

5 February 2024

Wheat Port Code Review  
Department of Agriculture, Fisheries and Forestry  
GPO Box 858 Canberra ACT 2601

Via: Stephen Hodge, Director Crops Policy, [Stephen.hodge@aff.gov.au](mailto:Stephen.hodge@aff.gov.au)

## **RE: Second Review of the Wheat Port Code**

### **1.0 Introduction**

Grain Trade Australia (GTA) welcomes the opportunity to provide input into the second review of the Port Terminal (Bulk Wheat) Code of Conduct known as the Wheat Port Code (WPC). These reviews are an important means for industry analysis, evaluation and discussion that supports the development, growth and the evolution of the Australian grain industry.

Such review processes, including associated submissions by industry participants and Government authorities enables considered opinions and importantly a record of the progress the market and industry has made since the inception of the WPC in 2014. The industry has changed considerably since the deregulation of Australia's wheat marketing arrangements that started with the removal of the '*wheat single desk*' in 2008.

This period has been one of immense change, challenges, and growth with the industry battling extensive droughts followed by the three recent consecutive record years of production.

As a general principle, GTA would encourage **simplicity, consistency and certainty** to optimise business efficiency, and **minimise regulatory cost burden** on consumers and business, thereby driving optimal value across the economy.

Thus, GTA believes that the longer-term direction for the industry should aim to move towards lighter touch regulation and, where possible, to **industry managed frameworks** to encourage flexibility and innovation - increasing efficiency, competition and productivity across the sector.

In GTA's view, the industry operates in a competitive commercial environment, and has demonstrated its ability to respond, innovate, and invest driving efficiency across the supply chain.

### **2.0 About GTA**

[Grain Trade Australia](#) (GTA) is a national association and is the focal point for the commercial grains industry within Australia. The role of GTA is to provide a framework across Industry to facilitate and promote the trade of grain. GTA facilitates trade and works to provide an efficient, equitable and open trading environment by providing leadership, advocacy, and commercial support services to the Australian grain value chain.

**GTA members are the supply chain managers, marketeers, consumers and exporters of Australia's grain.** GTA Members are responsible for over 95% of all grain storage and freight movements made each year in Australia. Over 95% of the grain contracts executed in Australia each year refer to GTA Grain Trading Standards and/or Trade Rules. GTA provides a formal Dispute Resolution Service accessible to grains industry participants.

GTA has established the [Australian Grains Industry Code of Practice](#). This Code outlines the quality assurance process and procedures across the grain supply chain, with supplementary Technical Guideline Documents (TGDs) providing additional details. All GTA Members are required to adhere to the Code of Practice.

GTA Members are drawn from all sectors of the grain value chain from production to domestic end users and exporters. GTA has over 280 organisations as Members. Their businesses range from regional family businesses to large national and international trading/storage and handling companies who are involved in grain trading activities, grain storage, processing grain for human consumption and stock feed milling. A list of GTA Members is attached.

### 3.0 Industry Overview

The Australian grain industry has shown resilience while undergoing considerable change since deregulation of bulk wheat exports. It has evolved and adapted positively to today's environment. The industry has progressively developed an industry driven and managed framework to facilitate trade.

Today the industry is a market oriented, internationally competitive sector, with a well-deserved reputation for safe, quality grain supported by a reliable supply chain with **multiple players competing to buy and sell grain for supply to domestic and export grain processors**. Pricing for Australian grain is transparent and set through the combination of international market conditions and domestic/regional grain supply, logistic capacity and demand factors.

The Australian grain industry<sup>1</sup> is a major economic contributor in regional Australia and to export revenue, with the value of production in 2022/23 forecast (excluding rice) to be a record \$30.7 billion at the farm gate and \$28.3 billion of exports<sup>2</sup>, meaning **the grain industry is the highest value industry in the agriculture sector**, contributing more than 33% of Australia's agricultural gross value of production annually.

The industry achieved record summer and winter production in 2022/23 of 71.7 million tonnes (mmt) following two prior large crops with 68.0 mmt in 2021/22, and 59.9 mmt in 2020/21.

Trade and an efficient supply chain is vital for the Australian grain industry and regional communities, with the Australian grain industry being highly export oriented given 65 -75% of grain production is exported.

There has been **significant increase** in Port Terminal Service Providers (PTSP) competition through private capital investment and expansion in export capacity since deregulation of wheat exports in 2008.

