



21 July 2017

Executive Officer  
Economics and Finance Committee  
Parliament House  
North Terrace  
ADELAIDE SA 5000

**Grower-driven advocacy for  
a profitable grains industry**

Email: [EFC.Assembly@parliament.sa.gov.au](mailto:EFC.Assembly@parliament.sa.gov.au)

Dear Sir/Madam

**Re: Issues Faced by South Australian Primary Producers**

Grain Producers SA (GPSA) is the peak industry body for South Australian grain producers. It is unique in that it is a non-political body that represents all grain producers to government, the community and industry. It is funded via the SA Grain Industry Fund (Primary Industries Funding Scheme) which nearly all grain producers in this state contribute to. GPSA is a founding member of Primary Producers SA.

The State's grain industries are large and diverse, making a significant contribution to the economy. Total grain production in South Australia (SA) from an estimated 3,000 grain producing businesses for the 2016/17 season of 11.1 million tonnes is a new record for SA. The grains industry is not only a major contributor to this state's economy it is also a significant export earner.

As the peak body for grain producers in this State, GPSA would like to make a submission to the Economic and Finance Committee on stage two; further comments and evidence on issues faced by South Australian Primary Producers.

Issues include, as follows:

- Grain Pools & Estimated Returns
- Supply of 20' Export Containers
- Part 1 Inquiry into the South Australian Bulk Grain Export Supply Chain Costs
- Up Country Grain Storage and Handling Facilities
- Preserving the Identity of Milling Wheat
- Realising non-Genetically Modified Organism Benefits
- When is Feed Barley Malt Barley?

## **1. The occurrence and affect of unfair contractual dealings to address the inequitable bargaining power that exists between local primary producers and retailers in their respective supply chains.**

### Grain Pools & Estimated Returns

To market their grain, Grain Producers have the option to sell to a Pool that is provided by a Pool Provider for the purposes of marketing grain, grouped according to time of delivery, location, quality, grade or variety of grain or such other matters as determined by the Pool Provider. The producer expects that the trader will use their skill, market access and financing to provide a favourable dollar per tonne Pool return. Sales and outcomes from other activities such as hedging and other risk management activities, are made in respect of each Pool and profits and losses are shared between the Pool Participants. Pool Providers have the choice to sell grain to domestic or export markets. All supply chain costs are deducted from the return paid to the Grain Producer.

Many Pool Providers are members of Grain Trade Australia that publish the Australian Grain Industry – Code of Practice, Technical Guideline Document No. 4 Operating Standards for Pool Providers (TGD)<sup>1</sup>. The purpose and objective of the TGD is to establish base operating standards in the grains industry for Pool Providers offering Pool Products. This is a grain industry self-regulatory framework, as ASIC has granted relief to Pool Providers through class order 02/212 (CO 02/212). CO 02/212 is a relief order granted by ASIC to exempt operators of grain pools from all managed investment scheme provisions of the Corporations Act 2001.

At the time of transaction into the Pool, many Pool Providers declare an estimated pool return (EPR) or estimated silo return (ESR). EPRs or ESRs are not a Guaranteed Pool Return (GPR) or an Underwritten Return. A concern raised by Grain Producers is that such Pool Providers might pay a final pool return below the EPR or ESR. In effect, the Pool Provider posting an EPR or ESR based on a guess before gaining grain to sell on behalf of the Grain Producer. Any requirements around price, such as minimum prices (i.e. GPR), or method for calculating a suitable price approved by the Grain Producer can be neglected.

The GTA TGD is under review by a GTA Subcommittee. The TGD does not currently contain penalty provisions in the event a Member breaches the Code, however GTA does have a dispute resolution service. Regarding the enforceability and penalty for the non-compliance of pool operators with the TGD, along with the validity or standing on an industry voluntary code, GPSA is concerned about compliance and how to protect the interests of Grain Producers. A possibility is with ACCC and their view of protecting consumers as to whether any of the clauses may be deemed as unfair under new Australian Consumer Law<sup>2</sup>.

