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**Australian Government**  
**Department of Defence**

## General Talking Points

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Calls to Nationalise Port of Darwin..... 6

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## Calls to Nationalise Port of Darwin

### Talking Points

- The Government is not currently considering either purchasing the Port of Darwin or forcing a change in ownership.
- Landbridge's operation of the Port of Darwin does not present security concerns for Defence
  - Defence interests are covered by a legally-binding Deed of Licence with the Northern Territory Government, as well as other legislative protections, and contractual and protective security measures.

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- The Government has put in place a range of measures over the past five years to enhance security assurance over State and Territory infrastructure and assets
  - In 2015, the Foreign Acquisitions and Takeovers Act 1975 was amended to require the FIRB to consider foreign investments relating to State and Territory government assets.
  - The Security of Critical Infrastructure Act 2018 also provides protections for the Commonwealth's interests in the Port of Darwin and other ports around Australia.

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***If asked: Would the Port of Darwin be captured under the new legislation to screen agreements between state and territory governments and foreign governments?***

- No. As the Port of Darwin was leased under a commercial arrangement, it would not be captured under the proposed legislation.
- All other questions regarding the new legislation should be addressed to the Foreign Minister.

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## FOREIGN INVESTMENT - CALLS TO NATIONALISE PORT OF DARWIN

### Key Points

- In August 2019, the Minister for Finance said the Commonwealth was not considering either purchasing the Port of Darwin or forcing a change of ownership.
- The decision to lease the Port of Darwin in 2015 was made by the NT government, not the Commonwealth government.
- Defence does not consider Landbridge's lease of the commercial Port of Darwin to present national security concerns.
- While Defence uses the commercial Port of Darwin, the Commonwealth-owned HMAS Coonawarra remains the Australian Defence Force's main port in Darwin.

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### Talking Points

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- No. As the Port of Darwin was leased under a commercial arrangement, it would not be captured under the proposed legislation.
- All other questions regarding the new legislation should be addressed to the Foreign Minister.

### Overview of recent or significant events, and media interest timeline

Date	Event
31/08/2020	The Guardian, ' <i>Port of Darwin 'critical' in new commonwealth power to veto deals with foreign governments, Albanese says</i> '. The article states that Anthony Albanese has declared it is "beyond my comprehension" that the Morrison government would introduce a sweeping power to veto state and territory agreements with foreign governments, and not look at the sale of the Port of Darwin to a Chinese company". The article states that

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	when asked about the port sale last week, Scott Morrison told reporters the investment regime had now been overhauled so “those circumstances wouldn’t be repeated”.
31/08/2020	The Australian, ‘ <i>Review Darwin port lease: Albo</i> ’. The article states that Anthony Albanese says the Morrison government should consider renationalising the Port of Darwin as part of the crackdown on agreements with foreign governments, amid concerns about foreign interference in Australia. “I think certainly in terms of the national interest, the Port of Darwin is critical” Mr Albanese said.
19/07/2020	Australian Financial Review, ‘ <i>Darwin Port owner linked to China's troubled shadow banking industry</i> ’. The article outlines claims that the Landbridge group has financial links to the Anxin Trust. The Anxin Trust built up a large unpaid debt, which was bailed out by the Chinese Government in 2019, and is linked to Chinese businessman Gao Tianguo, who was detained by Chinese authorities in June 2020 on charges of irresponsible lending practices.
28/06/2020	Sky News, ‘ <i>The sale of the Port of Darwin was a ‘comedy of errors’</i> ’. The article states that Australia’s diplomatic relations with China are “no longer sustainable” according to the Australian Strategic Policy Institute’s Peter Jennings. Mr Jennings believes that the “policy of look the other way ... [is] no longer sustainable” and characterised the sale of the Port of Darwin as a “comedy of errors from a federal government point of view” and an example of Australia’s over dependency on China.
07/06/2020	The Australian, ‘ <i>China will be surprised how long it took us to act on foreign investment laws</i> ’. The article notes that the new laws will not apply retrospectively, the Government will be reluctant to overturn past decisions, such as the lease of the Port of Darwin, in ways that might lead investors to worry about sovereign risk.
06/06/2020	ABC News, ‘ <i>Morrison Government’s foreign investment announcement avoided mentioning China</i> ’. The article says that the amendments to the foreign investment review process is aimed at China, even though the reforms do not mention China. The article notes the 2016 reforms to foreign investment review after the Northern Territory signed a 99-year lease on the Port of Darwin with the Chinese-owned Landbridge.

