



Department of Planning and Infrastructure  
Government of Western Australia

Our ref:  
Enquiries: John Georgiades

Mr Graeme Samuel  
Chairman  
Australian Competition and Consumer Commission  
GPO Box 3131  
CANBERRA ACT 2601

Dear Mr Samuel

**Supply Chain Transport Coordination for Bulk Grain Movements in Western Australia**

In response to their meeting with your officers on 12<sup>th</sup> August, CBH have conveyed to us your request for further elaboration about the caveats on her support by our Minister the Hon Alannah MacTiernan in her letter sent to you on the 18<sup>th</sup> June 2008. I quote:

***"My support for CBH is predicated on a number of conditions being met:***

- ***There will be no discrimination (in price or service) between customers of CBH with respect to grain handling and transport.***
- ***The supply chain coordination function will be implemented within the Grain Infrastructure Group (or other approved) process with the participation of the Government, grain marketers and grain growers.***
- ***In the event of dissatisfaction expressed by a client and not satisfactorily accommodated by those involved in the supply chain coordination, recourse will be made to the economic regulator as an 'umpire of last resort'.***
- ***New entrants are to be free to avail themselves of CBH services or not, but will be required to contribute towards the fixed costs of the land transport, storage and handling network, ie they should not have a 'free ride' with regard to infrastructure provision."***

While it is not possible within the timeframe of three days to brief and obtain the support of the Minister our response is predicated on briefing and obtaining Ministerial endorsement as soon as is practicable.

It is the Department's view that:

- ***There will be no discrimination (in price or service) between customers of CBH with respect to grain handling and transport.***

1. This condition has been demonstrated in the CBH submission to you which we have seen. The Department of Planning and Infrastructure (DPI) has reviewed the Grain Express proposal. We are satisfied that sufficient mechanisms are envisaged that will ensure this condition is met. DPI through the Grain Infrastructure Group and its various sub-committees will continue to monitor these arrangements to ensure that the logistic processes under Grain Express which are currently built around the principles of equity and transparency remain in place and continue to have effect.

- ***The supply chain coordination function will be implemented within the Grain Infrastructure Group (or other approved) process with the participation of the Government, grain marketers and grain growers.***

2. Our understanding of the Grain Express proposal is that CBH under Grain Express will meet this condition. Under Grain Express, DPI anticipates two levels of supply chain management involving industry and Government:

#### **The Grain Infrastructure Group (GIG)**

The GIG has operated very successfully in recent years and will continue to do so under Grain Express. This team which includes CEO representation from CBH Group, Australian Railroad Group, DPI and Wesnet Infrastructure continues to work to coordinate and develop plans for the long term infrastructure needs of the grain industry in Western Australia. DPI expects Grain Express will assist in the achievement of infrastructure development goals set out in the 2008 GIG Report.

#### **Industry Coordination**

Under Grain Express, CBH have made commitments to government, grain marketers and grain growers that the coordination of the supply chain will be performed in a transparent and equitable fashion. DPI is satisfied that this commitment will be delivered through the inclusion of DPI, WA Farmers (WAFF), Pastoralists and Graziers (PGA) and NACMA in the development and performance measurement of the critical export freight contracts in Western Australia. Along with WAFF, PGA and NACMA, the DPI will act as observers to the contract development and management processes of the significant commercial arrangements between CBH, ARG and the major export road transport service providers. This does not suggest that DPI wishes to become involved in the direct supply chain coordination activities of the grain industry. The task of direct supply chain coordination belongs to CBH Operations under Grain Express. The role of DPI will be to monitor activity, where appropriate obtain information relevant to government and matters of public interest and provide advice on the most effective allocation of infrastructure resources.

- ***In the event of dissatisfaction expressed by a client and not satisfactorily accommodated by those involved in the supply chain coordination, recourse will be made to the economic regulator as an 'umpire of last resort'.***

3. It is our Minister's request that if no resolution is produced by an Industry agreed Dispute Resolution Process then the matter can be referred to the State's Economic Regulator as the final arbiter of the matter under review. CBH is proposing that the Economic Regulation Authority of Western Australia (ERA) be given the following oversight responsibilities:

#### **In relation to the Grain Express ring fencing policy:**

1. CBH's ring fencing policy and processes will be audited prior to its implementation and then regularly every year by an auditor appointed by CBH and approved by the ERA. The auditor's findings and recommendations will be provided to CBH and the ERA.

#### **In relation to the Grain Express dispute resolution process:**

2. CBH will implement a two step dispute resolution process in relation to alleged compliance failures. Under that process, if a complaint cannot be resolved by agreement, the dispute will be referred to an independent arbiter, appointed from a panel of qualified experts approved by the ERA. The findings of the arbiter shall be submitted to the ERA.

DPI considers that the proposed approach meets the objective of the condition because it incorporates a sufficient degree of independence and regulatory oversight involving the ERA.

