

Department of Infrastructure, Transport, Regional Development,
Communications and the Arts

Response to 'Independent Review of the Coastal Trading
(Revitalising Australian Shipping) Act 2012
Consultation for Phase 1

Submission by CSL Australia



October 2024

CSL Australia

CSL Australia (CSL) is the largest dry bulk shipowner/operator on the Australian coast. A subsidiary of Canadian owned CSL Group, CSL own and operate a fleet of up to twelve self-unloading bulk carriers, pneumatic cement carriers, standard bulk carriers and transshipment vessels in the Australian coastal region. Over 27 million tonnes of dry bulk cargoes, including cement, clinker, sugar, iron ore, gypsum, mineral sands, magnetite and coal are shipped and transhipped on CSL vessels for major industry participants on an annual basis. Our customers contribute to the cement, manufacturing, iron ore, steel and minerals sectors of the Australian economy. The CSL coastal vessel footprint operates in the federal regulatory regime and consists of two General Licence vessels, an Australian crew transshipment platform and a flexible number of vessels operating under a Temporary Licence.

The CSL Group core business is owning and operating self-unloading bulk carrier vessels. In Australia, this also extends to fully enclosed pneumatic cement vessels and transshipment operations. Pneumatic cement vessels eliminate air-borne dust from cement that is discharged into shore side cement facilities. Our transshipment operations in Whyalla and Cape Preston provide economies of scale for bulk cargo exporters by providing a feeder vessel to load larger vessels within naturally deeper waters of a port.

General Comments

CSL have operated both Australian and foreign vessels on the coast for over 24 years under the previous Coastal Trading Guidelines/Navigation Act 1912 and the more recent Coastal Trading (Revitalising Australian Shipping) Act 2012 (CTA). The nationality of our fleet has moved over the years between Australian and foreign flag, as a result of the legislation itself, the administration of the legislation and our customer requirements.

Ultimately, CSL offers a neutral perspective of the CTA. Our shipping activities operate within the legislative boundaries of the CTA and our customer requirements. These drive the competitive shipping market landscape and our underlying operating costs (Australian or foreign). If our customers have access to foreign vessels on the coast and stipulate the requirement for a lowest supply chain pricing, foreign vessels are our only option to compete. Forcing our customers to use Australian vessels when they can legitimately access less expensive foreign vessels does not lead to a sustainable business relationship. CSL partners with our customers, and we work together to minimise costs to enable them to participate in the Australian domestic economy and offer long term competitive pricing.

We welcome the CTA review and highlight the following key points:

1. **Operationally, CSL are ambivalent to the flag and crew of our vessels due to extensive experience in both operating paradigms.** As a shipowner, we will adapt our business model to operate within the current legislation and our customer requirements.
2. **Regulatory priority should focus on Australian crew for the Strategic Fleet, due to the critical skills shortage of Australian seafaring labour.** Coastal shipping that supports the everyday Australian economy should retain access to foreign flag vessels under the provision of the current CTA framework.

3. **Government and industry must find ways to reduce the cost of Australian vessels, not increase the cost of foreign flag vessel.** To grow Australian shipping and incentivise uptake, mechanisms including seafarer offset tax, AISR model, levies and leave ratio reset should be used. Any changes to the CTA framework must be enacted in parallel with these mechanisms.
4. **Certainty in coastal trading policy is needed for long-term decision making.** This enables CSL to plan a long-term sustainable coastal strategy, including investment, given the long life (20-30 years) of shipping assets. The contradictory nature of the current Objects of the CTA has never provided certainty to support long term investment in assets, operational activities or crew.

2.1 Options for a future Object of the Act

Q1 – Of the proposed 3 options for the Object of the Act, with which do you agree with most? Please explain why.

The current Object is contradictory and promotes uncertainty. It supports both Australian vessels and foreign flag shipping and does not specify which element is of greater importance, leading to confusion. A competitive and viable industry cannot be created by maximising the use of a high cost (Australian crew) operating model.

