dams). This share is 82%.

31 Ibid.

32 ABS (2018a) Cat No 8412.0, June 2018. Offshore oil exploration expenditure totalled \$949 million in 2016-17, and \$681 million in 2017-18.

33 Estimate derived using APPEA (2017) for \$AUD/barrel and Department of the Environment and Energy (2018) for offshore production volume (in barrels)

34 Department of the Environment and Industry (2017). Export revenue only.

35 Ibid. Export revenue of Liquefied Natural Gas only.

36 ABS (2018b) Cat No 8155.0, 2014-15. The value of production in shipbuilding and repair (civil and defence) was \$2,289 million in 2016-17.

37 Ibid. The value of production in Boatbuilding and repair (including recreational vessels) was \$1,183 million in 2016-17.

38 Recreational Marine Research Centre (2015)

39 IBISWorld (2018). Marine equipment retailing was \$1,354 million in 2014-15.

40 ABS (2018c) Cat No. 5249.0, 2016-17. The Tourism Satellite Accounts (TSA) provides data on domestic and international tourism value add (\$32,821 million and \$12,299 million respectively for 2013-14). For employment (a total of 546,500), the same ratio of domestic to international tourism was used as for value add. Consistent with the 2014 Index, domestic and international marine tourism were estimated as 40% and 19% of domestic and international tourism respectively, using the methodology first outlined by the Review Committee on Marine Industries, Science and Technology in Australia (1989).

41 Ibid.

42 FRDC/DAFF (2008). This figure includes \$129 million in ornamental fish sales, \$171 million in accessories sales (tanks, filters, lights, etc.) and \$4 million in 'other' sales (live rock, coral and aquatic plants).

43 ABS (2018c) Cat No 8155.0, 2016-17. The most recent report shows that by 2016-17 this industry value add has fallen \$1,153 million and industry income of \$3,207 million, while employment has fallen to 8,000.

44 AMSA (2016).

As an island nation Australia is heavily reliant on shipping which plays a strategic and important role in the economy. Ten per cent of the world's sea trade passes through Australian ports and over 95 per cent of Australian exports are transported by sea. Domestic sea freight and marine passenger demand as well as international trade is growing every year. The national domestic freight task increased by 50% in the ten years to 2016 and is forecast to grow another 52% by 2036.<sup>5</sup> Victorian freight volumes are expected to go from 360 million tonnes a year in 2014, to nearly 900 million tonnes by 2051, an increase of 150 percent over 35 years.<sup>6</sup> The Victorian Future Industries Strategy estimates that the six sectors below have the potential to drive up to \$70 billion in additional economic output and create over 400,000 new jobs for Victorians by the 2025<sup>7</sup>:

- Medical technology and pharmaceuticals;
- New energy technologies;
- Transport, defence and construction technologies;
- Food and fibre;

<sup>5</sup> Department of Infrastructure, Regional Development and Cities, *Report of the Inquiry into National Freight and Supply Chain Priorities*, March 2018, [https://infrastructure.gov.au/transport/freight/freight-supply-chain-priorities/files/Inquiry\\_Report.pdf](https://infrastructure.gov.au/transport/freight/freight-supply-chain-priorities/files/Inquiry_Report.pdf)

<sup>6</sup> Victorian Department of Transport, *Delivering the Goods: Creating Victorian Jobs - Victorian Freight Plan Fact Sheet*, February 2019, <https://transport.vic.gov.au/ports-and-freight/freight-victoria>

<sup>7</sup> Victorian Government Department of Economic Development, Jobs, Transport & Resources, *Victoria's Future Industries: Food and Fibre Sector Strategy*, March 2016 [https://www.business.vic.gov.au/\\_data/assets/pdf\\_file/0007/1275460/Food-and-Fibre-strategy-web-version-20160310.pdf](https://www.business.vic.gov.au/_data/assets/pdf_file/0007/1275460/Food-and-Fibre-strategy-web-version-20160310.pdf)

- International education; and
- Professional services.

That increased economic activity will generate freight, particularly in energy, Defence, construction and food and fibre, a considerable proportion of which will be suitable for transportation by ship.

The global large cruise industry is growing, and Australia (including Melbourne) is a key home port in the global cruise market. An independent assessment by AEC Group revealed that cruise tourism was worth \$4.8 billion to the Australian economy in direct and indirect economic output during the 2017-18 financial year. The report revealed that 1,236 ship visits to Australian ports led to 3.5 million passenger and crew visit days which raised \$2.3 billion in direct economic output and \$2.5 billion in indirect and induced output, as well as \$2.6 billion in value-added dollars.<sup>8</sup>

Domestic cruise ships, i.e., ships with Australia homeports, accounted for 92% of the total passenger port days with 2.8 million days. Passenger port days generated by these domestic ships increased by 33% over 2015-16.<sup>9</sup> Australian demand for cruises has grown 18.5 per cent a year since 2008. A number of cruise lines have announced new ship deployments in the region resulting in more ships homeporting in Brisbane, Melbourne, Fremantle and regional ports.<sup>10</sup> Globally, there are 109 new cruise ships set to be delivered between 2018-2027 at a total cost of more than US\$58 billion.<sup>11</sup>

Further, three prospective offshore oil and gas projects are in the planning phase - Scarborough, Equus, and Browse. The first of these is planned to commence in 2021.<sup>12</sup> Each will require ships for the construction phase, the operational phase and for the transportation of gas to markets.

The AGL proposal for the siting of a mobile floating storage and regassification unit (FSRU) at Crib Point, which, subject to demand, could require between 12 to 40 LNG ships per year to supply the FSRU with LNG is one such example.

Each of these creates opportunity for Australian ships, under the right policy settings, and requires skilled seafarers to operate port terminals and vessels.

At the same time Australian owned and operated ships and seafarer employment has continued to spiral downward and that trend is likely to continue under current policy settings. It has reached a crisis point. Figure 1 shows that under current policy settings, coastal shipping's share of the domestic freight market will continue to decline relative to road and rail.

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

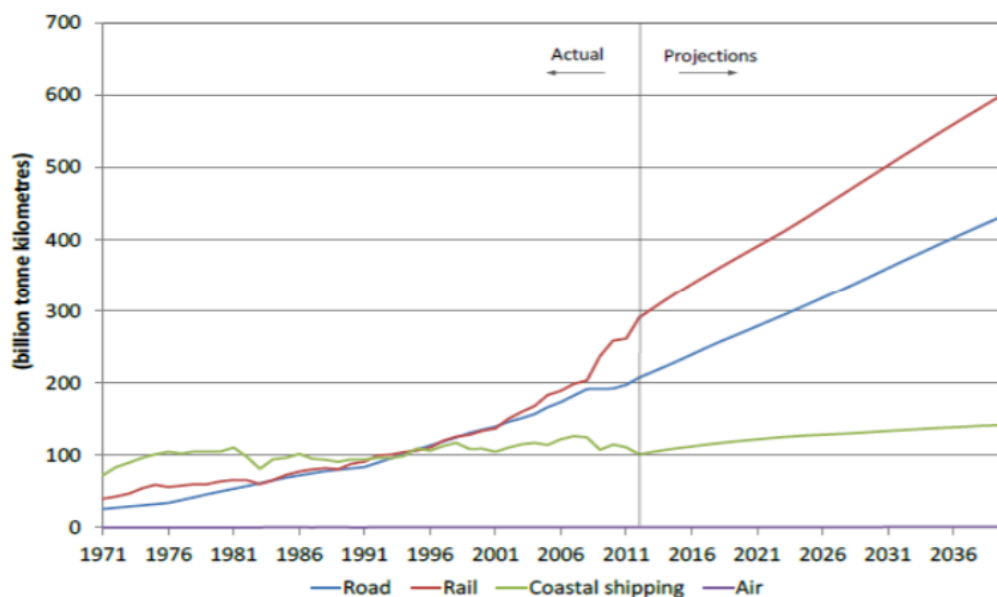
<sup>8</sup> Travel Weekly, 15 October 2018, *Cruise Tourism Generates Nearly \$5 Billion Annually For The Australian Economy, A New Report Has Found*, <http://www.travelweekly.com.au/article/nearly-5-billion-pumped-into-aussie-economy-via-cruise-tourism-annually/>

<sup>9</sup> Cruise Lines International Association (CLIA), *Cruise Tourism's Contribution to the Australian Economy 2016-17* [https://www.cruising.org.au/Tenant/C0000003/5677\\_CLIA\\_Economic\\_Impact\\_Statement\\_Web.pdf](https://www.cruising.org.au/Tenant/C0000003/5677_CLIA_Economic_Impact_Statement_Web.pdf)

<sup>10</sup> Cruise Lines International Association (CLIA), *Cruise Industry Ocean Source Market Report - Australia 2017*, [https://www.cruising.org.au/Tenant/C0000003/Cruise%20Industry%20Source%20Market%20Report%20\(1\).pdf](https://www.cruising.org.au/Tenant/C0000003/Cruise%20Industry%20Source%20Market%20Report%20(1).pdf)

<sup>11</sup> Ibid

<sup>12</sup> Australian Energy Market Operator (AEMO), *Western Australia Gas Statement of Opportunities*, December 2018 P3 [https://www.aemo.com.au/-/media/Files/Gas/National\\_Planning\\_and\\_Forecasting/WA\\_GSOO/2018/2018-WA-GSOO.pdf](https://www.aemo.com.au/-/media/Files/Gas/National_Planning_and_Forecasting/WA_GSOO/2018/2018-WA-GSOO.pdf)



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

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

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

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

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

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

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

There are many Australian companies which, under the right policy settings, would prefer the operational certainty of owning or operating their own ships because they can see a competitive advantage in



controlling their transportation requirements in the face of costly bottlenecks and the costs of unreliability in just-in-time supply chains. Manufacturers and resource companies want certainty and reliability in the supply chain – which cannot be gained from the speculative use of the current voyage-based coastal trading licence system. There is also a drive for a more integrated national transport policy, in the context of future carbon constraints – that place sea transport as a much more attractive option than long-haul trucking and in many cases, rail.

## Rebuilding an Australian shipping industry is good for the Australian economy and for the Victorian economy

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

- Added Aus\$9 billion to Gross Domestic Product (GDP);
- Created employment for nearly 31,000 people; and
- Delivered over Aus\$900 million to national tax revenue.<sup>13</sup>

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

- \$11.8 billion in GDP;
- Employment for 13,927 people; and
- \$387 million in taxation revenue.<sup>14</sup>

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

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

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

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<sup>13</sup> MIAL, Pricewaterhouse Coopers (PwC) report, *Economic contribution of the Australian maritime industry*, February 2015 Pi.

[https://www.google.com/search?q=MIAL+pwc+report&rlz=1C1CHZL\\_enAU697AU697&oq=MIAL+pwc+report&aqs=chrome..69i57.5761j0j8&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=MIAL+pwc+report&rlz=1C1CHZL_enAU697AU697&oq=MIAL+pwc+report&aqs=chrome..69i57.5761j0j8&sourceid=chrome&ie=UTF-8) and <https://www.mial.com.au/our-work/the-maritime-sector-contributed-over-20-billion-to-the-australian-economy>

<sup>14</sup> Ibid Pi

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

For example, the tonnage tax introduced by the United Kingdom (UK) in 2000 is estimated to have resulted in the contribution of the UK shipping industry to economic output being two to three times higher than would otherwise have been the case. The UK evidence referenced by PwC is contained in a report prepared by Oxford Economics for Maritime UK in 2013.<sup>15</sup> Oxford Economics found that:

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

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

A report by PwC for the Victorian Departments of Treasury and Finance and Department of Infrastructure in March 2007 concluded that activity at the Port of Melbourne generated a total economic impact of \$2.501 billion in output in 2004-05, value added to Australia of \$1.1 billion while port activities supported 13,748 FTEs. The report also noted that there were 3,411 ship visits to the port in 2004-05 by commercial vessels and that, on average, each ship call at the Port of Melbourne resulted in the following impact on the economy:

- \$733,128 of output;
- \$334,332 of value added; and
- Four full time jobs for one year.<sup>16</sup>

**Table 3: Historical Trends for Total Trade (Revenue Tonnes) for the Port of Melbourne for the Past 10 Financial Years**

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<sup>15</sup> Oxford Economics, *The Economic Impact of the UK Maritime Services Sector*, February 2013 - [http://www.ukchamberofshipping.com/media/filer\\_public/c9/ea/c9ea03a4-2344-43ee-bb60-dc5386e3c08c/economic\\_impact\\_of\\_uk\\_maritime\\_services\\_sector\\_-\\_feb\\_2013\\_including\\_regional.pdf](http://www.ukchamberofshipping.com/media/filer_public/c9/ea/c9ea03a4-2344-43ee-bb60-dc5386e3c08c/economic_impact_of_uk_maritime_services_sector_-_feb_2013_including_regional.pdf)

<sup>16</sup> PricewaterhouseCoopers, *Economic Analyses of the Port of Melbourne*, March 2007, [https://www.parliament.vic.gov.au/archive/council/SCFPA/PtPhillip/Submissions/SCFPA\\_PtP\\_Sub\\_34\\_Part\\_F.pdf](https://www.parliament.vic.gov.au/archive/council/SCFPA/PtPhillip/Submissions/SCFPA_PtP_Sub_34_Part_F.pdf)

<i>Total Trade</i>										
	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018
Import	40,680,641	42,915,242	44,851,991	49,037,850	48,250,675	47,618,315	48,635,039	50,633,189	49,949,421	54,825,672
Export	30,727,129	32,449,976	34,856,563	37,959,554	37,311,886	37,776,865	38,328,039	38,714,102	37,602,460	40,212,595
<b>Total</b>	<b>71,407,770</b>	<b>75,365,218</b>	<b>79,708,554</b>	<b>86,997,404</b>	<b>85,562,561</b>	<b>85,395,180</b>	<b>86,963,078</b>	<b>89,347,291</b>	<b>87,551,881</b>	<b>95,038,267</b>

<i>Bass Strait Trade</i>										
	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018
Import	8,447,596	8,622,143	8,812,492	8,985,117	8,893,911	8,773,878	9,281,989	9,484,118	7,257,807	8,179,286
Export	7,807,455	8,240,518	8,356,104	8,663,349	8,646,361	8,678,596	8,912,055	9,186,652	6,658,193	7,555,770
<b>Total</b>	<b>16,255,051</b>	<b>16,862,661</b>	<b>17,168,596</b>	<b>17,648,466</b>	<b>17,540,272</b>	<b>17,452,474</b>	<b>18,194,044</b>	<b>18,670,771</b>	<b>13,916,000</b>	<b>15,735,056</b>

<i>Other Transhipped Trade *</i>										
	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018
Import	1,540,871	1,719,727	1,918,914	2,704,699	1,983,013	1,240,238	955,276	1,058,961	1,177,538	1,295,729
Export	1,762,831	1,924,250	2,109,744	2,984,686	2,517,364	1,825,439	1,516,990	1,535,734	1,629,858	1,862,820
<b>Total</b>	<b>3,303,702</b>	<b>3,643,977</b>	<b>4,028,658</b>	<b>5,689,385</b>	<b>4,500,377</b>	<b>3,065,677</b>	<b>2,472,266</b>	<b>2,594,696</b>	<b>2,807,396</b>	<b>3,158,549</b>

Source: Port of Melbourne, *Historical trade data*

**Table 4: Summary of the Port of Melbourne's trade performance in 2017-18**

<b>Cargo type</b>	<b>Throughout 2017-18</b>	<b>% change on 2016-17</b>
Total trade	95.0 million revenue tonnes	+8.5%
Containers (TEU)	2.93 million TEU	+8.6%
New motor vehicles	4.9 million revenue tonnes (355,503 units)	-2.1%
Liquid bulk	6.2 million revenue tonnes	-0.5%
Dry bulk	5.0 million revenue tonnes	+7.8%
Breakbulk	8.4 million revenue tonnes	+10.8%

Source: Port of Melbourne, *Trade performance*

The volumes and types of trade through the Port of Melbourne demonstrates that shipping is critical to the success of the Victorian economy.

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

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

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

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

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

### Australian ships are efficient and reliable

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

- Labour efficiency - Crew sizes on Australian ships are among the lowest in the world for the types of ships in the Australian fleet. Furthermore, Australian Ratings are the only multi-skilled ratings in the world, with proficiency in both deck and engineroom competencies, hence the name Integrated Rating.
- Labour costs, labour utilisation, managerial practice, ship utilisation (all features of productivity performance) are central to the Blue Water Labour Relations Compact<sup>18</sup> which accompanied the 2012 shipping reforms, and which is being implemented by the social partners.
- Ship maintenance and dry docking – notwithstanding the age of Australian ships, the quality of the crew, working in combination with good managerial practice, are able to keep the ships operating at optimal performance and in so doing extend the periods between dry docking. Dry docking is a major operational cost for ship owners/operators.
- Ship stevedoring (loading and unloading) – Australian ships load and discharge cargoes at rates equivalent to global shipping best practice.
- Ship turnaround times – as a good comparative example, the just in time performance of the four Australian LNG ships that have transported LNG from the NWS LNG Joint Venture project have matched or bettered the turnaround times of the non-Australian registered LNG ships servicing that project.
- Ship emission efficiency – shipping is the most energy efficient mode of mass transport and only a modest contributor to overall carbon dioxide (CO<sub>2</sub>) emissions. Australian ships have adopted the July 2011 IMO mandatory emission reduction measures, in particular the Energy Efficiency Design Index (EEDI) for new ships and the Ship Energy Efficiency Plan (SEEMP) for all ships.

### Australian ships are safe, and relatively safer than foreign ships

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

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

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<sup>18</sup> ASA and MUA/AMOU, *Bluewater Labour Relations Compact, May 2012*

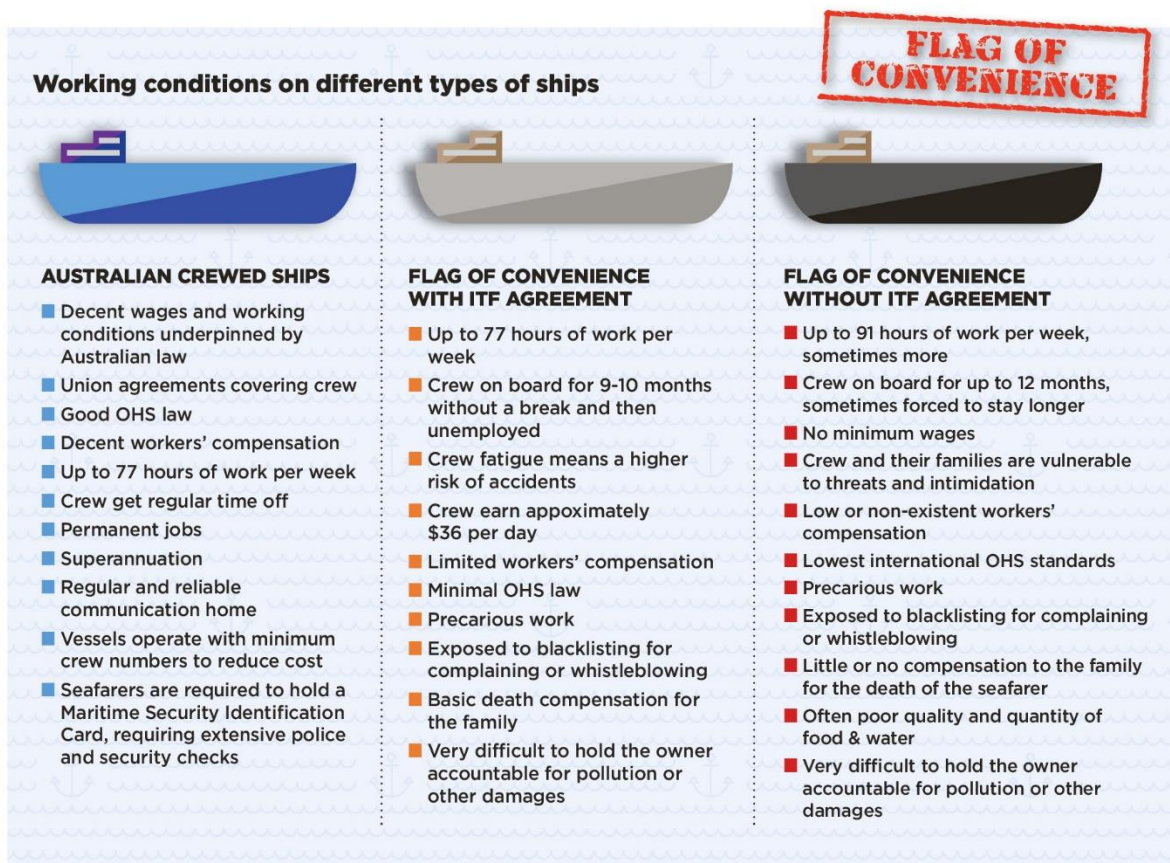
In contrast, foreign ships operating in Australian waters, the vast majority of which are FOC ships:

- Are regulated by foreign ship regulatory agencies which adopt a more liberal interpretation of IMO safety Convention standards (and where corruption and lack of resources is more likely to distort compliance);
- Are regulated by AMSAs Port State Control requirements when in Australian waters, which is risk based and not comprehensive; and
- Are not subject to any mandatory labour standards (only to the general non-enforceable ILO labour standards conventions, and to the International Transport Workers Federation (ITF) global labour agreements and inspection regime) applicable to the foreign seafarers employed on such ships.

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

A summary of the contrasting working conditions that underpins ship safety is shown in Figure 2.

**Figure 2: A comparison of working conditions contrasting Australian ship standards with foreign ship standards**



Source: Maritime Union of Australia and International Transport Workers Federation

## Part A – The case for revitalising Victorian coastal shipping as part of the plan to rebuild Australian shipping

### Addressing term of reference 1: What are the factors that have led to a reduction in coastal shipping in Victoria?

We consider there are four key factors that have led to a reduction in coastal shipping in Victoria. We address each of those factors.

#### Policy and legislative failure at the Commonwealth level

A combination of administrative and policy negligence by the Commonwealth Department of Infrastructure, Regional Development and Cities, flaws in the 2012 shipping reform legislative package that were ruthlessly exploited by shippers, ship operators and ship's agents in a race to the bottom, and a complicit shipping policy position adopted by the Abbott, Turnbull and Morrison governments since 2013 has resulted in failure of national maritime cabotage in Australia. Corporate greed, exploitation and sectional interests have prevailed over the national interest.

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

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

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

*“While reviewing more than 8,000 applications to obtain licences for foreign ships to carry cargo on the Australian coast, SMG uncovered evidence of how prominent business entities are exploiting loopholes in the current shipping legislation and how the department running the licencing scheme appears under resourced to adequately monitor such manipulation.”<sup>19</sup>*

As a result, Australian owned and operated ships (ships on the Australian General Shipping Register [AGSR]) and seafarer employment has continued to spiral downward. Sixteen (16) Australian cargo ships have been lost to the Australian coast since the election of the Abbott Government in September 2013, resulting in the loss of at least 512 seafarer jobs, as shown in Table 5.

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<sup>19</sup> Strategic Marine Group Pty Ltd, *Coastal Shipping Research & Analysis of the east coast seaborne bulk commodity trades*, A report prepared for the Maritime Union of Australia, July 2016.

**Table 5: Australian ships lost to the Australian coast and not replaced by an Australian ship since the election of the Abbott Turnbull Morrison Government - September 2013 to February 2019**

2019	The foreign registered and Australian crewed <b>MV Mariloula</b> (operating under a Transitional General Licence [TGL]) was withdrawn by BHP from the Port Hedland to Port Kembla iron ore supply chain servicing BlueScope's steelworks because there is no penalty or disincentive to retire Australian ships from coastal trade under the <i>Coastal Trading (Revitalising Australian Shipping) Act 2012</i> (CT Act). BlueScope will still transport substantial quantities of domestic iron ore.
2019	The foreign registered and Australian crewed <b>MV Lowlands Brilliance</b> (operating under a TGL) was withdrawn by BHP from the Port Hedland to Port Kembla iron ore supply chain servicing BlueScope's steelworks because there is no penalty or disincentive to retire Australian ships from coastal trade under the CT Act. BlueScope will still transport substantial quantities of domestic iron ore.
2018	The Australian registered and Australian crewed <b>CSL Iron Chieftain</b> was retired due to significant fire damage in April 2018. BlueScope subsequently took the management of its coal shipping in-house and uses international vessels on TLs to carry these cargos.
2017	The Australian registered and Australian crewed <b>CSL Thevenard</b> went to dry dock in Singapore and the crew were terminated. The ship is now operating full time in Australia as the <i>Acacia</i> with a Bahamas flag and international crew (General License [GL] relinquished).
2017	The Australian registered and Australian crewed <b>CSL Whyalla</b> (ex-CSL Sams) was withdrawn from its SA iron ore transshipment role in September 2017.
2016	The Australian crew were removed from the foreign registered <b>CSL Brisbane</b> . The ship was renamed the <i>Adelie</i> and is now operating full time in Australia under the Bahamas flag and with an international crew (TGL relinquished).
2016	The foreign registered TGL and Australian crewed <b>British Fidelity</b> was withdrawn from coastal trade by BP – Australia's last petroleum tanker. BP still ships a very large amount of clean petroleum around the coast.
2016	The foreign registered TGL but Australian crewed <b>CSL Melbourne</b> carrying Rio Tinto alumina was withdrawn – the same volume of alumina still requires transporting.
2016	The Australian registered and Australian crewed <b>MV Portland</b> transporting Alcoa alumina was replaced by foreign registered ships with foreign crew using a Temporary Licence (TL) – the same volume of alumina requires transporting.
2015	The foreign registered and Australian crewed <b>Alexander Spirit</b> was withdrawn from service by Caltex due to closure of the Kurnell refinery.
2015	The foreign registered and Australian crewed <b>Hugli Spirit</b> was withdrawn from service by Caltex. Caltex still ships substantial quantities of petroleum around the coast. .
2015	The foreign registered and Australian crewed <b>British Loyalty</b> was withdrawn from service by BP. BP still transports a very large amount of clean petroleum around the coast..
2014	The foreign registered and Australian crewed <b>Tandara Spirit</b> was withdrawn from service by Viva.
2014	The foreign registered and Australian crewed <b>CSL Pacific</b> withdrawn from coastal trading and scrapped.
2014	The foreign registered and Australian crewed <b>Pacific Triangle</b> was withdrawn by BHP due to a closure of a blast furnace at the Port Kembla steelworks. The amount of iron ore being shipped to Port Kembla has since recovered and increased.
2013	The Australian registered and Australian crewed <b>Lindesay Clarke</b> was withdrawn from Alcoa's alumina trade due to the closure of Point Henry smelter by Alcoa.
<b>Total – 16 ships lost; 512 seafarer jobs lost</b>	

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

The principal conclusion to be reached is that there has been negligible investment in Australian commercial trading ships in the past decade or more.

A number of these issues were addressed in a 2016 analysis of the east coast seaborne bulk commodity trades prepared for the MUA by SMG which indicated that coastal commodity movements remain significant in all trades. The SMG analysis concluded that it is apparent that there are sufficient volumes of cargo being moved to justify the use of dedicated Australian ships but notwithstanding this, the number of ships under the CT Act licenced as General Licenced (GL) and Transitional General Licenced (TGL) ships is declining. The SMG report explained the reasons why GL and TGL ships are being replaced as follows:

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

Central to the mix of solutions proposed by SMG is a requirement for better fiscal support for Australian ships, combined with regulatory and logistic support. There are clearly a range of interrelated factors that have combined to dissuade ship owners, ship operators and investors from investing in Australian ships. This needs to be addressed under a new national shipping policy.<sup>20</sup>

It is critical that the Commonwealth Government improve shipping and seafarer tax incentives<sup>21</sup> to resolve the design flaw in the current income tax exemption provision that applies to eligible shipping operators,

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<sup>20</sup> Strategic Marine Group Pty Ltd, *Coastal Shipping Research & Analysis of the east coast seaborne bulk commodity trades*, A report prepared for the Maritime Union of Australia, July 2016.

<sup>21</sup> There are four shipping tax incentives: They are:

- Shipping Exempt Income tax incentive for **Australian operators** of Australian registered eligible vessels on qualifying shipping income;
- Accelerated depreciation and rollover relief for **Australian corporate owners** of Australian registered eligible vessels;
- Refundable tax offset for **Australian corporate employers** who employ eligible Australian seafarers on overseas voyages performed by Australian registered eligible vessels; and



whereby under the current design, the benefits to shipowners may effectively be clawed back when exempt profits of shipping operators are distributed to investors. To address this flaw, the Commonwealth Government needs to amend the shipping income tax exemption provisions in various tax laws<sup>22</sup> to:

- Introduce deemed franking credits in respect of dividends to resident shareholders;
- Introduce a dividend withholding tax exemption in respect of dividends to non-resident shareholders;
- Amend the definition of core shipping activities to include ships that are used wholly or mainly in, or in any operations or activities associated with or incidental to, exploring or exploiting the mineral and other non-living resources of the seabed and its subsoil. To achieve this, the exclusion of offshore industry vessels in s10(4)(c) of the *Shipping Reform (Tax Incentives) Act 2012* would need to be removed:
  - The possible extension of the taxation incentives to vessels operating in the offshore oil and gas industry is aimed at providing incentives for those vessel owners/operators to register their vessel on the AGSR, which is a core eligibility requirement to gain access to the tax incentives. It would also require the owner/operator of such ships to have in place a training plan that meets the training requirements specified in Part 2 of the Shipping Reform (Tax Incentives) Regulation 2012 i.e. to have a cadet/trainee in Master, Engineer and Rating/Steward on each ship accessing the tax incentive. This concession to the offshore sector is designed to help build the maritime cluster.

The key exceptions to this lack of investment in ships are relevant to Victorian coastal shipping, and include:

- The delivery of the *Searoad Mersey II* in December 2016, the first new ship in the 21<sup>st</sup> Century specifically designed and commissioned for the Bass Strait freight trade, which represented an investment of more than Aus\$110 million. The *Searoad Mersey II* was built in Germany while painting of underwater areas of the hull and, subsequently, commissioning of the LNG fuel supply system was carried out in Denmark. The *Searoad Mersey II* is Australian registered and Australian crewed, and operates in Australian coastal trade. The SeaRoad Shipping company has stated that its aim is to commission construction of a new sister ship to the *Searoad Mersey II* as soon as market conditions and shipyard availability permit<sup>23</sup>;
- Toll Shipping's commitment in 2018 to invest Aus\$170 million on purchase of 2 ships for its Bass Strait trade. The new 700 TEU purpose-built ships commenced operations in March 2019 and replaced Tolls two existing ships. The ships, named *Tasmanian Achiever II* and *Victorian Reliance II* are Australian registered on the AGSR and employ Australian seafarers.
- The purchase by Inco Ships of two second hand bunker barges in 2016 (built in Vietnam in 2011). These ships, the *ICS Reliance* and *ICS Allegiance* are foreign registered in the Bahamas and are crewed by Australian seafarers. Inco Ships also purchased a second-hand product/chemical tanker in 2017 (built in China in 2012), the *ICS Integrity*. It is registered in the Bahamas but crewed by Australian seafarers. The *ICS Reliance* currently services the Port of Melbourne, while the *ICS Integrity* undertakes interstate tanker operations, calling at Melbourne ports:

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- Exemption from royalty withholding tax for **foreign owners** of eligible vessels leased under a bareboat or demise charter to an Australian resident company.

<sup>22</sup> These are: The *Income Tax Assessment Act 1997* and the *Income Tax Assessment Act 1936* (as amended by the *Tax Laws Amendment (Shipping Reform) Act 2012*).

<sup>23</sup> SeaRoad Q&A on the *Searoad Mersey II*, December 2016

[http://www.searoad.net/srwebsite/html/pdf/20161211\\_Media%20Release\\_QandA.pdf](http://www.searoad.net/srwebsite/html/pdf/20161211_Media%20Release_QandA.pdf)

- The total investment in Australian coastal cargo trading shipping the last 5 years is therefore less than Aus\$500 million. While the companies that have made these investments in an uncertain shipping policy climate are to be commended, the modest level of that investment is a strong indicator of the sorry state of the Australian domestic shipping industry.
- TT line announced in 2018 before the Tasmanian State election that they would build two new Ro- Pax Ships for the Bass Strait, due to be introduced in 2nd and 4th quarter 2021. The two replacements for the current *Spirit of Tasmania I* and *Spirit of Tasmania II* ships are being built at the German Flensburger Schiffbau-Gesellschaft (FSG) shipyard.
- Introduction of the *John Duigan* by Bass Island Line (a subsidiary company of Tasports) in the 2nd quarter of 2018 to replace the *Toll Investigator*.

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

Australia receives almost zero economic benefit from Australian company ownership of foreign registered ships that trade internationally (unless crewed by Australian seafarers), with the exception that Australian financial institutions may have provided ship financing, some legal services may have been provided locally and the charter cost flows back to an Australian corporation rather than offshore to foreign corporations.<sup>24</sup> There is generally no Australian employment, no Australian crew agency support, no maintenance and repair undertaken in Australia, and no ship provisioning from Australia.

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

New investment in ships, shipping infrastructure and shipping services can be facilitated through tailored taxation and investment facilitation measures, a position that is consistent with the maritime policies of key maritime nations which support maritime clusters such as Singapore, UK and Denmark.

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

Although Australia has invested heavily in naval shipbuilding, it is not likely that there would be spare shipyard capacity in the next decade or more to build the hulls for these new commercial ships in Australia.

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<sup>24</sup> In 2016/17, freight transport services were Australia's 8th largest goods and services import, costing the nation \$8.7 billion. See Department of Foreign Affairs and Trade, Australia's top 25 imports, goods and services, 2016/17 and Australia's top 25 exports, goods and services, 2016/17 – <https://dfat.gov.au/trade/resources/trade-statistics/trade-in-goods-and-services/Pages/australias-trade-in-goods-and-services-2017.aspx>

However, as only about 30% of the value of shipbuilding lies with the shipyard; the rest, 70% of the value, lying in the supply chain, Australian naval suppliers could supply ship systems and equipment and undertake final fitout in Australia.

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

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

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

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

- Fishing vessels, tugs and offshore oil and gas industry vessels built using steel.
- Custom-built ferries for environmentally sensitive river and estuary systems.
- High-speed car and passenger ferries. Since the Australian company Incat introduced its first 20 metre catamaran in 1978, Australia has supplied the world with more than 50 per cent of all the high-speed car/passenger ferries.<sup>25</sup>

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

## Weaknesses in Victorian freight and transport policy

National policy failure has been compounded by weaknesses in State and NT freight and transport policy, including Victoria, evidenced by the absence of policy, strategy, planning and funding support to ensure that shipping features prominently in Victorian freight and passenger movement, and that the strengths of shipping relative to other modes of freight and passenger transport are exploited.

We believe that the absence of a prominent role for shipping in State freight and transport policy derives in part from the outmoded view held by State Governments that shipping is a Commonwealth Government matter and there is little that States can do to effect shipping policy and strategy. This view is flawed. We demonstrate in this submission that there is much that the Victorian Government, and in fact all State Governments can do, especially if they are prepared to coordinate policy and practice, to support an increased role for shipping in freight and passenger markets.

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<sup>25</sup>Austrade, Transport Industry Capability Reports, *Shipbuilding (commercial)*  
<https://www.austrade.gov.au/International/Buy/Australian-industry-capabilities/Transport>

We advocate in this submission a raft of policy, legislative, regulatory and administrative measures that the Victorian Government could take that would ensure that shipping gets equivalent policy attention alongside other freight and passenger transport modes. The measures we propose will ensure new investment in shipping and associated infrastructure.

### The dual regulatory system for coastal shipping

We think that the dual regulatory system, whereby Commonwealth shipping legislation (such as the *Coastal Trading (Revitalising Australian Shipping) Act 2012*) only applies to interstate trade, resulting in intrastate shipping regulation being left to the States and NT, with no Commonwealth leadership on coordination among governments or processes in place, has reinforced the view that the States lack power and a role in national shipping policy. The facts are that the States can have a major impact on the cost structure faced by Australian coastal ship owners and operators, and if the factors impacting on costs are addressed, the result will be new investment in ships and a stronger role for shipping in Victorian freight and passenger markets. The establishment of a single national regulatory system for shipping will create the conditions for far greater cooperation and coordination of policy and strategy around shipping.

This is why a central recommendation we make is for a single national regulatory system for coastal shipping, that would provide an integrated framework for the States/NT and Commonwealth to work in collaboration to revitalise Australian shipping, with spin off impacts on Victorian intrastate shipping.

### Flaws in the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* and its administration by AMSA, as well as flaws in the *Navigation Act 2012* has hastened the decline of coastal shipping

Ironically, the single national regulatory system for vessel and crew safety through the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (National Law Act) which was supported by the States/NT and the MUA (at the time of its introduction in 2012-2013) as a sensible national policy objective to improve maritime safety has had the opposite effect. It has reduced maritime safety, including marine crew and passenger safety, and additionally, has hastened the demise of Australian coastal shipping.

Safety regulation as administered by AMSA has now become a lightning rod in the competitive neutrality debate in freight transport because AMSA's administration of current maritime safety law has deliberately tipped the competitive balance away from shipping and towards road and rail.

It has achieved this outcome by a systematic dismantling of the higher safety and crewing standards required under the Navigation Act, replacing those with much lower safety standards required under the National Law Act, so that commercial vessels for which the National Law Act was never intended now apply to those commercial vessels.

This has had the effect of accelerating the exit of reputable and quality shipowners from the Australian domestic sea freight market. While this may appear counter intuitive due to the fact that lower safety and crewing standards should make ships cheaper to operate, quality owners who want their ships to be able to enter ports all around the globe in an international shipping services marketplace cannot compete against owners who adopt a lower safety and therefore lower cost regime in the Australian sea freight market. The consequence is that the domestic sea freight market is now dominated by foreign Flag of Convenience (FOC) ships.

In effect, the Australian domestic shipping fleet, while technically operating under a national register, exhibits all the characteristics of a Flag of Convenience (FOC) registry.

Furthermore, those shipowners who remain in the domestic market are competing on many longer haul routes with both trucks and trains, both of which enjoy considerable subsidy, especially long-haul trucks.

What is required is creation of a level playing field for Australian ships which will provide fair competition with road and rail, and with international ships, helping develop the national freight and passenger transport network and modal choice for shippers. Achieving fair competition between Australian ships and foreign ships requires policies that positively discriminate in favour of Australian ships, while achieving fair competition between ships and other transport modes requires a reduction of subsidy for trucks and trains and or countervailing policy support for ships.

