



Mr Jason McNamara  
Executive Director  
Office of Best Practices Regulation  
Department of the Prime Minister and Cabinet  
1 National Circuit  
BARTON ACT 2600

Via email: [helpdesk@obpr.gov.au](mailto:helpdesk@obpr.gov.au)

Dear Mr McNamara

I am writing in relation to the attached Regulation Impact Statement (RIS) prepared for a proposed mandatory code of conduct for grain export terminals.

I believe the RIS meets best practice regulation requirements and is consistent with the ten principles for Australian Government policy makers.

The *Wheat Export Marketing Act 2008* (as amended) allows for its own repeal if a mandatory code of conduct for grain export terminals is in place by 1 October 2014. The department has undertaken preliminary industry consultation and had discussions with relevant departments, including the Department of Prime Minister and Cabinet, to develop an early assessment document. The document reviews the current arrangements and considers a range of evidence and existing stakeholder concerns related to port access. Critically, it seeks input from industry participants in order to quantify the likely net benefit of alternatives to the current arrangement.

The RIS considers the following policy options:

- Option 1: no action ie retain the *Wheat Export Marketing Act 2008*,
- Option 2 a one-size-fits-all code,
- Option 3 a tiered code and
- Option 4 repeal of the *Wheat Export Marketing Act 2008*.

The likely net benefit of each option is:

- Option 1: regulation continues to apply to those who have an incentive to engage in uncompetitive conduct. There are currently only four operators affected under this arrangement, however, regulation burden and cost will not decrease.
- Option 2: regulation is equally applied to all grain export terminal operators at a lower level than the current arrangements. This code will not provide any flexibility for operators facing competition and may not be sufficient from the perspective of the Australian Competition and Consumer Commission.

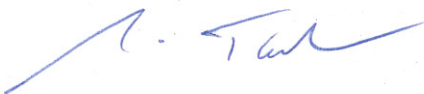
- Option 3: regulation addresses the risk of monopolistic behaviour by port terminal operators but provides flexibility for this to be reduced where competition is present. This code will also provide for a sunset provision after 5 years, providing a transitioned pathway towards full deregulation.
- Option 4: industry-specific regulation is removed and port access arrangements government by the general competition law. This action may not address some of the deep concerns of industry about certainty of access to services.

The change in regulatory burden on business, community organisations and individuals, as well as the identified offsets, has been quantified to the best of our knowledge using the Regulatory Burden Measurement framework. Additional stakeholder information is required to finalise this process for specific options. A consultation plan is included in the attached (see page 15).

I submit the certified RIS to the Office of Best Practice Regulation for early assessment, consistent with best practice.

The Minister for Agriculture, the Hon Barnaby Joyce MP, has received policy approval to release an exposure draft of a code for public consideration. It is preferable that the RIS accompany this document to provide additional detail for stakeholders and through consultation on both documents. In order to allow for this, I seek your urgent consideration and response to by 13 May 2014.

Yours sincerely



Mark Tucker  
Deputy Secretary  
Department of Agriculture  
8 May 2014