Bulk wheat ports monitoring report 2015–16

December 2016
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Summary

The Australian Competition and Consumer Commission’s first Bulk Wheat Ports Monitoring Report, examining the 2015–16 year, has found that, in general, owners of port terminals did not appear to be obstructing access by competing exporters or receiving a disproportionate share of port terminal capacity. However, due to lower than average export volumes and spare port terminal capacity across Australia, the provisions of the Port Terminal Access (Bulk Wheat) Code of conduct (the Code), and the effect of code exemptions, were not fully tested in 2015-16.

The report examines the nature and concentration of export activity and capacity allocation from Australia’s bulk wheat port terminals. In developing the report, the ACCC consulted widely with stakeholders from different parts of industry, including port terminal service providers, grower groups and exporters.

The ACCC monitors and enforces compliance with the Code, and has a specific role assessing exemption applications made by port terminal service providers from certain obligations in the Code. The report follows the granting of exemptions by the ACCC in 2015 to a number of east coast port terminals. Separately, the Minister for Agriculture also granted an exemption to CBH in Western Australia on the basis of its cooperative status.

Market data and stakeholder feedback indicated that there was significant spare port terminal elevation capacity available at many facilities in 2015–16. The ACCC also observed that bulk wheat port terminal service providers did not in general increase their export market shares to the detriment of other access seekers. The report details how access seekers have benefited from new ports across the country, with greater competition on price and service in a number of port zones, and greater flexibility from port operators.

Given these and other findings, at this stage the ACCC will not be revisiting exemption decisions made in 2015. However, the report highlights the continuing regional differences in competitive pressures – and hence role for the Code – in the bulk wheat export market. Stakeholders reported that access can be more uncertain in port zones where there is limited capacity and limited competition or access to alternative markets. In these locations, and at non-exempt port terminals in particular, the Code will remain an important means by which to facilitate third party access in a fair and transparent manner. These findings on regional differences reflect conclusions from the ACCC’s exemption decisions.

Both exempt and non-exempt port terminals also continue to be subject to a range of obligations under the Code, including an obligation to deal with exporters in good faith and publishing obligations about how capacity is allocated and the current state of the shipping stem.

The ACCC considered in detail exporter market share at the different port terminals and found:

- in the majority of port zones, several exporters were able to obtain capacity, indicating there is competition for grain in those port zones
- the vertically-integrated incumbent exporters’ market share at their own port terminals did increase at a number of terminals following exemptions, but this was not by a significant amount in many cases, and in other cases it decreased
- there is a tendency for larger exporters to have a significant presence in a number of port zones, but smaller players were nevertheless able to obtain export capacity
the significant spare capacity on the east coast in 2015-16 suggests that, while there were fewer exporters utilising certain ports, this is likely due to decreased demand and does not necessarily reflect exercise of market power by port operators.

The report also considered the constraint posed by container exports and domestic grain usage. Again this information reinforced the significant regional variation across the industry. In Western Australia and South Australia the competitive constraint posed by containers is likely to remain small.

Stakeholders also generally indicated to the ACCC ongoing support for the current level of reporting required of port terminal operators and in particular noted the usefulness of the shipping stem. The report also considers port terminal services reference prices, noting they have remained relatively stable in real terms over the previous four years.
1. Introduction

The ACCC has been involved in the regulation of Australia’s bulk wheat export port terminals since 2009. Currently the industry is subject to the Port Terminal Access (Bulk Wheat) Code of Conduct (the Code), which commenced on 30 September 2014. The Code regulates the conduct of bulk wheat port terminal service providers (PTSPs).

The ACCC monitors and enforces compliance with the Code and also has certain specific roles in relation to port terminal exemptions and capacity allocation systems. The ACCC’s role in relation to the Code replaces its previous wheat export function whereby it assessed port terminal services access undertakings for bulk wheat export under Part IIIA of the Competition and Consumer Act 2010 (Cth) (the CCA).

The aim of this Bulk Wheat Ports Monitoring Report is to examine the nature and concentration of export activity and capacity allocation in Australia’s bulk wheat port terminals. In particular, the ACCC is seeking to make sure that vertically-integrated owners of bulk port infrastructure do not get an increasing and disproportionate share of wheat exports from Australia as a result of their ownership of bottleneck infrastructure. The report also includes analysis following consultation carried out with industry stakeholders, including PTSPs, growers and exporters.

During its exemption assessments in 2015, the ACCC considered it would be appropriate to undertake monitoring of bulk wheat port terminal services to continue to assess the level of competition at both exempt and non-exempt facilities in the future. In particular, the ACCC noted that it would be concerned if, following the granting of exemptions from provisions of the Code, it saw evidence that there had been significant increases in market concentration in the grain export market that may reduce the level of competition for grain grown by Australian farmers. Under subclause 5(6) of the Code, the ACCC can revoke an exemption determination if, after having regard to the matters in subclause 5(3), it is satisfied that the reasons for granting the exemption no longer apply.

In the absence of sufficient competitive constraint, ensuring port terminal access for all exporters on a fair and transparent basis is critical, especially where there is limited competition in other parts of the supply chain. This report will therefore consider the effect of the exemptions the ACCC has granted to PTSPs where competition was expected to emerge. A key focus of the report will be on exporters’ market shares at bulk wheat port terminals, especially the trading arms of the vertically integrated PTSPs.

The ACCC is able to monitor the level of shipping activity and market concentration at the port terminals through examining daily ship loading statements. The ACCC has also consulted with a range of industry participants, and examined data from other sources including information provided by Australian Crop Forecasters (ACF). ACF data is presented in a number of the graphs in this report.

The ACCC intends that this report will be released regularly while the Code is in operation, and over time will enable the ACCC to monitor the effect of further deregulation of the industry and greater competition between some port terminals.
1.1. The Australian wheat export industry

Wheat is an important component of Australia’s agricultural sector and also one of the sector’s biggest export earners. A significant proportion of the wheat produced in Australia is exported.¹

Figure 1: Breakdown of 2015–16 wheat usage in Australia

![Chart showing wheat usage by state: WA, SA, VIC, NSW, QLD. WA has the largest proportion of bulk exports, followed by SA and VIC. Queensland has significant container exports.]

Source: Australian Crop Forecasters, Supply and Demand report.

The markets for bulk wheat export vary greatly across the country. Broadly speaking, wheat grown in Australia may be sold into the domestic market (such as milling, biofuels or feedlots), or exported. Wheat may be exported through either containerised exports or bulk export facilities.

In South Australia and Western Australia the majority of wheat is exported via a bulk port terminal operated by the vertically integrated port terminal service provider dominant in each state (Viterra Pty Ltd (Viterra) and Cooperative Bulk Handling Group (CBH) respectively).

Compared to Western Australia and South Australia, many growers in eastern Australia may have access to large alternative markets for their grain, such as domestic markets or a significant export container market. However, particularly when overall production is high, large amounts of east coast grain will also be available for bulk export. GrainCorp Operations Ltd (GrainCorp) is the largest port operator on the east coast, and is vertically integrated into exporting.

Australia’s bulk wheat export industry has also changed significantly since the end of the ‘single desk’ in 2008, with a significant number of new port facilities being commissioned. Table 1 sets out the PTSPs currently operating in each state.

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¹ As outlined by AEGIC, Australia produces just three per cent of the world’s wheat (about 25 million tonnes per annum) but accounts for 10–15% of the world’s 100 million tonne annual global wheat trade. See: AEGIC, ‘Australian grain production – a snapshot’, AEGIC, Perth, 2016, viewed 18 November 2016, http://aegic.org.au/australian-grain-production-a-snapshot/
### Table 1: PTSPs in Australia (by state)

<table>
<thead>
<tr>
<th>State</th>
<th>PTSPs</th>
<th>Exemption Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western Australia</td>
<td>CBH</td>
<td>All ports exempt (17 November 2014)</td>
</tr>
<tr>
<td></td>
<td>WA Plantation Resources (WAPRES)</td>
<td>Exempt (24 September 2015)</td>
</tr>
<tr>
<td>South Australia</td>
<td>Viterra</td>
<td>No exemption applications submitted</td>
</tr>
<tr>
<td></td>
<td>Bulk and Automotive Port Services (BAPS) (previously Patrick)</td>
<td>Exempt (1 April 2016)</td>
</tr>
<tr>
<td>East Coast</td>
<td>GrainCorp Newcastle</td>
<td>Exempt (1 October 2014)</td>
</tr>
<tr>
<td></td>
<td>GrainCorp Geelong</td>
<td>Exempt (25 June 2015)</td>
</tr>
<tr>
<td></td>
<td>GrainCorp Portland</td>
<td>Not exempt (25 June 2015)</td>
</tr>
<tr>
<td></td>
<td>GrainCorp Fisherman Island</td>
<td>Exempt (24 September 2015)</td>
</tr>
<tr>
<td></td>
<td>Emerald Grain (Emerald)</td>
<td>Exempt (25 June 2015)</td>
</tr>
<tr>
<td></td>
<td>Quattro Ports (Quattro)</td>
<td>Exempt (1 April 2016)</td>
</tr>
<tr>
<td></td>
<td>Newcastle Agri Terminal (NAT)</td>
<td>Exempt (30 July 2015)</td>
</tr>
<tr>
<td></td>
<td>Queensland Bulk Terminals (QBT)</td>
<td>Exempt (24 September 2015)</td>
</tr>
</tbody>
</table>

Figure 2 below shows where the bulk wheat export terminals in Australia are located.

**Figure 2: Australia's bulk wheat export port terminal facilities**
1.2. Structure of this report

The remainder of this report is structured as follows:

- Chapter 2 summarises observations from the ACCC’s industry consultation and sets out the key findings for this year’s report.
- Chapter 3 provides an overview of wheat production in Australia.
- Chapters 4 to 6 discuss the three markets for Australian wheat: domestic demand, container exports, and bulk exports.
- Chapter 7 discusses the capacity of the bulk wheat export port terminals, and the level of capacity utilisation (including consideration of grains other than wheat).
- Chapter 8 considers the market shares of the various exporters at each of the bulk wheat port terminals.
- Chapter 9 provides an overview of the reference prices published by the PTSPs.
2. Overview of findings

This chapter summarises key observations about the 2015–16 shipping year that the ACCC has noted from its industry consultation, analysis of export data and other sources of information.

The ACCC considers that the following interrelated key themes emerged:

- no clear changes in exporter market shares held by owners of port infrastructure following exemption decisions
- spare bulk export capacity
- competitive entry by new port operators
- continuing regional differences in competition
- limited use of Code negotiation and dispute resolution procedures
- support for a level of reporting obligations by PTSPs.

These six issues are explored in this overview chapter. The following chapters then provide more detailed information on the underlying data that supports this analysis.

The ACCC does not intend to review any existing exemption determinations following its industry monitoring and consideration of these issues for 2015–16, particularly given the limited changes in market shares, spare bulk export capacity and the emergence of competition from new PTSPs.