The MUA supports the position of the Australasian Railways Association (ARA) which advocates that the national freight market should operate as far as possible on a level footing among all modes by creating an environment where there is an equitable and comparable regulatory environment and/or competitive neutrality between competing modes of transport.<sup>26</sup> Along with the ARA we also endorse an economically competitive level playing field between sea, rail and road and advocate a mass-distance-location charging mechanism for heavy vehicles along major interstate routes, which will help close the competitive gap between ships and other transport modes, particularly road transport.

Ports Australia has proposed that Australia develop the Blue Highway concept. It notes that additional investment in road and rail is not projected to meet Australia's demand for freight transport in the years ahead. It says roads are already reaching and outgrowing capacity, while rail is also facing problems, with freight trains delayed by the ever-growing number of passenger services operating on shared network infrastructure, noting that:

*“Road is ideal for short journeys and ‘last-mile’ deliveries, while rail is better suited to moving over longer distances, particularly for inland communities. Coastal shipping is an efficient way of moving large volumes of freight and can be used 24/7 without the conflicts faced by land-based transport.”<sup>27</sup>*

Ports Australia says that Australian governments' invested \$26 billion on construction and maintenance of roads in 2015-16 and that since 1999-00 this expenditure had risen by 62%. In addition, under-recovery of damage caused by heavy vehicle road freight is estimated at between \$7,000 and \$10,500 per truck each year. Rail expenditure by all governments was \$11 billion in 2015-16. Since 1990-00 this expenditure has increased by 16%. By moving more freight along the blue highway we could reduce the amount spent each year maintaining road and rail.<sup>28</sup>

We note that in the Regulation Impact Statement (RIA) of April 2009 entitled National Approach to Maritime Safety Regulation, Option 3 was the preferred option. It proposed a national system, administered by the Australian Maritime Safety Authority (AMSA) achieved through the broadening of

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<sup>26</sup> Australasian Railway Association, *Ten Point Plan to Creating National Freight and Supply Chain Efficiencies*, [https://ara.net.au/sites/default/files/u647/ARA%20Info%20Sheet\\_Freight.pdf](https://ara.net.au/sites/default/files/u647/ARA%20Info%20Sheet_Freight.pdf)

<sup>27</sup> Ports Australia, *Using Australia's Blue Highway*, <https://www.portsaustralia.com.au/our-role/policy/blue-highway>

<sup>28</sup> Ibid

the *Navigation Act 1912*. This is not what has occurred. Rather, the National Law Act, which was the mechanism to bring all the vessels previously administered under State marine safety laws, under the framework and standards of the Navigation Act (with the exception of recreation vessels) has become the default standard. As we outline earlier, this has had the effect of driving quality shipowners out of the Australian commercial freight market.

It is important that the Navigation Act be amended so its jurisdiction is expanded.

#### **Recommendation 1**

It is recommended that the Victorian Government note that four key factors that have led to a reduction in coastal shipping in Victoria are:

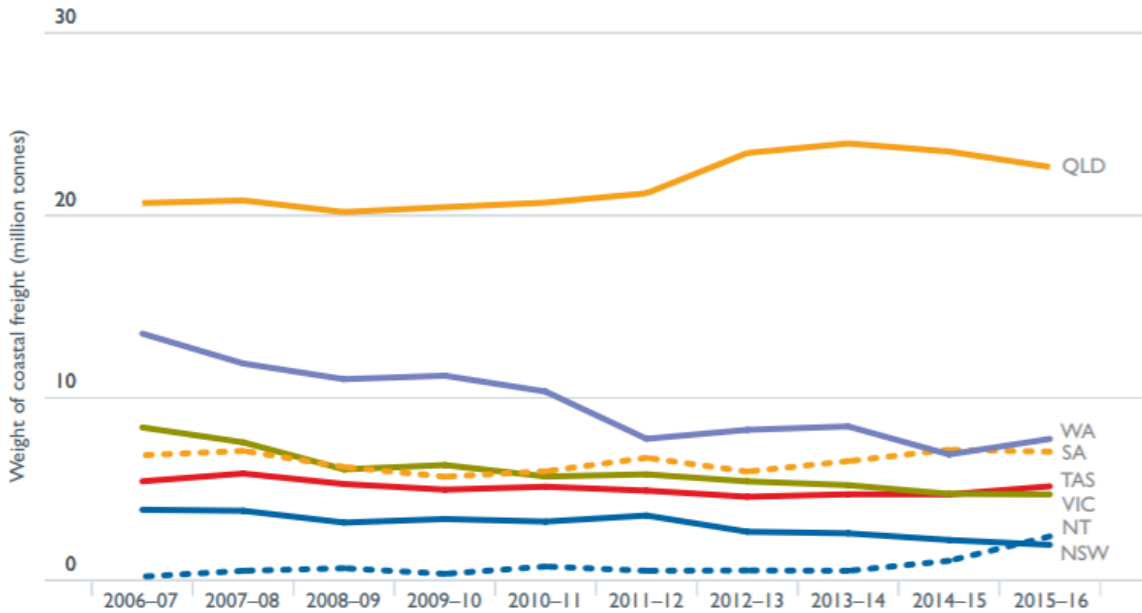
- \* Policy and legislative failure at the Commonwealth level;
- \* Weaknesses in Victorian freight and transport policy;
- \* The dual regulatory system for coastal shipping; and
- \* Flaws in the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* and its administration by AMSA, as well as flaws in the *Navigation Act 2012*.

## **Addressing term of reference 2: Whether cross-jurisdictional differences are leading to a decline in the Victorian coastal shipping task?**

It is the MUA submission that some cross-jurisdictional differences have contributed to a decline in the Victorian coastal shipping task, if that means a decline in the relative market share of Victorian freight carried by ship.

The decline in the Victorian coastal shipping task is revealed in Figure 3 which shows that over the 9 years from 2006-07 to 2015-16 the Victorian seafreight task has halved, declining from 9.1 billion tonne kilometres to 4.6 billion tonne kilometers.

**Figure 3: Coastal freight weight loaded by Australian state/territory, 2006-07 to 2015-16**

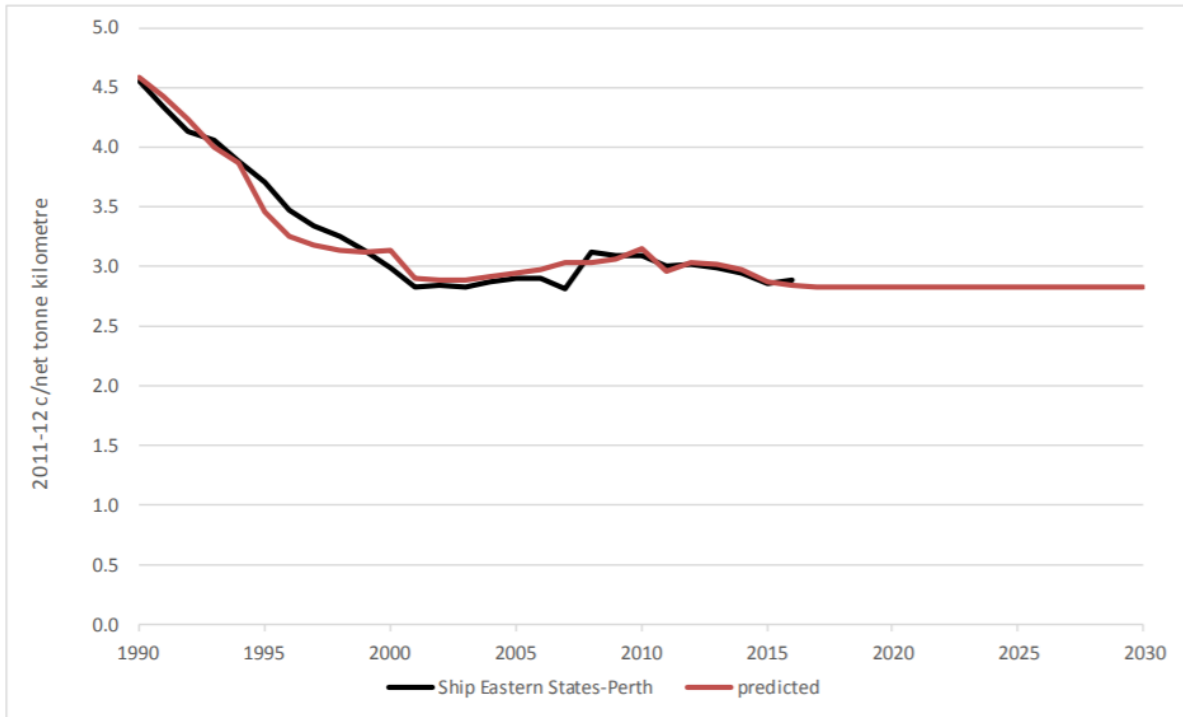


**Source:** Bureau of Infrastructure, Transport and Regional Economics (BITRE), *Australian sea freight 2015–16*, Figure 2.1 P18. See also Table 2.1 on P19

This trend is likely to continue with road and rail taking an increasingly larger share of the domestic freight task, as shown in Figure 1, unless positive action is taken by governments to arrest this trend.

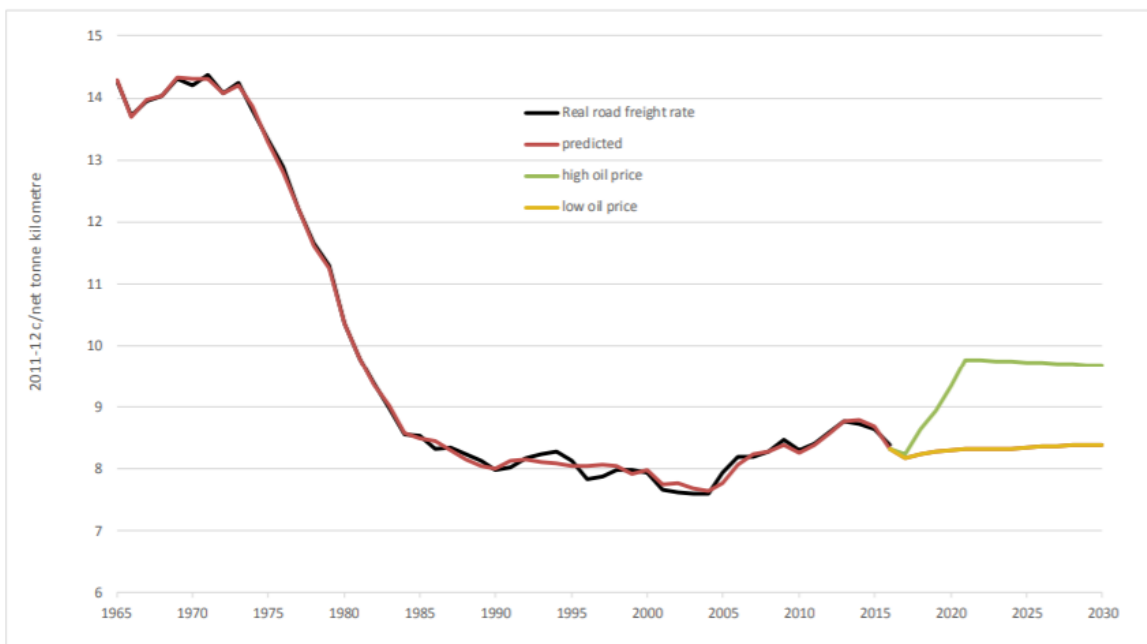
This trend belies economic logic given that sea freight rates are the lowest of all transport modes (around one third of road transport freight rates) on a tonne-kilometre basis and are predicted to remain stable, whereas road freight rates are likely to increase given trends in the global oil price. This is demonstrated in Figures 4 and 5.

**Figure 4: Real Eastern States to Perth sea freight rates and prediction**



Source: BITRE, *Freight Rates in Australia*, July 2017

Figure 5: Real road freight rates and prediction



Source: BITRE, *Freight Rates in Australia*, July 2017



The MUA identified two cross jurisdictional issues in response to Term of Reference 1 that are impacting on the market share of freight captured by Australian ships, which, given the national (and in fact globalised) nature of shipping is also impacting on the Victorian coastal shipping task. These are: (i) the dual regulatory system for coastal shipping; and (ii) flaws in the National Law Act and its administration by AMSA.

The dual regulatory system, which delineates interstate trade and intrastate trade makes no sense for a national, indeed international transport mode such as shipping. Furthermore, it is misnomer to refer to regulation of intrastate shipping, as it is essentially regulation free. At the time of the introduction of the National Law Act, the two States that previously imposed some form of economic regulation on intrastate shipping, Qld and WA, withdrew that regulation. To the knowledge of the MUA, Victoria has never developed a form of economic regulation of intrastate shipping. Intrastate shipping is free of any form of economic regulation.

The net result is that Australian shipping (including Australian ships in intrastate trading in all States) has declined dramatically. Furthermore, the lack of interest of foreign shipowners and operators in the efficiency and effectiveness of the Australian freight market has meant that shipping's overall role in the national (and by definition, the Victorian) freight task has declined and continues to trend south.

Our analysis of the impact of the flaws in the National Law Act and its administration by AMSA in response to Term of Reference 1 has shown how these flaws are compounding the trend away from use of Australian ships in both the intrastate freight market but also the national freight market.

Later in this submission in response to Terms of Reference 4 and 7, we advocate legislative change required at the Victorian Government level and Commonwealth level to address these flaws.

At the Victorian Government level, we advocate amendments to the *Marine Safety Act 2010* (Vic) and *Marine Safety Regulations 2012* (Vic) that focusses on improved marine safety through employment of Australian seafaring and marine sector labour, based on the higher marine occupational certification and VET qualifications held by Australian trained and skilled seafarers. This is not an entire solution, but it is a beginning and important step that could be implemented unilaterally by the Victorian Government. It should be noted that we have proposed a similar approach to the Qld Government as part of its 2018-2019 Inquiry into a sustainable Queensland intrastate shipping industry.<sup>29</sup>

Importantly however, we advocate in response to Term of Reference 7 that the Victorian Government agree to support amendments to the *Commonwealth Coastal Trading (Revitalising Australian Shipping) Act 2012* (CT Act) so that, inter alia, it applies to both interstate and intrastate shipping. This requires the Victorian Government to make a policy decision that regulation of intrastate shipping in Victoria be integrated with national regulation of interstate shipping.

A complementary measure required to give effect to a policy decision on a single national regulatory system for coastal shipping is that the Victorian Government support a referral of powers to the Commonwealth to guarantee the Constitutional basis for national regulation of all coastal trading – interstate and intrastate.

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<sup>29</sup> Qld Parliament, Transport and Public Works Committee, *Inquiry into a sustainable Queensland intrastate shipping industry*, November 2018

We hope the Victorian Government is persuaded to adopt such a policy position.

## Addressing term of reference 3: What opportunities exist for coastal shipping to provide a greater contribution to the Victorian freight task by reducing road and rail congestion and managing future freight demand?

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

The ABS estimate that across Australia, roads received \$25 billion in public funding and rail received \$8.3 billion in public funding in 2013-14.<sup>30</sup> Ports Australia says that Australian governments' invested \$26 billion on construction and maintenance of roads in 2015 16 and that since 1999-00 this expenditure had risen by 62%. In contrast, no Commonwealth or State taxation revenue is currently allocated, directly or indirectly, to support the domestic shipping industry.<sup>31</sup> The cost of the Tasmanian Freight Equalisation Scheme (TFES) is not a subsidy to ships or ship operators, as it flows to exporters (shippers).

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

These facts significantly undermine the arguments of industry participants like the Australian Logistics Council (ALC) and the Queensland Logistics Council (QLC) that that if shipping was competitive with the landside modes of transport, more freight would be transported on ships.

Both the Brisbane and Townsville ports have pointed to road and rail freight subsidies as affecting the viability of a dedicated Qld sea freight service. The Port of Brisbane submitted to the 2014 Qld review of coastal sea freight that:

*'There have been a number of attempts to establish coastal services for containerised products and break-bulk products on the Queensland coast without success. This is due to a number of factors, predominately the continued subsidisation of road and rail by successive State and Federal Governments. As a result, shipping has not been able to compete on an equal playing field.'*<sup>32</sup>

Similarly, the Port of Brisbane has explained that:

*'The externalities of trucking have not been paid for by the industry, where the engineering impacts of one heavy vehicle can be the equivalent to 5000 cars. As a result of subsidisation of*

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<sup>30</sup> ABS (2015, c, e, h), BITRE estimates. See Teresa Lloyd, "The Strategic Fleet and the National Interest", *Lloyds DCN*, October 2018.

<sup>31</sup> A very small amount of government revenue is currently forgone where ship owners and ship operators have accessed Commonwealth shipping taxation incentives, and in the case of Victoria, where some port charges favour coastal shipping relative to foreign shipping.

<sup>32</sup> Report of the Qld Parliament's Transport, Housing and Local Government Committee Report No. 59, *Inquiry into Coastal Sea Freight* December 2014, P26

*the heavy vehicle industry, particularly long-haul markets, a coastal cargo mode cannot compete, even when distances present a competitive advantage.*

*While subsidies in the rail sector have had less of an impact on coastal shipping, Government policy changes at the time created competitive neutrality between road and rail modes; it is this competitive neutrality that has come at the expense of the coastal shipping sector.<sup>33</sup>*

The Queensland *Inquiry into Coastal Sea Freight* accepted that ‘rail freight and road freight receive direct and indirect subsidies from the Queensland and Federal governments and that this is likely to put a sea freight service at a competitive disadvantage.’ It considered ‘the appropriateness of various subsidies to a range of points in the supply chain’ and concluded that Government should be open to discussions with the shipping industry, regional ports and freight customers regarding ways in which the government might be able to provide assistance to facilitate the establishment of a regular coastal sea freight service.

‘The Committee suggests, that if financial assistance is to be provided, it should be preceded by an assessment of any infrastructure barriers to a coastal shipping service, for example the need for loading facilities at regional ports which could be made available as common use infrastructure.’<sup>34</sup>

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

*“..it will strengthen support for Australian shipping operators in order to level the playing field between domestic and foreign shipping, while still enabling the participation of foreign operators in the movement of coastal cargo. New legislation incorporating revised licensing arrangements would focus more on the policy intent of building a viable and revitalised Australian shipping industry in order to maintain a domestic shipping industry that will not only be able to compete in the domestic market but function as a source of maritime expertise on which our regulatory agencies and port operators depend. Without action to address this declining industry Australia will find itself without a domestic shipping industry and perhaps more importantly without the means to facilitate and regulate the exports on which its economy depends.<sup>35</sup>*

Although it is argued that the 2012 shipping taxation incentives are a form of indirect forgone tax revenue, the fact that there has been such a low take-up of the tax incentives means that forgone revenue is negligible, and even more negligible when weighed against the benefits of increased economic activity from Australian shipping.<sup>36</sup>

It is well accepted for example that road network average road user charges under PAYGO (fuel excise and vehicle registration) do not convey signals to road users about the costs of using roads. Nor do those charges send price signals to road providers about the demand for different roads. The result is a disconnect between road charges when they are not linked to road spending, that leads to inefficient

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<sup>33</sup> Ibid P41

<sup>34</sup> Ibid P46

<sup>35</sup> Department of Infrastructure and Transport, *Reforming Australia’s Shipping, Regulation Impact Statement* approved by the Department of Finance, August 2011

<sup>36</sup> In 2018 there were just 20 Certificates issued to companies seeking an Income Tax Exemption, 4 Certificates issued for the Refundable Tax Offset, 2 Certificates for Accelerated Depreciation and zero Certificates issued for Rollover Relief.

taxpayer funded spending decisions. The current road and rail access charging regimes provide an artificial price advantage to road freight in particular. Rail access charges account for 30-40% of a rail freight's operational costs, while road charges accounts for around 5-10% of road freights operating costs.

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

The Australian Strategic Policy Institute has argued that:

*“trying to get more interstate and intrastate cargo back to sea is sensible, but that hasn't happened for several reasons: road transport provides better door-to-door movement; road transport doesn't pay its true costs of using the roads; large integrated transport companies have a lot of government influence; and Australian industry has argued strongly against the risks of increased costs.”<sup>37</sup>*

The Institute noted that:

*“Europe has faced a similar dilemma but, with increased road congestion and high highway tolls that put more of the true costs onto road trucking, a trend has emerged of more trucks and containers being moved by sea ('short sea shipping') where sea transport is an alternative to land transport. Special types of dedicated truck ferries and container or ro-ro (roll-on/roll-off) ships have emerged for this trade.”<sup>38</sup>*

Importantly, the Institute concluded that:

*“there could be scope for a similar move back to sea transport in Australia, particularly if the true costs of road transport were factored in.”<sup>39</sup>*

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

All the evidence shows that ships are highly price competitive with road and rail, the two main competitors to ships in the domestic freight market. A 2008 report on an *Economic Appraisal of Australia's Shipping Future*, prepared for the Department of Infrastructure, Transport, Regional Development and Local Government found that coastal shipping exhibited a 10-20% freight rate advantage over rail.<sup>40</sup>

Figure 6 shows that sea freight rates are highly competitive with road and rail and that the decline in sea freight rates over the period 1990 to 2015 has bettered the productivity performance of road freight and matched rail freight productivity.

**Figure 6: Real interstate road, rail and sea freight rates**

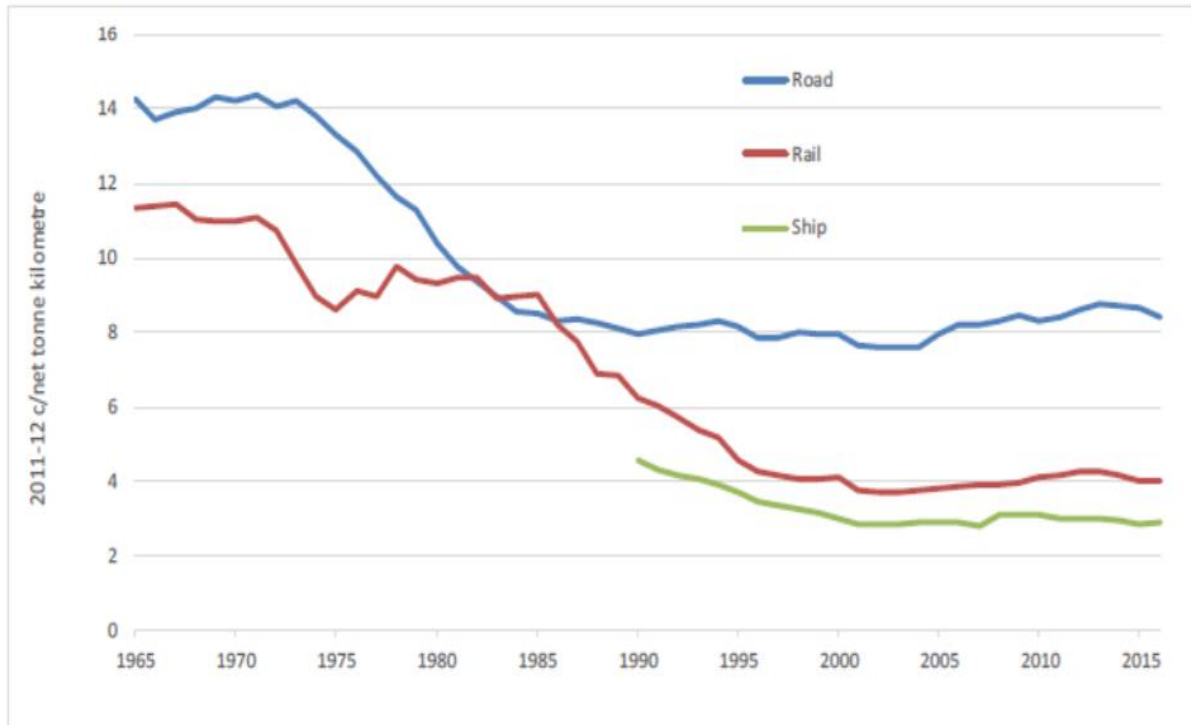
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<sup>37</sup> Australian Strategic Policy Institute, *Does Australia need a merchant shipping fleet?* The Strategist, 4 March 2019, <https://www.aspistrategist.org.au/does-australia-need-a-merchant-shipping-fleet/>

<sup>38</sup> Ibid

<sup>39</sup> Ibid

<sup>40</sup> Meyrick and Associates *Economic Appraisal of Australia's Shipping Future*, prepared for the Commonwealth Department of Infrastructure, Transport, Regional Development and Local Government, December 2008



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

In a study published in 2010, the National Institute of Economic and Industry Research (NIEIR)<sup>41</sup> compared the characteristics of the sea, rail and road freight modes. It found that shipping is able to offer competitive service/cost packages where:

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

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

More recent research involving a survey of nearly 600 Australian shippers by the University of Sydney shows that while shippers showed a general preference for established road and rail alternatives, they did

<sup>41</sup> Manning, Ian and Brain, Peter, *Australian Coastal Shipping: Its future Role*, National Institute of Economic and Industry Research, 2007, published March 2010

identify value in obtaining increases in reliability within short sea services. Furthermore, respondents indicated interesting shifts in preferences across modal alternatives under the presence of integrated short sea shipping services. The authors concluded that:

*“Given the choice of domestic or foreign flag, the research has demonstrated that the buyer of shipping services in this market will not necessarily support “national flag” shipping through a willingness to pay a premium price, but that the value of national flag shipping may well be tied to its ability to integrate services in the last mile, e.g. in terms of meeting delivery windows and reliability requirements. Given the current revisions planned for Australia’s coastal shipping permitting regulations, this implies that public policy planners may wish to consider approaches that will assist coastal operators in integrating their services with land-based delivery”.*<sup>42</sup>

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

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

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

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

*“Ships registered in foreign countries may be subject to less stringent requirements around workforce pay and conditions, safety, security, environment, taxation, and other fees, charges and levies under the rules of their flag state when compared to Australian ships”*<sup>43</sup>

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

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<sup>42</sup> Noetic Infrastructure Solutions, *National Shipping Legislation – A review of Australian Coastal Shipping*, May 2014 (prepared for the Maritime Union of Australia), unpublished

<sup>43</sup> Department of Infrastructure and Regional Development, Options Paper: *Approaches to regulating coastal shipping in Australia*, April 2014, [http://www.infrastructure.gov.au/maritime/business/coastal\\_trading/review/files/Options\\_Paper\\_Approaches\\_to\\_regulating\\_coastal\\_shipping\\_in\\_Australia.pdf](http://www.infrastructure.gov.au/maritime/business/coastal_trading/review/files/Options_Paper_Approaches_to_regulating_coastal_shipping_in_Australia.pdf)

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

Furthermore, Australian labour and immigration laws do not permit non-nationals to work in Australian domestic industries at rates of pay that are only 25% to 30% of the Australian market rate. Regrettably, the combination of migration, customs and shipping regulation permits this to occur in the domestic shipping industry.

The question therefore arises as to why this should be permitted in the Australian domestic freight market?

No cogent and sustainable argument has been mounted for such a policy position, and no proponent of such a policy has been able to explain why Australia should breach international human rights conventions to achieve such an outcome.

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

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

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

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

*“The multifactorial aims of the regulatory framework may, to a degree, have some tension amongst them, for example, the promotion of competition in coastal trading with the maximisation of the use of General Shipping Register vessels. The notion of promotion of competition in coastal trading has a number of elements. One aspect, referred to in the report of the Parliamentary Standing Committee in 2008 is the competition between coastal shipping and road and rail transport in the domestic transport sector. This aspect is reflected also in para (c) of s3(1). This perspective of competition would or might see (as stated at [3.29] of the Standing Committee’s Report) Australian ships, using Australian crew being employed “when at all possible” in the carriage of domestic cargo. The promotion of such domestic competition would or may see Australian ships being given the right to carry coastal trade cargo, even in the face of cheaper (or more “competitive”) freight alternatives from foreign ships. In other words, the*

*promotion of domestic “competition” may not lead to the lowest freight rate for an Australian shipper, when set against foreign-registered competition. That said, the reforms to the taxation system, the setting up of an Australian International Register and the pressure of foreign-registered vessels having the opportunity to participate in the coasting trade would or may be seen to promote the efficiency of Australian shipping and to foster a greater capacity to compete realistically with foreign-registered shipping.”<sup>44</sup>*

Ports Australia is advocating for development of a Blue Highway policy because shipping can help:

- Save money:
  - Australian governments’ invested \$26 billion on construction and maintenance of roads in 2015 16. Since 1999-00 this expenditure had risen by 62%. In addition, under-recovery of damage caused by heavy vehicle road freight is estimated at between \$7,000 and \$10,500 per truck each year. Rail expenditure by all governments was \$11 billion in 2015-16. Since 1990-00 this expenditure has increased by 16%. By moving more freight along the blue highway we could reduce the amount spent each year maintaining road and rail;
- Reduce congestion:
  - One container ship can carry the same load as almost 400 trucks which is an important factor in deciding our future transport mix when considering the cost of congestion is increasing in Australia’s capital cities to \$53.3 billion by 2031. Additionally, the damage to our roads caused by trucks which is not being recovered is a saving gained through improved freight transport balance.
- Improve road safety:
  - Road fatalities in 2018 involving heavy trucks saw 154 people die from 136 fatal crashes. The number injured or survived is not included in this. Under a scenario in which 1 million tonnes of freight per annum is shifted from road to sea between Brisbane and Townsville, the reduction in accident costs would be approximately \$30.7 million per annum.
- Reduce pollution:
  - Shipping produces 1/5th the carbon emissions of road per tonne-km. This is an important factor in future freight transport decision making because Australia’s second largest source of greenhouse gas pollution results from the transport sector, which predominately consists of road and rail.
- Revitalise regional Australia; and
- Reverse Australia's maritime skills shortage.<sup>45</sup>

There are a range of industry policy support measures that can be taken by both the Victorian and Australian governments that would help level the playing field for shipping to enable fair competition for market share in coastal freight, including:

- Support for differential pricing of port fees, levies and charges (state).
- Reforming ship fees, levies and charges to positively discriminate towards Australian ships (mainly Commonwealth).
- Port access prioritisation (state).
- Reform maritime and port services procurement and operations standards (state).

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<sup>44</sup> Full Federal Court *CSL Australia Pty Limited v Minister for Infrastructure and Transport* [2014] FCAFC 10 26 February 2014, Para 166

<sup>45</sup> Ports Australia, *Using Australia's Blue Highway*, <https://www.portsaustralia.com.au/our-role/policy/blue-highway>



- Government funding of fit for purpose port infrastructure (state).
- Support for Cadet and Traineeship training, and support for access to IMO Convention mandated sea time for gaining seafarer qualifications (state and Commonwealth).
- Reform of corporate and employee taxation measures (Commonwealth).
- Use of procurement to provide baseload freight demand (state).
- Support for development of domestic ship repair and maintenance facilities (state).
- A coordination role for government – national supply chain and port policy coordination and partnering to address barriers to entry (state and Commonwealth).

### Recommendation: 2

It is recommended that the Victorian Government:

\* Include as a key priority for the stakeholder reference group proposed by the Government to support development of a new port strategy:

^ An analysis of the total freight task and advice on how the Victorian Freight Plan could be updated to better incorporate opportunities for coastal sea freight and for use of Australian ships in the Victorian sea freight task; and

^ Identification of the most effective and efficient forms of industry assistance that could be made available to coastal ship owners and operators aimed at redressing the competitive disadvantage which coastal shipping endures due to the subsidisation of the road and rail freight modes of transport.

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

This submission estimates that the number of seafarers holding current AMSA certification employed in Australia is in the order of 7,000-8,000 (excluding the fishing sector) – see **Appendix 1** for an analysis of seafarer employment in Australia.

It should be noted however, that AMSA issues certificates to two categories of seafarer: (i) those employed on generally larger ships (legislatively described as regulated Australian vessels or RAVs) which are permitted to voyage internationally, and which are regulated under the *Navigation Act 2012*. Seafarers on these ships hold internationally recognised certificates issued in accordance with AMSA Marine Orders 70, 71, 72 and 73<sup>46</sup> based on the IMO STCW Convention; and (ii) those employed on generally smaller ships (legislatively described as domestic commercial vessels or DCVs) which remain in Australian waters and which are regulated under the *Marine Safety (Domestic Commercial Vessel)*

<sup>46</sup> The following seafarer certificates may be issued under Marine Orders 70, 71, 72 and 73: (a) Marine Cook; (b) Master <24 m FG; (c) Watchkeeper Deck <500 GT; (d) Mate <500 GT; (e) Watchkeeper Deck; (f) Chief Mate <3000 GT; (g) Master <500 GT; (h) Chief Mate; (i) Master <3000 GT; (j) Master; (k) Electro-technical officer; (l) Engineer Watchkeeper (Motor); (m) Engineer Watchkeeper (Steam); (n) Engineer Watchkeeper (Steam and Motor); (o) Engineer Class 2 (Motor); (p) Engineer Class 2 (Steam); (q) Engineer Class 2 (Steam and Motor); (r) Engineer Class 1 (Motor); (s) Engineer Class 1 (Steam); (t) Engineer Class 1 (Steam and Motor); (u) Navigational Watch Rating; (v) Engine Room Watch Rating; (w) Able Seafarer — Deck; (x) Able Seafarer — Engine; (y) Integrated Rating; and (z) Chief Integrated Rating.

*National Law Act 2012* (National Law Act). Seafarers on these ships are required to hold domestic certificates issued in accordance with AMSA Marine Order 505<sup>47</sup>.

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

It is the small and declining number of seafarers employed on RAVs (or eligible to be employed on RAVs) holding Marine Order 70, 71, 72 and 73 certificates where the crisis in the maritime skills base lies. This is evidenced in the MIAL Seafaring Skills Census 2018.<sup>48</sup> It is the seafarers holding these certificates that transition into the vast range of inshore and onshore occupations requiring underpinning seafarer qualifications, such as marine pilots, harbourmasters, managerial positions in shipping and shipper companies, in regulators like AMSA, in marine training and in logistics more broadly.

Under the policy settings advocated in this submission, we estimate that seagoing seafaring employment could expand to around 9,800 over the next 5 years, an increase of 22.0 per cent, predominantly seafarers with international certification that can be employed on ships designated as RAVs.

This potential increase in seafaring employment would result from investment in additional large Australian crewed ships (predominantly RAVs) that would be required to be either registered on the AGSR or would be foreign ships licensed to operate in coastal trading employing Australian crew. Details on the ships where this potential increase in employment could arise are provided in Table 6.

**Table 6: Trades where cargo volumes indicate Australian ships could be sustained under a positive regulatory framework supported by taxation incentives and establishment of a strategic fleet**

Shipping trade	Number of additional Australian ships	Employment impact – additional Australian seafarers
Bulk liquids (small multipurpose tankers)	1	32
Liquefied Petroleum Gas (specialised LPG tankers)	2	64
Liquid Ammonia (specialised ammonia/LPG tanker)	1	32
Refined Petroleum Product Tankers – domestic MR size	3	96
Refined Petroleum Product Tankers –international imports LR size <sup>49</sup>	10	320
Coal Tar, Liquid Carbon Pitch, Asphalt, Bitumen (specialised heated tankers)	1	32
Dry Bulk: Alumina	2	64

<sup>47</sup> The following seafarer certificates mentioned in the National Standard for Domestic Commercial Vessels (NSCV) Part D may be issued under Marine Order 505: (a) General Purpose Hand; (b) Coxswain Grade 2 NC (Near Coastal); (c) Coxswain Grade 1 NC; (d) Master <24 m NC; (e) Master (Inland waters); (f) Master <35 m NC; (g) Mate <80 m NC; (h) Master <80 m NC; (i) Marine Engine Driver Grade 3 NC; (j) Marine Engine Driver Grade 2 NC; (k) Marine Engine Driver Grade 1 NC; (l) Engineer Class 3 NC.

<sup>48</sup> MIAL, *Seafaring Skills Census 2018*, <https://www.mial.com.au/our-work/seafaring-skills-census>

<sup>49</sup> These are National Strategic Fleet ships.

Dry Bulk: Bauxite (90,000 DWT bulk carriers)	6	192
Dry Bulk: Small cargos less than 10,000 tonnes (10,000-15,000 DWT multipurpose bulk carriers)	2-4	64
Dry Bulk: Medium cargos up to 45,000 tonnes <sup>50</sup>	8-12	256
Dry Bulk: Iron Ore (170,000 DWT)	4-5	128
Containers (1,500 TEU container and ro-ro ship)	3	96
General Cargo (Ro-ro, breakbulk and project cargo ships)	2	64
Qld coastal shipping service	2	64
LNG tankers <sup>51</sup>	7	224
Offshore wind construction vessel <sup>52</sup>	1	32
<b>Total</b>	<b>55-62</b>	<b>1,760<sup>53</sup></b>

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

Based on available data, a considerable proportion of the cargo volumes that would sustain these additional Australian ships originates in Victoria and voyages interstate. This is shown in Table 5. However, it should also be noted that there is currently very little intrastate coastal trading in Victoria. The main intrastate cargo is petroleum products originating in Geelong and being transported to the Port of Melbourne or to Hastings port.

Main cargos loaded in Victoria are:

- Containers, mainly CMA CGM and Maersk.
- Petroleum by Viva (noting that a lot of this is on the Australian crewed bunker tankers that voyage to Sydney).
- Machinery by Wilhelmsen.

Main cargos discharged in Victoria are:

- CSL cement associated cargos.
- Incitec Pivot fertilizer.
- Machinery by Wilhelmsen.
- Alcoa alumina.
- BlueScope steel.

**Table 7: Companies loading Temporary Licence (TL) cargos in Victoria, 2018**

<sup>50</sup> Dry bulk medium cargoes and dry bulk iron ore include ships that should be re-introduced to replace those Australian ships withdrawn from coastal trade where cargo volumes remain e.g. *MV Mariloula*, *MV Lowlands Brilliance* in iron ore and the *CSL Iron Chieftain*, *CSL Thevenard*, *CSL Brisbane*, *CSL Melbourne*, *MV Portland* etc in other trades.

<sup>51</sup> This is only a small proportion (less than 10%) of the ships required to transport Australian LNG to export markets (requiring about 40-50 unique ships. Estimate derived from *Australian Sea Freight 2014-15*, Table 4.5 Number of port calls, by ship type).

<sup>52</sup> This is a National Strategic Fleet ship.

<sup>53</sup> The crewing numbers (16 per swing or 32 per ship) are based on Minimum Safe Manning requirements, not operational manning, which could be higher. Where the ship numbers include a range, the lower number is used for calculation purposes.

