

SUBMISSION

Semaphore Container Services Pty Ltd

**Application for Exemption from the Port Terminal
(Bulk Wheat) Code of Conduct**

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Introduction

Semaphore Container Services Pty Ltd (SCS) is an owner and operator of a bulk out-loading vessel service operation offering its services from Osborne Berth 1 in Port Adelaide, South Australia.

Simply, SCS is attempting to create an avenue for the Australian grains industry participants, whether farmers or marketers, to be able to outturn their grain into bulk vessel. Importantly, the business is attempting to be established in South Australia which has been traditionally dominated by a single organisation.

The obligations imposed in Parts 3 to 6 of the Code are significantly onerous to be complied for an organisation such as SCS. These sections of the Code will severely dent the abilities and efficiencies of SCS as they impose significant cost implications and create inflexible working arrangements for the organisation. This submission is dedicated for an application for exemption of SCS from Parts 3 to 6 of the Port *Terminal Access (Bulk Wheat) Code of Conduct* that commenced on 30 September 2014 (the Code).

Semaphore Container Services (SCS) Operations

SCS operates its services from Number 1 Osborne Berth of the Port Adelaide precinct which is within the domain of Flinders Ports. Access to the berth is via an access road which intersects Mersey Road, North, Osborne.

The location is best viewed in the diagram hereunder:

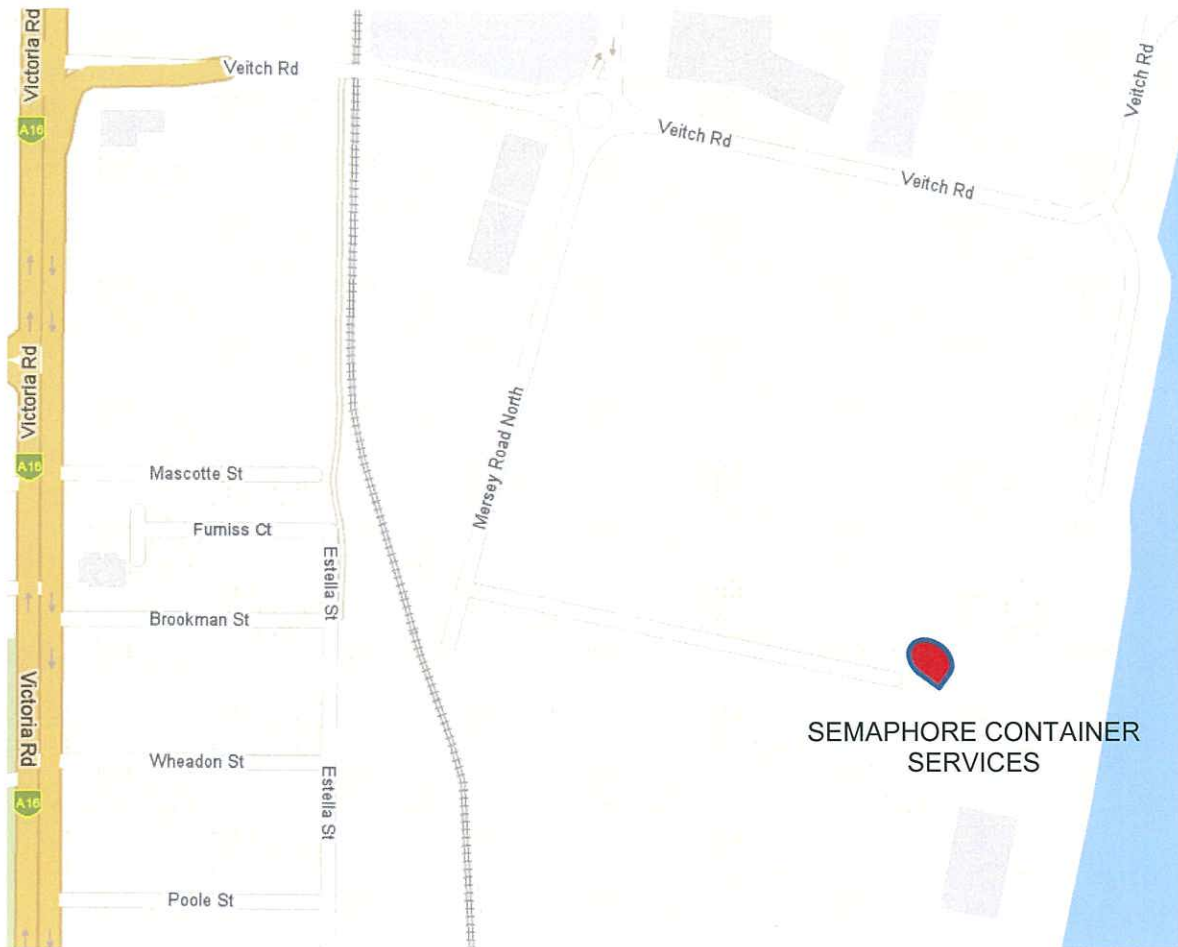


Figure 1

Source: <http://www.whereis.com/sa/osborne-5017/veitch-rd>

As South Australia has the shortest distance to port than any other Australian State, the catchment area for the grain for exporters to utilise the SCS operations can be potentially drawn from a considerable growing region as per below :



Figure 2

Source: Government of South Australia PIRSA

Operational Methodology

There are many challenges which present SCS when loading a bulk vessel and the company has strived to offer potential customers an efficient service as a major drawcard for the business. Operational challenges and limitations are met with a positive attitude and the company has developed an innovative approach in the delivery of its service capabilities.

