MINERALS COUNCIL OF AUSTRALIA

SUBMISSION ON COASTAL SHIPPING REFORMS DISCUSSION PAPER

MAY 2017

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EXECUTIVE SUMMARY

The Minerals Council of Australia (MCA) welcomes the opportunity to provide a submission on the Government's discussion paper on coastal shipping reforms. As the largest user of coastal shipping services, the Australian minerals industry has a strong interest in competitive and cost-effective coastal shipping. Bulk commodities account for 80 per cent of Australia's coastal shipping trade by tonnage, with bauxite and other aluminium ores and concentrates comprising 34.2 per cent, and iron ore and concentrates 7.5 per cent.

The participation of foreign ships is a longstanding feature of Australia's coastal shipping trade and is essential to the efficient and timely movement of freight. However, the *Coastal Trading (Revitalising Australian Shipping) Act 2012* made retrograde changes to competition rules by replacing single and continuous voyage permits with a tiered licensing system that discriminates against foreign ships. While Australian-flagged ships enjoy unrestricted access to coastal trade under a five-year general license, foreign-flagged vessels only have access to a 12-month temporary license or, in exceptional circumstances, a 30-day emergency license. In addition, the Act gives Australian ships the power to contest voyages proposed by foreign ships.

The experience of the Australian mining industry is that the Coastal Trading Act has increased domestic transport and administration costs and made it more difficult to source coastal shipping services when they are needed. In particular:

- For some dry bulk commodity producers, the cost of shipping final product around Australia is now about the same as shipping from overseas to Australia
- Bell Bay Aluminium reported a 63 per cent increase in shipping freight rates from Tasmania to Queensland in just the first year of the 2012 regime – from $18.20 a tonne in 2011 to $29.70 a tonne in 2012
- Another company saw freight charges increase by over $3,000 a day up and down the east coast of Australia.

The MCA broadly supports seven amendments to the Coastal Trading Act that are proposed in the discussion paper, but submits that two other amendments – which propose expanding the definition of coastal trading – might have unintended consequences and therefore require further consideration. In addition, while the first six and ninth amendments would ameliorate the inflexibility and burdens of the Act, consideration should also be given to removing the restrictions that protect Australian-flagged ships from competition by foreign-flagged vessels.

Whereas the previous licensing regime allowed both Australian and foreign-flagged ships to engage in coastal trade, the current regime imposes more onerous regulatory obligations on foreign-flagged vessels. Yet even though these differential requirements ensure that Australian vessels receive preferential treatment in coastal trading, they are failing to revitalise the Australian shipping industry. Rather, as the Productivity Commission has argued, the net effect of these protectionist measures is to reduce competition in coastal shipping services and to reduce incentives for domestic suppliers to improve. Consequently, industry users are switching to alternative modes of transport, thereby contributing to a further decline in demand for Australian shipping services.

The contestability provision exemplifies how the Coastal Trading Act diminishes productivity and increases uncertainty. A majority decision of the Full Court of the Federal Court of Australia clarified that commercial matters – such as freight rates, contractual terms or the economic position of the shipper – are discretionary rather than mandatory factors for the minister to consider when assessing a temporary license application. While commercial matters cannot be excluded from consideration, the minister (or his or her delegate) cannot give them a weighting that is inconsistent with the primary protectionist objective of the Coastal Trading Act.

The previous government sought to solve this problem by redefining the objectives of the Act as fostering a competitive coastal shipping services industry that supports the Australian economy, and maximising the use of available shipping capacity on the Australian coast. The previous government

also sought to afford Australian and foreign ships equal access rights to carry coastal goods or passengers. Both of these reforms would have improved the efficiency of the Coastal Trading Act and should be reconsidered.

Unless the overriding anti-competitive objective (and discriminatory regulatory regime) of the Coastal Trading Act is addressed, coastal shipping will continue to decline as a share of the national freight task – despite growing volumes. In 2015, the then Deputy Prime Minister warned that:

> Between 2000 and 2012, while the volume of freight across Australia actually grew by 57 per cent, shipping's share of the Australian freight task fell from about 27 per cent to just under 17 per cent. Between 2010 and 2030, Australia's overall freight task is expected to grow by 80 per cent, but coastal shipping is only forecast to increase by 15 per cent.[1]

The fleet of major licensed Australian ships has been declining for decades, falling from 30 to 15 between 2006-07 and 2013-14. Since the Coastal Trading Act was introduced, the carrying capacity of the Australian coastal fleet has decreased by 63 per cent. In addition, Australia's coastal fleet is older and more costly to operate by international standards, attracting higher insurance premiums.

