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4 September 2014

Hon. Stephen Mullighan's Office

SOUTH AUSTRALIAN FREIGHT COUNCIL

Hon Stephen Mullighan, MP  
Minister for Transport and Infrastructure  
GPO Box 1533  
ADELAIDE SA 5001

MINISTER'S OFFICE	
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296 ST VINCENT STREET  
PORT ADELAIDE SOUTH AUSTRALIA 5015  
+61 8 8447 0688 F +61 8 8447 0606  
WWW.SAFREIGHTCOUNCIL.COM.AU

Dear Minister Mullighan

**RE: Reform of South Australian Government Boards and Committees**

I refer to the letter dated 8 July 2014 from Premier Weatherill regarding reform of South Australian Government Boards and Committees, and I am responding to the Premier's request for input on behalf of the Port Adelaide Container Terminal Monitoring Panel (the Panel), of which I am the Chair.

The South Australian Freight Council (SAFC) is the State's peak, multi-modal industry group that advises both the Federal and State governments on industry related issues, and is funded by both governments. It represents road, rail, sea and air freight modes and operations, and assists the industry on issues relating to freight logistics across all modes.

The Panel was established in 2000 in accordance with the South Australian Ports (Disposal of Maritime Assets) Act 2000 – specifically sections 20 through 25, and was formed in response to concerns that a private-sector port operator could potentially exercise monopoly powers.

Membership of the Panel is as identified in Section 4 of the South Australian Ports Disposal of Maritime Assets) Regulations 2012. Members are nominated by the listed bodies and appointed by you as Minister. In accordance with Section 5 of the Regulations, the nominee of the South Australian Freight Council Inc (myself) Chairs the Panel.

The Panel considered the Premier's request for input at its August Meeting and concluded that, in the absence of any viable alternative mechanism that would deliver confidence to the South Australian logistics community, the Panel should continue in its current form.

Nonetheless, I take this opportunity to advise that the Panel was not unanimous in its position, and that there was some difference in opinion, principally from the terminal operator Flinders Adelaide Container Terminal (FACT). FACT believes that their business motivation is different to previous operators as they do not have any interest in competing interstate operations. Consequently, FACT contends that their profit maximisation motive is best advanced through the delivery of high levels of service to their current and future customer base as a whole, and that there is no incentive for them to act in a monopolistic way which would potentially risk ship visits and consequently vessel and throughput based revenue.

Conversely the Panel concluded that whilst there is no evidence to suggest that FACT is, has or will exercise any monopolistic powers, in the absence of a direct competitor there remains some potential for this to occur. Consequently, the Panel's oversight of FACT's operations is seen as providing a useful check on FACT's potential to exercise monopoly power.

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The Panel did acknowledge that whilst interstate container terminals offer limited competition to Adelaide at present, the substitution effect acts as a check on FACT's operations, and consequently limit the potential use (or abuse) of monopoly power.

FACT's ongoing investment in terminal equipment and facilities indicates that they are committed to improving customer service and productivity (albeit to maximise their own profits). This has gone some way towards easing any industry fears that monopolistic powers are in play.

Nonetheless, the Panel concluded that, as long as the terminal operation remains a monopoly, there is potential for FACT to exercise monopoly power, and that some form of oversight of terminal operations is necessary and prudent.

The Panel also noted that it would be expected that competition will eventually enter the Adelaide container terminal market when threshold volumes are reached, given that facilities could be viably established. At that time it would likely be appropriate that the Panel be disbanded and at current throughput and growth rates the entrance of a competitor could be possible before the end of the decade. Nevertheless, the Panel is not aware of any discussions or interest regarding the establishment of a competing terminal(s), nor is it aware of how or where a competitor terminal might establish.

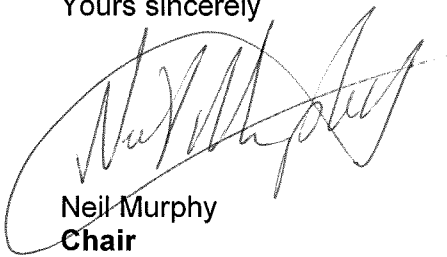
Whilst alternative mechanisms to provide oversight of terminal operations and productivity are available (eg: by expanding the powers of ESCOSA or referring any issues to the ACCC for investigation) the existing Panel has been effective to some extent in addressing issues raised to date and represents the least cost option currently available to Government.

I take this opportunity to highlight that SAFC currently Chairs and services the Panel at no direct cost to Government and neither SAFC, nor any other member of the Panel, receives any specific fees for their participation.

In conclusion the Panel agreed to submit that Panel operations should continue in the current form for the foreseeable future.

Should you wish to discuss any aspect of this submission, or require clarification of any matter raised, feel free to contact me by telephone on (08)8447 0688 or Email: [murphy.neil@safreightcouncil.com.au](mailto:murphy.neil@safreightcouncil.com.au).

Yours sincerely



Neil Murphy  
**Chair**

**Port Adelaide Container Terminal Monitoring Panel**

CC: DPTI, Ports and Logistics Group.