Submission from Sucrogen Australia Pty Ltd

Sucrogen, the former CSR Sugar Division, was recently acquired by Wilmar International, a listed company on the Singapore ASX and the largest agri-business in Asia. The company has three main business interests in Australia. These include Sucrogen Cane Products (sugar milling, molasses and renewable energy production), Sucrogen Bioethanol (ethanol production) and a 75% stake in Sugar Australia (sugar refining).

The Sucrogen businesses have several issues with the proposed legislation. Molasses, which is sold directly by Sucrogen, is moved by bulk ship from North Queensland to the Port of Melbourne to service the yeast (bread making) and cattle feedlot industry. The business is insufficient to justify a dedicated coastal tanker and there are no suitable Australian flagged or licensed vessels. The product, through its nature has certain handling characteristics and special shipping requirements. The business has been well served by the SVP system. Under this Act, Sucrogen would need to apply for a temporary license every year, with no prospect that an Australian licensed vessel would emerge on the register. Furthermore Wilmar, Sucrogen's shareholder, has a majority interest in Raffles Shipping with over 120 bulk carriers in its fleet. Under the proposed temporary license regime Sucrogen will need to apply for a license every year, even though there is every prospect that Sucrogen's cargo will be carried in vessels owned by the company. This legislation removes the right for producers to carry their own cargo in their own ships.

The balance of north Queensland molasses is sold and exported through a single desk entity, Australian Molasses Trading which is managed under contract by Sucrogen. The molasses business is highly trade exposed. A Bill which has the effect of driving up the cost of coastal shipping will force a potential re think of where this product is sold. All Australian molasses could be exported into existing global markets in preference to supplying domestic markets. This could cause the Australian market to import molasses in cheaper international vessels. There is no benefit to the shipping industry from this legislation if higher coastal shipping costs encourage a change in trade flows from domestic to international.

The molasses trade is not new and any shipping company operating bulk tankers should know how the coastal trades work. It is therefore of little benefit to go through the process described in Division 2 – Temporary Licenses to expose the trade via the proposed bureaucratic processes prescribed. It is simply value destroying.

The bioethanol business was recently re-structured to provide only fuel grade ethanol into the Queensland market with industrial markets served by product imported to the Port of Melbourne. Ships for this product also have to meet certain product specific requirements. Under recently changed market conditions, Sucrogen Bioethanol will re-start coastal transfers of ethanol from North Queensland to Melbourne displacing imports. The requirements of the trade can vary significantly depending on several market variables, and may revert to imports again. Freight has been successfully provided as needed under the SVP program. Under the proposed Act, it would be considered too high a risk under the challenge provisions to wait until the first cargo needed

to move to submit an application and so Bioethanol would need to apply for a temporary licence, although not knowing whether it would need to use it or not. As the market changed then amendments would need to be put forward. The application details are sufficiently flexible to provide for this. However under Division 2 Subdivision A s 28 (2) (a), a shipper can only apply for a minimum of five voyages. The only way the ethanol can obtain flexibility is to game the process. It might be that from time to time depending on the market situation the business needs to only move one cargo. It may be that it needs to move four and this cannot be predicted over a 12 month period. Thus the business is beholden to this Act. Furthermore it is unlikely in the foreseeable future that an Australian licensed vessel will be brought into this trade because of the uncertain nature of the trades. If such a vessel was introduced due to the high risk of unused capacity the rates are unlikely to be attractive. At present the differentials for moving cargo from North Queensland versus imports from Brazil are marginal. In other words the legislation for these trades is self defeating. In this circumstance there is no point in being forced to apply for a temporary license – it is value destroying.

We are pleased to provide our comments of the Bill.

Specific Comments on Coastal Trading (Revitalising Australian Shipping) Bill 2012

Section 3 Object of the Act
The shipping industry is a service industry to the Australian economy. In the past 30 years the importance of the integrated supply chain has become well understood as part of an internationally competitive environment. Dissecting coastal shipping from the supply chain is likely to lead to a less competitive supply chain for Australian manufacturing or processing industries. It is imperative this be reflected in the Objects of the Act and be taken into consideration by the Minister in decision making.