The deadweight loss of the existing regulatory regime to the national economy is expected to be between $242 and $466 million to 2025. The Productivity Commission has argued that Tasmania is disproportionately harmed, because it depends on coastal shipping for 99 per cent of freight moved in and out of the state, and because it has smaller freight volumes and more marginal ports. The Productivity Commission also points out that 'cabotage restrictions protect some jobs at the expense of growth in other industries'.[2]

The high opportunity cost of the Coastal Trading Act – and its failure to stimulate domestic shipping – puts paid to any claim that liberalising coastal trade would result in a net loss of jobs. Some opponents of liberalisation have asserted that it would induce the loss of 1,000 jobs in the Australian shipping industry. Yet there are hundreds of thousands of jobs in other industries – including minerals extraction and processing, petroleum, cement, steel and agriculture – that rely on the efficient transportation of freight by sea. Rio Tinto alone employs 6,000 workers in bauxite mines, alumina refineries and aluminium smelters across Australia.

A number of respected and independent bodies have urged the federal government to liberalise Australia's coastal trade, including the Productivity Commission, the Australian Competition and Consumer Commission, the Competition Policy Review Panel and the Commission of Audit. In its final report on the regulation of agriculture, the Productivity Commission recommended that:

> As a matter of priority, the Australian Government should amend coastal shipping laws to substantially reduce barriers to entry for foreign vessels, to improve competition in coastal shipping services.[3]

The MCA submits that the government should continue to prosecute the sensible and pragmatic national interest reforms that were advanced in the Shipping Legislation Amendment Bill 2015; namely, replacing the current tiered licensing system with a single coastal trading permit and requiring foreign ships operating predominantly in Australia to adhere to domestic workplace relations arrangements.

The regulatory impact statement on the Shipping Legislation Amendment Bill 2015 estimated that a controlled deregulation of coastal shipping would deliver a net benefit of $786.2 million to the Australian economy and an annual deregulatory saving to business of $27.9 million. On the other hand, retaining or increasing restrictions on the participation of foreign ships would entrench domestic shipping industry assistance at the expense of the wider Australian community.

The MCA's responses to the Government's discussion questions are set out below.

