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INTERNATIONAL

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Mr Anthony Wing
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Dear Sir

Issues Paper – Vitterra Operations Limited proposed Port Terminal Services Access Undertaking

Elders Toepfer Grain Pty Ltd (ETG) provides the following submission in response to the issues paper released regarding Vitterra operations limited proposed Port Terminal Services Access Undertaking dated the 20th of January 2011.

ETG would contend that the Vitterra 2009 undertakings were not at a point where we would agree the '2009 undertakings worked well'. In support of this ETG would highlight the following points:

- ETG did not sign a final 2009/10 storage and handling agreement and Port terminal services agreement. Still operating under interim agreements.
- ETG believe the management of the 2009/10 shipping stem did not meet the criteria of 'working well' (as illustrated within the Port Loading Protocols section of the paper).
- ETG were unable to resolve a position with Vitterra over the approved third party storage.

ETG believe these issues as examples demonstrate there is still improvement that can be achieved in the Vitterra Port Terminal Services Access undertaking.

From our perspective what we want is certainty to load our ships, transparency in the process, terms and conditions that do not become market drivers, rather they facilitate infrastructure and capacity utilisation and finally a system that incentivises participants and penalises the incorrect behaviour. Our model is built on the principle that the infrastructure systems role is to enable commerce and not be the commerce driver.

ETG contend that an underpinning issue with the management of Port Access revolves around the ability to manage the stem in such a way that throughput is maximised, certainty in creating and executing business is achieved and the necessary benchmark, performance indicators are in place.

To our end we see the process of significant forward booking of the stem via speculation in owning shipping slots is the underpinning weakness in stem management for both the infrastructure owner and the shippers.

ETG make the following comments in relation to the specific points raised within the issues paper

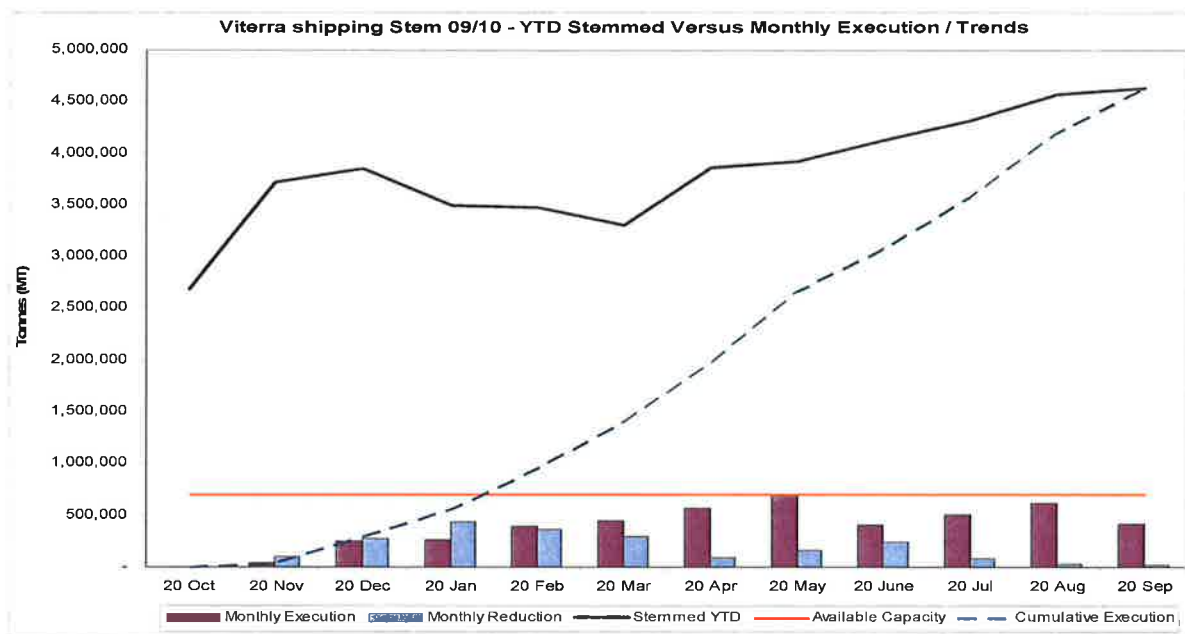
Capacity

ETG believe it is essential that capacities under the bundled service of export select are published for transparency. Not only is it prudent that the pipeline capacities become known, visible and transparent, but also maximum elevation capacities outside of the bundled services are illustrated for the market to establish a benchmark outside of these services.