The new Law aims to protect small businesses from unfair terms in standard form contract applies to standard form contracts entered or renewed on or after 12 November 2016, where:

- it is for the supply of goods or services or the sale or grant of an interest in land

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<sup>1</sup> [http://www.graintrade.org.au/sites/default/files/GTA\\_Technical\\_Guidelines/TGD%20No.4%20-%20Operating%20Standards%20for%20Pool%20Providers.pdf](http://www.graintrade.org.au/sites/default/files/GTA_Technical_Guidelines/TGD%20No.4%20-%20Operating%20Standards%20for%20Pool%20Providers.pdf)

<sup>2</sup> <https://www.accc.gov.au/business/business-rights-protections/unfair-contract-terms#types-of-terms-that-may-be-unfair>

- at least one of the parties is a small business (employs less than 20 people, including casual employees employed on a regular and systematic basis)
- the upfront price payable under the contract is no more than \$300 000 or \$1 million if the contract is for more than 12 months

ACCC state that a standard form contract is one that has been prepared by one party to the contract and where the other party has little or no opportunity to negotiate the terms – that is, it is offered on a ‘take it or leave it’ basis.

In GPSA’s 2015/16 Grower Survey 37% of respondents rated pool performance and transparency as having a moderate or large impact on the profitability of their grain producing business. GPSA believes a GPR should be the only price advice the Pool Provider provides and the minimum price paid to Pool Participants net of all Pool Provider charges at a designated price basing point, i.e. country silo, track or free in store (exclusive of GST).

**2. The barriers preventing producers from entering larger supply chains with a specific focus on how producers can better meet the availability, quality and pricing requirements of larger suppliers, including the impact and importance of centralised markets in this process.**

Supply of 20’ Export Containers

The use of containers for the export of grain from SA has been steadily increasing but this method makes up a small proportion of total exports each year when compared with interstate locations. Grains exported in containers include wheat, malting barley, feed barley, oats, chickpeas and lentils, sorghum and canola. Export trade has been significantly impacted by lack of container space and/or supply issues with shipping lines.

A container imbalance has developed domestically with importation of goods into Australia in 40 foot (40’) containers increasing and 20 foot (20’) containers decreasing leading to oversupply of 40’ containers. Few domestic packers handle 40’ containers with road weight restrictions and road transport leading to less than full load containers. Potential customers throughout Asia don’t have the infrastructure to manage the larger boxes.

Interruptions to export contract due to delays in container shipments result in a loss of efficiency for packers and dead freight issues for transport. Such delays mean Grain Producers may not get paid as quickly as they had originally expected.

GPSA anticipates growing demand for export grains by container from SA. However, the reputation of the South Australian Grain Producer is being risked by the lack of supply by global container freight providers.

**3. An update in relation to whether the Essential Services Commission of SA has conducted a review of the entire grain supply chain.**

Part 1 Inquiry into the South Australian Bulk Grain Export Supply Chain Costs

On 16 March 2017, the South Australian Treasurer provided the Essential Services Commission of SA (ESCOSA) with Terms of Reference for an inquiry into the South Australian bulk grain supply chain costs.

The purpose of the Inquiry is to determine the reasonableness of the costs underpinning the South Australian bulk grain supply chain. Specifically, the Terms of Reference require the Commission to undertake the Inquiry in two parts:

- In part 1 the Commission is to inquire into the South Australian bulk grain export supply chain costs over the past 10 years, and
- In part 2, should the Commission find areas where bulk grain supply chain costs are identified as inefficient, options should be provided for addressing those inefficiencies.

GPSA made a submission to part 1 which was accepted by ESCOSA prior to the close date for submission on 12 May 2017. ESCOSA says it received six public submissions with those submissions under consideration by the Commission ahead of releasing its Inquiry Part 1 Draft Report in September 2017.

A GPSA concern is that no grain marketing individual, grain marketing organisation or organisation representing marketers of grain made a submission to part 1 of the Inquiry.