Option 1 – A simplified Object - is the least contradictory, however it is not supported by the existing framework. The current CTA framework, in combination with Schedule A of the Fair Work Act, creates a distinct two-tier system of operating costs that cannot promote competition. The simplified Object is preferred because it does not specifically refer to ‘maximising the use of Australian vessels’, however the reference to “Australian Shipping Industry” should be defined (see Q2 response below).

Retaining the reference to the broader Australian economy is a key element of the simplified Object. This allows the needs of Australian domestic cargo owners to be considered, together with an understanding of their competitive pressures from import substitution.

Q2 – Is there anything else that should be considered for inclusion in the Object of the Act? Please explain why.

The simplified Object uses two terms – “Australian Shipping Industry” and “Australia’s coastal trading industry”. These should be defined to ensure certainty and understanding of what the CTA is aiming to achieve. The current Australian Shipping Industry should include Australian companies operating foreign flag vessels, such as CSL, as we are an integral part of the shipping industry in Australia, supporting domestic supply chains and employing over 50 shoreside employees with specialist maritime skillsets, in our Australian offices. CSL also currently operates a vessel that is foreign flag but has a mix of both Australian and foreign crew – this vessel is part of the Australian Shipping Industry, despite being foreign flag.

3. Current Coastal Trading regulatory framework

Q3 – Is the current licensing framework fit-for-purpose?

The current framework is fit-for-purpose, given the current Australian context. It allows for foreign vessels to operate on the Australian coast in industrial shipping trades to efficiently and effectively support the broader Australian economy, particularly Australian domestic manufacturing. Given the critical skills shortage in the maritime industry, lack of experienced seafarers and an ageing seafarer workforce, the current access to foreign seafarers through foreign flag vessels allows onshore domestic activities to operate efficient and cost-effective shipping supply chains. This enables domestic industry to compete with imports and withstand other macroeconomic pressures such as decarbonisation regulations and inflation.

Q4 – Are the alternative coastal trading regulatory frameworks that are better suited to Australia’s coastal trading market? Why/why not?

The Canadian regulatory framework identified in the consultation paper is similar to Australia, however intrinsically different because a specific type of vessel is required to trade in most Canadian domestic trades. These trades require Laker class vessels, whose length and breadth dimensions reflect restrictions on the St Lawrence Seaway and canal/lock systems throughout the Great Lakes. Many of these vessels are also self-unloaders, which allow for minimal shore infrastructure in remote areas. These vessel restrictions/requirements are a natural barrier to entry for foreign flag vessels and reduce the competitive opportunities – there are simply no standard bulk carriers trading in and out of Canada that can trade through the Lakes. Conversely, in Australia, foreign flag vessels that operate in and out of Australia can easily fit into many coastal trades, thus enhancing the competitive environment.

Q5 – How can Australia’s coastal trading regulatory framework better support the growth of the Australian shipping industry while still enabling foreign vessels to engage in coastal trading?

The growth of Australian shipping is contingent upon seafaring labour supply at a competitive cost. The current undersupply of Australian seafaring labour is critical. CSL have been unable to crew MV Whyalla since it arrived back in Australia in January 2024. The crew requirements for offshore oil and gas, transshipment projects in Western Australia and three vessels for the Strategic Fleet cannot be covered by the current Australian crew pool. The coastal trading regulatory framework must allow for this extreme shortage of supply, not make it worse.

The critical skills shortage should drive the regulatory priorities between the Strategic Fleet and coastal trading. The Strategic Fleet supports Australia in emergency situations, mitigates sovereign risk and should employ Australian crews. There are specific types of vessels – tankers, container vessels, general cargo vessels – that suit this strategic need. Conversely, the coastal trading industrial shipping requirement utilises dry bulk vessels, small liner services, pneumatic cement carriers, and other small vessels. These shipping services need to be a part of an efficient, low-cost domestic supply chain to support onshore Australian manufacturing and the Australian economy.

Mandating Australian flag vessels to operate on regular domestic coastal trades at a significant premium is an inefficient, narrow solution that does not support the broader Australian economy, nor a sustainable growth strategy for Australian vessels.