- In 2008 there were **18 bulk grain export terminals operated by 4 companies**.
- At the time of the WPC's commencement in September 2014, there were **23 existing bulk grain port facilities** covered by the WPC.
- In 2024 there are **32 bulk grain export terminals operated by 18 companies**, in addition to significant growth in the number of container packing facilities for export.

The increase in competition has been recognised by the ACCC as currently **only 7 of the 32 facilities (representing 11% of all grain exported) are required to meet the full provisions of the WPC**<sup>3</sup>.

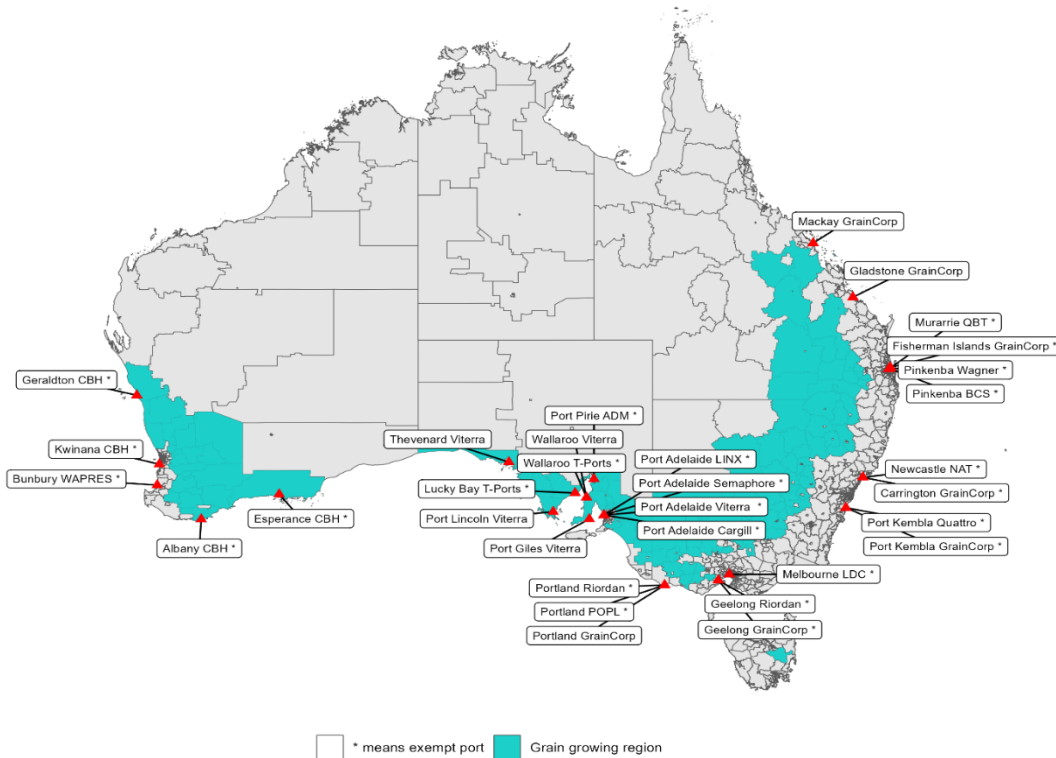
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<sup>1</sup> Grains include wheat, coarse grains, oilseeds, oilseed meals and pulses

<sup>2</sup> Source: ABARES, 2023

<sup>3</sup> ACCC Submission to WPC Review, 2023

**Figure 1 Map of Australia's bulk grain port terminal facilities and grain growing regions**



Source: ACCC

Competition and export capacity has grown significantly through increased operational efficiency and **capital improvements by incumbents**, combined with **new investment in infrastructure** (eg port investments Bunge, NAT, Qube, T-Ports), and the significant advent of mobile bulk loaders (MBLs). Companies operating MBLs include ADM, CHS Broadbent, Cargill, Riordan Grain Services, Wilmar, and JK International. **MBLs have significantly reduced barriers to entry**, developed additional supply chains, increased competition, efficiency and flexibility across the industry.