Companies loading Temporary Licence (TL) cargos in Victoria, 2018		
Company name	Sum of Volume/ Amount	Number of Voyages
<b>Amпол Singapore Trading Pte Ltd</b>	<b>30,009</b>	<b>1</b>
Petroleum Clean	30,009	1
<b>Bluescope Steel (AIS) Pty Ltd</b>	<b>12,630</b>	<b>3</b>
Steel Products	12,630	3
<b>CMA CGM &amp; ANL Australia Agencies</b>	<b>21,110</b>	<b>109</b>
N/A	21,110	109
<b>Geogas Trading S.A.</b>	<b>2,088</b>	<b>1</b>
Propane	2,088	1
<b>Gulf Agency Company (Australia) Pty Ltd</b>	<b>6,000</b>	<b>1</b>
20Ft Container	6,000	1
<b>Inchcape Shipping Services</b>	<b>37,987</b>	<b>2</b>
Other	37,987	2
<b>Incitec Pivot Limited</b>	<b>94,304</b>	<b>13</b>
Fertiliser	94,304	13
<b>Ixom Operations Pty Ltd</b>	<b>3,475</b>	<b>2</b>
Other	3,475	2
<b>K Line Australia Pty Ltd</b>	<b>3,102</b>	<b>25</b>
Road Vehicles and Transport Equiprment	259	1
RoRo	2,843	24
<b>Maersk Line A/S</b>	<b>2,670</b>	<b>49</b>
N/A	2,670	49
<b>Mobil Oil Australia Pty Ltd</b>	<b>166,967</b>	<b>20</b>
Petroleum Clean	166,967	20
<b>Monson Agencies Australia Pty Ltd</b>	<b>110,970</b>	<b>4</b>
Barley	79,373	3
Mineral Sands	31,597	1
<b>NYK Australia Pty Ltd</b>	<b>3,181</b>	<b>19</b>
RoRo	3,181	19
<b>OOCL Australia Pty Ltd</b>	<b>6,205</b>	<b>21</b>
N/A	6,205	21
<b>Origin Energy Contracting Limited</b>	<b>1,001</b>	<b>1</b>
Propane	1,001	1
<b>Pacific Asia Express</b>	<b>7,487</b>	<b>30</b>
20Ft Container	7,487	30
<b>Seaway Agencies</b>	<b>231</b>	<b>12</b>
RoRo	231	12
<b>The China Navigation Company Pte Ltd</b>	<b>32</b>	<b>2</b>
N/A	32	2
<b>Viva Energy Australia Ltd</b>	<b>802,942</b>	<b>120</b>
Petroleum Clean	628,933	90
Petroleum Dirty	174,009	30
<b>Wallenius Wilhelmsen Logistics</b>	<b>14,928</b>	<b>40</b>
Machinery	14,928	40
<b>Grand Total</b>	<b>1,327,319</b>	<b>475</b>

Source: MUA analysis of TL data

Note: A large proportion of the Viva Energy cargoes are transported on Australian crewed ships.

**Table 8: Companies discharging Temporary Licence (TL) cargoes in Victoria, 2018**

<b>Companies discharging Temporary Licenced (TL) cargoes in Victoria, 2018</b>		
<b>Company name</b>	<b>Sum of Volume/ Amount</b>	<b>Number of voyages</b>
<b>Alcoa Portland Aluminium</b>	<b>35,000</b>	<b>1</b>
Alumina	35,000	1
<b>Alcoa Portland Aluminium Pty Ltd</b>	<b>574,914</b>	<b>16</b>
Alumina	574,914	16
<b>Ameropa Australia Pty Ltd</b>	<b>38,761</b>	<b>4</b>
Fertiliser	38,761	4
<b>Asiaworld Shipping Service Pty Ltd</b>	<b>704</b>	<b>1</b>
Break Bulk	704	1
<b>Bluescope Steel (AIS) Pty Ltd</b>	<b>266,141</b>	<b>15</b>
Steel Products	266,141	15
<b>BP Australia Pty Ltd</b>	<b>35,598</b>	<b>3</b>
Petroleum Clean	35,598	3
<b>CMA CGM &amp; ANL Australia Agencies</b>	<b>1,363</b>	<b>20</b>
N/A	1,363	20
<b>CSL Australia Pty Ltd</b>	<b>2,229,975</b>	<b>125</b>
Calcite	25,384	1
Cement	1,273,211	71
FlyAsh	190,675	25
Gypsum	575,497	21
Other	54,739	2
Sugar	110,469	5
<b>Gearbulk Australasia Pty Ltd</b>	<b>21,388</b>	<b>1</b>
Other	21,388	1
<b>Incitec Pivot Limited</b>	<b>338,214</b>	<b>86</b>
Fertiliser	163,040	46
Sulphuric Acid	175,174	40
<b>Inco Ships Pty Ltd</b>	<b>28,000</b>	<b>1</b>
Sugar	28,000	1
<b>K Line Australia Pty Ltd</b>	<b>492</b>	<b>7</b>
Road Vehicles and Transport Equipment	11	1
RoRo	481	6
<b>LD Bulk SAS</b>	<b>27,421</b>	<b>1</b>
Other	27,421	1
<b>Mobil Oil Australia Pty Ltd</b>	<b>11,889</b>	<b>2</b>

Petroleum Clean	11,889	2
<b>Monson Agencies Australia Pty Ltd</b>	<b>45,545</b>	<b>3</b>
Other	45,545	3
<b>MSF Marketing Pty Ltd</b>	<b>63,000</b>	<b>2</b>
Sugar	63,000	2
<b>NYK Australia Pty Ltd</b>	<b>1,822</b>	<b>15</b>
RoRo	1,822	15
<b>Seaway Agencies</b>	<b>242</b>	<b>15</b>
RoRo	242	15
<b>Sugar Australia Pty Ltd</b>	<b>31,040</b>	<b>2</b>
Sugar	31,040	2
<b>Teekay Shipping (Australia) Pty Ltd</b>	<b>26,999</b>	<b>12</b>
Hard Pitch	26,999	12
<b>Viva Energy Australia Ltd</b>	<b>91,287</b>	<b>7</b>
Petroleum Clean	45,666	4
Petroleum Dirty	45,621	3
<b>Wallenius Wilhelmsen Logistics</b>	<b>3,705</b>	<b>31</b>
Machinery	3,705	31
<b>Grand Total</b>	<b>3,873,500</b>	<b>370</b>

Source: MUA analysis of TL data

As can be seen in Table 9 the majority of Australian ships trading in Victoria are associated with the Bass Strait freight and passenger trade. The objective of a nationally integrated shipping policy, requiring support from the Victorian (and other State) Governments is to ensure, through the right policy settings, that the cargoes identified in Table 6 that entail sufficient volume to sustain a ship, are carried on Australian ships utilising Australian seafarers.

Such an outcome would complement the Australian ships identified in Table 6 and add considerable depth to the Australian shipping fleet.

**Table 9: Vessels in the Major Australian trading fleet trading in Victoria in 2019**

Ship name	DWT	RAV or DCV?	Status
<b>Spirit of Tasmania I</b>	5,651	RAV	Bass Strait Cargo and Passenger trade
<b>Spirit of Tasmania II</b>	5,651	RAV	Bass Strait Cargo and Passenger trade
<b>Searoad Tamar</b>	9,958	RAV	Bass Strait Cargo and Passenger trade
<b>Searoad Mersey II</b>	7,980	RAV	Bass Strait Cargo and Passenger trade
<b>Tasmanian Achiever II</b>	12,000	RAV	Bass Strait Cargo and Passenger trade
<b>Victorian Reliance II</b>	12,000	RAV	Bass Strait Cargo and Passenger trade
<b>Goliath</b>	15,539	RAV	Dry bulk- Cement

**Source:** BITRE, *Australian Sea Freight 2015-16*, MUA industry knowledge, IHS Maritime commercial ship database. The database shows the certificates that vessels are required to hold under IMO standards, which under the Navigation Act would require them to be a RAV. Vessels which do not hold these certificates are by default a DCV under the National Law.

**Note:** Major Australian Trading Fleet ships is defined by the Bureau of Infrastructure, Transport and Regional Economics (BITRE) as cargo ships owned or operated by Australian companies, over 2,000 DWT, and for which 80% or more of their voyages called at an Australian port. Excludes ships that only carry passengers (see BITRE, *Australian Sea Freight 2015-16*, Chapter 5).

Some of the particular ships that would be fit the model outlined are shown in Table 10.

**Table 10: Major overseas-flagged coastal trading ships operating in Victoria July 2019**

Ship name	Flag	DWT	Year built	Majority Coastal Trading?	Australian crewed	Status
ICS Reliance	Bahamas	6,105	2011	Yes	Australian crewed	Geelong-Melbourne bunker barge – Viva/Inco Ships
ICS Allegiance	Bahamas	6,105	2011	Yes	Australian crewed	Geelong-Sydney bunker barge – Viva/Inco Ships
ICS Integrity	Bahamas	7,535	2012	Yes	Australian crewed	Geelong-Sydney bunker barge – Viva/Inco Ships
Acacia (ex-CSL Thevenard)	Bahamas	40,734	1981	Yes	Australian crew removed October 2017	CSL dry bulk – gypsum, cement, clinker, fly ash
Stadacona	Bahamas	32,452	1984	Yes since before 2012	Not Australian crewed	CSL dry bulk – gypsum, cement, clinker, fly ash
Luga (ex-Alcem Lugait)	Bahamas	28,808	1984	Yes since before 2012	Not Australian crewed	CSL dry bulk – cement and fly ash
CSL Reliance	Bahamas	49,463	2002	Yes since March 2017	Not Australian crewed	CSL dry bulk – mineral sands, dolomite, gypsum
Kondili	Bahamas	28,442	2006	Yes	Not Australian crewed	CSL dry bulk – cement
Nacc Napoli	Panama	28,300	2009	Yes	Not Australian crewed	CSL dry bulk – cement

**Note:** The ships listed in Table 10 are overseas-registered coastal trading ships and are larger than 2,000 DWT. Ships are Australian crewed unless noted. There are no longer any vessels operating on a Transitional General Licence, so when these vessels operate interstate they use Temporary Licences.



The entry of 55 additional Australian ships to Australian coastal trading (a conservative estimate – could be up to 62 ships), of which we estimate the overwhelming majority, if not all, would be RAVs, represents a 358 per cent increase in the large Australian fleet, which at mid-2019 stands at just 12 ships (down from 14 at 30 June 2016 and 20 at 30 June 2011<sup>54</sup>). It also represents an increase in seafarer employment of at least 1,760 seafarers, virtually all of whom would require internationally recognised seafarer certificates (and associated high-end VET and university qualifications). This represents an increase in seafarer employment of at least 22 per cent over current levels of seafarer employment (estimated at 8,000 – see Appendix 1 for an analysis of seafarer employment in Australia).

The analysis behind the data in Table 4 derives from detailed research of cargo volumes based on Temporary Licence data produced by the Department of Infrastructure, Regional Services and Cities. It shows where trade volumes, currently carried by GL and TL ships, is sustaining a dedicated ship of a size and type suited to the trade. In many cases, the additional ships represent a replacement of ships with a TL with a ship that is a GL (or, under the new regulatory framework proposed in this submission, a Modified GL ship [Australian crewed but foreign registered]).

Those trades where the shippers have manipulated the flaws in the CT Act and its administration by the Commonwealth Department should be the focus of the transition back to use of Australian ships. One particular example is the transportation of alumina from Bunbury to Portland by Alcoa. In 2015 Alcoa took a decision to cease the use of the Australian crewed *MV Portland*, resulting in the loss of Australian seafarer jobs in this trade, replacing that ship with ships engaged under a Temporary Licence pursuant to the CT Act. The volume of alumina requiring transportation to the Portland smelter had remained constant since 2015.

It is noted that Alcoa is the beneficiary of a taxpayer funded subsidy provided by the Victorian Government in the form of power tariff concessions for electricity provision. It is our submission that such a subsidy must be accompanied by commitments that underpin the company's social licence to operate, in particular a social responsibility to commit to the employment of Australian workers in its operations. Part of that employment obligation must involve the use of Australian labour in the company's domestic supply chains.

Each trade must be fully examined to ascertain whether it can sustain an Australian ship. With a view to adoption of a transition strategy that would see the injection of Australian ships in specific trades in Victoria.

These additional Australian ships would have a significant multiplier effect in terms of domestic maritime employment, and demand for support services covering ship finance, ship insurance, ship chartering (and legal services that attach to finance, insurance and chartering), ship crewing, ship provisioning and

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<sup>54</sup> Bureau of Infrastructure, Transport and Regional Economics (BITRE), *Australian Sea Freight 2015–16*, Pvi [https://bitre.gov.au/publications/2018/files/asf\\_2015\\_16.pdf](https://bitre.gov.au/publications/2018/files/asf_2015_16.pdf). Australian Sea freight says: “In 2015–16, there were 116 vessels in the Australian trading fleet, with a total deadweight tonnage of 5.1 million tonnes and total gross tonnage of 3.7 million. The total deadweight tonnage and gross tonnage of the Australian trading fleet increased 6.8 and 4.9 per cent per annum in trend terms respectively over the five years to 2015–16. The number of major (deadweight tonnage greater than 2 000 tonnes) Australian registered ships with a general licence dropped by one to 14 in 2015–16 with the removal of Alcoa’s *Portland*. This compares to 20 major Australian registered ships with a coastal trade licence in 2010–11. The total deadweight tonnage and gross tonnage of these ships declined by 23.4 and 15.6 per cent per annum in trend terms respectively over the five years to 2015–16.”

bunkering all of which occurs offshore where ships are foreign owned, foreign registered and foreign crewed. The Oxford Economics study for the UK showed a multiplier effect of around 1:2 for the maritime industry, meaning that for each new seafaring job created, there are around 2 additional jobs created in the wider maritime sector.

Maritime Industry Australia Ltd (MIAL), representing maritime industry companies, has identified the importance of maintaining a core maritime skills base, at the very least to ensure the efficient functioning of over 70 ports around the country, critical infrastructure and safety roles as well as supporting major projects, such as in offshore oil and gas and offshore wind farms, which are critical to the nation's economy.<sup>55</sup>

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

- Over Size Over Mass and project cargo to Gladstone, Mackay and Townsville from Brisbane. For example, specialist heavy lift international shipping lines could discharge project cargo at the Port of Brisbane and utilize the services of an intrastate coastal shipping service to move project cargo to suitably located regional ports to maintain the tight timeframes that these specialist ships operated within as part of their schedule of global port calls.<sup>56</sup>
  - Oversize Overmass cargo movement could become important for Victoria if Victoria becomes a base for construction of offshore wind farms along the east coast;
- General freight movements north and south, including community supply cargoes for Mackay and Townsville from Brisbane and return containers for export, and import TEU cargoes for Townsville and Brisbane for regional distribution - for example, containerised exports of sugar, grain, cotton, fruit, vegetables and beef moved through regional ports and transhipped at the Port of Brisbane for on-carriage to international and/or domestic markets. AgForce has identified an opportunity to transport fertiliser by sea freight that is currently moved by B-double as far north as almost Cairns. AgForce believes there is an opportunity for large volumes of fertiliser to be moved by coastal ships subject to sea freight rates.<sup>57</sup>
- Freight for the Northern Territory and Northern Australia; and
- Out turn freight from coastal ports.<sup>58</sup>
  - More containerised freight from Portland destined for Melbourne for export could develop into an important coastal shipping opportunity for Victoria.

In its 2016 report to the MUA on Coastal Shipping Research & Analysis of the east coast seaborne bulk commodity trades, SMG developed a methodology for assessing ship suitability for cross trading, aimed at assisting with determinations on where the opportunities lie in Australian bulk commodity shipping to improve cross trading to reduce shipping costs (empty ballast legs being a big factor in costs in Australian

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<sup>55</sup> MIAL, *Seafaring Skills Census 2018*, CEO Overview, <https://www.mial.com.au/our-work/seafaring-skills-census>

<sup>56</sup> Ibid P32

<sup>57</sup> Ibid P35

<sup>58</sup> Qld Sea Freight Action Plan *Coastal Shipping Addendum* May 2014

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

costal trade given the length of the coastline and large distances between centres of population and ports).

SMG created a matrix using the types of ships found in the coastal trade matched with the major bulk commodities required in Australian manufacturing. This matrix provides a map to demonstrate the process which a chartering manager might follow in assessing whether or not an empty ship on a ballast leg is suitable for a cargo which is on offer at a nearby port. The matrix provided in Table 11 shows whether or not a particular ship or subcategory of its type is suitable for carrying any of the range of commodities. A green square in the matrix indicates that it is probably suitable. A red square indicates it is not suitable for that ship/commodity combination.

**Table 11: Matrix for assessment of ships suitable for cross-trading**

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

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

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

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

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

**Table 12: Ships ranked by suitability for cross trading**

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

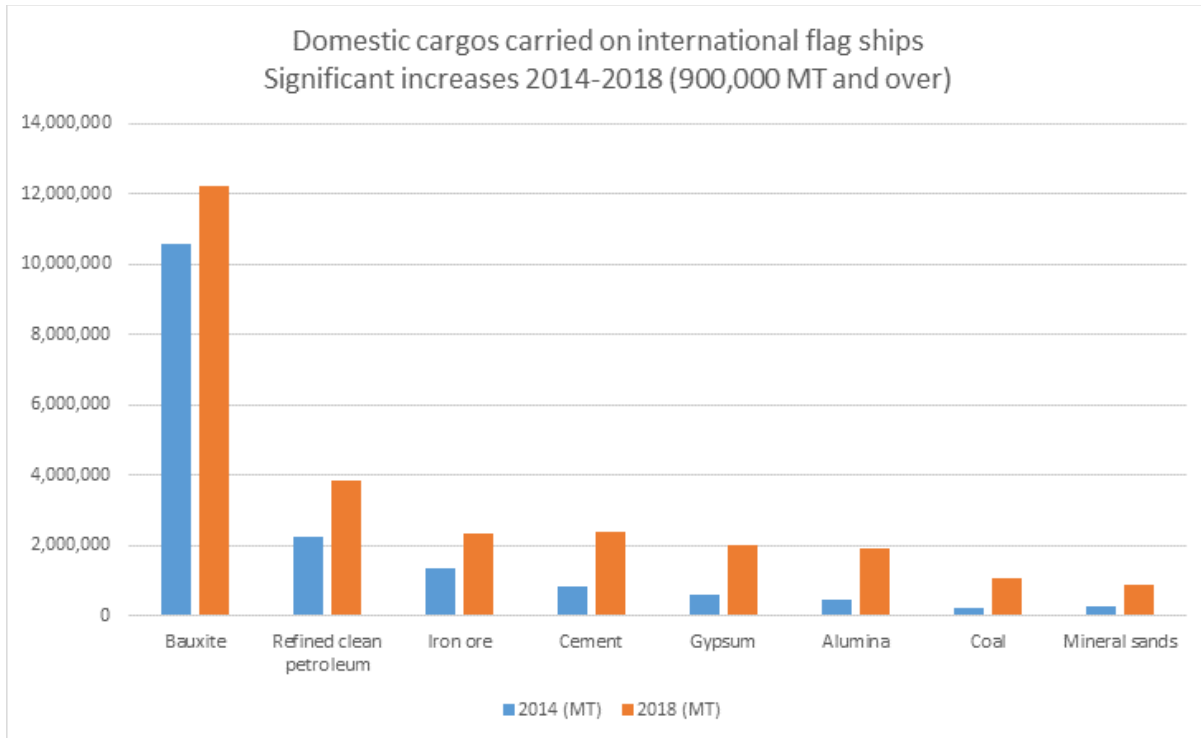
**Source:** Strategic Marine Group Pty Ltd, *Coastal Shipping Research & Analysis of the east coast seaborne bulk commodity trades*

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

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

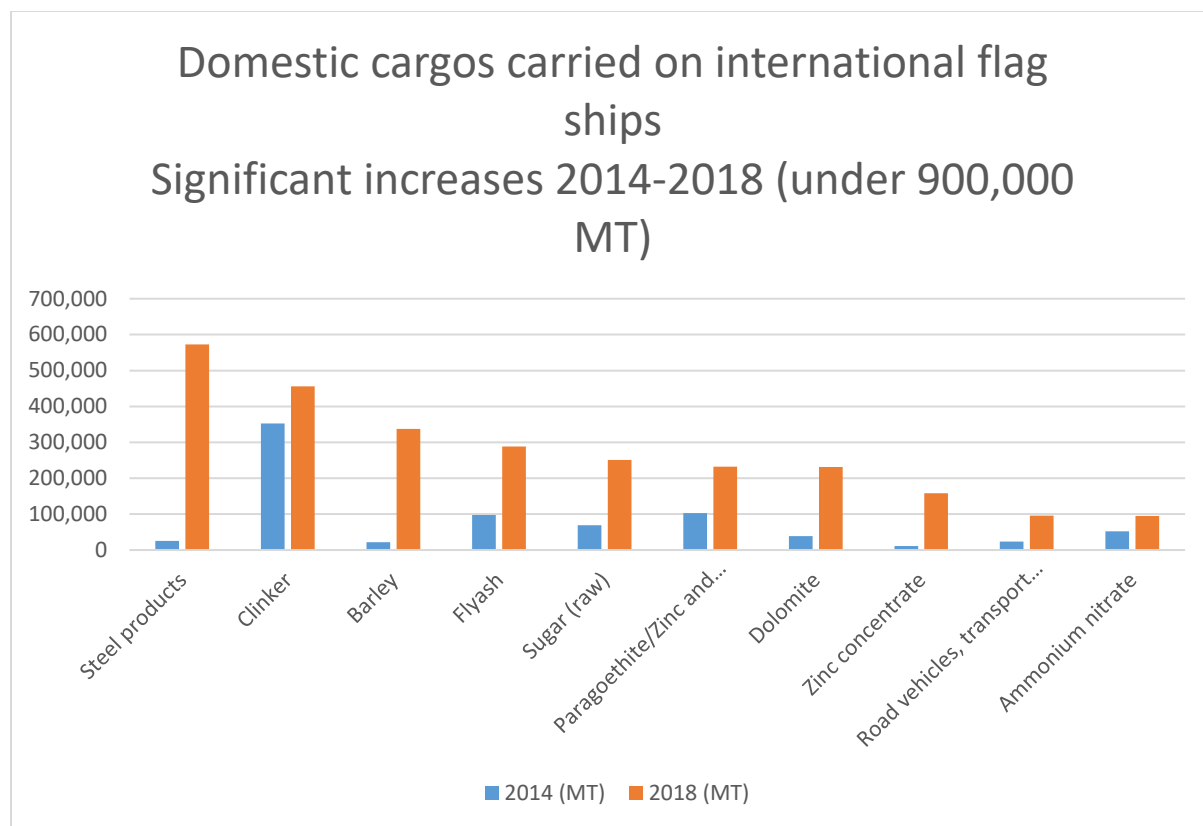
The data in Figures 7(a) and 7(b) show both overall volumes of cargo and increases in domestic cargo trade volume carried in foreign registered ships, indicating that there is significant potential for Australian ships to capture a greater share of the domestic seafreight market.

**Figure 7(a): Domestic cargoes carried on international flag ships - Significant increases 2014-2018 (900,00MT and over)**



Source: MUA, March 2019

**Table 7(b): Domestic cargoes carried on international flag ships - Significant increases 2014-2018 (under 900,00MT)**



Source: MUA, March 2019

### Recommendation 3

It is recommended that the Victorian Government:

\* Establish a permanent Coastal Shipping Commission or Council for Maritime Commerce as was proposed by industry in the Qld review of coastal shipping, that involves all stakeholders, to ensure that the Victorian Freight Strategy, specifically its sea freight elements are implemented and to advise on opportunities to grow coastal shipping in Victoria.

### Shipping is central to the efficiency and productivity of other industries

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

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

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

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

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

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

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

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

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

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

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

If Australia is to reduce its emissions from the transport sector, currently emitting 19% of the nation's greenhouse emissions, increasing – by 3% in 2018 - largely driven by an 11% increase in the use of diesel<sup>59</sup> with freight transport contributing around 6% of total emissions, then it needs to be considering the role of shipping in the freight transport mix. This is especially important given that the national freight task continues to grow.

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<sup>59</sup> Department of Environment and Energy, *Quarterly Update of Australia's National Greenhouse Gas Inventory: December 2018*, p.7-8, 14-15.

The government must develop a comprehensive plan to systematically reduce greenhouse gas emissions from transport. This can be achieved by shifting freight on to ships, and by in the long term, by shifting to zero-emissions shipping.

In a study undertaken by the Australia Institute in 2007 it found that while shipping accounts for approximately 25 per cent of the domestic freight task (now down to 17%, with a consequential increase in rail and road transport emissions) it only contributes 4% of freight emissions, in contrast to road freight, which carries less than 40% of freight, but is responsible for over 80% of freight emissions. These differences are due to the energy and emission intensities of the transport modes. The study concluded that any mode shifting to sea freight would result in an improvement in the greenhouse performance of the domestic freight sector.<sup>60</sup>

The report also noted that in contestable freight corridors such as the East-West corridor, there is potential to move more than 200 container shiploads (of 1700 TEUs) off the road and onto ships. That equates to reducing 26,637 truck movements (222 trucks) annually off the E-W highways (86,569 truck movements [or 594 trucks] if the N-S corridor is included), with substantial reductions in greenhouse emissions from the freight transport sector.<sup>61</sup>

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

The congestion difficulties in Sydney, Melbourne, Brisbane and Perth affect all parts of the country through bottlenecks in the import/export gateways, and congestion costs are rising. Congestion costs for all the major cities are expected to rise by between 60 and 100% over the period to 2030. Figure 8 demonstrates the overall costs of traffic congestion.

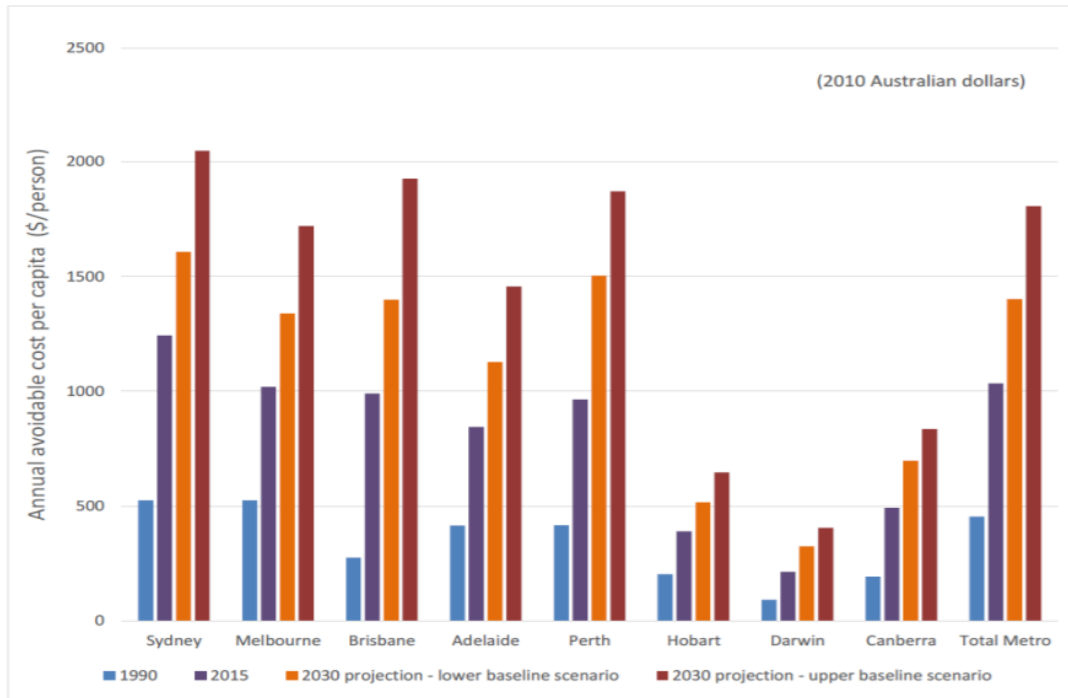
**Figure 8: Average per capita congestion costs for Australian metropolitan areas**

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<sup>60</sup> Andrew Macintosh, Australia Institute, *Climate Change and Australian Coastal Shipping*, Discussion Paper Number 97, October 2007 - <http://www.tai.org.au/node/1390> (14 May 2014)

<sup>61</sup> MUA analysis based on data in the Australia Institute report.





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

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

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

- It was estimated that 200,000 annual TEUs of containers travelling on rail and road between Townsville and Brisbane could potentially be transported by coastal shipping. At the time it was estimated that there are 10 trains per week servicing one of the major grocery retailers between Rockhampton and Cairns from Brisbane, equating to around 1,200 TEU per week that could be delivered by ship; and
- 60,000 tonnes of fertilizer which travels from Townsville to Brisbane per annum by rail and road, could be transported by ship.<sup>62</sup>

<sup>62</sup> Report of the Qld Parliament’s Transport, Housing and Local Government Committee Report No. 59, *‘Inquiry into Coastal Sea Freight’* P30 (referencing TMR, Sea Freight Action Plan, July 2014)

Other benefits identified in the report are:

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

It is well known that Australia is exceedingly vulnerable to marine pollution.<sup>63</sup> Under the *United Nations Convention on the Law of the Sea, 1982 (UNCLOS)*, Australia has the rights and responsibilities over an approximate 16 million square kilometres of water, including the Exclusive Economic Zone (EEZ).<sup>64</sup> That is more than double that of Australia's land mass, making Australia's oceans the third largest and the most diverse on the planet. Australia's oceans are also home to many underwater seascapes and provide a sanctuary for numerous bio-diverse marine species.

The total arrivals of international ships into Australian ports has increased 62% since 2002, with 28,502 individual port calls in 2017.<sup>65</sup> Despite improvements in ship design and AMSA's best efforts to inspect ships, the result is an increase in the sources of operational pollution, such as the release of biocides from toxic chemicals used in anti-fouling paints of all ships, dumping of wastes including oily wastes, and the transfer of invasive alien species through ballast water. Increasing ship traffic also increases the risk of maritime accidents including oil spills.

AMSA Port State Control inspectors found 40 detainable deficiencies directly relating to pollution prevention in 2014. A total of 385 detainable deficiencies were found on 269 international ships in 2014, and many of these were for problems which could result in incidents with a significant environmental impact (for example: hours of rest, fire safety, safety of navigation, dangerous goods, structural conditions, alarms).<sup>66</sup>

The FOC system has direct environmental consequences as registering a ship in a different Flag State can create an effective cover for ship owners who do not wish to be prosecuted or identified in the wake of a marine pollution incident.<sup>67</sup>

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

Eight years after creating the largest single damage to the Great Barrier Reef, the clean-up and remediation of the *Shen Neng 1* impact site is still incomplete, with toxic materials scattered over a 400,000m<sup>2</sup> area. The Commonwealth sued shipowners in the Australian Court for \$194 million in damages, but due to deficiencies in law was compelled to settle out of court for \$39 million.

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<sup>63</sup> See Report from the House of Representatives Standing Committee on Transport, Communications and Infrastructure, *Ships of Shame – inquiry into ship safety*, December 1992.

<sup>64</sup> White, M, *Australasian Marine Pollution Laws*, Federation Press, 2<sup>nd</sup> ed., 2007.

<sup>65</sup> AMSA, Port State Control 2002 report and 2017 report.

<sup>66</sup> AMSA, Port State Control 2014 Report, p. 20.

<sup>67</sup> T Shaughnessy & E Tobin, *Flags of Inconvenience: Freedom and Insecurity on the High Seas*, p. 20

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

Maritime Industry Australia Ltd (MIAL), the Australian maritime industry's peak representative body, has committed to adopt the new standards, as well as step up exploration of the use of alternative fuels such as biofuels.<sup>68</sup> One of its member companies, SeaRoad Shipping, has taken the lead by specifying that its new ships are LNG powered, setting an example for the industry, while Siem Offshore's new offshore support vessel, the *Siem Thiima*, is LNG powered.

It will be important that the Victorian Government monitor the implementation of the move to low sulphur fuels in Australian ships in Victoria to ensure that the multi-national oil companies that monopolise provision of such fuels do not take advantage of their monopoly supplier status and price gouge Australian ships, which do not have access to foreign ports for bunkering. It would be a poor outcome if Australian shipowners and operators were disadvantaged by their move to compliance with IMO fuel pollution requirements relative to foreign ships.

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

The International Council on Clean Transportation found that lower sulphur fuels, optimized engines, and exhaust after-treatment, such as selective catalytic reduction (SCR), have been shown to significantly improve the environmental performance of ships. Other measures such as shoreside electricity and improved auxiliary engines can reduce emissions generated while ships are docked at port. It also found that the feasibility and cost-effectiveness of these measures has been demonstrated at several ports., and that such measures are very cost-effective compared to remaining pollution control options for other mobile and stationary sources, especially in countries that have adopted a range of regulations to limit land-based emissions.<sup>69</sup>

In their study of zero-emissions shipping, Lloyds Register and UMAS look at a number of potential fuels: hydrogen, ammonia, batteries, and biofuels (plant matter). It concluded that biofuels will need an area the size of Australia to grow fuel if the shipping industry converts, which would undermine food supplies. Batteries are very expensive (except for smaller vessels on shorter routes). So that leaves hydrogen and ammonia, both of which are quite difficult to handle, but are being discussed as realistic options. They can go straight into specialised internal combustion engines, or into fuel cells. They can

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<sup>68</sup> ABC web news, 2 May 2018, *Australia's shipping industry to halve toxic emissions by 2050 with dramatic drop of sulphur in fuel* <https://www.abc.net.au/news/rural/2018-05-02/australia-shipping-industry-halving-toxic-fuel-emissions/9716812>

<sup>69</sup> The International Council on Clean Transportation, *Air Pollution and Greenhouse Gas Emissions from Ocean-going Ships: Impacts, Mitigation Options and Opportunities for Managing Growth*, March 2017 [https://www.theicct.org/sites/default/files/publications/oceangoing\\_ships\\_2007.pdf](https://www.theicct.org/sites/default/files/publications/oceangoing_ships_2007.pdf)

be made from renewable energy.<sup>70</sup> These fuels are also the subject of detailed studies by the Hydrogen Working Group of the COAG Energy Council for production in Australia.<sup>71</sup>

Lloyds Register and UMAS highlight that implementing any of these measures in shipping will require significant government investment and regulation. The Australian government could begin developing and testing these fuels and technologies on ships in an Australian Strategic Fleet.

It should be noted that using both hydrogen and ammonia as fuel, or exporting them for use in other countries, will require detailed safety regulation to be put in place to regulate their use as both a fuel and as an export cargo.

#### **Recommendation 4**

It is recommended that the Victorian Government:

- \* Consider appropriate incentives and support measures to achieve an improved take-up of ship pollution reduction technologies that are currently available as part of Victoria's shipping strategy; and
- \* Monitor the implementation of the move to low sulphur fuels in Australian ships in Victoria to ensure that the multi-national oil companies that monopolise provision of such fuels do not take advantage of their monopoly supplier status to price gouge Australian ships.

### **Australian ships are central to providing fuel security for the nation**

A Senate Inquiry report in 2015 documented Australia's fuel security crisis.<sup>72</sup> Events in the Gulf of Oman in mid-June 2019 have led commentators to again raise issues about Australia's fuel security.<sup>73</sup>

Since 2010-11, Australia's net petroleum stockholdings have fallen from its International Energy Agency (IEA) obligations of 90 days' worth, in the event of market failure, to just 50 days. The Government's Australian Petroleum Statistics published in November 2018 indicate this would amount to just 21 days of petrol for automobiles, 18 days of diesel and 20 days of aviation fuel.<sup>74</sup> Fuel security is also critical to the nation's overall economic security and Defence capability.

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<sup>70</sup> Lloyd's Register and UMAS, 2019, *Zero-Emission Vessels: Transition Pathways*.

<sup>71</sup> COAG Energy Council Hydrogen Working Group, <https://www.industry.gov.au/about-us/what-we-do/coag-energy-council-hydrogen-working-group>

<sup>72</sup> Senate Standing Committee on Rural and Regional Affairs and Transport, *Australia's transport energy resilience and sustainability* 25 June 2015  
[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport/Transport\\_energy\\_resilience/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Transport_energy_resilience/Report)

<sup>73</sup> See for example, Murray, Lisa, *Could Australia run out of fuel?* AFR 14 June 2019, <https://www.afr.com/business/energy/could-australia-run-out-of-fuel-20190612-p51www> and Hellenic Shipping news, *Analysis: Australia unlikely to build new oil refineries despite heavy import dependence* 31 May 2019, <https://www.hellenicshippingnews.com/analysis-australia-unlikely-to-build-new-oil-refineries-despite-heavy-import-dependence/>

<sup>74</sup> ABC Radio, 23 January 2019, *Government accused of doing 'bugger all' to shore up Australia's fuel security*, <https://www.abc.net.au/news/2019-01-23/government-accused-of-doing-little-to-improve-fuel-security/10732978> and Francis, John and Maritime Union of Australia, *Australia's Fuel Security: Running on Empty*, November 2018 P3

There are now no Australian-crewed tankers supplying fuel to the nation, down from 12 tankers in the year 2000. This has led to a substantial loss of maritime jobs and training opportunities and has undermined the security of the nation's petroleum supply chains, at a time when the nation's business and citizens rely on the equivalent of approximately 60 fulltime ships to keep the nation supplied with fuel. These imports currently all take place on foreign owned, foreign operated and foreign crewed ships.<sup>75</sup>

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

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

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

The report did not advocate any particular number of petroleum tankers that should be Australian operated and Australian crewed as a necessary requirement to secure Australia's fuel supplies. However, it recommended that the Commonwealth, in consultation with stakeholders, investigate options to equitably apportion the differential costing for operating Australian petroleum tankers if a comprehensive risk assessment of fuel supply chain issues indicates that retention of a minimum number of tankers owned, managed and crewed by Australians, is justified on national security grounds.<sup>76</sup>

This recommendation is consistent with the proposal in the MIAL *Coastal Trading Green Paper: A Maritime Transition* of 2016 which proposed the creation of a national strategic fleet, defined as ships that offer strategic national interest benefits to the nation.<sup>77</sup>

The Green Paper noted that the circumstances of Australia are different to the UK and US, which already have "strategic" fleets, and could mean that an appropriate strategic fleet for Australia is not as heavily influenced by the military and defence needs of the nation but perhaps be more aligned with supply chain security and trade facilitation given the nation's reliance on sea transport. The Paper suggested that an appropriate test to apply at first instance when determining what a strategic fleet ship might be could be

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<sup>75</sup> Francis, John and Maritime Union of Australia, *Australia's Fuel Security: Running on Empty*, November 2018 P2

<sup>76</sup> Ibid P4

<sup>77</sup> Maritime Industry Australia Ltd (MIAL) *Coastal Trading Green Paper: A Maritime Transition*, 2016, <https://mial.com.au/files/Coastal%20Trade%20Green%20Paper.pdf>

to identify where there is sufficient cargo to warrant a stable and permanent presence.<sup>78</sup> The MUA commissioned paper on fuel security strongly suggests that petroleum supply and distribution, requiring petroleum product tankers meets the MIAL cargo demand test, and is therefore one of the most important cargoes that requires strategic fleet ships.

