



Australian Government

Wheat Exports Australia

**Submission to the
Productivity Commission Inquiry
into
the Wheat Export Marketing Act 2008
and the
Wheat Export Accreditation Scheme 2008**

26 January 2010

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FOREWORD

This submission to the Productivity Commission aims to highlight factual material concerning the operations of Wheat Exports Australia (WEA), much of which is available in greater detail from publications on the WEA website at www.wea.gov.au including:

- a) The WEA 2008-09 Annual Report
- b) The Growers Report 2008 (reporting on activities of AWB International Ltd)
- c) Report for Growers 2008/09 (reporting on the first marketing year under the new arrangements)
- d) WEA Corporate Plan 2008-10

Section 6, **WEA Observations**, includes WEA's views on the early impact of implementation of the Wheat Export Accreditation Scheme 2008 (the Scheme).

1 Wheat Exports Australia Overview

1.1 Role and functions

On 1 July 2008, WEA was established under the *Wheat Export Marketing Act 2008* (the Act) following the reform of Australia's wheat export arrangements. WEA's role is determined by this legislation. Section 3 of the Act states its objects as follows:

- a) to promote the development of a bulk wheat export marketing industry that is efficient, competitive and advances the needs of wheat growers*
- b) to provide a regulatory framework in relation to participants in the bulk wheat export marketing industry.*

The objective of WEA is to regulate the export of bulk wheat (this does not include wheat exported in bags or containers capable of holding not more than 50 tonnes of wheat) from Australia through the Scheme and to inform government, growers, accredited bulk wheat exporters and industry stakeholders of outcomes.

The wheat marketing arrangements under the Scheme are intended to increase competition in the bulk wheat export market. The arrangements provide for WEA to accredit exporters which meet the specified 'fit and proper' criteria to its satisfaction and for WEA to exercise its monitoring and enforcement powers to ensure that a competitive wheat marketing regime is achieved and maintained.

WEA is required to publish an annual report for growers by 31 December each year in relation to the operation of the Scheme during the preceding marketing year. The inaugural Report for Growers was released on 22 December 2009. The Report highlights WEA's operations and is a record of what the Australian wheat industry has achieved in the first year of the new wheat marketing arrangements. This includes exporters' compliance with their conditions of accreditation.

1.2 WEA Structure

WEA replaced the Export Wheat Commission (EWC), which ceased operations on 30 June 2008. WEA is a portfolio agency within the Department of Agriculture, Fisheries and Forestry (DAFF). WEA is established under its enabling Act, within a framework established by the *Financial and Management Accountability Act 1997* (FMA Act) and the *Public Service Act 1999* (PS Act).

1.2.1 WEA's constitution

WEA is a body corporate with perpetual succession which may acquire, hold and dispose of real and personal property; and which may sue or be sued in its corporate name. The seal of WEA has full legal and judicial import, and may not be used except as authorised by WEA.

1.2.2 WEA's membership

WEA consists of a Chair and at least three, and not more than five, other members. During 2008/09, WEA consisted of a Chair and five other members. Members have been appointed by the Federal Minister for Agriculture, Fisheries and Forestry and are required to have substantial experience or relevant knowledge and significant authority in a range of skills as listed in the Act. Members have been appointed on a part-time basis to 30 June 2011. WEA met 28 times between 1 July 2008 and 18 December 2009; nine of those meetings were by teleconference. WEA has scheduled meetings every 6 weeks in 2010.

1.2.3 Staff

The staff of WEA are employed under the PS Act and are bound by the Australian Public Service (APS) Values and APS Code of Conduct. WEA staff are appointed on merit through a competitive selection process, where assessments focus on relative capacity of candidates to achieve outcomes related to their duties.

For the purposes of the PS Act, the WEA Chair and staff together constitute a Statutory Agency. The WEA Chair's role is part-time and the Chair is the Head of the Statutory Agency. For practical purposes the management of operations, finances and staff is undertaken by a member of WEA's staff appointed to the full-time role of Chief Executive Officer (CEO).

The Act provides that WEA may delegate all or any of its functions and powers to a member of WEA staff who is a Senior Executive Service (SES) employee or acting SES employee within the meaning of the PS Act. The CEO is an SES employee and implements the decisions of the WEA Chair and members. As delegate, the CEO must comply with the directions of WEA.

1.3 Funding and Expenditure

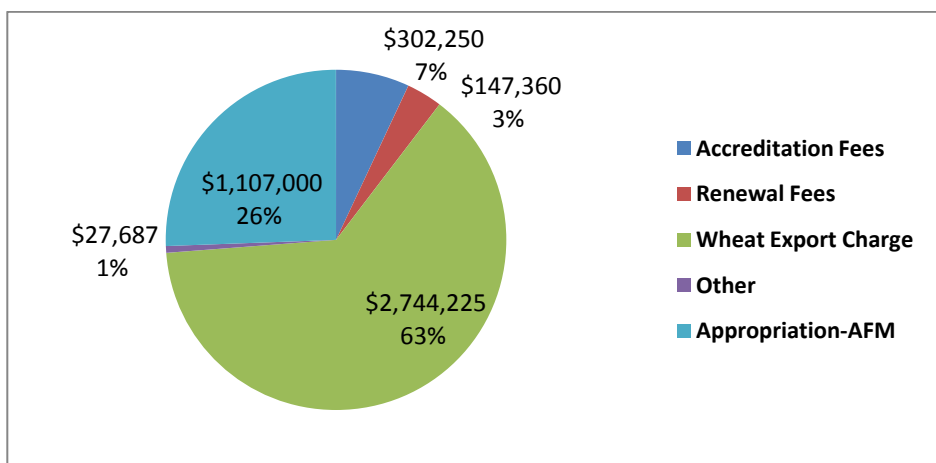
WEA is a Prescribed Agency within the terms of the FMA Act. As a Prescribed Agency, WEA is subject to direction by the Minister for Finance and Deregulation. Any financial liabilities of WEA are taken to be liabilities of the Commonwealth. During the 2008-09 financial year WEA's income was \$4.329 million, as shown in **Figure 1**.

During its first year of operation, WEA was predominantly funded through the Wheat Export Charge (WEC), set at a rate of \$0.22 per tonne for all wheat exported (including non-bulk). This rate has applied since the inception of the WEC on 1 October 2003. WEC income in 2008-09 was \$2.74 million (representing 63% of total WEA revenue).

