



The Unasked Jurisdiction Question

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Version 1.0, 14 August 2026. This assessment examines one recommendation in one published report. It rests entirely on that report's own text, read at page-image resolution, together with the report's own front matter. **Page citations give the printed page number. In this document the printed page number and the PDF page position are the same, verified at twelve sample pages,** so no parenthetical PDF position is carried.

1. Scope

This assessment examines Recommendation 2.8 of *Connected & protected: building Australia's submarine cable resilience*, published by the Australian National University's National Security College as an Occasional Paper dated August 2026. The recommendation is that operators "be required to locate a primary Network Operations Centre (NOC), or a remote access facility with overall network management capability, within Australia". The report gives a reason for the requirement, and the assessment puts one question to that reason.

The question is not whether the requirement is a good one. It is narrower than that. **Does the report establish what a requirement of this kind achieves when it is imposed on an operator that is itself subject to another state's law?** The report supplies both halves of the material needed to ask that question. It states what the requirement achieves in Australian hands. It states, of the same instrument in another state's hands, that the instrument gives that state access. It does not put the two together in any of the sections where the two would meet, and the assessment's finding is about that and nothing else.

The domain of that question, stated before the finding rather than after it. This assessment is not a reading of all 88 pages and makes no claim about the pages it did not read. It is a reading of the recommendation itself and of the seven parts of the report where the question would sit if it were anywhere: Recommendation 2.8 at printed p 7; section 1.2 at pp 14 to 22 and section 9.3 at pp 78 to 80, which compare operators by ownership; section 2.1 at pp 24 to 26, which records one state's reach over operators; section 2.5 at pp 29 to 30, which draws the consequences of foreign ownership for Australia; sections 4.1 to 4.3 at pp 36 to 45, which set out Australia's legal regime and the reach of Australian law; section 6.3 at p 59, which reasons for the recommendation; and section 9.2 at p 77, which describes the same instrument in another state's hands. **Thirty printed pages of eighty-eight.**

Two kinds of reading were used and they do not do the same work. Five sections — 1.2, 2.1, 2.5, 4.1 to 4.3 and 9.3, twenty-seven printed pages — were read end to end. Three parts — Recommendation 2.8 at p 7, section 6.3 at p 59 and section 9.2 at p 77 — were read at the page carrying the passage. **A page read establishes what a passage says. It cannot establish what a section does not contain, and no absence in this assessment rests on one.** Where this assessment says the report does not establish something, it means it in the sections read end to end, and says which.

Why the domain is bounded rather than asserted at large. A claim about a document as a whole can rest only on a search of the whole document, and Section 7 records why a search of this one is unreliable: the report hyphenates "extra-territorial", and the phrase "Network Security Agreement" is invisible to a column-

preserving text extraction because it crosses a column gutter. **An absence here is established by reading the sections where the proposition would sit, and it is bounded by them.**

The report characterises its own authority in its own words. It was produced with funding support from the Australian Department of Defence, under Strategic Policy Grant Program project ‘053-2024 – Defending Seabed Critical Infrastructure’, and its acknowledgements close with a disclaimer:

“All perspectives and errors contained in this report are the authors’ own.”

National Security College, Connected & protected, printed p 9, Acknowledgements.

That sentence is quoted because an assessment of a document should record how the document describes the standing of what it says, and because this report carries no separate disclaimer notice — the sentence above is the whole of it.

The report names five authors on its cover: David Brewster, Samuel Bashfield, Jocelinn Kang, Mike Constable and Anthony Bergin. It names two contributors at printed p 9: Dr Tony Press and Dr Amanda H A Watson. **What distinguishes a contributor from an author, the report does not say.** The distinction is made by heading and placement only. This is recorded because the assessment cites the document, not any person in it.

(The full statement of what this assessment does not claim is held at Section 10, Bounds. It is not an afterthought and a reader who reads only the finding should read that section with it.)

2. Finding

The report recommends that cable operators be required to locate a primary Network Operations Centre, or a remote access facility with overall network management capability, within Australia, and states that this would ensure cable network operations are subject to Australian jurisdictional and security requirements. Eighteen printed pages later, in a different section, the report records that the United States imposes a requirement of the same shape through Network Security Agreements, and states that such an obligation “would potentially give the US Government greater access to the systems”.

Both statements are in the report. Neither is qualified by the other, and in none of the parts read — including the two that carry these very statements — does the report ask what happens when both are true of one operator.