It is the submission of the MUA that fuel security requires stronger national control (sovereignty) over key fuel supply infrastructure i.e. ships and ports. We therefore propose that a proportion of the international supply and domestic distribution of fuel for civilian (households and businesses) and Defence uses, should be transported in Australian ships.

Fuel security is also part of the larger issue of energy security – maintaining supplies of petroleum products as households and businesses transition to cleaner fuels, which then raises the issue of the arrangements for transportation and distribution of new fuels – LNG, LPG and (in the future) hydrogen.

A national strategic fleet is also important for Defence preparedness and Defence capability. The massive increase in Defence shipping, in part due to the \$80 billion Defence shipbuilding program, has resulted in severe shortages of sailors to crew the new Defence ships. One solution Defence is considering is to adopt either civilian crewing or a dual employment option that provides for the workforce to move between Defence personnel and private sector civilian crewing. These Defence crewing models, referred to as its Total Workforce Model, and developed to meet its new workforce requirements as a result of the Navy shipbuilding program in partnership with industry, require the supply of skilled civilian seafarers. However, this assumes there is an available supply of civilian crew to meet Defence crewing needs. This is not guaranteed under current shipping policy whereby there is a shortage of suitable ships for training of STCW certificated seafarers, as required by Navy. Creating a national strategic fleet, to help achieve fuel security is an important part of guaranteeing a supply of skilled Australian seafarers to help crew non-combat Defence ships, such as fuel replenishment ships.

This submission proposes that a fleet of no less than 10 petroleum product tankers dedicated to the transportation of clean petroleum products from international refineries or storage facilities to Australia should be regarded as forming part of the national strategic fleet.

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

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

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

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

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<sup>78</sup> Ibid P7

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

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

The security threats of FOC shipping were outlined by the Department of Immigration and Border Protection (DIBP) in its submission to the Senate Inquiry on the Increasing use of so-called Flag of Convenience shipping in Australia in 2015.<sup>79</sup> The DIBP made the startling revelation that:

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

*These features are:*

- *a lack of transparency of the identity of shipowners and consequent impediment to holding the owner to account for a ship's actions; and*
- *insufficient flag state regulatory enforcement and adherence to standards.”<sup>80</sup>*

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

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

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

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<sup>79</sup> Senate Rural and Regional Affairs and Transport References Committee, *Inquiry into the Increasing Use of so-called Flag of Convenience Shipping*, July 2017 – Submission No.21  
[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport/Shipping/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Shipping/Submissions)

<sup>80</sup> Ibid

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

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

In summary, the DIBP concluded that:

*"The regulatory, registration and compliance practices of the so-called FOC states have the potential to create vulnerabilities for Australia's enforcement of laws in its maritime domain. These vulnerabilities add to the attractiveness of FOC shipping to entities such as organised crime syndicates and other entities seeking to illegally exploit natural resources both within and outside the AEEZ."*<sup>81</sup>

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

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

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

#### **Recommendation 5**

It is recommended that the Victorian Government:

\* Require all port operators to review their maritime security plan required under MTOFSA to ensure there are standardised and effective procedures for welfare and labour organisations to access ships at Victorian ports through the port operator's terminals, and that the procedure be published.

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

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<sup>81</sup> Ibid P5



Most of the world's estimated 1.3 million seafarers are from Philippines, China, India, Turkey, the Ukraine and Indonesia.<sup>82</sup> Yet most ownership of ships remains in traditional maritime countries such as Germany, Greece, Japan, the UK, Norway, Denmark, Japan, Korea, the US, China and Singapore.<sup>83</sup> In between seafarers and ship owners are frequently layers of international sub-contracting that obscures the fundamental employment relationship between them and can make accountability very difficult.

The world's largest ship registers are FOCs: Panama with 21% of the world's fleet by tonnage, Liberia with 12%, and the Marshall Islands with 9%. Together with other major FOC registers in the Bahamas, Malta, and Cyprus these flags make up over 53% of the world's deadweight tonnage.<sup>84</sup>

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

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

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

The ITF believes there should be a 'genuine link' between the real owner of a ship and the flag the ship flies, in accordance with UNCLOS. There is no "genuine link" in the case of FOC registries.<sup>85</sup>

Flagging out to an FOC registry has exploded since about 2004 as shown in Figure 9. It was not always the case. In 1966 only 13% of the fleet was registered out. In 2016 it was over 70%.<sup>86</sup>

### **Figure 9: Trends in the flagging out of ships 1989-2015**

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<sup>82</sup> David Walters and Nick Bailey, 2013, *Lives in Peril: Profit or Safety in the Global Maritime Industry?* New York: Palgrave McMillan, p.86-87.

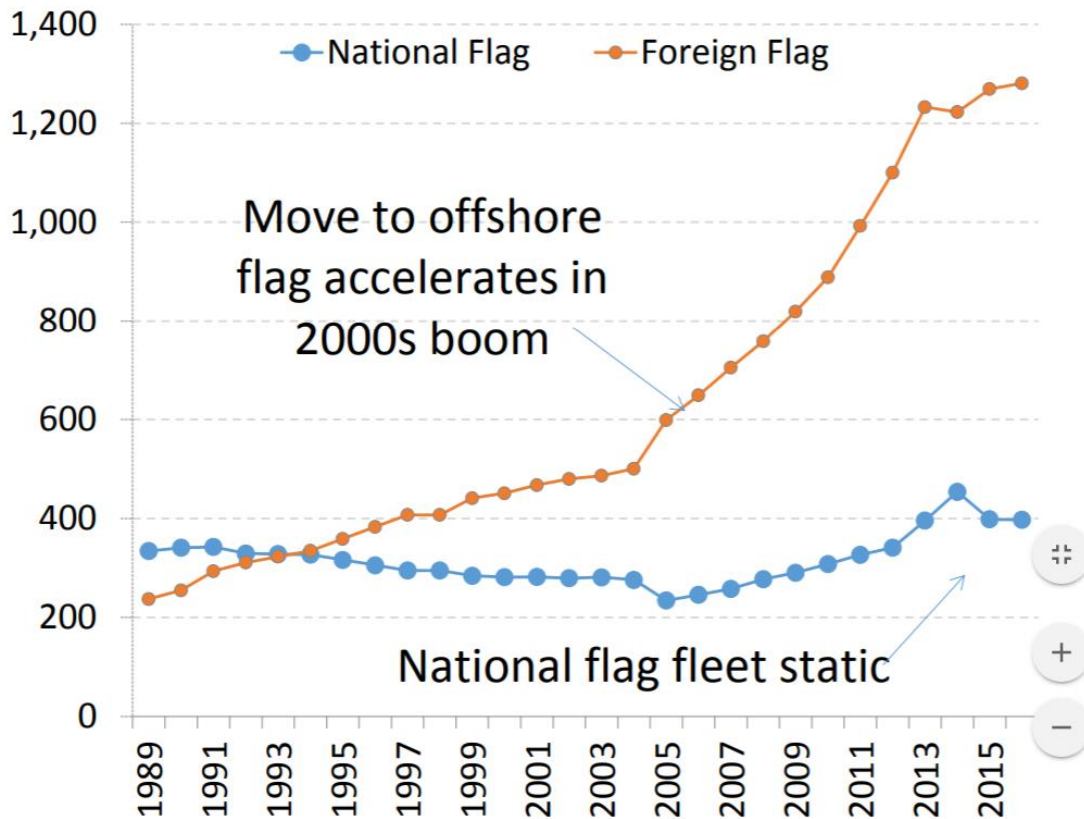
<sup>83</sup> UNCTAD, Review of Maritime Transport 2014, p.39.

<sup>84</sup> UNCTAD, Review of Maritime Transport 2014, p.44.

<sup>85</sup> See ITF, 2010, *Mexico City Policy: ITF policy on minimum conditions on merchant ships*, Statement of Principles and Definition of a flag of convenience, p.12. Policy statement on sub-standard Shipping by the Marine Transport Committee of OECD, 2002, cited in the Report of the Secretary General: Consultative Group on Flag State Intervention. Oceans and the Law of the Sea. United Nations, March 2004.

<sup>86</sup> Dr. Martin Stopford, President, Clarkson Research, *Challenges in the world maritime industry*, Presentation to OECD Workshop on Maritime Clusters and Global Challenges, December 2016  
<http://www.oecd.org/sti/ind/Session%20-%20b%20-%20Torsten%20Schramm%20-%20Web.pdf>

Million dwt



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

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

The Senate Rural and Regional Affairs and Transport References Committee's *Inquiry into the Increasing Use of so-called Flag of Convenience Shipping* examined the problem of FOC shipping in Australia. Its Interim Report<sup>87</sup> in 2016 made the following findings:

- The issues with FOC ships operating in Australian and international waters are considerable, and it is going to take a concerted global effort to address these concerns. The prevailing international business environment has a preference for cheap labour and the payment of no or minimal tax, with both conditions supported by many FOC arrangements.
- The lack of a genuine link between a ship's flag and the owner of a ship presents real challenges internationally in terms of accountability and assessment of risk. The reduced transparency that comes from using FOC registration may present a business benefit to ship owners and operators, but it greatly decreases the ability of national authorities to verify who is entering the country, and therefore to determine threats to national security.

<sup>87</sup> While this is technically the second Interim Report, it is also the final report as the Committee's report was tabled in the Parliament just before the Parliament was prorogued before the July 2016 Federal election.

- While Australia should take the steps necessary to protect its coastal shipping industry and the people it employs, until there is an international approach to address the deficiencies in FOC shipping, and enforce international conventions and regulatory oversight, it will remain an uphill battle.

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

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

The committee suggested that reduced costs in shipping should not be sought by paying inappropriate wages to foreign crew. If a business is endeavouring to reduce its overhead and increase its profits, it should not be through the payment of wages that do not meet Australia's minimum wage standards.<sup>88</sup>

The Committee recommended:

*"That the Australian Government undertake a comprehensive whole-of-government review into the potential economic, security and environmental risks presented by flag of convenience vessels and foreign crews."*<sup>89</sup>

Regrettably the Australian Coalition government responded in June 2018 to say that it does not support this recommendation.<sup>90</sup>

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

## Part B: The actions that the Victorian Government needs to take to revitalize Victorian coastal shipping and build the domestic maritime industry

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<sup>88</sup> Senate Rural and Regional Affairs and Transport References Committee, *Inquiry into the Increasing Use of so-called Flag of Convenience Shipping*, July 2017, p.66.

<sup>89</sup> Ibid, Recommendation 7.

<sup>90</sup> Australian Government, *Australian Government response to the Senate Rural and Regional Affairs and Transport References Committee Report: Inquiry into the Increasing Use of so-called Flag of Convenience Shipping*, June 2018, p.8.

## Addressing term of reference 4: Whether changes are required to Victorian legislation to remove regulatory impediments or reduce costs for coastal shipping?

The MUA proposes the following changes to Victorian legislation to remove regulatory impediments or reduce costs for coastal shipping.

### Amend the *Marine Safety Act 2010* (Vic) and *Marine Safety Regulations 2012* (Vic) to ensure enhanced marine safety through employment of Australian seafaring and marine sector labour

It is proposed that the Victorian Government amend the *Marine Safety Act 2010* (Vic) and *Marine Safety Regulations 2012* (Vic) to place a strong emphasis on employment of Australian labour on ships and in onshore maritime employment aimed at enhancing marine safety in Victoria, and to ensure Australian workers can access maritime employment opportunities.

Such a proposal is aimed at reversing the decline of Australian ships and Australian seafaring employment in Victorian intrastate seaborne trade and on interstate ships that trade with Victoria.

The proposal can be achieved by:

- Amending the *Marine Safety Act 2010* to:
  - Expand the Purpose of the Act (to include a new subsection 1(d) that aims to maximise the employment of appropriately licenced and qualified Australian seafarers on Australian ships (both domestic commercial vessels [DCVs] and regulated Australian vessels [RAVs]) engaged in interstate and intrastate trade or commerce with or within Victoria and to maximise the employment of competent Australian maritime workers engaged in any shoreside maritime activity associated with, or who can support, marine safety in Victoria;
  - Expand the Objects of the Act (s14) to promote the employment of appropriately licenced and qualified seafarers and maritime workers with competencies commensurate with their job roles to enhance marine safety in Victoria.
  - Include a new Part in Chapter 2 that sets out the occupational licencing and vocational educational and training (VET) qualifications required for employment on both DCVs and RAVs that enter or operate in Victorian waters.
    - ❖ The MUA proposal for licencing and qualifications of both DCVs and RAVs is provided in the section headed Workforce development.
- Amending the *Marine Safety Regulations 2012* to:
  - Expand section 71 (Crewing requirements for commercial vessels) so that DCVs and RAVs engaged in trade or commerce with or within Victoria, are required to be crewed by Australian seafarers holding the licences and VET qualifications specified in an amended *Marine Safety Act 2010* (unless the ship on which they are engaged is issued with a Temporary Licence (TL) under the provisions of a reformed CT Act as proposed by the MUA in its submission to the Senate Inquiry into Australian shipping):
    - ❖ The objective is to ensure a restoration of the Integrated Rating occupation (a Certificate level III VET qualification) as the primary benchmark Rating occupation on all Australian ships operating in Victoria.

## Recommendation 6

It is recommended that the Victorian Government:

- \* Agree to amend the *Marine Safety Act 2010* (Vic) and Marine Safety Regulations 2012 (Vic) in ways that would place a stronger emphasis on employment of Australian labour on ships operating in Victorian waters and in Victorian onshore maritime employment aimed at enhancing marine safety in Victoria, and to ensure Australian workers can access maritime employment opportunities; and
- \* Agree to restore the Integrated Rating occupation (a Certificate level III VET qualification) as the primary benchmark Rating occupation on all Australian ships operating in Victoria.

## Strengthen regulation of Victorian port operations to improve port productivity and safety and to support the development of Victorian coastal shipping

The MUA has identified several ways that it believes Victorian port operations could be improved to enhance port productivity and safety and ongoing investment in the port and which would support the development of Victorian coastal shipping. These improvements would also enhance competitive neutrality for port service providers and deliver greater transparency around the maze of contractual relationships that typifies port operations. The MUA proposals for improving port operations are:

### Adopt a new port and maritime services procurement and operations framework for Victorian ports

For the Port of Melbourne, the MUA believes that four key entities involved in its governance, operation, strategic direction and regulation will need to play a role in bringing about the improvements we propose. These are:

- The Victorian Ports Corporation (Melbourne) (VPCM) trading as Victorian Ports, Melbourne, a statutory authority accountable to the Minister for Ports, where its board of directors hold office pursuant to the *Transport Integration Act 2010* (Vic). The VPCM is responsible for the following functions at the port:
  - Harbourmaster;
  - Vessel service traffic and navigation;
  - Dangerous goods oversight;
  - Waterside emergency management;
  - Marine pollution response;
  - Management of towage and anchorage regulation; and
  - Management of Station St Pier.
- The Port of Melbourne Group, trading as the Port of Melbourne (PoM - Port of Melbourne Operations Pty Ltd as the Trustee for the Port of Melbourne Unit Trust), the leaseholder or port licence holder (formerly known as the Lonsdale Consortium, comprising a number of large global infrastructure investors - QIC (a global diversified alternatives investment firm headquartered in Brisbane, Australia); the Future Fund (Australia's sovereign wealth fund responsible for investing for the benefit of future generations of Australians and providing capital to support the Commonwealth's defined benefits superannuation schemes); Global Infrastructure Partners (GIP) a global independent infrastructure investor; and OMERS (one of Canada's largest defined benefit pension plans, which invests and administers pensions for members from municipalities, school boards, emergency services and local agencies across the province of Ontario). The PoM is responsible for the following functions at the port:

- The operation of wharves and berths (except Station Pier);
- Maintenance and operation of shipping channels; and
- Management of port leased land and the commercial arrangements for use of that land by port service providers (stevedores, transport operators, logistics operators, etc);
- Port Lessor Pty Ltd, a wholly government owned company where the shareholder is the Minister for Ports, responsible for overseeing the operation of the lease. As owner of the freehold land at the Port of Melbourne, the principal activities of the company are to manage the 50 year lease in a partnership with the private owner (the PoM) to ensure the long term interests of Victoria are protected; and
- The Victorian Essential Services Commission (ESC), the economic regulator responsible for ensuring the Port of Melbourne leaseholder complies with a pricing order. The port's prescribed services are regulated by a legislated pricing order. Port of Melbourne prescribed services that are currently subject to the pricing order are:
  - Services for berthing vessels (such as berths, buoys and dolphins);
  - Shipping channels in Port of Melbourne waters;
  - Short-term storage; and
  - Access to infrastructure (such as wharves, roads and rail infrastructure).

In terms of the standards (including labour standards [but also governance standards]), for procurement and operation of port services (that involves labour) it appears to the MUA that the following entities have the overarching responsibilities for setting standards (notwithstanding that ship's agents, some shipping companies and some stevedoring operators might directly engage service providers):

- VPCM:
  - All port towage service provider procurement, and in particular, responsibility for the operation of Part 4A (Regulation of towage services) in the *Port Management Act 1995*; and
  - Cruise ship stevedoring and cruise ship mooring operations at Station Pier.
- PoM:
  - All mooring operations except for cruise vessels at Station Pier;
  - Overall port security given the Port of Melbourne is a security regulated port as set out in the *Maritime Transport and Offshore Facilities Security Act (MTOFSA) 2003* and for all security related issues for terminals which it manages. Terminals managed by other operators are responsible for security in their terminals;
  - Dredging operations in the port's channels;
  - Stevedoring services provided by container stevedoring companies; and
  - Stevedoring services provided for common user berths.
- Port Lessor Pty Ltd:
  - The environmental, social and governance (ESG) performance of the PoM.

For all other Victorian ports, the local port committee of management appointed under s44A of the *Port Management Act 1995* is assumed to have responsibility for the procurement and operation of port services and the standards for the provision of those services relating to stevedoring, towage, mooring, security and dredging.

We note that only one of these services, towage, is formally regulated – under the Port Management Act – and notwithstanding that regulation, we consider the Act is deficient in that the Towage requirements determination provisions and determination of Towage conditions provisions (in Division 2 and Division 4 of Part 4A of the Act) omit references to labour standards, workforce competencies, safety obligations and so on.

This is in contrast to more recent legislation such as the Victorian *Labour Hire Licensing Act 2018* that references a range of labour and employment related obligations that labour hire service providers should comply with, including:

- Laws relating to taxation;
- Laws relating to superannuation;
- Laws relating to occupational health and safety;
- Laws relating to workers' compensation;
- Workplace laws; and
- Migration laws.

One of the most critical impediments to delivering efficient, productive and safe port services at Victorian ports, is the lack of appropriate due diligence processes for the selection and operation of service providers, of which there are more than 50 operating across Victorian ports. Many of these service providers are essentially labour hire companies or utilise labour hire companies for the supply of labour to provide those services.

Current service provider engagement and operational practice by port operators has resulted in:

- A decline in collectively bargained industrial instruments for key sections of the port workforce and as a consequence a race to the bottom in terms of labour standards, particularly wage rates and working conditions;
- An attempt by service providers in some circumstances to structure work arrangements and occupational classification so as to shift workers from higher standard Award coverage to lower standard Award coverage (for the purposes of meeting the BOOT<sup>91</sup>) e.g. from the Stevedoring Industry Award 2010 to the Port Authorities Award 2010;
- A lack of access by unions to the service providers' workforce, resulting in rapid decline in union representation, a lack of information by the workforce on workforce rights/entitlements and consequent exploitation of the workforce, such as wage theft and imposition of unreasonable shift patterns;
- Increased casualisation and therefore employment insecurity of the workforce;
- A non-existent or inadequate vocational education and training (VET) framework and inadequate training and career development opportunities for the workforce; and
- Lower safety standards.

It is our submission that these practices are a deliberate strategy of the port operators aimed at seeking to eliminate the unionisation of the port workforce, to reduce labour costs to unsustainable levels, in many cases considerably below market rates and conditions as exemplified in union collective agreements negotiated with reputable service providers and to maximise profits for shareholders. It is also a strategy to circumvent the competitive neutrality requirements and principles that apply to regulated port service providers and to exploit those non-regulated pricing areas so as to maximise profits.

The port operators are apparently able to adopt these practices because the regulatory framework is either inadequate or not being utilised effectively. In addition, there is no agreed framework that provides

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<sup>91</sup> Before approving an enterprise agreement, the Fair Work Commission must ensure the agreement passes the better off overall test (BOOT). This test requires that each of the employees to be covered by the agreement are better off overall than under the relevant modern award. The better off overall test is outlined in s.193 of the *Fair Work Act 2009*.

for a collaborative process to address labour issues in the selection, engagement and operation of service providers.

Port entities and port users appear unencumbered to call tenders for the engagement of port service providers in the absence of any transparency around the labour standards, workforce qualifications or expertise of the prospective service providers and to engage service providers in the absence of acceptable monitoring of the labour, safety and workforce development practices over the course of their contract.

This is unacceptable. It is extraordinary that a large corporation like the Port of Melbourne Group, owned by a number of the largest and most experienced global infrastructure investors including QIC, the Australian Government's own Future Fund, Global Infrastructure Partners (GIP) and the Canadian pension fund investment manager OMERS all allegedly committed to strong ESG practices in their investments and operating under a lease at the behest of the Victorian Government, apparently monitored through Port Lessor Pty Ltd, where a Minister of the Government is the shareholder and Ministers' nominees are the company directors, could be acquiescing to such practices within its port.<sup>92</sup> We note that the PoM does not publish its ESG policy and does not produce an annual sustainability report.

We make the same claim against the private owners of the Port of Geelong, owned by State Super in NSW (the SAS Trustee Corporation (STC)) and Brookfield's LINX Cargo Care Group, again with pension fund investments and the private owners of the Port of Portland, owned by Palisade Ports Pty Ltd, in which pension funds are again significant investors.

The MUA notes and welcomes the commencement of the Victorian Labour Hire Licensing Scheme on 29 April 2019 following passage of the *Labour Hire Licensing Act 2018* (LHL Act) and the making of the Labour Hire Licensing Regulations 2018. The MUAs assessment is that subject to how the scheme is administered, it may go some way to addressing our concerns around labour and employment standards if port service providers are in fact providers of labour hire services as defined in sections 7 and 8 of the LHL Act. That remains to be tested.

We note that the conditions required of a licence applicant and the reporting requirements on issues such as the industrial instruments that determine the terms and conditions of employment or engagement of labour hire workers is a step in the right direction. However, they do not specify or guarantee acceptable labour, safety and workforce development standards and practices.

We therefore propose additional actions that need to be taken by the Victorian Government to ensure the processes and practices for the selection and operation of service providers at Victoria's ports meet acceptable standards, as follows:

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<sup>92</sup> QIC for example, says that QIC Global Infrastructure, through its asset management teams, works directly with company management to ensure there is quality reporting to the board of its portfolio companies. QIC says it directly engages with management to incorporate reporting on key areas of ESG performance, including: (i) workplace health and safety; (ii) general safety within the asset's operations for users; (iii) risk management frameworks and regulatory compliance; (iv) employee engagement, turnover and gender composition; (v) labour relations; and (vi) stakeholder engagement. To ensure the asset management teams within Global Infrastructure have a clear set of ESG engagement priorities, it claims to undertake an annual ESG review of each asset in the portfolio – see for example its Sustainability report 2018 at <https://www.qic.com.au/about-qic/corporate-information/responsible-investment>



## Reform towage licensing arrangements under the *Port Management Act 1995*

Firstly, we propose that the Victorian Government agree to amend the current Towage requirements determination provisions and Determination of towage conditions in Divisions 2 and 4 respectively of Part 4A of the *Port Management Act 1995* to ensure these Divisions include a set of minimum standards in future determinations for towage licence applicants/tenderers that require:

- All towage license applicants/tenderers to have in place a current FWC approved union collective agreement for their towage vessel/s' employees that is based on the appropriate Award, in agreement with the parties to the relevant Award;
- That the license applicant/tenderer's vessels all have a published Minimum Safe Manning Document (MSMD) issued by AMSA that has been agreed by the maritime unions;
- Towage vessel crews' to hold specified (by Regulations) crew competency certificates (occupational licenses) as provided in Marine Orders 70 to 73 made under the Commonwealth *Navigation Act 2012* and associated VET qualifications derived from the Maritime Training Package and specified in the MSMD;
- The applicant/tenderer commit to provide work health and safety standards that are in conformance with Victorian OHS legislation and relevant national Codes of Practice approved by Safe Work Australia (SWA); and that applicant/tenderer commit to an OHS protocol that facilitates access by WorkSafe Victoria authorised representatives of registered employee organisations (ARREOs) to worksites where the applicant/tenderer workforce will be working;
- The applicant/tenderer commit to conform with the requirements of the *Superannuation Guarantee (Administration) Act 1992* and the prevailing employer contribution rate in union collective agreements covering the seafaring occupations in the applicant's business; and
- The applicant/tenderer commit to conform with:
  - Laws relating to taxation;
  - Laws relating to workers' compensation;
  - Labour hire industry laws; and
  - Migration laws.

## Outlaw partnership industrial agreements in port towage

Second, the MUA proposes that the Victorian Government amend the *Partnership Act 1958* to ensure that partnership agreements (sometimes referred to as cooperative employment agreements) as an employment engagement method in the Victorian harbour towage industry is outlawed and that the transition of harbour towage contracts to partnership or cooperative arrangements, through the actions of the various Victorian port authorities with responsibility for managing harbour towages services in their ports, is prohibited.

Partnership or cooperative agreements should be outlawed as an employment engagement method because they:

- Do not fully meet the labour standards of ILO Conventions and the labour standards in state and national labour laws;
- Are designed to remove employees from the national or state/NT industrial, safety, workers' compensation and superannuation legislative and regulatory regimes;
- Are designed to avoid employer tax obligations by disposing of this responsibility and placing the onus and extended liabilities on workers;

- Are a form of sham contracting to avoid legal responsibilities, as well as legislative, regulatory, and other jurisdictional obligations; and
- Are not in the public interest.

### Extend licencing of service provision to all forms of port and maritime service provision

Third, we propose that the Victorian Government commit to introduce a new Part in the *Port Management Act 1995* that provides for the regulation of all forms of service provision covering the following:

- Bunkering;
- Diving;
- Dredging;
- General construction;
- Mooring;
- Non-container stevedoring;
- Port maintenance;
- Project construction; and
- Security;

including provisions for the issuing of: (i) service provider requirements determinations; and (ii) determination of service provider conditions that requires all such service providers to hold a license, and that such licenses incorporate the same standards requirements we propose for towage licences, i.e. to have in place at the time of making an application or tendering for a licence for provision of such services:

- A current FWC approved union collective agreement for their workforce;
- The service provider's workforce to hold, or to be trained within a specified time period to ensure they gain, VET qualifications derived from the Maritime Training Package, Stevedoring Training Package or other relevant Training Package;
- The applicant/tenderer commit to provide work health and safety standards that are in conformance with Victorian OHS legislation and relevant national Codes of Practice approved by SWA; and that applicant/tenderer commit to an OHS protocol that facilitates access by WorkSafe Victoria authorised representatives of registered employee organisations (ARREOs) to worksites where the applicant/tenderer workforce will be working;
- The applicant/tenderer commit to conform with the requirements of the *Superannuation Guarantee (Administration) Act 1992* and the prevailing employer contribution rate in union collective agreements covering the occupations engaged by the applicant; and
- The applicant/tenderer commits to conform with:
  - Laws relating to taxation;
  - Laws relating to workers' compensation;
  - Labour hire industry laws; and
  - Migration laws.

It is our view that the VPCM should maintain responsibility for standards for all forms of procurement of port and maritime services, even if supervision of such service provision and or engagement of a particular service provider for a client is ultimately delegated to another port entity such as the POM (or the clients of such port entities).

To achieve this outcome, the Port Management Act will require amendment to ensure it specifies the VPMC as the body responsible for preparation of: (i) service provider requirements determinations; and

(ii) determination of service provider conditions for each of the additional maritime and port services listed above.

### Extend the scope of Port of Melbourne prescribed services for the purposes of Victorian Essential Services Commission (ESC) functions

Fourth, the union advocates for an extension of the services that fall within the scope of prescribed services for inclusion in ESC reviews, to include:

- Bunkering;
- Diving;
- Dredging;
- General construction;
- Mooring;
- Non-container stevedoring;
- Port maintenance;
- Project construction; and
- Security.

The Victorian Essential Services Commission (ESC) is an independent economic regulator that promotes the long term interests of Victorian consumers with respect to the price, quality and reliability of essential services. It regulates Victoria's energy, water and transport sectors, and administer the rate-capping system for the local government sector. It also regulates the Victorian Energy Upgrades (VEU) program, which aims to reduce greenhouse gases by making energy efficiency improvements more affordable for consumers.

In relation to the Port of Melbourne, it monitors the port's compliance with price setting regulations, develops guidelines, and undertakes inquiries, studies and reviews that promote the long-term interest of port users.

From November 2016, the ESC assumed responsibility for ensuring the Port of Melbourne leaseholder complies with a pricing order. The port's prescribed services are regulated by a legislated pricing order. Port of Melbourne prescribed services include:

- Services for berthing vessels (such as berths, buoys and dolphins);
- Shipping channels in Port of Melbourne waters;
- Short-term storage; and
- Access to infrastructure (such as wharves, roads and rail infrastructure).

The ESCs regulatory roles in relation to the Port of Melbourne include:

- Conducting five-yearly reviews of the Port of Melbourne's compliance with a legislated pricing order (a Pricing Order is made under 49A of the Port Management Act. The Pricing Order specifies the regulatory framework for the Port Licence Holder's price setting for prescribed services. Pricing Orders are published in the Victorian Government Gazette. An accessible version is available on the PoM website<sup>93</sup> The Victorian Government published a Competitively Neutral Pricing Principles Order on 25 August 2016 under section 49ZC of the Port Management

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<sup>93</sup> PoM, *Tariff Reference Schedule*, effective from 1 July 2018, <https://www.portofmelbourne.com/wp-content/uploads/rts-port-of-melbourne-2018-19.pdf>

Act. The Competitively Neutral Pricing Principles Order specifies the manner in which service tariffs must be set by a state sponsored port operator engaging in international container handling.)<sup>94</sup>

- Conducting inquiries into the Port of Melbourne's process for setting tenant rent.
- Investigating relevant complaints submitted by port users.
- Certifying port capacity expansion proposals.
- Conducting competitive neutrality inquiries into the prices set by a second international container port in Victoria (if one was to be built).<sup>95</sup>

It is our view that the services that fall within the scope of prescribed services for inclusion in ESC reviews be extended to include all maritime and port services as specified. This will require amendments to section 49(1)(c) of the *Port Management Act 1995*.

The purpose of extending the list of prescribed services is to ensure there is transparency and appropriate scrutiny in the way in which the additional services to be prescribed are procured and priced. To assist the ESC in undertaking pricing reviews of these additional services, if they become prescribed, it is the intention of the MUA to communicate with the Minister responsible for the ESC to recommend that the ESC Minister request the ESC to exercise its powers to develop and determine the port licence holder's standards and conditions of service and supply in accordance with section 54A of the Port Management Act.

In such communication with the ESC Minister, the MUA will provide views on the standards and conditions of service for providers of each of the new prescribed services, that will mirror and embellish the standards we have proposed for inclusion in Division 2 and Division 4 of Part 4A of the Port Management Act. We will put the view that prices as set out in the Pricing Order, such as the mandatory security charges which are charged for the provision of security services within the Melbourne port area be linked to employment and labour standards as a quality control measure for the service provider and for the PoM.

#### **Recommendation: 7**

It is recommended that the Victorian Government:

- \* Agree to implement a new port and maritime services procurement and operations framework for Victoria that complements the work of the Victorian Labour Hire Licensing Scheme, aimed at:
  - ^ Reversing the decline in collectively bargained industrial instruments applying to key sections of the port and port services workforce to improve labour standards, particularly wage rates and working conditions;
  - ^ Improving access by unions to port and to port service providers' workforces;
  - ^ Improving workplace democracy and labour management relationships;
  - ^ Improving the job security of the port, and maritime/port services, workforces;
  - ^ Improving training and career development opportunities for those workforces; and
  - ^ Improving work health and safety standards at Victorian ports.

<sup>94</sup> Essential Services Commission, *The Port of Melbourne Regulatory Regime: Overview of the Port of Melbourne and the Essential Services Commission's Regulatory Roles*, March 2017,

<https://www.esc.vic.gov.au/sites/default/files/documents/port-of-melbourne-overview-paper-20170321.pdf>

<sup>95</sup> Essential Services Commission website (accessed 16 May 2019) <https://www.esc.vic.gov.au/transport/port-melbourne>

- \* Agree to reform towage licensing arrangements and outlaw partnership industrial agreements in port towage.
- \* Agree to introduce licensing; and licensing requirements for all port and maritime service providers, including:
  - ^ Bunkering;
  - ^ Diving;
  - ^ Dredging;
  - ^ General construction;
  - ^ Mooring;
  - ^ Non-container stevedoring;
  - ^ Port maintenance;
  - ^ Project construction; and
  - ^ Security.

### **Recommendation 8**

It is recommended that the Victorian Government:

- \* Agree to establish a task force comprising Government, MIAL representing shipowners/operators, maritime unions, maritime and port service providers and port organisations to finalise a package of amendments to Victorian laws as proposed in this submission.

## **Addressing term of reference 5: What other initiatives could be considered to support the expansion of the coastal shipping task?**

Other initiatives that the Victorian Government could take to support an expansion of coastal shipping include:

### **Strengthening the Victorian port fees and charges regime, and berth access regime, to support Australian coastal shipping**

Differential port pricing is one of the most important initiatives that State and Territory governments can take in helping facilitate Australian coastal shipping.

Hermes Maritime Shipping and Logistics, an emerging Qld ship operator that has been considering a new coastal shipping company to carry freight between Brisbane and Townsville reported to the Qld inquiry into coastal shipping the impact of port and government charges, specifically on ships that engage regularly in coastal trading. Hermes said:

*“Ships engaged in international trades have long sea legs between ports however, ships engaged in coastal trading are in port regularly (e.g. on the Brisbane/Townsville shuttle, the ship is in port every two days) and the associated port and government charges/costs occur frequently and can become quite substantial over a relatively short period. As a matter of principle, it makes good*

sense to have a differential pricing regime that takes account of the exigencies of domestic coastal shipping compared to international shipping.”<sup>96</sup> and

“It can be argued that the fees and charges imposed by ports owned by shareholding (government) ministers are Government fees and charges and long-term leased ports like Brisbane are Port fees and charges, the government having no control over the latter. For a ship on the weekly Brisbane/Townsville/Brisbane shuttle, government charges (which include the charges imposed by the Port of Townsville) amount to about \$2 million/annum. Once again, a moratorium on government fees and charges for a maximum of three years will be invaluable support to a “start-up” coastal shipping service.”<sup>97</sup> and

“Compared to what is spent by government on road and rail, the strategies proposed above to assist coastal shipping services are, in relative terms, inexpensive. In fact, we are not suggesting that the government parts with any money; we are suggesting that it foregoes a new stream of revenue in the short term in order to increase its revenue streams in the longer term. The benefit to the state, which includes the employment of Australian seafarers, a tri-modal integrated freight transport system generating increased transport efficiencies, (cost, time and productivity efficiencies), trucks off roads, reduction in CO2 emissions, reductions in road deaths, reduction in pavement damage, savings in road and rail maintenance and repair etc., is enormous. In the longer term—after the three-year moratorium—the government will be the beneficiary of steady cash flows coming from those ships engaged in coastal shipping services.”<sup>165</sup>

Hermes made the following recommendations to the inquiry:

- Establish a differential pricing regime for Port and Government fees and charges that takes account of the exigencies of domestic coastal shipping.
- Review “pilotage exemption” legislation to ensure its requirements are sensible and objectively based on modern safety management principles.
- Provide a moratorium on government and port authority fees and charges for competent “start-up” coastal shipping operators. The moratorium to be in place for a period not exceeding three years and applies to the following:
  - Pilotage
  - Conservancy
  - Harbour Dues
  - Wharfage
  - Port Access
  - Port Security
  - Common user Wharf Fees
- Reimburse competent “start-up” intrastate coastal shipping operators the difference between HFO and diesel prices for a period not exceeding three years.<sup>98</sup>

We note that currently Victoria is the leading proponent of differential port pricing, where for example, the Port of Melbourne provides an exemption from its Channel Deepening Infrastructure fee (to cover the

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<sup>96</sup> Hermes Maritime Shipping and Logistics submission to the *Inquiry into a sustainable Queensland intrastate shipping industry*, Transport and Public Works Committee, Report No. 23, 56th Parliament, May 2019, P27 <https://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2019/5619T808.pdf>

<sup>97</sup> Ibid P43

<sup>98</sup> Ibid P43

costs of dredging) for ship movements between Tasmania and the Port of Melbourne (compared to an international TEU fee of \$41.25).

In addition, the PoM provides a channel fee discount of 40 per cent for multi-sailing vessels, such as Bass Strait ship operators, which are directly relevant to the three Australian operators of Bass Strait freight and passenger services and a 10 per cent discount for passenger cruise ships. If more coastal ships were to use the Port of Melbourne, the multi sailing discount could be increased to say 50 per cent, while the passenger cruise ship discount could be increased for home ported cruise ships that are issued with a Temporary Licence as proposed by the MUA.<sup>99</sup>

At present, some fees and charges for Bass Strait ships, which are all Australian General Licenced (GL) ships, are reduced, but there remains opportunity to further assist Australian GL ships. For example, full Bass Strait TEUs are charged a wharfage fee of \$80.29 compared to an international TEU at \$120.24 (inward) and \$105.38 (outward).<sup>100</sup> The weighting of these charges could be further refined to favour Bass Strait container ships and could also be extended to all Australian coastal (GL) container ships, not just those navigating Bass Strait, in ways that would not result in an overall loss of revenue for the PoM.

These incentives appear to be working because under these policy settings, Bass Strait shipping operators are all either investing or considering new investment in ship assets, creating efficiencies for freight and passenger users and reducing greenhouse emissions thorough adoption of lower emission ship fuel technologies in their replacement ship purchases.

