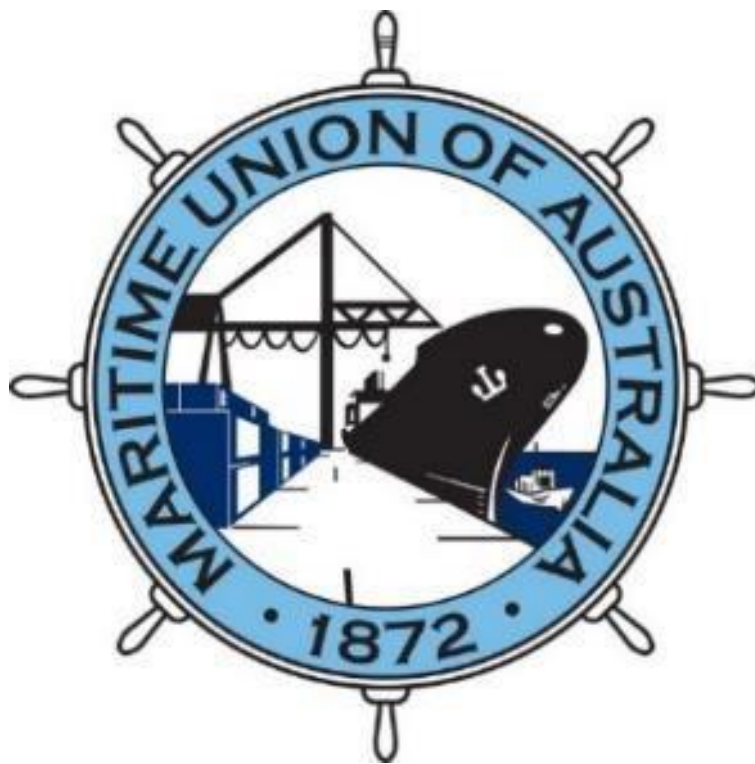


Critical Minerals Production Tax Incentive

Submission from the Maritime Union of Australia



July 2024

The Treasury

Submitted via email to: CriticalMineralsProductionTaxIncentive@treasury.gov.au

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Background

This submission has been prepared by the Maritime Union of Australia Division (MUA) Division of the Construction, Forestry, Maritime Employees Union (CFMEU).

The MUA represents approximately 14,000 workers in the shipping, offshore oil and gas, stevedoring, port services and commercial diving sectors of the Australian maritime industry. This includes coal export terminals. The MUA is also part of the Offshore Alliance (with the AWU) which represents workers on offshore oil and gas facilities.

The MUA supports the government taking action to address climate change. We are working hard to prepare our membership and industries for the necessary transition to a zero-net emissions economy and society. We recognise the need to urgently reduce emissions globally and in Australia to prevent global heating from exceeding 1.5°C, but this will have a very significant impact on the jobs held by many of our members. Our ability to provide climate leadership in these industries depends on the ability of governments and of our union to deliver a just transition to our members working in fossil fuel industries, and their communities. If we cannot provide such a transition, we risk significant reductions to workers' living standards, deepening inequality, and a very significant political backlash which could stall the transition we need.

Summary

The MUA welcomes the opportunity to make a submission to the consultation, and the initiative taken to establish a Critical Minerals Production Tax Incentive (CMPTI). The MUA supports the FMiA package and the concept of a production tax incentive.

We recognise that the production of critical minerals take place on First Nations land. First Nations must also be thoroughly consulted and provide Free Prior and Informed Consent for funded projects and be included in the benefits from these projects.

A significant portion of critical minerals are carried by ship and fit the definition of being vulnerable to supply chain disruption. We believe that the CMPTI must be tied to clear community benefits and quality jobs in the maritime industry.

The CMPTI offers an opportunity to revitalise Australian shipping. As national neglect and a race to the bottom undermined Australian shipping over the past decade, Australian crew were removed from many ships carrying critical minerals. The current government has an ambition to grow Australian shipping. The CMPTI should align with and promote that vision.¹

The MUA makes several recommendations with the aim of ensuring quality Australian jobs to increase our supply chain resilience in this sovereign industry and maximise the contribution to the Australian economy and communities.

Who is eligible?