2.1. No clear changes in exporter market shares

The ACCC has reviewed the data provided by PTSPs in their public loading statements to determine whether there were any significant changes in exporter market shares for the 2015–16 shipping year. The ACCC was particularly interested in:

- any significant changes to the market share of vertically integrated exporters
- any evidence that smaller, non-vertically integrated exporters could not compete in grain exports due to market conditions or the behaviour of PTSPs.

Such developments would be relevant to the ACCC’s exemption determinations for a number of port terminal facilities during 2015 and 2016, and the co-operatives exemption granted by the Minister for Agriculture in relation to CBH’s port terminal facilities in November 2014.

The ACCC’s analysis of market shares is set out in detail in chapter 8, but in summary:

- in the majority of port zones several exporters were able to obtain capacity, indicating that there is competition for grain in those port zones
- the vertically-integrated incumbent exporters’ market share at their own port terminals did increase at a number of terminals following exemptions, but this was not by a significant amount in many cases, and in other cases it decreased
- there is a tendency for larger players to have significant presence in a number of port zones, however, smaller players were nevertheless able to obtain some capacity
- the significant amount of spare capacity on the east coast in 2015–16 (discussed at section 2.2 below) suggests that, while there were fewer exporters utilising certain ports on the east coast, this is likely due (at least in part) to decreased demand and does not necessarily reflect exercise of market power by the PTSPs.
As noted above, the ACCC considers that these outcomes, in conjunction with the other findings set out in this report, do not warrant a review of any of the current exemption determinations.

2.2. Spare export capacity

Stakeholders reported that there was generally spare export capacity available at most port terminals in 2015–16. The ACCC’s examination of loading statement data in chapter 7 confirms that there was spare export capacity available in a number of ports and port zones, particularly on the east coast. In some locations the excess capacity was significant. Stakeholders report that this was due to a number of reasons:

- global wheat prices were low and declined over the course of the year
- additional elevation capacity became available (above what had previously been made available to industry), including at new port developments and from long term agreements in Western Australia
- wheat production levels were low in Victoria, and otherwise production was average in other areas, with some growth for NSW.

However, certain port facilities, particularly in South Australia, were quite close to capacity at particular times of the year.

Where demand for port terminal services exceeds supply (i.e. capacity is constrained), PTSPs not subject to sufficient competitive constraint may have the incentive and ability to charge monopoly prices, and vertically integrated PTSPs may also have incentives to favour their own exporting business and exclude others. In a high production year, increased demand for port terminal capacity will mean that the competitive constraint on the port terminal operators is reduced.

On the other hand, where demand for port terminal services is below supply, a PTSP will have some level of incentive to provide access on fair commercial terms, to drive utilisation of its infrastructure. The ACCC considers that, broadly speaking, the greater the level of spare capacity, the greater the incentive for a PTSP to provide access on fair terms.

2.2.1. Low global wheat prices

Global wheat prices overall were low given large global stocks. In Australia prices typically declined over the course of the year. ABARES forecast that the world wheat indicator price is to average the lowest in 15 years in real terms, reflecting ample world wheat supplies. ABARES expects Australian wheat production and export volumes to rise in 2016–17, but the value of exports is forecast to remain largely unchanged because of lower export prices.

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2 Refer to Figure 3: Historic and forecast wheat production, p. 21.
3 ‘ACCC draft decisions on exempt service providers at Port Kembla’, 2015, p. 12.
4 ibid.
7 ibid., p.31
2.2.2. Increased elevation capacity

There has been an increase in elevation capacity availability in a number of port zones and at specific ports over the 2015–16 year. This increase in capacity appears to be due to several factors:

- in the case of CBH for 2015–16 (and Viterra for 2016–17), this appears to be partly because of the establishment of long term agreement processes for the allocation of capacity, which have led to greater certainty over exports and hence scope for investment
- PTSPs also pointed to increased operational flexibility at exempt ports and improvements in supply chains as reasons for greater elevation at existing port terminals
- new capacity also became available through the commissioning of several new port terminals.

In 2015–16, CBH introduced long term shipping agreements, and a total of 10 exporters were allocated over 10 million tonnes of capacity on annual basis in June 2015. The agreements were for 5 years. A further 6 million tonnes was also made available through the annual first in first served (FIFS) process. The capacity made available to industry in 2015–16 represents a significant increase from the historical average exports and capacity offered to exporters. Overall, capacity rose from 12 million tonnes to 16 million tonnes across the CBH ports.

In 2015–16, South Australian capacity was allocated via auction. Viterra made available over 7 million tonnes of capacity, in line with what it had planned to offer via long term agreements that were not finalised in time for the 2015–16 year. This represents an increase of 2.86 per cent from capacity released in 2014–15. As discussed further below, Viterra has now moved to long term capacity agreements for 2016–17 and onward.

In consultation, many stakeholders also linked an increased ability to access capacity to the effect of port terminal exemption decisions. The ACCC observes that being exempt from Parts 3 – 6 of the Code has allowed PTSPs to manage and allocate their available capacity with greater flexibility. By way of example, stakeholders report that, at exempt ports, PTSPs can more easily respond to last minute shipping opportunities and accommodate additional bookings. The ACCC agrees that being exempt from the Code provides greater flexibility to PTSPs in operating their businesses. However, this flexibility needs to be balanced against a lower level of certainty and transparency about the capacity available and how it is allocated. The ACCC generally supports removal of regulatory obligations where they are not necessary, such as where competition already provides sufficient constraint on a PTSP’s ability to exercise market power. In its exemption assessments, the ACCC noted that in such circumstances exemptions would increase PTSPs’ operational flexibility and reduce Code compliance costs. However, in other circumstances, regulatory obligations are necessary, such as where a PTSP would otherwise have an ability and incentive to exercise market power to the detriment of competition. This will, as noted by some stakeholders, reduce flexibility and increase compliance costs.

In some instances, stakeholders also said that improved supply chain arrangements were relevant. For example greater contestability in above rail services in NSW has allowed exporters to explore alternative and niche transport arrangements to move grain to ports.

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8 However, not all exporters who ship from WA have long term agreements.
11 ‘ACCC final position - Port Kembla wheat port exemption assessments - 1 October 2015’, pp. 9-11.
Finally, the ACCC notes that greater capacity is a direct result of new terminals commencing operation or becoming fully operational in the 2015–16 year. The effect of new entrants in the market is discussed further at section 2.3 below.

The introduction of new capacity should provide greater export opportunities for users, and many stakeholders have responded positively to additional capacity in the market. However, the ACCC notes that increased capacity may have other effects, and stakeholders also noted other effects of additional capacity over the long term. For example, some stakeholders noted that the significant increase in capacity in Western Australia may mean that:

- excess capacity could reduce any incentive for new entrants to develop ports and competing supply chains in Western Australia, and
- readily available short term capacity may undermine the relative value of exporters' long term agreements.

Stakeholders noted that most exporters seek capacity at ports on the east coast via short term arrangements. However, in the case of Quattro, shareholder exporters have tonnage commitments to use the port. As outlined in the Quattro Port’s exemption application submission the three Quattro investors which export grain will collectively export less than two thirds of Quattro Port Kembla’s export capacity.12

The ACCC concludes that Australia’s bulk wheat export capability has increased significantly in 2015–16, which should provide greater opportunities for competing exporters to gain access to bulk export capacity and in turn to compete for grain. However, it is unclear what the availability of significant spare capacity may mean for the likelihood of new entrants providing port terminal services. The ACCC will continue to monitor capacity utilisation at bulk wheat port terminals in future years of this report.

### 2.2.3. Low wheat production levels in Victoria for 2015–16

Overall, in the last five years, Australian wheat production has been highly varied, with production affected by drought and other weather related damage. At the same time industry has also pursued innovative farming practices in pursuit of greater production. As noted by the Australian Export Grains Innovation Centre (AEGIC), growers have implemented state of the art farming systems, new plant varieties and new techniques which have increased the reliability of grain production in Australia.13

As discussed in chapter 3, low production was evident in Victoria for 2015–16, while production levels remained fairly consistent with longer term averages for other states. The overall level of grain produced was also fairly similar in Western Australia and South Australia compared to 2014–15, with slight increases in NSW and Queensland.

Reduced production typically limits the quantity of bulk grain available for export. In eastern Australia, domestic markets also have a freight advantage over the export markets and therefore the first call on grain produced in the region. In 2015–16 the effect of this has been reduced demand for shipping slots, particularly in Victoria. Because domestic demand remained largely unchanged, reduced production in Victoria led to greater domestic demand for the NSW wheat crop.

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Exporters who have been able to put together bulk shipments have benefitted through greater choice in shipping slots and access to competitive access terms from PTSPs who need throughput. This is discussed further in chapter 4, as well as in 2.1 above.

### 2.2.4. Looking forward and future demands on capacity

ABARES predicts that production will increase from 24 million tonnes in 2015–16 to 32.6 million tonnes in 2016–17.\(^{14}\) Consistent with ABARES forecasts, stakeholders expect that the size of next year’s harvest will be higher due to more favourable weather conditions.

As noted in chapter 3, the forecast size of the 2016–17 wheat crop was approaching the production peak observed in the 2011–12 shipping year. In Western Australia a recent frost event has led to a downgrading of the harvest. The Grains Industry Association of Western Australia now expects wheat yields will be about 9 million tonnes, down about 13 per cent on the October forecast.\(^{15}\) However, across the ports overall many stakeholders noted the likely improvement in production will place increased demands on short term port terminal capacity.

However, many stakeholders also now have long term agreements in place which may alleviate short term capacity demands. In addition to the long term capacity arrangements that CBH entered into for 2015–16, Viterra has also entered into long term agreements with exporters for capacity from 2016–17 for three years. This followed the ACCC’s 2015 decision to approve Viterra’s long term capacity arrangements.\(^{16}\) As part of the arrangements, Viterra increased the capacity available to the market for the three year period.

Across eastern Australia, additional capacity brought online through new ports and more flexible arrangements at exempt ports may assist exporters to satisfy increased capacity demands.

The 2016–17 shipping program on the eastern seaboard will be important with respect to considering the effectiveness and relevance of the Code. As noted above, overall there appears to be excess capacity at many port zones, and at a broad level PTSPs need throughput in order to maximise revenue. However, a high production year in 2016–17 (particularly given high carryover for several port zones), will apply pressure on the ports to deliver on their capacity commitments. It is also typically in periods of constraint that vertically integrated operators have the greatest incentive to favour their own trading arm. This was reflected in feedback from stakeholders, who commented that capacity may be harder to obtain for the 2016–17 shipping year. This is discussed further below in section 2.5.

The ACCC will continue to monitor how capacity is allocated across the shipping calendar, including during the peak period for export. Further examination of shipping activity for the peak period is considered in chapter 6.

### 2.3. Competitive entry by new port facilities

As noted above, one of the reasons for significant new quantities of elevation capacity becoming available in 2015/2016 was the commencement of a number of new port terminal operations. These included NAT in Newcastle, Quattro in Port Kembla, WAPRES in Bunbury.

