

MALLESONS STEPHEN JAQUES

Mr Anthony Wing
General Manager
Transport & Prices Oversight, Wheat Access Section
Australian Competition & Consumer Commission
GPO Box 520
Melbourne VIC 3001

18 May 2009

Attention: Ms Sarah Sheppard

Dear Mr Wing

Port Terminal Services access undertaking

We refer to your letter dated 13 May 2009 requesting a public version of GrainCorp's proposed Wheat Port Terminal Services Agreement for 2009/2010.

Proposed Wheat Port Terminal Services Agreement

We attach the following:

- GrainCorp's proposed Wheat Port Terminal Services Agreement; and
- Annexure A, Wheat Port Terminal Services and Fees Schedule.

The terms and conditions of access proposed to be offered to wheat exporters under the Wheat Port Terminal Services Agreement do not differ significantly from the existing Storage and Handling Agreement under which market participants are currently operating.

Protocol for accumulation of grain by road into GrainCorp Port Terminals from non-approved storage facilities

Also attached is GrainCorp's "Protocol for accumulation of grain by road into GrainCorp Port Terminals from non-approved storage facilities" ("**Ex-Farm Protocol**").

The Ex-Farm Protocol is not an annexure to the proposed Wheat Port Terminal Services Agreement and does not have contractual force. Rather, it is a standard GrainCorp operational policy which is applied uniformly to all grain exporters acquiring Port Terminal Services at a particular port. GrainCorp maintains that it would be inappropriate to include operational protocols such as the Ex-Farm Protocol in the Port Terminal Services Access Undertaking as it requires the flexibility to amend or implement the protocols at short notice in order to address operational issues as they arise. However, the Ex-Farm Protocol demonstrates that GrainCorp makes its operational decisions on a uniform, transparent and non-discriminatory basis. In this

regard, GrainCorp has previously provided the Ex-Farm Protocol to its customers as part of recent consultations on port matters. GrainCorp may invoke the Ex-Farm Protocol at any of its terminals if to do so is necessary, given capacity or other operational limitations at the particular Port Terminal.

The Ex-Farm Protocol is currently being administered in relation to the receipt of grain from ex-farm or non approved storage facilities at the Fisherman Islands and Carrington Port Terminal. As the Commission is aware, the Fisherman Islands Port Terminal in particular is experiencing record levels of demand and is achieving significantly higher throughput volumes than in previous years. GrainCorp has introduced the Ex-Farm Protocol at Fisherman Islands as a means of minimising congestion at the capacity constrained Port Terminal and promoting the efficient operation of the Port Terminal.

Under the Ex-Farm Protocol, GrainCorp may direct trucks from ex-farm or other non-approved storage sites to a nominated country site for sampling and testing en-route to a port terminal, and prior to delivery of the grain to the Port Terminal.

GrainCorp will follow the Ex-Farm Protocol in circumstances where it is necessary to ensure the efficient operation of its Port Terminals for the benefit of all participants in the bulk wheat export supply chain.

Public register

We confirm that this letter and the attached proposed Wheat Port Terminal Services Agreement, Annexure A and the Ex-Farm Protocol may be placed on the public register.

If you have any questions, or if we can be of further assistance, please contact either Stefanie Benson on (02) 9296 2435, or myself.

Yours sincerely

[Sgd] Vishal Ahuja

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Encl.