#### Up Country Grain Storage and Handling Facilities

Viterra provides exporters of wheat and other commodities with access to its grain port terminal services at Port Adelaide Outer Harbor, Port Adelaide Inner Harbour, Thevenard, Port Lincoln, Wallaroo, Port Giles and Ardrossan. Minor participants in grain port terminal services include Cargill and Semaphore Grains. Grains for export are usually stored away from the port terminal prior to accumulation for vessel loading. Most of SA's upcountry storage facilities for export grains are provided by Viterra. Cargill provides competition in the Port Adelaide zone and minor grain storage providers, mainly along the states eastern border areas also provide storage for export grains. In its published Storage & Handling Agreement, Viterra defines an approved Third-Party Store as a non – Viterra Grain storage and handling facility which meets objective standards published by Viterra. These objective standards are checked on a Viterra Third Party Store Inspection Report<sup>3</sup>. However, it is unclear what operations or management activities defines an objective standard for achievement by any intending Third Party Store.

GPSA believes there are unexplained differences in charges between harvest receivals and third-party storage deliveries in charge differentials relative to the cost of providing the receival service.

#### **4. How producers' production costs could be reduced or passed along the supply chain.**

##### Preserving the Identity of Milling Wheat

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<sup>3</sup> <http://viterra.com.au/uploads/Third%20Party%20Store%20Inspection%20Form%20.pdf>

Grain Producers receive payment for sales to a cash buyer or pool provider from which all relevant marketing costs, such as receival site, elevation, transport, handling, shrink, dust, fumigation, vessel loading and administration are deducted. Prices offered to Producers are adjusted to reflect market premiums and discounted for different classes, grades and protein levels.

Milling wheat has traditionally been viewed as a standardised commodity that is traded on price. All milling wheat is purchased at the same market price regardless of quality level provided a minimum grading standard is met. Since Producers are not financially rewarded for producing higher quality wheat, they aim for minimising input costs and labour. The quality distribution will be based on the lowest possible effort. Because the storage and handling network used for wheat procurement to export can be taken from any part of the quality distribution, it is the wheat miller who faces the maximum quality variability under this supply chain system.

Variable quality cannot be observed prior to purchase. Wheat millers are unable to distinguish between good and substandard quality wheat. Consequently, the price wheat millers are prepared to pay reflects only the low-quality wheat.

Since most milling wheat continues to be purchased according to standard grade categories, supply chain management in bread wheat is absent in SA. One reason for the lack of supply chain management in the bread wheat sector may be that industry participants are currently satisfied with the quality and service they receive relative to the cost and benefits of further co-ordination. However, once the baking needs had been established specific wheat requirements could be met by South Australian Producers. Wheat segregation is a way of controlling bread wheat quality. Vertical co-ordination with Producers and storage networks using identity preserved production contracts could allow overseas bakers to specify and procure an optimal quality bread wheat. As a result, the identity contracting arrangement could create economic value that is distributed back to the Producer. The Producer becomes an active participant rather than a price taker confined to selling to marketers.

GPSA recommends that supply chain management research is undertaken in preserving the identity of South Australian milling wheat.

#### Realising non-Genetically Modified Organism Benefits

Genetically Modified (GM) food crop moratoria are in place in Australia, in some states and not in others. Some countries and not others. The cultivation of GM food crops is prohibited in SA, under the Genetically Modified Crops Management (Designation of Areas) Regulations 2008, which were made under the Genetically Modified Crops Management Act 2004. These regulations will remain in place until at least 1 September 2019. The South Australian Government's moratorium on the cultivation of GM food crops is said to reflect ongoing concerns in the community about the potential impacts of GM food crops on the integrity of the state's conventional food production systems. In addition, the government believes GM food crops could have a negative impact on the marketing of the state's premium food and wine in export markets around the world.<sup>4</sup>

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<sup>4</sup> [http://www.pir.sa.gov.au/primary\\_industry/genetically\\_modified\\_gm\\_crops](http://www.pir.sa.gov.au/primary_industry/genetically_modified_gm_crops)



However, proving the financial return for GM free grain back to producers has been subjective. For example, Australian pasta maker San Remo were recently quoted as saying; 'it was hard to quantify the benefit of the (GM free) labelling'.<sup>5</sup>

