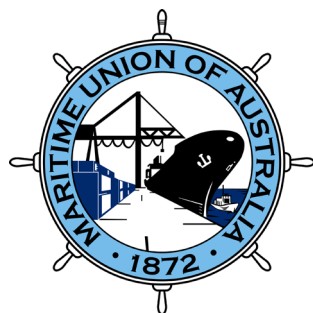




## **The 20 Point Plan to rebuild the Australian shipping and maritime industries**



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## **The case to rebuild Australian shipping and maritime industries**

Shipping is an important national strategic industry. The COVID-19 pandemic highlighted just how important are ships in maintaining supply chain security and resilience. Maintaining a domestic shipping industry is critical for an island nation that is integrated into the global economy. Ships are efficient, require no built infrastructure for navigation and are the least energy intensive of all transport modes. Non-fossil fuel propulsion systems are already being trialled.

Ships play an important economic and strategic role in the operation of the Australian economy. They are an important part of the domestic freight market; they are an essential link in manufacturing supply chains; they transport people and support tourism; they are essential for fishing and aquaculture; they provide maritime services like towage and dredging around the coast; and are an essential part of emergency services. They support all phases of offshore oil and gas production, and are critical to offshore wind energy production. They are central to international trade, delivering manufactured goods and exporting the nation's minerals, energy and agricultural production. Australian ships, with their high crewing and operational standards, help keep our coastline and reefs safe and clean.

Ships are critical to national security and the nation's defence capabilities. Building a national domestic shipping industry should leverage off Naval shipbuilding and Defence industry support.

Rebuilding an Australian shipping requires shipping industry policy to be integrated with manufacturing industrial policy, trade policy, Defence industry policy, energy policy and national security policy.

The MUAs 20-Point Plan summarises the actions needed to revitalise Australian shipping and the wider maritime industries, providing good jobs for seafarers and related onshore maritime workers.

## **The MUA Plan to rebuild the Australian shipping and maritime industries**

The MUA calls on government to:

### **1. Restore a balanced system of maritime cabotage – a level transport playing field so Australian ships and seafarers can fairly compete**

- This requires reform of the *Coastal Trading* (Revitalising Australian Shipping) Act 2012 (Coastal Trading Act) to create a more commercially oriented coastal ship licencing scheme that provides a level of protection for Australian ships and Australian seafarers balanced against the opportunity for shippers to use foreign ships under specified circumstances, and which reduces regulatory costs. Key reforms are to:
  - ▶ Amend the Object clause to remove ambiguity and to clarify that the Act aims to support Australian ships;
  - ▶ Extend the coverage of the CT Act to include intrastate trade and specified ship types/ ship operations not currently covered;

- ▶ Establish an independent industry body as a statutory authority to supervise the licencing of ships to operate in coastal trading;
- ▶ Provide for separate licencing procedures for cargo ships and passenger/cruise ships;
- ▶ Provide for licences to be issued to a ship (or ship fleet), rather than to the voyage of a ship;
- ▶ Restructure the procedure for the issue of Temporary Licences (TLs) for cargo ships so it is based on commercial negotiations, not on decision making by Departmental officials as the Minister's Delegate;
- ▶ Restructure the General Licence (GL) holder contestability provisions for cargo ships by creating a requirement for commercial negotiations between the GL holder and shipper of the cargo 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;
- ▶ Provide for a new licence type (in addition to a GL and a TL) for foreign registered ships operating under a demise charter with full Australian crews (similar in some respects to the former Transitional General Licence – TGL), designated as a modified general licence (MGL);
- ▶ Provide for the primacy of the role of ship providers, particularly GL and MGL holders, rather than primacy on the role of shippers (cargo interests);
- ▶ Establish a nomination process providing genuine protection for GL holders in both cargo and passenger trades to indicate the voyages, cargoes or routes that they wish to contest aimed at protecting national interest trades such as Bass Strait, expedition cruise ships and ships servicing regional and remote communities;
- ▶ Establish a national strategic fleet including a supportive industry policy package to assist participating shipowners/operators/charterers;
- ▶ Introduce a commercial arbitration procedure to help facilitate fair commercial outcomes;
- ▶ Establish a procedure for establishing price reviews/price monitoring by the Australian Competition and Consumer Commission (ACCC) or another body to eliminate price gouging in ship trades where there is only one ship supplier;
- ▶ Strengthen the licencing procedure for General Licences that introduces a new procedure for surrendering a GL and a procedure for the intended withdrawal of a GL ship from a nominated coastal trade; and
- ▶ Repeal s112 (Customs treatment of certain vessels) in conjunction with proposed reform of the Migration Regulations 1994 and *Customs Act 1901*.

