

In 2015, the Northern Territory Government leased the Port of Darwin to a private port operator and introduced a regulatory regime– the *Ports Management Act 2015* (PM Act) and *Ports Management Regulations 2015* (PM Regulations) – under which the private port operator is required to establish an access policy. An access policy provides a framework for requests to access prescribed services at a port, the approach to be taken by the private port operator in determining access and the terms on which access will be provided at the port.

On 30 June 2017, the Commission approved Darwin Port Operations Pty Ltd's (DPO's) inaugural Access Policy for the Port of Darwin. In accordance with section 127 (10)(a) of the PM Act, DPO's Access Policy nominally expires 5 years after the date on which it was approved, that is, 30 June 2022.

On 23 February 2022, DPO provided the Commission with a new draft access policy, fulfilling requirements under section 127(1)(c) of the PM Act to provide a new access policy prior to the nominal expiry of the existing access policy. DPO advised the Commission that it consulted with port users on the new draft policy (as required by section 127 (2A) of the PM Act) and that although 230 parties were invited to make submissions, none were received.

DPO's new draft access policy is based on DPO's existing policy and comprises of three documents:

- Access Policy of Darwin Port Operations Pty Ltd (ACN 603 4752 788)
- Port of Darwin Standard Services Terms and Conditions
- Darwin Port Payment Terms and Conditions.

DPO advised the Commission that it has sought to keep changes to a minimum to ensure consistency in operating practices for port users and that amendments primarily relate to updates to reflect changes to the regulatory regime in 2020 and inclusion of provisions for Complex Access Applications. DPO advise that this additional classification of application is necessary to allow sufficient time to properly consider more complicated access applications. DPO advise that this will benefit port users by providing greater certainty as to cost for complex access arrangements.

Section 127 (3A) of the PM Act requires that within 60 days after receipt of the new draft access policy the Commission must give DPO notice that the Commission approves the draft access policy or, alternatively, that the Commission does not approve the draft access policy as it does not meet the requirements of section 127 (2) of the PM Act and DPO must make amendments so that the draft access policy meets those requirements.

Although not required by the regulatory regime, the Commission considers it good regulatory practice to publicly consult with stakeholders and other interested parties as part of its consideration of the draft access policy. This provides a further opportunity for stakeholders to review the policy and to provide feedback.

Given the Commission must complete its deliberations within the 60 day timeframe specified by the PM Act, the period for consultation is limited to three weeks, with submissions due by **close of business Friday 18 March 2022**.