

15 February 2021

Submissions — South Australian Ports Access Regime  
National Competition Council  
GPO Box 250  
Melbourne VIC 3001

And by email: [info@ncc.gov.au](mailto:info@ncc.gov.au)

**Re: Extension of certification of the South Australian Ports Access Regime**

I refer to:

1. The Application for the extension of the certification of the South Australian Ports Access Regime (**Access Regime**) as an effective access regime under section 44NA of the *Competition and Consumer Act 2010* (Cth) (**CCA**) as submitted to the National Competition Council (**NCC**) by Hon Steven Marshall MP, Premier of South Australia, dated 22 January 2021 (**Application**); and
2. The NCC's invitation to interested parties to make written submissions on the Application.

Flinders Ports Pty Ltd (**Flinders Ports**) strongly supports the Application and encourages the NCC to recommend to the Commonwealth Minister that the certification of the Access Regime be extended for a further period of 10 years.

***Flinders Ports***

Flinders Ports is South Australia's leading port operator with seven ports located at Port Adelaide, Port Lincoln, Port Pirie, Thevenard, Port Giles, Wallaroo and Klein Point.

***The Access Regime***

Flinders Ports does not propose to recite the background to the Access Regime in this letter as it is described adequately in the Application. It is worth repeating however that the essential port services provided by Flinders Ports have been regulated under the Access Regime since 2001 and that the Access Regime was first certified under Part IIIA of the CCA in 2011 for a period of 10 years, expiring on 8 May 2021.

***The benefits of the Access Regime***

It is Flinders Ports' view that it is desirable and appropriate from the perspective of all stakeholders, including the SA Government as evidenced by their Application, that certification of the Access Regime be extended for a further 10 years.

In addition to reiterating the submissions set out in the Application, Flinders Ports notes the following:

- The Access Regime is open, transparent and well understood within the South Australian maritime industry. It is also well balanced, simple and, for some time, has been seen as a benchmark for maritime access regimes in Australia.

- The services that are the subject of the Access Regime are solely provided in South Australia. Accordingly, it would be prudent, effective and efficient for the State regulator, the Essential Services Commission of South Australia (**ESCOSA**), to continue to be responsible for overseeing and administering that regime.
- ESCOSA has conducted regular reviews into the effectiveness and continuation of the Access Regime by way of annual price monitoring and five-yearly reviews of the Access Regime (2012 and 2017). Such reviews have been comprehensive, have properly understood the local circumstances in which stakeholders operate and have resulted in findings that the Access Regime should continue to apply.
- Maintaining the current regulatory framework will provide certainty and preserve Flinders Ports' confidence in continuing to invest in key projects in South Australia. Continued investment by infrastructure owners, such as Flinders Ports, will likely have a flow on impact as a catalyst for further investment across the supply chain in key South Australian industries such as mining and agriculture.
- The Council of Australian Governments' Competition Principles Agreement (11 April 1995, as amended) (**CPA**) supports the regulation of State infrastructure at the State level where an effective regime exists.
- For the reasons outlined in the Application, the operation of the Access Regime continues to be consistent with the objects of Part IIIA of the CCA and the principles established under clause 6 of the CPA. Most significantly, ESCOSA has not (since the inception of the Access Regime in 2001) found any evidence of Flinders Ports exercising market power – to the contrary, the Access Regime has been highly successful in ensuring access seekers obtain access to the relevant regulated services via commercial negotiation with no incidences of access disputes.

We would be pleased to provide further information to the NCC if required.

Yours sincerely



Stewart Lammin  
**Chief Executive Officer**