The gap is not that the report overlooks foreign reach. It records the mechanism in some detail, at printed p 25, where it describes the United States Government using US-based hyperscalers “as major points of leverage in support of its ‘Trusted Network’ policies”, and records what followed: a Hong Kong landing site dropped and an investor excluded from a trans-Pacific cable, and capacity declined on cables that do not connect with the United States. What the report does not do is carry that mechanism into the recommendation. Its jurisdictional analysis, at printed pp 36 to 45, reaches vessels and natural persons — by Australian citizenship, Australian flag and Australian ship registration — and nowhere reaches a corporation by reference to where

that corporation is incorporated, although corporate subjects appear throughout those pages as carriers, carriage service providers, responsible entities, ship owners and private cable operators. And where the report does compare operators by ownership, at printed pp 17 and 79, it states that Australian ownership means more direct subjection to Australian law and government direction, and does not state the converse.

The consequence is narrow and it is a consequence about a record. Nothing in the parts of the report read for this assessment establishes whether a NOC location requirement of the kind in Recommendation 2.8, imposed on an operator subject to another state's law, displaces that state's reach or sits concurrently with it. The report frames the requirement as producing sovereign oversight. Whether it produces sovereign oversight, or produces two jurisdictions over the same facility, is a question those parts do not reach — not because it was reached and answered, but because the jurisdictional model they use has no place to put it.

The bound does not soften the finding, and should not be read as softening it. The parts read include the recommendation, the section that reasons for it, the section that describes the same instrument in another state's hands, and the whole of the report's treatment of the reach of Australian law. **If the question is asked anywhere in this report, it is asked outside every section in which it belongs.**

3. What Recommendation 2.8 requires

The recommendation appears in the executive summary, at printed p 7:

“operators should be required to locate a primary Network Operations Centre (NOC), or a remote access facility with overall network management capability, within Australia. This would ensure that cable network operations are subject to Australian jurisdictional and security requirements.”

National Security College, Connected & protected, printed p 7, Recommendation 2.8.

Two things in that passage matter for what follows. The requirement is stated in the language of location — a facility, within Australia. And the reason is stated in the language of subjection — that operations become subject to Australian requirements. The recommendation asserts that the second follows from the first.

4. What the report says the requirement achieves

Section 6.3 carries the reasoning. Its heading is “Ensuring NOCs meet Australian jurisdictional and security requirements”, and it opens by stating the problem in terms of who the operators are and where their facilities sit:

“Most cables landing in Australia currently have primary NOCs located in Australia, but this is not universally the case. As hyperscalers and other large international operators expand respective presences in Australia's cable network, there is a real prospect that primary NOCs for

some systems may increasingly be located outside Australian jurisdiction.”

National Security College, Connected & protected, printed p 59, section 6.3.

The trigger the report names is the growth of large international operators. The problem Recommendation 2.8 answers is therefore stated in terms of foreign operators from its opening sentence, and the jurisdictional consequence of an operator being foreign is nonetheless not analysed in this section, nor in any of the other parts read for this assessment.

The statement of purpose follows on the same page:

“Ensuring that these functions are subject to Australian jurisdictional and security requirements – rather than those of another country – is a fundamental aspect of sovereign oversight of critical infrastructure.”

National Security College, Connected & protected, printed p 59, section 6.3.

“Rather than those of another country” is the report’s own phrase, not a characterisation of it. It states the effect as exclusive rather than concurrent: Australian requirements apply instead of another country’s, not alongside them. That is a proposition about what a location requirement does to a competing jurisdiction, and it is asserted rather than examined.

A note on wording, for fidelity and no other purpose. Recommendation 2.8 and section 6.3 do not describe the alternative facility in the same terms. The recommendation at printed p 7 says “a remote access facility with overall network management capability”. Section 6.3’s own recommendation, quoted in full in the next section, says “a secondary NOC with overall network management capability”. A third form appears in the same paragraph as the second, describing United States practice: “secondary NOC that has access to the overall network”. All three are quoted here and below exactly as printed. **The differences are recorded so that a reader comparing the quotations does not conclude that any of them has been misquoted. No inference is drawn from them, and nothing in the finding rests on them.**

5. What the report says the same instrument achieves in another state’s hands

The report does not treat the NOC location requirement as an Australian invention. Section 6.3 records where the instrument comes from, and adopts it for Australia **in the next sentence of the same paragraph**:

“US regulators, by means of Network Security Agreements, have been known to require operators to locate either a primary NOC, or secondary NOC that has access to the overall network, on US territory accessible only to US-cleared personnel. Australia should require that operators of cables landing in Australia locate a primary NOC, or a secondary NOC with overall network management capability, within Australia and subject to Australian regulatory authority.”