The Government provided an appropriation of \$1.107 million through an Advance to the Finance Minister (AFM) during 2008-09. This had been foreshadowed by the Government during the Second Reading of the Wheat Export Marketing Bill 2008 (House of Representatives, 29 May 2008), in which the Government undertook to provide up to \$5 million in funding to assist WEA through its transitional period (expected to be to 30 June 2009).

Accreditation fees under the Scheme are payable by bulk wheat export applicants to WEA. During the 2008-09 year, revenue from this source amounted to \$302,250 (excluding GST).

Figure 1: WEA 2008-2009 Income

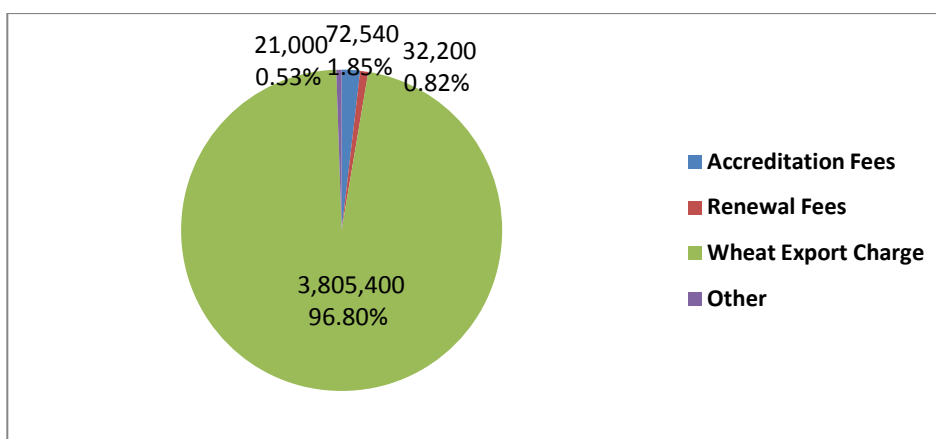


Note: Other includes sale of obsolete assets and Federal Government audit cost provided free of charge.

At the time of being wound up on 30 June 2008, the EWC had a cash reserve of \$0.9 million which was carried forward to WEA. The cash reserve for WEA at 30 June 2009 was \$1.115 million. A copy of WEA's 2008-09 audited financial statements is available in the 2008-09 WEA Annual Report, available from WEA's website.

The budgeted income for 2009-10 is \$3.931 million, as shown in **Figure 2**.

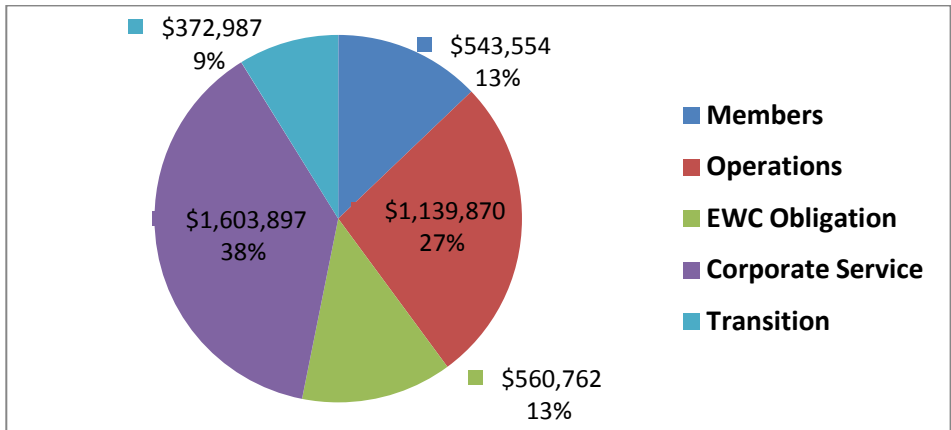
Figure 2: WEA 2009-2010 Budgeted Income



Note: Other includes Federal Government audit cost provided free of charge.

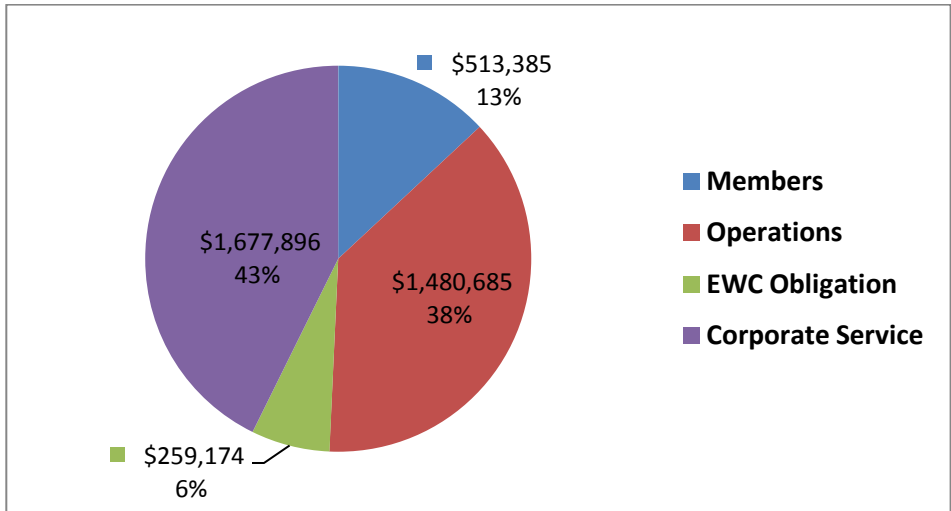
WEA’s 2008-2009 expenditure was \$4.221 million, including transitional, legal, industry consultation, staffing and training costs only incurred in the first year, as shown in **Figure 3** below. In general terms Operations covers staff and related costs for WEA’s core activities including accreditation, monitoring, investigation, Scheme administration and industry knowledge.

Figure 3: WEA 2008-2009 Expenditure, including transitional costs



The approved expenditure budget for 2009-10 is \$3.9 million allocated as shown in **Figure 4**. It is noted that this budget also includes transitional EWC obligation costs of \$0.26 million associated with the finalisation of the Growers Report 2008 - see next section.

Figure 4: WEA 2009-10 Budget Expenditure



1.4 Transitional EWC Obligation: Report on AWBI's management of the National Pools

Prior to 1 July 2008 AWB International Ltd (AWBI) held the Single Desk for Australian bulk wheat exports and the EWC was required to monitor AWBI's export wheat performance and examine and report on the benefits to growers. Transitional provisions under Schedule 3(9) of the *Wheat Export Marketing (Repeal and Consequential Amendments) Act 2008* (the Repeal Act) allowed for AWBI to export bulk wheat until 30 September 2008 without being an accredited exporter under the Scheme to allow it to finalise the 2007/08 National Pool.

