

Date: 13 April 2007

Mr Nathan Petrus  
Manager  
Pricing and Access  
Essential Services Commission of SA  
GPO Box 2605  
ADELAIDE SA 5001

Dear Mr Petrus

**ISSUES PAPER: 2007 PORTS PRICING AND ACCESS REVIEW**

Thank you for providing a copy of the Essential Services Commission of South Australia's (ESCOSA) Ports Access Review Issues Paper for comment by the South Australian Freight Council Inc (SAFC) Membership.

The Issues Paper was referred to the SAFC Regulations Working Group for review, and the following comments have been received:

- The Group thanks you for the opportunity to comment on this issue of significance to the SAFC Membership;
- We also understand that some SAFC Members have made submissions to ESCOSA on this matter in their own right;
- SAFC believes that there have been no substantial changes to the factors associated with the present Ports Pricing and Access regimes since the last review;
- SAFC does seek clarification as to whether the list of regulated services covered by the regimes will be expanded to include any new berths created, including those related to the proposed Outer Harbor Grain Terminal (OH8) as well as the soon to commence Container Terminal Berth extension? Will the new bulk loader located at Berth 29 be incorporated within the list of regulated services?
- SAFC also requests clarification as to the reasoning associated with the exclusion of other berths at the State's Ports (eg: OH6 etc), and including the Indentured Ports. Pricing and access to Port Bonython and Whyalla in particular may become an issue as the mining industry expands in South Australia. The situation covering bulk loading infrastructure at Ardrossan may also be worthy of review in light of the imminent expansion and changes proposed for of key existing and potential user industries.
- As highlighted within the Attachment, access to suitable tugs may also be an emerging issue requiring ESCOSA's attention and the development of a longer term

solution for the benefit of users and the State's emerging industry sectors (eg: mining).

- SAFC also suggests that ESCOSA review the inclusion (or otherwise) of facilities adjacent to shiploaders that may be required to facilitate efficient cargo accumulation and loading.

The attachment which follows contains SAFC's response to some of the specific questions raised within the Issues Paper.

SAFC concludes that as with previous reviews, there is scope for the misuse of market power in terms of port pricing and access, but there is no evidence that this potential power is being exercised. Therefore, SAFC contends that the current light-handed access regime and price monitoring are achieving their objectives (albeit untested to date) and should continue in their current form, with the period of review being extended to 5 years (not the current 3 year review period).

SAFC Members wish to continue to be kept informed of developments with ports access and pricing, and this review, as they occur.

Feel free to contact me on the numbers listed below if you wish to discuss this response.

Yours Sincerely

**Neil Murphy**  
**General Manager**

# SAFC RESPONSE TO SPECIFIC QUESTIONS RAISED IN THE ESCOSA ISSES PAPER 2007 PORT PRICING AND ACCESS REVIEW

- 1. Is it still the case that there is potential for misuse of market power, or is there evidence of actual misuse of market power in the provision of Regulated Services (which include bulk handling facilities) and Essential Maritime Services?*

SAFC contends that, as the Regulated and Essential Maritime Services are essentially a monopoly (generally a function of market size), there remains a potential for the misuse of market power. However, SAFC has no evidence of any abuse of this market power, and highlights that the price variations depicted are generally in line with cpi.
- 2. To what extent have negotiations for access to ports been unsuccessful?*

SAFC is not aware of any major unsuccessful negotiations for port access. There have been suggestions that some issues regarding gaining access at competitive prices to loaders and storage facilities for non-grain customers have arisen. SAFC understands that negotiations are continuing.
- 3. Has the Commission's approach to price monitoring (refer section 3.2.1) been appropriate? Has it been useful?*

On the basis of the information provided to SAFC, the existing approach by the Commission seems appropriate.
- 4. How do prices compare relative to other comparable ports in Australia?*