In the 2014 financial year (the most recent data available to the MUA), rents comprised 14 per cent of total Port of Melbourne revenues. We note that rent charges for service providers like stevedores is not a regulated or prescribed service and can be increased by the PoM at its discretion. Rents charged to stevedores for example, can be passed on to shipping lines, and no positive discrimination is shown to Australian GL ship operators by stevedoring companies. This could be a matter for consideration in any future Victorian Government reviews of the performance of the Port of Melbourne by Port Lessor Pty Ltd and for stevedoring operators that want to assist the further development of Australian coastal shipping.

A second key priority for improving port infrastructure, port services and the port fees and charges regime is that State Governments take steps to complement the proposed new national regulatory framework that supports Australian shipping by ensuring that ships granted a general licence (GL) to operate in coastal trading have priority berthing slot access to ports. Such a measure would reduce port time delays, reduce anchorage costs, and avoid the higher demurrage costs incurred by ships issued with a GL, when delayed at port, due to their higher operating costs relative to foreign ships issued with a TL to operate in coastal trade.

This issue was also addressed in the final report of the Qld inquiry into coastal shipping, where priority or guaranteed berthing was raised as an option to strengthen the coastal shipping industry. In its submission to the Inquiry, ANL Container Line Pty Ltd stated:

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<sup>99</sup> PoM, *Tariff Reference Schedule 2018*, <https://www.portofmelbourne.com/wp-content/uploads/rts-port-of-melbourne-2018-19.pdf>

<sup>100</sup> Ibid

*“There needs to be port facilities developed for coastal shipping offering easy access with guaranteed berthing. This is needed so that coastal vessels don't have to compete with other types of vessels for space in port and thereby able to maintain a reliable schedule.”<sup>101</sup>*

We recommend to the Victorian Government that the Victorian Ports Corporation (Melbourne) be required to develop guidelines for the PoM Harbourmaster that establishes a berthing access priority procedure for Australian ships.

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

The following changes are proposed for the three levies charged by AMSA:

- The Marine Navigation Levy is a charge against commercial shipping which is levied to recover all costs of operating the Commonwealth's marine aids to navigation system:
  - This Levy could be amended so that domestic commercial trading ships and passenger ships are exempt. The levy revenue could be maintained through a combination of increased charges for foreign registered commercial ships, extending the charge to Defence for its ships and imposing the charge on all foreign registered ships.
- The Marine Navigation (Regulatory Functions) Levy is used to fund AMSA's maritime safety regulation activities, covering safety of both ships and crew:
  - This Levy could be restructured so that it was increased for Port State Control functions (applicable to foreign registered ships using Australian ports) and reduced for Australian registered ships.
- The Protection of the Sea Levy is a charge against ships based on the "potential polluter pays" principle. The levy applies to ships which are 24 metres or more in length and have on-board 10 tonnes or more of oil in bulk as fuel or cargo:
  - This Levy could be amended so that Australian registered domestic commercial trading and passenger ships, which adopt higher safety standards, could pay a reduced rate, while foreign registered ships which pose a greater risk to the nation's sea lanes and marine environment, pay a higher fee.

#### **Recommendation 9**

It is recommended that the Victorian Government:

- \* Consider ways that further positive discrimination that favours Australian ships using the Port of Melbourne could be adopted.
- \* Require Port Lessor Pty Ltd to mandate to the PoM that it consult with stevedoring companies to consider ways that positive discrimination could be shown to Australian GL ship operators by stevedoring companies in relation to stevedoring charges.
- \* Require the Victorian Ports Corporation (Melbourne) to develop guidelines for the PoM Harbourmaster that establishes a berthing access priority procedure for Australian ships using the Port of Melbourne.

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<sup>101</sup> ANL Container Line Pty Ltd submission to the *Inquiry into a sustainable Queensland intrastate shipping industry*, Transport and Public Works Committee, Report No. 23, 56th Parliament, May 2019, P49  
<https://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2019/5619T808.pdf>



\* Write to the Australian Government advocating support for changes to regulatory fees and charges imposed by AMSA, aimed at ensuring those fees and charges discriminate positively towards Australian ships engaged in coastal shipping.

## Improve the environmental, social and governance (ESG) performance of the corporations operating the port and delivering port services that will ensure continuing investment in the port

It is our view that the governance board of port leaseholders should be required by Governments to adopt contemporary best practice in terms of commitments to good environmental, governance and social (ESG) practices. We are disappointed that the Victorian Government has not yet responded positively to MUA representations on these issues, and missed an important opportunity to require good ESG practices from the Port of Melbourne leaseholder when developing the Expression of Interest (EOI) for the lease of the port and in finalising a lease with the preferred operator. Similarly, we are disappointed that the Victorian Legislative Council Committee inquiry into the proposed lease of the Port of Melbourne did not positively respond to MUA proposals on this issue.

It remains our view that port operators/leaseholders should be required by Governments to include a wide range of skills, representative of the strategic role of ports, their wider role in the economy and as a place of significant employment, on the governance boards of ports.

In that context we submit that the governance board for the Port of Melbourne should include at least one director with expertise in labour-management relationships, work health and safety and workforce development. This in our view should be a high priority expectation for Port Lessor Pty Ltd.

Furthermore, as previously submitted to the Government, we believe the governance arrangements should require establishment of a port stakeholders advisory body, that includes trade unions, to advise the governance board and port management team on strategic and port wide issues including overall port productivity, investment planning and execution, seaside and landside interface issues, beyond the port supply chain issues, maritime security and port safety.

The MUA also submits that Port Lessor Pty Ltd (in relation to the Port of Melbourne) propose to the port operator that it establish and adopt a package of social factor performance standards as part of its ESG commitment, regarding:

- Labour relations – positive adherence to core ILO Convention standards (the right to collectively bargain, the right to labour union representation etc), to IMO Convention standards e.g. the International Ship and Port Facility Security (ISPS) Code, and to Australian labour laws.
- Work health and safety – adherence to Victorian State OHS requirements and to relevant national Codes of Practice approved by SWA; and the company's workforce being represented by joint union-employer OHS committees at all worksites.
- Workforce consultation – that workforce participation be an essential feature of future port governance arrangements, particularly around introduction of new technologies e.g. Does the company involve the workforce and or labour unions in the affairs of the company through worker and or union representation: (i) at the governance or advisory board level, and/or (ii) in a company or workplace level consultative body; and/or (iii) formally established workforce/union participation mechanism.

- Contractor policy - that specifies a chain of responsibility policy for upstream and downstream contractors that require its upstream and downstream suppliers and contractors to be prequalified and regularly audited to ensure the workforce of those suppliers and contractors enjoy the same labour standards and human rights as its directly employed workforce.

It is our submission that good risk management would oblige the Victorian entity that retains responsibility for tendering for port services such as mooring, non-container stevedoring, dredging and security, the Port of Melbourne (PoM) Group, to require tenderers to commit to a labour standards package and to report performance in an annual sustainability report, that includes the following standards:

- That its workforce will be covered by a Fair Work Commission (FWC) approved union collective agreement for all their workforce;
- That its workforce hold, or to be trained to ensure they gain, VET qualifications derived from the Maritime Training Package, Stevedoring Training Package or other relevant Training Package;
- The applicant commits to provide WH&S standards that are in conformance with Victorian OHS legislation and relevant national Codes of Practice approved by SWA;
- The applicant commits to conform with the requirements of the *Superannuation Guarantee (Administration) Act 1992* and or the prevailing employer contribution rate in union collective agreements covering the occupations engaged by the tenderer; and
- That it commits to conform with:
  - Laws relating to taxation;
  - Laws relating to workers' compensation;
  - Labour hire industry laws; and
  - Migration laws.

We also propose that the Victorian Government require the operators of all other Victorian ports to commit to such a package of social factor performance standards and to report performance in an annual sustainability report, as an explicit feature of their ESG commitments.

All these matters should be explicitly laid out in any future EoI documentation so bidders are clear about the standards of corporate behaviour that will be expected from them in return for the right to lease (operate and manage) a port asset for the State and the nation.

**Recommendation: 10**

It is recommended that the Victorian Government:

- \* Require the Minister responsible for the *Port Management Act 1995* to prepare a Ministerial Directive that sets out the Government's port operations ESG expectations, and that the 'S' or social factor expectations be prepared in consultation with relevant affiliates of the ACTU.
- \* Require the responsible Minister to ensure that the Directors on Port Lessor Pty Ltd oversee the implementation of the Ministerial Directive for the Port of Melbourne;
- \* Require the Minister responsible for ports to ensure all other Victorian ports adopt and implement the Ministerial Directive;
- \* Ensure that the Ministerial Directive include as a minimum, the following social factor key performance indicators (KPIs):

- ^ Labour relations – positive adherence to core ILO Convention standards (the right to collectively bargain, the right to labour union representation etc.), to IMO Convention standards e.g. the International Ship and Port Facility Security (ISPS) Code, and to Australian labour laws.
- ^ Work health and safety – adherence to Victorian State OHS requirements and to relevant national Codes of Practice approved by SWA; and the company’s workforce being represented by joint union-employer OHS committees at all worksites.
- ^ Workforce consultation – that workforce participation be an essential feature of future port governance arrangements, particularly around introduction of new technologies e.g. Does the company involve the workforce and or labour unions in the affairs of the company through worker and or union representation: (i) at the governance or advisory board level, and/or (ii) in a company or workplace level consultative body; and/or (iii) formally established workforce/union participation mechanism.
- ^ Contractor policy - that specifies a chain of responsibility policy for upstream and downstream contractors that require its upstream and downstream suppliers and contractors to be prequalified and regularly audited to ensure the workforce of those suppliers and contractors enjoy the same labour standards and human rights as its directly employed workforce.
- \* Ensure that the Ministerial Directive include as a minimum, the following social factor standards:
  - ^ That port workforces be covered by a Fair Work Commission (FWC) approved union collective agreement for all their workforce;
  - ^ That port workforces hold, or to be trained to ensure they gain, VET qualifications derived from the Maritime Training Package, Stevedoring Training Package or other relevant Training Packages;
  - ^ That port operators and port service providers commit to provide work health and safety standards that are in conformance with Victorian OHS legislation and relevant national Codes of Practice approved by SWA; and that service providers commit to an OHS protocol that facilitates access by WorkSafe Victoria authorised representatives of registered employee organisations (ARREOs) to worksites where the applicant/tenderer workforce will be working
  - ^ That port operators and port service providers commit to conform with the requirements of the *Superannuation Guarantee (Administration) Act 1992* and or the prevailing employer contribution rate in union collective agreements covering the occupations engaged by the tenderer.
  - ^ That port operators and port service providers commit to conform with:
    - Laws relating to taxation;
    - Laws relating to workers' compensation;
    - Labour hire industry laws; and
    - Migration laws.
- \* Ensure that the Ministerial Directive include as a minimum, the following ‘G’ or governance factor standards:
  - ^ Inclusion of a wide range of skills, representative of the strategic role of ports, their wider role in the economy and as a place of significant employment, on the governance boards of ports that includes at least one director with expertise in labour-management relationships, work health and safety and workforce development.
  - ^ Establishment of a port stakeholders’ advisory body to advise the governance board and port management team on strategic and port wide issues including overall port productivity, investment planning and execution, seaside and landside interface issues, beyond the port supply chain issues, maritime security and port safety.

## Improve OHS policy and practice

We recommend that the Victorian Government require each port operator review their OHS Policy and in particular their commitments and strategies to:

- Influence contractors, tenants, stakeholders and other interested parties to provide a safe workplace and safe systems of work; and
- Consult with employees and interested parties about health and safety behaviours and issues likely to affect their workplace.<sup>102</sup>

**Recommendation: 11**

It is recommended that the Victorian Government:

\* Require each port operator review their OHS Policy and in particular their commitments and strategies to:

^ Influence contractors, tenants, stakeholders and other interested parties to provide a safe workplace and safe systems of work; and

^ Consult with employees and interested parties about health and safety behaviours and issues likely to affect their workplace.

## Identify Victorian port infrastructure upgrades that will support coastal shipping

Notwithstanding wide consultation arising from the Port of Melbourne Corporation Port Development Plan 2006-2035 consultation process that commenced in August 2006 and subsequent changes in governance of the Port of Melbourne, as well as the release of the Transport for Victoria Port Development Strategy Ministerial Guidelines of July 2017 and release by the Port of Melbourne of the 2050 Port Development Strategy Discussion Paper in late 2018<sup>103</sup>, there remains a lack of policy and strategic direction for the way that Victorian ports can help facilitate the growth of Australian coastal shipping.

There remains a heavy bias in all port development strategies towards international import/export shipping and an apparent acceptance that coastal shipping be undertaken in foreign registered ships with zero Australian content, including zero Australian employment. This is untenable and inconsistent with shipping industry association proposals to revitalise Australian coastal shipping.<sup>104</sup>

We note that the Transport for Victoria 2017 Port Development Strategy Ministerial Guidelines of July 2017 identify the need for port authorities to understand shipping trends and port user requirements in terms of ship sizes, adequacy of channel configurations and depths and the likelihood of required capital works improvements but this falls way short of identifying a positive strategy and associated actions to

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<sup>102</sup> See for example the Port of Melbourne Operations Pty Ltd *Occupational Health and Safety Policy*, <https://www.portofmelbourne.com/wp-content/uploads/2018/03/ohs-safety-policy-statement.pdf>

<sup>103</sup> These reports can be found at

<https://www.parliament.vic.gov.au/images/stories/committees/pomsc/Transcripts/port-development-plan-2006-35.pdf>;  
[https://www.google.com/search?q=Transport+for+Victoria+2017+Port+Development+Strategy+Ministerial+Guidelines&rlz=1C1CHZL\\_enAU697AU697&oq=Transport+for+Victoria+2017+Port+Development+Strategy+Ministerial+Guidelines&aqs=chrome..69i57.1602j0j8&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=Transport+for+Victoria+2017+Port+Development+Strategy+Ministerial+Guidelines&rlz=1C1CHZL_enAU697AU697&oq=Transport+for+Victoria+2017+Port+Development+Strategy+Ministerial+Guidelines&aqs=chrome..69i57.1602j0j8&sourceid=chrome&ie=UTF-8); <https://www.portofmelbourne.com/wp-content/uploads/PoM-strategy-document-Interactive.pdf>

<sup>104</sup> See for example MIAL, MAX edition 1901: *The 2019 Election Issue* [https://view.flipdocs.com/?ID=10018338\\_998230#1](https://view.flipdocs.com/?ID=10018338_998230#1)

expand the use of Australian coastal shipping in Victorian freight and passenger shipping as a vital element in supporting the growth of the Victorian economy.

We note also that the 2050 Port Development Strategy Discussion Paper indicates that the Port Development Strategy (PDS) will need to identify local and international trade needs including the types and amount of cargo that will move through the Port, as well as vessel numbers and sizes that will need access to the Port and its services but the Discussion Paper does not address the way that this data will be ascertained for coastal shipping, nor identify ways that the Victorian Government could help facilitate a growth in coastal shipping that supports investment in Australian ships and promotes Australian seafarer employment.

In addition, there remain weaknesses across the States in port master planning in relation to coastal shipping requirements. For example, in the most recent port master plan under development in Qld for the Port of Townsville, released for public consultation on 5 November 2018, there is no reference to coastal shipping, nor to the port services or wharfside infrastructure that might facilitate an expansion of coastal shipping or development of coastal shipping services in Qld.

While the draft master plan for the Port of Townsville refers to the need for fit for purpose sea channels, swing basins and wharfage that facilitates ship access to ports, as do various Victorian port strategies, they appear to do so in the absence of any contemporary analysis of the ship types and ship technologies, particularly for Australian coastal trade that are likely to use the port over the next 5 to 20 years, including intrastate shipping.

We believe the Victorian Government should commit to undertake a review of port infrastructure upgrades to each Victorian port that would facilitate the expansion of Victorian coastal shipping, and that port master plans be reviewed in a coordinated way to ensure that coastal shipping is prominently considered in those master plans.

#### **Recommendation 12**

It is recommended that the Victorian Government:

- \* Commit to undertake a review of port infrastructure upgrades at each Victorian port that would facilitate the expansion of Victorian coastal shipping, and
- \* That port master plans be reviewed in a coordinated way to ensure that coastal shipping is prominently considered in those master plans.

#### **Freight data and freight trends**

It is our assessment that the omission of plans to support coastal shipping in port master plans arises because there has been no nationally coordinated analysis of coastal sea freight trends, patterns, and flows, emerging markets, emerging ship and landside stevedoring technologies, ship types for particular cargoes e.g. self-discharging ships, RO-RO shipping needs and so on that would provide port master planners with data to forecast likely infrastructure needs that would facilitate the growth of Australian coastal shipping.

We see this lack of research and data availability as a major gap in national ports policy and strategy. It is our submission that the states confer with the Commonwealth to ensure that a revised National Ports

Strategy and or National Freight and Supply Chain Strategy include a stocktake of all current interstate and intrastate shipping activity, along with emerging opportunities for increasing coastal interstate and intrastate shipping activity, to examine port usage and port infrastructure requirements so that port master planning better accommodates the needs and future opportunities for Australian coastal shipping.

We also urge the Victorian Government to encourage the Australian Government, in collaboration with all State governments (and the NT) to take a lead on researching and publishing information and data on megatrends in freight and logistics as a service industry to the economy, noting that economies are becoming more service oriented, and production systems more decentralised, with consequences for freight logistics, such as reduced demand for traditional bulk cargoes, and more demand for containerised cargo.

We note that the Australian Government has committed to designing a National Freight Data Hub, including arrangements for data collection, protection, dissemination and hosting, and the establishment of a freight data exchange pilot to allow real-time access to freight data. This commitment includes:

- \$5.2 million for to settle the design of a national freight data hub, including arrangements for data collection, protection, dissemination and hosting
- \$3.3 million for the establishment of a freight data exchange pilot to allow industry to access freight data in real time and a survey of road usage for freight purposes.<sup>105</sup>

Unfortunately, this commitment is based on a flawed report prepared by a consultant firm iMove in January 2019. iMove was engaged by the Australian Government to study the data requirements of the Australian freight industry and the freight data challenges identified by the recent Inquiry into National Freight and Supply Chain Priorities.<sup>106</sup> While the report contains some useful observations and proposals, it is notable for its omissions and inadequacies in terms of what freight data is required for national policy and strategic planning.

It is our submission that before funding is committed to develop the National Freight Data Hub that the Victorian Government, in collaboration with other like-minded State Governments, request that the Commonwealth meet with the States and industry stakeholders, including labour unions who were not consulted by iMove in developing its report, to reassess the outcomes, objectives and priorities for the National Freight Data Hub.

We also urge the Victorian Government to support the proposal of the Qld Government in its submission to the 2017 Inquiry into National Freight and Supply Chain Priorities that there is a need for commodity-based supply chain investigations to provide a better understanding of the limitations and constraints to the efficient and productive movement of freight from origin to destination.<sup>107</sup> It is our view that these investigations need to be integrated with industry policy objectives of government so that incentives for more value-added production and processing are adequately supported by services such as transport, port and shipping access to markets.

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<sup>105</sup> Department of Infrastructure, Regional Development and Cities, *Delivering on freight*, 6 April 2019  
<https://www.infrastructure.gov.au/transport/freight/files/Delivering-on-Freight.pdf>

<sup>106</sup> Department of Infrastructure, Regional Development and Cities *Freight data*,  
<https://www.infrastructure.gov.au/transport/freight/national-strategy.aspx>

<sup>107</sup> Qld Government submission to the National Freight and Supply Chain Priorities Inquiry – 7 August 2017 – P6  
[https://infrastructure.gov.au/transport/freight/freight-supply-chain-submissions/Dept\\_of\\_Transport\\_and\\_Main\\_Roads\\_QLD.pdf](https://infrastructure.gov.au/transport/freight/freight-supply-chain-submissions/Dept_of_Transport_and_Main_Roads_QLD.pdf)

Such research will identify opportunities to make better use of sea transport in unlocking future export potential, and in reducing pressure on land-based transport modes, as an important aspect of national freight transport policy, urban planning and energy/climate change policy.<sup>108</sup>

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

Notwithstanding its weaknesses, one important finding included in the iMove report is that freight transport employment data collection is inadequate. The report noted that freight employment data is important for a number of reasons. First, governments have a core policy objective of sustained employment growth and maintaining low unemployment across all industries and regions, including in freight transport. Second, from a firm point of view, labour is both an asset and a cost that needs to be developed and managed effectively. Shortages of skilled labour, for example, can adversely affect industry prospects in the short- and long-term. Additionally, both government and industry maintain a focus on gender diversity. Therefore, relevant statistics are important to track the performance of the transport industry against the goal of greater female participation in the industry.<sup>109</sup> The report concluded that

*“Due to the lack of data about labour in the freight transport sector, we are also unable to predict future trends in terms of labour supply, licensing, skill and training needs.”<sup>110</sup>*

This finding is consistent with the MUA submission to the Senate inquiry into the policy, regulatory, taxation, administrative and funding priorities for Australian shipping where we stated that there remains a paucity of accurate data on maritime employment in Australia, particularly seafarer employment. For background we have copied the MUA submission on this issue at Appendix 1.

We note that the Australian Logistics Council (ALC) recommended in 2018 (repeated in its 2019 election priorities) that the Australian Government fund the Australian Bureau of Statistics to establish a transport satellite account to its national accounts that separately reports the value of freight transport for the economy as a whole that would include, inter alia detailed employment data.<sup>111</sup>

We urge the Victorian Government to join with the MUA in making representations to the Australian Government on better national freight transport data, including employment data, which will be important for Victoria in assessing the employment impacts of any proposals arising from this review of Victorian coastal shipping. Good base level and trend data will be required to measure the success of Victorian shipping and maritime industry policy reforms.

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<sup>108</sup> Ibid P7

<sup>109</sup> iMove, *Freight Data Requirements Study Data Gap Analysis Final Report*, 28 February 2019, P15 (the FDRS is part of a project to study the data requirements of the Australian freight industry and the freight data challenges identified by the recent Inquiry into National Freight and Supply Chain Priorities. The FDRS was conducted by iMove for the Australian Government)

[https://www.infrastructure.gov.au/transport/freight/files/Appendix\\_C\\_Gap\\_Analysis\\_Report\\_FINAL.pdf](https://www.infrastructure.gov.au/transport/freight/files/Appendix_C_Gap_Analysis_Report_FINAL.pdf)

<sup>110</sup> Ibid P41

<sup>111</sup> Australian Logistics Council, *Freight: Delivering Opportunity for Australia: Priorities for the Next Australian Government*, April 2019, <http://www.austlogistics.com.au/wp-content/uploads/2019/04/Election-Priorities-Documents-Final-compressed.pdf>

### **Recommendation 13**

It is recommended that the Victorian Government:

- \* Make representations to the Australian Government regarding the need for better national freight transport data, including employment data, which will be important for Victoria in assessing the employment impacts of any proposals arising from this review of Victorian coastal shipping, noting that good base level and trend data will be required to measure the success of Victorian shipping and maritime industry policy reforms.

- \* Advocate to the Australian Government, in conjunction with other like-minded States, that it:

- ^ Ensure a revised National Ports Strategy and or National Freight and Supply Chain Strategy include a stocktake of all current interstate and intrastate shipping activity, along with emerging opportunities for increasing Australian coastal interstate and intrastate shipping activity, to examine port usage and port infrastructure requirements so that port master planning better accommodates the needs and future opportunities for Australian coastal shipping.

- ^ Take a lead on researching and publishing information and data on megatrends in freight and logistics as a service industry to the economy, with a focus on shipping, noting that economies are becoming more service oriented, and production systems more decentralised, with consequences for freight logistics, such as reduced demand for traditional bulk cargoes, and more demand for containerised cargo.

- ^ Meet, as a matter of urgency, with the States/NT and industry stakeholders, including labour unions who were not consulted by iMove in developing its report for the Australian Government on the National Freight Data Hub initiative, to reassess the outcomes, objectives and priorities for the National Freight Data Hub prior to dollars being committed to establishing the Data Hub.

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

### **Implement a review of Victoria's procurement policy to include shipping services**

Commonwealth and State Governments, as large purchasers of goods and services to support the operations of government, all have procurement policies.

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

Many Commonwealth and State government supplies will by necessity be sourced from interstate or overseas, providing opportunities to use coastal shipping in the freight logistics chain in supplying those goods, be they construction materials, plant and equipment, vehicles, machinery, paper and other office supplies, food and beverages, uniforms etc.



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

#### **Recommendation 14**

It is recommended that the Victorian Government:

\* Review its Procurement Policy to ensure it includes provisions relating to the transportation and logistics aspects of supply and disposal with a view to ensuring that suppliers to the Victorian Government and its agencies are required as a condition of supply to consider the most efficient and cost effective transport mode in sourcing and supplying goods to the end user within a State, including opportunities to use coastal shipping in the freight logistics chain in supplying those goods, be they construction materials, plant and equipment, vehicles, machinery, paper and other office supplies, food and beverages, uniforms etc. in relation to the Australian coastal legs of their supply chains in transporting goods for government.

### **Update the Victorian Freight Plan 2018 to ensure it more adequately incorporates shipping**

Victoria's Freight Plan 2018, *Delivering the Goods: Creating Victorian Jobs*, does not adequately acknowledge the role of sea freight and the shipping mode in the future development of the Victorian economy. This review is an opportunity to rectify that imbalance in the Freight Plan.

We believe there are several opportunities that require exploration and inclusion in a revised version of Victoria's Freight Plan, including:

- Actions to increase the volume of containerised freight (relative to break-bulk freight) from Victoria for export to domestic and international markets, including support for value adding processing of primary products;
- For large volume non-perishable exports like grains that can be containerised, proposals for utilisation of short sea coastal shipping from secondary ports such as Portland and Geelong, to the Port of Melbourne, for export on international liner services;
- Working with other State Governments and industry sectors to maximise the volume of manufacturing inputs that are imported by sea freight on Australian ships for Victorian manufacturing, such as sugar (for food processing); cement, gypsum and lime (for building products); LPG (for energy consumption); coal tar, liquid carbon pitch, asphalt and bitumen (for road construction); and petroleum products from interstate refineries and storage facilities; and
- Providing better support for Bass Strait shipowners/operators and Tasmanian exporters aimed at increasing the volume of Bass Strait sea freight. An increase in the volume of Bass Strait sea freight for export will increase the need for an increase in shipping capacity and improved service frequency on the Bass Strait route:
  - The ABS estimate that in the year to June 2018, the nominal value of Tasmania's overseas merchandise exports was \$3.68 billion, an increase of 33 per cent compared to the previous year, when the value of exports was estimated at \$2.76 billion. In the year to June 2018 Tasmania's largest export commodity categories by order of ranking were:
    - ❖ Processed metals and metal products - primarily aluminium and zinc and associated products (contributing \$1 588 million in value, an increase of 43 per cent from the previous year)

- ❖ Ores and concentrates - primarily iron ores and tin ores (contributing \$505 million, an increase of 20 per cent from the previous year)
- ❖ Confidential items of trade (contributing \$413 million, an increase of 45 per cent compared to the previous year)
- ❖ Seafood products - primarily abalone and Atlantic salmon (contributing \$241 million, an increase of 62 per cent compared to the previous year)
- ❖ Meat products - predominantly fresh, chilled or frozen beef (contributing \$241 million, an increase of 39 per cent compared to the previous year)
- ❖ Wood and paper products - primarily wood or articles of wood (contributing \$230 million, an increase of 31 per cent compared to the previous year).
- ✓ Tasmania's top trading partner was China, receiving goods with an estimated value of \$1,041 million, or 28 per cent of Tasmania's total exports (up from 24 per cent of total exports in 2016-17). The next largest trading partners, by ranking, were Malaysia, Japan, Taiwan, Viet Nam, Thailand, Indonesia and the United States of America:<sup>112</sup>
  - If policy settings can be devised and implemented to support and facilitate similar levels of growth over the next decade, then there will be a need for additional ships on the Bass Strait route, notwithstanding the increase in ship capacity due to recent investment (or committed investment) by all 3 Bass Strait shipping operators.

Other features of the Victorian Freight Plan 2018 that require review to ensure better support for Australian shipping are:

- First, working with the Australian Government, other State/NT governments and the shipping industry to identify ways that the level of Australian content and therefore economic benefit to the nation could be derived from increasing export volumes of products from Victoria to international markets. We note that the Victorian Freight Plan forecasts that Victoria's food and fibre exports to China, Hong Kong and Taiwan are forecast to increase by over 70 per cent, and by 30 per cent to both South East Asia and North Asia, by 2026.<sup>113</sup> Figure 10 shows the products which are predicted to grow in terms of export through the Port of Melbourne over the next 30 years:
  - It is important to note that in 2016-17, freight transport services, primarily transporting Australian resource and agricultural exports in foreign owned ships, was Australia's 8th largest goods and services import, costing the nation \$8.7 billion, yet freight transport services did not rate among Australia's top 25 goods and services exports.<sup>114</sup> This a significant drain on the balance of payments. It can be reduced under new policy settings for Australian shipping that will ensure investment in Australian owned and operated ships where the cost of purchase of that shipping service remains in the domestic economy. Australia should not be completely reliant on foreign ships for its economic security.

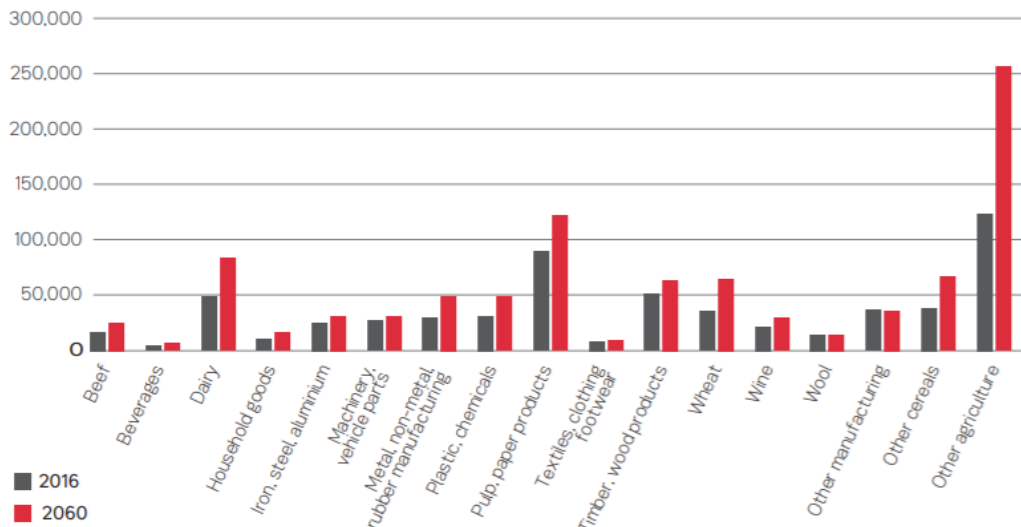
<sup>112</sup> Tasmanian Government, Department of State Growth, *Export Statistics*, 2018,

[https://www.stategrowth.tas.gov.au/business/trade/export\\_overview/export\\_statistics](https://www.stategrowth.tas.gov.au/business/trade/export_overview/export_statistics)

<sup>113</sup> Transport for Victoria Department of Economic Development, Jobs, Transport and Resources, *Delivering the Goods: Creating Victorian Jobs* - Victorian Freight Plan, July 2018 P19 <https://transport.vic.gov.au/ports-and-freight/freight-victoria>

<sup>114</sup> Department of Foreign Affairs and Trade, *Australia's top 25 imports, goods and services, 2016/17 and Australia's top 25 exports, goods and services, 2016/17* – <https://dfat.gov.au/trade/resources/trade-statistics/trade-in-goods-and-services/Pages/australias-trade-in-goods-and-services-2017.aspx>

**Figure 10: Forecast commodity exports through the Port of Melbourne – 2016 to 2060**



**Source:** Transport for Victoria Department of Economic Development, Jobs, Transport and Resources, *Delivering the Goods: Creating Victorian Jobs - Victorian Freight Plan*, July 2018

- Second, working with the Australian Government and other State/NT governments to help level the competitive playing field among freight transport modes given the subsidisation of other modes, particularly road transport, aimed at improving the relative competitiveness of the shipping transport mode. Ways that this can be achieved include:
  - Speeding up the slow progress made in achieving heavy vehicle road pricing reform;
  - Accelerating the momentum on achievement of nationally consistent heavy vehicle regulations; and
  - Extending the reach of national heavy vehicle legislation related to driver fatigue to vehicles down to 4.5 tonnes.<sup>115</sup>
- Third, working with the Australian Government, other State/NT governments and the shipping industry to ensure that the recommendations in the report of the Inquiry into National Freight and Supply Chain Priorities are implemented in ways that support the Australian shipping industry. The MUA has identified a number of important priorities in the report (recommendations) that, if implemented appropriately, will facilitate interaction of the sea freight mode with other modes of freight transport.<sup>116</sup> The key recommendations (with caveats as noted) which we believe should be actively progressed are outlined in **Appendix 2**.
- Fourth, that the proposal in the Freight Plan to prepare a comprehensive Victorian Ports Strategy that will outline how Victoria’s future exports and imports could be handled across current (and future) commercial ports in Victoria be undertaken within the framework we

<sup>115</sup> Transport for Victoria Department of Economic Development, Jobs, Transport and Resources, *Delivering the Goods: Creating Victorian Jobs - Victorian Freight Plan*, July 2018 P <https://transport.vic.gov.au/ports-and-freight/freight-victoria> PP15 & 37

<sup>116</sup> Department of Infrastructure, Regional Development and Cities, *Report of the Inquiry into National Freight and Supply Chain Priorities*, March 2018, [https://infrastructure.gov.au/transport/freight/freight-supply-chain-priorities/files/Inquiry\\_Report.pdf](https://infrastructure.gov.au/transport/freight/freight-supply-chain-priorities/files/Inquiry_Report.pdf).

propose for preparation of a revised National Ports Strategy and with a much stronger focus on both coastal and international shipping.

- Fifth, that the proposal in the Freight Plan to invest in better, more reliable freight data be developed having regard to those recommendations in the Report of the Inquiry into National Freight and Supply Chain Priorities, particularly R2.4 (Fund the Australian Bureau of Statistics to establish a transport satellite account to its national accounts that separately reports the value of freight transport for the economy as a whole (e.g. GDP, employment, etc.)); and R2.5 (Fund a freight observatory to collect, analyse and publish freight performance data for all freight modes and supply chains to better inform decision making and investment, with appropriate governance arrangements and the potential for this function to be undertaken by an independent body that has industry confidence):
  - Given the MUA concern about the poor quality of data on seafaring and maritime employment which we outlined in our submission to the Senate Inquiry into shipping, these are important recommendations which we think should be expanded in scope to ensure ABS data more adequately reports maritime and seafaring employment and labour market characteristics.
- Sixth, that there be a particular emphasis on shipping and ports in the Women in Transport program over the remaining 2 years of the program, 2019 and 2020, aimed at increasing the number of female employees on coastal ships trading within and with Victoria and in stevedoring at Victorian ports. A first step would be to set targets for both shipping and stevedoring.
- Finally, that the composition of the Victorian Ministerial Freight Reference Group be expanded to include additional shipping industry representatives - from shipowners, ship operators, shippers and unions representing the shipping and ports sector.

The MUA proposes also that the Victorian Freight Plan include a specific Victorian State coastal shipping strategy that should emerge from this Review.

#### **Recommendation 15**

It is recommended that the Victorian Government:

\* Agree to update Victoria's Freight Plan 2018, *Delivering the Goods: Creating Victorian Jobs*, so it more adequately acknowledges the role of sea freight and the shipping mode in the future development of the Victorian economy and that a revised Freight Plan include:

^ Actions to increase the volume of containerised freight (relative to break-bulk freight) from Victoria for export to domestic and international markets, including support for value adding processing of primary products;

^ Proposals for utilisation of short sea coastal shipping from secondary ports such as Portland and Geelong, to the Port of Melbourne, for export on international liner services in relation to large volume non-perishable exports like grains that can be containerised;

^ Working with other State Governments and industry sectors to maximise the volume of manufacturing inputs that are imported by sea freight on Australian ships for Victorian manufacturing, such as sugar (for food processing); cement, gypsum and lime (for building products); LPG (for energy consumption); coal tar, liquid carbon pitch, asphalt and bitumen (for road construction); and petroleum products from interstate refineries and storage facilities;

^ Providing better support for Bass Strait shipowners/operators and Tasmanian exporters aimed at increasing the volume of Bass Strait sea freight;

^ A commitment to work with the Australian Government, other State/NT governments and the shipping industry to:

- # Identify ways that the level of Australian content and therefore economic benefit to the nation could be derived from increasing export volumes of products from Victoria to international markets.
- # To help level the competitive playing field among freight transport modes given the subsidisation of other modes, particularly road transport, aimed at improving the relative competitiveness of the shipping transport mode;
- # To ensure that the recommendations in the report of the Inquiry into National Freight and Supply Chain Priorities are implemented in ways that support the Australian shipping industry;
- # That the proposal in the Freight Plan to prepare a comprehensive Victorian Ports Strategy that will outline how Victoria's future exports and imports could be handled across current (and future) commercial ports in Victoria be undertaken within the framework we propose for preparation of a revised National Ports Strategy and with a much stronger focus on both coastal and international shipping;
- # That the proposal in the Freight Plan to invest in better, more reliable freight data be developed having regard to those recommendations in the Report of the Inquiry into National Freight and Supply Chain Priorities; and
- # That the composition of the Victorian Ministerial Freight Reference Group be expanded to include additional shipping industry representatives - from shipowners, ship operators, shippers and unions representing the shipping and ports sector.

## Explore opportunities for provision of fast passenger ferry services from regional Victorian ports to the Port of Melbourne or Port Hastings

We believe that it would be timely to examine the feasibility of provision of fast passenger and vehicular ferry services from regional Victorian ports to the Port of Melbourne or Port Hastings, to complement the ferry services that currently operate in Victoria (the Western Port Ferry, a service from Stony Point to French Island, Phillip Island; the Westgate Punt, a service that runs between Spotswood Jetty and Westgate Landing in Port Melbourne; Searoad Ferries, a service that runs from Portsea to Queenscliff, and Port Phillip Ferries, a service that runs between Portarlington on the Bellarine Peninsula and Victoria Harbour in Docklands, Melbourne and the trialling of a new service between Geelong and Docklands).