The MUA notes that the CMPTI will mainly be used to support some processing and refining of critical minerals. The MUA recommends that the Government should be more ambitious in line with the broader vision of the FMiA package and use the CMPTI to attract and enable investment in the processing, refining *and* manufacturing capabilities that add value to these industries and the global value chain. To enhance Australia's sovereign capabilities, the Government should aim higher to ensure that CMPTI recipients are also committed to the development of downstream onshore high-value manufactured products. Our ambition should not just be the 'quarry of the world', there is an opportunity for Australia to move significantly up the value chain to develop new industries and become a leader in the global clean energy transition.

For critical minerals that are currently mined at scale in Australia, MUA members have historically worked in ports as stevedores, in port services such as tugs and lines, and as seafarers on ships. These include lithium, magnesite, manganese, rare earth elements, rutile and ilmenite (also listed as mineral sands and titanium), and zirconium.

The maritime role in critical minerals production includes:

- Ships carrying critical minerals domestically and overseas
- Port services and stevedoring in Australian ports where critical minerals are mined, to load minerals on to ships
- Port services and stevedoring in Australian ports where critical minerals are refined (if this is a different port).

The Government's definition of critical minerals includes that they are 'vulnerable to supply chain

¹ DITRDCA, [Maritime Strategic Fleet](#), accessed July 2024. Minister Catherine King, [Report shows Strategic Fleet can bolster Australia's maritime and freight sectors](#), November 2023. Prime Minister Anthony Albanese, [Labor Will Create a Strategic Fleet to Protect Our National Security and Economic Sovereignty](#), January 2022.

disruption'. The MUA supports this definition as the Government should have some control over the transport of critical minerals, including the shipping supply chain. This complements the Government's commitment to revitalising Australian shipping.

The MUA call for all FMiA programs and funding arrangements including the CMPTI to recognise the role of Australian flagged and crewed ships as part of its eligibility criteria and as a factor in any final investment decisions. The entity receiving CMPTI must be conditional on:

- Ensuring quality jobs through the implementation of a Secure Jobs Code (this could form part of the Community Benefit Principles)
- Domestic and international supply chains and exports that maximise the use of Australian registered ships, particularly where public funds are supporting export projects
- Maximising the employment of suitably qualified local workers, engaged under registered industrial instruments, agreed between relevant unions and employers
- Providing for training and skills development of local workers, minimum requirements for trainees and apprentices, and the employment of workers from groups underrepresented in the workforce. This must include employment and training of Australian seafarers in the transport supply chain of critical minerals.

It is critical that ordinary people see positive results from any production tax incentives. This can best be achieved by ensuring that the industry provides quality secure, union jobs in their surrounding community and in its import and export supply chains. While many well-established facilities and ports do currently provide quality jobs and union agreements, it is critical that new facilities not undermine this, or that the introduction of new processes not result in production pressures that undermine established safety processes.