Other examples include GM food grade oils from crops beneficially grown<sup>6</sup> elsewhere in the World are not labelled due to the labelling exceptions outlined in SA's Food Standards. GM foods that do not contain any novel DNA or novel protein, and do not have an altered characteristic, do not require GM labelling. The decision not to label these foods was made because the composition and characteristics of these foods is the same as the non-GM food.<sup>7</sup> According to a report prepared for the Feed Grain Partnership: 'importation of soybean meal has continued to grow with over 700,000 tonnes being imported in 2014/15. The majority of soybeans go into human food manufacture and full fat soybean meal for animal feeding'<sup>8</sup>. A leading global agriculture commodities consultancy and brokerage firm Agri Commodities International (ACI) client note states: 'Main exportable origins are US, Brazil and Argentina. Soya Beans grown in these areas are Genetically Modified'<sup>9</sup>. This means that consumers in SA of edible oil pressed from seeds are unlikely to benefit from the GM food crop moratoria. Not only is the consumer not a beneficiary but SA's edible seed oil producer is unlikely to be a supplier into the supply chain used by manufacturers and retailers. SA grain producers are obligated to compete on a global market using restrictive genetics without receiving any extra market access or price advantage.

Consumer anxiety is expressed as 'consensus that GM crops are not in the public interest'<sup>10</sup> and the consumption or use of many food based products involves ethical, cultural and social questions. Biotechnology and genetic modification can particularly challenge some firmly held preferences. Perceptions about single use cups at water stations that use corn starch; compostable and biodegradable, made from plant not oil and are recycled<sup>11</sup> as environmentally responsible production, distribution, use and disposal of products, often ignore GM produce. Typically, products manufactured within the United States (U.S.) may be produced using GM corn. For example, single use cups of the Ingeo™ brand produced by a US based company called NatureWorks<sup>12</sup> are a biopolymer made from polylactide (PLA). Making Ingeo does not require genetically modified (GM) materials. Ingeo is certified by 'GeneScan' to contain no genetic material<sup>13</sup> but the supply i.e. the corn grown in the U.S. for the product is a mixed stream of GM and non-GM corn.

Do SA consumers understand they may inadvertently be using or consuming a grain based GM product? Is there a price or marketing advantage for SA grain producers compared with interstate counterparts for being 'GM-free'? Following the introduction GM interstate how have SA retailers ensured GM-free benefits have flowed back to SA grain producers?

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<sup>5</sup> Fogden, A., (2017) Market uncertainty keeps GM on notice, 29 June 2017, Stock Journal, p.10

<sup>6</sup> <http://www.foodstandards.gov.au/consumer/gmfood/applications/pages/default.aspx>

<sup>7</sup> <http://www.foodstandards.gov.au/consumer/gmfood/labelling/Pages/default.aspx>

<sup>8</sup> <http://www.sfmca.com.au/items/1093/FGP%20Report%20October%202016.pdf>

<sup>9</sup> [http://www.acilimited.com/english/market\\_soyabeanmeal.htm](http://www.acilimited.com/english/market_soyabeanmeal.htm)

<sup>10</sup> Phelps, B., (2017) Letters, 13 July 2017, Stock Journal, p.13

<sup>11</sup> <http://www.biopak.com.au>

<sup>12</sup> <http://www.natureworkslc.com>

<sup>13</sup> <http://www.foodstandards.gov.au/consumer/gmfood/labelling/Pages/default.aspx>

## When is Feed Barley Malt Barley?

‘Barley depends on how you use it; if you use it for feeding, it is feed barley; if you use it for malting it becomes malting barley’<sup>14</sup>.