We propose that part of the feasibility study involve development of a clearer and transparent strategy for State Government financial support for feasibility studies and trialling of ferry services, following the provision of a \$6 million grant to Port Phillip Ferries for a 3 year trial of the Geelong and Docklands ferry service.<sup>117</sup>

We also propose that the examination include a review of the marine safety elements of ferry services covering ship safety, crewing and crew licencing and qualifications. A major concern we have at present is that ferries fall under the ship regulatory framework provided by the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*. For the reasons outlined in Appendix 4 and in the section on Workforce development, we propose that the examination of Victorian ferry services consider

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<sup>117</sup> Business Insider, Billionaire Paul Little will run a three-year ferry trial between Melbourne and Geelong from 2019, 9 August 2018, <https://www.businessinsider.com.au/billionaire-paul-little-will-run-a-three-year-ferry-trial-between-melbourne-and-geelong-from-2019-2018-8>

development of an employment, crewing and labour relations standards protocol for Victorian ferry services, based on the ship safety standards of the *Navigation Act 2012*.

#### **Recommendation 16**

It is recommended that the Victorian Government:

\* Undertake a feasibility study of provision of fast passenger and vehicular ferry services from and among regional Victorian ports to the Port of Melbourne or Port Hastings, to complement the ferry services that currently operate in Victoria, and that the feasibility study include:

^ Development of a strategy for State Government financial support for feasibility studies and trialing of ferry services; and

^ A review of the marine safety elements of ferry services covering ship safety, crewing and crew licencing and VET qualifications with a view to development of an employment, crewing and labour relations standards protocol for Victorian ferry services, based on the ship safety standards for RAVs as set out in the *Navigation Act 2012* and associated Marine Orders.

### Support new initiatives for inclusion in a revised Victorian Freight Plan

#### Intermodal terminals

The MUA proposes that the Victorian Government identify the development of intermodal terminals as one of the issues to be examined by its proposed ports stakeholder reference group. We suggest that one of the terms of reference for examining this issue be the impact on stevedoring and port workforces from future development of intermodal terminals, particularly where the intention is to transfer functions currently performed at sea ports to inland ports.

Such developments raise issues about work allocation, labour relationships and labour standards, given custom and practice around definitions of stevedoring and its interaction with other transport and logistics functions. These require resolution and agreement in the interests of the long term productivity and functionality of new intermodal terminal development.

#### The Mode Shift Incentive Scheme

The MUA proposes that the Mode Shift Incentive Scheme be extended to encourage industry to shift more containerised freight from road and rail to ships, given it is the most energy efficient and cost-effective freight transport mode over medium to longer distances.

We propose that the scheme be extended beyond 30 June 2019 and that additional funds be invested in a coordinated arrangement with the Commonwealth for establishment of a national strategic fleet.

### A Victorian shipping strategy for inclusion in a revised Victorian Freight Plan

#### Increasing Australian content and economic benefit from the growing Victorian cruise industry

The Victorian Port of Melbourne Corporation (VPMC) reports that 108 cruise ships visited Station Pier between October 2017 and June 2018, up from 84 in 2016-17 and 76 in 2015-16, with a record 331,614 passengers and crew using the pier in 2017-18.<sup>118</sup> This included a record 50 turnaround visits.

It also reported that four vessels homeported for the 2017-18 season – the *Golden Princess*, *Pacific Jewel*, *Pacific Eden* and *Carnival Legend*. It should be noted that:

- The *Golden Princess* is a UK flagged ship and has an Italian cruise industry collective agreement;
- The *Pacific Jewel* is a Marshall Island (Flag of Convenience - FOC) flagged ship and has an ITF cruise agreement. The crew are predominantly Filipino but include Korean and Indian seafarers;
- The *Pacific Eden* is a Bahaman (FOC) flagged ship; and
- The *Carnival Legend* is a Maltese (FOC) flagged ship and has an expired ITF agreement.<sup>119</sup>

The MUA welcomes the expansion of the cruise ship industry and the financial commitment of the Victorian Government to the industry, including a grant of \$1.35 million by the Premier's Job and Investment Fund to the VPMC to write a Step 1 Business Case outlining concepts for redeveloping Station Pier to accommodate the growing maritime passenger industry and a further \$5.8 million to undertake both planning and cruise-related capital infrastructure works to grow the domestic ferry and cruise ship operations in Victoria.

These cruise ships, including those which home port in Victoria, are invariably international FOC ships with crews from developing nations, the majority of whom are paid, at best, under ITF agreements as can be seen above. They do not employ a single Australian worker and the labour standards on these FOC ships fall below internationally accepted labour standards. This is what prompted a Senate Inquiry to recommend that: (i) the Australian Government continue to work with international agencies, including the International Labour Organisation (ILO), to improve the working conditions, safety standards, and rates of remuneration for seafarers working in international shipping; and (ii) that the Australian government look for ways to support the Maritime Labour Convention (MLC) to make flag of convenience shipping more accountable to international law and, when in Australian waters, to our national regulations.<sup>120</sup>

At present, large cruise ships, defined as ships of 5,000 gross tonnes or greater which are: (i) capable of a speed of at least 15 knots; (ii) capable of carrying at least 100 passengers; and (iii) are utilised wholly or primarily for the carriage of passengers between any ports in the Commonwealth or in the Territories (except between Victoria and Tasmania) are exempt from the provisions of the CT Act. This means that large cruise ships do not require a licence to operate in cabotage trade i.e. to embark or disembark passengers at Australian ports as part of a cruise itinerary.

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<sup>118</sup> Victorian Ports Corporation (Melbourne) 2017-18 Annual Reports, 2018 - <http://www.vicports.vic.gov.au/publications/Documents/annual-report-2018-vpcm.pdf>; 2017 - <http://www.vicports.vic.gov.au/publications/Documents/annual-report-2017-vpcm.pdf> 2016 - <http://www.vicports.vic.gov.au/publications/Documents/annual-report-2016-pomc.pdf>

<sup>119</sup> A report to the MUA from the Australian ITF Inspectorate, April 2019.

<sup>120</sup> Rural and Regional Affairs and Transport References Committee, *Interim Report on its Inquiry into Increasing use of so-called Flag of Convenience shipping in Australia*, May 2016, Recommendations 7 and 8 [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport/Shipping/Second\\_Interim\\_Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Shipping/Second_Interim_Report)

In the MUA submission to the Senate Inquiry into shipping, we advocated that the Ministerial exemption from the operation of the CT Act that applies to large cruise ships be repealed. We are requesting that the Victorian Government support this proposal.

Our rationale for such a policy change is this. Increasingly, large cruise ships are embarking and disembarking passengers at Australian ports as part of flexible cruise itineraries and as Australian ports become further integrated into international cruise ship destinations. This is particularly so for those cruise operators that base or home port their ships in Australia. Ships providing such options for their passengers are involved, by definition, in coastal trading, where they embark or disembark passengers at more than one port in Australia.

Repealing the cruise ship exemption will create an opportunity to amend CT Act to provide for the issuing of coastal trading licenses to large cruise ships and will ensure that the regulation of this important and growing sector of the shipping industry is integrated with the licencing provisions for cargo ships, but tailored specifically for the large cruise sector.

It is our view that those large cruise ship operators that are prepared to commit to include Australian ports (with embarkation and disembarkation rights for passengers at those ports) which delivers major economic benefits to those port regions like Victoria, then the company commitment to Australia should be rewarded with a degree of market protection (through a licence to access Australian ports) from foreign competition in coastal cruising. Access to a coastal trade licence might therefore be conditional on:

- The operator maintaining their ship management operations in Australia.
- The ship to which the license applies being home ported in Australia.
- Agreement to employ and train crew (marine and non-marine) from Australia and the nations of the SW Pacific including PNG, Timor Leste, Indonesia and the Pacific Islands.
- A minimum training commitment (already required under the Shipping Reform (Tax Incentives) Regulation 2012 for entities that access certain shipping taxation incentives).

The benefits that would flow to the cruise ship operator issued with such a licence are:

- The right to embark and disembark passengers at more than one Australian port.
- Access to some of the shipping taxation incentives.
- Access to Australian dry-docking facilities for ship maintenance without the ship being declared “imported” by the Australian Customs and Border Protection Service, thus avoiding the need for genuine work visas for crew at the expiry of 5 days, which is the limitation surrounding the conditions of the current Maritime Crew Visa (MCV) held by crew on cruise ships temporarily entering Australia.
- Unrestricted emergency embarkation or disembarkation that would ordinarily be defined as coastal trading, rather than it being based on a passenger number threshold as is currently the case, as proposed by the Cruise Line International Association (CLIA).
- Provision for fleet wide licenses for cruise ships under a reformed CT Act, with longer duration licences than the current 12-month licences (up to 3 years).

The MUA also proposes that the composition of the VPCM Melbourne Cruise Ship Committee (MCSC) be expanded to include a representative of the MUA to ensure that advice provided on the implementation of the Victorian Cruise Shipping Strategy include the proposals we have outlined in this submission.



## Recommendation 17

It is recommended that the Victorian Government:

\* Support the MUA submission to the Senate Inquiry into shipping, where we advocated that the Ministerial exemption from the operation of the CT Act that applies to large cruise ships be repealed on the basis that those large cruise ship operators that are prepared to commit to include Australian ports (with embarkation and disembarkation rights for passengers at those ports) which delivers major economic benefits to port regions like Victoria, then the company commitment to Australia should be rewarded with a degree of market protection from foreign competition in coastal cruising (through a licence to access Australian ports).

\* Agree that the composition of the VPCM Melbourne Cruise Ship Committee (MCSC) be expanded to include a representative of the MUA to ensure that advice provided on the implementation of the Victorian Cruise Shipping Strategy include the proposals outlined in this submission.

## Developing the marine aspects of the emerging offshore wind farm industry

The MUA notes that planning is underway, funding has been secured and an exploration licence issued for Australia's first offshore wind energy project involving construction of 250 windmills in Commonwealth waters off the Victorian coast, potentially supplying up to 20 per cent of Victoria electricity needs with renewable energy, feeding the power into the national electricity grid via an underground cable to the Latrobe Valley. Offshore Energy Pty Ltd (OEPL's) Star of the South project has partnered with Copenhagen Infrastructure Partners (CIP) to fund the project through one of its Infrastructure Funds (Fund III).<sup>121</sup> The project will still need to apply for construction approval from the Commonwealth Department of Energy.

This project is an important opportunity to develop a new model for a just transition to a low emissions economy: one that focuses on ensuring that people can maintain their quality of life and have good union jobs to go to.<sup>122</sup> It has the potential to be a significant source of maritime employment, as the company projects 2,000 direct construction jobs, with construction spread over a number of years, and 300 ongoing jobs. Offshore wind turbines also need to be replaced about every 25 years.

There is now widespread acceptance that a transition to a low carbon economy should be a 'just transition'. The need for a just transition, the need to avoid the failures of past structural adjustments for working people, and specific proposals for the creation of an Energy Transition Authority (or Just Transition Authority) are supported by the ACTU, the ALP and other political parties, the CFMMEU, and other unions. Good secure union jobs are the cornerstone of combating inequality and ensuring that there is justice in the transition to a new low-emissions economy.<sup>123</sup>

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<sup>121</sup> Fund III involves 42 institutional investors comprised of pension funds, insurance companies, family offices, and asset/fund managers. The pension funds involved are: PensionDanmark, Lægernes Pension & Bank, PBU, JØP, DIP, Nordea, PFA, Nykredit, AP Pension, SEB Pension DK, SEB Pension SE, Lærernes Pension, Oslo Pensjonsforsikring, Villum Fonden, KLP, Townsend on behalf of a UK pension fund, Widex, LB Forsikring, and EIB (with the backing of the EU through the European Fund for Strategic Investments - EFSI).

<sup>122</sup> Maritime Union of Australia Division of the CFMMEU, *Putting the 'Justice' in 'Just Transition' Tackling inequality in the new renewable economy*, July 2019.

<sup>123</sup> Dr. John Falzon, *Goodbye Neoliberalism: Restoring democracy, supporting trade unions, protecting workers' rights*, December 2018, <https://www.cfmmeu.org.au/campaigns/goodbye-neoliberalism>.

Unfortunately, we are already in the midst of a largely unplanned and unjust energy transition. This is a result of the failure of the current Australian government to develop a transition plan, the unjust industrial relations system, the rapid decrease in the price of renewable energy, the aging of Australia's coal-fired power stations, the fragmented and privatised nature of our current electricity system and the rigid adherence to market-based approaches. The following problems are already developing:

- Fear and angst amongst workers and coal-mining communities. Unfortunately, the history in Australia is that industrial transitions have increased inequality, with only one half to one third of displaced workers finding equivalent employment.<sup>124</sup>
- Renewable energy projects are being constructed in regional areas on poor wages and conditions, and without consideration for, and training of, workers from high-emissions sectors as part of a transition plan.<sup>125</sup>
- Rights to build renewable energy projects being awarded to private companies by states through reverse auction programs that prioritise cost-minimisation over the broader economy or community. These rights and associated subsidies are being awarded with minimal labour standards or procurement standards, encouraging a race to the bottom for workers and wages in these areas.<sup>126</sup>
- Failure of important renewable projects, and instability and loss of employment for thousands of workers due to competitive underbidding and bankruptcy, such as RCR Tomlinson.<sup>127</sup>

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<sup>124</sup> ACTU, 2016, *Sharing the challenges and opportunities of a clean energy economy: A Just Transition for coal-fired electricity sector workers and communities*. <https://www.actu.org.au/our-work/policy-issues/actu-policy-discussion-paper-a-just-transition-for-coal-fired-electricity-sector-workers-and-communities>.

<sup>125</sup> Josh Bavas, *Queensland solar farms actively hiring backpackers, insider claims*, ABC, 26 Sept 2018, <https://www.abc.net.au/news/2018-09-26/queensland-solar-farms-employing-backpacker-labour/10302500>; Marco Balsamo, *Worker dies on Bungala solar farm site*, *The Transcontinental Port Augusta*, 19 Feb 2018, <https://www.transcontinental.com.au/story/5237550/worker-dies-on-solar-farm-site/>; ETU Victoria, *Solar Scandal: Unsafe UGL pocketed state subsidies by exploiting French Backpackers*, Sept 2018, [https://www.etu Vic.com.au/ETUV/Your\\_Union/News/Solar\\_Scandal.aspx](https://www.etu Vic.com.au/ETUV/Your_Union/News/Solar_Scandal.aspx); ETU National, *A Tale of Two Solar Cities*, October 2018, [https://www.etunational.asn.au/a\\_tale\\_of\\_two\\_solar\\_cities](https://www.etunational.asn.au/a_tale_of_two_solar_cities); *ETU Submission to Senate Standing Committee on Legal and Constitutional Affairs Inquiry into the effectiveness of the current temporary skilled visa system in targeting genuine skills shortages*, December 2018, <https://www.aph.gov.au/DocumentStore.ashx?id=94cb20ab-6a67-4f11-a517-31a15c00a5d1&subId=663721>

<sup>126</sup> John Falzon argues that government procurement and industry assistance, including for clean energy finance, should require a union agreement. See reference above, Dr. John Falzon, p. 21-22. Some very minimal standards have been introduced in Victoria. Problems with current global funding models for renewable energy are explored in detail in *Trade Unions for Energy Democracy, TUED Working Paper #10: Preparing a Public Pathway Confronting the Investment Crisis in Renewable Energy*, November 2017, <http://unionsforenergydemocracy.org/resources/tued-publications/tued-working-paper-10-preparing-a-public-pathway/>

<sup>127</sup> Stephen Letts, *Renewable energy investment looks to be going from boom to bust as prices collapse*, ABC, 26 April 2019, <https://www.abc.net.au/news/2019-04-26/renewable-energy-investment-maybe-heading-from-boom-to-bust/11041964>; ETU Victoria, *The Titanic RCR disaster that we all saw coming: ETU Victoria is still standing by hundreds of displaced workers left high and dry by the collapse of RCR Tomlinson, Whilst top executives have walked away with multi-million dollar payouts* March 2019, [https://www.etu Vic.com.au/ETUV/Your\\_Union/News/RCR\\_disaster\\_we\\_all\\_saw\\_coming.aspx](https://www.etu Vic.com.au/ETUV/Your_Union/News/RCR_disaster_we_all_saw_coming.aspx); ETU Queensland and NT, *RCR administration announcement a timely reminder of privatisation's failures, union calls on developers to ensure workers' entitlements are paid in full*, <https://etu.org.au/rcr-administration-announcement-timely-reminder-of-privatisation-failures/>, 22 November 2018.

- Loss of ability to plan the development of the electricity grid in the public interest and to plan for and provide connections for new renewable systems.<sup>128</sup>
- Difficulty in planning and implementing transition plans due to the fact that most existing coal-fired power plants in Australia are privately operated and focused on profit maximising and cost minimisation, rather than providing a just transition for their workforce.<sup>129</sup>

Meanwhile, Australia's greenhouse gas emissions continue to rise and the need to rapidly transform Australia's energy, transport and manufacturing systems to reduce emissions grows increasingly urgent.

The Star of the South offshore wind project in Victoria is an important opportunity to implement a just transition focussed on the creation of good secure union jobs, and to provide direct transition opportunities for workers in high-emissions industries. In relation to the Star of the South (and other new renewable energy projects), a Victorian Just Transition Group<sup>130</sup> should be established to work with other government agencies at all levels of government and with unions and the LaTrobe Valley Authority, with the aim of:

1. **Maximising local jobs in renewable energy.** Detailed procurement plans must be developed for the sourcing of materials and equipment that maximise local, Victorian and Australian production capacity and potential production capacity, for the Star of the South and for future renewable energy projects.<sup>131</sup>
2. **Ensuring good union jobs.** The Authority would work with Commonwealth and State energy authorities to ensure that procurement rules with good employment conditions, union agreements and responsible contracting policies are in place across the renewables industry.
3. **A job guarantee and no forced redundancies** for workers from fossil fuel industries, allowing for direct transition into employment on the Star of the South and other projects. In conjunction with the relevant unions, examine how the German job guarantee model could be implemented in Australia and in Victoria.<sup>132</sup>
4. **Carry out a detailed skills and training assessment** and ensure local training providers are in place and appropriate training is funded to ensure the workforce is prepared. Training should be provided through local TAFEs rather than privately.

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<sup>128</sup> John Quiggin, *Electricity Privatisation in Australia: A record of failure*, February 2014, [https://www.etuvic.com.au/Documents/Campaigns/Electricity\\_Privatisation\\_Report.pdf](https://www.etuvic.com.au/Documents/Campaigns/Electricity_Privatisation_Report.pdf). John Quiggin, 'Electricity reform', In *Wrong Way: How privatisation and economic reform backfired*, LaTrobe University Press, p.149-165.

<sup>129</sup> Darryn Snell, 'Just transition solutions and challenges in a neo-liberal and carbon-intensive economy' in 'Morena, E., Krause, D. and Stevis, D. (eds), 2019 forthcoming, *Just Transitions in the Shift Towards a Low-Carbon Economy*. London: Pluto Press.

<sup>130</sup> Queensland has created a Just Transition Group, see Queensland Department of Employment, Small Business and Training, *Just Transition*, <https://desbt.qld.gov.au/employment/transition-programs/just-transition>

<sup>131</sup> New York State has made detailed assessments of local manufacturing opportunities for the offshore wind industry, see New York State Energy Research and Development Authority, *NYS Offshore Wind Master Plan*; New York State Energy Research and Development Authority, *The Workforce Opportunity of Offshore Wind in New York*, October 2017. Both at <https://www.nyserda.ny.gov/All-Programs/Programs/Offshore-Wind/Offshore-Wind-in-New-York-State-Overview/NYS-Offshore-Wind-Master-Plan>. A multi-state assessment covering New York, Massachusetts, and Rhode Island is at BVG Associates, *U.S. Job Creation in Offshore Wind*, October 2017, <https://cesa.org/projects/accelerating-offshore-wind-owap/osw-resource-library/resource/u-s-job-creation-in-offshore-wind>

<sup>132</sup> Commission on Growth, Structural Change and Employment, *Final Report*, January 2019, see p.97-98 for details of the job guarantee scheme.

5. **Reducing inequality.** Ensure the Star of the South and other renewable energy projects have apprenticeship programs in place with minimum ratios, and include recruitment of workers from disadvantaged backgrounds, including women and Aboriginal workers.
6. **Developing necessary infrastructure.** Assess the common infrastructure needed to facilitate the rapid development of the renewables industry, for example, ports and other transport infrastructure, and examine how that infrastructure will be provided.<sup>133</sup> Assistance may be needed to secure specialized offshore wind construction vessels for use in Australia, as part of a national Strategic Fleet.<sup>134</sup>
7. **Ensuring community engagement and development,** to ensure that local communities benefit in the broadest possible sense.

More generally, a just transition and speedy development of renewable energy will also require the following actions:

1. **Planning for offshore wind.** The Victorian Government should develop an Offshore Wind Master Plan for Victoria to map the best locations for offshore renewable energy and to work with the Commonwealth Government to facilitate the speedy development of the industry. Offshore wind needs to be planned as part of the development of the electricity grid so the responsible authorities should include the Department of Energy, the Australian Renewable Energy Agency, and the work of the Australian Energy Market Operator in developing an Integrated System Plan. This work should be kept separate from the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) due to vested interests from the petroleum industry. Workers in offshore renewables must have the same Work Health and Safety rights as other seafarers and shoreside workers, and not be subject to the poorer provisions of the NOPSEMA and the OPGGS Act.
2. **Safety and Training.** Work with Safe Work Australia and relevant training agencies to develop safety codes of practice and qualifications for the renewable energy industry at a national level.<sup>135</sup> Establish renewable energy training centres in TAFEs to ensure they are publicly accessible and accountable.<sup>136</sup>
3. **Public energy system ownership.** Public ownership of energy generation and transmission systems should be developed to allow for rapid and planned development of new systems.<sup>137</sup>

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<sup>133</sup> New York State is spending \$200 million on port development. Massachusetts also has a state owned offshore wind port terminal through the Massachusetts Clean Energy Center (MassCEC), see <https://www.masscec.com/facilities/new-bedford-marine-commerce-terminal>.

<sup>134</sup> Detailed consideration of offshore wind construction vessels in the USA is available in GustoMSC, *U.S. Jones Act Compliant Offshore Wind Turbine Installation Vessel Study: A report for the Roadmap project for Multi-State Cooperation on Offshore Wind*, October 2017.

<sup>135</sup> National codes can build on the solar safety code developed in Queensland, see: The Honourable Grace Grace, *New safety code to make Queensland solar farm jobs safer*, April 09 2019, <http://statements.qld.gov.au/Statement/2019/4/9/new-safety-code-to-make-queensland-solar-farm-jobs-safer>.

<sup>136</sup> New York State is building an Offshore Wind Training Centre.

<sup>137</sup> For example, Queensland has established a new public renewable energy company, see The Honourable Dr Anthony Lynham, *CleanCo: Queensland's newest electricity generator*, February 26 2019, <http://statements.qld.gov.au/Statement/2019/2/26/cleanco-queenslands-newest-electricity-generator>. Queensland Treasury, *Queensland's new Cleanco*, <https://www.treasury.qld.gov.au/growing-queensland/queenslands-new-cleanco/>. Cleanco website, <https://cleancoqueensland.com.au/>

Superannuation investment in democratically controlled renewable projects should be facilitated through government-issued bonds intended specifically to fund these projects.<sup>138</sup>

4. **Energy system management** to ensure the planned development of renewable energy generation and the integration of new generation and storage capacity with the existing grid, and appropriate timing of retirement of older generation assets. Wherever possible, low-emissions projects should be located in emissions-intensive communities. Direct government investment and ownership to prioritise these projects and ensure they are built to the highest standards.

We note that OEPL and the Victorian Government are already considering the spin-off potential of the project including:

- Upgrades to existing ports to allow for the Star of the South's construction, operation and maintenance.
- The potential to create a new 'innovation hub' for offshore wind in Gippsland and the Latrobe Valley to support the project and other potential opportunities.
- Opportunities in manufacturing, technology development, project support, operations and maintenance.
- Opportunities to build the skills and expertise required to supply to other Australian and international energy projects.

OEPL is also assessing suitable local offshore wind and infrastructure suppliers to ensure Victorian businesses share in development of the project. The Victorian government must be involved with this process to ensure a robust framework and clear expectations are developed for both the Star of the South and any future projects.

At this stage however, there does not appear to be a specific focus on the marine and shipping elements of the project. We urge the Victorian Government to work with the Australian Government to ensure that the marine and shipping aspects of the project, requiring a range of different types of ships including offshore wind construction and maintenance ships, cable layers and auxiliary ships are:

- Defined in a reformed CT Act as national strategic fleet ships, meaning ships which are of national strategic importance to the nation, and provide a social and or community service benefit to the nation. We propose that offshore wind turbine installation ships be so defined because of their strategic significance in developing Australia's renewable energy resources required to meet Australia's greenhouse gas emissions target. These ships are in limited supply internationally, and only a small proportion are equipped to build the large turbines further offshore that are proposed for Australia. They are purpose-built ships with more deck space than a typical offshore oil and gas support ship, they cope with more severe weather and as a result can reduce overall installation durations. They require support to ensure that Australia can access the limited global supply of these specialist ships for offshore wind farm construction; and
- Eligible for the shipping taxation incentives, requiring the inclusion of such ships in the definition of core shipping activities in the *Shipping Reform (Tax Incentives) Act 2012*.

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<sup>138</sup> Trade Unions for Energy Democracy, TUED Working Paper #10: *Preparing a Public Pathway Confronting the Investment Crisis in Renewable Energy*, November 2017, p.61-63.  
<http://unionsforenergydemocracy.org/resources/tued-publications/tued-working-paper-10-preparing-a-public-pathway/>

The development of offshore wind faces particular obstacles as we understand that the Victorian State planning jurisdiction extends only to state waters, and the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act) does not cover offshore renewable energy, resulting in a regulatory gap. The result for the Star of the South is the one-off licencing process undertaken by the Commonwealth Department of Energy and Environment. Unfortunately, no plans have been announced to develop a broader structure to facilitate future projects.

We urge the Victorian Government to work with the COAG Energy Council and the Australian Government to ensure that a national industry policy, regulatory framework and appropriate agencies for the development of offshore renewable energy projects are urgently developed.

### **Recommendation 18**

It is recommended that the Victorian Government:

- \* Create a state-wide Just Transition Group to work with the LaTrobe Valley Authority to plan for the Star of the South to maximise local jobs throughout the supply chain, including manufacturing, to ensure good union jobs, plan for direct redeployment of workers, and develop measures to reduce inequality and ensure the community benefits.
- \* Assess the infrastructure that will be needed for the Star of the South and determine how best to build it.
- \* Assess Victorian production capacity that could supply the Star of the South project.
- \* Ensure appropriate training is provided through TAFEs and training is funded.
- \* Examine the process of developing an Offshore Wind Master Plan in New York State, and develop an Offshore Wind Master Plan for Victoria to identify further suitable sites and projects for offshore wind development, and an agency to ensure they are delivered. Explore options for public ownership and financing to ensure projects are developed at the required speed.
  
- \* Work with the COAG Energy Council and the Australian Government to ensure that a national industry policy, regulatory framework and appropriate agencies for the development of offshore renewable energy projects are urgently developed. Offshore wind needs to be planned as part of the development of the electricity grid so the responsible authorities should include the Department of Energy, the Australian Renewable Energy Agency, and the work of the Australian Energy Market Operator in developing an Integrated System Plan. This work should be kept separate from the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) due to vested interests from the petroleum industry. Workers in offshore renewables must have the same Work Health and Safety rights as other seafarers and shoreside workers, and not be subject to the poorer provisions of the NOPSEMA and the OPGGS Act.
- \* Commit to work with the Commonwealth and industry stakeholders to ensure that:
  - ^ The marine and shipping aspects of offshore wind farm projects, requiring a range of different types of ships including offshore wind construction and maintenance ships, cable layers and auxiliary ships are defined in a reformed CT Act as national strategic fleet ships, meaning ships which are of national strategic importance to the nation, and provide a social and or community service benefit to the nation;
  - ^ Such ships are eligible for the shipping taxation incentives, requiring the inclusion of such ships in the definition of core shipping activities in the Shipping Reform (Tax Incentives) Act 2012.

## Ensuring a role for quality shipping and quality employment in the Victorian offshore oil and gas sector

The MUA supports the broad direction of the Victorian Gas Plan. Following the release for tender of five new offshore acreage areas in the Otway Basin in May 2018, resulting in exploration activity and the potential for new drilling and oil/gas finds for development, we believe it is timely that the Victorian Government develop an offshore oil and gas ship labour force and regulatory strategy that would establish principles for ship operations, regulatory oversight and associated labour force matters covering the following issues:

- Ship and crewing standards (Minimum Safe Manning and crewing complements) to ensure they comply with the requirements of the *Navigation Act 2012* and Marine Orders made under that Act as well as operational requirements, notwithstanding the potential operation of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act);
  - We remain concerned about the lowering of ship and crew standards since the commencement of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*, particularly as it is being applied in the offshore oil and gas industry. We note for example that vessels such as those operated by Atoll Offshore Pty Ltd, based in Lakes Entrance Victoria, adjacent to the Bass Strait oil fields, are considered by the regulator, AMSA, to be domestic commercial vessels (DCVs). These vessels are used for transferring personnel and supplies, diver /ROV support, logistics, construction, research, and include self-propelled construction barges which operate as work platforms in deep waters. It is inappropriate and dangerous for such vessels to be regulated as DCVs while undertaking these functions. This needs urgent attention.
- Ship crew recruitment (including use of overseas guest labour and associated visa standards), engagement, employment and AMSA licencing/VET qualifications;
- Workforce planning and preparatory training to ensure labour availability and continuity of labour supply;
- A regional labour relations framework collective agreement; and
- Ship and OHS regulator operation and cooperation protocols.

The MUA also advocates for the use of coastal gas ships and mobile floating storage and regassification units (FSRUs) as an alternative to or addition to the pipeline supply of gas to the east coast gas market from WA and Qld gas fields and export gas terminals.

We note and support the AGL proposal for the siting of an FSRU at Crib Point, which, subject to demand, could require between 12 to 40 LNG ships per year to supply the FSRU with LNG.

It is the view of the MUA that a proportion of these gas ships should be declared as national strategic fleet ships given the strategic importance of gas supply for industry and consumers as part of Australia's energy policy and energy plan.

### **Recommendation: 19**

It is recommended that the Victorian Government:

\* Develop an offshore oil and gas ship labour force and regulatory strategy that would establish principles for ship operations, regulatory oversight and associated labour force matters for Victoria's offshore oil and gas industry (which could be extended to offshore wind farms) covering the following issues:

- ^ Ship and crewing standards (Minimum Safe Manning and crewing complements) to ensure they comply with the requirements of the *Navigation Act 2012* and Marine Orders made under that Act as well as operational requirements, notwithstanding the potential operation of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act);
- ^ Ship crew recruitment (including use of overseas guest labour and associated visa standards), engagement, employment and AMSA licencing/VET qualifications;
- ^ Workforce planning and preparatory training to ensure labour availability and continuity of labour supply;
- ^ A regional labour relations framework collective agreement; and
- ^ Ship and OHS regulator operation and cooperation protocols.

## Integrate shipping policy with broader industry policy

It is important that where the Victorian Government provides support for corporations in specific industry sectors as part of an employment and industry policy, that the corporate beneficiaries of that support commit to use of a level of Australian content in the shipping component of any supply chain requirement of that industry. That principle should lie at the heart of the \$200 million Future Industries Fund, the \$500 million Regional Jobs and Infrastructure Fund and the \$508 million Premier's Jobs and Investment Fund.

We note Victoria's Future Industries program and the references to developing infrastructure, to improving freight infrastructure, to improving access to ports to reduce delays and costs for exporters and to creation of local jobs. However, notwithstanding the critical role of sea transportation in engaging in the international marketplace, there is as yet insufficient focus on strategies that will achieve these objectives, particularly in the transport and logistics supply chains, particularly sectors that are ripe for a stronger export orientation, such as medical technology and pharmaceuticals; transport, defence and construction technologies; and food and fibre.

It is critical that the Victorian Government promote initiatives that deliver quality Australian jobs and employment opportunities in service industries such as transport and logistics that underpin other elements of Victoria's manufacturing and future industries policy.

### Recommendation 20

It is recommended that the Victorian Government:

\* Recommend to the Australian Government that national shipping policy be fully integrated with broader industry policy development and implementation, and that to oversee this industry policy integration a Unit be established in the Commonwealth Industry Department as a joint venture with the Infrastructure/Transport Department, with responsibility for working with other agencies of Government responsible for the various elements of shipping policy, with industry stakeholders and in collaboration with the States/NT, to ensure shipping industry policy is integrated with national industry policy and strategy.

## A stakeholder reference group to support development of a new port strategy



The MUA proposes that it be consulted on the composition of a Victorian port strategy development stakeholder reference group to help ensure it involves the key stakeholder groups and appropriate expertise to ensure its effectiveness.

In addition, the MUA indicates its willingness to be part of any port stakeholder reference group.

#### **Recommendation 21**

It is recommended that the Victorian Government:

\* Consult with the MUA on the composition of the stakeholder reference group proposed by the Government to support development of a new port strategy to help ensure it involves the key stakeholder groups and appropriate expertise to ensure its effectiveness; and

\* Note the MUA's willingness to be part of any such stakeholder reference group.

## Addressing term of reference 6: How greater support can be provided to Victorian seafaring labour?

### Improve maritime workforce development

In its submission to the Senate inquiry into the policy, regulatory, taxation, administrative and funding priorities for Australian shipping in March 2019 and its submission to the Senate inquiry into the performance of the Australian Maritime Safety Authority (AMSA) of April 2019, the union argued for an urgent review of the impact of the implementation and operation of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (National Law Act) and *Navigation Act 2012* (Navigation Act) on ship safety, ship operations, occupational health and safety and seafarer certification and VET qualifications.

It is our submission that the review needs to focus on the way that the coming into force of the National Law Act has rapidly degraded standards of ship safety, cargo integrity, passenger safety, occupational health and safety, crew certification and associated VET qualifications, particularly relative to the much higher and internationally recognised standards given effect by the Navigation Act (which implements Australia's obligations to conform with IMO Conventions (like the Standards of Training, Certification and Watchkeeping for Seafarers (STCW) Convention).

The way the two Acts are now administered by AMSA means that invariably, the default standard of ship safety and seafarer certification/VET qualifications on Australian registered ships is the National Law Act jurisdiction or domestic commercial vessel (DCV) jurisdiction rather than the pre 2012 default standard which was the Navigation Act or regulated Australian vessel (RAV) jurisdiction, which is based on internationally recognised standards of the IMO maritime Conventions.<sup>139</sup>

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<sup>139</sup> The core IMO Conventions are: The International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended; the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997 (MARPOL); and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) as amended, including the 1995 and 2010 Manila Amendments.

The transition from the Navigation Act jurisdiction to the National Law Act jurisdiction in Australia, accompanied as it is by a largely self-regulated system put in place by AMSA is inappropriate and counterproductive, and is contrary to all international best practice and lessons from shipping industry regulatory failure across both the developed and developing world.

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

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

Full details on the union's concerns on this issue are addressed in **Appendix 3** (Better integration between the Navigation Act and National Law jurisdictions for ship and seafarer safety).

We also refer the Victorian Government to the MUA submission in response to the Productivity Commissions Issues Paper on its Inquiry into National Transport Regulatory Reform.<sup>140</sup>

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

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

This is clearly evident from the results of the MIAL Seafaring Skills Census Report 2018.<sup>141</sup> That report found, based on the views of maritime organisations that employ internationally certified seafarers on board ships and ashore, that an additional 560 internationally certified and qualified seafarers will be required (under current shipping policy settings) in the next 5 years to 2023, an 11.6% increase.

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<sup>140</sup> Productivity Commission, *National Transport Regulatory Reform*, <https://www.pc.gov.au/inquiries/current/transport/submissions>

<sup>141</sup> Ibid, P5

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

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

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

We believe that in parallel with a review of the National Law Act and Navigation Act there needs to be an urgent overhaul of the licensing and VET qualifications structure for seafarers, and that such an overhaul needs to be integrated with the qualifications structure for the workforces of port service providers, such as mooring, and stevedoring.

The design of the legislation and AMSAs regularly practice has resulted in many large ships approved to operate in near coastal waters (i.e. out to the EEZ) being now defined as DCVs, regardless of industry sector, and falling under the National Law Act. As a consequence they are subject to a far lower standards regime including seafarer qualifications/licensing, and can result in two ships of the same class and size working under the same operational conditions, being in different regulatory jurisdictions – if for example the operator of one vessel chooses to retain AMSA certificates mentioned in s15 of the Navigation Act, in such circumstances where an offshore vessel may need to be redeployed to another region and hence “voyage overseas”, while another operator of exactly the same vessel type chooses not to retain those certificates, and no exemption is sought.

Furthermore, at present, there is no VET qualification for ratings occupations between the GPH Certificate Level 1 and the Integrated Rating Certificate Level III qualification, a situation which is especially inappropriate for the crewing of:

- Towage ships.
- Dredging ships.
- Offshore oil and gas sector support ships like anchor handlers and supply ships.
- Wind turbine installation and support ships.
- Smaller cargo ships like MPPs.
- Project cargo ships.
- Larger fishing ships.
- Transshipment ships.
- Bunkering ships.

- Pearling ships.
- Smaller expedition cruise/passenger ships.
- A range of government ships like the Cape size Border Force ships.

Neither AMSA nor Australian Industry Standards have taken timely or appropriate steps to rectify this serious problem in the VET qualifications structure for Ratings, notwithstanding repeated representations from the MUA and concerns by many employers.

We urge the Victorian Government to work with like-minded States and the NT to consider re establishing the Maritime Workforce Development Forum that developed the Maritime Workforce Development Strategy, released in May 2013.

In our view, an initial priority of such a Forum will be to once again undertake an audit of current and future maritime workforce capabilities and skill needs, though stakeholders may be willing to use the MIAL Seafaring Skills Census Report 2018 as the current audit. Audits will nevertheless be required at 3 yearly intervals.

