

# Member Update

No. 23 of 2024 • 25 November 2024

**TOPIC:** *Wheat Port Code Review*

**DISTRIBUTION:** *GTA Members – primary contact list. Please circulate to all appropriate internal parties.*

## 1. Purpose

To update Grain Trade Australia (**GTA**) members on progress of the review of the Port Terminal Access (Bulk Wheat) Code of Conduct, ie the “Wheat Port Code” (**WPC**).

## 2. Background

- The WPC is a mandatory industry code of conduct made under the Competition and Consumer Act 2010 (the CCA). The code commenced in 2014.
- It’s intended purpose is to ensure exporters of bulk wheat have fair and transparent access to port terminal services.
- The Department of Agriculture Fisheries and Forestry (DAFF) undertook a review of the WPC in 2023/24, prior to its legislative expiry in October 2024. The purpose of the review was to assess whether the WPC is still fit-for-purpose.
- In September 2024 the Government extended the WPC until the 1st of October 2026.
- The Government deferral of the WPC end date was to provide:
  - Sufficient time to consider the recommendations and to finalise the DAFF review; and
  - Time to implement the agreed outcomes of the WPC review.
- The statement extending the WPC provided for it be repealed earlier if an alternative arrangement could be agreed and put in place.

## 3. Release by Government of the Report into the WPC Review

- The Minister for Agriculture, Fisheries and Forestry has released the [DAFF Review of the Wheat Port Code](#) on 4 November 2024 and are now seeking feedback on the report’s recommendations for the future of the WPC.
- The Report made four key findings, these being:
  - 1) *The national market for port terminal services has changed significantly since 2014 and there is a significant increase in competition since 2014.*
  - 2) *Parts 3-6 of the WPC are a barrier to new entrants therefore to competition,*
  - 3) *Part 2 of the WPC (shipping stems, information, capacity allocation etc) provide a net benefit to industry and there is support to continue these provisions.*
  - 4) *The provisions of Part 2 of the WPC could potentially be achieved by industry self-regulation.*

- The Report further recommends:
  - a. *Grain Trade Australia work with the grain export industry to develop an industry managed code that includes:*
    - i. *A commitment to deal in Good Faith with grain exporters*
    - ii. *Principles and guidelines for managing demand for port terminal services*
    - iii. *A commitment to timely publication of port loading statements*
    - iv. *A commitment to publish standard terms and reference prices*
    - v. *A dispute resolution mechanism.*
  - b. *As soon as the industry managed code is ready, the existing Wheat Port Code be repealed or allowed to sunset.*
  - c. *The government should review the operation of the industry managed code within 5 years of the commencement of its operation and consider re-regulation if the industry managed code does not maintain the outcomes of Part 2 of the code.*
- In GTA's view:
  - the DAFF WPC Review has been thorough
  - there is good clear evidence (ie no market failure) to support the findings
  - the Report recognises the growth in investment and competition in the industry
  - and presents an opportunity for further industry investment and growth.
- GTA is supportive of the DAFF findings, which in our view are in the interests of all industry participants and stakeholders, particularly growers as beneficiaries of the growth in competition and investment.
- GTA will establish an Industry Working Group to commence the process to develop an industry approach as noted in the Review findings.

#### 4. Submissions

- GTA will work with its Technical Committees to provide a submission into this latest review and will agree with the government report and seeking to move forward with its recommendations.
- **GTA members are asked to consider providing a submission on the WPC Report to ensure their views and positions are clear to Government.**
- Submissions can be brief, and members will be welcome to either agree or disagree with the position as provided in the GTA submission. The GTA submission will be shared with GTA Members as soon as it is finalised.
- Submissions can be made via completing a DAFF survey or uploading written submissions [here](#)
- The deadline for submissions is the 31<sup>st</sup> of January 2025.

#### 5. Further Information

For further information please contact GTA at [admin@graintrade.org.au](mailto:admin@graintrade.org.au)