SAFC has not undertaken any review of comparative port pricing in Australia so is not in a position to provide informed comment. Nonetheless, SAFC contends that any comparison undertaken should consider the mixture of ship based and cargo based charges, so as total charges can be compared.
- 5. To what extent are negotiated prices different to the reference process and should this be taken into account?*

As negotiated pricing agreements represent commercial transactions details are not normally available for public discussion.
- 6. Are there net benefits associated with the current negotiate/arbitrate access regime?*

The current negotiate / arbitrate regime provides net benefits in that this process is more likely to arrive at an agreed outcome through mutual understanding and agreement. The arbitrate aspect of the access regime also acts as an incentive to ensure that competitive and 'fair' rates are set for access.
- 7. Are there net benefits in retaining price regulation in any form?*

SAFC believes that the price regulation regime acts as a constraint on the potential exercise of monopoly power and is therefore beneficial.
- 8. What are the possible implications for ports pricing and access should the AWB Ltd and ABB Grain single desks be retained or deregulated?*

If export grain marketing is deregulated there is a strong probability that new grain marketing firms will enter the export market. However, market entry could potentially be constrained by the difficulties in gaining competitive (price and timing) access to suitable grain storage and accumulation facilities, as well as access to loaders and belts. High barriers to entry suggest that new private ports are unlikely to be

developed. Consequently, issues may arise when/if facilities are operated by a direct competitor that may see overall business benefits in excluding access to this critical infrastructure, thereby limiting overall competition in their own markets. The use of alternative competing ports (eg: Portland, Geelong, Melbourne, Darwin) will also be constrained by relatively high landbridge costs.

9. *How has competition between ports for container volumes developed? To what extent does Flinders Ports hold market power in providing Container Facilities?*

Competition for container volumes is generally based upon shipping service availability. If direct services to/from markets exist then containers will generally move to the closest available port (for most of South Australia that is Port Adelaide). This is generally a function of pan-port pricing for container shipping in Australia, coupled with relatively high landbridge costs. If direct services do not exist (eg: there are no direct scheduled container services to North Asia from Port Adelaide) then a decision is taken by the exporter/customer and/or freight forwarder to either landbridge to other Australian ports (principally Melbourne) where direct shipping services are available, or to tranship via Singapore (utilising a Port Adelaide to Singapore service).

Nonetheless, as alternative options are available in Australia, Port Adelaide does not hold strong market power in this instance. The volume of landbridged containers from South Australia is sufficiently high (80,000 teu) to suggest that some competitive pressure is applied by interstate container ports. SAFC also concludes that as the South Australian container market is relatively small (less than 200,000 teu through Port Adelaide at this stage) then only 1 Container Terminal operator is warranted at this stage.

10. *Is the existing ports access regime capable of dealing with an expansion in mineral developments in South Australia?*

There is evidence to suggest that the ports industry in South Australia will react positively to market signals emanating from the expanding mining industry. The soon to be commissioned bulk loader provided by Flinders Ports in the Inner Harbour area of Port Adelaide is one such example.

Nonetheless, due to the large volumes of bulk and refined products that may be generated, and given that some products are not suitable to be loaded using bulk grain loading infrastructure, SAFC contends that the existing ports access regime may need to be expanded to ensure that sufficient capacity is provided, particularly at some strategic regional ports, closest to mining developments.

Furthermore, 2 ports on Eyre Peninsula (Port Bonython and Whyalla) which are not subject to the regimes are operated exclusively by SANTOS (on behalf of the Coopers Basin Joint Venture Partners) and OneSteel respectively, effectively limiting access. This "lack of access" is exacerbated by the poor connectivity provided by the isolated narrow gauge Eyre Peninsula Grain Network leading to the deepwater port in Port Lincoln which would provide a competitive option for consideration, if it were connected to the Interstate Mainline rail track in the northern areas of the State (and hence to new mining developments). The port facilities at Whyalla are connected to the national network (although the port itself has some depth constraints). Port Bonython has good depth, but the infrastructure is understood to be in relatively poor condition and this port also does not have a connection to interstate rail (22km connection required).