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\(^{16}\) ‘ACCC Final decision on Viterra’s application to vary its capacity allocation system’, 2 December 2015.
and BAPS in Adelaide. A number of stakeholders considered that this new entry was a significant change in the bulk export market in 2015–16.

The new terminals in Port Kembla and Newcastle are in close proximity with the incumbent GrainCorp terminals in those ports. As noted in the respective ACCC exemption decisions, new entrant operators should pose an effective competitive constraint against the GrainCorp port terminals.\(^\text{17}\) In both port zones the commissioning of new port terminals has led to a significant increase in the amount of overall capacity available in those regions.

NAT’s Newcastle terminal commenced operations in 2014–15, but due to low production in the Newcastle port zone NAT initially had limited opportunities to export wheat. However for the 2015–16 shipping year NAT exported over 400 000 tonnes of wheat and attracted a range of new exporters (including Arrow Commodities Pty Ltd, Australian Durum Company Pty Ltd and Agrex Australia Pty Ltd) to the region. These results are discussed further in chapter 8.

At Port Kembla, Quattro’s terminal commenced shipping in March 2016 and exported 170 000 tonnes of wheat during the 2015–16 shipping year (plus smaller amounts of barley). While this is less than half of the 390 000 tonnes of wheat (plus barley and canola) exported from GrainCorp’s Port Kembla terminal, the Quattro terminal may increase its throughput in future as shareholder exporters fulfil their take or pay terminal obligations. The port terminal was also unable to export across the entire year or peak period given it commenced operations in April 2015.

Some stakeholders considered that the ability of the two new entrant NSW ports to compete may have also been constrained as a result of GrainCorp’s decision to apply a $2.50 per tonne charge on grain destined to a third party port out-turned by rail from the GrainCorp upcountry storage and handling network. Exporters noted the charge would have increased the costs of using a new entrant port in NSW.

In Western Australia, new entrant WAPRES exported less grain than any of the CBH ports. WAPRES’ port terminal is a mixed-use facility which will also continue to provide services for woodchips. It is not co-located with existing bulk grain port terminal facilities and existing upcountry supply chains, but is connected by a belt conveyor to adjacent facilities owned by Bunge Agribusiness Australia Pty Ltd (Bunge). Bunge has invested in bulk grain storage facilities on land adjacent to the WAPRES facility, and WAPRES has committed capacity for export of bulk grains to Bunge. The ACCC’s exemption decision also noted that, given this arrangement between Bunge and WAPRES, the facility may not provide similar access arrangements to exporters other than Bunge, and may therefore be of limited direct benefit to them. However the decision noted there were a range of reasons the arrangement would benefit third party exporters, including that it may free up additional capacity at CBH facilities.\(^\text{18}\)

As noted in chapter 8, Bunge exported just over 100 000 tonnes of wheat from the WAPRES facility in the 2015–16 shipping year. CBH’s bulk wheat export terminals exported quantities of wheat ranging from 1.2 million tonnes out of its Albany terminal to 3.6 million tonnes out of its Kwinana terminal. Both companies’ facilities also exported barley, with CBH again exporting much larger quantities than Bunge. Some stakeholders speculated that the increase in capacity by CBH in Western Australia (as discussed above) was a response to the WAPRES operation and other prospective port terminal developments in Western Australia.

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\(^\text{17}\) ‘ACCC draft determinations - Newcastle wheat port exemption assessments (NAT and Qube) 7 May 2015’, ‘ACCC determination - exemption for GrainCorp’s Newcastle Port facility, 1 October 14’.

\(^\text{18}\) ‘ACCC draft determination – Bunbury wheat port exemption assessment (WAPRES) – 2 September 2015’, p. 5.
In 2016 Patrick (now BAPS) commenced bulk wheat export operations, exporting wheat owned by Cargill at Port Adelaide. The operation is small and ad hoc, and in 2015–16 it exported 153,420 tonnes of wheat. While other stakeholders were interested in the development, they noted that this system may be more beneficial to Cargill given it had pre-existing upcountry storage assets in the relevant catchment area. Stakeholders expressed concern regarding accumulating grain outside Viterra’s upcountry storage and handling network without such storage. It is therefore not yet clear the extent to which the operation will provide competitive constraint on the existing Viterra port terminal facilities.

2.4. Continuing regional differences in competitive pressures in the bulk wheat export market

Many stakeholders have observed that regional differences in the level of competitive pressure on bulk grain export facilities for different geographic regions continued in 2015–16. In particular, stakeholders highlighted a different level of constraint on the east coast as compared to South Australia and Western Australia. Stakeholders noted a number of points about these regional differences, including that:

- there is a greater degree of competition in the provision of bulk port terminal services on the east coast, along with a greater competitive constraint from container exports and domestic competition
- competing upstream supply chains on the east coast provide exporters and growers different opportunities by which to trade and/or accumulate bulk grain for export.
- competition is less likely to emerge in certain locations due to a combination of a range of factors, including production limitations, geography and network effects.

Many of these points reflect conclusions from the ACCC’s exemption decisions, where the ACCC examined regional competition in deciding whether to grant exemptions to particular port facilities.

2.4.1. Competition between bulk facilities

As examined in the ACCC’s exemption decisions, the ports of Brisbane, Port Kembla, and Newcastle all have two bulk wheat export terminals that are operated by separate PTSPs in close proximity. Geelong and Melbourne also compete for throughput. Some stakeholders have reported that GrainCorp actively sought throughput from exporters at its port terminals for 2015–16. This is most likely due to both the presence of competing terminals at its port locations and exemptions allowing greater flexibility to offer capacity and services.

There are also more competing supply chains and upcountry storage assets on the east coast, some of which are associated with owners and shareholders of the competing facilities (e.g. Emerald and Cargill’s upcountry storage facilities, or Qube’s rail operations).

However, GrainCorp remains the dominant provider of upcountry storage and handling across the eastern seaboard and particularly at distances from port where rail is the efficient mode of transportation, for example in NSW. This may reflect the network effects of the GrainCorp storage and handling network.

In South Australia stakeholders noted that there was fairly limited competition at the port level in South Australia, and that Viterra’s strong position at the port level was reinforced by a strong position in the South Australia upcountry grain storage and handling network.

In Western Australia CBH operates all bulk wheat port terminals, bar the WAPRES/Bunge arrangement. The WAPRES port does not have rail access, which essentially constrains the geographic region from which Bunge can efficiently source grain from. However, while CBH
remains the dominant PTSP in Western Australia, some stakeholders considered that as a co-operative CBH may have different incentives to other port operators.

Stakeholders queried if further port terminal developments in Australia were likely, citing additional elevation capacity being made available, commitments made by exporters in long term agreements, and the variability of Australian production. Several stakeholders commented that there was a general lack of interest in further port infrastructure investment. Despite this, some stakeholders noted that further infrastructure competition could be of benefit to growers, particularly in South Australia.

2.4.2. Constraint from container exports and domestic usage in the eastern states

The domestic use and container export markets are significantly larger in the eastern states compared to South Australia and Western Australia. The competitive constraint posed by the container and domestic markets featured prominently in the ACCC exemption decisions for ports on the east coast. The degree of constraint has varied depending on the size of the container and domestic markets relative to total production in a given port zone.

The ACCC has observed that the container and domestic markets are not direct substitutes for bulk export. Not all grains (or grades of grains) are able to be exported by containers, and in Australia the container ports do not always have a freight advantage compared to the bulk export supply chains.

As set out in chapter 5, while the recent growth in container exports has been significant, several stakeholders considered it will now likely settle at current levels of around 2 to 2.5 mtpa Australia-wide.

2.5. Effect of code exemptions on negotiation and dispute resolution

For non-exempt ports (which for 2015–16 included Viterra’s South Australian ports and GrainCorp’s facilities in Portland, Mackay and Gladstone), the Code provides for binding independent arbitration where exporters and PTSPs have not been able to agree on prices and terms of access. For currently exempt ports, the exemption would need to be revoked for this option to be made available.

The ACCC notes that recourse to arbitration will provide an alternative option for exporters who cannot reach agreement with infrastructure owners with market power. In many cases, the threat of arbitration itself may be enough to encourage agreement between parties.

In consultation, exporters indicated that they would generally prefer to rely on commercial relationships with the port operators to settle disputes. For 2015–16, PTSPs and exporters generally reported that they have not referenced or utilised the dispute resolution procedures available for non-exempt ports under the Code.

Capacity constraints, and the terms of access to capacity, have historically been a source of dispute between access seeker and access provider. Some exporters reported that the increase in port capacity meant that the potential for disputes with PTSPs to arise has been limited, and was further lessened in 2015–16 (as discussed above in section 2.2).

Some stakeholders did express concern that exempt ports (and their trading arms, where vertically integrated) benefited from the reduction in transparency about exactly how capacity was allocated and the information that was provided on port operations. Several

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19 See Figure 1: Breakdown of 2015/16 wheat usage in Australia, at page 7 of this report.
stakeholders also queried the accuracy of shipping stems at certain times and raised concerns about the movement of capacity between port terminals.

The ACCC notes that it may be necessary to consider how the Code operates under a range of market conditions. A number of stakeholders considered that, owing to the 2015–16 seasonal and market factors, the Code had arguably not yet really been tested. The ACCC’s consideration of the relevant data on capacity usage is set out in chapter 6 of this report. Similarly, stakeholders suggested that the forecast improved 2016–17 harvest may well increase port terminal capacity constraints, and therefore lead to greater potential for disputes. This may mean that the dispute resolution procedures could become more relevant. The ACCC also notes that even if not utilised, the availability of dispute resolution as a backstop to commercial negotiation may improve PTSPs’ incentives to offer reasonable terms and conditions.

Stakeholders generally did not report significant concerns with the conduct of the various PTSPs during 2015–16. Many stakeholders indicated that, despite its dominant market position in Western Australia, CBH has provided a good level of service to exporters. In part stakeholders suggested that this may be attributed to a desire to retain the Code exemptions granted by the Minister for Agriculture. Equally, some stakeholders considered that as a cooperative it was in the interest of CBH to attract as many exporters as possible to their ports.

Stakeholders noted more mixed responses engaging with Viterra. Most stakeholders welcomed the move from the previous auction-based capacity allocation system to long term agreements. However, many indicated that, due to the absence of competition along the supply chain, they had limited alternative options by which to export grain from South Australia.

2.6. Reporting under the Code

As set out in the Code, all PTSPs must publish a daily ‘loading statement’ (also referred to as a ‘shipping stem’), which is a list of all nominated shipments of grain and all recently completed shipping slots. All PTSPs must carry out this reporting, including PTSPs that have been granted exemptions.

The ACCC sought views on this reporting, noting that it was required for all facilities.

