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Commissioner Robson & Commissioner de Fontenay
National Competition Policy Analysis 2025
Productivity Commission
Canberra

Via webform: https://www.pc.gov.au/inquiries/current/competition-analysis-2025/make-submission#lodge

Dear Commissioner Robson and Commissioner de Fontenay,

Shipping Australia's submission to the "National Competition Policy Analysis 2025"

A. About Shipping Australia

1. Shipping Australia is the principal Australian peak body that represents the locally owned and the locally active ocean freight-focused shipping industry. We provide policy advice, insight, and information to just over 70 members, who, between them, employ more than 3,000 Australians. We provide policy input to Australian State, Territory and Commonwealth Government bodies. We are recognised across Australia by politicians, public service officials, national media and trade media as being the national association for Australian shipping.

2. Our membership includes Australian ports, the local arms of global shipping agents and domestic shipping agents, towage companies, the locally active arms of ocean shipping lines, and a wide variety of Australian-owned and locally operated maritime service providers. Services provided by our members include ocean freight shipping, local seaport cargo handling, domestic harbour towage, Australian marine surveying, and domestic pilotage, among other services. Our members handle nearly all Australian containerised seaborne cargo. They also handle a considerable volume of our car, and our bulk commodity trades.

B. Importance of shipping to Australia

3. Exports and imports of goods and services (including intangible services) accounted for 25.8% and 19.9% of our gross domestic product in 2022, according to World Bank Data (accessed 06 July 2023).

4. The combined volume and value of Australia's import and export cargo (2020-2021), according to the Bureau of Infrastructure and Transport Research Economics (BITRE) publication, *Australian Sea Freight 2020-21* was about 1.61 billion tons valued at about $601.4 billion. Approximately 99.93% by volume of all cargo that enters or leaves this country is carried by ocean-going ships. Incidentally, this publication – which presents the most up-to-date information – is now considerably out of date. It is an important publication as the data from it can be seen in submissions to government and in papers from government. It needs to be updated.

5. There were 6,315 uniquely identified cargo ships which together made a total of 30,613 port calls at Australian ports in 2020–21. This included 6,219 unique cargo ships that made 17,303 voyages to Australian ports directly from overseas ports, according to the Bureau of Infrastructure and Transport Research Economics (BITRE) publication, *Australian Sea Freight 2020-21.*

6. It was estimated in *"Australian Trade Liberalisation: analysis of the economic impacts,"* 2017 Centre for International Economics Report on Australian Trade Liberalisation for the Department of Foreign

Affairs and Trade, that 1-in-5 Australian jobs were related to global trade. If that ratio still holds true today, then, based on August 2023 Australian Bureau of Statistics data which shows that over 14.1 million Australians were employed, global trade supports over 2.8 million Australian jobs.

7. It should now be obvious that ocean shipping services are vital to Australia. It therefore follows that minimal disruption to, or cost impositions on, ocean shipping is in the State and the Australian national interest as any factors that adversely affect shipping thereby adversely affect the State & Australian economies.

C. Governance of international shipping

8. As global shipping is inherently cross-border in nature, it is essential that the industry is governed at the highest levels of global governance; international trade simply could not take place on a large enough scale to support all the economies of the world if this principle is not fundamentally observed.

9. The United Nation's specialised agency, the International Maritime Organization, is the body that regulates international commercial shipping at the highest international level and it should remain so.

10. We are therefore always keen to emphasise that all activities, rules, policies, regulations, legislation, etc should be wholly consistent and aligned with International Maritime Organization (IMO) treaties, rules, regulations and guidance.

11. The primacy of the IMO over international and national jurisdictions in the regulation of global commercial maritime traffic is an internationally accepted principle and it is consequently wholly inappropriate for national- and sub-national governments to write laws in this area which conflict with international maritime law.