National Security College, Connected & protected, printed p 59, section 6.3. The two sentences run consecutively in one paragraph, with nothing between them; read at the page image.

The two sentences are consecutive. The report identifies the instrument, names the state that uses it, and recommends it for Australia without an intervening sentence. Nothing is hidden and nothing is elided. The origin of the instrument is on the record, immediately beside its adoption.

Eighteen printed pages later, in section 9.2, under an unnumbered “United States” sub-heading, the report returns to the same instrument and states what it does:

“In some cases, operators must enter into a Network Security Agreement that may include obligations to locate a primary or secondary NOC in the US, which would potentially give the US Government greater access to the systems.”

National Security College, Connected & protected, printed p 77, section 9.2.

These passages describe one instrument and attribute two different effects to it. In section 6.3 the effect of locating a NOC on national territory is that operations become subject to that nation’s requirements rather than another’s. In section 9.2 the effect of locating a NOC on national territory is that the nation’s government gains greater access to the systems.

Both may be true at once. An instrument that gives a state access to a network is, from that state’s side, an instrument of oversight. **The point is not that the report contradicts itself. The point is that the report states the second effect only of the United States, and states the first effect only of Australia, and neither section — nor any other part read for this assessment — asks whether an operator subject to United States law that is required to place a NOC in Australia produces the first effect, the second, or both.**

6. The separation

The two statements are eighteen printed pages apart and sit in different sections of the report — Recommendation 2.8 and section 6.3 in the body’s treatment of Australian regulatory design, section 9.2 in a survey of what other countries have done.

The separation is a feature of how the report is arranged rather than an accident of a single page. **Two statements on one page invite a reader to compare them. Two statements eighteen pages apart, under headings that announce different subjects, do not.** The report is not concealing anything: both passages are plainly written and neither is buried. But the architecture of the document places the Australian instrument in the chapter about what Australia should do and the same instrument in the chapter about what others have done, and a reader following either chapter is never brought to the junction.

7. The jurisdictional model, and the subjects it reaches

The report devotes sections 4.1 to 4.3, printed pp 36 to 45, to Australia’s legal regime and the reach of Australian law over submarine cables. Those ten pages were read end to end at page-image resolution for this assessment.

The reach analysis is conducted throughout in terms of vessels and natural persons. Its hooks are Australian citizenship, the Australian flag, and Australian ship registration:

“an Australian citizen or an Australian registered ship” (printed p 42)

“its own citizens or Australian-flagged vessels” (printed p 41)

“the vessel’s flag state, the Cook Islands” (printed p 43)

Where the report reaches for the limits of Australian authority, it reaches in the same terms — geography and vessels:

“Australia’s authority beyond territorial waters but within the EEZ is limited to activities that are connected to the exploration of the EEZ” (printed p 41)

Corporate subjects appear throughout those pages and are never the object of a reach analysis. At printed p 38 the report describes the SOCI regime as imposing obligations on the relevant “responsible entity” — its own quotation marks — “(usually a carrier, which owns the network, or carriage service provider)”. It speaks of carriers obtaining permits from ACMA at printed p 39, of owners of ships being liable at printed p 42, and of “private cable operators” at printed p 36. The pages are not short of companies. **What is absent, in these ten pages, is any passage applying extra-territorial reach to a company by reference to where that company is incorporated.**

The passage that comes closest to the compulsion question stays with persons and acts. The Attorney-General’s consent is “required to bring certain legal proceedings against foreign nationals or regarding acts committed outside Australia” (printed p 45).

And the passage that could most easily have gone the other way does not. The report’s treatment of the Security of Critical Infrastructure regime extends the Act to a cable “even if they physically extend internationally” (printed p 38) — **an extension keyed to where the asset was installed, not to who owns the operator or where that operator is incorporated.**

This is why the finding is about a record rather than about an error. The model these ten pages use answers the question *where is the thing*. They supply no apparatus for the question *whose law reaches the company that runs the thing*, and so Recommendation 2.8’s assertion that an Australian facility produces Australian requirements “rather than those of another country” is not tested here against the only part of the report that could test it. **These are the pages the report devotes to the reach of Australian law. If the apparatus exists elsewhere in the report, it is not where the report puts its jurisdictional analysis.**

This absence was established by reading those ten pages, not by searching them for terms. A term census of this document is unreliable: the report spells “extra-territorial” with a hyphen, and the phrase

“Network Security Agreement” is invisible to a column-preserving text extraction because it crosses a column boundary. The absence recorded here rests on the reading.