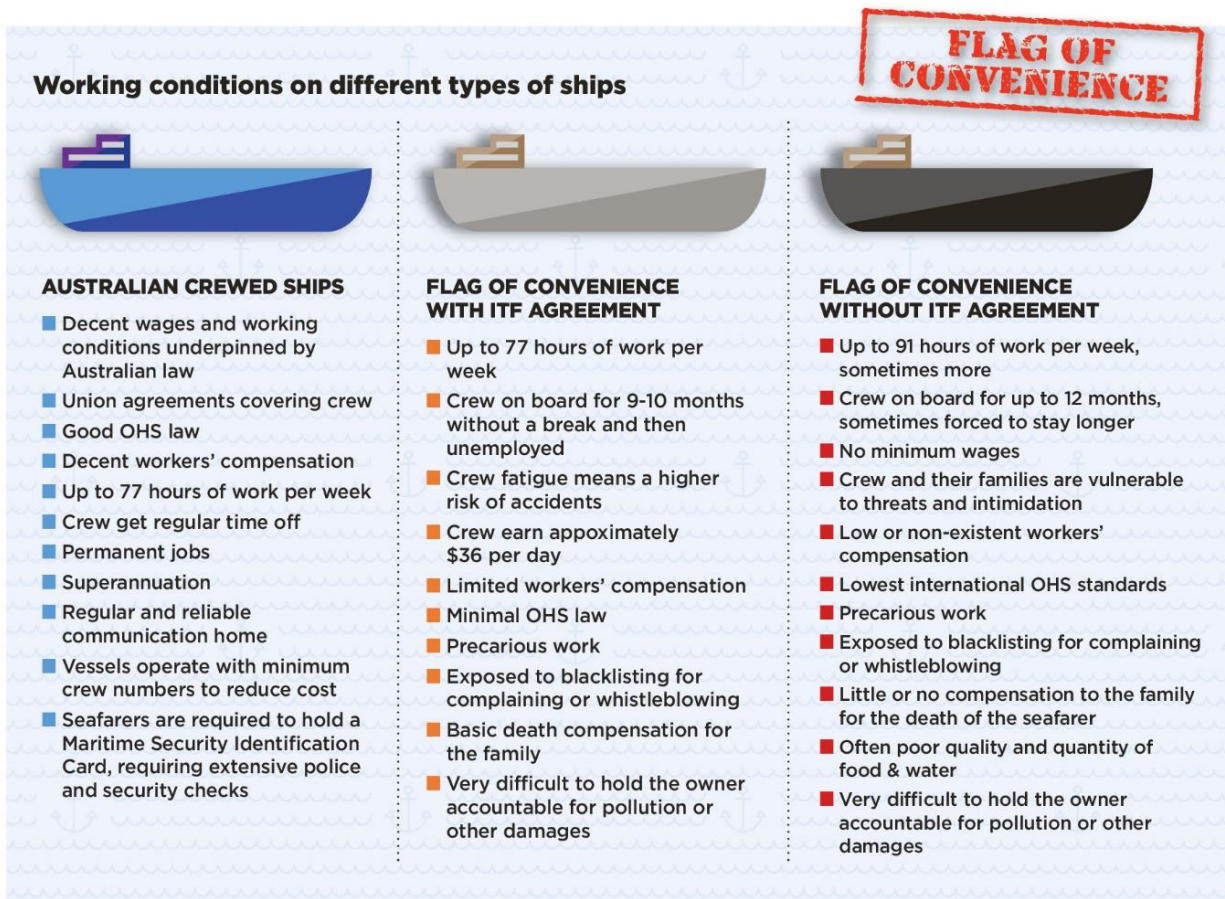
Eligible processing expenditure

Consistent with the Government's commitment to revitalising Australian shipping and the establishment of a Strategic Fleet, the MUA recommends that shipping transport costs are only subsidised for Australian flagged and crewed vessels and/or those in the Strategic Fleet network.

Cabotage arrangements in shipping have been undermined in the past two decades, decimating Australian shipping by creating an unlevel playing field between Australian flagged and crewed vessels and internationally/foreign flagged and crewed vessels. The loopholes in the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (the Act) and exploitative use of Temporary Licenses has meant that 99% of the coastal trade in Australia is now foreign flagged and crewed. There is no other industry where workers while working in Australia are not provided with the same rights and conditions as Australian workers. The MUA notes and welcomes the Government's commitment to review the Act this year.

There are significant environmental and social risks with the use of international ships that do not have to adhere to Australian environmental and labour standards and regulations. A recent report found that over 10 years, seafarers on international flag ships in Australian port had \$38 million in stolen wages.² These human rights issues are ongoing and industries and companies relying on public subsidy should not be seen as supporting or relying on these kinds of practices.

Figure 1: A comparison of working conditions on Australian and international ships. Since the graphic below was made, pay for seafarers on ITF agreements (middle column) has increased to roughly \$50 per day.



Source: Maritime Union of Australia and International Transport Workers Federation

The FMiA program and CMPTI is an opportunity to create good jobs while support Australia's renewables transition, this must include the use of Australian shipping in critical minerals supply chains.

Administrative arrangements

The administrative arrangements under the DISR and ATO places them in a critical position with significant responsibility to set the benchmark for industry standards. While the MUA does not have

² Rod Pickette, Lily Raynes and Jim Stanford, [Robbed at Sea: Endemic Wage Theft from Seafarers in Australian Waters](#), Centre for Future Work, 27 September 2022.

specific views on which Government Agency(ies) administer the CMPTI, we urge the Government to ensure that Agencies are resourced and capable of leading this work in terms of its organisational knowledge, strategic leadership, governance and culture. This is to ensure that the agencies have a full understanding of the many stakeholders and considerations involved to develop a strong social license and a safe and skilled workforce.

