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16 January 2018

Wheat Port Code Review Taskforce Department of Agriculture and Water Resources GPO Box 858 Canberra ACT 2601

#### **RE: Port Code Review**

Grain Trade Australia (GTA) appreciates the opportunity to provide this submission to the review of the Port Terminal Access (Bulk Wheat) Code of Conduct (the Wheat Port Code).

#### **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 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 has established the Australian Grains Industry Code of Practice. All GTA Members are required to adhere to the Code of Practice. GTA is currently undertaking a review of the Code of Practice to ensure that it is aligned to current and future requirements. A key focus of the review is to strengthen compliance requirements and the complaints handling procedures.

GTA Members are drawn from all sectors of the grain value chain from production to domestic end users and exporters. GTA has over 270 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. The GTA Board includes Directors elected from these various membership categories. A list of GTA Members is attached.

# Reducing the regulatory burden underpins the grains industry framework

The Australian grains industry has undergone considerable change since deregulation of bulk wheat exports. The industry today is a market-oriented, internationally-competitive sector with an international reputation for safe, quality grain and reliable supply. The industry has progressively developed an industry driven and managed framework to facilitate trade. In 2015/16, the grains industry was Australia's largest agricultural industry exporting a record 38.14 million metric tonnes of grains, pulses and oilseeds.

Across the value chain, the grains 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.

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

The Wheat Port Code (the Code) was an important step in moving the industry to a lower regulatory burden environment enabling the industry to move away from the Access Undertakings that were

introduced at the time of bulk wheat export deregulation. At this time, there were concerns expressed by access seekers in regard to the potential to access port capacity in a fair and transparent manner.

The Code has enabled the move away from auction systems to more efficient capacity allocation systems. The industry incurred significant cost during the operation of the auction systems, with many small exporters not being able to, or choosing not to, access capacity due to high levels of execution risk and large working capital requirements.

The allocation systems operating today are more efficient and cost effective. The ability of port terminal operators to be able to add capacity and/or move capacity in a practical sense in response to supply chain conditions should assist to deliver improved outcomes for access seekers and Australian growers.

The Code has delivered benefits in terms of providing a lighter touch and more flexible regulatory tool, whilst ensuring fairer access to port capacity, requiring port terminal operators to act in good faith and increasing transparency for the industry.

The ACCC 2017 monitoring report identifies that access seekers and growers still have concerns in relation to fairness and transparency in relation to port capacity access. While there has been considerable investment in new port facilities and new port loading models, the report highlights that some ongoing oversight is required.

While recognising that this capacity has come at a cost, it has provided competitive constraint and led to improved ability for exporters to access port capacity. The ACCC report acknowledges that increased flexibility has increased capacity, which on balance is likely to increase efficiency, competition and returns to Australian growers.

GTA believes that it is important that the Code has the ability to provide increased flexibility to manage needs of access seekers and port terminal users in a commercial and flexible manner, where this is appropriate and practical.

GTA's view is that the current scope of the Code is appropriate. Agreed industry principles at the time of the Code's introduction were that incentives to invest in infrastructure should not be distorted or removed by regulation; and that regulation should not discourage Australian growers and companies from investing in their export pathways.

In addition to port investment, there has been substantial investment in up-country pathways focused on reducing total supply chain costs. This is delivering increased competition and flow on benefits for supply chain participants and Australian growers. Any extension of scope may potentially place further investment and innovation at risk.

While GTA believes, as a principle, that reducing the regulatory burden will reduce costs in the supply chain and, therefore, improve grower and supply chain competitiveness, it is acknowledged that the evidence suggests the need for continued oversight remains. However, it is also evident that the industry is adjusting and progressing in the right direction. It is important that the system continues to provide short term capacity to allow exporters to manage risk and foster innovation and competition for small and medium exporters to grow.

# **Future direction for the Wheat Port Code**

GTA believes that aligning oversight of port terminal service providers with the industry's self-regulatory approach will, over time, deliver optimal outcomes and that the industry will be best served by all parties being subject to a clear level of oversight. This will promote competition, flexibility and supply chain efficiencies.