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## FOREIGN INVESTMENT - CALLS TO NATIONALISE PORT OF DARWIN

05/06/2020	Press Conference. Prime Minister Scott Morrison response to a question on nationalising the Port of Darwin: 'The Darwin Port was not sold with the approval or authority of the Commonwealth Government. It was not. At that time, sales of assets by Territory governments, state governments, did not require and did not call in the authority of the Foreign Investment Review Board or the Treasurer. As a result of that, I engaged with all the states and territories and had the rules changed and that came into effect in March of 2016.'
05/06/2020	ABC News, ' <i>FIRB to be given greater approval powers amid increasing national security risk</i> '. Shadow Treasurer Jim Chalmers indicated that the Federal Opposition would support the legislation, stating that 'in order to maintain the integrity of the foreign investment regime, we need to avoid the sorts of error the Government has made when it comes to the Port of Darwin sale and we need to make sure that the Government communicates any changes clearly.'

### Background

- The Northern Territory Government leased the commercial Port of Darwin to Chinese firm Landbridge Group in 2015.

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- In addition to its Deed of Licence with the Northern Territory Government, Defence also has a general power to access the Port facilities under section 3 of the *Defence Act 1903*, which provides for the Governor-General to do all things deemed necessary or desirable for the defence of the Commonwealth.
- The Deed of Licence was signed 13 May 2015 for a term of 15 years, with two additional terms of not more than 5 years, to a maximum of 10 years.
- All visiting naval vessels must obtain diplomatic clearance prior to berthing in Australia, including at the Port of Darwin.
- The security of critical infrastructure is a matter for the Minister for Home Affairs.

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## FOREIGN INVESTMENT - CALLS TO NATIONALISE PORT OF DARWIN

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[REDACTED] Defence does not consider the lease of the Port of Darwin to present national security concerns.

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## FOREIGN INVESTMENT - CALLS TO NATIONALISE PORT OF DARWIN

### Key Points

- In August 2019, the Minister for Finance said the Commonwealth was not considering either purchasing the Port of Darwin or forcing a change of ownership.
- The decision to lease the Port of Darwin in 2015 was made by the NT government, not the Commonwealth government.
- Defence does not consider Landbridge's lease of the commercial Port of Darwin to present national security concerns.
- While Defence uses the commercial Port of Darwin, the Commonwealth-owned HMAS Coonawarra remains the Australian Defence Force's main port in Darwin.

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### Talking Points

- The Government is not currently considering either purchasing the Port of Darwin or forcing a change in ownership.
- Landbridge's operation of the Port of Darwin does not present security concerns for Defence.
  - Defence interests are covered by a legally-binding Deed of Licence with the Northern Territory Government, as well as other legislative protections, and contractual and protective security measures.

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## **FOREIGN INVESTMENT - CALLS TO NATIONALISE PORT OF DARWIN**

- The Government has put in place a range of measures over the past five years to enhance security assurance over State and Territory infrastructure and assets.
  - In 2015, the Foreign Acquisitions and Takeovers Act 1975 was amended to require the FIRB to consider foreign investments relating to State and Territory government assets.
  - The Security of Critical Infrastructure Act 2018 also provides protections for the Commonwealth's interests in the Port of Darwin and other ports around Australia.

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**If asked: Would the Port of Darwin be captured under the new legislation to screen agreements between state and territory governments and foreign governments?**

- No. As the Port of Darwin was leased under a commercial arrangement, it would not be captured under the proposed legislation.
- This legislation is focused on State and Territory arrangements with foreign governments, not commercial investors.
- All other questions regarding the new legislation should be addressed to the Foreign Minister.

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## FOREIGN INVESTMENT - CALLS TO NATIONALISE PORT OF DARWIN

### Overview of recent or significant events, and media interest timeline

Date	Event
01/09/2020	The Guardian, ' <i>Labor wants to use Coalition's proposed foreign veto powers to unwind Darwin port sale</i> '. The article states that the Opposition is expected to propose an amendment to the new foreign government agreement legislation that would allow the 'unwinding' of the Port of Darwin lease agreement. The Northern Territory Chief Minister, Michael Gunner, noted that unwinding this lease would cost \$500 million.
31/08/2020	The Guardian, ' <i>Port of Darwin 'critical' in new commonwealth power to veto deals with foreign governments, Albanese says</i> '. The article states that Anthony Albanese has declared it is "beyond my comprehension" that the Morrison government would introduce a sweeping power to veto state and territory agreements with foreign governments, and not look at the sale of the Port of Darwin to a Chinese company". The article states that when asked about the port sale last week, Scott Morrison told reporters the investment regime had now been overhauled so "those circumstances wouldn't be repeated".
31/08/2020	The Australian, ' <i>Review Darwin port lease: Albo</i> '. The article states that Anthony Albanese says the Morrison government should consider renationalising the Port of Darwin as part of the crackdown on agreements with foreign governments, amid concerns about foreign interference in Australia. "I think certainly in terms of the national interest, the Port of Darwin is critical" Mr Albanese said.
19/07/2020	Australian Financial Review, ' <i>Darwin Port owner linked to China's troubled shadow banking industry</i> '. The article outlines claims that the Landbridge group has financial links to the Anxin Trust. The Anxin Trust built up a large unpaid debt, which was bailed out by the Chinese Government in 2019, and is linked to Chinese businessman Gao Tianguo, who was detained by Chinese authorities in June 2020 on charges of irresponsible lending practices.
28/06/2020	Sky News, ' <i>The sale of the Port of Darwin was a 'comedy of errors</i> '. The article states that Australia's diplomatic relations with China are "no longer sustainable" according to the Australian Strategic Policy Institute's Peter Jennings. Mr Jennings