If any changes are made to increase Australian content under the coastal trading regulatory framework, they must be supported by a basket of mechanisms to decrease the gap between Australian and foreign flag operating costs. Schedule A of the Fair Work Act increases foreign flag shipping costs, however other mechanisms should be put in place to decrease Australian shipping costs, including seafarer offset tax extension to coastal trading, levy on all users of Australian ports, mixed crewing models and a review and reset of the Seagoing Industry Award leave ratio.

3.1 Temporary Licences

Q6 – Should temporary licence holders who have held temporary licences year after year be required to transition to a general licence or a new category of licence that better represents the regularity of trading they engage in?

Temporary Licences are not specific to a vessel or trade, but to a company. A company may hold a Temporary Licence that uses different types and sizes of vessels to carry a range of different cargoes. Simply holding a Temporary Licence ‘year after year’ is not indicative of whether the trades could be grouped together to support a vessel full time on the coast, nor is it indicative of the underlying duration of a shipping contract, whether short or long term.

Australia’s licensing framework must consider the position of Australia as an island continent, close to Asia and New Zealand with no natural barriers to entry for the international shipping fleet. It is efficient for some cargo owners to utilise a variety of market vessels for their coastal voyages, however others may have different requirements - including a just-in-time supply chain or a cargo type requiring specialised vessels - that make international market vessels difficult to utilise. These cargo owners should not be subject to a higher supply chain cost base due to the nature of their shipping requirements. Conversely, it is inefficient and expensive for a cargo owner with an irregular shipping requirement to rely on a small number of Australian coastal vessels to carry their cargo.

Creating a new category of licence (if it included Australian content requirements) would penalise, through increased cost, those cargo owners that have a regular coastal requirement due to the nature of their supply chains, shoreside storage or specialised vessel requirement. This would create an uneven regulatory impact on domestic producers, and their ability to compete domestically and with imports.

Q7 – If you regularly hold temporary licences, what is inhibiting you from transitioning towards being Australian flagged and crewed? What would encourage you/provide an incentive for you to transition to being Australian flagged and crewed?

There are two key factors inhibiting movement to Australian flag and crew:

1. Critical skills shortage leading to significantly low numbers of available crew.
2. High operating costs of Australian compared to foreign operating costs and the corresponding financial impact on cargo owners/customer supply chains.

As noted in the above responses, there is significant difficulty in sourcing Australian crew. This puts our customers supply chains at risk of failure due to lack of crew and additional safety considerations with constant training of new, inexperienced crew. CSL’s foreign crew have been operating and maintaining specialised vessels for many years and a switch to Australian crew would come at a high operational risk during skills transfer and experience building phases. There are also few options to

fill the Australian supply needed in the medium term through migration due to the current visa regulations.

The impact of Australian operating costs on our industrial manufacturing customer base is also a primary factor. Our customers require the lowest cost and efficient solution that meets their just-in-time supply chain requirements and allows them to compete in the domestic manufacturing market. Some of our customers are subject to the safeguard mechanism, which is adding considerable cost to their manufacturing operations in Australia. Other customers have a tipping point whereby it becomes cheaper to import raw materials or less processed materials, into manufacturing plants instead of sourcing from domestic resources.

To incentivise a switch from foreign to Australia, we would require a reduction in Australian flag operating costs to equal foreign vessel costs and a supporting visa migration scheme for utilising non-Australian seafarers in the medium term to ensure supply chain certainty and a zero-cost solution for our customers.

Q8 – If you regularly hold temporary licences, please identify the impact, financial or otherwise, a move to the use of an Australian vessel may have on your business operations? Please provide as much detail as possible.

The difference between Australian and foreign flag shipping (including Schedule A payments under the Fair Work Act) for CSL's vessels is between A\$3.5M and A\$4.5M per year.

Other than wages levels, specific costs that are harder to quantify include:

- Specific vessel training/familiarisation for new crew.
- Swing extensions and overlap to train replacement crew members (up to two weeks, when usually 1 day). Includes wages, on-costs and leave accumulation.
- Recruitment costs in a restricted labour market.
- Retention programs to ensure vessels are fully crewed in a restricted labour market.
- Higher wages due to the need to attract crew away from higher paying offshore industry jobs.
- Additional benefits for Australian crew under the specific vessel Enterprise Agreement, for example health insurance, Qantas club and other fringe benefits.