The MUA's experience with ARENA has demonstrated the pitfalls when an Agency fails to properly consult or engage with unions about merit criteria. To give one example, ARENA has shortlisted Hydrogen Headstart projects that do not so far have satisfactory strategies for developing a workforce that will result in community benefit and good social license. Those that proactively worked the unions to develop an MOU to demonstrate the community benefit were not shortlisted.

The MUA's strong position is that companies who do not have detailed commitments to community benefits in line with the Government policies – including Australian jobs with good union conditions of employment and the engagement of Australian flagged and crewed vessels – should not be receiving incentives or subsidies to develop projects.

Community Benefit Principles & the maritime industry

The government has an ambition to grow Australian shipping, establish an Australian Strategic Fleet, and to review and improve the Shipping Registration Act and Coastal Trading Act.³ Shipping is key service underpinning the net zero transformation, providing critical transport services to many renewable industries, as well as itself requiring decarbonisation. Shipping also underpins Australia's future economic security and resilience, which is why the government has chosen to invest in both domestic shipping capability and the FMiA industries. However, there is room to improve the coordination between these two important areas of government work, particularly as there is already considerable overlap.

All aspects of the FMiA industries must have a maritime component. The FMiA program could complement the Strategic Fleet and revitalisation of the Australian maritime industry by leveraging funding to support the development of Australian maritime industries. FMiA investments, including the CMPTI, could support government's shipping ambitions as follows:

- Include as a Community Benefit Principle to support the strengthening of domestic and international transport resilience and capability, across all modes including shipping.
- Eligibility for CMPTI must be conditional on the entity receiving support providing ongoing evidence of:

³ DITRDCA, [Maritime Strategic Fleet](#), accessed July 2024. Minister Catherine King, [Report shows Strategic Fleet can bolster Australia's maritime and freight sectors](#), November 2023. Prime Minister Anthony Albanese, [Labor Will Create a Strategic Fleet to Protect Our National Security and Economic Sovereignty](#), January 2022.

- Domestic and international supply chains and exports that maximise the use of Australian registered ships, particularly where public funds are supporting export projects
- A requirement for Australian employment and training of Australian seafarers on those ships
- A higher-level eligible processing expenditure could be provided to companies that utilise Australian shipping and/or the strategic fleet network. Conversely, eligible processing expenditure must not include logistics/transport costs for foreign flagged and crewed vessels.
- The Strategic Fleet could be used to trial and train seafarers and develop capabilities in the use of decarbonised technology, in coordination with the Maritime Emissions Reduction National Action Plan (MERNAP). MERNAP outcomes could also be leveraged through shipping in FMiA-funded projects.

If requirements around shipping such as those outlined above are not made explicit in government policy, use of international/foreign shipping will be the default. An important opportunity to rebuild Australia's maritime industry will be missed and companies will continue to put our environment at risk while exploiting international workers within Australia's borders on domestic trade routes.

The inclusion of shipping would significantly increase the Australian economic return of funded projects. Measures to support Australian shipping would also:

- Build supply chain resilience and sovereign capability;
- Extract economic value from ownership/operating Australian ships – in part to reduce the more than \$10 billion annually spent on purchase of foreign shipping services, a large drain on the nation's balance of payments;
- Provide a core base load freight capacity in Australian ships so shippers (cargo owners) can secure long term contracts of affreightment (CoA) with Australian ship suppliers, and therefore retain domestic control or influence over matters such as those listed below, which cannot be achieved using a spot market:
 - Crewing quality
 - Safety – crew, ship and cargo
 - Maintenance and dry-docking schedules
 - Creating long term partnerships with service providers e.g. towage, mooring, provisioning, insurers, legal services, financiers; workers' compensation and RTW providers; training providers, agents, freight forwarders etc.
 - Relationships with regulators
 - Decarbonisation strategies
 - Innovation and uptake of technology
 - Ship replacement cycles – long term investment plans.
- Building a maritime cluster as an anchor to give confidence for investment in related maritime activities and to encourage the growth of a maritime ecosystem of suppliers and support services – in the case of shipping, for bunkering and other ship provisions suppliers, repair and

maintenance provision, crew supply provision, training provision, legal services (charter party) creation; ship chartering services; ship insurance and financing services etc.