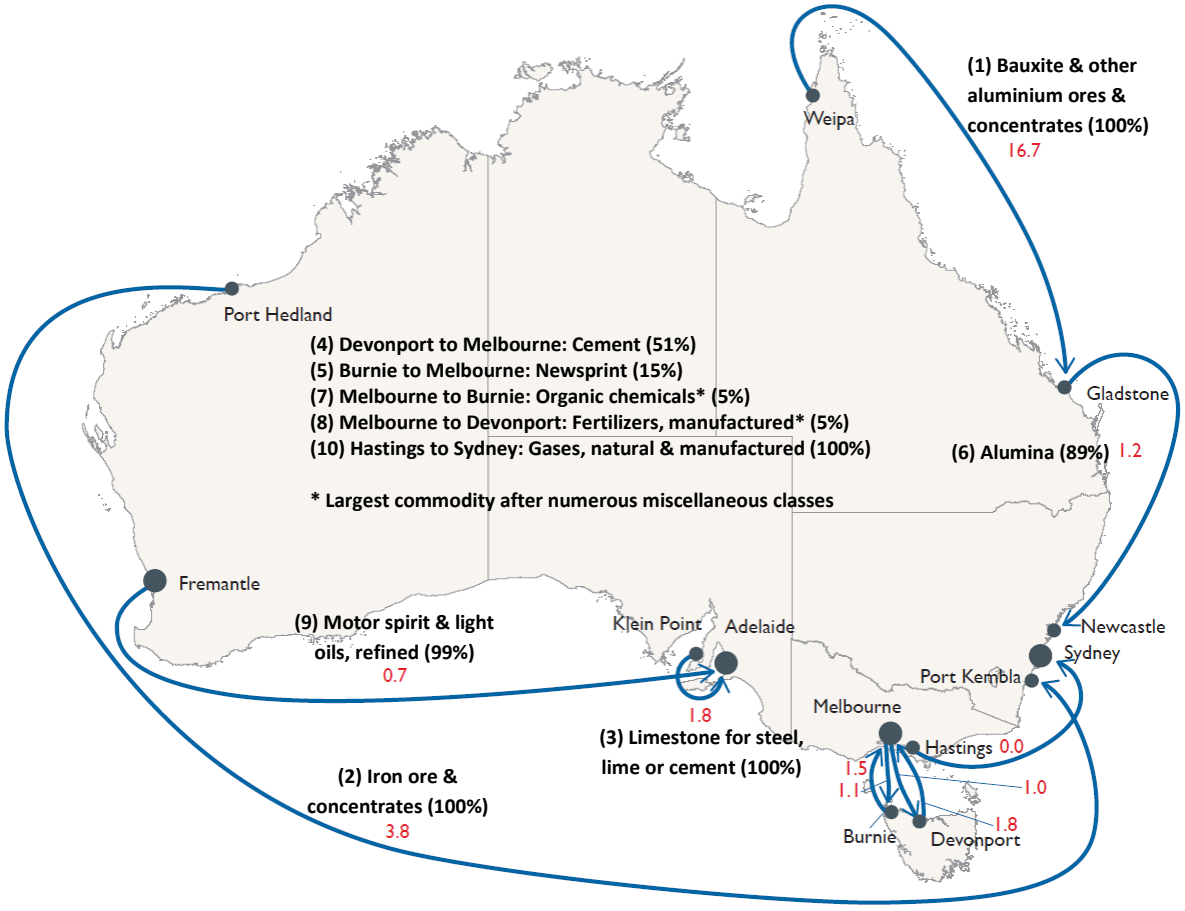
[1] The Hon Warren Truss MP, then Deputy Prime Minister and Minister for Infrastructure and Regional Development, *Second Reading Speech on the Shipping Legislation Amendment Bill 2015*, Hansard, 25 June 2015, p. 7576.
[2] Productivity Commission, *Regulation of Australian Agriculture: Final Report*, released on 28 March 2017, p. 392.
[3] ibid., p. 42.

MCA RESPONSES TO DISCUSSION QUESTIONS

1) Are the issues identified in the discussion paper consistent with the issues you have experienced with the current coastal trading regulatory regime? Please explain how.

The discussion paper correctly states that aspects of the Coastal Trading Act are 'unreasonably limiting, inflexible or onerous for stakeholders'.[4] As the largest user of coastal shipping services, the Australian minerals industry has a strong interest in competitive and cost-effective coastal shipping (Figure 1). Bulk commodities account for 80 per cent of Australia's coastal shipping trade by tonnage, with bauxite and other aluminium ores and concentrates comprising 34.2 per cent, and iron ore and concentrates 7.5 per cent.[5] However, the Coastal Trading Act imposes unnecessary costs and uncertainty on the Australian minerals industry and other businesses that rely on coastal shipping.

Figure 1: Top ten coastal freight routes, 2014–15 (total freight per route in millions of tonnes, predominant commodity and its share of flow)



Source: Bureau of Infrastructure, Transport and Regional Economics

The participation of foreign ships is a longstanding feature of Australia's coastal shipping trade and is essential to the efficient and timely movement of freight. Australia has always had an undersupply of ships providing domestic services. From the commencement of the *Navigation Act 1912,* Australia relied upon British ships (and later other foreign vessels) to supplement its coastal shipping fleet.[6]

The gradual liberalisation of Australia's coastal shipping trade was reversed by the *Coastal Trading (Revitalising Australian Shipping) Act 2012.* This Act made retrograde changes to competition rules by replacing single and continuous voyage permits with a tiered licensing system that discriminates against foreign ships. While Australian-flagged ships enjoy unrestricted access to coastal trade under a five-year general license, foreign-flagged vessels only have access to a 12-month temporary license

[4] Department of Infrastructure and Regional Development, *Coastal Shipping Reforms: Discussion Paper,* 21 March 2017, p. 4.
[5] Data provided to the MCA secretariat by the Bureau of Infrastructure, Transport and Regional Economics, 9 May 2017.
[6] ibid., p. 46.

or, in exceptional circumstances, a 30-day emergency license. In addition, the Coastal Trading Act gives Australian ships the power to contest voyages proposed by foreign ships.[7]