8. Ownership, and the limb that is not stated

This section makes an observation bounded to two sections of the report, and the bound is stated before the observation. Elsewhere — at printed p 30, quoted below — the report says things that bear on the same question without being an answer to it. What follows is a reading of sections 1.2 and 9.3 and is not a statement about the report as a whole.

There is one place where the report does compare operators by whose law they answer to, and it states one side of the comparison. At printed p 17, in section 1.2:

“Their ownership profile represents a different strategic consideration from cables operated by foreign telecommunications consortia or hyperscalers. Australian-owned operators are more directly subject to Australian law and government direction and may be more responsive to national priorities in a crisis, with already established relationships with Canberra.”

National Security College, Connected & protected, printed p 17, section 1.2.

And again at printed p 79, in section 9.3:

“Cables operated by wholly Australian-owned companies carry a different risk profile from those operated by foreign consortia or hyperscalers, as the former are more directly subject to Australian legal obligations and government direction and may be more reliably available to support national priorities in a crisis.”

National Security College, Connected & protected, printed p 79, section 9.3.

Both passages state what Australian ownership subjects an operator to. Neither states what foreign ownership subjects an operator to. Both stop at comparative language that names no second term — “a different strategic consideration”, “a different risk profile”. Sections 1.2 and 9.3 were each read end to end, printed pp 14 to 22 and printed pp 78 to 80, and the converse appears in neither.

Section 2.5 was read end to end for this reason, and it narrows what the two passages above can be taken to show. Its first two consequences, at printed p 29, concern geographic diversity and Australia’s suitability for data centres, and state nothing about whose law reaches whom. Its last two, at printed p 30, say two things that bear on the converse without being it. Of hyperscaler dominance over Australia’s network, it says this “may significantly undermine the Australian Government’s ultimate control over the country’s international communications”. And of a state exercising control over cable infrastructure “whether through ownership of cable operators, landing stations, or the territory through which cables transit”, it says such a state “could throttle, condition, or deny access to data traffic as an instrument of economic or political leverage” — a passage directed at China and framed as a vulnerability of particular relevance to Australia’s Pacific and Indian ocean partners.

Neither passage says that a foreign-owned operator serving Australia is subject to another state's legal direction. The first is about dominance diluting Australian control; the second is about coercion, and is applied to Australia's regional partners rather than to Australia. **The observation in this section is therefore an observation about sections 1.2 and 9.3, and is not an observation about the report as a whole.**

9. What the report describes, and does not commend

The passages quoted in this section are records, not endorsements, and that limit is stated before them. The report describes United States practice; it does not commend it to Australia, and nothing below should be read as saying that it does. The evidence for that reading is set out after the quotations, at the end of this section.

The report is not innocent of the phenomenon this assessment names. At printed p 25, in section 2.1, it records three instances of the United States reaching cable assets outside its own territory through operators subject to its law:

"In 2021, for example, in order to secure US landing rights for their proposed trans-Pacific Ocean Pacific Light Cable Network, the US Government forced Google and Meta to sign an agreement to drop a proposed Hong Kong landing site and exclude a Chinese investor."

"In practice, the US Government has also informally extended its trusted supplier policy beyond cables that directly link with the US to cables located elsewhere in the world, including through diplomatic pressure as well as offers of training grants and export finance to cable operators."

"Under pressure from the US Government, the hyperscalers are now declining to take capacity on new Chinese-built cables, including cables that do not directly connect with the US (although in practice on occasion they may acquire capacity on such cables through third parties)."

National Security College, Connected & protected, printed p 25, section 2.1.

In the first instance the hook is territorial — United States landing rights — and the effect is not. What was given up was a landing site in Hong Kong and an investor.

And the limit on that observation belongs with it. Section 2.1 records these instances descriptively and does not present them as leverage Australia should borrow. Where the section's language is not neutral it runs the other way — "forced", "under pressure", "US hostility", and of other investors "increasingly being forced to choose". Its closing sentence is a statement of an Australian information gap rather than a recommendation: "There is no publicly available information on the extent to which existing cables connecting with Australia incorporate components from 'non-trusted' suppliers." The only Australian action the section reports is of a different kind entirely — subsidising alternative cable systems in the Pacific, which is competition, not reach.

So the report describes the mechanism in section 2.1 and adopts a related instrument in section 6.3, and those are two different acts. This assessment does not say the report commends United States practice.