Stakeholders have generally found this mandatory shipping stem reporting to be useful. Stakeholders note that the shipping stem data provides useful insight into the shipping activity occurring in the respective port zones. They often consider the shipping data in concert with other market and production data. Stakeholders also noted that, even where not used directly, this information is used in conjunction with other information sources as prepared by commercial information providers. However, certain stakeholders also raised concerns that the reporting of specific information about upcoming activity for specific exporters may allow other market participants to directly target an exporter’s export program.

Some stakeholders also said that there are areas where the level of information reporting is not at the level that they would like. In some cases this is a consequence of port exemptions. While a minimum level of reporting is required of all PTSPs, non-exempt PTSPs are also required to report on additional performance indicators and stocks at port.

Stakeholders also commented more broadly on the lack of information about whole of supply chain pricing, stocks information, and capacity availability. Because the Code relates only to port terminal services, it does not contain reporting requirements in relation to other parts of the supply chain (such as upcountry storage and handling facilities).

These obligations are set out at Part 5 of the Code.
Box 1: Stock reporting by PTSPs

Since deregulation, parts of the industry, including growers and exporters, have repeatedly raised concerns about the inadequacy of publicly available stocks information. Stocks information is the aggregated volume of wheat held in storage at any particular point in time either at port or upcountry, including on-farm and commercial facilities, which can be disaggregated according to grade, quality and/or location.

Some stakeholders (in particular grower groups) assert that bulk grain handlers, who possess this stock information, are disadvantaging other exporters and growers. These groups would like to see more reporting around stock information by PTSPs along their supply chains. Currently only the non-exempt bulk wheat ports are required to report stocks information, and this requirement only covers stock information at a port level.

As noted on the Department of Agriculture and Water Resources website, the Minister for Agriculture and Water Resources has a role in approving projects and has previously committed some of these funds to a voluntary stocks reporting initiative, as recommended by the Wheat Industry Advisory Taskforce. Use of any remaining funds will be considered at a future date.²¹

The ACCC understands that the Minister has sought input from Grain Producers Australia and Grain Growers Limited to consider the kind of stocks information which could add value for growers and create a system for publicly reporting wheat stocks data.²² The ACCC notes that this process may provide an opportunity for these issues around stocks information to be further examined.

3. Wheat production in Australia

The amount of wheat produced across Australia is one of the important factors that determine outcomes for bulk wheat export markets in Australia. Typically the level of production (and carryover from the previous season) determines the amount of wheat that is available for export (either container or bulk) after the domestic market demands have been met.

This is most evident in eastern Australia where the greatest domestic demand exists, including for human consumption, feedlots and industrial uses. However, in some instances crops are grown specifically for export, often fulfilling specific end-user requirements.

Figure 3 highlights the trends in wheat production in Australia.

**Figure 3: Historic and forecast wheat production (Mt)**

![Graph showing wheat production trends](image)

Source: ABARES, Australian Crop Report; multiple years.

Over the last five years, Australia has produced 26 million tonnes of wheat per year on average. During the 2015–16 shipping year, 24 million tonnes of wheat was produced, which is below the long term average.

As shown in figure 3 there are significant regional differences in the amount of wheat produced. New South Wales and Western Australia are the two states that typically produce the largest quantities of wheat. Climate influences and growing conditions shape Australian wheat production in both positive and negative ways. In 2015–16 Victorian production was severely affected by drought, with many regions receiving less than 60 per cent of average seasonal rainfall. Production in other states was generally consistent with longer term averages. Compared to 2014–15, production decreased slightly in South Australia, and increased noticeably in NSW.

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Looking forward, ABARES forecasts for 2016-17 that with improved weather conditions wheat production will increase to 32.6 million tonnes.\textsuperscript{24}

4. Domestic consumption of wheat

Domestic consumption influences the amount of wheat available for bulk exports in markets across Australia to varying degrees. The ACCC has previously considered the interaction between domestic and bulk export markets in its exemption decisions. In these decisions, the ACCC noted that domestic users of wheat face lower supply chain costs compared to export markets, and as such the domestic market will tend to be filled first ahead of exports.

However, the ACCC noted that the level of constraint that domestic users place on both bulk and container exports is generally restricted by the size of domestic demand. Figure 4 shows that domestic consumption has grown by 19 per cent between 2010–11 and 2015–16, indicating that this constraint has grown over time. However, there was a decrease in 2015-16 for a number of states.

Figure 4: Trends in the domestic consumption of wheat

The ACCC understands that approximately 40 per cent of all grain grown in Australia is consumed domestically, but this varies by year and by grain type. This is consistent with the findings for wheat in the 2015–16 shipping year shown in Figure 4, and Figure 3 from Chapter 3 of this report.

The share of total wheat consumed domestically also varies significantly between states. The domestic market had the following shares of total production by state in 2015–16:

- Queensland: 83 per cent
- New South Wales: 62 per cent
- Victoria: 52 per cent
- South Australia: 18 per cent

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25 ACCC final position - Port Kembla wheat port exemption assessments - 1 October 2015, p. 13.
• Western Australia: 8 per cent\textsuperscript{27}

In Queensland, New South Wales and Victoria, the fact that more than half the wheat is consumed domestically suggests a high degree of constraint on bulk exports. In South Australia and Western Australia domestic consumption accounts for less than 20 per cent, suggesting there is less constraint on bulk exports.

The domestic uses of wheat include for feedlots (the most significant source of demand in Queensland, Victoria and South Australia), and as part of the milling process or as food for human consumption (the predominant use in NSW).\textsuperscript{28} Stakeholders also noted an increasing demand for bulk wheat for industrial purposes, such as biofuels.

\textsuperscript{27} Australian Crop Forecasters, 'Supply and Demand report - Various years', NZX Ltd, Melbourne.

\textsuperscript{28} ibid.
5. Container exports of wheat

The interaction between the bulk wheat export and containerised wheat export markets was examined in several ACCC exemption decisions. The ACCC considered that where containerised exports represent a viable alternative export path for some grain produced in particular port zones. Containerised exports can therefore provide a further competitive constraint on the port terminal service providers at their bulk export facilities.

5.1. Australian container exports

Figure 5: Trends in containerised wheat export in Australia

Source: Australian Crop Forecasters, Supply and Demand export report; Australian Bureau of Statistics.

Figure 5 shows that between 2008–09 and 2015–16, total containerised grain exports across Australia have remained largely the same, at around 2 to 2.5 mtpa.

The stability of container exports suggests the market may be subject to capacity constraints. However there are some key regional differences in the container export market, so the source of constraint may not be uniform for all states. For example, stakeholders noted that limited access to containers constrains container export growth in South Australia and Western Australia.

In the 2015–16 shipping year New South Wales and Victoria accounted for 34 and 50 per cent respectively of the wheat exports by container from Australia. This share has been relatively stable over time, as illustrated in figure 6 below. South Australian and Western Australian container exports accounted for 5 per cent of total container exports from Australia over the 2015–16 shipping year.
5.2. State by state container exports

The majority of Queensland’s export of wheat by container passes through the Port of Brisbane. Between the 2008–09 and 2015–16 shipping years, containerised wheat exports have steadily declined, perhaps indicating that the level of competitive constraint has declined. However, in 2015–16 more wheat was exported by container than bulk in Queensland, which suggests that the decline in container exports perhaps reflects a broader trend in exports of wheat from Queensland. For every tonne of bulk wheat exported in Queensland in 2015–16, 1.6 tonnes were exported by container. This is a significantly different result in the market compared to the period prior to the exemption. Between the 2008–09 and 2012–13 shipping years, only 0.41 tonnes of wheat was exported via container for every tonne exported by bulk.

In NSW, Port Botany is the key port used to export containerised grain. For every tonne of bulk wheat exported in NSW, 0.76 tonnes were exported by container in 2015–16. Container exports from the various New South Wales ports have remained relatively constant between the 2009–10 and 2015–16 shipping years.

In Victoria, containerised wheat is exported via the Port of Melbourne. Container exports of wheat from the Port of Melbourne have remained relatively stable between the 2009–10 and 2015–16 shipping years, aside from a peak in 2011–12. For every tonne of bulk wheat exported in Victoria, 1.58 tonnes were exported by container in the 2015–16 shipping year. In part this is due to hampered production and domestic demands for wheat, but also the growth in container exports. Though as noted the markets are not direct substitutes.

In South Australia the majority of wheat is exported in bulk. For every tonne of bulk wheat exported in South Australia, 0.01 tonnes were exported by container in 2015–16. All of South Australia’s export of wheat by container transits through Port Adelaide. Container exports of wheat from the SA ports have remained relatively stable between the 2008–09 and 2015–16 shipping years, though they have demonstrated a cyclical pattern during this period.

Similarly in Western Australia the majority of wheat produced is exported in bulk. Of Western Australia’s containerised wheat exports, the majority transits through the Port of Fremantle. For every tonne of bulk wheat exported in Western Australia, 0.01 tonnes are exported by

![Figure 6: Shares of Australian container wheat exports by state](image-url)
container. Container exports from WA ports have shown a high degree of volatility between the 2008–09 and 2015–16 shipping years.
6. Bulk exports of wheat

This chapter presents trends in total bulk wheat exports for both exempt and non-exempt port terminals over the last five years. Bulk wheat export data is presented by state and port terminal. This bulk wheat export data draws on information published by PTSPs in their daily loading statements. The same information, in conjunction with data for other grains, is also used in chapters 7 and 8, which deal with capacity usage and market share information respectively.

As noted earlier in this report, wheat exports from Australia are influenced by a range of factors, most notably the amount of wheat available for export (itself determined by production levels and extent of carryover from previous years), global wheat prices and in some instances capacity constraints. Western Australia, South Australia and the eastern seaboard states have markedly different export profiles, as highlighted in figure 7. Figure 7 also shows that the eastern states export programs have significantly declined in recent years, including in 2015–16, since an export peak in 2011-12.

Figure 7: Trends in bulk wheat export in Australia

Source: Australian Crop Forecasters, Supply and Demand export report; Australian Bureau of Statistics.

The majority of bulk wheat typically is exported from Australia between February and May, although export will take place throughout the year. The peak period is discussed further in chapter 7.

6.1. Queensland

Two port terminal service providers currently operate in Queensland. GrainCorp has terminals at Fisherman Island (Brisbane), Mackay and Gladstone. QBT operates from Brisbane. The ACCC granted exemptions for the GrainCorp and QBT terminals at Brisbane on 24 September 2015. GrainCorp has not sought an exemption for the other two Queensland facilities, which are the sole bulk wheat terminals in those locations.

While QBT has provided port terminal services since 2011, it only came under the remit of the Code in 2015. Accordingly QBT was not required to publish shipping data before this time. The ACCC will monitor QBT’s shipping from this period going forward.
The majority of Queensland’s bulk wheat is exported through the two Brisbane port terminals, with a smaller amount of wheat passing through the ports of Gladstone and Mackay.