## **2. Support an implementation plan for establishing a strategic fleet**

- This requires amendment to the Coastal Trading Act to define strategic fleet ships and ship requisitioning powers. It also requires a supportive industrial policy package to incentivise participating shipowners, ship operators and ship charterers in nationally important commercial trades such as refined petroleum products and emerging clean energy products.

It also requires governments to commit to maintain a national fleet of ships for marine towage and salvage; emergency response; oceanographic research and supply; border force and customs functions; specified Defence/Navy functions e.g. auxiliary fleet ships; and for maritime college training.

## **3. Support a short-sea shipping model for Australia**

- That the Australian Government acknowledge that short sea shipping is a model well suited to Australia given its global trade route location and long coastline, particularly if new ship and port technologies are adopted and aimed at minimising the time that ships are not sailing (and not earning revenue). Short sea shipping is in lock-step with the global hubbing model whereby key Australian and regional ports become transshipment ports, requiring short sea feeder services to and from all other ports, noting that:
  - ▶ Larger container ships (i.e. container ships with 12,000-14,000+ TEU) are increasingly being used on long distance east-west routes between large transshipment ports that serve as the hub in a global hub and spoke network, which complements the north-south routes that connect regions including Australia, Africa, South America, and North America to global transshipment ports in a relay pattern.
  - ▶ Australia is well positioned to integrate its sea freight requirements with those of New Zealand (and other Pacific Islands), Papua New Guinea and Timor Leste/Indonesia into an Oceania network that provides volume for larger east coast transshipment ports that would underpin a short sea shipping model.
  - ▶ A small number of Australian ports, most likely Brisbane, Sydney and Melbourne (to the extent its channel depth will allow) and potential new container ports at Newcastle in NSW and West Basin (Melbourne) will inevitably become transshipment container port hubs, requiring feeder services to and from all other Australian ports.

## **4. Improve shipping taxation incentives to incentivise investment in Australian ships**

- That the Australian Government reform shipping taxation incentives as a critical support measure to stimulate investment in new Australian ships and bareboat ship charters that will be necessary to implement a new national shipping policy, and that those reforms focus on:
  - ▶ Resolution of the design flaw in the current income tax exemption provision that applies to eligible shipping operators, whereby under the current design, the benefits to shipowners may effectively be clawed back when exempt profits of shipping operators are distributed to investors. To address this flaw, the shipping income tax exemption provisions in various tax laws (the *Income Tax Assessment Act 1997* and the *Income Tax Assessment Act 1936* (as amended by the *Tax Laws Amendment (Shipping Reform) Act 2012*) require amendment to:

- » Introduce deemed franking credits in respect of dividends to resident shareholders; and
- » Introduce a dividend withholding tax exemption in respect of dividends to non-resident shareholders.
- Refining the definition of core shipping activities in the *Shipping Reform (Tax Incentives) Act 2012* to include:
  - » Ships that are used wholly or mainly in, or in any operations or activities associated with or incidental to, exploring or exploiting the mineral and other non-living resources of the seabed and its subsoil, aimed at providing incentives for offshore oil and gas vessel owners/operators to register their vessel/s in Australia; and
  - » Ships that are used in the construction and servicing/maintenance of offshore wind turbines aimed at ensuring these ships are Australian registered.
- Amending the *Income Tax Assessment Act 1997* at s61-705 (Who is entitled to the seafarer tax offset), so the offset is available to all seafarers, regardless of occupational classification, and to seafarers engaged on a wider range of shipping activities and ships than currently applies (including for Australian seafarers engaged on foreign registered ships).
- Amending the *Income Tax Assessment Act 1997* to allow Australian resident seafarers employed by foreign corporations in foreign shipping activities, to manage their own tax affairs, so that rather than the shipowner, operator or employer needing to claim a tax rebate from Government, each individual seafarer should be able to seek an exemption themselves when lodging a tax return if they are an Australian taxpayer, so as to bypass any administration or involvement with the ATO by the foreign employer, as is the practice in all other nations. This would provide a complimentary seafarer income tax structure for those not employed by Australian companies or on Australian registered ships (so Australians are treated on an equivalent basis as their international counterparts, aimed at encouraging foreign ship owners and operators to employ Australian seafarers).
- Amending the GST and Customs duty requirements so that Australian ships are not disadvantaged relative to foreign registered ships when operating in coastal trade.
- Legislate a ships capital grant scheme similar to that which was in place from 1987 to 1996 under the *Ships (Capital Grants) Act 1987*.
- Introduce a bunker fuel rebate (at around 25 per cent) for Australian ships on both laden and ballast legs of a voyage aimed at reducing freight costs and lessening the disparity between Australian and foreign ships.

## 5. Reform the maritime crew visa system

- Reforming the maritime crew visa system will create employment opportunities for Australian nationals in the maritime industry, while improving the security of the existing Maritime Crew (Subclass 988) visa (MCV).
- This requires amendment to the Migration Regulations 1994 to:
  - ▶ Clarify that the MCV is applicable as a visa for (i) international seafarers visiting Australian ports for loading/unloading cargo and or passengers as part of a continuing international voyage (multiple entries for up to 3 years) and cannot be used for foreign seafarers regularly engaged in coastal trading; and (ii) foreign seafarers on foreign registered ships allowing those non-national seafarers to be in Australia and employed on a ship for up to 60 days for the following specified purposes:
    - » Ships undertaking repairs, maintenance or dry docking in Australia.
    - » Mother ships at anchorage in a roadstead in coastal waters awaiting barge loading.
    - » Ships involved in production and processing e.g. marine products.
    - » Ships held at an anchorage point or wharf for biosecurity reasons.
    - » Ships detained by the Australian Maritime Safety Authority.
      - In all other circumstances, including any participation in coastal trading, foreign seafarers will require a Temporary Skill Shortage (TSS) visa (subclass 482) which will only be available for sponsoring by an employer sponsor if there is a genuine seafarer skills shortage and the seafarer occupation is on a government list of skills shortage.

## 6. Make consequential amendments to the *Customs Act 1901 (Customs Act)* and the *Coastal Trading (Revitalising Australian Shipping) Act 2012 (Coastal Trading Act)*

- The purpose of the consequential amendment to the Customs Act is to ensure that the maximum 60-day duration of the MCV for specified special circumstances works in harmony with the ship importation and entry for home consumption elements of the Customs Act. This will require the following amendment to the Customs Act:
  - ▶ That s49A(1)(b) of the Customs Act (Ships and aircraft deemed to be imported) be amended by reducing the time period from the current 30 days that a ship can be deemed not to be imported, to 5 days, but accompany that amendment with a new S49A(1)(b)(i) specifying that an extension be permitted, on application, beyond 5 days (consistent with the general requirements in clause 988.512 of the Migration Regulations 1994), for up to 60 days requiring consequential amendment of clause 988.512 of the Migration Regulations 1994) for a specified purpose, being one of the five purposes mentioned in Para 5 above.
  - ▶ Similarly, to ensure that these arrangements harmonise with the Coastal Trading Act, it requires an amendment to:
    - » Repeal s112 in the CT Act to eliminate gaming of the Customs Act to circumvent migration laws. This would mean that foreign ships with foreign crew engaged

in intrastate trade, whether or not they have been approved to opt in to the CT Act (under s12), and ships engaged in interstate trading voyages authorised by a Temporary Licence (TL) will require their foreign seafarers to hold a Temporary Skill Shortage (TSS) visa (subclass 482) that includes a labour market testing requirement, supplemented with a “Letter of Concurrence” procedure that verifies or otherwise the availability of national seafarers as provided under the Canadian Special Measures Policy for the Maritime Sector, but only in circumstances where seafaring occupations are on the Government’s occupational skills shortage list.