The Seagoing Industry Award leave ratio is 0.926 days of leave for every one day of work (approx. 150 days per year). This effectively means that two crews must be employed to operate a vessel over a 12-month period. Leave is accrued for all foreign crew; however it is at a rate of 2.5 days per calendar month/at least 30 days a year (in accordance with the Maritime Labour Convention). The difference in leave ratio makes up a significant portion of the difference in Australian and foreign operating costs.

Shore-based overhead costs also increase due to Australian crewing administration being undertaken in-house and not by a third party foreign based crewing supplier. Training requirements (2 x cadets and 1 x Trainee IR per vessel per year at a cost of around \$70,000 per cadet per year) to access the Australian tax incentives also increases the cost of Australian vessels due to the actual training costs and the associated shoreside administration.

4. Future of Australian Shipping

Q12 – Is the current definition of coastal trading sufficiently broad to encompass relevant activities in the maritime industry today and in the future?

The definition of coastal trading is narrow as it refers to a movement of cargo from a port to another port, whether in the same State or Territory. The definition of port then refers to a harbour, which is quite broad, however practically defining these elements of a harbour leads to uncertainty and administrative issues that could impact the growth of new opportunities in Australian shipping.

EXAMPLE – Development of offshore wind projects. Offshore wind turbines will require initial installation and ongoing maintenance, supported by a fleet of various types of vessels. Equipment will be moved from a port (harbour) on the coast to a designated area 5-10 nautical miles from the shore. The installation points are close enough to be within port limits of some ports, therefore would it be considered ‘coastal trading’ to move from a berth within a port, to an installation point within the same port? If this is defined as coastal trading, both Australian (General Licence) and foreign flag vessels (Temporary Licence under Section 12) could be used to develop these projects. If only Australian vessels were allowed to operate in these projects, there would be a significant requirement for Australian crew, that cannot currently be supplied. Further, the specialised operational requirements and high cost of these vessels mean that they are moved globally from project to project to ensure investment returns, so long term operation on the Australian coast is unlikely.

Referring to the above example, the current definition of coastal trading is unclear regarding the loading of cargo/equipment from a berth in Port A and discharging at a point (anchorage, installation point) within the port limits of the same Port A. In addition, if the discharge/unloading point was outside the port limits of Port A, is this also considered coastal trading and what is the administrative process to designate this unloading point?

4.1 Strategic Fleet Taskforce recommendations

Q14 – How can the Act ensure that Strategic Fleet vessels operate competitively to help grow the Australian maritime industry?

The CTA should provide priority access to Strategic Fleet vessels wishing to engage in coastal trading. This priority should be second to General Licence vessels, as GL vessels will have a higher Australian operating cost base that is not subsidised.

Q15 – Beyond the recommendations from the Strategic Fleet Taskforce, what else is required to ensure the Australian shipping industry can continue to grow?

Growth in the Australian shipping industry requires a mix of both Australian and foreign vessels and crew to meet the needs of the Australian economy and mitigate sovereign risk.

The Strategic Fleet will exist to mitigate sovereign risk and assist in emergency situations and is a vehicle for the gradual increase of Australian flag vessels, leading to growth in the Australian maritime skillset and seafaring capability. The vessel type for the Strategic Fleet will consist of fuel tankers, container ships and general cargo vessels and can support the growth of Australian skills.

Conversely, the coastal trading fleet is an integral part of Australian domestic supply chains that enables Australian manufacturers to compete with imported goods. These Australian businesses can be supported by a lower cost supply chain through foreign flag vessels with foreign or mixed crewing arrangements under the Temporary Licence provisions. These vessels will be dry bulk, small general cargo and some passenger vessels that move on and off the coast.

The CTA can support these domestic manufacturers through provision of Temporary Licences and amendments to the AISR, including unrestricted access to the coast and extending the seafarer offset tax.