As the site and the outloading configurations can only be accessed via road, SCS involves the application of mobile technologies and utilising vessel configurations to obtain an acceptable output for its operations. As well, the company manages its relationships with other service providers throughout the State to ensure the smooth channeling of grains to the 'Just-In-Time' design configurations. Being 'Just-In-Time' as an inherent feature of the operations, the company is clearly limited in scale compared to the existing monopolised Port structures in the State. Also, as a point of difference in its service provision, SCS is not identified as an Exporter. It is simply a service provider.

Currently, the organisation is in the midst of enhancing its service capabilities and improving its efficiencies. As part of this process, the organisation endeavours to continue the application of innovation in its service delivery and to provide a viable option for industry participants for bulk vessel outloading services than the existing structures. The servicing capabilities will endeavour to provide storage, receipt, testing and outturning configurations which are suited to the customer's requirements. SCS welcomes any prospective user of the port terminal facility and works with such users to suit their requirements for shipping. SCS has no formal arrangements with any exporters.

Operational Capacity

As the company is still in its infancy in terms of development, the operations are to a degree limited in scale by machinery limitations. It is difficult as such to detail annual capacity however the organisation is striving to develop and create a considerable servicing ability which will be customer oriented. It is expected the facility can cater for approximately 220,000 metric tonnes per marketing season. Over time and with continuing development, it is anticipated that improvements to the service capability such as storage improvements, machinery enhancements amongst others will be progressed to provide better service capabilities.

Relevant Matters to be Considered in the Exemption Application

SCS's exemption from Parts 3 to 6 of the Code are especially important for its operations in order to:

- *Allow SCS to offer a competitive service to the Australian Grain Industry participants*
- *Ensure the absence of negative implications for any considerable administrative costs when SCS is striving to compete in the monopolised marketplace*
- *Support SCS initiative to further its efforts to develop a competitive and efficient service for the industry.*

The ACCC is able to make a determination that a port terminal service provider is an exempt service provider, as provided by subclause 5(2) of the Code. As part of the consideration, the ACCC will have regard to matters listed at subclause 5(3) of the Code. SCS's operations fall within the ambit of the considerations of subclause 5(3) of the Code and are explained further hereunder.

(a) The legitimate business interests of the port terminal service provider - SCS

The grain supply chain in South Australia has been dominated by a monopolised structure for many years. As a new entrant and albeit significantly smaller in size than existing alternatives, the SCS initiative is designed to provide opportunities for the participants of the grain supply chain by offering a dynamic and competitive structure which is focused on customer service.

It would be detrimental to the SCS business initiative to be burdened by significant regulatory controls and the related costs.

(b) The public interest, including the public interests of the port terminal services provider.

An exemption granted towards SCS will allow the continued initiative of SCS to focus on reducing supply chain costs and associated difficulties prevalent in the alternative options in South Australia. In addition, as the business develops, this will encourage and support growth across all sectors and participants of the Agribusiness industry.

Clearly the public interest would be served by the SCS operations. It is requested likewise that the operations be spared the regulatory burdens of the Code.

(c) The interests of exporters who may require access to port terminal services.

The commercial flexibility provided by the SCS operations serves to promote and develop the interests of exporters who require access to port terminal services. The opportunity for consideration of an alternative in the State is paramount to develop a competitive framework for exporters.

It is important that SCS be spared the cost implications and regulatory burdens, in order to continue its path of attracting and serving the interests of exporters.

(d) The likelihood that exporters of bulk wheat will have fair and transparent access to port terminal services.

The SCS initiative is designed to promote flexibility and transparent services which benefit the interests of bulk wheat exporters. This results in fair access to the port terminal services.

(e) The promotion of the economically efficient operation and use of the port terminal facility

Due to the existing monopolised operations in South Australia, SCS will only prosper if it is able to be promoted within the industry as an economically efficient operation. Achieving economic efficiencies is a fundamental objective likewise for the SCS operations.

As such, it is imperative that SCS can continue its path of enhancing the economic efficiencies in the supply chain in South Australia and be spared the enormous impact of regulatory compliance and associated costs.

(f) The promotion of efficient investment in port terminal facilities.

The ability of SCS to offer the industry a flexible and innovative port terminal service will promote efficiencies of SCS and in addition, promote the efficiencies of associated supply chain assets and services in South Australia.

SCS will be severely hampered by the regulatory requirements which have the potential to disturb SCS efforts to promote efficiencies in the supply chain.

(g) The promotion of competition in upstream and downstream markets.

SCS is striving to provide an alternative option for port terminal services in South Australia. This promotes an important outcome of promoting competition and maybe evident in both upstream and downstream markets.

(h) Whether the port terminal service provider is an exporter or an associated entity of an exporter.

SCS is a port terminal service provider. It also offers container packing services to exporters. It is not an exporter or an associated entity of an exporter.

(i) Whether there is already an exempt service provider within the grain catchment area for the port concerned.

SCS understands that there is a recent exemption made in favour of Patrick.

SCS requests it can also operate on an exempt basis from the regulatory burden of the Code.

(j) Other relevant factors

SCS is a single terminal operation working to provide an opportunity in a historically monopolised region in Australia. Any costs of compliance would have a significant and disproportionate impact on the operation of SCS which is striving to promote efficiencies in the region.

Conclusion

SCS aims to provide an independent and effective port terminal operation in the Adelaide port zone. The appeal of the organisation will be the efficiencies it can bring to the existing supply chain in South Australia which will likewise encourage potential users to utilise its services. Whilst limited in scale compared to the historical monopolised structures in the State, the organisation is not deterred by the challenges which present in such an environment. It is sincerely requested the ACCC allow SCS to continue its initiatives and its efforts not be curtailed by any regulatory burden. The company requests exemption from Parts 3 to 6 of the *Port Terminal Access (Bulk Wheat) Code of Conduct* likewise.