## **7. Reform maritime safety law – To restore an appropriate balance between ships that are covered by the *Navigation Act 2012* (Navigation Act) and ships covered by the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (National Law Act)**

- The purpose of this reform is to ensure that the default marine safety law applying to commercial ships operating anywhere within the EEZ in Australia is the Navigation Act, while acknowledging there are many smaller ships operating in safer ocean or sheltered/inland water conditions, some commercial but largely recreational, that are appropriately covered by the lower standards applying in the National Law Act.
- A key consequence of the reform proposed is that the default seafarer vocational education and training (VET) qualifications and occupational licenses on commercial ships, which has flow on implications for the quality and standard of maritime skills available to the onshore marine sector, and other safety standards, are derived from international standards of IMO Conventions, given effect through domestic safety laws. Commercial ocean going ships should not be permitted to default out of those internationally recognised standards.
- Both the Navigation Act and National Law Act, along with Marine Orders made under those Acts, require specific reforms to lift ship safety, work health and safety and crewing standards.

## **8. Improve national human biosecurity arrangements for the maritime sector**

- The COVID-19 pandemic and various Parliamentary and other Inquiries examining the impacts of the pandemic have highlighted gaps in human biosecurity law, procedure and practice which requires attention.
- There are a range of changes required to the way human biosecurity determinations and orders are made under Commonwealth and state/NT laws to ensure they are better integrated with laws/Regulations impacting on seafarers and port workers.
- In addition, changes to the procedures for pratique (the biosecurity decision to allow a ship to load/unload cargo and or passengers) are required so they are better integrated with harbourmaster functions managed by state/NT port authorities.

## **9. Reform regulations to rebuild the cruise/passenger sector and to protect the domestic expedition cruise sector**

- Reforming the regulation of the cruise passenger ship sector will help re-establish this important sector as the economy re-emerges from the COVID-19 pandemic. The cruise sector involves both a domestic component, largely expedition cruising and an international component. The key reforms required are:

- ▶ That the Ministerial exemption from the operation of the Coastal Trading Act that applies to large cruise ships be repealed, in order to provide the opportunity for Australian General Licence (GL) holders to contest for cruise/passenger shipping routes/itineraries;
- ▶ That a new Division be created in the CT Act for the issue of licences for large cruise ships to operate in Australia, so it becomes a market access licence, with special conditions to apply to licence holders in return for that market access;
- ▶ That small (expedition) cruise ships be declared as a national interest shipping trade, route or market segment to be reserved for ships on the Australian General Shipping Register (AGSR) that are issued with a GL, designed to protect the expedition cruise sector from foreign competition. We argue that the uniquely Australian expedition cruise experience featuring Australian natural environments, regional foods and beverages, indigenous culture and history should only be delivered by cruise shipping operations with 100% Australian ownership and content.
- ▶ That the definition of a large cruise ship be amended from 5,000 GT to 10,000 GT and that the passenger delineation be increased from 100 to 300.
- ▶ That foreign operators authorised to undertake voyages under a TL should not be allowed to deviate from published routes/itineraries.

## **10. Re-establish the Maritime Workforce Development Forum (MWDF)**

- The decline of the maritime skills base is closely linked to the decline of Australian ships, given that Australian ships are required for seafarers in training to gain mandatory seetime, essential to attain internationally recognised maritime qualifications and licences.
- A MWDF Mark II (to build on the Forum established in 2011 that produced the 2013 Maritime Workforce Development Strategy) is required to address maritime skills and qualifications issues to ensure Australia maintains a highly skilled and qualified maritime skills pool.
- Some of the issues that require consideration in the Forum are:
  - ▶ A review of current and future maritime workforce capabilities and skill needs.
  - ▶ 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/maritime industry.
  - ▶ Review the core competencies that currently underpin seafarer qualifications to ensure that the competencies reflect required industry skills and are keeping pace with new ship and port technologies and job roles.
  - ▶ Conduct a review of training providers approved to deliver seafarer qualifications to identify offerings, trends in enrolments and completion rates, location of offerings and their pricing principles with a view to improving the overall standard, quality and cost of training delivery.
  - ▶ 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 Ratings

qualifications and Skill Sets over a 10 year forward program as an essential part of the overall revitalisation of the Australian shipping industry.