Any industry code would require obligations on both port terminal service providers and exporters. GTA sees that provisions that exempt ports are obliged to comply with, would be a good model for an industry code, however, recognises that an industry code would require consultation with stakeholders to ensure provisions meet the needs of all parties.

An industry code could enable greater flexibility to respond to access seeker needs and manage capacity to optimise outcomes, in particular instances where there are supply chain disruptions.

GTA also recognises that a complaints handling and dispute resolution process is critical. The grains industry has an established track record in this through its existing codes and contracts/trade rules/arbitration process. It is noted GTA's dispute resolution and arbitration process is underpinned by, and complies with, the NSW Commercial Arbitration Act.

GTA recognises that the Code has removed many of the inefficiencies that were present under the Access Undertakings. The maturity of the industry combined with structural changes, such as the increased capacity, supports a move in the future to a more industry managed approach. This could see the Code move to an Industry Code. Thus, GTA would encourage consideration of this as an option in future reviews of the Code.

Thank you for your consideration of this submission. GTA has not commented on specific operational issues associated with the Code that could be addressed to improve the implementation of the Code and impact on industry performance, however, notes that some of its members may do so in individual submissions.

Regards

Pat O'Shannassy

CEO



# Membership List as at 10 January 2018

Website /Phone Organisation Contact

# **Ordinary Member (Trading)**

### Level A1 (over 7 Million Tonnes)

Co-operative Bulk Handling Limited Mr Jason Craig cbh.com.au Glencore Agriculture Pty Ltd Mr Philip Hughes glencoreagriculture.com.au

Level A2 (5 - 7 Million Tonnes)

**Graincorp Operations Ltd** Mr Klaus Pamminger graincorp.com.au

Level A3 (3 - 5 Million Tonnes)

ADM Trading Australia Pty Ltd Mr Darryl Borlase adm.com Cargill Australia Limited Ms Penne Kehl cargill.com.au

Level A4 (1.5 - 3 Million Tonnes)

Bunge Agribusiness Australia Pty Ltd Mr Chris Aucote bunge.com/Agribusiness Cofco International Mr Bruce Li cofcoagri.com.au Mr David Johnson **Emerald Grain Pty Limited** emeraldgrain.com Nidera Australia Pty Ltd Mr David Lengren Mr Tony Smith Plum Grove Pty Ltd plumgrove.com.au

nidera.com

Level B1 (1.0 - 1.5 Million Tonnes)

Arrow Commodities Pty Ltd Mr Dominic Vanzella arrowcom.com.au Louis Dreyfus Company Australia Pty Ltd Mr Robert Green louisdreyfus.com.au

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## Level B2 (500,000 - 1 Million Tonnes)

Mr Hiro Oda Agrex Australia Pty Ltd agrexaustralia.com.au Australian Grain Export Pty Ltd Mr John Thiele 08 8832 2800 CHS Broadbent Pty Ltd Mr Justin Fay broadbentgrain.com.au Centre State Exports Pty Ltd Mr Jeff Voigt centrestateexports.com.au gwf.com.au George Weston Foods Limited Mr Mark O'Brien Mr Michael Reeves agriproducts.com.au Ridley Agriproducts Pty Ltd Riordan Grain Services Mr Bradley Hogan riordangrains.com.au Riverina (Australia) Pty Ltd Mr Jon Mulally riverina.com.au

# Level B3 (250,000 - 500,000 Tonnes)

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# **Ordinary Member (Trading) (contd)**

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AMPS Agribusiness Group

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Ar Todd Jorgensen

Mr Todd Jorgensen

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0 Large

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# **Corporate**

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### Medium

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**Life Members** 

Mr Mervyn May Retired Awarded 1998 Mr Christopher Kelly K M & W M Kelly & Sons Awarded July 2015

Former GTA CEO Mr Geoff Honey (Posthumously awarded) Awarded July 2016