**Figure 8: Trends in bulk wheat export in Queensland**

![Graph showing trends in bulk wheat export](image)

Source: Australian Crop Forecasters, Supply and Demand export report; Australian Bureau of Statistics.

Figure 8 shows that bulk wheat exports rose between the 2008–09 and 2011–12 shipping years. However, between 2011–12 and 2015–16, bulk wheat exports have steadily declined (in particular, due to the lower level of production in Queensland over this time). The export of other grains in Queensland has also fallen, although not to the same extent. This fall in exports has meant that there has been low demand for bulk wheat export capacity at Queensland wheat ports. Capacity utilisation, including by grains other than wheat, is discussed at chapter 7.

### 6.2. New South Wales

Three port terminal service providers currently operate in NSW. GrainCorp has terminals at Newcastle (Carrington) and Port Kembla. New entrants NAT at Newcastle and Quattro at Port Kembla also export from NSW. The ACCC granted exemptions for GrainCorp at Carrington on 1 October 2014, and NAT on 30 July 2015. The ACCC granted exemptions for GrainCorp and Quattro at Port Kembla in April 2016.
Figure 9 shows that the amount of bulk wheat exported from Newcastle and Port Kembla has fallen from the peak in the 2011–12 shipping year. NSW has been affected by drought in recent years, leading to lower grain production and hence the lower export figures in Figure 9. As noted in chapters 4 and 5, the domestic market and container exports also influence how much wheat is available for bulk export. The impact of this significant drop in bulk wheat exports on overall capacity utilisation is discussed at chapter 7.

6.3. Victoria

Two port terminal service providers currently operate in Victoria. GrainCorp has terminals at Portland and Geelong, while Emerald operates from Melbourne Port Terminal. The ACCC granted Emerald and GrainCorp Geelong exemptions on 25 June 2015. GrainCorp also sought an exemption for its Portland terminal, which the ACCC did not grant.

Figure 10: Trends in bulk wheat export in Victoria

![Graph showing trends in bulk wheat export in Victoria.]

Source: Australian Crop Forecasters, Supply and Demand export report; Australian Bureau of Statistics.

Figure 10 shows that bulk wheat exports from the various Victorian ports generally grew between the 2008–09 and the 2011–12 shipping years. Bulk wheat exports subsequently declined between the 2011–12 and the 2015–16 shipping years. As noted in earlier chapters of this document, this is at least in part due to lower production, particularly for 2015–16.

Melbourne and Geelong have often exported comparable tonnages, an observation highlighted in the ACCC’s exemption decisions for those port terminals. In particular years, export shares have varied, with a larger proportion of wheat exported from Melbourne in the 2012–13 shipping year, and by contrast a larger proportion from Geelong in the two preceding years as well as the 2015–16 shipping year. The quantity of bulk wheat exported through Portland has steadily declined in recent years.

In the ACCC’s Victorian wheat ports exemption, it was noted that the close geographic proximity of the ports of Melbourne and Geelong mean that there is significant overlap in the grain catchment areas for the two ports. The overlap is due to the fact that significant amounts of grain on rail or road can be directed to either port. In the 2015–16 year the reduced overall wheat available for bulk export suggests that the two ports have continued to compete for throughput. This is consistent with the results noted for the other eastern states.

The GrainCorp facility at Portland exports a relatively small quantity of bulk wheat and other grains compared to the other two Victorian facilities, particularly for the last two years. The catchment area for Portland is geographically isolated compared to the catchment area for the other ports in Victoria. As examined in the ACCC’s exemption decision, there is little direct competitive constraint on GrainCorp’s Portland operation, and this has not changed for 2015–16. However the ACCC notes in 2015–16 that there has been limited export activity from the port. In the current environment of relatively low production and capacity constraint, stakeholders expressed a preference to export from Geelong or Melbourne, with some exporters noting that it was easier to export from those exempt facilities than the regulated Portland terminal. The ACCC notes that to some extent these views may be due to the particular market situation for 2015–16, and that this could be different where there were higher exports from the facility.

31 ibid.
32 ibid., p. 51.
6.4. South Australia

Viterra operates bulk wheat terminals at Port Giles, Port Lincoln, Thevenard, Wallaroo, Port Adelaide Outer Harbor and Port Adelaide Inner Harbour. Viterra has not sought an exemption for its port terminals. The BAPS (previously Patricks) operation at Berth 29, Outer Harbour Port Adelaide was granted an exemption in April 2016.\(^ {33} \)

South Australia’s bulk wheat export task is generally split between Port Adelaide and Port Lincoln. A smaller quantity of bulk wheat (as well as other grains) is exported from Port Giles, Thevenard and Wallaroo.

Figure 11: Trends in bulk wheat export in South Australia

![Graph showing trends in bulk wheat export in South Australia](image)

Source: Australian Crop Forecasters, Supply and Demand export report; Australian Bureau of Statistics.

The above graph shows that bulk wheat exports from the various South Australian ports have been relatively consistent for the last four shipping years. This recent level of bulk export is lower than the two highest years (that is, the 2010–11 and 2011–12 shipping years).

6.5. Western Australia

Two PTSPs operate in Western Australia. CBH has terminals at Kwinana, Esperance, Albany and Geraldton. WAPRES provide port terminal services to Bunge at the port of Bunbury.

CBH was granted an exemption at all four of its port terminals, due to its cooperative status, by the Minister for Agriculture on 17 November 2014. WAPRES was granted an exemption at its Bunbury port terminal by the ACCC on 24 September 2015.

The majority of Western Australia bulk wheat is exported from the Kwinana with smaller tonnages exported through the ports of Albany, Esperance and Geraldton. In its first year of operations, the Port of Bunbury has exported a relatively small quantity of bulk wheat.

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\(^ {33} \) This terminal is operated out of Berth 29, a common user wharf facility at Port Adelaide. BAPS has entered into an agreement with Cargill to stevedore grain at Berth 29. The vessels will be loaded using BAPS’s labour, Cargill’s hopper and BAPS’s ship loader.
Figure 12: Trends in bulk wheat export in Western Australia

The above graph shows that bulk wheat exports from the various Western Australia ports have generally been fairly consistent between the 2008–09 and the 2015–16 shipping years, with a slight trend upwards over time. It can be noted that the peak bulk wheat export year for Western Australia was in 2013–14, in contrast to the peak year of 2011–12 for the other states.

Source: Australian Crop Forecasters, Supply and Demand export report; Australian Bureau of Statistics.
7. Port terminal capacity utilisation

The level of capacity constraint at the port terminals was a key factor in the ACCC’s exemption assessments. As a general proposition, where demand for port terminal services exceeds supply (i.e. capacity is constrained), the ACCC considers that vertically integrated PTSPs may have stronger incentives to favour their own exporting business and exclude others. On the other hand, where demand for port terminal services is below supply a PTSP will have some level of incentive to provide access on fair commercial terms, to drive utilisation of its infrastructure. This incentive will be particularly strong where a PTSP faces competition.

Assessing the likely level of capacity constraint requires an estimate of how much port capacity is able to be supplied at each port terminal facility. Estimating capacity is a complex process.

One useful indicator of a port terminal facility’s capacity is to look at historical exports. Where a PTSP has demonstrated its ability to export at a certain level, it is reasonable to suggest it will maintain that ability in the future.

However, annualising the maximum historical monthly exports may not reflect actual capability for a number of practical reasons. For example, regular maintenance activities and unavoidable closures or delays due to external circumstances (e.g. vessels failing survey) would likely affect longer term capacity over the course of a year. Conversely, capacity may be higher than the historical maximum exports if a port terminal facility has not been fully utilised in the past, or if a PTSP has made investments or other efficiency improvements since that time to increase capacity.

As discussed in chapter 2, a number of PTSPs have increased capacity (in some cases quite dramatically) at their port terminals, including beyond historical trend figures.

The ACCC’s approach to estimating capacity in its exemption assessments was to consider a range of estimates of port capacity (including the PTSPs’ own stated maximum capacity figures) against historical export figures.

Australian wheat exports are generally characterised by peak shipping periods where capacity is most highly valued by customers. The timing and duration of the peak period can vary, but is generally from January/February to May/June, following the conclusion of the harvest in December. In general, a port terminal facility may have spare capacity over the year as a whole but still may be capacity constrained during the peak shipping period.

The sections below consider capacity utilisation for 2015–16 in each state, both over the entire year and during the peak period. For the purposes of this report, the ACCC has used the months of February to May (inclusive) to represent the typical peak period. Given the difficulty with estimating capacity, the following discussion is by its nature somewhat dependent on estimates.

In consultation stakeholders have noted that at exempt ports and at ports with long term agreements there is typically greater flexibility in how grain is exported. This may include greater scope to move capacity allocated across the shipping year or between ports.

7.1. East coast states

Figure 13 shows estimated capacity utilisation at port terminals in the eastern states for the 2015–16 shipping year. Consistent with its exemption assessments, the ACCC has
considered published available capacity figures, annualised historic monthly maximums, and each PTSP’s own estimates of total maximum capacity.34

Figure 13: Capacity utilisation in the Eastern States

Figure 13 shows that there was generally significant spare capacity available at all port terminals on the East Coast for 2015–16. This is consistent with the low to average production levels, low world grain prices, and the increases in overall available capacity both at existing port terminals and with the addition of further capacity provided by new port terminals.

Figure 14: Peak period capacity utilisation in the Eastern States

![Graph showing capacity utilisation]

Source: Loading statement data provided under section 7 of the Port Terminal Access (Bulk Wheat) Code of Conduct; Australian Crop Forecasters, Shipping stem report

Figure 14 shows estimates of capacity utilisation for the peak period (from February to May 2016). It would generally be expected that capacity utilisation would be higher during the peak period than throughout the year due to increased demand for slots during that period. However, this has not been the case at a number of the east coast port terminals, particularly in Victoria, where capacity utilisation is lower during the peak period than the year as a whole. Production was unusually low in Victoria for the period, and global wheat prices were also low during the 2015–16 shipping year, as discussed in chapter 2.

Figure 15 compares the grain export profile for the eastern states over the course of the 2015–16 shipping year with the average grain export profile for the previous five years.
Figure 15: Monthly grain exports for the Eastern States

As shown by the average over the last five years, the grain export profile usually peaks between February and May each year. However, in 2015–16 exports were unusually low during this period, and peaked toward the end of the shipping year from July to September 2016. The ACCC understands that this may be due to a combination of low production (particularly in Victoria) and growers delaying selling their grain in the hope that global prices would improve.

7.2. South Australia

Figure 16 shows capacity utilisation at each port terminal in South Australia for the 2015–16 shipping year, based on estimates of available capacity as follows:

- Viterra’s South Australia port terminals: estimates are derived from the capacity offered at auction for the 2015–16 year.\(^{35}\)

- BAPS at Berth 29 Port Adelaide: estimate is based on Patrick’s estimate of total capacity as set out in its application for exemption.\(^{36}\)

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Figure 16: Capacity utilisation in South Australia

![Figure 16: Capacity utilisation in South Australia](image)

Source: loading statement data provided under section 7 of the Port Terminal Access (Bulk Wheat) Code of Conduct; Australian Crop Forecasters, Shipping stem report

Figure 16 shows a much higher level of capacity utilisation at all South Australian ports compared with ports on the east coast, particularly at Port Lincoln, Wallaroo and by BAPS at Berth 29, Outer Harbour Port Adelaide.