The inclusion of quantities on the table for select, standard and remaining capacity is a necessity to increase transparency and to allow the market to understand and/or challenge the benchmark.

Port Loading Protocols

As an access seeker, ETG believe the Port Loading Protocols have not efficiently allocated port loading capacity. A clear example of this can be illustrated from the allocation of capacity within the 2009/10 season where long range speculation led to significant defaults on capacity in nearby shipping windows, as shown below.



Source: Viterrra Shipping Schedule (figure 1.1)

The above chart (figure 1.1) demonstrates how far forward the market was prepared to speculate on shipping slots via comparing stemmed tonnages YTD versus cumulative execution. From the beginning of April onwards when speculation reduced, the stem was able to correct itself with cumulative execution correlating closely with stemmed capacity out to seasons end. The high degree of speculative behavior in the early part of the season was an inhibitor to this natural occurrence of nominating on demand, which inturn led to the market looking at other alternatives and/or origins to execute grain.

ETG supports the notion of 'first come, first serve' when it coexists in an environment where the shipping stem is not speculated upon.

All we want is certainty in knowing we can execute and acquire shipping slots, without having to widely speculate without sales in hand. Under the current Viterrra system a shipper has the ability to book up capacity well in advance, hold this capacity right up until the shipping window has concluded and then decide not to ship against this capacity at no additional penalty over another shipper that has executed there booking. Should slot speculation continue there needs to be a mechanism to ensure the hand back or transfer of capacity within a suitable timeframe prior to the shipping window opening, if the holder can not utilise the booked capacity.

ETG does not support the concept of tradable shipping slots, where a secondary market is created which lacks liquidity. If the primary market is efficiently servicing the market and coexisting with the hand back and/or transfer of capacity within a suitable timeframe prior to the slot opening, then the need for a secondary market in any form is limited.

An alternative that ETG would support is the ability for market participants to openly transfer shipping slots to assist in the facilitation of executing the open stem, basis provisions against performance risk and anti-hoarding are adhered to and managed by the incumbent BHC.

The key findings from the external audit conducted on Viterro's obligations under the Wheat Marketing Act by Wheat Exports Australia (WEA) centred around transparency and information flow provided to their clients, in which Viterro committed to improvements. ETG believe there is room to improve against these commitments.

Approved Third Party Store

ETG note that the 'Approved Operator Conditions and Deed of Access' sits outside the 2009 undertaking. As such this document is excluded from the Publish, Negotiate and Arbitrate rights of the undertaking and therefore lacks transparency, is open to manipulation on terms by the service provider and does not provide any protection for access seekers in Port where the cargo is subject to comingling with common stocks.

Nationally third party access into Ports from approved and non-approved sites is evolving. Transparent industry benchmarks are being set with the true throughput costs and terms of such operations being disclosed and open for negotiation.

ETG believe it is paramount that the Approved Operator Conditions and Deed of Access is brought into account under the undertaking with price and non price terms related to such services clearly explained and representative of operations performed. This also formalises the principle of Publish, Negotiate and Arbitrate in other states.

Flexibility to vary the Port Loading Protocols (PLP)

ETG participated and were satisfied with the consultation process to vary the protocols within the 2010. We support the variation to the PLP without seeking final approval from the ACCC where the benefits are clear to the industry and unanimously agreed upon by all participants.

Approach to pricing

As per the introductory statement, ETG are yet to operate under a final agreement since the 2009 undertaking.

Terms of the undertaking

ETG would propose implementing a two year term under the proposed undertaking while the industry awaits the outcomes from the Productivity Commission regarding access. Until we have any adjustment to the Wheat Marketing legislation a two year term should remain.

ETG believe transparency and disclosure are the key to driving an efficient and effective supply chain that acts as a facilitator of business. As the industry evolves from the early stages of deregulation it is paramount we continue to have a mechanism that supports ETG's view of the underlying purpose of the Wheat Marketing Act and therefore we believe there are still refinements required to the Viterro Port Terminal Services access undertaking.

Yours Sincerely

A handwritten signature in blue ink, appearing to read 'M. A. Thiele', with a long, sweeping horizontal line extending to the right.

Mark Thiele

Managing Director

Elders Toepfer Grain