## **11. Reform international shipping regulation – establishing an international shipping commission**

- Arising from experience during the COVID-19 pandemic and in particular the circumstances surrounding the *Ruby Princess* cruise ship, the MUA is advocating the establishment of an International Shipping Commission.
- The objective is to put in place an institutional mechanism that helps maximise the economic and social benefits from shipping, including cruise shipping, but that ensures the risks are appropriately managed, be they biosecurity, work health and safety, labour standards or ship safety and navigation risks.
- It is important to ensure that cruise shipping can sustain its social licence to operate following the COVID-19 pandemic, that has had a major impact on the sector.
- The purpose of an International Shipping Commission is to:
  - ▶ Provide a national framework to ensure that Australia maximises the economic and social benefits from international shipping;
  - ▶ Set and review minimum standards for the cruise sector to re-establish a social licence to operate in Australia;
  - ▶ Develop and promulgate Codes of Conduct on the advice of relevant stakeholders in each of the key subsectors sectors of international shipping in Australia – cruise shipping, cargo shipping and offshore energy shipping. The Codes of Conduct be designed to establish principles and mechanisms for addressing the full spectrum of labour, work health and safety (WHS), biosecurity protocols, employment, training and qualification issues as well as agency coordination and compliance and enforcement arrangements;
  - ▶ Develop protocols, in conjunction with international labour and maritime organisations, to address the stranding of seafarers aboard international ships trading with Australia in circumstances where government restrictions on travel and borders impede the process for seafarers being relieved by fresh crews;
  - ▶ Ensure clearly defined responsibilities and the efficient operation and interaction of each of the Commonwealth and State/NT agencies and the key stakeholders that interface with international shipping in Australia; and
  - ▶ Review the costs and benefits of retaining Part X (ten) of the *Competition and Consumer Act 2010*.

## **12. Improve seafarer rights**

- Seafarer rights require review to ensure all seafarers can enjoy their rights derived from the ILO Maritime Labour Convention. This requires:
  - ▶ Adoption of a consistent, nation-wide policy on the movement of essential maritime workers between national and state/Territory borders as part of any policy development

action to prepare for future disruptive events like a global pandemic. The policy should be accompanied by protocols for dealing with the many circumstances that arise, based on the IMO protocols (*Coronavirus [COVID-19]–Recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus pandemic*).

- ▶ A review of maritime security plans to ensure there are standardised and effective procedures for welfare and labour organisations to access ships in ports. To achieve that the Australian Government should require: (i) that the Department of Home Affairs be instructed to review all maritime security plans as required under the *Maritime Transport and Offshore Facilities Security Act 2003* (MTOFSA) to ensure there are standardised and effective procedures for visitors to ships, including welfare and labour organisations, to access those ships through port operator's terminals, and that such procedures be developed in consultation with seafarer welfare, labour and employer organisations; and (ii) that resultant procedures be made available on request by seafarer welfare, labour and employer organisations.
- ▶ A strengthening of the *Modern Slavery Act 2018* by clarifying the definition of forced labour, by defining forced labour in international shipping as including non-compliance with specified provisions in the ILO Maritime Labour Convention, particularly the repatriation requirements on completion of the specified duration of a seafarers employment agreement (SEA).

### **13. Reform the *Australian Jobs Act 2013***

- Reform the Jobs Act to ensure that a fair share of the transportation services for the carriage of minerals, resources and energy products to export markets are delivered in ships operated by Australian entities that employ Australian seafarers.

### **14. Establish a national shipping industry reform council**

- We propose the establishment and funding of a national shipping industry reform council to oversee implementation of national shipping and maritime industry reform, and to oversee the development of a maritime cluster in Australia.

### **15. Establish a national shipping infrastructure fund**

- That a national shipping infrastructure fund be established to provide industrial policy support for the revitalisation of Australian shipping and to ensure there is a level playing field between all freight transport modes.