The Productivity Commission has observed that: 'Cabotage restrictions are a significant impost for Australian businesses that rely on coastal shipping, and they deter businesses from using coastal shipping'.[8] The then Deputy Prime Minister, the Hon Warren Truss MP, pointed out in 2015 that:

> We know that the cost of shipping dry food powder from Melbourne to Brisbane is the same as shipping the same product from Melbourne to Singapore.
>
> And it is cheaper to ship sugar from Thailand to Australia than it is to ship Australian sugar around our own coastline.[9]

The experience of the Australian mining industry is that the Coastal Trading Act has increased domestic transport and administration costs and made it more difficult to source coastal shipping services when they are needed. In particular:

- For some dry bulk commodity producers, the cost of shipping final product around Australia is now about the same as shipping from overseas to Australia
- Bell Bay Aluminium reported a 63 per cent increase in shipping freight rates from Tasmania to Queensland in just the first year of the 2012 regime – from $18.20 a tonne in 2011 to $29.70 a tonne in 2012[10]
- Another company saw freight charges increase by over $3,000 a day up and down the east coast of Australia.

Companies stress that the requirements of the Coastal Trading Act are particularly onerous given the minerals industry's unpredictable commercial environment. Running a dynamic schedule for bulk commodities like bauxite and alumina requires full flexibility for cancellations and additions. It is extremely difficult – and unreasonable – for a bulk shipper to provide accurate information about planned voyages a year in advance.

The MCA broadly supports the following amendments to the Act that are proposed in the discussion paper:

(1) Abolishing the five-voyage minimum for temporary license holders and allowing them to apply for single voyages

(2) Removing the need to consult general license holders and other stakeholders if there is no general license holder who wishes to be consulted and/or no general-license vessel which is able to carry the product

(3) Replacing the two types of licence variations ('authorised matters' and 'new matters') with a single temporary-license variation provision, and allowing only one business day for consultations (instead of two days)

(4) Limiting the requirement to lodge voyage notifications two business days before the loading date to those voyages where details provided in the application have changed

(5) Amending the tolerance limit for loading dates from five days to 30 days and removing volume tolerances altogether (currently 20 per cent of the nominated cargo volume)

(6) Abolishing emergency licenses and modifying the criteria for issuing general licenses and temporary licenses to allow for emergency situations.

(9) Clarifying several definitions in the Act to assist with administration.

[7] Commonwealth of Australia, *Explanatory Memorandum to the Shipping Legislation Amendment Bill 2015*, pp. 52, 90f.
[8] Productivity Commission, *Regulation of Australian Agriculture: Final Report*, released on 28 March 2017, p. 390.
[9] The Hon Warren Truss MP, then Deputy Prime Minister and Minister for Infrastructure and Regional Development, *Second Reading Speech on the Shipping Legislation Amendment Bill 2015*, Hansard, 25 June 2015, p. 7577.
[10] ibid., p. 7577.

In contrast, the MCA has reservations about the following proposed amendments:

(7) Amending the definition of 'coastal trading' to include voyages to and from places in Australian waters outside the coastal waters of a state or territory, such as offshore installations in Australian territory to the mainland

(8) Amending the definition of 'coastal trading' to include vessels docked for service in dry dock, or docked for maintenance, repairs, cleaning or painting, and not engaged on a voyage.

The MCA submits that proposed amendment #7 requires further consideration to understand better the full implications of such an amendment. Additionally, while the rationale for proposed amendment #8 – providing that foreign vessels undergoing repairs in Australia should not be subject to importation – is understood and accepted, the MCA queries whether the more appropriate vehicle to implement this position is under Customs legislation and regulations.

2) Do any of these issues give rise to other matters that require further consideration?

While the first six and ninth amendments proposed in the discussion paper would ameliorate the inflexibility and burdens of the Coastal Trading Act, consideration should also be given to removing the restrictions that protect Australian-flagged ships from competition by foreign-flagged vessels.

