



Australian Government

Department of Climate Change, Energy,
the Environment and Water

Paul Trotman
A/g Deputy Secretary

Committee Secretary
Senate Standing Committees on
Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretary,

The Department of Climate Change, Energy, the Environment and Water welcomes the opportunity to provide additional information in response to the University of Wollongong's submission to the Senate Standing Committee on Environment and Communications on the *Offshore Electricity Infrastructure Legislation Amendment Bill 2022* (the Bill).

The University of Wollongong have provided two specific comments on the Bill. I have addressed each of these below.

Installation of overseas offshore energy installations (Item 7 of Schedule 1)

The University of Wollongong have sought clarification on the sequence of approvals for the installation of offshore electricity infrastructure (OEI) under the *Offshore Electricity Infrastructure Act 2021* (OEI Act) and the *Customs Act 1901* (Customs Act).

The Bill amends the Customs Act to require the approval of the Comptroller-General of Customs to install or operate OEI in the Commonwealth offshore area. This approval process will be additional to, the requirements of the OEI Act, where an approved management plan and financial security must be in place before OEI can be installed. The University of Wollongong has queried whether the Bill should attempt to integrate these approvals into a single process.

The OEI framework has been purposely designed to have a small legislative footprint and to operate in conjunction with existing frameworks, with the goal always being to work alongside, rather than replace, other regulatory schemes. This is necessary because of the complex nature of OEI projects and the range of overlapping regimes that will also apply. While the OEI Act creates a licensing scheme for OEI activities, developers will also need to meet legislative obligations and obtain the necessary approvals under other frameworks, including in relation to work health and safety, environmental management, electricity generation, and planning and development.

For this reason it is appropriate that developers obtain both the customs approvals required by the Bill and the existing approvals as required under the OEI Act, and that these are distinct approvals under different regimes. Approval under one regime does not guarantee approval under another.

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However, Commonwealth decision makers are able to share information and cooperate in relation to the performance of their statutory functions to assist with the consideration and timely determination of relevant issues.

Prohibition on transferring goods within 500 metres of an installation (Item 19 of Schedule 1)

The University of Wollongong has also sought clarity over the judicial basis for prohibiting the transfer of goods within 500 metres of an offshore electricity installation between a master of a foreign ship on an international voyage or a prescribed voyage to transfer goods to a coastal trading ship without the consent of the Comptroller-General.

Paragraph 175(3B)(d) of the Customs Act, as amended by item 19 of Schedule 1 to the Bill, gives effect to Australia's right to establish safety zones around offshore installations under Article 60 of the United Nations Law of the Sea Convention (UNCLOS). Article 60(4) of the UNCLOS allows a coastal state to establish reasonable safety zones around an installation, and to take such appropriate measures to ensure the safety both of navigation and of the installation.

The proposed amendment to paragraph 175(3B)(d) is a legislative measure that invokes Australia's rights under Article 60(4) of UNCLOS. Paragraph 175(3B)(d) prohibits conduct which poses risks to the safety of navigation around an installation or to the installation itself.

I trust that the information in this submission will assist the Committee with its inquiry into the Bill.

Should the Committee require any further information about this submission, the department's contact officer is Ms Lindsay Villani, Acting Manager of the Offshore Renewable Energy Policy Section (ph: [REDACTED] or email [REDACTED]).

Yours sincerely

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Paul Trotman
14 November 2022