Insofar as future skills needs are concerned, the Forum would need to take particular account of:

- The Skill Sets required by international forums such as the Oil Companies International Marine Forum (OCIMF) and the Chemical Distribution Institute (CDI) based on the seafarer skills matrices such bodies utilise, which go beyond the minimum regulatory requirements of the STCW Convention, as administered by AMSA:
  - OCIMF for example uses a matrix for tankers which complies with the OCIMF requirements for operators who are members with oil tankers in their fleet. The matrix provides an overview on crew including onboard and planned crew (relievers) for each ship in a member's fleet. Information on officers is based on essential data: rank, nationality, certificate of competency, issuing country, endorsements, radio qualification etc. Seafarer experience is calculated based on:
    - ❖ Years with the operator.
    - ❖ Years in rank.
    - ❖ Years on specific type of tanker.
    - ❖ Years on all type of tanker.
    - ❖ Years as Watchkeeping officer.
    - ❖ English proficiency.
  - ✓ Similar requirements exist for organisations representing owners/operators of chemical tankers, gas ships and for certain types of dry bulk cargo ships e.g. iron ore.
- Emerging technologies that could impact on job roles and skill requirement including the opportunities for better integration of commercial maritime skills and qualifications with those required for Navy, Border Force and other government ship operations.
- How onboard maritime skills and qualifications can be integrated into onshore roles to help achieve better labour mobility, workforce flexibility and career paths for all occupational groupings in the shipping industry, but particularly for Ratings, who, as can be seen from the MIAL Seafaring Skills Census Report 2018, have limited opportunities to transition into onshore shipping sector roles. However, there is no reason Ratings could not become proficient in a range of onshore logistics roles in stevedoring, warehousing, and in a range of roles in other transport modes to improve their lifelong employability utilising their core maritime qualifications and experience.

- The core competencies that currently underpin seafarer qualifications to ensure that the competencies reflect required industry skills and not just the safety aspects required by the regulator or industry forums such as the OCIMF:
  - For example, an examination of the 22 Units of Competency that make up the Certificate III in Maritime Operations (Integrated Rating) (MAR30218) reveals that over 65% cover basic and routine procedural and safety competencies required by the regulator and derived from the STCW Convention requirements, while only about 35% cover technical and operational skills that are important for ship productivity, and for specialised cargo operations. Digital literacy for example is almost completely absent in the Ratings qualifications and Skill Sets, notwithstanding major advances in electronics and automated systems onboards ships, and the digitisation of logistics and computer systems for ordering parts, stores and provisioning. In a recent report for the National Centre for Vocational Education Research (NCVER) on skills in the emerging digital economy prepared by the Royal Melbourne Institute of Technology (RMIT), it noted that it would be expected that people working across the broader maritime transport industry would require a significant level of digital skills, in the operation of ships, for example, but it found this is not reflected in seafarer qualifications.<sup>142</sup>
  - ❖ It will be important that a review of digital skills that are emerging as ship technologies advance for Ratings occupations are included in reformed Ratings qualifications. Competencies around data analytics, process improvement, robotics, advanced electronics, cyber-security and material requirements planning need to be considered in such a review. This is supported by the Maritime Skills Forecast 2018 which states that:
 

*“The future of the industry will be characterised by integration of software systems, with increasing potential for remote operations and automation of vessels. This may require a change in the skill needs of the workforce from “on-board” operational based skills, to remote operations, navigation, and interpreting large volumes of data from remote communication systems. Technological innovations are rapidly changing the shape of the Maritime industry globally. Building on established technologies, companies are employing new innovations at a rapid pace. New technological innovations shaping the maritime sector include robotics and automation, interconnected sensors and Big Data, remote propulsion and powering, autonomous and ‘smart’ vessels, deep ocean mining, and marine biotechnologies.”*<sup>143</sup>
  - ❖ In addition, leadership and management competencies, social media competencies and collaboration competencies may also be appropriate for Ratings occupations.

Another important priority area of examination by the proposed Forum to undertake a review of the training providers approved to deliver seafarer qualifications and Skill Sets, to identify offerings, trends in enrolments and completion rates, location of offerings and importantly costs.

It is understood that despite a continuing high level of employment in occupational categories such as Marine Cook and Chief Integrated Rating, the demand for training in these occupations has significantly declined, impacting on training provider offerings in core seafarer qualifications and Skill Sets. If valid,

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<sup>142</sup> Victor Gekara, Alemayehu Molla, Darryn Snell, Stan Karanasios, Amanda Thomas, RMIT University, *Developing appropriate workforce skills for Australia’s emerging digital economy: working paper 2017*

[https://www.ncver.edu.au/data/assets/pdf\\_file/0035/968813/Developing-appropriate-workforce-skills.pdf](https://www.ncver.edu.au/data/assets/pdf_file/0035/968813/Developing-appropriate-workforce-skills.pdf)

<sup>143</sup> AIS, *Maritime Skills Forecast 2018*, P15, [https://www.australianindustrystandards.org.au/wp-content/uploads/2018/12/Maritime-Skills-Forecast-2018-Final\\_v2.pdf](https://www.australianindustrystandards.org.au/wp-content/uploads/2018/12/Maritime-Skills-Forecast-2018-Final_v2.pdf)

data and reasons are needed to assess if systemic and or funding changes are required in the training delivery system for seafarers.

Australian Industry Standards reports that the MAR Maritime Training Package is in the Scope of Registration of 73 Registered Training Organisations (RTOs). This seems excessive considering the number of seafarers commencing a course delivering a qualification or Skill Set approved by the Australian Industry and Skills Committee (AISC), about 5,000 annually. Australian Industry Standards reports that commencing enrolments fell by 12.9 per cent in the three years to 2016.

The MIAL Seafaring Skills Census Report 2018 reported that cost was by far the largest barrier to training seafarers. The proposed review needs to undertake a root and branch review of how training providers are pricing the delivery of training to ensure that prices are properly related to actual delivery cost including trainer costs and capital costs, to quality, especially when there is considerable anecdotal evidence of vastly differing quality standards, poor oversight of delivery standards by AISC and AMSA, and price gouging by some private training providers. Access to delivery of training should also be undertaken given that it is not only the cost of course delivery but the cost of accommodation and travel to enrol trainees and cadets at the limited number of physical locations offering STCW education and training courses. We suggest that government support schemes such as the UK SMART scheme be considered.<sup>144</sup>

Maritime Employees Training Ltd (METL), the largest trainer of Ratings in Australia, and a Group Training Organisation (GTO), has also observed a significant decline in the numbers of Integrated Ratings being trained in recent years. METL notes that Hunter TAFE in Newcastle NSW is no longer delivering a course for the qualification of Certificate III Maritime Operations – Integrated Rating, while the Australian Maritime College (AMC) at Launceston and South Metropolitan TAFE in Fremantle (previously Challenger TAFE) are only delivering one or two Integrated Ratings course per year, with student number between 7 and 12 for each course. A significant portion of those have been Trainee Integrated Ratings (TIRs) managed by METL. METL has noted that neither AMC nor South Metropolitan TAFE are planning to deliver an IR course in first semester 2019.

METL understands that less Ratings training is being commenced because employers are unable to offer the TIRs positions on ships when they complete their training. METL is aware that cost of training is an issue for some employers, particularly in the cargo sector, with a reluctance to commence a TIR in training because they believe they are funding training for the “end-user”, which could be employers in another sector of the industry or shore-based employers who rely on maritime skills.

METL observes that trainees are also seemingly more reluctant to “self-fund” their training, as they are now more aware of lack of opportunities to gain sea-service due the reduced number of Australian coastal trading ships that are RAVs, required by AMSA for undertaking sea tome to gain the necessary AMSA seafarer certificates and associated VET qualifications. This has also contributed to the reduced numbers of TIRs.

METL believes there should be a common pool of industry funding supported by all users of maritime skills, including funds contributed by shore-based employers and other end users of qualified seafarers, to train TIRs by gaining experience across the different segments of the Australian fleet. METL advises

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<sup>144</sup> An analysis of the UK SMART scheme is contained in the Oxford Economics report entitled *An independent review of the economic requirement for trained seafarers in the UK Final Report to DfT and Review Panel* December 2011.

that his can be coordinated through a GTO such as METL. The GTO provides seamlessly coordinated off-the-job and on-the-job training and employment, and enables rotation amongst different employers and vessel types, thus leading to enhanced training outcomes (ultimately a more sea-ready seafarer). Whilst METL has established successful long-term partnership with a small number of key seafarer employers, the industry at large has not taken advantage of METLs GTO service. METL understands, however, that industry broadly supports the GTO concept.

One of the more prohibitive costs of training seafarers, is that of the travel and accommodation required to attend one of only 3 RTOs delivering internationally recognised seafarer training, now essentially only available in Launceston Tasmania and Fremantle WA. This is true for both initial training and further training post issue of the seafarer licence and VET qualification. Through partnerships with established AMSA accredited RTOs, METL is well placed to provide its Maritime Training Centre facilities in Fremantle to help service the large number of seafarers residing in WA or travelling through Perth for work in the offshore oil and gas industry.

These proposals favoured by METL were an important component of the 2013 Maritime Workforce Development Strategy, which we believe should be revived, contemporised and funded for implementation as a key element of the rebuilding of Australian shipping.

It is our submission that the current seafarer qualifications framework, at least in the Ratings sphere, lacks a coherent structure and is not appropriately preparing the maritime workforce of the future. We also submit that the content of seafarer qualifications, particularly in the VET Certificate 1 to Certificate IV levels has not kept pace with the requirements of ship owners and operators, does not match the skills required for the various segments of the shipping industry, has failed to keep pace with advances in ship technologies and operating systems, nor with the requirements of industry forums seeking to lift the quality of ship safety, largely driven by the availability of seafarer skills/competencies.

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

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

Moreover, virtually no industry sector has embraced the GPH qualification, with the possible exception of in-shore passenger ferry operators like Sydney Ferries, and they too are calling for a new VET qualification at Certificate II Level.

This situation is totally unsatisfactory and a danger to ships, passengers and more particularly to seafarers. It makes a mockery of the VET system and Skills Service Organisation mission as being professional service

organisations supporting Industry Reference Committees (IRCs) in their work developing and reviewing training packages to ensure training packages:

*“meet the needs and concerns of employers, employees, training providers, and people seeking training qualifications.”<sup>145</sup>*

At the date of this submission, and nearly 6 years after the National Law Act came into effect, there is still no finalised proposal in the MAR Maritime Training Package Project being managed by Australian Industry Standards to develop qualifications reflecting the full spectrum of seafarer skills and attributes required for the range of seafarer roles on a raft of ship types, particularly those that AMSA actions have now defaulted into the National Law/DCV jurisdiction, including many ships in the offshore oil and gas industry, ships in the intra-state cargo shipping sector, especially ships servicing remote and regional and island communities, ships involved in the expedition cruise sector, marine tourism ships, ships engaged in bulk cargo transshipment activity, in inshore bunkering and other marine support services, in dredging, in fishing, in pearling or in aquaculture.

The one possible exception is towage where preparatory work is underway within Australian Industry Standards to develop a Skills Set tailored for ratings on towage ships. Even this is unsatisfactory as there is no base VET qualification e.g. a VET Certificate Level II encompassing for example the Deck or Engineroom watchkeeping certificate, for towage ships, on which to add-on specialist or tailored competencies packaged as a Skill Set. Skills Sets should not replace core VET qualifications which are required for workforce mobility and career advancement. Rather, they should reflect the actual competencies required for productive performance of the skills required to operate particular classes or types of ships under the conditions of operation of the ship type and in the geographical area the ship will operate in.

Currently the system is heavily weighted toward the deregulation agenda of the regulator, AMSA, and not sufficiently driven by industry requirements. Regrettably, Australian Industry Standards is complicit in this deregulation agenda, and has not listened to industry, particularly the representatives of those segments of industry reliant of the Navigation Act/STCW standards. We are concerned that the current Maritime Training Package Project being overseen by Australian Industry Standards Australia is failing to address these issues and that there is no sense of urgency about reforming maritime qualifications.

The MUA submits that in the Ratings steam, there should be:

- A comprehensive hierarchy of Rating VET qualifications from Certificate Level I (entry level) to Certificate Level IV, that caters for the full range of ship types, ship operating features and geographical operation of ships, that provides a base VET qualification for each seafarer certificate level in MO505 (once it is reformed) and MO73, integrated across both the DCV and RAV system, and which meets the requirements of the STCW and other relevant IMO Conventions; and
- That these core VET qualifications be supplemented by a comprehensive package of Skill Sets that provide the skills, competencies and experience required by ship owners, operators and employers (guided by the standards set by international maritime forums, which invariably exceed the minimum requirements of the regulator) for the various types and classes of ship and their operational requirements:
  - We note that Australian Industry Standards proposes to develop Skill Sets for global maritime distress and safety systems, oil chemical tanker cargo, liquified gas tanker, oil tanker cargo,

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<sup>145</sup> Australian Industry and Skills Committee (AISC), *Skills Service Organisations*, <https://www.aisc.net.au/content/skills-service-organisations>



and gas and low flashpoint fuels. This initiative confirms the importance of the MUA framework, and is strongly supported.<sup>146</sup>

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

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

We urge the Victorian Government to fully support the MUAs proposals for reforming licensing and VET qualifications across the maritime sector and for a range of related issues to be addressed within a revised Maritime Workforce Development Forum. We hope the Victorian Government seeks to become involved in the work of the Forum.

#### **Recommendation 22**

It is recommended that the Victorian Government:

- \* Acknowledge that Australia, and Victoria in particular, cannot rebuild a viable, commercial and sustainable coastal shipping industry while the national ship and seafarer safety legislation and regulatory system is undermining the very skills base and the requirements of ships to be crewed by internationally (STCW) certificated seafarers, that will be necessary for a revitalised shipping industry.
- \* Support the proposal that the Australian Government, in conjunction with the States, undertake an urgent review of the impact of the implementation and operation of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (National Law Act) and the *Navigation Act 2012* on ship safety, ship operations, occupational health and safety and seafarer certification and VET qualifications.
- \* Urge the Australian Government, in parallel with the proposed review of the National Law Act, to urgently initiate an overhaul of the licensing and VET qualifications structure for seafarers and related maritime workers covered by the Maritime and Stevedoring Training Packages, and that such an overhaul needs to be integrated with the qualifications structure for the workforces of port service providers, such as bunkering; diving; dredging; general construction; mooring; non-container stevedoring; port maintenance; project construction; and security;
- \* Work with like-minded States and the NT (and the Australian Government) to re-establish the Maritime Workforce Development Forum, and that inter alia, the Forum:
  - ^ Undertake a review of current and future maritime workforce capabilities and skill needs having regard to the MIAL Seafaring Skills Census Report 2018, taking account of industry skill requirements, especially in management of cargoes, emerging technologies that could impact on job roles and skill requirement

<sup>146</sup> AIS, *Maritime Skills Forecast 2018*, P31, [https://www.australianindustrystandards.org.au/wp-content/uploads/2018/12/Maritime-Skills-Forecast-2018-Final\\_v2.pdf](https://www.australianindustrystandards.org.au/wp-content/uploads/2018/12/Maritime-Skills-Forecast-2018-Final_v2.pdf)

including the opportunities for better integration of commercial maritime skills and qualifications with those required for Navy, Border Force and other government ship operations;

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

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

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

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

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

## Support welfare and labour organisation's access to ships in port

Finally, we propose that the Victorian Government require all port operators to review their maritime security plan required under MTOFSA to ensure there are standardised and effective procedures for welfare and labour organisations to access ships at Victorian ports through the port operator's terminals, and that the procedure be published.

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

One of the most significant rights for seafarers is the right of association, again included in the ISPS Code. Both the Code and the MTOFSA dictate that every port or terminate security plan must include procedures for access through that port for labour and welfare organisations. This is particularly important for organisations such as the International Transport Workers Federation (ITF) and Hunterlink.<sup>147</sup>

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<sup>147</sup> Hunterlink provides a comprehensive national employee assistance provider (EAP service) across a range of industries, including for domestic and international seafarers. Its aim is to improve employee wellbeing through early intervention and innovative counselling solutions. It specialises in servicing remotes areas and its national EAP services are designed to reach people in need, regardless of location or industry – further information available from its website <https://hunterlink.org.au/>.

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

#### **Recommendation 23**

It is recommended that the Victorian Government:

\* Require all port operators to review their maritime security plan required under MTOFSA to ensure there are standardised and effective procedures for welfare and labour organisations to access ships at Victorian ports through the port operator's terminals, and that the procedure be published.

### **Union participation in workforce induction training and formalised arrangements for accessing workforces**

We also believe the Victorian Government can do more to support non-seafarer maritime workforces.

The union proposes that the Victorian Government agree to a requirement that all port entities that are responsible for engaging port service providers adhere to a workforce consultation protocol (to be developed), that provides for:

- Trade union participation in all port workforce and service provider workforce induction sessions enabling unions to make the case for representation and to advocate the services they provide;
- Procedures that facilitate union access to those workforces at appropriate times and in appropriate on-site venues that enables genuine and unencumbered consultation and engagement with the workforce;
- Trade union participation in collective bargaining initiatives by each port entity and service provider from the commencement of bargaining; and
- Establishment of formal management-trade union consultative arrangements.

#### **Recommendation 24**

It is recommended that the Victorian Government:

\* Agree to develop and implement a workforce consultation protocol in consultation with the MUA, that provides for:

^ Trade union participation in all port and port service provider workforce induction sessions enabling unions to make the case for representation and to advocate the services they provide;

^ Procedures that facilitate union access to those workforces at appropriate times and in appropriate on-site venues that enables genuine and unencumbered consultation and engagement with the workforce;

^ Trade union participation in collective bargaining initiatives by each port operator and port service provider from the commencement of bargaining;

^ Establishment of formal management-trade union consultative arrangements.

## Addressing term of reference 7: How the Victorian Government can work with the Commonwealth to improve the national coastal shipping framework?

### Strengthening maritime cabotage is the key to revitalising Australian shipping

National maritime cabotage laws are the rule, not the exception, across the globe. There are 91-member states of the United Nations that have cabotage laws, comprising 70% of the states of the IMO. Cabotage exists along their coastlines of about 80% of the world nations.<sup>148</sup>

Maritime cabotage is an international maritime law concept that provides for nations to reserve domestic cargo, passenger and in some cases other forms of sea transportation for national registered and or national crewed ships operating between domestic ports, to provide fair competition in light of the globalisation of the shipping industry. The US Marine Administration defines cabotage as the body of law that deals with the right to trade or transport in coastal waters or between two points in a country. A country's cabotage laws are designed primarily to guarantee the participation of its citizens in its own domestic trade.<sup>149</sup>

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

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

Figure 11 below shows that Australian cabotage is already one of the most liberal in the world, and that a strengthening of cabotage will not create a policy difference with Australia's trading partners or Defence allies.

**Figure 11: Range of Cabotage Regimes in Selected Countries**



Source: Brooks (2009)<sup>150</sup>

<sup>148</sup> Seafarers Rights International (SRI), *Cabotage Laws of the World* 2018, P10/11

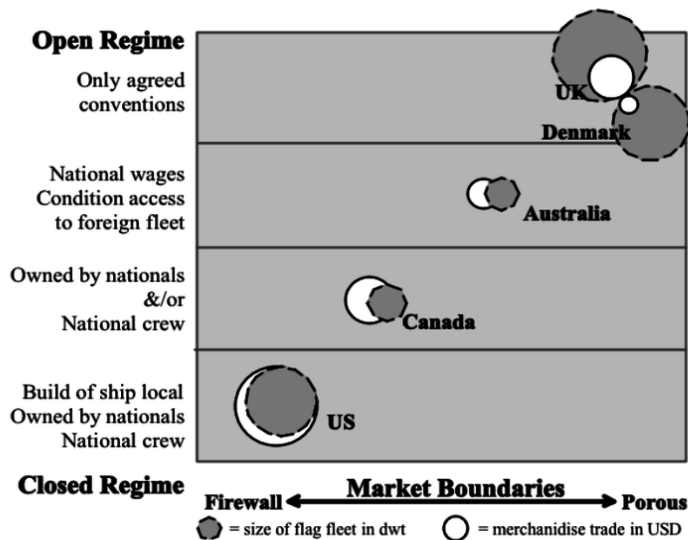
<https://seafarersrights.org/seafarers-subjects/cabotage/>

<sup>149</sup> Ibid P37

<sup>150</sup> Brooks, Mary R. (2009) "*Liberalization in Maritime Transport*" ITF Paper 2009-2. OECD-International Transport Forum, Paris.

Australian maritime cabotage needs to be strengthened if it is to serve its policy objective as articulated on P5 of this submission. To achieve that outcome, we want to shift Australian cabotage closer to the Canadian system of cabotage. The position of Australian cabotage relative to Canada at present is shown in Figure 12. Australian cabotage needs to be less porous and less open if it is to be effective.

**Figure 12: The position of Australian cabotage relative to Canada (and other jurisdictions)**



Source: Brooks (2013)

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

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

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

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

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

Consistent with a national framework of regulatory, fiscal and administrative measures that are primarily within the Commonwealth’s jurisdictional responsibility to rebuild the Australian shipping industry outlined in Part A of this submission, the MUA also proposes a number of measures that need to be taken by the Victorian Government. The most important measures are:

### Support amendments to the *Coastal Trading (Revitalising Australian Shipping) Act 2012 (CT Act)* so that, inter alia, it applies to both interstate and intrastate shipping

The most important initiative that the Victorian Government needs to take is to propose to the Australian Government that the *Coastal Trading (Revitalising Australian Shipping) Act 2012 (CT Act)* be amended so that, inter alia, it applies to both interstate and intrastate shipping. This requires the Victorian Government to make a policy decision that regulation of intrastate shipping in Victoria be integrated with national regulation of interstate shipping.

Considerable policy development work has already been undertaken to identify the amendments that would be required to the CT Act, particularly to s3 Object of Act, the coverage provisions and to Part 4 Licenses, to resolve deficiencies in the CT Act and to implement a more robust form of maritime cabotage in Australia that would deliver a single national regulatory system for coastal shipping in Australia. Details are provided in **Appendix 4**.

#### **Recommendation 25**

It is recommended that the Victorian Government:

\* Propose to the Australian Government that the *Coastal Trading (Revitalising Australian Shipping) Act 2012 (CT Act)* be amended so that it applies to both interstate and intrastate shipping, requiring the Victorian Government to make a policy decision that regulation of intrastate shipping in Victoria be integrated with national regulation of interstate shipping.

### Support a referral of powers to the Commonwealth to ensure the Constitutional basis for national regulation of all coastal shipping

A complementary measure required to give effect to a policy decision on a single national regulatory system for coastal shipping is that the Victorian Government support a referral of powers to the Commonwealth to guarantee the Constitutional basis for national regulation of all coastal trading – interstate and intrastate.

The benefit of these two measures is that together they provide for a nationally consistent system of economic regulation of all coastal cargo and passenger ships, providing certainty for shippers of cargo, cruise and marine tourism operators, ship owners, ship operators, ship charterers and ship agents, irrespective of the market segment or geographical area where the business is based or where they

operate ships within Australia. These measure help achieve a nationally integrated shipping industry for the nation.

If the CT Act is in future amended as the MUA proposed in its submission to the Senate Inquiry into the policy, regulatory, taxation, administrative and funding priorities for Australian shipping<sup>151</sup> the outcome would result in the harmonisation of the economic regulation of coastal shipping consistent with the existing harmonisation of other maritime laws, such as marine safety law (harmonisation achieved through the interaction of both the *Navigation Act 2012* and the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*) and with the intention to harmonise the *Occupational Health and Safety (Maritime Industry) Act 1993* with the model Commonwealth Work Health and Safety (WHS) law (a Bill to achieve this, the *Seafarers and Other Legislation Amendment Bill 2016*, was before the Commonwealth Parliament before it was prorogued on 11 April 2019).

Given the Constitutional limitations on the Commonwealth under s51(j) of the Constitution, the Victorian Government would need to refer the power to regulate intrastate trade and commerce regarding coastal ship transportation, to the Commonwealth. We note that the powers of the Commonwealth Parliament are limited to those set out in the Commonwealth of Australia Constitution Act. The constitutional basis for the CT Act is set out in section 4. The CT Act relies on a number of powers including the trade and commerce power (s51(i)); the external affairs power (s51(xxxv)); the corporations' power (s51(xx)); and the incidental power (s51(xxxix)). None of these powers is broad enough to cover all intrastate shipping. The drafters of the CT Act appear to recognise this limitation by including an opt-in provision in section 12.

In addition to addressing the Constitutional issue, the following amendments to the CT Act would be required to enable Commonwealth regulation of intrastate shipping:

- (a) In section 4(1)(a) insert new section 4(1)(a)(iv) in the following terms:
  - (iv) within a State or a Territory;
- (b) In section 4(1)(a) insert a new section 4(1)(a)(iv) in the following terms:
  - (iv) within a State or a Territory;
- (c) In section 6 amend the definition of **voyage** to:  
**voyage** means the movement of vessel from one port to another port in a way that would satisfy paragraph 7(1)(a), (b), (c) or (d)
- (d) Insert a new section 7(1)(d) in the following terms:  
7(1)(d) the vessel:
  - (i) takes on board passengers or cargo at a port in a State or Territory;  
and
  - (ii) carries the passengers or cargo to a port in the same State or Territory

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<sup>151</sup> MUA, Submission to the Australian Senate Inquiry into the policy, regulatory, taxation, administrative and funding priorities for Australian shipping (see submission No 10), entitled *A Plan to Save the Australian Shipping and Maritime Industries*  
[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport/Shipping\\_2018/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Shipping_2018/Submissions)

where some or all of the passengers disembark or some or all of the cargo is unloaded;

**Note:** Section 7(d) only applies if a referral of power has been made by a State.

If referral of powers is agreed along with the consequential amendments proposed above, an additional consequential amendment - to repeal s12 Application to vessels on intrastate voyages (the current opt-in provision in the CT Act) - will be needed. S12 provides for the owner of a vessel to apply to the Minister for a declaration in relation to a vessel – that the Act applies to that vessel. If all intrastate vessels are mandatorily covered by the CT Act, there will be no need for an opt-in provision.

A Victorian Government decision to enable Commonwealth regulation of intrastate shipping in Victoria may require amendments to the *Marine Safety Act 2010*, though the extent of any amendments would presumably be modest given that intrastate ships in Victoria are currently largely free of any form of Victorian economic regulation (as are ships undertaking intrastate voyages in all state jurisdictions and in the NT).

#### **Recommendation 26**

It is recommended that the Victorian Government:

\* Advise the Australian Government that if it supports the establishment of a single national regulatory system for coastal shipping, that the Victorian Government would support a referral of powers to the Commonwealth to guarantee the Constitutional basis for national regulation of all coastal trading – interstate and intrastate.

### **Support the proposal to declare Bass Strait freight and passenger shipping as a national interest shipping trade, route or market segment**

Under the MUAs proposal for reform of the CT Act, a national interest shipping trade, route or market segment means a shipping trade, route and market which is declared by the proposed new Australian Coastal Ship Licencing Authority under an amended CT Act as being of such national significance that all coastal shipping in the declared trade, route or market segment must take place in General Licenced (GL) ships i.e. Australian registered ships with Australian crews.

The MUA has proposed that Bass Strait shipping be declared a national interest shipping trade, route or market segment because it is the primary means for movement of goods and people between Tasmania and the mainland and is already subject to the Tasmanian Freight Equalization Scheme (TFES) and Bass Strait Passenger Vehicle Equalization Scheme (PVES). Given the almost total reliance on ships for Tasmania's economic security, Bass Strait shipping is strategically important to the nation and should be so declared.

It is our submission that more can be done by both the Victorian and Tasmanian Governments, with appropriate support from the Australian Government to expand trade between Tasmania and Victoria, which could result in additional Bass Strait shipping activity and additional port activity on both sides of Bass Strait. These measures are addressed in the section on updating the Victorian Freight Plan 2018 to ensure it more adequately incorporates shipping.



## Recommendation 27

It is recommended that the Victorian Government:

\* Support the proposal that under a reformed CT Act, Bass Strait shipping be declared a national interest shipping trade, route or market segment so that all Bass Strait shipping is undertaken in Australian ships because it is the primary means for movement of goods and people between Tasmania and the mainland, because such trade is already subject to the Tasmanian Freight Equalization Scheme (TFES) and Bass Strait Passenger Vehicle Equalization Scheme (PVES), and as Tasmania relies on ships for its economic security, Bass Strait shipping is strategically important to the nation.

## Support the establishment of a national strategic fleet, one objective being to guarantee Australia's fuel security

Labor's shipping policy that it took to the 2019 election included a proposal to establish a national strategic shipping fleet. Specifically, Labor announced it would create a strategic fleet of Australian flagged vessels that can be called upon in areas of strategic importance to the Australian economy, such as the importation and distribution of liquid fuel, namely crude oil, aviation fuel, and diesel. The policy said that vessels will be Australian flagged and Australian crewed, privately owned and commercially operated. They will also provide a platform for the training of a new generation of Australian seafarers.<sup>152</sup> The number of strategic fleet ships was not mentioned in the policy, but a media release from the Leader of the Opposition on 24 February entitled *Labor will Revive Australia's Shipping Industry and Create a Strategic Fleet* mentioned 12 ships, including oil tankers, container ships and gas carriers.<sup>153</sup>

The policy also included a proposal to create a Strategic Fleet Taskforce to provide advice on the design of a strategic fleet.

A Senate Inquiry report in 2015 documented Australia's fuel security crisis.<sup>154</sup> Since 2010-11, Australia's net petroleum stockholdings have fallen from its International Energy Agency (IEA) obligations of 90 days' worth, in the event of market failure, to just 50 days. The Government's Australian Petroleum Statistics published in November 2018 indicate this would amount to just 21 days of petrol for automobiles, 18 days of diesel and 20 days of aviation fuel.<sup>155</sup> Fuel security is also critical to the nation's overall economic security and Defence capability.

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<sup>152</sup> Anthony Albanese, Shadow Minister for Infrastructure, Transport, Cities and Regional Development Address to Maritime Industry Australia Ltd Forum – *Promoting Growth in Australian Shipping* – Australian National Maritime Museum – Tuesday, 7 May 2019 <https://anthonyalbanese.com.au/media-centre/shadow-ministerial-media-centre/speeches>

<sup>153</sup> Bill Shorten, Leader of the Opposition, Media Release *Labor will Revive Australia's Shipping Industry and Create a Strategic Fleet*, 24 February 2019 <https://www.billshorten.com.au/labor-will-revive-australia-s-shipping-industry-and-create-a-strategic-fleet>

<sup>154</sup> Senate Standing Committees on Rural and Regional Affairs and Transport, *Australia's transport energy resilience and sustainability* 25 June 2015 [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport/Transport\\_energy\\_resilience/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Transport_energy_resilience/Report)

<sup>155</sup> ABC Radio, 23 January 2019, *Government accused of doing 'bugger all' to shore up Australia's fuel security*, <https://www.abc.net.au/news/2019-01-23/government-accused-of-doing-little-to-improve-fuel->

There are now no Australian-crewed tankers supplying fuel to the nation, down from 12 tankers in the year 2000. This has led to a substantial loss of maritime jobs and training opportunities and has undermined the security of the nation's petroleum supply chains, at a time when the nation's business and citizens rely on the equivalent of approximately 60 full-time ships to keep the nation supplied with fuel. These imports currently all take place on foreign owned, foreign operated and foreign crewed ships.<sup>156</sup>

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

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

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

The report did not advocate any particular number of petroleum tankers that should be Australian operated and Australian crewed as a necessary requirement to secure Australia's fuel supplies. However, it recommended that the Commonwealth, in consultation with stakeholders (which should include the Victorian Government), investigate options to equitably apportion the differential costing for operating Australian petroleum tankers if a comprehensive risk assessment of fuel supply chain issues indicates that retention of a minimum number of tankers owned, managed and crewed by Australians, is justified on national security grounds.<sup>157</sup>

This recommendation is consistent with the proposal in the Maritime Industry Australia Ltd (MIAL) *Coastal Trading Green Paper: A Maritime Transition* of 2016 which proposed the creation of a national strategic fleet, defined as ships that offer strategic national interest benefits to the nation.<sup>158</sup>

The Green Paper noted that the circumstances of Australia are different to the UK and US, which already have "strategic" fleets, and could mean that an appropriate strategic fleet for Australia is not as heavily

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[security/10732978](#) and Francis, John and Maritime Union of Australia, *Australia's Fuel Security: Running on Empty*, November 2018 P3

<sup>156</sup> Francis, John and Maritime Union of Australia, *Australia's Fuel Security: Running on Empty*, November 2018 P2

<sup>157</sup> Ibid P4

<sup>158</sup> Maritime Industry Australia Ltd (MIAL) *Coastal Trading Green Paper: A Maritime Transition*, 2016, <https://mial.com.au/files/Coastal%20Trade%20Green%20Paper.pdf>

influenced by the military and defence needs of the nation but perhaps be more aligned with supply chain security and trade facilitation given the nation's reliance on sea transport. The Paper suggested that an appropriate test to apply at first instance when determining what a strategic fleet ship might be could be to identify where there is sufficient cargo to warrant a stable and permanent presence.<sup>159</sup> The MUA commissioned paper on fuel security strongly suggests that petroleum supply and distribution, requiring petroleum product tankers, meets the MIAL cargo demand test, and is therefore one of the most important cargoes that requires strategic fleet ships.

The MUA has proposed that a fleet of no less than 10 petroleum product tankers dedicated to the transportation of clean petroleum products from international refineries or storage facilities to Australia should be regarded as forming part of the national strategic fleet.

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

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

Although Victoria hosts two petroleum refineries (Viva in Geelong and Mobil in Melbourne), these do not supply the totality of Victorian fuel needs, and the State still imports petroleum products from international refineries.

It is in Victoria's interest that some of that imported petroleum product is delivered from overseas refineries in Australian ships, and we therefore urge the Victorian Government to support the establishment of a national strategic shipping fleet.

#### **Recommendation 28**

It is recommended that the Victorian Government:

- \* Support the proposal to establish a national strategic shipping fleet; and
- \* Propose to the Australian Government that should the Australian Government support a national strategic fleet, Victoria will work with it to ensure a proportion of those strategic fleet ships are home ported in Victoria and support Victoria's coastal shipping sector.

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<sup>159</sup> Ibid P7

## Support reforms that complement reform of the CT Act

If there is support for reform of the CT Act, a number of complementary reforms to other legislation and to the labour relations and visa arrangements applying to coastal shipping will also be required.

In summary, the main complementary reforms to the CT Act that will be necessary and that would require Victorian Government support are:

- Repeal of Part B of the Seagoing Industry Award 2010 and amending Part 4 Coverage in that Award so the Award covers all employers, except employers of seafarers on ships issued with a Temporary Licence under the CT Act, which will have the effect of removing the application of Australian Award provisions to non-national seafarers employed on ships issued with a Temporary Licence (TL). It must be noted however, that if the MUA proposal to strengthen the maritime crew visa is agreed (see summary below and details in Appendix 4), then foreign seafarers would only be permitted to work on TL ships where there are no suitable and available Australian seafarers. It should also be noted that the *Fair Work Act 2009* will continue to apply to foreign seafarers on ships issued with a TL, meaning that such seafarers on TL ships will continue to be entitled to the benefit of the National Employment Standards (NES).
- Reform the *Customs Act 1901* so that specified ships are exempt from the importation requirements under the Customs Act and Regulations.
- Repeal the Australian International Register (AISR) provisions in the *Shipping Registration Act 1981* (SR Act).
- Strengthening the “maritime crew visa” arrangements for seafarers, the centerpiece of which is a proposal for a new “maritime crew visa” applicable to foreign seafarers engaged on foreign ships issued with a Temporary Licence (TL). These proposals are based on the new Canadian requirements centered on its Labour Market Impact Assessment (LMIA) requirements, now being enforced in relation to ships applying for a licence under the Canadian Coasting Trade Act.

Details about these complementary proposals are found in Appendix 4.

### Recommendation 29

It is recommended that the Victorian Government:

\* Indicate to the Australian Government its support for implementing a package of complementary reforms to national laws and to the labour relations and visa arrangements for coastal shipping if there is a commitment to reform the CT Act, that will help revitalise the Australian shipping industry.

## Support a review of the National Ports Strategy

The MUA proposes that the Victorian Government advocate to the Australian Government, in conjunction with other like-minded States, that the Australian Government initiate a review and of the National Ports Strategy 2011, originally developed by Infrastructure Australia and the National Transport Commission.<sup>160</sup> We propose that one objective of such a review be to ensure there is overall policy coordination for port

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<sup>160</sup> Infrastructure Australia and National Transport Commission, *National Ports Strategy 2011*: [https://www.infrastructureaustralia.gov.au/policy/publications/publications/files/COAG\\_National\\_Ports\\_Strategy.pdf](https://www.infrastructureaustralia.gov.au/policy/publications/publications/files/COAG_National_Ports_Strategy.pdf)

development in Australia, and that the strategy help guide State and NT port related initiatives that can facilitate the revitalisation and growth of Australian coastal shipping.

It will be important that the Victorian Government, through either the Council of Australian Governments (COAG) and or the Transport and Infrastructure Council, confer with other like-minded states and the NT to ensure there is majority support for a review of the National Ports Strategy.

In its submission to the Victorian Legislative Council Committee inquiry into the proposed lease of the Port of Melbourne in 2015, the MUA recommended that COAG establish a Ministerial Council of Ports Ministers, supported by a national industry stakeholder advisory body to address national port coordination issues aimed at assisting State Port Ministers and Treasurers to make the strategic national freight infrastructure investment and port management decisions required in the national interest.<sup>161</sup> Such a recommendation remains current.

Throughout this submission the MUA has proposed a number of issues that a review of the National Ports Strategy should consider. These are:

- To identify and coordinate measures to keep port fees and charges for coastal shipping low; to develop principles for consistency in port fees and charges at Australia's ports that apply to Australian ships engaged in coastal trading; and importantly, that it examine and promote the options for differential port pricing charges that distinguish between Australian coastal ships and foreign ships trading domestically and internationally.
- To provide direction for ports, port authorities and governments to ensure that port services required for coastal sea freight services are incorporated into port master plans and in particular, to ensure that berthing and loading/unloading facilities are fit-for-purpose and guaranteed for coastal ships at each port:
  - This was a specific recommendation in the report of the Qld Transport, Housing and Local Government Committee inquiry into coastal sea freight in 2014 which was supported by the Qld Government in June 2015.<sup>162</sup>
- To address the lack of research and data availability on future shipping activity, by undertaking a stocktake of all current interstate and intrastate shipping activity, along with emerging opportunities for increasing coastal interstate and intrastate shipping activity, to examine port usage and port infrastructure requirements so that port master planning better accommodates the needs and future opportunities for Australian coastal shipping.
- To take a lead on researching and publishing information and data on megatrends in freight and logistics as a service industry to the economy, noting that economies are becoming more service oriented, and production systems more decentralised, with consequences for freight logistics, such as reduced demand for traditional bulk cargoes, and more demand for containerised cargo.
- To address emissions reductions from ships in ports. We note that carbon emissions from ships and ports can be significantly reduced by investing in facilities to allow ships to plug into renewable energy sources while in port. Again, a review of the National Ports Strategy should advise on how this can be achieved on a national basis to achieve scale efficiencies.