Whereas the previous licensing regime allowed both Australian and foreign-flagged ships to engage in coastal trade, the current regime imposes more onerous regulatory obligations on foreign-flagged vessels. Yet even though these differential requirements ensure that Australian vessels receive preferential treatment in coastal trading, they are failing to revitalise the Australian shipping industry. Rather, as the Productivity Commission has argued, the net effect of these protectionist measures is to reduce competition in coastal shipping services and to reduce incentives for domestic suppliers to improve. Consequently, industry users are switching to alternative modes of transport, thereby contributing to a further decline in demand for Australian shipping services.[11]

The contestability provision exemplifies how the Coastal Trading Act diminishes productivity and increases uncertainty. When a foreign vessel applies for a temporary license, the minister must notify all general license holders of the application (and other bodies that the minister considers would be directly affected if the application were granted). If a domestic shipping company indicates that it is able to conduct any nominated voyages under its general license, this triggers a mandatory consultation process between the foreign shipping company and the general license holder. This negotiation may be arbitrated by the department, but ultimately the minister (or his or her delegate) decides whether to grant or refuse the temporary license application.[12]

In assessing a temporary license application, the minister (or his or her delegate) *must* have regard to the following factors:

- The outcome of negotiations
- Whether, and to what extent, the vessel authorised by the holder's general licence is equipped to carry the passengers or cargo specified in the application
- Whether those passengers or cargo can be carried on the expected loading dates or within 5 days before or after the relevant date
- If the application relates to the carriage of cargo – the reasonable requirements of a shipper of the kind of cargo specified in the application.[13]

The Coastal Trading Act also nominates several factors which the minister (or his or her delegate) *may* consider, including 'any other matters the Minister thinks relevant.'[14]

[11] Productivity Commission, *Tasmanian Shipping and Freight: Final Report,* released on 24 June 2014, Canberra, pp. C1, C.7; *Regulation of Australian Agriculture: Final Report,* released on 28 March 2017, pp. 390, 392f.
[12] Productivity Commission, *Tasmanian Shipping and Freight: Final Report,* released on 24 June 2014, Canberra, p. C.13; Commonwealth of Australia, *Explanatory Memorandum to the Shipping Legislation Amendment Bill 2015,* pp. 90f.
[13] Commonwealth of Australia, *Coastal Trading (Revitalising Australian Shipping) Act 2012,* Section 34(3).
[14] ibid., Section 34(2).

A majority decision of the Full Court of the Federal Court of Australia clarified that commercial matters – such as freight rates, contractual terms or the economic position of the cargo owner – are not part of the mandatory consideration of 'the reasonable requirements of a shipper of the kind of cargo specified in the application'. While commercial matters cannot be excluded from consideration, the minister (or his or her delegate) cannot give them a weighting that is inconsistent with the primary protectionist objective of the Coastal Trading Act. As Chief Justice Allsop explained:

> Subject to the breadth of available considerations in s 34(2)(g), no provision of the Act makes freight rates (proposed by the general licence holder or the temporary licence applicant) an identifiable consideration … [B]ut is impossible, in my view, to exclude freight rates and their impact on industry anxious to keep costs down, as legally irrelevant. How much weight to put on freight rates in any particular case will generally be a matter for the decision-maker. There may, however, be circumstances that display such a weight being given to a legally relevant circumstance that it so distorts the operation of the Act beyond and outside the intended operation of the regulatory framework intended by s 3(1) as to be legally unreasonable and inconsistent with the Act. This Act was part of a suite of legislation to revitalise Australian shipping. It was not a piece of legislation to ensure the lowest possible freight rates set by foreign-flagged vessels to shipper interests in Australia and thereby make the development of Australian-owned or registered vessels very difficult. The balance of competing considerations is one for the decision-maker armed with contemporaneous and up-to-date information and chosen government policy.[15]

The previous government sought to solve this problem by redefining the objectives of the Act as fostering a competitive coastal shipping services industry that supports the Australian economy, and maximising the use of available shipping capacity on the Australian coast. The previous government also sought to afford Australian and foreign ships equal access rights to carry coastal goods or passengers.[16] Both of these reforms would have improved the efficiency of the Coastal Trading Act and should be reconsidered.