12. This principle of IMO primacy is – or ought to be – especially true in Australia given that our nation is a founding member of the IMO, has held a seat on the IMO Council (the organisation's executive organ), has repeatedly sought re-election to that body and has signed up to the IMO Convention, the first article of which states that **the purposes of the Organization are** *"(a) to provide machinery for co-operation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade… [and]… (b)* ***to encourage the removal of discriminatory action and unnecessary restrictions by Governments affecting shipping engaged in international trade".***

D. Governance of international shipping in Australia

13. It is imperative that Australian Federal / State / Territory rules, policies, guidance, laws etc are harmonised with each other so that we do not have situations in which different rulesets – or interpretations of rules – conflict with each other in respect of the same situation.

14. For example, there have been instances where ships have received Federal biosecurity clearance to enter Australian waters only to be turned away by State authorities. This simply should not occur. Furthermore, during the COVID-related crises, there were numerous problems in shipping caused by different rule-sets, and different interpretations of rule-sets, around the nation.

15. Shipping Australia also sees this disharmonious approach with e.g., notifications required from ships (see more below under *"Maritime Single Window").* Different jurisdictions impose different notification requirements on ships. This disharmony is unnecessary and costly. Shipping Australia notes that any costs generally passed on, either directly as an ancillary charge or as a surcharge, or, alternatively, such costs are incorporated into the cost of carriage.

16. In essence, disharmony in jurisdictional and administrative matters results in higher costs, which are usually passed on ultimately the end consumer. Everyday Australian families are therefore penalised for bureaucratic inefficiency and red tape.

17. It is clear from a variety of incidents (such as ships being cleared by Federal authorities for biosecurity purposes to entry into Australia but then turned away by State authorities; or the ongoing problems that

shipping experienced during the COVID lockdowns) that there needs to be an end to the current disharmonious and fragmented approach to shipping policy and regulation in Australia.

18. Shipping Australia strongly believes that these incidents conclusively demonstrate that ***there ought to be one single set of shipping- and port-governance related laws in Australia***. We also strongly believe that the Federal Government should have sole oversight, governance, and control of the ports and shipping sector in Australia.

19. The origin of the disharmony, and perhaps its solution in the form of harmonised regulation, can be found via an examination of the governance of international shipping in Australia lies in The Offshore Constitutional Settlement of 1979.

20. This was a reconsideration of the Australian offshore regime **with the States gaining jurisdiction over the first three nautical miles of the territorial sea, and, particularly, in relation to port-type facilities.** There was also the passage of the *Petroleum (Submerged Lands) Act 1967 (Cwlth)* and the passage of the *Seas and Submerged Lands Act 1973 (Cwlth),* leading, later to the decision in *New South Wales v The Commonwealth (1975),* which is referred to as the *Seas and Submerged Lands Case.*

21. Contentious offshore issues in Australia were declared to be solved at the Premiers Conference on 29 June 1979 with the completion of an agreement of "great importance" i.e. the offshore constitutional settlement between the Commonwealth and the States (see: *"Offshore Constitutional Settlement: a milestone in co-operative federalism,"* Attorney General's Dept, 1980).

22. That Constitutional Offshore Settlement had its ultimate origin in the then-new ability of humanity to explore and exploit the nearby seabed and sea-column for the mineral and biological resources found there. The Offshore Settlement was particularly focused on seabed resources, and, more specifically, exploitation of petroleum resources. Also of interest were fisheries, historic shipwrecks, the Great Barrier Ree and other marine parks, crimes at sea and, to a far lesser extent, international shipping.

23. In relation to shipping, the general perception at the time was that the States would not be responsible for trading vessels (i.e. ships carrying goods or cargo for commercial purposes) ***on interstate or overseas voyages***. It was envisaged the Commonwealth would be responsible. It was also noted that shipping was increasingly being regulated at the international level and that "considerable importance" was attached to the need for "Australian requirements to reflect the latest international standards".

24. But the concept at the time was that the implementation of international maritime regulation would be done in "*close consultation"* with the States and that *"it **may** be desirable"* to depart from the principle that States would not be responsible for trading vessels on interstate or overseas voyages.

25. Over time, as more and more maritime policy originated from international institutions, the exceptional position – that the States would not regulate commercial vessels trading interstate or overseas – became the default position. Which is how globally trading international vessels came to be regulated by sub-national governments within three nautical miles of the Australian coast rather than by the national government. It is also why internationally trading vessels that meet global biosecurity rules, and which have received Federal clearance to enter Australia have been turned away – at very high costs that are ultimately borne by the Australian people – by sub-national governments.

