

For public register

8 October 2013

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Copy to
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Dear Mr Eady

Application to vary and extend Viterra's Port Terminal Services Access Undertaking

1 Introduction

- 1.1 On 2 October 2013, Viterra Operations Ltd ("**Viterra**") issued a Consultation Notice in relation to certain proposed amendments to its Port Loading Protocols ("**Protocols**").
- 1.2 As set out in the Consultation Notice, the purpose of these amendments is to facilitate any decision by Viterra to auction additional port terminal capacity that it identifies for the 2013/2014 season by making it clear that auction premiums from any additional auctions will be included in the existing rebate pools for the season, and enabling Viterra to recover the costs of making that additional capacity available.
- 1.3 Viterra commenced its consideration of these changes to the Protocols in September 2013 in response to feedback from clients and the expected significant harvest and demand for port terminal services this season. Viterra intends that, unless the Commission issues an Objection Notice under section 9.4 of the Port Terminal Services Access Undertaking, the proposed variations will take effect on and from 15 November 2013.
- 1.4 On 25 July 2013, and before its decision to make these amendments and issue the current Consultation Notice, Viterra submitted to the Commission an Application to Vary and Extend the Port Terminal Services Access Undertaking ("**Application to Vary and Extend**"). The Application to Vary and Extend includes certain additional proposed variations to the Protocols.
- 1.5 The purpose of this letter is to:
 - (a) provide to the Commission a consolidated version of the Protocols that shows the changes sought under the Application to Vary and Extend marked up against the version of the Protocols that will apply from 15 November 2013 (assuming that the Commission does not issue an Objection Notice); and

advise the ACCC of two further changes that Viterra wishes to make to the Standard Terms as part of the Application to Vary and Extend, so that the Commission can obtain market feedback on those proposed changes through its draft determination process.

2 Consolidated version of the Protocols

2.1 A consolidated version of the Protocols is set out in Attachment 1. Attachment 1 shows the changes sought under the Application to Vary and Extend marked up against the version of the Protocols that will apply from 15 November 2013.

3 Further changes to the Standard Terms

3.1 The two further proposed changes to the Standard Terms are as follows:

(a) Viterra proposes to amend the definition of "Reference Prices" as follows:

Reference Prices means the schedule of prices and price structure for access to each Standard Port Terminal Service for each Service Year published on the Company's website and as varied from time to time ~~in accordance with the Access Undertaking in accordance with this Agreement~~. In this Agreement, "Reference Prices" includes the Explanatory Notes to the Reference Prices as varied from time to time ~~in accordance with the Access Undertaking~~; and

(b) Viterra proposes to insert a new clause 8.1(b) as follows:

"8.1(b) The Company may vary the Reference Prices from time to time. Any variation must be published at least 30 days prior to the date on which it is to become effective in the same locations as the Company ordinarily publishes its Reference Prices".

3.2 These proposed changes are intended to provide further clarity on the process that Viterra will adopt in varying the Reference Prices (particularly if the Access Undertaking expires with the commencement of a new Code).

3.3 That process, as set out in the proposed new clause 8.1(b) of the Standard Terms, is taken directly from clause 5.6(b) of the Access Undertaking.

4 Further questions

4.1 If the Commission requires any further information in relation to this letter, Viterra would be pleased to assist.

Yours sincerely


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Attachment 1