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<sup>161</sup> MUA, Submission to the Victorian Legislative Council Port of Melbourne Select Committee Inquiry into the Proposed Lease of the Port of Melbourne, 11 September 2015

<sup>162</sup> Report of the Qld Parliament's Transport, Housing and Local Government Committee Report No. 59, Inquiry into Coastal Sea Freight, December 2014, Recommendation 7 Pviii  
<https://cabinet.qld.gov.au/documents/2015/Jun/SeaFreight/Attachments/report.pdf>

### **Recommendation 30**

It is recommended that the Victorian Government:

\* Advocate to the Australian Government, in conjunction with other like-minded States that it initiates a review of the National Ports Strategy, and that such a review considers:

^ Measures to keep port fees and charges for coastal shipping low;

^ Principles for ensuring consistency in port fees and charges at Australia's ports that apply to Australian ships engaged in coastal trading;

^ The options for a nationally consistent regime of differential port pricing principles that distinguish between Australian coastal ships and foreign ships trading domestically and internationally, that could guide State port pricing strategies;

^ Ways that ports, port authorities and governments can ensure that port configurations required for coastal sea freight services are incorporated into port master plans and in particular, to ensure that berthing and loading/unloading facilities are fit-for-purpose and guaranteed for coastal ships at each port;

^ How the lack of research and data availability on future shipping activity can be best addressed;

^ Undertaking research and publishing information and data on megatrends in freight and logistics as a service industry to the economy; and

^ How emissions reduction from ships in port can be best addressed in a nationally consistent way.

## Appendix 1: Seafarer employment in Australia – an extract from the MUA submission to the Senate Inquiry into the policy, regulatory, taxation, administrative and funding priorities for Australian shipping

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

Australian Industry Standards (AIS), the Skills Service Organisation (SSO) for the transport and logistics sector, has published maritime employment data in its Maritime Skills Forecast 2018, derived from the Australian Bureau of Statistics (ABS) 2016 Census – Employment, Income and Education.<sup>163</sup>

The AIS Skills Forecast shows that there are 11,529 maritime workers in Australia at 30 June 2016. The Forecast notes however that training data and AMSA active seafarer certification figures suggest a considerably larger workforce than the Census reports. It also shows that total vocational education and training (VET) Activity data records approximately 4,000 commencing enrolments in the maritime industry per year which, for an industry that requires recertification every five years, would suggest a workforce that is at least 35 per cent larger than the Census total. If correct, the maritime workforce is in the order of 15,500.

Data provided in the Annual Report of the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare) reports that there were 5,140 employees covered by the workers' compensation legislation for seafarers, the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act), over the year 2017-18.<sup>164</sup> These seafarers worked on 168 ships:

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

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

AMSA ship registration data shows there are some 400 workboats, water taxis, tugs, research ships and charter ships operating intrastate. These would employ another 1,000-1,500 seafarers.<sup>165</sup>

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

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<sup>163</sup> Australian Industry Standards (AIS), *Skills Forecast 2018*, P20  
[https://www.australianindustrystandards.org.au/wp-content/uploads/2018/12/Maritime-Skills-Forecast-2018-Final\\_v2.pdf](https://www.australianindustrystandards.org.au/wp-content/uploads/2018/12/Maritime-Skills-Forecast-2018-Final_v2.pdf)

<sup>164</sup> Seafarers Safety, Rehabilitation and Compensation Authority, Annual Report 2017/18 P3,  
[https://www.seacare.gov.au/\\_data/assets/pdf\\_file/0006/191670/Seacare\\_Annual\\_Report\\_2017-18.pdf](https://www.seacare.gov.au/_data/assets/pdf_file/0006/191670/Seacare_Annual_Report_2017-18.pdf)

<sup>165</sup> AMSA, List of Registered Ships, <https://www.amsa.gov.au/vessels-operators/ship-registration/list-registered-ships>

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

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

The MIAL Seafaring Skills Census Report 2018, based on a data gathering methodology that was similar to the 2012 government census, revealed that there are 5,646 seafarers (with internationally recognised certificates/qualifications), of which 4,669 are employed on ships and 977 in onshore jobs.<sup>166</sup>

Taking into account data from all sources, the MUA estimates that the number of seafarers holding current AMSA certification<sup>167</sup> employed in Australia is in the order of 7,000-8,000 (excluding the fishing sector, launches and a range of other smaller ships, that are and should remain as DCVs based on statutorily defined as proposed elsewhere in this submission).

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

- Must be capable of managing a range of unique hazards while at sea where they are responsible for a multi-million-dollar asset, a crew, and a cargo that invariably is worth millions of dollars (or passengers' lives).<sup>168</sup>
- Must participate efficiently in just in time supply chains where access to port slots and cargo delivery is time critical and where thousands of business are dependent on precise cargo delivery and arrival schedules to meet customer needs.
- Provide the core skills and attributes for many onshore roles in the transport and logistics industry. A European Commission (EC) study<sup>169</sup> found that:
  - Deck officers are suited to remain in the maritime industry as pilots, with the water police, as vessel service traffic officers, as lockmasters, as superintendents with shipping and ship management companies, as inspectors and surveyors, in various functions with the ports, with the maritime administration and education or in a range of functions in the general logistics industry. It found that former deck officers are valued as leaders and will often find employment in middle management in generalist functions within administration, general management, sales, HR, education, and in classification societies.

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<sup>166</sup> Maritime Industry Australia Ltd (MIAL), *Seafaring Skills Census Report 2018*, <https://www.mial.com.au/P5>

<sup>167</sup> The certification refers predominantly to STCW certification, but includes some with non-STCW certification working on larger DCVs that should be RAVs. AMSA report there are some 36,000 people employed on DCVs, including fishing.

<sup>168</sup> A typical 280,000 deadweight tonne iron ore carrier costs around US\$80 million, while a 250,000-tonne cargo of iron ore is valued at around US\$18 million (at the 24 January 2019 spot price of US\$74/tonne – see MarketIndex <https://www.marketindex.com.au/iron-ore>).

<sup>169</sup> European Commission, *The Mapping of Career Paths in the Maritime Industries* A project by Southampton Solent University for the European Community Shipowners' Associations (ECSA) and the European Transport Workers Federation (ETF), 2004, [https://www.ecsa.eu/images/files/downloads\\_publications/054.pdf](https://www.ecsa.eu/images/files/downloads_publications/054.pdf)



- Engineering officers are in demand as inspectors and surveyors with shipping, management, classification and insurance companies, or in operational functions with shipping and management companies, shipyards, and engine manufacturers, with maritime service and repair and in various functions as superintendents.

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

## Appendix 2: Key recommendations in the Report of the Inquiry into National Freight and Supply Chain Priorities that should be implemented to support the Australian shipping industry

### *An integrated approach*

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

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

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

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

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

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

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

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

### *Measurement of freight performance*

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

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

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

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

### *Planning for current and future needs*

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

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

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

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

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

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

### *Act to deliver the priorities*

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

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

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

### *Communicate the importance of freight*

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

- We support this recommendation in principle, provided trade unions are invited to participate as full members of any coordination bodies.<sup>170</sup>

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<sup>170</sup> Department of Infrastructure, Regional Development and Cities, *Report of the Inquiry into National Freight and Supply Chain Priorities*, March 2018, P9-15, [https://infrastructure.gov.au/transport/freight/freight-supply-chain-priorities/files/Inquiry\\_Report.pdf](https://infrastructure.gov.au/transport/freight/freight-supply-chain-priorities/files/Inquiry_Report.pdf)

## Appendix 3: Better integration between the Navigation Act and National Law jurisdictions for ship and seafarer safety

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

The Navigation Act applies the standards of the International Maritime Organisation (IMO) Conventions such as the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended; the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 and by the Protocol of 1997 (MARPOL); the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) as amended, including the 1995 and 2010 Manila Amendments.<sup>171</sup> On the other hand, the National Law Act applies Australian standards designed by the States/NT and originally only intended for small inshore vessels, essentially operating in coastal waters (3 nautical miles from the territorial sea baseline).<sup>172</sup>

These standards for DCVs are codified in the National Standards for Commercial Vessels (NSCVs). The NSCVs provide standards for vessel survey, construction, equipment, design, operation and crew competencies for domestic commercial vessels.<sup>173</sup> The key NSCVs that are relevant to this inquiry are Part D, Crew competencies and Part E Operations, noting that the NSCVs operate as addendums to the Marine Orders 500 series that relate to DCVs, and that AMSA is currently re writing those standards to include them in new versions of Marine Orders e.g. MO505 is currently being re worked to incorporate NSCV Part D. MO504 (Certificates of Operation) has already been updated as of 1 July 2018, so that NSCV Part E is no longer independently in force.

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

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

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

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<sup>171</sup> These Conventions, and a full list of IMO Conventions can be found at

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

<sup>172</sup> A full list of maritime boundary definitions can be found at <http://www.ga.gov.au/scientific-topics/marine/jurisdiction/maritime-boundary-definitions#heading-3>

<sup>173</sup> Details on the NSCVs can be found on the AMSA website at <https://www.amsa.gov.au/about/regulations-and-standards/national-standard-commercial-vessels-nscv>

(essentially, certificates that allow the vessel to voyage overseas); and (b) the National Law Act which covers all other vessels, known as domestic commercial vessels (DCVs). No public data is available to enable identification of a ship as a RAV or DCV, so the system is opaque.

The problem is the element that pertains to the holding of voyage certificates. A ship owner or operator can opt out of that requirement with no barriers or checks and balances whatsoever – by simply giving up those certificates for any period the owner or operator decides. This has resulted in gaming behaviour by ship owners/operators, particularly rife in the offshore oil and gas sector. AMSA has been complicit in this gaming behaviour, suggesting a high level of vessel owner/operator capture.

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

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

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

- The power under s320 of the Navigation Act whereby AMSA may recognise a certificate, or a class of certificates, issued in relation to a vessel under the National Law Act, a law of a State or Territory or a law of a foreign country if AMSA is satisfied: (a) that the certificate is the equivalent of, or that it is appropriate to recognise the certificate as the equivalent of, a certificate prescribed by the regulations (Marine Orders); or (b) that the class of certificates is the equivalent of, or that it is appropriate to recognise the class as the equivalent of, a class of certificates prescribed by the regulations. This means for example, that AMSA may recognise a seafarer certificate such as the General Purpose Hand (a VET Certificate Level I qualification) as equivalent to a seafarer certificate for an Integrated Rating (a VET Certificate Level III qualification). Notwithstanding this is a major legal contradiction, AMSA has proceeded to actively apply this provision, resulting in it being considered a pariah in the international maritime community.
- The powers AMSA has given itself through the making of Marine Orders by the Chief Executive Officer, most notably (i) Marine Order 21 (Safety and emergency arrangements) relating to crewing complements (manning standards). Under this MO: (a) An owner of a RAV may apply for an exemption of the vessel from a requirement of the MO, meaning that the ship may operate without a MSMD, allowing the owner or operator to crew the ship as they wish, notwithstanding it may remain a RAV. This effectively overrides the seafarer certification and VET qualifications for RAVs required by Marine Orders 70 to 73; and (b) A person may apply to AMSA for approval to use an equivalent certificate, again undermining the provisions of the Navigation Act and Marine Orders 70 to 73. The certificates referred to in MO73 (the MO for Ratings occupations) can be found below;<sup>174</sup> (c) For ships, including RAVs, that are less than 3,000 gross tonnes (GT)

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<sup>174</sup> Seafarer occupations are grouped into 3 broad categories: (i) Deck officers (ships masters); (ii) Ship's engineers; and (iii) Ratings (which includes catering occupations). Current Ratings occupations include: (i) Navigational Watch

AMSA may determine that a ship can be crewed by: (x) a master who holds a specified certificate of competency issued under Marine Order 505 (Certificates of competency) 2013; and (y) a specified number of officers who hold specified certificates of competency issued under MO505; and (z) a specified number of other seafarers, such as Ratings, who hold specified certificates of competency issued under MO505 (the certification standards for DCVs); or AMSA may specify seafarer certificates that may be held by seafarers on board the vessel instead of specified certificates of competency; and (d) AMSA has discretion to define an occupation in a MSMD, resulting for example in a Rating being defined as a person holding no specified seafarer certificate; and (ii) Marine Orders 70-73 dealing with seafarer certification (and associated VET qualifications). MO70 deals with seafarer certification generally while Marine Orders 71-73 deal with the 3 occupational categories on ships: Deck Officers (MO71), Engineers (MO72) and Ratings (MO73); as well as MO505 (for seafarers on DCVs).

- The power to issue exemptions for vessels, classes of vessels or operations which are frequently not transparent, not subject to internal checks and balances and issued in response to political or commercial pressure rather than objective risk analysis. One example is exemption 13/13A Marine Safety (Wildlife or other sightseeing) Exemption 2017. Exemptions should only be issued after an appropriate risk assessment and vessel inspection, subject to the approval of two or more managers, and published on AMSA's website.
- The power to issue exemptions for qualifications (known as endorsement approvals) which increases the limitations of near coastal certificate of competency, allowing seafarers to work on larger or more powerful vessels. This is allowed in AMSA instrument 2014/22 The National Regulator Endorsements Approval 2014. The application of this instrument is not transparent and expands the reach of MO505 without oversight or consultation.
- Discretionary powers given to AMSA managers with delegations, which for example, permits an AMSA officer to decide at their sole discretion when making a Minimum Safe Manning Document (MSMD) for a ship, the seafarer certificates that must be held by a particular category of seafarer that make up the minimum complement of crew specified in the MSMD for the particular ship, as well as discretion in the making of related determinations and issuing of exemptions.
- The powers under Marine Order 504 (Certificates of Operation) which came into force on 1 July 2018, and which solidified a major shift in AMSA's safety regulation role when it took over as the national regulator. It allows the vessel operator to operate a ship with uncertificated crew without any kind of training, including survival training, operating out to 200nm, often in charge of the welfare of passengers, and at the sole discretion of the owner. The Certificates of Operation issued by AMSA under this Marine Order do not list the minimum crew complement or appropriate crew standards for the vessel. An owner can obtain a Certificate of Operation by declaring that they have a Safety Management System (SMS) in place. The majority of vessel SMSs are not viewed by AMSA, a delegate, or an accredited surveyor.

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

The powers that AMSA has under the two Acts, and the powers it has given itself under Marine Orders (which cannot be challenged as they are not a legislative instrument that can be disallowed by the

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Rating; (ii) Engine Room Watch Rating; (iii) Able Seafarer-Deck; (iv) Able Seafarer-Engine; (iv) Integrated Rating; (v) Chief Integrated Rating; (vi) Marine Cook; and (vii) General Purpose Hand.

Parliament) means that Australia is not in compliance with its obligations under the IMO Conventions. A seafarer certificate, such as one issued under MO505, that does not require seetime experience is not in compliance with the intent of the IMO STCW Convention.

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

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

Prior to 2013 when the National Law Act and MO505 commenced, there was widespread acceptance that the Integrated Rating qualification was the preeminent and base level qualification for Ratings occupations on ships across all sectors of the industry – cargo ships, offshore oil and gas ships, towage ships, dredging ships etc., regardless of the geographical area of operation of a ship (with only minor, industrially negotiated exceptions approved by industrial tribunals). The entire industrial relations framework for the industry was founded on this custom and practice as can be seen from an examination of the shipping industry's Modern Awards.<sup>175</sup>

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

This erosion of ship safety is compounded by the lack of appropriate VET qualifications for Ratings that are employed on both RAVs and DCVs. This is addressed in detail in the section of this submission headed Workforce development and the seafarer training system.

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

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

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<sup>175</sup> See for example the classification structure in Clause 13 of the *Seagoing Industry Award 2010* which specifies only occupations associated with AMSA seafarer certificates for RAVs listed in MO2 70-73, [https://www.fwc.gov.au/documents/documents/modern\\_awards/pdf/ma000122.pdf](https://www.fwc.gov.au/documents/documents/modern_awards/pdf/ma000122.pdf)



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

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

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

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

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

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

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

### **Recommendation 31**

It is recommended that the Victorian Government:

\* Propose to a future review of the National Law Act and Navigation Act (see Recommendation 22) that it develop a new application framework for these two Acts that applies the Navigation Act and IMO Convention standards to commercial vessels as the default standard, to include a provision for statutorily defined ships to be regulated under different standards; and

\* Propose to the review that it adopt the MUA proposal that the new application provisions require that all commercial vessels be regulated by the *Navigation Act 2012*, except those which:

^ Voyage only within 12nm of the coast and a safe haven.

^ Are 24m or under in length.

^ Carry less than 50 passengers.

^ Are fishing vessels under 35m in length.

^ Do not carry dangerous or polluting cargoes, including oil and gas.

^ Do not proceed on voyages of more than 36 hours in length.

^ Do not carry out 'high risk' operations.

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

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

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

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

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

### **Recommendation 32**

It is recommended that the Victorian Government:

\* Recommend to the Australian Government that AMSA suspend its current MO505 review process and not introduce a revised Marine Order until other review processes have settled a more effective and durable safety regulatory system for Australian ships.

## Appendix 4: National shipping legislation reform that requires support by the Victorian Government

### Reform the CT Act

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

- Amend the Object clause in the CT Act:
  - The objective is to remove ambiguity in the Object as identified in Australian Court judgements, and to make it explicit that the primary Object of the CT Act is to provide preferential treatment for Australian ships in coastal trade. The proposed new Object is set out in **Appendix 4A**.
- Extend the operation of the CT Act to include ships trading intrastate:
  - The objective is threefold:
    - (i) To streamline and harmonise the economic regulation of all Australian coastal shipping;
    - (ii) To restore the economic regulation of intrastate shipping as previously applied in Qld and WA prior to commencement of the *Marine Safety (Domestic Commercial Ship) National Law Act 2012* (National Law Act) and reform of State marine Regulations; and
    - (iii) To ensure that coverage of the economic regulation of shipping is consistent with the coverage of marine safety law, shipping industry workers' compensation law and of shipping industry occupational health and safety law (subject to passage of a modified Seafarers and Other Legislation Amendment Bill 2016<sup>176</sup>).
- Remove Emergency licences as a licence type that can be issued under the CT Act
  - As not a single Emergency licence has been issued in over 6 years since the CT Act commenced in 2012 it is clearly of no value to industry and should be removed as a licence type. The MUA nevertheless proposes that the Authority have the power to issue a TL for a ship to transport small volume and specialist cargoes on an irregular basis and at short notice under specified conditions – See Appendix 5.
- Extend the types of ships that the CT Act applies to
  - The objective is fourfold:
    - (a) To extend the operation of the Act to Defence Force auxiliary fleet ships (that that will in future be defined as Strategic Fleet ships) that may be civilian crewed and or operate at times as a commercial ship.
    - (b) To extend the operation of the Act to some types of offshore ships e.g. ships transporting oil/condensate/gas from offshore facilities to a mainland refinery, storage or other facility.
    - (c) To extend the operation of the Act to large fishing or aquaculture ships and fishing fleet support ships such as fish factory ships i.e. to those 35 metres in length and above.
    - (d) To extend the operation of the Act to a ship used as temporary bulk or liquid storage facility.

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<sup>176</sup> The Seafarers and Other Legislation Amendment Bill 2016 remained in the 45th Parliament due to Senate opposition to the Bill arising from strong trade union and shipping industry representations that the Bill should not be passed in its current form. One provision in the Bill is to align the *Occupational Health and Safety (Maritime Industry) Act 1993* with the model *Work Health and Safety Act 2011* (which would further harmonise work health and safety law in Australia).

- (j) To clarify the operation of the Act to large passenger ships that are currently the subject of an exemption, requiring a new Division in the CT Act to deal with temporary licences for large passenger ships.
  - (k) To extend the operation of the Act to ships operating intrastate.
- Establish a coastal ship licencing authority:
  - The objective is to provide for the establishment and operation of an independent industry body (a statutory authority e.g. an Australian Coastal Ship Licencing Authority) to supervise the licencing of ships consistent with legislated criteria to be utilised in considering applications for ship licences. This is designed to introduce commercial principles into ship licencing and to remove the role of Departmental officers in determining commercial decisions about coastal ship operations. The proposed functions of the Authority are set out in **Appendix 4B**.
- Strengthen the application process for a General Licence (GL) consistent with the revised Object clause and the proposed establishment of an Australian Coastal Ship Licencing Authority:
  - The objective is to:
    - (a) Specify the type of work visa that a non-national seafarer must hold to be eligible to be employed on GL ship, noting that s13(2)(b)(iii) of the CT Act contemplates that seafarers on GL ships may be holders of a temporary visa;
    - (b) Specify the marine qualifications that seafarers must hold to be eligible to be employed on GL ship, noting that temporary visa holders may hold an internationally recognised certificate that is not accompanied by an Australian VET qualification;
    - (c) Require that the Authority must take into account certain matters when deciding on an application for a GL. For example, to enhance Australia’s supply chain security, it might be appropriate that legislation require a specified level of “Australian connection or content” in the transportation components of critical economic cargoes, particularly energy, including refined petroleum products, as well as high value cargoes e.g. LNG, and other trades such as high consequence cargos (e.g. ammonium nitrate), high security cargos (e.g. weapons, munitions, explosives) and dangerous cargos (e.g. Av gas, other liquid and gas fuel);
    - (d) Specify a timeframe under which the Authority must provide reasons for a decision not to approve a GL application;
    - (e) Specify that a GL must be immediately made available to any crew member or authorised officer of a seafarer representative organisation upon request;
    - (f) Specify the timeframe for the Authority to give written notice of the cancellation to the holder of a GL;
    - (g) Specify the timeframe by which the Authority must cause a summary of the information contained in the annual reports provided by GL holders to be published on the Authority’s website;
    - (h) Strengthen the procedure for surrendering a GL; and
    - (i) Provide a procedure for the intended withdrawal of a GL ship from a coastal trade.
- Provide for a new licence type, a modified general licence (MGL) (whereby the ship is foreign registered but employs Australian crew) being a licence granted to a ship that:
  - (i) Operates under a demise charter as defined by s9 of the *Shipping Registration Act 1981* (SR Act) and is not registered on the AGSR;
  - (ii) Uses an Australian port as its home port;
  - (iii) Is crewed by Australian national seafarers sourced from an Australian crewing corporation; and

- (iv) Is operated by an Australian corporation, or a corporation that operates in Australia, even if its ship chartering operations are conducted by a subsidiary or unit of the company located outside Australia.
- Strengthen the application process for the issuing of Temporary Licences (TL) **for cargo ships**, consistent with the revised Object clause and the proposed establishment of an Australian Coastal Ship Licencing Authority:
    - The objective is to:
      - a) Amend the contestability provisions by replacing the current provisions with a requirement for commercial negotiations between: (i) the GL holder who contests for a TL cargo; and (ii) the shipper of the cargo requiring transportation services to settle the terms for provision of a GL ship/s in a trade and for settling an appropriate balance between GL ships and TL ships in each trade where the trade volume requires ship capacity beyond the capacity of a suitable and available GL ship/s (in circumstances where the GL holder has first right to provide the TL ship or ships);
      - b) Establish a government tender process for the supply of GL ships where no suitable GL ship (or ships) is available to meet the shipper's transportation needs;
      - c) Provide for commercial arbitration to help facilitate fair commercial outcomes; and
      - d) Provide for establishment of price reviews/price monitoring by the ACCC or another body to eliminate price gouging in ship trades where there is only one ship supplier:
        - ❖ A summary of the operation of the proposed new TL application process for cargo ships is provided at **Appendix 4C**.
  - Provide a separate application process for issuing Temporary Licences (TL) **for passenger ships**, consistent with the revised Object clause and the proposed establishment of an Australian Coastal Ship Licencing Authority. Note that this provision is predicated on repeal of the Ministerial exemption for large cruise ships. Note also that the current exemption does not apply to Bass Strait passenger services (though this route is proposed for declaration by the Authority as a National interest shipping trade, route or market segment).
    - The objective is to provide a separate process for dealing with applications for TLs for passenger ships that is distinguished from the process for dealing with applications for TLs for cargo ships. The key features of a TL licencing process for passenger ships are:
      - (i) That (a) A holder of a General Licence (GL, or a holder of a modified general licence – a MGL) for one or more ships; or (b) The owner, charterer or agent of a non-licenced ship or ships, may apply for a TL for a large passenger ship (large passenger ships to be defined so that, inter alia, they do not include expedition cruise ships);
      - (ii) An application for a TL for passenger ships may be for one or more ships;
      - (iii) The Authority must issue a TL to the ship or ships subject to the application, for a period of up to 3 years, subject to conditions, such as
        - (a) The applicant must advise the Authority, no later than 1 year before expiry of the licence period, of any reason why it cannot transition at least 1 of its TL ships to a GL or MGL ship, on commencement of the next licencing period; and
        - (b) A formal commitment to employ and train crew (marine and non-marine) from Australia and the nations of the South West Pacific including PNG, Timor Leste and Indonesia; and
        - (c) A commitment to secure a union negotiated collective agreement for seafarers on the ship, that is based on the ITF Total Crew Cost (TCC) Agreement, and
        - (d) A commitment to secure a union negotiated collective agreement for all non-marine crew on the ship.

- Note that an unlicensed large passenger ship will be permitted to dock, but will not be permitted to embark or disembark passengers, at more than one Australian port.

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

- Update definitions in the CT Act. Key new definitions include:
  - *National interest shipping trades, routes or market segments* means shipping trades, routes and markets which are declared by the Authority as being of such national significance that all coastal shipping in the declared trade, route or market segment must take place in GL ships. It is intended that these include, among possible others:
    - (i) Ships servicing Bass Strait;
    - (ii) Ships servicing remote and regional communities;
    - (iii) Ships servicing the supply chains (to be defined in the CT Act) of key national economically significant industry sectors, such as: steel, aluminium and energy manufacture/production (industries to be defined and be specified in Regulations).
    - (iii) Ships providing expedition cruise services.

**Note i:** These ships are cabotage ships; and operate under the provisions of the CT Act. Ships under (i), (ii) and (iv) must be on the AGSR and have a GL; while ships under (iii) can be either AGSR ships issued with a GL, or foreign ships issued with a modified general licence (MGL), meaning they must be crewed by Australians.
  - *National strategic fleet ships*, means ships which are of national strategic importance to the nation, and provide a social and or community service benefit to the nation. National Strategic Fleet ships include:
    - (i) Emergency towage vessels (ETVs - marine rescue and salvage ships) operated by AMSA;
    - (ii) Research, supply and oceanographic ships such as those operated by or chartered to the CSIRO, the Australian Antarctic Division of the Department of Environment and Energy, and marine authorities such as the Great Barrier Reef Marine Park Authority;
    - (iii) Border Force ships;
    - (iv) Certain Defence/Navy ships such as auxiliary fleet ships (particularly non-combat ships such as Navy training ships, AORs, supply ships etc.);
    - (v) Training ships such as those operated by the Australian Maritime College (AMC);
    - (vi) A core fleet of clean petroleum product tankers involved in international supply chains and providing national fuel security; and
    - (vii) Offshore wind construction ships.

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

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

weather and as a result can reduce overall installation durations. They require support to ensure that Australia can access the limited global supply of these specialist ships for offshore wind farm construction.

### **Repeal Part B of the Seagoing Industry Award 2010**

Repealing Part B of the Seagoing Industry Award 2010 and amending Part 4. Coverage so the Award covers employers, except employers of seafarers on ships issued with a Temporary Licence under the CT Act, will have the effect of removing the application of Australian Award provisions to non-national seafarers employed on ships issued with a Temporary Licence. With those changes, the MUA is of the view that repeal of Part B of the Award will not result in Part A of the Award applying to such seafarers. Notwithstanding such amendments to the Award, the *Fair Work Act 2009* will continue to apply to seafarers on ships issued with a TL, meaning that seafarers on TL ships will continue to be entitled to the benefit of the National Employment Standards (NES). On repeal of Part B therefore, non-national seafarers on ships issued with a TL will, under the proposal for a new type of maritime crew visa for non-national seafarers on TL ships set out in this submission, need to hold that new type of maritime crew visa that will require payment of market rates (based on the Canadian seafarer visa system), as well as being entitled to the benefits of the NES. The MUA will confer with MIAL, the ITF and the Fair Work Ombudsman to establish an orderly way to apply the NES to seafarers on TL ships.

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

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

### **Amend the Fair Work Regulations 2009**

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

### **Reform the Customs Act 1901**

The main amendments proposed by the MUA are to:

- Exempt specified ships from the importation requirements under the Customs Act and Regulations:
  - The main objective is to facilitate access to Australia by foreign registered ships for limited periods to undertake specific commercial activities that add to the maritime cluster such as: (i) ship repair, maintenance and dry docking; (ii) temporary storage ships to hold inventory such as petroleum product; (iii) mother ships awaiting loading from coastal barges; and or (iv) ship based production and processing e.g. fish products.

- Under current arrangements, these categories of ship are invariably considered to be imported, resulting in the Maritime Crew Visa (MCV – a transit visa) ceasing to have effect after 5 days (where the duration of the ship activity will invariably exceed 5 days), meaning crew on board such ships are required to have a valid work visa to remain in Australia after the 5 day limit of their MCV. This adds major costs to the commercial activity.

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

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

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

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

**Reform the Maritime Crew Visa (MCV) system**

The main amendments proposed by the MUA are to:

- Close loopholes in the current subclass 988 Maritime Crew Visa (MCV) system for foreign seafarers
  - The objective is fourfold:
    - (i) To create a new and separate ‘maritime crew visa’ for non-nationals employed on ships issued with a TL under the CT Act that contains the labour market testing requirements of a work visa, such as the Subclass 482 Temporary Skill Shortage (TSS) visa, and payment of market rates (similar to the arrangements operating under the Canadian *Coasting Trade Act 1992* and Canada’s Labour Market Impact Assessment (LMIA) requirements);
    - (ii) To amend the approval requirements for obtaining an existing MCV (Maritime Crew visa (subclass 988)) so that the security, character and identify checking is strengthened consistent with and equivalent to the security, character and identity checking required for the issue of a Maritime Security Identification Card (MSIC) under the *Maritime Transport and Offshore Facilities Security Act 2003*;
    - (iii) To remove the loopholes in visa sponsoring arrangements to eliminate the practice of employers sponsoring foreign maritime workers in permissible occupations and then



transferring those workers to maritime occupations that are not eligible for sponsorship e.g. Integrated Rating (those occupations specified in AMSA Marine Order 73); and

- (iii) Strengthen the role of AMSA in assessing the marine qualifications of workers sponsored by employers under a work visa for employment in maritime occupations.

## Appendix 4A: The proposed Object clause for an amended CT Act

Amend s3(1) by repealing the current Object and replacing it with the following:

The object of this Act is to provide a regulatory framework for coastal trading in Australia that:

- (a) Maximises the use of ships registered in the Australian General Shipping Register in coastal trading; and
- (b) Facilitates the long-term growth of the Australian shipping industry; and
- (c) Enhances the utilisation, efficiency and reliability of Australian ships as part of the national transport and logistics system; and sea passenger transport system; and
- (d) Supports the development and maintenance of a national strategic fleet in the national interest; and
- (e) Promotes competition between Australian providers of coastal trading ships and fair competition with road and rail modes in domestic freight transport; and
- (f) Promotes a narrowing of the cost gap between Australian ships and international ships in coastal trade; and
- (g) Quarantines for GL ships, national interest trades, routes or market segments.

## Appendix 4B: Proposed functions for a new Australian Coastal Ship Licencing Authority

(1) The functions of the Authority are:

- (a) To promote the Object of this Act;
- (b) To manage and supervise the Australian coastal ship licencing system;
- (c) To issue coastal ship licences;
- (d) To monitor the use of TL ships that supplement GL and MGL ships;
- (e) To manage a procurement process for supply of GL ships;
- (f) To secure additional market share for GL ships in coastal trade and to encourage the use of long-term contracts of affreightment (COAs) for freight transportation;
- (g) To declare national interest shipping trades, routes or market segments within defined supply chains;
- (h) To establish and facilitate dialogue between:
  - (i) agencies of Government that build, operate and maintain ships (or manage tenders for these functions), and regulate maritime matters, including Defence/Navy, Australian Border Force, CSIRO, marine management and mapping authorities and AMSA;
  - (ii) commercial shipping interests; and
  - (iii) seafarer representative organisations:  
to maximize merchant civilian participation in provision of government ships, shipping services, support and maintenance, including the maintenance of a National Strategic Fleet;
- (i) To ensure that Australian ships are available to help deliver domestic fuel security for both civilian and Defence requirements;
- (j) To promote and advocate for fair competition between shipping, and road and rail modes, in domestic freight transport;
- (k) To publish monthly statistics on coastal trade and coastal ship operations including licenses issued, based on specified data sets;
- (l) To report annually on the performance of its functions and the operation of this Act;
- (m) To perform such other functions as are conferred on it by or under any other Act or regulations; and
- (n) To perform functions incidental to any of the previously described functions.

## Appendix 4C: An outline of the proposed new temporary licence (TL) application process in the *Coastal Trading (Revitalising Australian Shipping) Act 2012 (CT Act)* for cargo ships

- The licensing process outlined here is based on the assumption that a shipper will have commenced discussions with a ship provider regarding the transportation of the shipper's cargo prior to the licence application process commencing.
- The formal process therefore commences with an application for a TL to the Australian Coastal Ship Licencing Authority (ACSLA [the Authority]) by a ship provider – either:
  - A holder of a general licence (GL); or
  - A holder of a modified general licence (MGL); or
  - The owner, charterer or agent of a non-licensed ship (a foreign registered ship):
    - ❖ Note that under the proposed new provisions, unlike the current CT Act, neither the master of a ship, nor a shipper is eligible to apply for a TL.
    - ❖ Note also that under the proposed new provisions, the TL attaches to a ship and there must be a separate application for each ship for which a TL is being sought.
    - ❖ It is proposed that it be a requirement that the TL application specify what supply chain the cargo is a part of to enable the Authority to assess whether the TL is in a trade that is defined as a national interest trade.
- Upon receipt of an application for a TL the Authority must:
  - First, determine that the application falls outside a national interest shipping trade, route or market segment and is not for a ship that is included as a National Strategic Fleet Ship;
  - Second notify all GL and MGL holders of the application; and
  - Third, invite GL and MGL holders to advise the Authority if they believe they have, or could, within a reasonable time to meet the shipper's transportation requirements, secure a suitable and available GL or MGL ship (or ships) to meet the transportation requirements of the shipper.
- If the Authority is advised by one or more GL or MGL holders that it believes it has or could secure a suitable and available ship or ships to meet the shippers' requirements, the Authority must:
  - Require each such GL and or MGL holder to enter into commercial discussions with the shipper of the cargo with an intent that the GL or MGL holder enter into a charter party agreement with the shipper; and
  - Require each GL and or MGL holder, and the shipper, to each separately report on the outcome of those commercial discussions. The report must include:
    - ❖ Advice on whether agreement for provision of one or more GL or MGL ships by a GL or MGL holder has been reached;
    - ❖ Advice on whether there is agreement to use a combination of GL/MGL and TL ships to meet the shipper's transportation requirements; and
    - ❖ In circumstances where no agreement is reached, the reasons for the failure to reach agreement.

- If the Authority is advised by GL and or MGL holders that no suitable GL or MGL ship is available or could be secured within a reasonable time to meet the shippers' transportation requirements the Authority may:
  - Call tenders for the supply of one or more GL and or MGL ships where the Authority determines that the trade could commercially sustain a GL or MGL ship; and or
  - Issue a TL to a ship or ships for the transportation of the shippers' cargo requirements, pending the outcome of the tender process.
    - ❖ Note that a TL has a maximum duration of 3 years.
- The Authority may require a GL and or MGL holder and a shipper to undertake a commercial arbitration process in circumstances where no agreement is reached on use of the GL/MGL holder's GL/MGL ship or ships, where the reasons for a failure to reach agreement indicate that commercial arbitration may provide assistance in reaching agreement.
- If the Authority is advised by a GL and or MGL holder and the shipper that agreement has been reached to charter one or more GL and or MGL ships, the TL application is considered to have lapsed.
- If the Authority is advised by a GL and or MGL holder and the shipper that agreement has been reached to charter one or more GL or MGL ships, to be supplemented by one or more TL ships, the Authority must proceed to grant one or more TLs.
- If the Authority is advised that the GL and or MGL holder does not wish to offer a TL ship to the shipper where cargo volumes require ship capacity in excess of the capacity of the GL/MGL ship or ships, the shipper is authorised to seek to secure a TL ship from an owner, charterer or agent, who must then apply to the Authority for a TL for the ship.
- If on completion of a tender process, a suitable GL or MGL ship becomes available to transport the shipper's cargo, the Authority must consult with the shipper, the owner/operator/charterer or agent of the GL or MGL ship and the charterer of the TL ship that is undertaking the shipper's transportation requirements, to arrange a transition from use of the TL ship to the GL or MGL ship, over a reasonable time period that does not prejudice commercial interests.
- The Authority is authorised to consider and grant applications for a TL for a ship to transport small volume cargoes on an irregular basis and at short notice on the following conditions:
  - The cargo comprises 6 or less TEUs;
  - The cargo comprises no more than 2 vehicles or 2 items of machinery;
  - The cargo comprises break bulk cargo of no greater than 25 tonnes in total;
  - The cargo comprises no more than 5,000 litres of liquids;
  - The TL has a maximum duration of 14 days and cannot be extended; and
  - The Authority is not permitted to grant more than four such TLs to an applicant in any 12-month period.
- The Authority shall monitor and keep under review the use of TL ships in each trade, along with trade volume trends, to ensure that TL ships are not accessing cargo volumes that could viably sustain the use of a GL or TGL ship, and to ensure that there is no gaming behavior regarding

supply chains that are intended to be included in national interest shipping trades, routes or market segments that would undermine the Object of the Act:

- Where the Authority assesses that trade volumes in a trade or supply chain where cargo is contestable and could viably sustain one or more additional GL and or MGL ships, the Authority must take that assessment into account when considering new or renewed applications for a TL for a trade.
  
- Price inquiries and or price surveillance of monopoly ship service providers - The Authority may at its sole discretion request the Minister to arrange under s95H of the *Competition and Consumer Act 2010*, for the Australian Competition and Consumer Commission (ACCC) or another body to hold an inquiry into the pricing practices of the holders of ship licences granted by the Authority and or to undertake price surveillance of licence holders under part VIIA of the *Competition and Consumer Act 2010*, where the license holder is the sole ship provider to the shipper.