Unless the overriding anti-competitive objective (and discriminatory regulatory regime) of the Coastal Trading Act is addressed, coastal shipping will continue to decline as a share of the national freight task – despite growing volumes. In 2015, the then Deputy Prime Minister warned that:

> Between 2000 and 2012, while the volume of freight across Australia actually grew by 57 per cent, shipping's share of the Australian freight task fell from about 27 per cent to just under 17 per cent. Between 2010 and 2030, Australia's overall freight task is expected to grow by 80 per cent, but coastal shipping is only forecast to increase by 15 per cent.[17]

The Coastal Trading Act has reduced access to foreign shipping at a time of global oversupply of shipping capacity. Conversely, the fleet of Australian ships suitable for domestic maritime transport has been declining for decades. The number of major Australian registered ships with coastal licenses has halved from 30 in 2006-07 to 15 in 2013-14. Since the Coastal Trading Act was introduced, the carrying capacity of the Australian coastal fleet has decreased by 63 per cent.[18]

In addition, Australia's coastal fleet is older and more costly to operate by international standards. The average age of a major Australian ship with a general license is 23 and none are aged less than 15 years – the upper age limit preferred by shippers. Older ships are slower, less efficient and reliable, and require larger crew contingents. They also attract higher insurance premiums.[19]

The higher operating cost of Australia's ageing fleet is contributing to its declining participation in international trade. The regulatory impact statement on the Shipping Legislation Amendment Bill 2015 concluded that:

> [T]he current situation is such that foreign participation in the Australian domestic maritime industry is essential for the foreseeable future … The declining tonnage of trading ships on the Australian registry has led to a shortage in Australian capacity on domestic routes and has brought about an increased reliance on

[15] Federal Court of Australia, *CSL Australia Pty Limited v Minister for Infrastructure and Transport [2014] FCAFC 10*.
[16] Commonwealth of Australia, *Explanatory Memorandum to the Shipping Legislation Amendment Bill*, p. 51f.
[17] The Hon Warren Truss MP, then Deputy Prime Minister and Minister for Infrastructure and Regional Development, *Second Reading Speech on the Shipping Legislation Amendment Bill 2015*, Hansard, 25 June 2015, p. 7576.
[18] Commonwealth of Australia, *Explanatory Memorandum to the Shipping Legislation Amendment Bill*, pp. 8, 83.
[19] ibid., p. 50.

> foreign ships to provide these services … Domestic coastal trade suffers from either high freight charges or loss of business to the road and rail freight sectors.[20]

To stimulate competition and growth in Australia's coastal trade, the government should continue to prosecute the sensible and pragmatic national interest reforms proposed in the Shipping Legislation Amendment Bill 2015:

- Introducing a single permit system allowing unrestricted trade for both Australian and foreign vessels
- Ensuring that Australian and foreign-registered vessels are subject to the same conditions of access and operation by removing the ability of domestic ships to contest voyages proposed by foreign ships.

At the same time, the bill proposed no changes to the Fair Work Act and sought to apply Part B of the Seagoing Industry Award to foreign vessels primarily engaged in coastal trading.[21]

A number of respected and independent bodies have urged the federal government to liberalise Australia's coastal trade. In its final report on the regulation of agriculture, the Productivity Commission recommended that:

> As a matter of priority, the Australian Government should amend coastal shipping laws to substantially reduce barriers to entry for foreign vessels, to improve competition in coastal shipping services.[22]

Similarly, the Australian Competition and Consumer Commission stated that liberalising the coastal shipping trade would benefit businesses and consumers:

> Restrictions on competition in coastal shipping are potentially at odds with principles of National Competition Policy … Increased competition in coastal shipping should result in lower freight costs, with flow-on effects of lower prices for manufacturing inputs and consumer goods … A more efficient coastal shipping industry will help to relieve pressure on Australia's road and rail networks, lowering transport costs and consequently prices, across the economy.[23]

The Competition Policy Review Panel reasoned that cabotage licensing is justified only if it can be shown that the costs of restricting competition are more than offset by benefits to the nation:

> The Panel considers that reform of coastal shipping and aviation cabotage regulation should be a priority. Consistent with the approach the Panel recommends for other regulatory reviews, the Panel considers that restrictions on cabotage for shipping and aviation should be removed, unless it can be demonstrated that the benefits of the restrictions to the community as a whole outweigh the costs and the objectives of the policy can only be achieved by restricting competition.[24]

The Commission of Audit judged cabotage licensing to be 'effectively industry assistance' and advised that: 'To ensure a more efficient coastal shipping industry, the Commission recommends cabotage be abolished.'[25]

Conversely, there is no credible economic analysis to suggest that restricting access to foreign ships is good policy. The positive assessment of the regulatory impact statement on the Coastal Trading Act assumed substantial productivity gains that appeared 'unrealistic' to the Productivity Commission.[26] Subsequent cost-benefit analyses (conducted for both industry and government) have shown that shielding the domestic shipping industry from competition imposes significant net national costs.