26. Since the Offshore Constitutional Settlement, Australia's maritime trade has grown and grown. Maritime trade and its associated logistics now fundamentally underpin the Australian economy. This underpinning is only likely to become bigger over time.

27. As the commercial environment has changed since the date of the Offshore Settlement, as commercial shipping has become more and more important, as our seaports are the fundamental interface between the global and domestic economies, and as the regulatory disjuncture continues to produce problems, it is evident that there ought to be a revision to the current set-up so that international commercial shipping **and especially seaports** which serve international commercial shipping are regulated more simply, cheaply, and in a less burdensome way at the national level i.e. by one, single, regulatory system.

28. Such a re-focus of regulation could be achieved in several ways. There could be agreements between the States and the Commonwealth for Federal Legislation to occur, as, for instance, was seen with the Offshore Constitutional Settlement itself. The Settlement led to the States asking the Federal Parliament

to exercise its powers under paragraph (xxxviii) of section 51 of the Constitution so as to legislate to give effect to the Settlement, which it did with the passage and enactment of the *Coastal Waters (State Powers) Act 1980*.

29. Another way to conduct reform would be for the creation of a model piece of legislation that is then substantially adopted across Australia. This was done with the various Workplace Health and Safety Acts and was also seen with the various Defamation Acts.

30. Another way to carry out such a reform would be through an inter-governmental agreement, such as the agreement that led to the National Oil Spill Response Plan.

E. General principles related to standards / rules / policy / laws

31. All rules, policies, laws, guidance, regulations and the like should be both easy to access and free of charge by any member of the general public (by, for example, being openly published on the web). We note that there are examples of marine parks being established in or around Australia but the relevant local authorities have not adequately charted the declared area or published the appropriate information (charts, maps, etc) that would enable ships to comply with the rules.

32. Any proposal for significantly changing or creating rules, policies, regulations, legislation etc:

    a) should involve thorough and genuine consultation with industry;

    b) should not have any pre-determined outcome;

    c) should be based on evidence and that evidence should be made publicly available and free of financial charge;

    d) should identify and all reasonable courses of action and especially including alternative courses of action and taking no action at all, and whether there are any opportunities to simplify, consolidate, repeal, reduce, or reform existing rules, policies, regulations, legislation etc;

    e) should be subject to a thorough quantitative and qualitative analysis, which reviews the costs and impacts of the proposal versus reasonable alternative courses of action and against taking no action at all;

    f) should have clear policy objectives that are capable of being achieved;

    g) should be imposed at the minimum level possible so as to achieve necessary policy objectives and should use the best available regulatory techniques and technologies that do not entail excessive or unnecessary costs, delay, administrative compliance or use of resources;

    h) should be subject to an appropriate review mechanism at an appropriate interval after entry into force.

F. Maritime Single Window

33. We note under *"information request 3"* on page 7 of your 2025 document, *"National Competition Policy Analysis 2025; Call for submissions"* in which you state that there are areas that could be amenable to further work, and you refer specifically to reviewing "barriers to trade".

34. We refer you to the concept of the *"Maritime Single Window"*. The basic idea is that there is some kind of website, portal or some-such, that is linked to a database. When international ships call at an Australian port, the idea is that ***all*** the required information is entered into the portal ***at one time***, thereby saving time, effort, money, duplication and preventing mistakes (e.g. typos from repeated re-keying of the same data). Whenever officials from the various government bodies want that information, then the officials can consult the database. Whenever it is decided that new information should be sought, then the portal and the website can be updated. There's a related concept of a national single window for e.g. customs duties, other trade documents etc. But, at a high level, they're basically very similar: portals /

websites etc that allow the input and collection of data, resulting in time and cost savings and allowing government entities to interrogate a centralised database of trade data.

35. Since 1 January 2024, all Member States of the International Maritime Organization (of which Australia is one) are required to use a single, centralized digital platform or "Maritime Single Window" to streamline and render more efficient the collection of information from ships by governmental bodies.