WEA was required to report to the Minister on the performance of AWBI and the benefits to growers in respect of the 2006/07 and 2007/08 National Pools. The former Wheat Export Authority developed a Performance Monitoring and Reporting (PMR) framework (which has continued to be applied by the EWC and WEA) to assess how AWBI managed wheat exports. The 2007/08 National Pool was finalised on 27 May 2009 and the PMR report 2008 was presented to the Minister on 27 November 2009.

The Repeal Act also required WEA to deliver a report to growers within six months of the final distribution of payments to 2007-08 Pool participants. The Growers Report 2008, containing non-commercial-in-confidence information, extracted from the above-mentioned PMR report was published on 27 November 2009 within the prescribed deadline. The cost of meeting the above obligations is reflected as 'EWC Obligation' in **Figures 3 and 4**, WEA's 2008-09 expenditure and 2009-10 budget, respectively.

1.5 Accountability

The Chair and WEA members are appointed by and accountable to the Minister for Agriculture, Fisheries and Forestry. They are appointed on the basis of their respective skills and experience as listed in the Act. The WEA CEO is accountable to the WEA Chair.

Under the Act, the WEA Chair is not subject to direction by WEA members in relation to the WEA Chair's performance of functions, or exercise of powers, under the PS Act or the FMA Act in relation to WEA.

As a prescribed FMA Agency, WEA is required to comply with the governance arrangements and financial management framework established by Government, such as the establishment of an Audit & Risk Management Committee. The FMA Act provides a framework for managing the money and property of the Commonwealth. Financial management policies of WEA are directly affected by relevant Government policies, as well as significant capacities for oversight and control, if necessary, by the Finance Minister.

The FMA Act imposes numerous reporting and accountability obligations on WEA, as highlighted in the Financial Management Reference Material No. 2- '*Governance Arrangements for Australian Government Bodies August 2005*' published by the Department of Finance and Deregulation. This results in the Chief Executive of WEA having a significant reporting and accountability role. Like all other FMA and PS agencies, WEA is required to undertake a full range of corporate functions, including:

- annual budgeting
- corporate governance
- financial management

- fraud control
- freedom of information
- human resource management
- managing the Audit & Risk Management Committee
- monthly reporting within government
- preparation of an Annual Report and Corporate Plan
- procurement
- records management
- risk management.

A register of WEA internal corporate policies can be found at **Appendix A**. In addition, WEA responds to a range of surveys and questionnaires from central agencies aimed at measuring and encouraging cross-Government compliance with governance policy.

As shown in **Figures 3 and 4**, these corporate functions accounted for \$1.6 million of WEA's \$4.22 million expenditure in 2008-09 and have been budgeted at \$1.7 million for 2009-10.

The WEA Corporate Plan 2008-2010 details the objectives, strategies and policies of WEA. A corporate plan is required to be prepared at least once in each three-year period and be provided to the portfolio Minister. The Minister is to be advised of any changes to the plan or factors likely to affect the achievement of the objectives set out in the plan. The plan is subject to guidance from the Minister.

Since its inception, WEA has appeared before the Rural and Regional Affairs and Transport Legislation Committee of the Senate on 20 October 2008, 23 February 2009, 25 May 2009 and 19 October 2009. WEA subsequently provided responses to questions taken on notice as well as tabled questions - these appear on the public record.

In accordance with the requirements of the FMA Act to meet related financial management and reporting requirements and the requirements of its enabling Act, WEA's annual report for 2008-09 was tabled in Parliament on 28 October 2009.

2 Accreditation and Renewal Process

2.1 Summary of experience to date

2.1.1 Formulation of the Scheme

The Act commenced on 1 July 2008 and allowed for the formulation of the Wheat Export Accreditation Scheme (the Scheme) by legislative instrument. As the Scheme was also required to commence on 1 July 2008, the former EWC formulated the Scheme under transitional legislative arrangements.

The EWC consulted extensively with exporters and export wheat industry representatives during the development of the Scheme, as required under the *Legislative Instruments Act 2003*. Following the release on 5 March 2008 of the exposure draft and transitional provisions of the Wheat Export Marketing Bill 2008, from 17-20 March 2008 the EWC held five industry consultation meetings in Canberra and a teleconference.

The following organisations were involved in the consultation:

Grower groups – Grain Growers Association, NSW Farmers Association, Victorian Farmers Federation, Wheat Growers Association and Grains Council of Australia. The following groups attended the teleconference – West Australian Grains Group, West Australian Farmers Federation, Pastoralists and Graziers Association and Eastern Grain Growers.

Exporters with port terminals – CBH, GrainCorp and ABB.

Industry advisors – Farmarco, AgRisk Management, Advance Trading, Curtin University, Rural Directions and BRI.

Exporters with a multinational parent company – Louis Dreyfus, Glencore, Cargill, Concordia, Elders Toepfer Grain, Weston Milling, Goodman Fielder, JK International, Noble Resources, Riverina and Marubeni.

Australian-owned exporters (and co-operatives) – AWB, Ecom Commodities, Global Grain, Austgrains International, Consolidated Grains, Lempriere Grain, Gilgandra Marketing Co-operative, Walgett Special One Co-operative.

The EWC released an exposure draft of the proposed Scheme on Thursday 5 June 2008, for public comment over a period of one week. Feedback on the Scheme was sought from wheat exporters, industry and grower group representatives. The EWC received a total of 17 responses, of which eight provided formal written comments on the exposure draft of the Scheme. As comments on policy matters were outside the EWC's responsibilities, the Department of Agriculture, Fisheries and Forestry was provided with a copy of all responses.

The EWC published the eight written submissions relating to the exposure draft of the Scheme on its website on Monday 16 June 2008. These had been lodged by the following organisations:

- ABB Grain Limited
- Advance Trading Australia
- AWB Limited
- Elders Toepfer Grain Pty Ltd
- Grain Growers Association

- Louis Dreyfus Australia Pty Ltd
- Australian Seed Federation
- Western Australian Farmers Federation.

The Scheme was registered on the Federal Register of Legislative Instruments on 30 June 2008. As a disallowable instrument, the *Wheat Export Accreditation Scheme 2008* and the accompanying explanatory statement were tabled in both Houses of Parliament on 26 August 2008. A copy of both documents may be found via ComLaw (<http://www.frli.gov.au>).

The explanatory memorandum of the Act indicates that a legislative instrument was used to enable WEA to easily and quickly amend the Scheme as it becomes necessary, without the need to amend the Act itself.