The deadweight loss of the existing regulatory regime to the national economy is expected to be between $242 and $466 million to 2025.[27] The Productivity Commission has argued that Tasmania is

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[20] Ibid., p. 49f.
[21] Commonwealth of Australia, *Explanatory Memorandum to the Shipping Legislation Amendment Bill 2015*, pp. 2-6, 17, 28.
[22] Productivity Commission, *Regulation of Australian Agriculture: Final Report*, released on 28 March 2017, p. 42.
[23] Australian Competition and Consumer Commission, *Submission to the Government's Options Paper: Approaches to regulating coastal shipping in Australia*, May 2014, p. 1.
[24] Competition Policy Review Panel, *Final Report*, 31 March 2015, p. 210.
[25] Commission of Audit, *Towards Responsible Government, Phase 2 Report*, March 2014, p. 29.
[26] Productivity Commission, *Final Report on Tasmanian Shipping and Freight*, released on 24 June 2014, Canberra, p. 8.
[27] Commonwealth of Australia, *Explanatory Memorandum to the Shipping Legislation Amendment Bill*, p. 52

disproportionately harmed, because it depends on coastal shipping for 99 per cent of freight moved in and out of the state, and because it has smaller freight volumes and more marginal ports.[28]

The high opportunity cost of the Coastal Trading Act – and its failure to revitalise domestic shipping – puts paid to any claim that liberalising coastal trade would result in a net loss of jobs (Box 1).

The regulatory impact statement on the Shipping Legislation Amendment Bill 2015 estimated that a controlled deregulation of coastal shipping would deliver a net benefit of $786.2 million to the Australian economy and an annual deregulatory saving to business of $27.9 million.[29] On the other hand, retaining or increasing restrictions on the participation of foreign ships would entrench domestic shipping industry assistance at the expense of the wider Australian community.

Box 1: The Coastal Trading Act temporarily protects some jobs at the expense of many more

Protectionist measures – like those enshrined in the Coastal Trading Act – might preserve some jobs for some time in one industry, but they place many more jobs in other industries at risk by reducing their competitiveness. The Productivity Commission argues strongly that the while the Coastal Trading Act cannot sustainably protect jobs from international competition, it does increase costs for the users of coastal shipping and the broader Australian community.

> The Shipping [Legislation] Amendment Bill [2015] was referred to was referred to the Senate Rural and Regional Affairs and Transport Legislation Committee, which pointed to the estimated benefit from the proposed amendments of over $667 million over 20 years (SRRATLC 2015b). These benefits would arise through increased competition from foreign vessels …
>
> However, Parliament did not pass the [Shipping Legislation Amendment] bill due to concerns over the potential loss of Australian jobs (Albanese 2016) …
>
> In itself, protecting an industry to preserve jobs is not justified. The cabotage restrictions protect some jobs at the expense of growth in other industries (PC 2014g). Protecting an industry from competition not only harms consumers (in this case farmers), but also reduces the incentives of the protected industry to improve its efficiency and competitiveness. Over time, the protected industry falls further behind foreign competitors, requiring ever more protection and increasing the cost to consumers and the community in general.[30]

Some opponents of the Shipping Legislation Amendment Bill asserted that it would induce the loss of 1,000 jobs. But these opponents ignore the hundreds of thousands of jobs in other industries – including minerals extraction and processing, petroleum, cement, steel and agriculture – that rely on the efficient transportation of freight by sea.

Rio Tinto alone employs 6,000 workers in bauxite mines, alumina refineries and aluminium smelters across Australia, namely:

- Amrun bauxite mining extension project in Cape York Peninsula, Far-North Queensland
- Bell Bay Aluminium smelter near George Town, Tasmania
- Boyne Smelters Limited, located approximately 20 kilometres south of Gladstone at Boyne Island, Central Queensland
- Gove Operations Bauxite Mine Alumina Refinery in North-East Arnhem Land
- Queensland Alumina Limited in Gladstone
- Tomago Aluminium, located 13 kilometres north-west of Newcastle
- Weipa bauxite mine in Cape York Peninsula
- Yarwun alumina refinery situated 10 kilometres north-west of Gladstone.[31]

[28] Productivity Commission, *Final Report on Tasmanian Shipping and Freight*, released on 24 June 2014, Canberra, p. 149ff; *Regulation of Australian Agriculture, Draft Report*, released on 21 July 2016, p. 332.
[29] Commonwealth of Australia, *Explanatory Memorandum to the Shipping Legislation Amendment Bill*, pp. 68, 70.
[30] Productivity Commission, *Regulation of Australian Agriculture: Final Report*, released on 28 March 2017, p. 392.
[31] See Rio Tinto, *Our business: Aluminium*, viewed on 20 April 2017.