Figure 17: Peak period capacity utilisation in South Australia

![Figure 17: Peak period capacity utilisation in South Australia](image)

Source: loading statement data provided under section 7 of the Port Terminal Access (Bulk Wheat) Code of Conduct; Australian Crop Forecasters, Shipping stem report

Figure 17 shows estimates of capacity utilisation for the peak period (from February to May 2016). The South Australian export profile had a more typical peak period (compared with the eastern states), and accordingly capacity utilisation is higher at most ports during the peak period. In particular, at Viterra’s Port Adelaide and Thevenard port terminals. At Port Lincoln and BAPS Outer Harbour Port Adelaide, exports actually exceeded the estimated capacity for the peak period (reflected in figure 17 as negative values for spare
capacity). This indicates that the PTSPs were able to operate flexibly to meet increased demand.

Capacity at Viterra’s port terminals has increased for the 2016–17 year, due (at least in part) to the long term agreement process. The impact of this additional capacity will be monitored in future years’ reports.

7.3. Western Australia

Figure 18 shows capacity utilisation at each port terminal in Western Australia for the 2015-16 shipping year, based on estimates of available capacity as follows:

- **CBH’s port terminals**: estimates are derived from CBH’s published available capacity for the 2015–16 year.  
- **WAPRES Bunbury port terminal**: estimate is derived from public statement by Bunge regarding export plans for the facility.

**Figure 18: Capacity utilisation in Western Australia**

![Bar chart showing capacity utilisation in Western Australia](source)

Source: loading statement data provided under section 7 of the Port Terminal Access (Bulk Wheat) Code of Conduct; Australian Crop Forecasters, Shipping stem report

Figure 18 shows that, with the exception of the Bunbury port terminal, capacity utilisation was relatively high at the Western Australia port terminals compared with the east coast port terminals.

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Figure 19: Peak period capacity utilisation in Western Australia

![Bar chart showing capacity utilisation at Western Australia port terminals for the peak period (February to May 2016).]

Source: Loading statement data provided under section 7 of the Port Terminal Access (Bulk Wheat) Code of Conduct; Australian Crop Forecasters, Shipping stem report.

Figure 19 above shows estimates of capacity utilisation at the Western Australia port terminals for the peak period (from February to May 2016). Western Australia also had a more typical peak period (compared with the eastern states), with capacity utilisation being higher during February to May compared with the year as a whole at some ports (Albany and Esperance). Similar to the BAPS and Port Lincoln facilities in South Australia, exports exceeded the estimated capacity for the peak period at CBH’s Esperance port terminal (reflected in figure 7 as a negative value for spare capacity). However, capacity utilisation was lower during the peak period at the WAPRES Bunbury port terminal and at Geraldton relative to the year as a whole, and was similar at Kwinana.

Given that Bunge’s arrangement with WAPRES was in its first year, capacity utilisation at the Bunbury terminal may be expected to increase in future years. Bunge exported grain from other port terminals in Western Australia during the 2015–16 shipping year, and may seek to shift more of its throughput to the WAPRES facility in future years.
8. Market shares

This chapter considers how grain has been exported from the port terminals by different exporter users of the port facilities.

The market power of PTSPs and the potential for it to be misused was a key issue considered by the ACCC in its exemption assessments, and a key reason for the production of this report. The ACCC intends to monitor shipping activity in order to observe any behaviour that could raise concerns under the Code and be detrimental to competition in related markets. Monitoring may also identify if PTSPs preference their own trading arms or the trading arms of other port terminal operators in return for premium slots in other port terminals. Such behaviour would undermine competition and limit the prospect of new entrants competing in upstream and downstream markets. Monitoring the change in market shares over time could indicate preferential treatment.

As set out in the Code the ACCC has the option to revisit exemption determinations and, if necessary, revoke the exemption if the conditions and factors taken into account when granting an exemption have changed.

When considering the data it is relevant to note that exports have at least in part been influenced by the capacity allocation arrangements in place at the time for each port terminal. For example, in states that previously allocated capacity via auctions, in some circumstances there was limited scope for exporters to move capacity once acquired. Capacity allocation arrangements have changed over time at a number of port terminals, and may continue to do so going forward (particularly where PTSPs have been granted exemptions).

8.1. Queensland

In 2012 GrainCorp introduced long term agreements (LTAs) at its port terminals. GrainCorp agreed that it would allocate up to 60 per cent of its port capacity via LTAs to exporters who were willing to commit to minimum export volumes over a three-year period. The remaining 40 per cent of capacity per port, per month was made available to all exporters on an annual FIFS basis. At exempt port terminals, however, GrainCorp is free to deviate from these arrangements and negotiate alternative arrangements with its customers.
8.1.1. GrainCorp Fisherman Island

Figure 20: Bulk grain export market shares for GrainCorp Fisherman Island

Between the 2011–12 and 2013–14 shipping years, GrainCorp has maintained a relatively constant market share at Fisherman Island. In 2014–15, GrainCorp’s exports declined significantly and are captured in the “others” category. In 2015–16, following the decision to grant GrainCorp an exemption, its market share of port terminal capacity has increased dramatically (albeit for a relatively low level of export). However, when considered against the overall reduction in total grain exported from Queensland, GrainCorp’s exporting activity has only increased marginally between 2011–12 to 2015–16, even though its market share is significantly larger. The ACCC notes that GrainCorp as port owner would have strong incentives to keep using its facility in a time of low production, and to take advantage of already committed upcountry assets. In such circumstances other exporters may also have greater flexibility to use alternative port terminals. In November 2015, Cofco completed its purchase of PentAg-Nidera, therefore increasing their combined market share.39

Over the last few years, all exporters using Fisherman Island have a port interest/s elsewhere in Australia.

8.1.2. Queensland Bulk Terminal (QBT), Brisbane

QBT has provided port terminal services for bulk grain exports since 2011, but came under the remit of the Code in 2015. In accordance with the Code, QBT commenced reporting shipping from October 2015, and accordingly the ACCC only has one year of export data available. The ACCC will monitor QBT shipping from this period going forward.

Wilmar Gavilon, QBT’s parent company, is a joint venture between Wilmar and Gavilon. In 2015–16 QBT exported 47,422 tonnes of grain for Wilmar Gavilon, and 10,780 tonnes for Nidera. The ACCC notes that the tonnages of bulk grain exported from QBT for this year are relatively low.

39 Andrew Marshall, COFCO's grain footprint grows, Farm Weekly, 5 November 2015.
8.1.3. **GrainCorp, Gladstone and Mackay**

As discussed in chapter 6, grain exports from both Gladstone and Mackay have been very low, especially in recent years. In 2015–16 both ports were used by only one exporter (GrainTrend and PentAg, respectively). Both Gladstone and Mackay are smaller ports and accommodate fewer ships.

**Figure 22: Bulk grain export market shares for GrainCorp Gladstone**

GrainCorp’s Gladstone port terminal has not been granted an exemption under the Code. GrainCorp has never held the position of the largest exporter. A total of 180 000 tonnes
per annum were allocated under long term agreements at the port terminal. As shown in figure 22, GrainCorp and Pentag Nidera had LTAs in place for capacity at Gladstone. However, over the last year the initial long term agreements have expired.

In 2015–16 GrainTrend was the only exporter to use the Gladstone port terminal facility, exporting only chickpeas. This suggests there was limited demand for capacity to export wheat at Gladstone.

**Figure 23: Bulk grain export market shares for GrainCorp Mackay**

![Market Shares Chart](image)

Source: loading statement data provided under section 7 of the Port Terminal Access (Bulk Wheat) Code of Conduct; Australian Crop Forecasters, Shipping stem report

Under the long term agreement allocation, 90,000 tonnes per annum was allocated at Mackay. Similar to GrainCorp’s Gladstone port terminal, Pentag-Nidera was the significant exporter at Mackay from 2012 to 2015. GrainCorp’s export trading arm has undertaken a small export program from Mackay. Pentag-Nidera’s export activity from Gladstone has increased over the five years, and in 2015–16 it was the sole exporter. Nidera’s parent company Cofco is a shareholder in the Quattro facility at Port Kembla.

The market share data in Queensland indicates there is little evidence of GrainCorp as the vertically integrated PTSP dominating bulk grain exports and exercising its market power.

### 8.2. New South Wales

As noted above, GrainCorp has been offering LTAs since 2013 and allocating residual capacity on an annual FIFS basis, and can now deviate from these arrangements at exempt port terminals.

In 2014, GrainCorp’s Carrington terminal at Newcastle was exempted from the majority of obligations under GrainCorp’s Part IIIA access undertaking. This exemption was effectively carried through when the Code was introduced in October 2014. NAT commenced exports at Newcastle in 2015. NAT is owned by Glencore, CBH, Agrex and CTC Terminals. NAT allocates capacity on a FIFS basis.

Quattro commenced operations at Port Kembla in March 2016. Quattro’s key shareholders at the time were exporters Cargill, Cofco and Emerald, as well as logistics company Qube.

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Each has a commitment or option on capacity at the port. Quattro have also indicated that a third of capacity is available for use by third party exporters at the port terminal.\footnote{Quatro Ports, ‘Further investment in Grain Rail Haulage and Infrastructure, 28 March 2014’, Quatro Ports, Wollongong, 2014, viewed 18 November 2016, \url{http://www.quattroports.com.au/news/further-investment-in-grain-rail-haulage-and-infrastructure}}

\section*{8.2.1. GrainCorp Carrington}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure24.pdf}
\caption{Bulk grain export market shares for GrainCorp Carrington}
\end{figure}

For each of the 2011–12 to 2015–16 shipping years, GrainCorp held the largest market share at its Carrington terminal. However, following its undertaking exemption in 2014 the port has attracted a greater number of exporters to the terminal. This trend has continued in 2015–16 where GrainCorp’s export market share was the smallest of the five years. A significant proportion of exporters using the Carrington facility also have port terminals elsewhere in Australia.

Considering that drought has affected production over a number of years in the Newcastle port zone, overall exports have been relatively low (although they improved in 2015-16 compared to 2014–15) and the market shares above represent only a few shipments per exporter. For example, in 2015–16 Cargill only executed two vessel bookings.
8.2.2. Newcastle Agri Terminal

Figure 25: Bulk grain export market shares for NAT

![Pie chart showing market shares for Newcastle Agri Terminal (NAT) with Agrex at 38%, Arrow at 33%, Aus Durum Co at 5%, Dreyfus at 25% and Others at 2%)](image)

Source: loading statement data provided under section 7 of the Port Terminal Access (Bulk Wheat) Code of Conduct; Australian Crop Forecasters, Shipping stem report.