WEA conducted an internal review of the Scheme in December 2008 and was satisfied with the existing legislative instrument for the purpose of carrying out its functions under the Act. A further review will be conducted in 2010 following completion of the Productivity Commission Inquiry.

2.1.2 Number of applications and approvals

As shown in **Figure 5**, WEA accredited 29 exporters under the Scheme from 1 July 2008 to 31 December 2009. One exporter surrendered its accreditation during this time, leaving 28 exporters accredited as at 31 December 2009.

WEA can accredit exporters for up to three years and the Scheme allows for accreditation to continue uninterrupted, by way of a renewal process. A renewal application must be submitted between three and six months before the expiry date of the exporter's current accreditation.

In its first marketing year of operation, WEA chose to limit the initial period of accreditation of most accredited exporters to a period ending 30 September 2009. This decision enabled WEA to reassess each accredited exporter against the Act's eligibility criteria at the time of renewal and verify that there were no events or circumstances requiring suspension or cancellation of the accreditation. Also, the expiry aligned with the date when providers of export terminal services were required to have in place an access undertaking to remain eligible for accreditation.

During the 2008/09 marketing year, a total of 22 accredited exporters applied to have their accreditation renewed and WEA applied the same criteria as with initial applications for accreditation. All companies that required renewal of their accreditation in 2009 applied accordingly. Generally the accreditation renewals were granted for a period of three years. Storage and handling entities were only given a two year renewal in line with the period for which the ACCC accepted their port access undertaking. As GrainCorp Limited surrendered its accreditation on 21 May 2009 and Greentree Farming Exports Pty Ltd is accredited until 30 September 2010, these companies did not lodge a renewal application.

During the period 1 April to 30 September 2009, WEA assessed the 22 accredited exporter renewal applications, which included new or updated information on finance, risk management, export proposals for the next three years, business record, new executive officer checks and other criteria required under the Scheme. **Figure 5** shows the period for which each of these accreditations has been renewed.

A further five companies were granted accreditation following the commencement of the 2009/10 marketing year, bringing the total number of accredited exporters to 28 as at 31 December 2009.

Figure 5: Accreditations and Renewals granted by WEA – 1 July 2008 to 31 December 2009

Accredited Wheat Exporter (Name and ACN)	Initial period of Accreditation	Period of Accreditation Renewal
ABB Grain Ltd ACN 084 962 130	5/09/2008 to 30/9/2009	1/10/2009 to 30/9/2011
AWB (Australia) Limited ACN 081 890 502	11/9/2008 to 30/9/2009	1/10/2009 to 30/9/2012
AWB Harvest Finance Limited ACN 102 469 303	11/9/2008 to 30/09/2009	1/10/2009 to 30/9/2012
Bunge Agribusiness Australia Pty Ltd ACN 097 843 582	23/10/2008 to 30/9/2009	1/10/2009 to 30/9/2012
Cargill Australia Limited ACN 004 684 173	26/8/2008 to 30/9/2009	1/10/2009 to 30/9/2012
CHS DU (Australia) Pty Ltd ACN 137 965 121	13/11/2009 to 30/9/2010	Renewal application due by 30 June 2010
Concordia Agritrading (Australia) Pty Limited ACN 003 979 002	5/9/2008 to 30/9/2009	1/10/2009 to 30/9/2012
Elders Toepfer Grain Pty Ltd ACN 126 806 979	26/8/2008 to 30/9/2009	1/10/2009 to 30/9/2012
Emerald Group Australia Pty Ltd ACN 109 203 054	23/10/2008 to 30/9/2009	1/10/2009 to 30/9/2012
Glencore Grain Pty Ltd ACN 106 378 885	5/9/2008 to 30/9/2009	1/10/2009 to 30/9/2012
Goodman Fielder Consumer Foods Pty Limited ACN 000 024 546	26/8/2008 to 30/9/2009	1/10/2009 to 30/9/2012

Accredited Wheat Exporter (Name and ACN)	Initial period of Accreditation	Period of Accreditation Renewal
GrainCorp Limited ACN 057 186 035	4/09/08 to 30/9/2009 (surrendered on 21/5/09)	no application
GrainCorp Operations Limited ACN 003 875 401	10/12/2008 to 30/9/2009	1/10/2009 to 30/9/2011
Grain Pool Pty Ltd ACN 089 394 883	26/8/2008 to 30/9/2009	1/10/2009 to 30/9/2011
Greentree Farming Exports Pty Ltd ACN 135 227 593	7/7/2009 to 30/9/2010	Renewal application due by 30 June 2010
J.K. International Pty Ltd ACN 010 127 750	10/10/2008 to 30/9/2009	1/10/2009 to 30/9/2012
Landmark Operations Limited ACN 008 743 217	10/11/2009 to 30/9/2011	Renewal application due by 30 June 2011
Lempriere Grain Pty Ltd ACN 105 942 078	6/3/2009 to 30/9/2009	1/10/2009 to 30/9/2011
Louis Dreyfus Australia Pty Ltd ACN 004 088 000	5/9/2008 to 30/9/2009	1/10/2009 to 30/9/2012
Marubeni Australia Ltd ACN 000 329 699	5/9/2008 to 30/9/2009	1/10/2009 to 30/9/2012
Mitsui & Co. (Australia) Ltd ACN 004 349 795	21/12/2009 to 30/9/2011	Renewal application due by 30 June 2011
Noble Resources Australia Pty Ltd ACN 001 069 423	11/2/2009 to 30/9/2009	1/10/2009 to 30/9/2012
OzEpulse Pty Limited ACN 100 282 095	26/8/2008 to 30/9/2009	1/10/2009 to 30/9/2012
PentAg Commodities Pty Limited ACN 113 005 753	25/9/2008 to 30/9/2009	1/10/2009 to 30/9/2012

Accredited Wheat Exporter (Name and ACN)	Initial period of Accreditation	Period of Accreditation Renewal
Plum Grove Pty Ltd ACN 104 516 305	10/11/2009 to 30/9/2010	Renewal application due by 30 June 2010
Queensland Cotton Corporation Pty Ltd ACN 010 944 591	23/10/2008 to 30/9/2009	1/10/2009 to 30/9/2012
Riverina (Australia) Pty Limited ACN 010 755 254	25/9/2008 to 30/9/2009	1/10/2009 to 30/9/2012
Sumitomo Australia Pty Ltd ACN 000 371 497	21/11/2008 to 30/9/2009	1/10/2009 to 30/9/2012
Touton Australia Pty Limited ACN 138 613 617	20/11/2009 to 30/9/2010	Renewal application due by 30 June 2010

2.1.3 WEA decision making and powers

WEA assesses an application for accreditation against the eligibility criteria outlined in section 5 of the Scheme (identical to section 13 of the Act). Accreditations are subject to a number of conditions.