36. Australia does not comply with this rule. Australia does not have a Maritime Single Window. Worse, various government bodies persist in seeking ever-more-information and building ever-more information systems to collect that information. Australia reports that it is "scoping how a Maritime Single Window" would work.

37. This is a serious problem because this failure to have a working Maritime Single Window imposes unnecessary costs on the Australian economy. Trade transaction costs related to border procedures vary by circumstances / context / situation. Studies suggest that directly and indirectly incurred **trade transaction costs, such as complying with government requirements to supply documents to authorities, can amount to anywhere between one percent to 15 percent of the value of traded goods** *(See: "Quantitative Methods for Assessing the Effects of Non-Tariff Measures and Trade Facilitation" pp. 161-192 (2005), Benefits of Trade Facilitation: A Quantitative Assessment; Walkenhorst P, and Yasui, T; doi.org/10.1142/9789812701350_0009.*

38. Assuming trade facilitation leads to **a reduction in trade transaction costs of 1% of the value of world trade, then aggregate welfare gains are estimated at about USD$40 billion worldwide**, with all countries benefiting. (See: *"Quantitative assessment of the benefits of trade facilitation," by Walkenhorst, P. and Yasui, T. in "Overcoming Border Bottlenecks: the costs and benefits of trade facilitation," ISBN 978-92-64-05694, OECD 2009).*

39. Maritime Single Windows (also called "National Single Windows" or some variation thereof) have been proven to have beneficial effects. "The systematic literature review of numerous successful examples of NSW/MNSW globally has led to the conclusion that the implementation of NSW/MNSW has potential for improving sustainable seaport business," the authors of Maritime National Single Window – a Pre-requisite for Sustainable Seaport Business" wrote in their 2019 paper (see: https://doi.org/10.3390/su11174570).

40. Thai traders in sugar, rice, rubber, and frozen products were, in 2019, potentially able to realise a USD9.5m reduction in costs and 54% cut in delivery time. Indonesia has reported a saving of over 84 million kg (84,000 tonnes) of paper along with "quite an impact on time effectiveness and cost efficiency in processing port licensing documents". Indonesia also reported cost savings of IDR 221 million (about AUD$21k) simply through paying via a single billing code (*ibid, p23*). Beijing has reported (via Xinhua) that its single-window-customs clearance (which covers all trade ports) has helped companies cut financial-costs by 10 percent and time-costs by 10% while, at the Port of Shanghai, cargo clearance time-efficiency has increased by 26% for imports and 32% for exports; China's Chongqing port has cut clearance procedures by a third. Xinhua reported that from May 2017, the State Council "required all ports to adopt single-window systems".

41. Huge cuts to delays in border crossing have been reported in Benin, Malaysia, and Azerbaijan. Singapore set up its TradeNet system in 1989 and cut processing times from seven days to ten minutes while cutting the number of forms from 35 to one, and simultaneously cut the average fees charged from SGD$6-13 to about SGD$2.10. Meanwhile, the UNCTAD reports that "Jamaica's trade facilitation and paperless trade rating jumped from 50.5% in 2017 to 79.6% in 2023, after rolling out a national electronic single window". In Vanuatu, an electronic single window enables customs officials to clear goods on the day those goods arrive whereas, previously, it took 3-5 days. In Rwanda, transporters save USD$6m annually owing to faster clearance (see "Roadmap for trade single windows: UNCTAD helps countries cut red tape, costs and emissions," 29 January 2024").

42. There is potential for improvement in Australia. In or about 2023, officials from the Federal Department of Infrastructure advised Shipping Australia that at least 19 regulatory reports are submitted by each vessel arriving and departing Australia. At the time, there were 5,915 unique ships entering Australia waters every year and there were 17,602 international voyages into Australia. It added that over 35,000

(thirty-five thousand) hours are spent every year by ships on reporting. On average, it was said, a vessel will spend two hours reporting when there are no issues, otherwise it can be upwards of six hours.

43. No sensible, or reasonable, explanation for Australia's failure to have a Single Maritime Window has been publicly articulated. This Australian failure is especially glaring given that there are countries that have considerably less resources, and, specifically, far fewer public service resources, and which have implemented a Maritime Single Window. Consider, for instance, the case of the nation of Cape Verde, which implemented a Single Port Window in all ports in May 2013.