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## FOREIGN INVESTMENT - CALLS TO NATIONALISE PORT OF DARWIN

	believes that the “policy of look the other way ... [is] no longer sustainable” and characterised the sale of the Port of Darwin as a “comedy of errors from a federal government point of view” and an example of Australia’s over dependency on China.
07/06/2020	The Australian, <i>‘China will be surprised how long it took us to act on foreign investment laws’</i> . The article notes that the new laws will not apply retrospectively, the Government will be reluctant to overturn past decisions, such as the lease of the Port of Darwin, in ways that might lead investors to worry about sovereign risk.
06/06/2020	ABC News, <i>‘Morrison Government’s foreign investment announcement avoided mentioning China’</i> . The article says that the amendments to the foreign investment review process is aimed at China, even though the reforms do not mention China. The article notes the 2016 reforms to foreign investment review after the Northern Territory signed a 99-year lease on the Port of Darwin with the Chinese-owned Landbridge.
05/06/2020	Press Conference. Prime Minister Scott Morrison response to a question on nationalising the Port of Darwin: ‘The Darwin Port was not sold with the approval or authority of the Commonwealth Government. It was not. At that time, sales of assets by Territory governments, state governments, did not require and did not call in the authority of the Foreign Investment Review Board or the Treasurer. As a result of that, I engaged with all the states and territories and had the rules changed and that came into effect in March of 2016.’
05/06/2020	ABC News, <i>‘FIRB to be given greater approval powers amid increasing national security risk’</i> . Shadow Treasurer Jim Chalmers indicated that the Federal Opposition would support the legislation, stating that ‘in order to maintain the integrity of the foreign investment regime, we need to avoid the sorts of error the Government has made when it comes to the Port of Darwin sale and we need to make sure that the Government communicates any changes clearly.’

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### Background

- The Northern Territory Government leased the commercial Port of Darwin to Chinese firm Landbridge Group in 2015.

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- In addition to its Deed of Licence with the Northern Territory Government, Defence also has a general power to access the Port facilities under section 3 of the *Defence Act 1903*, which provides for the Governor-General to do all things deemed necessary or desirable for the defence of the Commonwealth.
- The Deed of Licence was signed 13 May 2015 for a term of 15 years, with two additional terms of not more than 5 years, to a maximum of 10 years.
- All visiting naval vessels must obtain diplomatic clearance prior to berthing in Australia, including at the Port of Darwin.
- The security of critical infrastructure is a matter for the Minister for Home Affairs.

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Defence does not consider the lease of the Port of Darwin to present national security concerns.

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### Key Points

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### Talking Points

- Landbridge's operation of the Port of Darwin does not present security concerns.
- Defence interests are covered by a legally-binding Deed of Licence with the Northern Territory Government, as well as other legislative protections at Territory and Commonwealth level, contractual and protective security measures.
- The *Security of Critical Infrastructure Act 2018* provides protections for the Commonwealth's interests in the Port of Darwin and other ports around Australia.

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## FOREIGN INVESTMENT - CALLS TO NATIONALISE PORT OF DARWIN

As the Minister for Finance noted in 2019, the Government is not considering either purchasing the Port or forcing a change in ownership.

*If asked: Would the Port of Darwin be captured under the new legislation to screen agreements between state and territory governments and foreign governments?*

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	Government has made when it comes to the Port of Darwin sale and we need to make sure that the Government communicates any changes clearly.'
20/05/2020	Sky News, <i>'Port of Darwin should be placed "back into Australian hands"'</i> . MP Craig Kelly says the federal government should buy back the Port of Darwin.
19/05/2020	Sky News, <i>'Security concerns sufficient to "break China's lease on the Port of Darwin"'</i> . Senator Concetta Fierravanti-Wells says that Australia should end the lease to 'decouple from China [and] reduce the dependency we have on the Communist regime'.

### Background

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- s47, s47B
- In addition to its Deed of Licence with the Northern Territory Government, Defence also has a general power to access the Port facilities under section 3 of the *Defence Act 1903*, which provides for the Governor-General to do all things deemed necessary or desirable for the defence of the Commonwealth.
- The Deed of Licence was signed 13 May 2015 for a term of 15 years, with two additional terms of not more than 5 years, to a maximum of 10 years.
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- The security of critical infrastructure is a matter for the Minister for Home Affairs.
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