In accordance with the Code, NAT commenced reporting on its shipping activity in 2015–16. Agrex, one of NAT’s parent companies, was the largest exporter, shipping wheat through the terminal in the 2015–16 shipping year. The largest exporter not associated with a PTSP was Arrow, which was a new entrant to the Newcastle bulk export market.

8.2.3. GrainCorp Port Kembla

Figure 26: Bulk grain export market shares for GrainCorp Port Kembla

![Bar chart showing market shares for GrainCorp Port Kembla with a focus on the last five years (2011-12 to 2015-16), with Glencore, Graincorp, Cargill, ADM, COFCO, and Others, and their respective market shares over the indicated years.](image)

Source: loading statement data provided under section 7 of the Port Terminal Access (Bulk Wheat) Code of Conduct; Australian Crop Forecasters, Shipping stem report.

Over the last five years GrainCorp has generally had the largest market share of exports from its Port Kembla port terminal, except in 2012–13 where Cargill executed a larger
quantity of bulk grain. In 2015–16, there was some increase in its share of bulk grain exports but this increase was not significant. Cargill also stopped exporting from the Port Kembla port terminal. These tonnages were effectively transferred to the Quattro port terminal where Cargill is a joint venture partner.

With the exception of ADM, bulk exporters using Port Kembla also own or operate port terminals (or own a share in a port terminal) elsewhere in Australia. Exporters had 1.4 mtpa under the LTA process at the GrainCorp facility.

8.2.4. Quattro Port Kembla

Figure 27: Bulk grain export market shares for Quattro Port Kembla

The Quattro port terminal commenced operations in 2015. In 2015–16 Cofco exported 119,707 tonnes, accounting for the majority of grain through the terminal. Cargill exported 89,600 tonnes.

Quattro shareholders Emerald, Cargill and Cofco have commitments to use the port terminal and take-or-pay arrangements for rail services.42

8.3. Victoria

As previously noted, capacity at GrainCorp’s port terminals has been allocated via long term agreements since 2013. Numerous exporters took up long term capacity over a three year period at the Victorian ports. At Geelong 1 046 000 tonnes and at Portland 300 000 tonnes were allocated per annum.43 Over the last five years Emerald has allocated capacity on a FIFS basis. For exempt port terminals, however, the PTSPs can now negotiate alternative capacity arrangements with their customers.


43 GrainCorp Long Term Agreement Capacity Allocations 1 October 2013 – 30 September 2016, 16 May 2013
8.3.1. GrainCorp Geelong

**Figure 28: Bulk grain export market shares for GrainCorp Geelong**

From 2011–12 to 2015–16, GrainCorp was the largest exporter from the Geelong port terminal. Cargill has also maintained a relatively stable market share during the five year period. Although Glencore had large market share during the 2011–12 to 2013–14 shipping years, its market share has declined from 27 per cent in 2011–12 to seven per cent in 2015–16.

8.3.2. Emerald Melbourne

**Figure 29: Bulk grain export market shares for Emerald Melbourne**

Source: loading statement data provided under section 7 of the Port Terminal Access (Bulk Wheat) Code of Conduct; Australian Crop Forecasters, Shipping stem report
From 2011–12 to 2015–16, Emerald was the largest exporter from its Melbourne Port Terminal. Between 2011–12 and 2015–16, the second largest exporter has varied from Bunge in 2011–12, Cargill in 2012–13 and 2013–14, ADM in 2014–15 and Noble in 2015–16. Although Emerald has gained significant capacity share from 2014–15 to 2015–16, the actual volumes exported by Emerald increased only slightly. Emerald as both the PTSP and exporter would have a vested interest in ensuring that capacity was being utilised at their port. Low grain production in Victoria during the 2015–16 shipping year may also explain why many exporters, such as ADM and Cargill, which had previously exported, did not export from Melbourne Port Terminal during the year.

8.3.3. GrainCorp Portland

Figure 30: Bulk grain export market shares for GrainCorp Portland

[Bar chart showing market shares for GrainCorp Portland from 2011-12 to 2015-16.]

Source: loading statement data provided under section 7 of the Port Terminal Access (Bulk Wheat) Code of Conduct; Australian Crop Forecasters, Shipping stem report

Up until 2014–15, the market shares for bulk grain exported from Portland have been spread between a number of exporters. In 2015–16 GrainCorp had over 80 per cent market share, with COFCO exporting the remainder. Cargill was the largest exporter in 2011–12 and 2012–13 and GrainCorp was the largest exporter in 2013–14, 2014–15 and 2015–16.

The dynamic shift in less exporters using Portland to export bulk grain may be partially explained by low grain production, particularly in the 2015–16 shipping year. This is consistent with the findings at Emerald’s Melbourne Port Terminal. Many exporters noted a preference to use the other Victorian ports in 2015–16. Some noted arranging transport to Geelong and Melbourne was easier than to Portland. Exporters also indicated a preference for the greater flexibility of shipping from the exempt port terminals when there was limited capacity constraint.

8.4. South Australia

In late 2012 Glencore, already a large exporter of grains from SA, acquired Viterra. The analysis below considers the level of competition between exporters utilising the SA port terminals. Viterra has not sought exemptions for its port terminal facilities. The BAPS facility (previously Patricks) was granted an exemption by the ACCC in 2016.

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When considering the data below it is important to consider the evolution of Viterra’s capacity allocation system:

- Commencing in 2008, capacity in SA was allocated via a FIFS process.
- In 2012 Viterra introduced an auction system, with residual capacity allocated on a FIFS basis. At the time, stakeholders noted that this was a positive move from the previous FIFS process.45
- Following stakeholders concerns with the operation of the auction system in practice, in 2015 the ACCC approved the introduction of a long term agreement capacity allocation process, which also included a system to allocate short term capacity. The LTAs, however, did not apply in 2015–16 and will come into effect in the 2016–17 shipping year.

8.4.1. Port Adelaide Viterra terminals

Figure 31: Bulk grain export market shares for Viterra’s Port Adelaide bulk terminals

Glencore has been the dominant exporter for its port terminals, across each shipping year. This was also the case specifically in regard to Port Adelaide.46 The ACCC notes that of the two Port Adelaide terminals, Outer Harbour and Inner Harbour, the majority of exports occur out of Outer Harbour (approximately 75 per cent)47.

In 2015–16, Glencore’s market share was at its highest of the five years examined, even in the absence of an exemption. Of the other exporters using Viterra’s facilities, a significant proportion have ownership interests in port terminal facilities in other parts of Australia (such as CBH, Bunge, GrainCorp and Cargill).

46 Consistent with the ACCC’s decision on long term agreements, the Port Adelaide data has been considered in conjunction due to certain provisions in the protocols that allow Viterra to treat those two terminals as one.
8.4.2. Port Adelaide Bulk and Automotive Port Services (BAPS) operation

The BAPS operation at Berth 29, Outer Harbour Port Adelaide bulk wheat terminal has only been operating in the 2015–16 shipping year, and Cargill is the only exporter that has shipped grain (192,000 tonnes) through the terminal.

8.4.3. Viterra Port Lincoln

Figure 32 Bulk grain export market shares for Viterra Port Lincoln

Capacity at Port Lincoln, like Outer Harbour in Port Adelaide, is highly sought after given that the port terminal can receive larger vessels due to both the deep water berth and rail access. Glencore and CBH have been the dominant exporters from Port Lincoln since 2012–13. Cargill’s market share at Port Lincoln has diminished over the same time, potentially partly due to Cargill moving to exporting using Patrick’s facility in Adelaide.

Source: Loading statement data provided under section 7 of the Port Terminal Access (Bulk Wheat) Code of Conduct; Australian Crop Forecasts, Shipping stem report.
8.4.4. Viterra Port Giles

Figure 33: Bulk grain export market shares for Viterra Port Giles

A range of exporters acquired capacity at Port Giles over the five year period, although Glencore is currently the dominant exporter. In the 2015–16 shipping year, there was not much change in the volume of exports. Bunge’s and GrainCorp’s market share increased, whereas Vitol Asia and Cargill’s decreased.

8.4.5. Viterra Thevenard

Figure 34: Bulk grain export market shares for Viterra Thevenard

Over the five year period, the exporter with the largest market shares has changed significantly. During the 2011–12 shipping year, Emerald held the largest market share for all
grain exports at Thevenard. In 2012–13, the largest exporter was Cargill. In 2013–14 and 2014–15 the largest exporter was Glencore, and in 2015–16 the largest exporter was ADM.

Emerald’s market share has decreased substantially from 30 per cent in 2011–12, when it was the largest exporter, to no exports from Thevenard in 2015–16. The ACCC understands that this is because of relatively low production and Emerald focusing on exporting grain predominantly from its own port terminal at the Port of Melbourne.

From stakeholder consultations the ACCC understands that Thevenard is often used as a supplementary port terminal to top-up a vessel.

8.4.6. Viterra Wallaroo

Figure 35: Bulk grain export market shares for Viterra Wallaroo

Market shares at Wallaroo have fluctuated between many exporters over the five year period. For example in 2012–13 and 2015–16 the largest exporter was Glencore, whereas in 2013–14 and 2014–15, the largest exporters were ADM and Cargill respectively.

8.5. Western Australia

In WA capacity has been allocated via several allocation arrangements:

- From 2009 CBH used an auction system, with residual capacity allocated via a FIFS system.
- For 2015–16 CBH allocated capacity via long term agreements and a residual FIFS process.

WAPRES have an arrangement in place to export bulk grains for Bunge. CBH’s port terminals were exempt by the Minister under the Code in November 2014. CBH introduced LTAs at their port terminals, coinciding with the timing of the exemptions. CBHs LTAs are for a 5 year period.

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8.5.1. CBH Kwinana

Figure 36: Bulk grain export market shares for CBH Kwinana

From 2011–12 to 2015–16, CBH was the largest exporter from the Kwinana bulk wheat terminal. Between 2011–12 and 2015–16, the second largest exporter was Glencore. The remaining market share has been spread between different exporters across the five year period. The introduction of LTAs by CBH appears to have decreased CBH’s export market share at Kwinana (and Albany, as illustrated below).

8.5.2. CBH Albany

Figure 37: Bulk grain export market shares for CBH Albany
Consistent with the Kwinana bulk export terminal, CBH and Glencore have been the two largest exporters at the Albany bulk wheat terminal, except for the 2012–13 shipping year, where Cargill’s market share was slightly greater than Glencore’s market share. As noted above, the introduction of LTAs has decreased CBH’s export market share at Albany. This suggests that prima facie the exemptions are not indicating preferential behaviour by CBH as the PTSP to its export trading arm.