WEA can impose conditions at the time of accreditation, and any time during accreditation.

WEA also has the power under the Scheme to vary or revoke an imposed condition of accreditation at any time. WEA will consult with an exporter prior to making a decision to impose, vary or revoke a condition.

WEA can suspend or cancel an accreditation in accordance with sections 30, 31, and 35 of the Scheme. WEA can also consent to the surrender of an accreditation by the accredited exporter in accordance with section 38 of the Scheme.

WEA maintains a register of accredited exporters on its website. The register details the name and ACN of each accredited exporter and outlines the exporter's conditions of accreditation.

2.2 Assessment Process (applications and renewals)

The Act establishes the eligibility criteria WEA must consider in assessing applications for accreditation. These criteria fall into three categories:

- those which must be strictly met by an applicant
- those which WEA must consider in deciding if an applicant is ‘fit and proper’, but which individually may not lead to an application for accreditation being rejected
- those which must be fulfilled to the satisfaction of WEA.

The assessment process adopted by WEA has placed primary emphasis on an applicant’s financial resources and risk management capability. Ultimately, WEA must be satisfied that the applicant meets these criteria to a standard appropriate for the purposes of its specific export proposal.

Assessment involves WEA staff and external experts undertaking a variety of searches and evaluations, which the CEO uses as a basis for his recommendation to WEA members.

The assessment and decision making process can be described in the following phases:

Phase 1: Receipt of application

- An application form (published on WEA’s website) with supporting documentation is received in hard copy, filed, scanned and entered in WEA’s electronic systems.
- Clearance of the application fee (preferably sent by electronic transfer) is confirmed before further processing.
- E-mail acknowledgment of application and fee receipt to applicant. Logged as above.

Phase 2: Initiate checks and searches

- Read and check application is complete.
- Initiate searches
 - Media and other general information
 - Financial and risk reports on applicant; parent company; relevant associated companies
 - Identify and check executive officer nominations: company and director extracts
 - WEA database for exporter history in shipping bulk/ non-bulk wheat
 - Legal database by jurisdiction
 - Internet: general information
 - Australian Securities & Investments Commission (company registration, disqualified directors, etc)
 - Australian Federal Police (AFP) national police checks (for executive officers of the applicant)
 - Australian Quarantine and Inspection Service (AQIS) (Incident reports)
- Analyse all reports for issues of concern
- Request any incomplete or additional information from the applicant; and query issues raised in searches not previously covered
- Log actions and new information received in database and on files.

Phase 3: Review and evaluate applicant's financial, risk and price risk management

- Commission financial evaluation from appropriate WEA consultant
- Evaluate consultant's report against financial assessment guidance tree (internal analytical tool) and score applicant
- Commission price risk management report from appropriate consultant
- Commission risk management report from appropriate consultant
- Commission legal advice as necessary
- Review each of above reports as appropriate with senior managers.

Phase 4: Recommendation to WEA members

- Prepare Executive Summary
- Identify potential external audits and any weaknesses of the application
- Discuss potential conditions with applicant
- Provide CEO's recommendation together with supporting documentation to WEA members for decision.

Phase 5: WEA consideration and decision

- WEA members consider recommendation and supporting documentation
- WEA members make decision to accredit or refuse (move to Phase 6) or request further information
- Staff respond to members' requests for additional information.
- When additional information is received, application is re-submitted for consideration (where relevant)
- Proposed conditions of accreditation discussed with applicant
- If applicant objects to proposed conditions they may submit further information. Either way the application must be reconsidered by WEA members before a final decision is made.

Phase 6: Implement decision

- Prepare and forward Instrument of Accreditation to the exporter
- Notify the Australian Customs and Border Protection Service
- Publish decision on WEA register of accredited exporters.

2.3 Fees and cost recovery

There are a number of non-refundable application fees under the Scheme, set on an estimated cost recovery basis. At the time of formulating the Scheme, the EWC engaged the services of an external auditor to review its costing model to ensure the proposed fee schedule represented a fair and reasonable estimated recovery of cost.

Schedule 1 of the draft Scheme establishes the various fees (GST inclusive) for different types of application:

- Initial application— \$13,299
- Renewal— \$7,084
- Variation— \$6,248
- Reconsideration of a decision made by WEA under the Scheme— \$3,344.

Subsequently, WEA has internally evaluated the initial application assessment process in terms of the time taken for the assessment process, estimated staff and WEA member time employed in assessments and the notional costs for the assessment process. These estimates are provided in **Figure 6**. The costing has been checked by WEA's accountants and is qualified by the notes at

the end of the figure. This costing has not been independently audited. The estimates indicate that under current arrangements the average cost of processing an application is of the order of \$27,000.

The WEA internal review of initial application fees indicates a significant under-recovery of costs. It is important to note that WEA was not established at the time the Scheme came into force on 30 June 2008. The EWC costing model was founded on a range of assumptions relating to the assessment of applications, which WEA has since developed through the operation of the Scheme and in accordance with the level of information it requires as a decision making body.

Figure 6: Estimated Cost of Assessment of an initial Application under section 6 of the Scheme to grant an accreditation

Phase	Elapsed Time	Members & Staff FTE	Estimated Cost
Phase 1	1 day	4 hours	Staff \$536
Phase 2	Up to 2 weeks	18 hours	Staff \$2,412 Searches \$2,000
Phase 3	8-10 days	12 hours	Staff \$1,608 Consultants \$5,685
Phase 4	1-2 weeks	18 hours	Staff \$2,412
Phase 5	1 week	6 hours (staff) Members (6@3hrs)	Staff \$804 Members \$10,065
Phase 6	7 days max (Legislated)	12 hours	Staff \$1,608
Totals	4 – 8 weeks (aim is 6 weeks)	70 hours	Staff \$9,380 Searches \$2,000 Consultants \$5,685 Members \$10,065 Total \$27,130

Notes:

1. All information is filed in hard copy folio and soft copies linked to database.
2. Staff hourly cost estimated at an average of \$134/hour including overheads for 2008-2009.
3. WEA member costs per application of \$6,325 (across 26 applications) plus estimated daily (3-hour) cost \$880 (Chair); \$572 (members) per application. (Chair and member rates have recently increased.)
4. Consultant costs, the figures used for application estimates are the actual costs incurred for renewal applications.