- Enhancing maritime security e.g. strengthening Defence maritime capability and flexibility through closer integration with commercial shipping (particularly the strategic fleet) as acknowledged in the Defence Strategic Review, as well as better coordination of marine assets and workforces in Government shipping e.g. civilian crewed Defence, ABF, AMSA, Department of Environment and CSIRO ships; and
- Creation of Australian seafarer employment opportunities and maintenance of suitable ships necessary to maintain a supply of internationally qualified and licenced seafarers for the wider maritime industry, in both on-board and on-shore roles.

First Nations

The MUA participated in establishing and supporting the work of the First Nations Clean Energy Network (FNCEN). The FNCEN is a network of First Nations people, community organisations, land councils, unions, academics, industry groups, technical advisors, legal experts, renewables companies and others, working in partnership to ensure that First Nations communities share in the benefits of the clean energy boom.

The FNCEN has developed Principles and Guidelines for the development of renewable energy, to ensure that country is protected and to make sure First Nations communities share the benefits of Australia's clean energy boom. The principles and guidelines should also be followed by renewable energy industries and the governments that regulate projects. The 10 principles cover such things as ensuring projects provide economic and social benefits, mutual respect, clear communication, cultural and environmental considerations, landcare and employment opportunities.

Treasury and the CMPTI administrators should review these principles to ensure that the Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects⁴ are required for funded projects.

In considering community benefit principles, it is important that the Department understand that both Australian Industry Participation Plans, and the Indigenous Procurement Policy (IPP) have not been effective, and the community and our unions have no confidence in these measures. However, there are reasonably effective measures developed by state governments. All of these state-based measures have had to negotiate Australia's international trade obligations.

Australian Industry Participation Plans were established in the Australian Jobs Act 2013, require corporations preparing a tender valued at \$20 million or more to map local industry, communicate with local suppliers, and outline how they will help Australian suppliers to develop their capability and

⁴ First Nations Clean Energy Network, [Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects](#), November 2022.

integrate into supply chains. These are loose support requirements and not enforceable. There is no adequate inclusion of sea freight transportation in these Plans.

The Indigenous Procurement Policy (IPP) has targets for government purchasing from Indigenous businesses. The IPP states, however, Indigenous businesses only require 4% Indigenous employment and even this employment requirement can be sub-contracted out. The IPP does not result in secure, well-paid and skilled jobs for Indigenous workers.

In contrast, Australian states and territories have implemented a range of mechanisms to ensure community benefit principles apply to government funding mechanisms, primarily procurement. These have all been driven by the union movement. When it comes to practically implementing community benefits principles, unions are the experts.

The union movement is advocating that the three best Australian models for instituting these best practice principles are:

1. The ACT's *Secure Local Jobs Code 2020* (SLJC), including the Ethical Treatment of Workers' Evaluation (i.e. two-gate tender process), ensures that tenders are not determined on economic considerations at the expense of ethical considerations, so that ethical businesses are not forced to compete for tenders with businesses that contravene industrial, work health safety and tax law.
 - a. The SLJC places positive obligations on entities that hold an SLJ Certificate, in respect of matters such as freedom of association, recognition of the right to collectively bargain and workplace representative rights. An entity must hold a SLJ Certificate to quote for and perform territory funded work.
 - b. The Ethical Treatment of Workers' Evaluation assesses tenderers across their entire business on SLJC compliance and government reputational risk. A tenderer that passes this first gate proceeds to the second stage for assessment on other factors, such as price and timelines.
 - c. The certificate and ability to tender can be revoked by an independent Registrar if the tenderer does not maintain its positive obligations.
 - d. The Victorian *Fair Jobs Code* applies the same model and has specific policies to facilitate diverse workforces.
2. Local content targets, best demonstrated in the NSW *Renewable Energy Sector Board Plan*. This is the best model for navigating Australia's trade obligations while maximising supply chain opportunities in Australia.
3. The Best Practice Industry Conditions (BPIC), outlined in the Queensland *Procurement Policy 2021*. This sets best practice wages and conditions for specific industries, and departments then ensure every procured project meets these standards. The policy also stipulates local content targets.