It says the report has the mechanism on its own record, at printed p 25, and does not carry it to printed p 7.

10. Bounds

This assessment examines the design of one recommendation in one published report. **It makes no finding about the report's authors, about the National Security College, about the Australian National University, or about the Australian Department of Defence, which funded the work.** No person named in the report is the subject of any finding here, and none is named in this document except in Section 1, where the authors and contributors are listed as part of the citation.

It does not say Recommendation 2.8 is wrong. It does not say the recommendation should not be adopted, that a NOC location requirement is ineffective, or that Australia would not gain from one. Whether the recommendation is sound is a question this assessment does not reach and does not answer.

It does not say that an operator incorporated in another country and holding a network operations centre in Australia remains reachable under that other country's law. That is the question the assessment says is not asked. It is not the answer, and the answer is not asserted here in any direction.

It names no operator. No company is said to be exposed, compellable, reachable, or subject to any foreign obligation. The corporate subjects that appear in Section 7 appear because the report uses them, and they are quoted as evidence about the report's vocabulary, not as examples of anything.

It alleges no error and no omission in the ordinary sense. A report setting out a national strategy for submarine cable resilience is entitled to scope itself, and a scope that treats jurisdiction as a question about geography and vessels is an ordinary scope for a document about cables and the law of the sea. The finding is that a question is not on the record, not that anybody failed to put it there.

It makes no claim about what any government has done, intends, or would do. No claim is made about Australian Government policy, about United States Government conduct beyond what the report itself records at printed pp 25, 59 and 77, or about any Network Security Agreement, none of which is public and none of which was read for this assessment.

Two limits on method are held throughout. First, the assessment relies on one document and its own front matter. It does not draw on the legislation the report discusses, on any Network Security Agreement, or on any external account of United States practice. Where the report states something, this assessment records that the report states it, and no further. Second, **every absence in this assessment was established by reading, end to end, a section where the proposition would sit, and is bounded by that section.** Those sections are five: 1.2 and 9.3, on which Section 8 rests; 2.1, on which Section 9 rests; 4.1 to 4.3, on which Section 7 rests; and 2.5, which bounds Section 8. **Three further parts — Recommendation 2.8 at p 7, section 6.3 at p 59 and section 9.2 at p 77 — were read at the page carrying the passage, and nothing in this assessment asserts an absence from them.** What those three pages support is what they say, which is quoted. **The domain as a whole is thirty printed pages of eighty-eight; no absence here is a claim**

about the fifty-eight pages not read, and none rests on a term search of the whole document — Section 7 records why a search of this document would not support one.

The finding, held to its narrowest, is this. **It does not say that Recommendation 2.8 fails to produce sovereign oversight. It says that the report frames the requirement as producing sovereign oversight, records elsewhere that the same instrument in another state's hands produces that state's access, and in none of the parts read establishes which of those two things a requirement imposed on a foreign-incorporated operator would produce.** The gap named here is a gap in the record, bounded to the sections read. It is not, and is not claimed to be, a gap in any outcome.

References

Brewster, D, Bashfield, S, Kang, J, Constable, M & Bergin, A 2026, *Connected & protected: building Australia's submarine cable resilience*, Occasional Paper, National Security College, Australian National University, Canberra, August, viewed 14 August 2026, https://nsc.anu.edu.au/sites/default/files/2026-08/Connected_and_Protected_web.pdf.

National Security College 2026, *Connected & protected: building Australia's submarine cable resilience* [publication landing page], Australian National University, viewed 14 August 2026, <https://nsc.anu.edu.au/research/connected-protected-building-australias-submarine-cable-resilience>.

Source pins

The assessed document was retrieved on 14 August 2026 at 05:17:29 UTC and pinned by SHA-256. Every quotation in this assessment was read from that pinned copy at page-image resolution.

Ref	Artefact	SHA-256
S-RPT-1	<i>Connected & protected</i> , PDF, 88 pages	cabd3f82cdd2ca1de8cf38bc25e0053804bedaf77bc557a70d2ba4c24718e25f8
S-RPT-2	Publication landing page, HTML as served	78d5c9299be42422aca847682b17a16f61795241b98702801c4fb0ab22722603

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The report's capture was made the day after the assessment's other work, at the third attempt. **Two earlier save requests, both on 14 August 2026, were refused by rate limiting;** the third, on 15 August 2026, was accepted and the capture followed four seconds later. The attempts are recorded in the case's scope file, so the delay is visible rather than implied.

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