WEA is currently undertaking a similar cost review for the fees charged for renewal, variation and reconsideration of a decision. The initial results show that renewal application costs appear to be similar to the initial application costs as detailed in **Figure 6**. The fee structure will be formally reviewed in considering amendments to the Scheme later in 2010, taking into account relevant findings of the Productivity Commission Inquiry.

3 Monitoring of Accredited Exporters

3.1 Continuous monitoring of exporters under ‘fit and proper’ criteria

An important role of WEA is to regularly review the financial performance, circumstances and activities of accredited exporters to ensure compliance with the conditions of accreditation and the ‘fit and proper’ criteria. Accredited exporters are required to provide annual compliance and export reports and other relevant information to assist with this process.

WEA has the power to obtain information and documents from accredited exporters to enable it to fulfill its functions. Following a requirement to provide information, accredited exporters have 14 days to provide such information. WEA can also request information and documents from any other person if it believes the information is relevant to its functions and powers.

A total of 31 requirements for further information were issued to accredited exporters by WEA in the period from 1 July 2008 to 31 December 2009. A further five requests were made to persons that were not accredited exporters.

WEA also monitors accredited exporters through a media alert system. WEA subscribes to media monitoring services and employs other free internet based systems to ensure it remains abreast of developments relating to accredited exporters. WEA is also a subscriber to key industry news publications and maintains a broad watch over issues in Australia’s grains industry and interrelated sectors; for example the financial markets in relation to how they impact on the ability of accredited exporters to finance wheat purchases.

3.2 Notifiable Matters: guidelines and treatment

As a condition of accreditation, an accredited exporter is required to notify WEA if an event occurs or the exporter’s circumstances change, such that it could have a material impact on its accreditation - this is known as a Notifiable Matter.

If the event or circumstance is a ground on which WEA could cancel or surrender an accreditation, or is likely to result in the conclusion that the exporter is no longer ‘fit and proper’, it must be reported. Importantly it is the responsibility of accredited exporters, rather than WEA, to track and report Notifiable Matters.

The report must be submitted to WEA as soon as the matter becomes known, but in any event within 14 days after the occurrence of the event or the circumstance came into existence. WEA has issued guidelines to assist accredited exporters to comply with this important condition of accreditation (refer to **Appendix B** for the current version of these guidelines, this may be updated from time to time and published on the WEA website).

During the year, WEA received 20 Notifiable Matter reports from seven accredited exporters. WEA’s assessment of the Notifiable Matter reports received indicated that there was no further action required under the Scheme, such as suspension, cancellation or imposition of further conditions.

Through the Notifiable Matter process, WEA can verify whether accredited exporters continue to maintain their 'fit and proper' status. Moreover, Notifiable Matter reports ensure that WEA remains abreast of relevant developments relating to accredited exporters, particularly as they may affect their ability to carry out their bulk wheat export proposal.

3.3 Shipping stem

As required under the Act, if an exporter or associated entity is the provider of one or more port terminal service, it is required under section 24 of the Act (continuous disclosure rules) to publish a shipping stem which must be updated daily. This shipping stem must contain the following detail:

- Ship name
- Nomination time
- Nomination acceptance time
- Quantity of grain to be loaded and estimated load date.

For each bulk wheat export terminal, WEA downloads and analyses the shipping stem on a daily basis and monitors compliance of the accredited exporter or associated entity with the continuous disclosure rules. Any anomaly on the stem, e.g. unexplained changes in the order of shipping, is identified. Port access providers may be consulted on the reasons for the change/s.

WEA also monitors data provided by the Australian Customs and Border Protection Service (Customs). The data is analysed for compliance with any tonnage limit imposed as a condition of accreditation and for internal statistical reporting on bulk and non-bulk wheat exports.

WEA has published an online interactive map to assist stakeholders in accessing shipping stem information. The map details the 19 grain port terminals operating in Australia, providing colour coded tags to the associated shipping stem and related port authority.

3.4 Monitoring

WEA monitors accredited exporters' compliance with the conditions of their accreditation and the Scheme. There are severe penalties for those who export bulk wheat and are not accredited by WEA, as there are for providing false or misleading information to WEA.

4 External Audits

4.1 Scope and cost of audits

Under section 31 of the Act, WEA can require an accredited exporter to appoint an external auditor and arrange for an external audit.

The audit program administered by WEA plays an important role in improving the operations of accredited exporters, by the enhancement of governance, financial and risk management arrangements, and by achieving greater transparency of the shipping stems published by port terminal service providers.

An audit can be conducted in relation to the following matters:

1. the accredited exporter's compliance with one or more conditions of its accreditation under the Scheme
2. the accuracy of information given to WEA by the accredited exporter (whether orally, in writing or by any other means)
3. the accuracy of one or more statements made in the application for accreditation.

If the audit relates to the accredited exporter's compliance with conditions of accreditation, WEA may request the auditor to provide:

1. an assessment of the accredited exporter's existing capacity to comply with one or more conditions of accreditation under the Scheme
2. an assessment of what the accredited exporter will need to do, or continue to do, to comply with one or more conditions of accreditation under the Scheme.

During the 2008/09 marketing year, WEA incurred approximately \$300,000 in direct external costs in having the program of 26 audits conducted by external auditors.

WEA was required under the Act to meet all expenses relating to the conduct and report preparation of the external audit program. This included consultancy fees, travel and incidentals invoiced by the person appointed as an external auditor.

In addition, WEA will, on behalf of the Commonwealth, reimburse reasonable expenses incurred by accredited exporters in complying with a requirement under s 31(1) of the Act. To date this allowance has only been claimed by one of the 16 accredited exporters audited during the 2008/09 marketing year.

The total WEA internal costs of approximately \$160,000 were composed of two elements, staffing and member costs, as follows:

- 1.0 FTE (EL1) was involved in the administration of the audit program in the 2008/09 marketing year, at an approximate cost of \$140,000
- three days of members' time was occupied with the audit program, at an approximate cost of \$20,000.

Please note these figures are for indicative purposes only and have not been audited.

For the 2009/10 year WEA has budgeted \$200,000 for its program of external audits, not including any subsequent claims for reimbursement of costs by accredited exporters.

4.2 Outcomes

WEA arranged for 26 audits to be conducted during the 2008/09 marketing year (24 audits were conducted during the 2008-09 financial year), as detailed in **Figure 7**. A written report for each audit was prepared for WEA by the external auditor.