Demand for barley for malting in South East Asia and to China<sup>15</sup> is strong and consumption is expected to increase in 2017–18. In a Report by The Boston Consulting Group report for GRDC is stated: ‘In very complex and competitive markets brewers work directly with all parts of their malt supplying industries to ensure that they receive highly-consistent malt with the desired properties. Brewers in less complex beer markets such as China's do not need to influence the quality of malting barley supplies as long as there is sufficient malt of a general quality that works for the narrow range of beers they produce’<sup>16</sup>(i.e. Economy beer style market segments). The Australian Export Grains Innovation Centre (AEGIC) in a report; ‘Understanding our grain markets, positioning for the future - Value of barley characteristics in the China market’, states that; ‘During recent years, lower-grade fair average quality barley has been increasingly sought by a proportion of Chinese buyers targeting a specific segment of the market due to its availability and price.’<sup>17</sup>

Consequently, South Australian barley of malting quality that Chinese end users prefer should meet brewer’s standards<sup>18</sup> that may not necessarily be the same as a storage and handling organisations barley receival standards. For example a permit<sup>19</sup> allows a grain producer to use particular chemicals when growing barley that can then only obtain a feed classification. Should grain receival and storage segregations of feed barley based on chemical application arise the opportunity to supply Brewers in less complex beer markets also arises. Consider malting barley may have a premium \$25 to \$50 US Dollars over feed barley, is there a ‘sellers’ game of profiteering’. GPSA believes there needs to be an additional new standard for less complex beer markets such as China's.

Storage and handling organisations in the best interests of end users could consider new barley classifications:

- Malt (i.e. Premium)
- Export malt (i.e. Economy - China Brewers Minimum Standard)
- Food
- Feed

Of future significance for consideration from the Boston Consulting Group report is that China's ‘sophistication of malting and brewing will increase considerably. This, inevitably, will bring with it a demand for malt and malting barley characteristics determined by individual brewers' needs’. Care should be taken as malting barley quality (i.e. Premium beer style market segments) demand will grow respectively. Therefore, the supply chain must maintain innovation not only in areas such as plant breeding but also in the information flows between farmgate and Brewer.

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<sup>14</sup> <http://www.regional.org.au/au/abts/2001/w3/min.htm>

<sup>15</sup> <https://aegic.org.au/wp-content/uploads/2016/08/Australian-Barley.pdf>

<sup>16</sup> <https://grdc.com.au/resources-and-publications/groundcover/ground-cover-issue-12/the-malting-barley-challenge>

<sup>17</sup> [https://aegic.org.au/wp-content/uploads/2016/04/SMIRO\\_HR\\_2016.pdf](https://aegic.org.au/wp-content/uploads/2016/04/SMIRO_HR_2016.pdf)

<sup>18</sup> <http://www.abc.net.au/news/rural/2015-02-24/feed-barley-prices/6228342>

<sup>19</sup> <http://permits.apvma.gov.au/PER82594.PDF>

## Other Issues

Grower members drew attention to:

- The financial influence the State Government's current planning regulations are placing on dryland farmers if they are near vineyard development<sup>20</sup>
- The relationship between agricultural land use change and spray drift risk management that suggest proponents of new, chemical-sensitive land uses should provision buffer zones to maintain existing nearby grain producing land uses<sup>21</sup>

### **5. A review of the recent changes to the federal codes of conduct to ensure the adequate protection of South Australian producers.**

GPSA members have not provided issues in scope concerning the Federal Government not adopting the recommendation to regulate transactions between growers and retailers where the retailer is not a signatory to the Competition and Consumer (Industry Codes — Food and Grocery) Regulation 2015.

GPSA seeks further discussion with the Economic and Finance Committee on the need to advance the competitiveness of local Grain Producers in domestic and export supply chains. There is commitment from GPSA to work cross industry and deliver productivity outcomes to agricultural industries and the South Australian economy and community.

If you have any queries or need any further information, please don't hesitate to contact Mr Darren Arney, Chief Executive Officer, GPSA on 0448 186 707.

Yours sincerely



Wade Dabinett  
Chairman  
Grain Producers SA Ltd

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<sup>20</sup> Krause, M. & Mayfield, A., (2008), Economic Impact on the 'Right to Farm' given current planning regulations existing in the Barossa Valley with adjacent land use and management and the influence of drought - A Farm Case Study

<sup>21</sup> South Australian State Government, (2016), South Australian Multiple Land Use Framework 'Submission Recommendations and Response to Comments' Report