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Mr Matthew Schroder

Re: Port of Portland application for exemption from the bulk wheat code of conduct

Thank you for the opportunity to provide comment regarding the Port of Portland (POPL) application for exemption from the Port Terminal Access (Bulk Wheat) Code of Conduct (the Code). Riordan Grain Services (RGS) are an exporter of grain from the Port of Portland via a mobile ship loader and have exemption for our operations from the Code at Portland and Geelong.

RGS maintains that competition is best served by limiting regulation on individual companies wanting to participate in the loading of grain onto bulk vessels, and we support the ACCC providing POPL with exemption from the Code. RGS does have some concerns around the utilisation of port assets in priority to common user berth rules for access during loading which we will discuss further in our response to the questions raised in your paper below:

1. How, and to what extent, are the legitimate business interests of POPL affected by having to comply with Parts 3 to 6 of the Code when providing port terminal services by means of its port terminal facility at Portland?

- POPL are a toll service provider at the port providing bulk loading services to its customers. Having to comply with parts 3 to 6 of the Code will unnecessarily burden POPL with regulation and compliance at the expense of offering additional services.

2. In what ways would an exemption for POPL impact the efficient operation and use of its port terminal facility at Portland?

- Exemption from the Code would reduce regulation and compliance on POPL and allow it to focus on providing additional services to its toll customers.

3. If POPL is not required to comply with Parts 3 to 6 of the Code (including the dispute resolution, non-discrimination, and capacity allocation system approval obligations), to what extent could exporters still expect to be able to secure fair and transparent access to POPL's own grain loading services? That is, would exporters be able to negotiate access to POPL's grain loading services on reasonable commercial terms?

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- The market is competitive enough in Portland with Graincorp and RGS operating bulk loading services in this catchment to ensure POPL will have to remain competitive in their service offering to customers. POPL are purely a toll provider of loading services and are not affiliated with any one exporter.

4. Given Berth 5 is a common user berth and POPL use their shiploader for other break bulk commodities, will exporters of bulk grain be able to access the expected 600,000 tonnes of bulk grain export capacity at POPL's facility?

- This will be a function of demand for berth access at POPL. There remains a risk to other port users that POPL will preference the utilisation of the assets they own for bulk loading of grain from Berth #5, at the expense of others. This should not occur as part of the port protocol rules; however, the port does list a number of Productivity Rules for Port Users that allows for POPL at its discretion to move vessels to anchorage for example "in the event of cargo handling delays of more than 4 hours". Commercial resolutions should be used to limit this action as is the common practice in other ports RGS utilises.
- 600,000 tonnes of bulk grain export capacity represents 50,000 tonnes exports per month which at ~5,000 tonnes per day load rate is 10 days loading per month weather going well. This represents around 1/3rd of the monthly capacity of berth #5 without weather delays – other POPL port users will likely have to accept reduced access to berth #5 to accommodate this.

5. What regions should be considered part of the Portland grain catchment area?

- Seasonal conditions will play a part most years but the region would be from SE SA up to Lameroo across to Swan Hill then east to Wedderburn and Lismore back to Portland. Road freight can see grain moved large distances depending on pricing and demand.

6. What are the key factors that exporters and/or growers consider when choosing which port to export grain through in this region? To what extent does transport factor into a grower or exporter's decision making?

- Key factors include quantity, quality, price, port congestion and pricing, freight availability and availability of fertiliser for back loading. Road transport is a factor with quick turnaround at discharge points an important consideration. In the past year with more grain moving to Portland on trucks, there has been an increase in demand for fertiliser supply from Portland, so the imported fertiliser shipment volumes have increased for POPL.

7. How might an exemption in relation to POPL impact other PTSPs' operations at bulk grain-related facilities at Portland? Would this impact on other PTSPs' operations be likely to affect bulk grain exporters' ability to obtain fair and transparent access to port terminal facilities at Portland and if so, how?

- Exemption on its own should not impact other PTSP's operations at the port as long as the system works on first NOR tendered first on berth basis.

8. At the Port of Portland are there benefits to using certain berths over others? If so, what are these benefits?

- Berth #5 is the preferred berth for mobile bulk loading due to its size, access and deeper draft at the berth for loading bulk vessels. RGS can also use berth #6 for bulk loading, currently POPL cannot use this berth for mobile bulk loading as their system is a fixed system to berth #5. For RGS's customers a consideration is the reduced loading capacity due to draft constraints on berth #6 vs berth #5.

9. To what extent do the services offered at Riordan Portland or GrainCorp Portland, represent viable competitive alternatives to the port terminal services provided by POPL at Portland? What are the relevant characteristics or factors at these PTSPs' port terminal facilities that affect competition between the PTSPs?

- RGS and Graincorp both provide viable competitive alternatives to the POPL port terminal services at Portland. The RGS service offering is road based, flexible on location and can alternate between berths. The Graincorp offering is road and rail based and fixed to a single berth (KSA1).

10. To what extent do PTSPs at Portland compete with PTSPs at the other Victorian and South Australian ports?

- PTSPs at Portland compete with other ports in Geelong, Melbourne and Adelaide.

11. Are there capacity constraints at Portland? If capacity is constrained, when and how often does this occur, and what factors affect this?

- Road freight and logistics remain the main capacity constraints at Portland. These are likely to occur January through to June each year which is the peak time for grain exports and fertiliser imports.

12. Would an exemption for POPL be likely to affect investment in port terminal facilities across the Port of Portland and if so, how?

- Exemption on its own would not likely impact investment in port terminal facilities at the Port of Portland. The main issue for potential investors at the port itself is access to land and competition with the fixed asset owners (POPL and Graincorp).

13. It may be possible for some of POPL's mobile equipment at Berth 5 to be moved to other berths at Portland and then be used with other shiploading equipment to load bulk grain. What effect, if any, would an exemption for POPL that applies to all berths (i.e. is not limited to Berth 5) be likely to have on stakeholders?

- This would have a positive effect on other port users and improve berth utilisation and efficiencies.

14. With regard to exporters' ability to obtain fair and transparent access to port terminal services, how would an exemption for POPL at Portland impact on competition in the upcountry and transportation markets, and the upcountry supply chain as a whole?

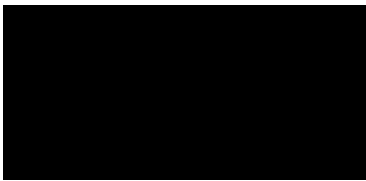
- Exemption for POPL would assist to improve competition for grower tonnes in the zone and see an increased requirement for transportation services and upcountry pricing of grain. This would be a result of reduced compliance and regulation on POPL enabling them more time to focus on their customers.

15. To what extent does domestic demand and containerised exports provide a competitive constraint on bulk grain exports at Portland? How relevant is the Southern NSW domestic market to exports at Portland?

- Domestic demand in the SW of Victoria is growing and will compete with bulk grain exports from Portland and provide additional competition for grower tonnes in the zone. Containerised export demand is already active in regions such as Horsham – the southern NSW domestic market in most years is not relevant for pricing into the Portland Zone.

In conclusion RGS is a supporter of POPL obtaining exemption from the Code as any reduced regulation and compliance will assist competition for grower tonnes.

Thanks & regards



Mark Lewis
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