The audit reports provide for comments by the exporter to address the auditor's key findings or recommendations for improvement. In light of each audit report, WEA then considers what further action, if any, should be taken under the Scheme with respect to the accreditation of the accredited wheat exporter. This may include monitoring the implementation of improvements outlined in the audit report or requesting further information from the exporter at the time of accreditation renewal.

WEA was generally pleased with the response of accredited exporters to the audit findings in 2008/09, such as the efforts made by port terminal operators to improve the accuracy and presentation of the shipping stems in accordance with the auditor's recommendations.

Also, exporters generally agreed with the comments in the audit reports and have taken steps to implement the recommendations. It has been acknowledged by some exporters that the audit process has resulted in improvements to their operations.

Figure 7: External audits directed by WEA during the 2008/09 marketing year

Type of audit	No. of audits	Areas of findings/ improvement
Financial	7	Information provided during accreditation confirmed as accurate.
Risk management	10	Continuous improvement required towards whole-of-enterprise risk management and monitoring systems including the development of effective risk mitigation and risk treatment plans that adequately manage trading, financial and credit risk, IT data security and disaster recovery.
Policies, systems and procedures	4	Increased awareness of End Point Royalties (EPR) obligations and National Residue Survey (NRS) participation. Improved budgeting processes to reflect the requirements necessary to execute the export proposal.
Compliance with conditions of accreditation	5	Improved disclosure of daily shipping stem information and transparent management of vessel nominations. Improved policies and procedures and recommendations on their implementation and regular review. Management of pools to ensure transparent and equitable outcomes for the benefit of pool participants. Execution of shipping and chartering to minimise risks and costs.
Total audits completed	26	

5 Other WEA Activities

5.1 Consultation

WEA has communicated extensively with industry and other stakeholders since it was established on 1 July 2008. These activities have included:

5.1.1 Stakeholder forums

WEA hosted wheat industry stakeholder forums in each major wheat growing state, where WEA members and staff met a wide range of industry participants including accredited wheat exporters. The forums were conducted in the following capital cities:

- Perth – 20 November 2008 and 4 November 2009
- Adelaide – 5 February 2009 and scheduled for 1 February 2010
- Melbourne – 19 March 2009
- Sydney – 16 April 2009
- Brisbane – 21 May 2009.

The forums are scheduled to continue in 2010 in a new format, so that each state is covered once a year, and will provide an opportunity for senior representatives from organisations involved in Australia's wheat export industry to discuss common issues and provide feedback to WEA.

5.1.2 Agency consultations

WEA has consulted a wide range of government agencies on matters directly related to the administration of the Scheme, as outlined in **Figure 8**.

Figure 8: Government agencies WEA worked with during 2008/ 09

Government agency	Activities
Australian Competition and Consumer Commission (ACCC)	WEA met with ACCC officers and also provided information under section 74(3)(n) of the Act. This section allows for the disclosure of information to the ACCC for a purpose that is relevant to the functions or powers of the ACCC. In addition, WEA published information on its website regarding port access undertaking requirements.
Australian Federal Police (AFP)	Exporters that applied for accreditation during 2008/09 were required to submit an AFP National Police Check form for each executive officer. This check forms part of the 'fit and proper' criteria for accreditation.
Australian Prudential Regulation Authority (APRA)	APRA provided information to WEA on how it assesses applications for new banking and financial services licences. APRA also provided information on assessment protocols used in its review of regulated entities.

Government agency	Activities
Australian Securities and Investments Commission (ASIC)	A WEA staff member attended the 2009 ASIC Summer School.
Australian Quarantine and Inspection Service (AQIS)	<p>Sections 87(1) and (2) of the Act provide for WEA to facilitate the Scheme by allowing APS employees in AQIS to provide WEA with information that is relevant to the functions or powers of WEA. A MoU has been agreed with AQIS.</p> <p>WEA attended the Australian Grains Industry Consultative Committee (AGICC) meetings. This committee is the principal advisory forum for AQIS to consult with the grains and related industries on export certification, export market access, quarantine and other relevant issues.</p> <p>WEA also developed fact sheets in consultation with AQIS.</p>
Austrade	WEA had regular contact with Austrade, in particular regarding trade with Iraq. WEA sent information to exporters on behalf of Austrade.
Australian Customs & Border Protection Service (Customs)	In accordance with section 87 of the Act WEA was able to develop a database to manage wheat export data provided by Customs. This data assisted WEA in its monitoring and compliance role under the Scheme, as well as meeting reporting requirements.
Department of Agriculture Fisheries and Forestry (DAFF)	<p>WEA supported and worked with DAFF on a number of key projects.</p> <p>WEA had regular contact with a number of different divisions within DAFF relating to:</p> <ul style="list-style-type: none"> • the DAFF Corporate Communications protocol • Questions on Notice from Senators • Wheat Export Charge • National Residue Survey.
Department of Foreign Affairs and Trade (DFAT)	WEA consulted DFAT on United Nations sanctions.
Essential Services Commission of Victoria (ESC of Victoria)	WEA met and consulted with the Rail, Ports and Grain Division of the ESC of Victoria in relation to Melbourne Port Terminal.
Essential Services Commission of South Australia (ESCOSA)	WEA met with ESCOSA and established a protocol to exchange information.

Government agency	Activities
Grain Licensing Authority of Western Australia (GLA)	A protocol was established to exchange information regarding grain exporters (of grains other than wheat) in WA.
Grains Research and Development Corporation (GRDC)	WEA consulted GRDC and the End Point Royalty Steering Committee in connection with the 'fit and proper' test applied by WEA.

5.1.3 Industry consultations

WEA has consulted widely with grower organisations and industry associations, attended relevant industry conferences and met with a wide range of agribusinesses including financial institutions and businesses providing grain industry services. WEA has also provided presentations in a wide range of forums including a large number of grower information sessions. Details of these wide ranging consultations are summarised in **Appendix C**.

5.2 Reporting

5.2.1 Annual report

The WEA annual report 2008–09 was tabled in Parliament on 28 October 2009. It is available on the WEA's website at www.wea.gov.au

5.2.2 Report for Growers

WEA's planning and reporting obligations also require it to prepare and publish a report for growers each marketing year in relation to the operation of the Scheme. This report summarises exports and the operation of the Scheme, including compliance of exporters with their conditions of accreditation and details of any consequential action by WEA. This report provides key information to Australia's wheat industry and the inaugural issue is available on the WEA website. Details of the commercial operations of accredited exporters are not published.

5.2.3 The Performance Monitoring Report 2008

This is the final confidential report to the Minister for Agriculture, Fisheries and Forestry on AWBI's performance in managing the 2006/07 and 2007/08 National Pools under the now repealed *Wheat Marketing Act 1989*.