44. For the avoidance of confusion, Shipping Australia emphatically does not intend to disrespect the nation, or the people, of Cape Verde in any way. We merely use Cape Verde as an example of what can be done if public policy prioritises the development of a Maritime Single Window.

45. Cape Verde is a democratic, archipelagic, nation located off the west coast of Africa, with its capital, Praia, located at 14.9198° N, 23.5073° W (roughly 647km to the west of Dakar, Senegal). Cape Verde is an economically lesser developed nation than Australia.

46. There is a gulf between the economies and public service capabilities of Cape Verde and Australia. Again, without intending any disrespect to Sierra Leone or its people, Australia is considerably wealthier and has much greater public policy capability than Cape Verde. Consider the following data:

	Cape Verde	Australia	Source
Population	0.6 million	27 million	*Trading Economics.com*
GDP US$ 2023	2.53 billion	1.728 trillion	*Trading Economics.com / World Bank*
GDP ppp per capita current $	9,288	70,497	*Trading Economics.com / World Bank*
Govt final consumption expenditure (current US$)	551.2 million	368 billion	*Trading Economics.com / World Bank*
Govt expenditure per head of population	919	13,641	*Calculated*
Maritime Single Windows	**1**	**0**	***Indra Company (consultants); online newspaper Expresso Das Ilhas 15 May 2013***

47. If the benefits of implementing a national single window (customs, trade, maritime) are so high (which they are), and if a relatively lesser-economically developed nation with lesser government expenditure on the population like Cape Verde can build a Single Maritime Window more than 12 years ago, then there is no good reason why Australia cannot and should not. Indeed, given that the IMO deadline to have a Single Maritime Window passed about 18 months ago, Australia should already have one.

48. The high-level policy implication is simple and obvious: Australia's Federal Government ought to prioritise, adequately resource (with funds, staff, and other appropriate resources) and expedite the Single Maritime Window project (and related projects) as a matter of urgency.

G. Port-related fee nomenclature and standardised names of fees

49. It has long been a source of frustration in Australia that different ports use different names for the same charges and fees e.g. it is not completely clear what the name is / are for the fees that are charged for the use of ports and infrastructure. This varies between ports and will cover different services / infrastructure and the like.

50. Our members have repeatedly told us that it is too difficult and complex to understand what, exactly, is being charged and by who. This causes problems in invoicing as it is difficult for costs to be accurately passed on to a service user. This confusion also makes it difficult for companies to accurately analyse their cost base.

51. We also often find there is a lot of confusion over who charges what. Consider, for example, "Terminal Handling Charges" and "Terminal Access Charges". Both are charges that are levied by container terminal operators.

52. Handling Charges typically cover costs related to the handling of containers and are charged to shipping lines. Shipping lines then pass on the Handling Charges to the importer or exporter. Terminal Access Charges are charges for access to a terminal. Access Charges, however, are typically charged to trucking companies doing port-runs. Those land-transport operators either absorb the costs or pass them on to importers and exporters.

53. There has been a lot of confusion over what these fees cover, who charges them, who pays them, who benefits from them, who is burdened by them and so on. For example, there have been accusations that shipping lines are somehow double-charging – which clearly doesn't stand up to scrutiny given that the charges originate from terminal operators and not shipping lines.

54. The situation is clearly unsatisfactory. A solution would be for the creation and maintenance of a central register of charges held and administered by an appropriate, non-interested body, such as the Federal Department of Infrastructure. The register should have a standardised glossary of charges that clearly and precisely explains what each charge covers, who has introduced the charge and for what, when the charge was introduced and, for temporary charges, when it is due to end. Each charge should be separate and distinct from all other charges, and they should be identified by a unique number. When charges are newly introduced, they should fit into a pre-determined category of charge each with a separate number.

55. Conceptually, it's somewhat similar to the Harmonized System Codes. If a port-charges register was implemented, then companies (and freight forwarders and all others in the supply chain) could very precisely invoice their customers who could then look up the codes on the web and understand exactly what they are being charged for, and by who.