Therefore the Objects should include a clause which reflects the role that the coastal trading framework has in promoting an efficient and effective and competitive supply chain for Australia's internationally trade exposed industries.

The welfare of the coastal shipping industry should not be at the expense of the industries it is there to serve. The RIS would indicate that without reflecting this in the Object of the Act, that in its current form, the legislation is value destroying – the more successful the policy is, the worse off Australia will be.

Section 21 Refusal of application
There are no grounds for appeal in Part 6 Sec 88 for the refusal of a licence. Provision should be made for an appeal to the Administrative Appeals Tribunal where information can openly be provided and contested in a situation where a party may be aggrieved by the Minister's decision. Furthermore, shippers should have the right to appeal against the granting of a General Licence should any decision to grant a licence be considered inadequate.

Division 2 Temporary Licenses

Section 28
If there is no licensed vessel and no prospect of a licensed vessel then the trade should be exempted from these provisions.

Section 34 (3) (b) (d)
The shipper may have standard terms which have been well established and in use over an extended period of time for the engagement of ships. These requirements are based on experience and may go beyond the requirements of AMSA. A higher standard of ships should be encouraged and welcomed by the Minister. It reduces risk to safety and the environment. Such provisions which would include the age of a vessel, requirements for tank coatings, kosher certification, double hulls, pumping rates and such like must also be recognised in negotiations. Vessels which do not meet the standards of shippers should not be imposed on shippers simply because there is a general licence vessel which might meet capacity and availability. The requirement of shippers must be defined broadly and include shippers' standards – decisions are not based on freight rate and volume alone, but total voyage cost and risk are uppermost in shippers' minds.

The reasonable requirements must include full commercial terms. Failure to do so drags the industry back to the days of SVP gaming and price gouging by licensed owners. This was a completely unsatisfactory and unsustainable regime in the long run for both owners and shippers.

Section 34 (4) (5) Minister to Decide applications (Also Section 77)

It is important that the Minister has complete information available to make a fully informed decision on the issuing of licenses. However the stop clock method of determination releases officials from the obligation to make timely decisions and gather the information required up front. Stop clock provisions have frequently been abused to cover for inadequacies in resourcing within agencies. The SVP arrangements required timely decisions and the pace of commerce is such that businesses need to know when decisions can be expected. Parties can "game" the supply of information under these provisions to advantage themselves and disadvantage the other party. This is not an acceptable process for business. It encourages parties to provide insufficient information if time is their ally. The Minister has two weeks to make a decision where there is no notice to an applicant. The same period should be retained in the event there is a notice. The clock starts from when the applicant notifies the Minister following the negotiation outcome. By this time the parties are likely to have full information and the Minister will be well aware of the issues in the pipeline to resource a timely decision. The drop dead provisions of section 36 would apply in this instance also.

Section 38 Refusal of application
There are no grounds for appeal in Part 6 Sec 107 for the refusal of a temporary licence or the terms of such licence. Provision should be made for an appeal to the Administrative Appeals Tribunal where information can openly be provided and contested in a situation where a party may be aggrieved by the Minister's decision. Appeals should also cover sec 41, additional conditions imposed by Minister.

Section 61 Voyage notification requirements for temporary licenses.
It is not clear what the Minister will do with this information. Once a license is issued, the holder should be free to operate within the provisions of the licence (or as amended) and not be subject to compliance monitoring in advance. It is not clear the Minister will be resourced to do this anyway. Certainly an AISR vessel on a temporary license should not have to report.

Section 62 Reporting requirements for temporary licences
The burden of reporting at all seems unnecessary. Quarterly or preferably annual reporting should be adequate if in fact it is required.

Other – Compact

The Regulatory Impact Statement concludes that most of the benefits arising from the proposed changes in policy arise from the industry/union compact. Few of the benefits then are ascribed to the proposed Act. Presentation of the Bills to the Parliament should be conditional on achieving the outcomes from the compact.

Summary:

Sucrogen is supportive of sensible measures to encourage an Australian fleet. However the conditions imposed on manufacturing industry are burdensome and unwarranted. Sucrogen requests that this policy be subjected to a Productivity Commission inquiry. The policy and legislation should be re-developed on the basis of the recommendations from that inquiry. Meanwhile the industry is best served by retaining the existing arrangements.