### **16. Review national and state/NT procurement policy**

- That the Transport and Infrastructure Ministerial Council coordinate a review of Commonwealth and state/NT procurement policy to ensure that:
  - ▶ Ships and sea freight are appropriately considered in government procurement of goods such as for transportation of defence equipment and materials, infrastructure and other construction projects and general supplies for government; and
  - ▶ A proportion of replacement public and private passenger ferries are built in Australian shipyards, with specified levels of Australian materials and labour content.

## **17. Review the National Freight and Supply Chain Strategy and associated Action Plans**

- Ensure the Strategy addresses shipping and seafreight opportunities given its efficiency and environmental advantages, and in particular the strategy include specific proposals to grow the share of domestic freight transported by ships, particularly Australian ships.

## **18. Review the National Ports Strategy**

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

## **19. Reduce emissions from transport**

- That the Australian government recognise that greenhouse gas emissions from transport have increased more than any other sector of the economy and recommends that the government develop a comprehensive plan to systematically reduce greenhouse gas emissions from transport and shipping, through:
  - ▶ Shifting freight on to ships, and by developing and testing zero-emissions cargo ships in a future Australian Strategic Fleet, including the use of hydrogen or ammonia as a fuel.
  - ▶ Require ports to provide ships with a shore-based power supply from renewable energy, and ships to shut down their engines when alongside and to plug into that portside power supply (cold-ironing).
  - ▶ That the Australian Government ensure that Australia be an early adopter of other ship pollution prevention standards, technology and practice ahead of the International Maritime Organisation (IMO) timetables, such as use of lower sulphur fuels, optimised engines, exhaust after-treatment, selective catalytic reduction (SCR), optimised steaming rates, and improved auxiliary engines.
  - ▶ Authorises AMSA to seek expedited global adoption of improved ship pollution prevention technologies and practices in its role as Australia's representative in the International Maritime Organisation (IMO).
  - ▶ Expedite a review of the Australian heavy vehicle charging regime, which uses a pay-as-you-go (PAYGO) model, to ensure it moves to full cost attribution of road user costs aimed at creating competitive neutrality among all freight modes.
  - ▶ Expedites the re-establishment of a national system of safe rates in the road transport industry, aimed at establishing safe standards of work including fair payments and conditions through a chain of responsibility model that will help achieve greater consistency in labour costs across all freight modes to achieve competitive neutrality in the freight transport industry.

## 20. Integrate shipping policy with national industrial policy

- That the Australian Government commit to integrate shipping policy into wider industrial policy and strategy, acknowledging that 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 (ships service every facet of the offshore oil and gas industry), agriculture, aquaculture, fishing, tourism (including the growing marine tourism and cruise sectors), wholesale and retail distribution, and construction, noting that key manufacturing industries such as steel (requiring iron ore and coal), aluminium (requiring bauxite and alumina), petroleum (requiring crude oils and condensates), chemical and explosives production (requiring ammonium nitrate, acids etc), building products (requiring gypsum, mineral sands etc); food processing (requiring sugar, salt, food concentrates), as well as agricultural production (requiring fertiliser, fuels, grain seeds), offshore extractive industries such as oil and gas are reliant on ships for supply of key bulk commodity inputs and distribution of outputs for their efficient operation. Likewise, the emerging offshore wind energy industry requires ships for construction and operations. Accordingly, the Government agree that:
  - ▶ An industry policy for shipping (just as in rail or road transport) by necessity needs to be integrated with industrial policy for other sectors such as manufacturing, particularly the heavy manufacturing subsectors like aluminium, steel, chemicals, petroleum products, vehicles and vehicle components, shipbuilding, construction materials, as well as mining and mining equipment, energy, agriculture (fertiliser, grains, machinery, livestock), aquaculture, fishing, and tourism and emerging renewable industries such as hydrogen, ammonia and biofuels.
  - ▶ Bulk commodity ships and other large trading ships used in these supply chains create demand for a range of other marine services including towage, pilotage, bunkering, waste removal, provisioning, firefighting, salvage and marine rescue as well as requiring port services and stevedoring services.
  - ▶ Commercial ships are central to Defence requirements including humanitarian missions, to support border protection, to support national emergency response such as during bushfires and floods and for supplying remote 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 an efficient and functional shipping industry that attracts investment and is integrated with client industries.