



**Department of Agriculture and Food**  
Government of Western Australia



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Dear Mr. Wing

**Port Terminal Services Access Undertakings – submission on the Issues Paper released on the 29 April 2009**

The Department of Agriculture and Food (DAFWA) wishes to make a short submission (attached) on the Issues Paper released by the ACCC on 29 April. The interest of DAFWA in this issue is the efficient and effective operation of the supply chain for grain in Western Australia, leading to a more profitable industry and improved international competitiveness.

In summary DAFWA believes that:

- The Access Undertakings should deal with all grains, not just wheat.
- A national approach should be adopted in the Undertakings in the area of the period of application of the undertakings, the shipping stem information and other market related information that needs to be made available by the handler.
- The best solution in Western Australia would be for CBH to 'spin off' its grain marketing operations (Grain Pool Pty Ltd) as a separate commercial entity and retain CBH purely as a grower owned and operated storage and handling entity.

DAFWA looks forward to discussing this submission with you at your Perth meetings on 25 May.

Yours sincerely

Peter Metcalfe  
Director, Grains Industry Development

18 May, 2009

## **PORT TERMINAL SERVICES ACCESS UNDERTAKINGS – COMMENTS ON THE ISSUES PAPER RELEASED BY THE ACCC.**

The Department of Agriculture and Food (DAFWA) wishes to make a short submission on the Issues Paper released by the ACCC on 29 April. The interest of DAFWA in this issue is the efficient and effective operation of the supply chain for grain in Western Australia (WA), leading to a more profitable industry and improved international competitiveness.

### **General Comments**

DAFWA is strongly of the view that the Undertaking should cover all grains, not just wheat. The WA Government is in the process of removing restrictions on exports of barley, lupins and canola from WA, hence these grains will be in a similar position to wheat in regard to alternative exporters having equitable access to CBH port handling facilities. While the *Wheat Export Marketing Act 2008* requires the ACCC to look at access arrangements in relation to wheat, it is disappointing that none of the providers took the opportunity to broaden their undertakings to all grains.

DAFWA suggests the Undertaking from Cooperative Bulk Handling Ltd (CBH) be examined to ensure that it achieves the aim of ensuring that the port storage and handling monopoly CBH currently holds does not lead to distortions in the supply chain that will limit the benefits that are starting to flow from the introduction of multiple exporters of Australian wheat. It would also be beneficial if all of the Undertakings were standardised, adopting a national approach in terms of the period of application of the undertakings, and the shipping stem and other market related information that needs to be made available.

As stated by CBH in its supporting document to its Port Terminal Services Undertaking, bulk handling of grain is a volume business; hence it is not in the interests of CBH to carry out its business in a way that is likely to encourage new entrants. The risk is that new entrants will 'cherry pick' areas of the existing system that can be provided at lower cost. This could, over time, lead to far higher costs for the remainder of the activities and a significant amount of 'stranded' assets being held by CBH that have been paid for by growers over the years. DAFWA believes that it is not in the interests of industry, particularly growers, to have duplication of resources in the storage, handling and ship-loading area when there is already sufficient capacity. To this end it is hoped that the threat of competition will be sufficient for CBH to make its operations attractive to all parties seeking to utilise them.

Should there be a successful introduction of competition at the port level, DAFWA believes that there is still a requirement for an access regime to be in place unless CBH has less than 40% of the throughput at any individual port in WA.

Running through some of the Issues as presented in the Issues Paper:

## **6.1 Introduction**

There is no ability to shift wheat from Western Australia out through ports in other States, due to the prohibitive cost involved in freighting grain over the Nullarbor. This is critical from a State grain industry perspective, as if exporters see WA ports as being 'difficult' to export from they will look at utilising alternative origins to source their requirements.

For the export of grain, ports in WA are not readily interchangeable. There are limitations due to quality differences that occur, for example heat out of Esperance is not the same as APW out of Kwinana, and the freight differentials to end point markets (typically Asia). Port infrastructure constraints appear to be a minor consideration, although 2-port loading and the positioning of suitable grain type at port can be issues.

There are currently discussions of new entrants in WA establishing a port terminal to compete with CBH. From a DAFWA perspective this is not a desirable outcome. There is already sufficient ship-loading capacity in WA to handle even a bumper crop. In our view it is far more desirable for the current assets to be utilised efficiently and equitably rather than investing in duplication of resources.

CBH has taken a number of steps to constrain the ability of their Port Operators from favouring its own grain marketing business – most notably the efforts to 'ring fence' the two operations. DAFWA is of the view that the best solution for this issue would be for CBH to 'spin off' its grain marketing operations (Grain Pool Pty Ltd) as a separate commercial entity and retain CBH purely as a grower owned and operated storage and handling entity. In the event that this occurs the need for a Port Services Access Undertaking would appear to be redundant.

## **6.6 Term and Variation**

It is the opinion of DAFWA that the undertakings of the Bulk Handlers should all expire together, preferably in 2012. This will allow a single review of the operation of the undertakings over the period and the need for their continuation.

## **6.8 'Price and Non-Price Terms'**

DAFWA has the strong view that there is a need for key information to be made available if the marketing chain is to operate efficiently and effectively. CBH have rectified their initial inaction regarding information provision and now provide shipping stem data sufficient to meet the 'Non Price' standard terms.

From an industry perspective, DAFWA believes that the US model, where all parties have a high level of information available on which to make their decisions should be the guiding principle, as long as information is aggregated enough so that individual transactions cannot be identified.

DAFWA would like to see, as part of the undertakings, an agreement to publish key information on wheat receivals, stocks and shipping information on a timely basis. Ideally this should be provided for grains other than wheat as well, although this may be outside the scope of this review.

#### **6.12 'Information flow restrictions' – ring fencing**

The 'ring fencing' efforts by CBH have been briefly addressed above. Often perception is as damaging as reality, hence DAFWA suggests the only way to overcome this issue is true separation of the two entities.