

17 September 2003

Essential Services Commission of SA  
GPO Box 2605  
Adelaide SA 5001

Dear Sir

### **Ports Price Review: Draft Report**

With reference to the Draft Report issued by the Essential Services Commission of SA (ESCOSA) in August 2003, related to the Ports Price Review.

Flinders Ports, as a regulated operator, notes the Draft Report issued by ESCOSA and the conclusion that a light-handed form of price regulation would be appropriate for Essential Maritime Services.

Flinders Ports also notes that ESCOSA proposes to undertake a review of the Ports Access Regime, commencing in November 2003. It is noted that if the Access Regime continues it is proposed to add the relevant cargo services to the Ports Access Regime and apply Price Monitoring to Essential Maritime Services.

Flinders Ports in its submission suggested that price regulation of Essential Services is unnecessary due to a number of factors, including the competitive tensions and the level of indirect and direct competition that existed in the market place.

Flinders Ports is still of this opinion, however it did make the alternative point that should regulation continue, it should be confined to some degree of oversight with the primary emphasis being placed on commercial negotiation of charges.

The proposal put forward by ESCOSA provides a strong incentive for this alternative outcome to be achieved and hence is supported by Flinders Ports.

Flinders Ports notes that the proposed approach by ESCOSA incorporates a degree of monitoring and reporting to ESCOSA and benchmarking against other relevant ports. Flinders Ports would add that this benchmarking would need to be considered carefully to ensure that a true benchmark comparison was being achieved and that a wide range of factors (such as total port throughput, proximity to hinterland, etc) would also need to be considered when developing these benchmarks other than just a simple focus on a per ship visit charge. Flinders Ports would be willing to work with ESCOSA to ensure that any benchmarking exercise undertaken was realistic and achieved the appropriate outcomes desired.

Flinders Ports notes that subject to the outcome of the review related to the continuation of the Ports Access Regime an Alternative Proposal would be adopted by ESCOSA.

In relation to this Alternative Proposal, Flinders Ports would reiterate several points made in its submission:

- Essential Maritime Services comprise a large number of interrelated services and hence pricing arrangements.
- Structuring charges efficiently across a range of services where there are large fixed and common costs is difficult and these costs cannot be efficiently recovered across the whole range of services if commercial flexibility is removed from some areas.

Flinders Ports needs flexibility in recovering its total costs across ports, cargoes and services. It needs to be able to respond in commercial terms to proposals from its customers and to negotiate price / volume / service packages that meet the needs of both parties.

Flinders Ports considers that ESCOSA's Alternative Proposal would represent a substantial step towards more, rather than less, heavy-handed price regulation. In particular, setting a reference tariff would be more intrusive than the current price cap regime and would not, in the view of Flinders Ports, serve to encourage commercial negotiations.

Flinders Ports would therefore seek to discuss this matter further with ESCOSA, if the adoption of a Pricing Principles form of regulation for a specific industry sector, as outlined under the Alternate Proposal, was to be considered.

Flinders Ports notes the proposed Transitional Arrangements outlined in the Draft Report and will address this requirement once the Final Report is released in November.

In summary Flinders Ports believes that the Proposal put forward by ESCOSA does provide an appropriate level of price regulation for Essential Maritime Services. The framework outlined by ESCOSA provides incentive for the Port Operator to focus on striking appropriate agreements with users of these services, which deliver appropriate commercial outcomes for both parties.

Yours Sincerely

Mark Travers  
**Chief Financial Officer**