



**MARITIME
INDUSTRY
AUSTRALIA**
L I M I T E D

Submission to:
Dept of Home Affairs

Exposure Draft Critical
Infrastructure Bill 2020

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About MIAL

Maritime Industry Australia Ltd (MIAL) is the voice and advocate for the Australian maritime industry. MIAL is at the centre of industry transformation; coordinating and unifying the industry and providing a cohesive voice for change.

MIAL represents Australian companies which own or operate a diverse range of maritime assets from international and domestic trading ships; floating production storage and offloading units; cruise ships; offshore oil and gas support vessels; domestic towage and salvage tugs; scientific research vessels; dredges; workboats; construction and utility vessels and ferries. MIAL also represents the industries that support these maritime operators – finance, training, equipment, services, insurance and more. MIAL provides a full suite of maritime knowledge and expertise from local settings to global frameworks. This gives us a unique perspective.

We work with all levels of government, local and international stakeholders ensuring that the Australian maritime industry is heard. We provide leadership, advice and assistance to our members spanning topics that include workforce, environment, safety, operations, fiscal and industry structural policy.

MIAL's vision is for a strong, thriving and sustainable maritime enterprise in the region.

MIAL's overarching position concerning maritime policy in Australia is that we ought to have a sustainable, viable maritime industry. This activity can occur anywhere – coastal, offshore and international. This maritime activity should encompass anything – freight, tourism, passenger movement, port and harbour services, offshore oil and gas, construction, scientific/research, essential services, and government services.

Summary

MIAL made several overarching comments during the consultation phase. Several of the issues raised by MIAL appear to remain unresolved and we repeat those here as issues of concern.

Using the Maritime Transport and Offshore Facilities Security Act 2003 presents a serious limitation in terms of achieving the objective of "...protecting the essential services all Australians rely on by uplifting the security and resilience of critical infrastructure and systems of national significance". MTOFSA has very limited application to foreign vessels. Supply chain security cannot be assured unless foreign ships are somehow captured since they provide almost the entire sea transport task to, from and around Australia.

We understand that there is no intention to extend the requirements that currently exist for Australian vessels under this Bill. While that allays our immediate concern of any enhanced security obligations resulting in additional compliance imposts and costs, thereby further eroding the ability for Australian vessels to compete with foreign vessels, it does beg the question – how is supply chain security being achieved if vessels are not part of the critical system? There is a level of uncertainty around the inclusion of ships or not within the Bill as outlined below.

Coverage

MIAL can identify several areas where vessels could be considered as assets or systems of national significance. For instance, the Bill provides for the following (emphasis added):

12A – critical liquid fuel asset

- (b) *a liquid fuel pipeline that is critical to ensuring the security and reliability of a liquid fuel market, in accordance with subsection (3);*
- (c) *a liquid fuel storage facility that is critical to ensuring the security and reliability of a liquid fuel market, in accordance with subsection (4).*

We suggest that ships act as both pipelines and storage.

12B – critical freight infrastructure asset

(a)....**a critical corridor for the transportation of goods** between:

- (i) *2 States; or*
- (ii) *a State and a Territory; or*
- (iii) *2 Territories; or*
- (iv) *2 regional centres;*

This section is limited to road and rail but there is no question that there are several critical sea corridors deserving of attention, for example Torres Strait. If they fall outside the scope of this legislation (because they are not 'owned' for instance), the Australian Government should be taking steps in consultation with industry, to ensure there are plans in place to otherwise secure and protect them.

12C – critical freight services asset

(1) *An asset is a critical freight services asset if it is a network that is used by an entity carrying on a business that, in accordance with subsection (2), is **critical to the transportation of goods** by any or all of the following:*

- (i) *road;*
- (ii) *rail;*
- (iii) *inland waters;*
- (iv) *sea*

This clearly has scope to include vessels and we would welcome working with the Government on any proposals that come forward, as the Department of Home Affairs has indicated would happen.

A broader picture

It is understood that the Government does not plan to regulate foreign shipping via this Act, nor could it even if it wished to given the limitations of the current legislative basis.

MIAL has identified that there is an inherent fragility within international shipping systems such as: disruption to the international norms with respect to nations of registration vs nations of operation; inability of the industry to uphold their international obligations for workforce; and so on. Having greater direct control over those issues by a nation provides security of service.

Many organisations will not have fully considered supply chain security issues inherent in relying on foreign government regulation of assets and foreign nationals to perform the totality of the sea transport task. Unless the Government plans on ensuring that this is fully investigated, and that there is sufficient expertise to ensure this is done properly, it is perhaps unlikely that the users of shipping services will themselves identify this as a risk, if in fact it is one.

In short, unless there is an understanding and acceptance within Government of the national vulnerability that exists, because the vast majority of our sea transport capability is performed by foreign entities, and takes action other than that proposed via these mechanisms, then it is not considered possible to reliably state that critical supply chains will be secured.