H. Occupational licensing – recognition of overseas qualifications

56. Australia ought to recognise overseas-issued maritime qualifications where / when those qualifications meet Australian or IMO standards so as to avoid the undue duplication of time, effort, cost, and burden and to help ease any perceived workforce shortages.

57. Any perceived maritime workforce shortages can be met with appropriate migration.

58. There should not be any requirement for reciprocity with other nations i.e. if *Nation X* does not have a reciprocal recognition of Australian certificates then such a lack of recognition should not be a barrier for an appropriately skilled and qualified maritime worker from *Nation X* to migrate to, and work in, the Australian maritime sector.

I. Coastal trading / cabotage

59. We note under *"information request 3"* on page 7 of your 2025 document, *"National Competition Policy Analysis 2025; Call for submissions" in* which you state that there are areas that could be amenable to further work. We refer you to Australia's coastal trading / cabotage policies.

60. We also specifically point you to the PC's own report, *"Lifting productivity at Australia's container ports: between water, wharf and warehouse," Report no. 99-21 December 2022.* We refer you to page 417, where it is stated that ***"Coastal trading regulation is not delivering competitive shipping services for Australian consumers,"*** and ***"Coastal trading regulation should be amended to allow increased competition between Australian and international vessels"***.

61. We also refer you to a recently published consultation paper by Emeritus Professor Nicholas Gaskell, and Lynelle Briggs AO, who are reviewing Australia's coastal shipping regime. In their June 2025 Consultation paper, the esteemed authors write, in literally the third paragraph: ***"the Coastal Trading Act is not fit for the purpose of growing the number of major Australian flagged vessels"*** (page 3).

62. The authors then elaborated on the first paragraph of page 4 that: *"stakeholders agreed that the Coastal Trading Act is not fit for purpose for a number of reasons.* ***For some, the greatest failing of the Act is that it has not delivered in revitalising the Australian shipping industry. For others, its worst feature is the significant operational inefficiencies and purported additional costs it imposes****".*

63. Numerous reviewers have also concluded that Australia's coastal shipping regime is detrimental to the interests of Australians:

- 'The Australian Government should amend coastal shipping laws to substantially reduce barriers to entry for foreign vessels' (Productivity Commission's Agriculture Review, 2016)
- 'Cabotage restrictions on coastal shipping should be removed' (Competition Policy Review/The Harper Review, 2015);
- 'Coastal shipping regulations are undermining the incomes and jobs of many onshore businesses and workers' (Industry Innovation and Competitiveness Agenda, Commonwealth of Australia, 2014)
- 'More efficient coastal shipping services could help lift Australia's competitiveness and lower prices for consumers' (Australian Competition and Consumer Commission, 2014);
- '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' (Australian Competition and Consumer Commission, 2014);
- 'Cabotage rules that preserve freight routes from one Australian port to another for Australian flagged ships are effectively industry assistance, increasing costs and reducing competition' (Towards Responsible Government, National Committee of Audit, Parliament of Australia, 2014);
- 'Tasmania is particularly affected by inefficiencies embedded in coastal shipping regulation. This regulation should be reviewed and reformed as a matter of priority.' (Productivity Commission Inquiry into Tasmanian Shipping and Freight, 2014);
- 'Australian cabotage can directly benefit local shipowners and maritime workers, [but] it does so at the expense of the wider community' (Joint Australian and New Zealand Productivity Commissions, 2012).

64. The existing coastal trading regime hasn't met any of its objectives, has discouraged the use of ocean shipping to carry freight, has led to import substitution, has caused Australian manufacturers to shut-down and it has been, and it continues to be, a complete policy failure.

65. We note your comments on page 7 of your Calls for Submissions paper that the PC "does not anticipate that it will be able to go in-depth into other competition reform areas in this study", so we will largely conclude our comments on cabotage other than to note that we are happy to discuss this area in ***considerable detail*** if requested and to provide our main recommendation below.

66. **The Coastal Trading Act ought to be scrapped immediately without delay and Australia should adopt a policy position that the commercial carriage of ocean freight becomes subject to open, free-market, competition.**

Submission authorised by:

Capt Melwyn Noronha
CEO, Shipping Australia