3) Do you support the proposed amendments to the Coastal Trading Act? If not, please describe why.

Please refer to the response to Question #1.

4) Do you believe the proposed amendments to the Coastal Trading Act will improve the current regulation of coastal trading, and reduce regulatory burden? If not, please describe why this is the case.

Please refer to the responses to Question #1 and #2.

5) Are there any other amendments to the Coastal Trading Act the Government should consider implementing?

Please refer to the response to Question #2.

6) Which of the proposed seafarer training initiatives do you support (either separately or in combination)?

7) In your opinion, will any of the proposed seafarer training initiatives be successful in developing and retaining critical Australian maritime skills?

The MCA recommends that all proposals be considered further (that is, establishing an industry maritime workforce skills and training reference group, implementing a government maritime training support scheme, developing a public-private partnership to fund berths for Australian seafarers and introducing a maritime workforce census). As a country reliant on maritime trade, it is critical that key skills and functions are developed and maintained in Australia – including ship officers, vessel operators, engineers, port pilots and surveyors.

The success of the proposed seafarer training initiatives will depend on the opportunities available to gain relevant experience. For example, in 2000 the United Kingdom introduced a 'Tonnage Tax' that provided shipping companies with an alternative regime for calculating their profits for the purposes of corporation tax. A company making a tonnage tax election must train one officer trainee per year for every 15 officer posts in the company's effective officer complement, and to give consideration to employment and training opportunities for non-officer crew. Amendments made in 2015 introduced an option to provide training for three eligible non-officer trainees in place of each eligible officer trainee for whom training would otherwise have to be provided.[32] The MCA understands that while the British regime was successful initially, it has struggled to retain numbers and opportunities in recent years.

It has been put to the MCA that the current training structure for seafarers is prohibitively expensive. The cost to a shipowner of a trainee integrated rating is around $220,000 a year, and slightly less for cadet officers (who are regarded as graduates). Further, there is currently little incentive to train seafarers as the opportunities for them to serve on a vessel are extremely limited. A successful approach to training must consider the demand for additional seafarers, rather than simply promote training in the hope of higher demand in the future.

8) Do you consider the funding option proposed, where the equivalent of Part B wages are used to finance seafarer training, viable?

The MCA would require more information to assess the viability of the seafarer training funding option proposed by Ms Teresa Lloyd.[33] The existing proposal does not appear to provide details about the administration of the funding option or the objectives, operation and governance of the funding body. Presumably, the funding option would require amendments to Fair Work Regulations and/or the *Fair Work Act 2009*.

The MCA submits that the Australian government should consider doing what all other major seafaring nations do, and that is allow income earned by a seafarer engaged in the international trade

[32] United Kingdom of Great Britain and Northern Ireland, *Explanatory Memorandum to the Tonnage Tax (Training Requirement) (Amendment) Regulations 2015, 2015 No. 788,* p. 1f.
[33] See Terese Lloyd, Chief Executive Officer, Maritime Industry Australia, *Coastal Trading Green Paper,* 25 November 2016. Ms Lloyd states that: 'This paper is not necessarily the view of Maritime Industry Australia Ltd'.

for longer than 180 days to be tax free. This would make Australian-based seafarers cost competitive, and enable them to be employed internationally and develop much-needed skills, which they could then usefully impart to the local industry on their return.

In contrast, the operation of the seafarer tax offset is contingent upon participation in the overall scheme set up by the *Shipping Reform (Tax Incentives) Act 2012* and *Tax Laws Amendment (Shipping Reform) Act 2012.*[34] As there is apparently no take up of that scheme, there are no officers or crew developing skills the industry needs.

[34] The MCA understands that the seafarer tax offset was scheduled for abolition in the 2014-15 Budget but that the relevant bill – the Tax and Superannuation Laws Amendment (2015 Measures No.3) Bill 2015 – lapsed before parliament was prorogued in 2016.