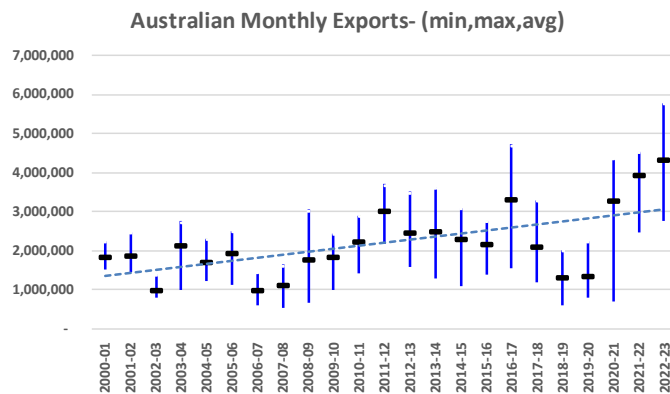
Supply chain export capacity growth has been substantial, for example:

- in 2008/9 (when wheat exports were deregulated) the maximum monthly exports were 3mmt with an average of 1.8 mmt.
- in **2022/23 the maximum monthly exports were 5.8 mmt with an average of 4.3 mmt**, this equates to a growth of 93% and 39% respectively.<sup>4</sup>

An important element of the increased export capacity has been derived also through investment by growers in **farm storage and transport assets**. This investment and innovation in the supply chain has resulted in the extension of the export supply chain through to the farm opening up direct trade opportunities for growers.

**Figure 2 – Monthly Grain Exports**

<sup>4</sup> Australian Crop Forecasters, 2023



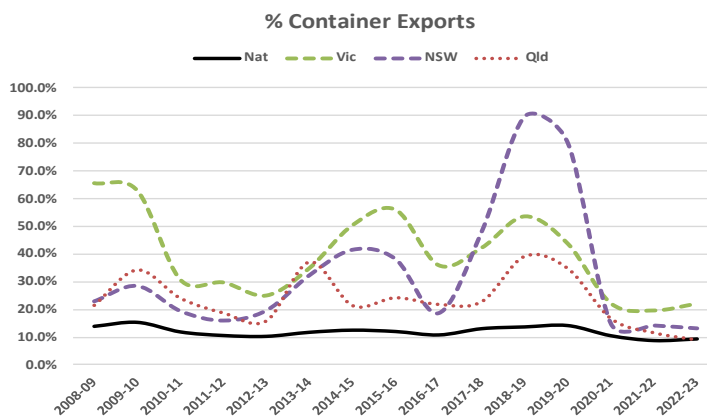
Source: ACF

There has also been significant **growth in domestic demand** since 2008 from 14mmt in 2008/09 to 17.7 mmt in 2021/22 (and peak of 18.5mmt in 2018/19)<sup>5</sup>. The adaptability of the industry was demonstrated with **bulk grain transhipments (ie not exported) of around 6.8 mmt** grain from SA and WA to the east coast for domestic consumption during the 2017-2019<sup>6</sup> period, effectively ‘reversing’ the traditional export orientated supply chain. These shipments were not subject to the WPC regulations (as they were not exports from Australia, and much was not wheat).

This growth has led to **more domestic market competition with export markets** and led to competitive pressure on Port Terminal Service Providers (PTSP) to deliver efficient and effective services to maximise throughput in their terminals versus any competition (such as domestic market and other PTSP).

The **growth in container exports** has been another featured response in the Australian supply chain, particularly on the East Coast. For example, nationally around 10-12% of grain exports are in containers, however in Vic and NSW **depending on the season, between 20-60% of bulk grain exports can be in containers**<sup>7</sup>. Grain packing facilities and grain exports (including wheat) in containers are NOT regulated by the WPC.

**Figure 3 – Percent of Grain exports in Containers**



Source: ACF

<sup>5</sup> USDA, PSD 2023

<sup>6</sup> Australian Crop Forecasters, 2023

<sup>7</sup> Australian Crop Forecasters, 2023

Across the value chain, the grain industry has developed processes and systems to self-regulate activities and support trade. GTA has established a range of codes and guidelines to provide transparency and certainty for industry participants, while the grower organisations have produced the Guide “Growing Australian Grain” to cover on-farm activities.

#### 4.0 WPC Benefit versus Burden

The first review of the WPC that commenced in 2017, the subsequent Working Group Review of Recommendation 12 and subsequent ACCC monitoring reports and its most recent 2023 Submission into the second review of the WPC have all provided informative material that support the **direction towards effective industry self-regulatory frameworks**. Key learnings through these processes include:

1. There are greater numbers of port terminal service providers (PTSPs) and port terminal facilities now than when the WPC was introduced in 2014.
2. There is an increased use of novel types of infrastructure and/or business models by new entrant PTSPs (including the use of mobile ship loaders) and integration of farm storage into the export supply chains.
3. Grain exports in bulk in containers (not subject to the WPC) are an important feature of east coast grain supply chain and exports channels.
4. A level of acceptance that large vertically integrated storage, port terminal and export marketing services businesses are likely to have competitive scale advantages over smaller businesses or non-asset owning trading houses, however while codes prescribed under the Competition and Consumer Act 2010 enable industries to develop targeted regulation to raise the standard of business conduct, their purpose is not to protect smaller participants from competitive pressures that relate to bargaining power, access to markets or limited scale when purchasing (The Treasury 2017).
5. The WPC’s regulatory burden continues to increase as new PTSPs enter the market, particularly given new entrants are typically smaller-scale operators competing with large-scale operators (which are often *exempt PTSPs* – refer below).
6. Most current PTSP (25 of 32) have been granted *exempt service provider* status (ie exemption from Parts 3 to 6 of the WPC). Most, if not all, of the recent PTSP entrants have been granted *exempt service provider* status by the ACCC. This means that only 11% of grain (in 2021/22) is exported from non-exempt PTSPs.
7. Whilst competition is increasing three large vertically integrated PTSPs (CBH, GrainCorp and Viterra) remain the major providers and acquirers of bulk grain export port terminal services which the ACCC feel may give rise to some competition concerns for some industry participants. Such concerns may be able to be addressed within the Competition and Consumer Act 2010.

In GTA’s view these learnings are not conducive to extending the WPC. It would seem the WPC provides minimal benefit whilst creating burden for new PTSP entrants and therefore **GTA concurs with the ACCC view that it should be allowed to sunset in October 2024.**

#### 5.0 Discussion - Industry Value

GTA’s vision is for an ‘*efficient and open commercial Australian grain industry*’ and is confident the Australian value chain is well placed to achieve this vision. However, we acknowledge some industry participants may still be concerned the supply chain is not fully supportive of their business objectives.

As discussed, these review processes are instructive and provide a great opportunity for industry to engage, to discuss and consider further development of **industry-driven and managed frameworks that facilitate competition and trade** across the grain value chain. This

discussion may well include the provision and sharing of PTSP information and transparency, such as shipping stems, where they are supportive of facilitating trade.

The objective of the WPC is to ensure smaller participants have some framework or arrangements to facilitate access to fair and transparent port terminal services. An alternative to the WPC regulatory approach to better support the objective could be for industry to develop a self-regulatory industry approach or model. This may leverage existing framework and governance arrangements such as GTA's Australian Grain Industry Code of Practice, Technical Guidelines, industry standard trade rules and Dispute Resolution Service.

The grain export supply chain is complex with multiple dependencies that require frameworks and process that are adaptable. An industry self-management code is more open to change and modification to meet market and supply chain variances.

An industry driven approach or model such as a Technical Guideline Document (TGD), could still include some key aspects of the Wheat Port Code, such as:

- a commitment to deal in good faith,
- shipping stem allocation principles/guidelines, and
- stem publication.

It may also seek to identify potential risks, develop mitigations and potentially reporting requirements and KPIs (if deemed necessary or useful).

Industry participants are willing to engage with Government to discuss the provision of a credible industry managed alternative to the current WPC that is of value that :

- Continues the industry de-regulation journey with an orderly and **practical approach**.
- **Reduces the regulatory burden** on industry.
- Provides **operational flexibility and efficiency**, whilst addressing key WPC objectives.
- Provides a basis for industry to collaboratively **support change**.
- Has the scope to address any industry participant concerns that are of a **sound evidentiary basis**.

GTA and industry have previously collaborated to develop the Australian Grain Industry – Code of Practice Technical Guideline Document No. 4 [Operating Standards for Pool Providers](#) and to progress the DAFF Recommendation 12 from the 2017 WPC review.

A similar Working Group approach that could include Government involvement is proposed for consideration by GTA to engage, discuss and determine what is appropriate and required to provide a credible industry managed alternative to the current WPC to ensure:

1. smaller participants have the capability to access fair and transparent port terminal services; whilst
2. recognising its purpose is not to protect smaller participants from competitive pressures that relate to bargaining power, access to markets or limited scale when purchasing.

## 6.0 Conclusion

The Australian grain supply chain is dynamic, market orientated and innovative. In this context GTA considers the **WPC is no longer relevant** to industry participants as it provides minimal benefit whilst creating burden for new PTSP entrants and it **should be allowed to sunset in 2024**.

Should this direction be shared by Government and industry, GTA suggests consideration be given to the opportunity for engagement to discuss the provision of a credible industry managed alternative to the current WPC.

We thank you for the opportunity to make this submission. We request that you keep us updated on developments and progress in this important review.

Please do not hesitate to contact GTA should you have any queries or require any our assistance.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P O Shannassy', written in a cursive style.

**Pat O'Shannassy**  
**CEO, Grain Trade Australia**

**Attached:**

- List of GTA Members