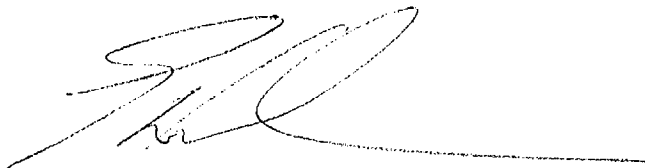
- ***New entrants are to be free to avail themselves of CBH services or not, but will be required to contribute towards the fixed costs of the land transport, storage and handling network, ie they should not have a 'free ride' with regard to infrastructure provision."***

4. As we indicated in our submission (sent by my Deputy Mr John Fischer) the Department of Planning and Infrastructure is supportive of the "Grain Express" proposal as it promotes the efficient and complementary use of the land transport modes. We believe that this condition can be provided for through two initiatives that we will take:

- i) For those seeking approval to construct new infrastructure an amendment to the draft *State Planning Policy 3.6 Development Contributions for Infrastructure*. Excerpts from this draft policy are at Attachment A. We would seek to incorporate a test that asks the proponents of new infrastructure projects to demonstrate that:
  1. the new infrastructure proposed is an expansion and provides additional service capacity that is in fact necessary, and
  2. the existing infrastructure is unable to provide a service at or below the cost of the proposed additional infrastructure.and
- ii) For those operating on existing infrastructure with a greater than "normal" usage that they make a contribution commensurate with their use. Our Minister has set a precedent for this by seeking contributions to road maintenance from companies carting iron ore in the Mid West.

I wish to reiterate my Department's support for the proposal "Grain Express" to establish supply chain transport coordination for bulk grain movements in Western Australia, and I seek your concurrence with that proposal.

Yours sincerely



Eric Lumsden PSM  
*Director General*

15/8/2008

## Attachment A: Conditions for New Entrant Infrastructure Providers

*Excerpts quoted from:*

***Draft State Planning Policy 3.6 Development Contributions for Infrastructure Prepared under part 3 of the Planning and Development Act 2005 by the Western Australian Planning Commission***

“This state planning policy is made under section 26 of the *Planning and Development Act 2005*. This policy can be cited as State Planning Policy 3.6 Development Contributions for Infrastructure

### **Introduction and background**

This policy sets out the principles and considerations that apply to development contributions for the provision of infrastructure in new and established urban areas.

The careful planning and coordination of infrastructure is fundamental to the economic and social wellbeing of any community. New urban developments and redevelopments must ensure the cost-efficient provision of infrastructure and facilities such as roads, public transport, water supply, sewerage, electricity, gas, telecommunications, drainage, open space, schools, health, community and recreation facilities. All of these utilities and services greatly influence the standard of living, mobility and lifestyle choices of a community.

Public infrastructure is funded through various sources including state government taxes, local government property rates, federal assistance grants, user and access charges, fees and charges, and development contributions. In Western Australia, development contributions for infrastructure have long been accepted as an essential part of the planning system.

Development contributions are usually by way of land, works or payments towards the provision of infrastructure. Requirements for development contributions are imposed by way of conditions on subdivision.

The key principle is that the 'beneficiary' pays.

Therefore, development contribution plans will need to identify growth trends based on service catchment areas, translate these trends into the infrastructure and facilities necessary to meet these increasing needs within the catchment, and allocate the costs of meeting these needs to existing residents and new residents proportional to their contribution to the need for the infrastructure and facilities. This policy will ensure fairness and equity. It will mean that existing and new residents will share the cost burden of additional infrastructure and facilities proportional to their need.

This policy sets out the principles underlying development contributions and the form, content and process for the preparation of a development contribution plan under a local planning scheme. It also includes the WAPC standard requirements for development contributions (appendix 1), model development contribution plan provisions (appendix 2) and a template for a local government strategic infrastructure plan and program.”

An area of concern is where the State has provided Strategic Infrastructure and the proposed development is for new infrastructure. This could well be an unnecessary duplication that erodes the use of the existing infrastructure and thus increases the unit costs of all infrastructure users. It could also generate demands on related infrastructure that would otherwise be avoided.

**There needs to be a test which asks the proponents of new infrastructure projects to demonstrate that:**

- 1. the new infrastructure proposed is a necessary expansion and provides additional service capacity that is in fact necessary, and**
- 2. the existing infrastructure is unable to provide a service at or below the cost of the proposed additional infrastructure.**

An example might best illustrate.

The trend to containerisation of grain will lead to requests for a proliferation of Grain packing facilities all over the metro area. If this is allowed, grain will move directly to these facilities from the farm and then on to port using road transport. This means that the existing rail network infrastructure is underutilised, increasing the unit costs of those who remain on the network. The costs of the proposed alternative road transport also increased, though these are not met in full by the user but are subsidised by taxpayers or other users. The Government then has to meet the increased road upgrade and maintenance costs and the costs associated with the reduced use of its rail network assets.