

South Australia

## **Railways (Operations and Access) (Application of Access Regime) Proclamation 2016**

under section 7 of the *Railways (Operations and Access) Act 1997*

### **1—Short title**

This proclamation may be cited as the *Railways (Operations and Access) (Application of Access Regime) Proclamation 2016*.

### **2—Commencement**

This proclamation comes into operation on the day on which it is made.

### **3—Interpretation**

In this proclamation—

**Act** means the *Railways (Operations and Access) Act 1997*;

**Flinders Power Partnership** means the partnership between Flinders Power Holdings GMBH, Flinders Labuan (No. 1) Ltd and Flinders Labuan (No. 2) Ltd;

**freight terminal** means an area set aside for transferring goods to a train from another transport service (including another service provided by train), or from a train to another transport service (including another service provided by train), whether or not the goods are held, kept or stored at the terminal for a period of time pending transfer to the train or to the other transport service;

**Generation Lessor Corporation** means the Generation Lessor Corporation established under the *Public Corporations (Generation Lessor Corporation) Regulations 2010*;

**Interstate Mainline Track** means the Interstate Mainline Track as defined by the Railways Agreement set out in the Schedule to the *Non-Metropolitan Railways (Transfer) Act 1997* (as that Agreement is amended from time to time);

**Leigh Creek Line** means the rail corridors specified in Schedule 5 of the Railways Agreement set out in the Schedule to the *Non-Metropolitan Railways (Transfer) Act 1997* (or in any other relevant instrument modifying or varying any such corridor);

**private siding** means a private siding within the meaning of the *Rail Safety National Law (South Australia) Act 2012*, that is used or maintained to provide access to an area that is used (or predominantly used) by the person who owns, controls or manages the siding (or any other person) for a purpose other than transport purposes;

**Rail Commissioner** means the Rail Commissioner established under the *Rail Commissioner Act 2009*.

#### **4—Application of access regime**

- (1) Subject to subclause (2), the access regime under the Act is declared to apply to railway services associated with the provision (or the provision and operation) of railway infrastructure by an operator.
- (2) Subclause (1) does not apply to or in relation to—
  - (a) services associated with the Interstate Mainline Track, including associated crossing and passing loops, but not including infrastructure that is declared to be accessible under subclause (3); or
  - (b) services associated with the rail bridge constructed under Stage 3 of the Port River Expressway Project (the principal features of which are contained in Part 2 Division 1 of Schedule 1 of the *Highways (Port River Expressway Project) Regulations 2004*); or
  - (c) services associated with the tram track from the Adelaide Entertainment Centre to Glenelg; or
  - (d) services associated with any track on Eyre Peninsula owned by OneSteel Manufacturing Pty Limited or any company or person to whom ownership of any such track is transferred with the approval of the Minister; or
  - (e) services associated with the Leigh Creek Line (but only for such time as the sublease in existence at the time this proclamation comes into operation, under which the Line is sublet by the Generation Lessor Corporation to the Flinders Power Partnership, remains in force); or
  - (f) freight terminals; or
  - (g) private sidings; or
  - (h) services established on a non-profit basis—
    - (i) for heritage value or amusement; or
    - (ii) to provide services to tourists.
- (3) For the purposes of subclause (2)(a), the following infrastructure is declared to be accessible:
  - (a) buildings, installations and equipment for—
    - (i) the embarkation and disembarkation of passengers; or
    - (ii) the loading and unloading of goods, other than buildings, installations and equipment situated at a freight terminal; and
  - (b) railway yards and sidings (including associated track structures, supports, lines, posts and signs); and
  - (c) railway infrastructure under the care and control of the Rail Commissioner for the purposes of providing services associated with the Interstate Mainline Track.

#### **5—Revocation**

To the extent that it is required, the proclamation declaring the application of the access scheme under section 7 of the Act made on 7 May 1998 (see *Gazette 7.5.1998 p2116*, as varied, is revoked.

**Made by the Governor**

with the advice and consent of the Executive Council  
on 29 September 2016

MTR/16/056