It should also be noted that regional ports do not currently provide a competitive

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container handling option, which if available, might also benefit the mining industry although volumes may not be sufficient to warrant this service being supported.

In addition, SAFC has been made aware of a recent issue associated with access to tugs that could prove to be a useful indicator of issues that may arise as the mining industry expands. SAFC understands that a bulk liquids vessel contracted by BP had arranged tug services for berthing at Port Bonython. A specific tug – the Z-peller Taminga – was required for this activity. Upon arrival, the vessel Agents were advised that the Taminga would not be available to berth their vessel as it was being utilised at the loading operations associated with OneSteel's Project Magnet (holding the ore barge onto the loading platform). A delay of several days was envisaged – which would lead to BP and/or SANTOS incurring significant demurrage costs – conservatively estimated at US\$40,000 per day!

Whilst Flinders Ports was able to negotiate a satisfactory outcome (for all of Adsteam, BP, SANTOS and OneSteel) this may not always be possible. SAFC understands that Adsteam has negotiated an agreement with OneSteel to provide tug services for Project Magnet and that this involves several tugs, including the Taminga. Whilst other tugs may be available, the Taminga is the largest, and is also required for berthing at Port Bonython. Furthermore, when/if grain harvests return to traditional (and even record) levels, then any Panamax sized vessel berthing at Wallaroo will also need the "Z Peller" tug from Whyalla (missing for 10 - 12 hours round trip) and therefore this issue will also likely impact on that particular port.

Competing requirements for crucial equipment (such as the Taminga) will likely see this issue escalate into a more serious occurrence, particularly as more mines enter production and begin exporting product in larger vessels. Consequently, it appears that ESCOSA may need to address the issue of access to tugs (and potentially tug pricing), and SAFC highlights that any discussions aimed at alleviating this situation will need to consider broader industry development opportunities and create a solution that is workable in the longer term.

*11. Have there been any developments over the current regulatory period that should be taken into account when reviewing the need for continued regulation?*

SAFC is not aware of any significant developments (other than those already identified by the Commission and/or SAFC) that require specific attention by ESCOSA.

*12. Are there likely to be any developments over the next regulatory period that should also be taken into account?*

As outlined by the Commission, the expanding mining sector and possible deregulation of the grain export industry are developments that require close monitoring in terms of port pricing and access outcomes.

Additionally, the development of new berth facilities at the Outer Harbour Grain Terminal (OH8), and proposed extension of the Outer Harbour Container Terminal are 2 developments that should be monitored. There is also potential for new marshalling and loading infrastructure to be constructed

*13. Are there any region specific or cargo specific issues that are relevant to the review?*

It should be acknowledged that many products emanating from the expanding mining industry will be in bulk form. Consequently, rail connected port facilities will likely become increasingly important. Rail connections will also be significant for the movement of larger volumes of containerised products (inputs and outputs).

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Competitive port access for the Kangaroo Island woodchip industry also represents a significant issue that will need to be addressed to improve this industry's competitive position in markets.

*14. Are there any other factors that the Commission should have regard to in deciding if price and access regulations should continue?*

SAFC is concerned with the repetitive nature of these reviews and respectfully suggests that the next regime should remain in place for a minimum 5 year period before conduct of the next review.

It may also be beneficial for the Commission to review its findings as port volumes grow and economies of scale become available. This development may have the potential to result in price increases that are less than cpi.

*15. Are there any aspects of the access and pricing regimes that are inconsistent with the CIRA clause 2 requirements (clauses 2.1, 2.2, 2.3, 2.4 and 2.6)?*

SAFC is not aware of any aspects of the existing regime that are inconsistent with Competition Policy principals. Nonetheless, SAFC highlights that national consistency in the various State-based regimes introduced will be the key factor which ensures fair and equitable competition.