Q16 – Should strategic fleet vessels be treated differently to other general licence holders? Are there any unintended consequences of treating a strategic fleet vessel in a different way to a general licence holder?

General Licence vessels should have priority for coastal cargoes over Strategic Fleet vessels. GL vessels are not subsidised and higher cost and should have the opportunity to build a coastal basket of trades to support continuous trading on the coast.

4.2 Addressing workforce supply challenges

Q17 – How can the Act support a training and workforce environment that encourages and grows Australia’s maritime workforce and sovereign maritime skills?

The General Licence requirements and associated tax incentives linked to training provide significant encouragement for owners of Australian flag vessels to consistently train seafarers. CSL currently trains eighteen seafarers a year (six engine cadets, six officer cadets and six trainee IR’s). These eighteen cadets and TIR’s undertake their training with CSL for four years. It has been difficult to retain our cadets beyond the four-year period, due to available permanent positions and the preference of the cadets to move into other maritime sectors (cruise, offshore, super yachts etc). Over the last 12 years, CSL has trained over 70 cadets/TIR’s in this program.

The CTA and the associated Shipping Reform (Tax Incentives) Act 2012 and Regulations 2023 supports the training of seafarers on the Australian coast. The training is explicitly linked to General Licence vessels, so extending this requirement to Strategic Fleet vessels and an amended AISR vessel framework would boost the training numbers for Australian seafarers.

Q18 – The Strategic Fleet Taskforce recommended that the Government explore opportunities to partner with other countries and with non-Australian shipping companies to secure additional shipping capacity to supplement the capability of the strategic fleet that may be required in times of national emergency. How can the Act enable or support access for seafarers from other countries that Australia partners with to work on Australian vessels?

Australia has reciprocal arrangements with countries such as Canada to recognise Certificates of Competency to work on Australian vessels. Despite these arrangements, many of these countries, such as Canada, have existing domestic crew shortages and so provide little benefit to Australia.

Furthermore, the visa options for foreign seafarers wishing to work on Australian vessels are significantly limited, due to the current Skilled Occupation Lists. There are substantial difficulties in obtaining visas for Masters, Engineers and Officers, unless they are deemed regional and are employer sponsored. Visa pathways for integrated ratings do not exist as this is not a rank found outside Australia.

The Act requires confirmation that seafarers on General Licence ships are Australian citizens or have a valid permanent or temporary visa. The wording of the Act is supportive of seafarers from other countries, the issue exists with the current migration framework for maritime jobs.

Q19 – Should Temporary Licence holders be required to provide training berths for a specific number of Australian nationals?

Temporary Licence holders could be incentivised to provide training berths for Australian seafarers, through port cost discounts, berth priority at multi-user berths, or other operating benefits within Australian ports.

A mandate for training berth is not practical as Temporary Licence holders are not equal – some are not high users with many voyages nor do they utilise the same vessel continually on the coast. Temporary Licence holders can also be a charterer, master, agent or a shipper. These ‘persons’ are not able to commit to providing training berths on foreign flag vessels as they are not the owner and do not have this control/responsibility.

Q20 – Do the current requirements for temporary licence holders to pay Schedule A wages under the Fair Work Act Regulation 2009 r1.15E provide an effective incentive for foreign vessels owners to engage Australian vessels and crews?

The Schedule A wages raise the wage levels for many foreign crew positions, however some higher positions wages may be already above Schedule A. This could be an incentive to move to a mixed crewing model, with higher ranks Australian and lower ranks foreign, however the supply of Australian seafarers is not sufficient. The difference in leave ratio (see Q8 response) contributes to the significant cost gap at all ranks, which is not alleviated by the Schedule A wages.

5. Other relevant matters

Q21 – Apart from the offshore industry, strategic fleet and maritime workforce, are there any other areas of maritime development that we should consider in our Review of the Act?

Other review elements should include amendments to the AISR to enable competitive mixed crewing and unlimited coastal trading, cost reduction measures for General Licence vessels (seafarer tax, leave ratio reset) and a levy on all users of Australian ports (not just coastal trading voyages) to support Australian operating cost reduction measures to compete with foreign vessels.