8.5.3. CBH Esperance port terminal

**Figure 38: Bulk grain export market shares for CBH Esperance**

CBH is the largest exporter from the Esperance bulk wheat terminal, with Glencore holding the second largest market share. In 2015–16 CBH’s market share increased with CBH now holding a large proportion of exports from Esperance. The market share among other exporters has remained relatively consistent over the five years, indicating a fairly stable market structure among other exporters.
8.5.4. CBH Geraldton

Figure 39: Bulk grain export market shares for CBH Geraldton

Source: loading statement data provided under section 7 of the Port Terminal Access (Bulk Wheat) Code of Conduct; Australian Crop Forecasters, Shipping stem report

CBH was the largest exporter from the Geraldton bulk wheat terminal. As at Esperance, CBH gained market share in 2015–16. During the five year period, the second largest exporter has variously been Cargill in 2011–12 and 2012–13, Glencore in 2013–14, Emerald in 2014–15, and Plum Grove in 2015–16. This indicates that growers have had several potential buyers to which to sell their grain for export from the Geraldton terminal.

8.5.5. WAPRES Bunbury port terminal

The WAPRES Bunbury bulk wheat terminal commenced providing bulk grain export services from its facility during the 2015–16 shipping year. Bunge is the only exporter that has shipped grain through the terminal to date. This reflects the nature of the access obligations at that port terminal facility.
9. Reference prices

Under the Code PTSPs are required to publish reference prices for their bulk wheat export services. Those PTSPs previously subject to the Part IIIA access undertaking regime also published reference prices in accordance with their respective undertakings. This chapter provides an overview of the 2015–16 reference prices published by PTSPs and (where available) historical reference price data published under the previous regime.

Reference prices are the standard prices published and offered by the PTSPs. However, exporters are able to negotiate non-standard agreements with both exempt and non-exempt PTSPs. The purpose of the reference prices is to form a transparent starting point for these commercial negotiations.

For non-exempt PTSPs, in the case where agreement cannot be reached, these negotiations may be resolved via arbitration under clause 15 of the Code. Feedback from stakeholders indicates that parties are increasingly negotiating agreements with prices that vary from the published reference prices.

Under this framework as set out in the Code, the ACCC does not have a role determining or reviewing the price of port terminal services charged by PTSPs. This is consistent with the previous regime, where the PTSPs’ respective access undertakings adopted a publish-negotiate-arbitrate approach to pricing – although, under that regime, the ACCC did have the role of arbitrator in the event of a dispute. The ACCC also does not have a formal direction to request cost information and monitor prices for bulk wheat port terminal services under Part VIIA of the CCA, as is the case in certain other industries. However, the ACCC has reviewed trends in the published reference prices for both exempt and non-exempt ports as part of this more general monitoring report.

The Code provides flexibility to PTSPs (whether exempt or non-exempt) to determine the structure and level of charges for port terminal services. PTSPs have utilised this flexibility and accordingly there is a high degree of variability in the approach by each PTSP. For example:

- CBH applies a single headline charge of $19.70/t for its port terminal services (the ‘Port Terminal Shipping Fee’) plus a fixed annual registration fee of $600. Other PTSPs such as GrainCorp and Viterra break down the cost into itemised fees for receival, storage, loading and other services, and do not apply a fixed annual registration fee. The types of port terminal services provided also vary between port terminal facilities and providers. For example, Patrick does not provide receival or storage services, and accordingly does not publish charges for these services.

- Most PTSPs choose to apply a non-refundable ‘booking fee’, which is generally around $8.00/t but varies from $5.00/t up to $9.00/t. CBH’s Long Term Capacity and Spare Capacity deposit for 2015–16 was $4.00. However, if an exporter forfeits a booking then a Lost Capacity fee will also apply, increasing the total non-refundable charge up to between $5.00 and $9.00/t (depending on the time of year).

- Receival (also referred to as ‘intake’ and ‘in-loading’) charges vary significantly. Many port terminal facilities have both road and rail receival facilities and some PTSPs (such as GrainCorp and Viterra) break down the cost into itemised fees for receival, storage, loading and other services, and do not apply a fixed annual registration fee. The types of port terminal services provided also vary between port terminal facilities and providers. For example, Patrick does not provide receival or storage services, and accordingly does not publish charges for these services.

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49 The ACCC has focused in this chapter on the four port operators that were regulated under the previous undertaking regime, given that other ports were not operational or not covered by the reporting requirements. However, the ACCC will be able to expand its analysis in subsequent monitoring reports.

50 For example, the ACCC has a direction under Part VIIA in relation to airport and stevedoring services, and accordingly the ACCC is able to request cost and revenue information from providers of these services in preparing the annual airports and stevedoring monitoring reports. This information is not available in relation to bulk wheat port terminal services.

51 Note that the CBH non-refundable charge figures have been amended from a previous version of this report, to reflect that the up-front deposit is counted against the lost capacity fee.
as GrainCorp and Emerald) opt to apply differentiated receival charges, while others (such as Quattro) apply the same charge regardless of the receival mode. Where differentiated charges are applied, road receivals may be anywhere from $1.10/t to $2.00/t more expensive than rail receivals.

- Some PTSPs vary their charges depending on the time of year and/or the particular port. For example, Viterra’s Port Handling and Shipping fee ranges from $11.70/t for bookings from July to November at Outer Harbour to $16.95/t for bookings between January and May at Thevenard and Wallaroo.

The ACCC notes that this variability in the structure of charges for port terminal services could make it difficult for exporters to compare prices between different PTSPs. However, the varied approaches reflect the flexibility that the Code provides to each PTSP to tailor its pricing to suit its particular business model and cost structure. In any case, price may of course not be a determinative factor in deciding which PTSP to use.

Table 2 sets out a number of the key types of port charges applied by the various PTSPs to bulk wheat services in the 2015–16 reference prices.

### Table 2: Comparison of key charges from the 2015–16 reference prices ($/t)

<table>
<thead>
<tr>
<th>Charge</th>
<th>GrainCorp</th>
<th>Emerald</th>
<th>Quattro</th>
<th>QBT</th>
<th>NAT</th>
<th>Viterra</th>
<th>Patrick</th>
<th>CBH</th>
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<tbody>
<tr>
<td>Booking fee</td>
<td>8.00</td>
<td>8.00</td>
<td>8.00</td>
<td>10.00</td>
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<td>5.00</td>
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<td>4.60</td>
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<tr>
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<td>0.00</td>
<td>5.70</td>
<td>4.00</td>
<td>–</td>
<td>5.00</td>
<td>3.30–3.60</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Receivals from third party storage</td>
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<td>2.50</td>
<td>–</td>
<td>–</td>
<td>2.65</td>
<td>–</td>
<td>–</td>
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<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>600.00c</td>
</tr>
</tbody>
</table>

Notes:

- As noted above, the actual non-refundable component of CBH’s charges is higher (ranging from $5.00–$9.00/t) due to the application of a ‘lost capacity fee’.
- For the purposes of this table all published standard storage charges have been converted to a monthly charge. However, a number of PTSPs apply weekly storage charges and may also provide ‘free’ storage for defined periods.
- The annual registration fee is a flat rate regardless of tonnage booked or shipped.

Figure 40 depicts the variation over time (in real terms) of charges for particular hypothetical service combinations, based on reference prices published between 2012–13 and 2015–16.

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Figure 40: Trends in reference prices for hypothetical service combinations ($/t)

Source: various reference price schedules collected by the ACCC.

Notes: Real (inflation adjusted) values in 2015–16 dollars. These hypothetical service combinations all assume delivery by rail, storage for one month at standard prices and, in the case of Viterra, that capacity was acquired at auction with a $0 auction premium. Given that PTSPs can apply varying charges at different ports, the hypothetical service combinations are linked to a specific port terminal in each case. Note that this graph has been amended from a previous version of this report to correctly reflect the treatment of CBH’s up-front booking fees over the time period.

The actual prices paid by particular parties for access to port terminal services over this time will likely have varied significantly from those presented in figure 40 for a number of reasons. The service combinations in figure 40 do not include reductions for shrinkage and dust, or inspection and other port-specific wharf/shunting fees, and therefore do not reflect the full port access costs actually faced by parties. The charges applied by each PTSP also vary depending on a wide range of factors (including the commodity, the time of year, the location of the port, and any additional testing or other services required).

As noted above, the extent to which conclusions can be drawn from reference price data more generally is also somewhat limited, because:

- in many cases reference prices will not reflect the actual prices paid by parties under alternative agreements, which may include bundling with up-country services and rebates
- the structure of charges for each PTSP is highly varied, making direct comparisons of charges problematic, and
- there is limited historical reference price data available given that only the four PTSPs reflected in figure 40 were required to publish reference prices under the previous regime.

Nevertheless, figure 40 suggests that basic port access charges have remained relatively stable in real terms over the period. In 2015/16 CBH altered the structure of its charges so that the up-front booking fee was offset against the Port Terminal Shipping Fee of $19.70.
which may also have been offset in practice by rebates for services, such as the new ‘direct to vessel’ service\(^{53}\), and the removal of the auction system and its associated premiums.\(^{54}\)

While PTSPs’ approach to pricing remained fairly consistent from 2012–13 to 2014–15, several PTSPs adjusted their pricing structures and overall level of charges for the 2015–16 year. These adjustments follow the introduction of the Code, the granting of a number of exemptions at various port terminals, and the entry of new competing port terminals. Several stakeholders considered that shipping from Viterra’s port terminals was expensive. The ACCC will continue to monitor changes in the level and structure of published reference prices future years, and will also incorporate data from other PTSPs which are now also required to publish reference prices.

The ACCC has previously given particular consideration to the differential charges applied by some PTSPs to grain received from third party upcountry storage and handling facilities, rather than via the PTSP’s own up-country supply chain.\(^{55}\) Such differential charges may be appropriate where they reflect increased costs and risks associated with receivals from third party storage. Alternatively, such differential charges may be problematic where they reflect the PTSP using its market power to advantage its own up-country storage and handling facilities and transport services. Figure 41 sets out the third-party storage differentials applied by GrainCorp, Viterra, and Emerald over the past four years.

**Figure 41: Third party storage differential charges from 2012–13 to 2015–16 ($/t)**

Source: various reference price schedules collected by the ACCC

*Note: Real (inflation adjusted) values in 2015–16 dollars.*

While Emerald’s differential charges have increased over that time, GrainCorp has gradually reduced these charges and as of 2015–16 does not apply a third-party storage differential to


\(^{54}\) Note that this text has been amended from a previous version of this report to correctly reflect the treatment of CBH’s up-front booking fees over the time period.

receivals at its port terminals. Viterra's differential charges have remained stable (in real terms) over the period. Of the new entrant PTSPs, the ACCC understands that only Quattro currently applies a differential charge to third party storage receivals (the ‘Client Receival non Quattro Ports approved storage’ charge is currently set at $2.50/t).\textsuperscript{56} CBH’s reference prices do not specify a third party storage differential charge. The ACCC will continue to monitor changes in the level and application of these differential charges.

\textsuperscript{56} Quattro Ports, ‘Port Terminal Services Agreement - 2015/2016’, p. 27.