5.2.4 The Growers Report 2008

As indicated in Section 1.4, WEA published the final Growers Report in relation to the assessment of AWBI's performance in managing the 2006/07 and 2007/08 National Pools under the now repealed *Wheat Marketing Act 1989*. WEA was required to publish the report within six

months after the finalisation of the 2007/08 National Pool. The report was published on 27 November 2009 and distributed to growers and stakeholders in December 2009.

5.2.5 WEA Corporate Plan

The 2008-2010 WEA Corporate Plan sets out the objectives of WEA, and the strategies to be used to achieve those objectives. WEA operates against its corporate plan and annual business plans which build upon the corporate plan. The Minister approved the WEA Corporate Plan in June 2009.

5.3 Publications

Wheat Exports Australia has produced a variety of publications to meet the information needs of its stakeholders and the wider community.

5.3.1 Factsheets

WEA has published a range of Fact Sheets on topics related to the export of wheat from Australia and aiming to provide important industry information to all exporters.

- **16 October 2009**
World Wheat Trends and the Effect on Australian Prices
High wheat prices in 2008 were driven largely by a sharp drawdown in global wheat stocks, combined with depleted carryover stocks in Australia due to the 2007 drought.
- **23 June 2009**
Melbourne Port Terminal (MPT) and the access test
WEA holds the view that, under the Scheme, the port terminal service at MPT is not required to be the subject of an access undertaking accepted by the ACCC after 1 October 2009.
- **1 June 2009**
Bulk Wheat Exports
Changes under the Act have demonstrated that strong demand exists for Australian wheat internationally.
- **28 May 2009**
Grain Rail Freight in Australia
Rail is a high-volume transport option and has economic, social, safety and environmental benefits. However, competitive forces and rationalisation processes within the grains industry have increased grain tonnage being transported by road.
- **20 May 2009**
AQIS and Marine Surveyors
Australia's reputation overseas, as a wheat exporter, is underpinned by a favourable pest status which enables market access to many importing country destinations.

- **20 May 2009**
Vessels Failing Survey and the Cost to Industry
The Australian wheat industry enjoys an excellent reputation in the world wheat market. The industry has strict quality control measures in place to ensure Australia's reputation is not lost once grain is loaded onto the vessel.
- **22 April 2009**
Chemical Residues Importing Country Requirements
Grain for export must meet importing country Maximum Residue Limits (MRLs). This is an important factor in continuing to secure access to key export markets.
- **22 April 2009**
Wheat Export Accreditation Scheme
WEA administers the export of bulk wheat from Australia, under the Wheat Export Accreditation Scheme.

5.3.2 Newsletters

WEA has published seven issues of a regular online newsletter, 'Wheat Export News', to inform growers and the industry of bulk wheat export accreditations and issues involving WEA.

Details of newsletters distributed

January 2010	<ul style="list-style-type: none"> - WEA Report: smooth transition to wheat marketing reform - Number of accredited exporters continues to rise - 2008/09 Fast Facts - Stakeholder Forums
October 2009	<ul style="list-style-type: none"> - Competitive wheat market continues under the Scheme - Wheat Export Innovation Forum - Productivity Commission Review - WEA's Future Publications
July 2009	<ul style="list-style-type: none"> - Anniversary of the new wheat marketing arrangements - Exporter Accreditation Renewals - Update on ACCC Access Undertaking - WEA Corporate Plan 2008-2010
April 2009	<ul style="list-style-type: none"> - WEA launches grain port terminal map to assist stakeholders in accessing shipping stem information. The map details the 19 grain port terminals operating in Australia, providing colour coded tags to the associated shipping stem and related port authority - Opportunity to comment on submissions (ACCC port access undertaking) - Opportunities to export wheat to Iraq
February 2009	<ul style="list-style-type: none"> - Australia's bulk wheat global market exports - Renewal of Accreditation Application - Port Access Undertaking by ACCC
November 2008	<ul style="list-style-type: none"> - Wheat exporting underway - Exporter requirements to report Notifiable Matters
September 2008	<ul style="list-style-type: none"> - WEA accredits 13 bulk wheat exporters in first 10 weeks

5.3.3 Website

The home page of WEA's website provides access for its stakeholders to all publicly available information including:

- Our organisation
- Our stakeholders
- WEA Client Service Charter
- Wheat marketing legislation
- Explanatory information on the Wheat Export Accreditation Scheme and the forms to apply which can be downloaded
- Register of accredited bulk wheat exporters and their conditions of accreditation
- Wheat tender notices
- Announcements including –
 - 21 December 2009 - WEA announced the accreditation of Mitsui & Co. (Australia) Ltd
 - 20 November 2009 - WEA announced the accreditation of Touton Australia Pty Limited
 - 13 November 2009 - WEA announced the accreditation of CHS DU (Australia) Pty Ltd
 - 10 November 2009 - WEA announced the accreditation of Landmark Operations Limited and Plum Grove Pty Ltd
 - 1 October 2009 - WEA encouraged wheat industry stakeholders to participate in the Productivity Commission's Inquiry into the *Wheat Export Marketing Act 2008* and the *Wheat Export Accreditation Scheme 2008*
 - 30 September 2009 - WEA announced the accreditation renewals of: ABB Grain Ltd; Goodman Fielder Consumer Foods Pty Ltd; Grain Pool Pty Ltd; GrainCorp Operations Limited; JK International Pty Ltd; Lempriere Grain Pty Ltd and PentAg Commodities Pty Limited
 - 16 July 2008 - WEA advised growers and potential bulk wheat exporters that no company or co-operative is guaranteed to be an accredited exporter under the Wheat Export Accreditation Scheme. WEA suggested that all applicants and potential applicants include such a disclaimer on all marketing material regarding the 2008/09 harvest, including websites.

5.4 Media releases

22 December 2009	WEA Report: smooth transition to wheat marketing reform
27 November 2009	WEA releases final AWBI report
30 September 2009	WEA announces final accreditation renewals
14 September 2009	Exporters receive extended period of accreditation
11 August 2009	WEA begins accredited exporter renewal process
7 July 2009	Greentree Farming - a new era in wheat export marketing
5 May 2009	WEA urges industry to 'have their say'
24 November 2008	List of accredited companies continues to grow
23 October 2008	WEA continues to provide choice for growers
23 October 2008	CEO announced for Wheat Exports Australia
25 September 2008	WEA accredits two bulk wheat exporters
11 September 2008	WEA accredits AWBL subsidiaries for bulk wheat exports
5 September 2008	WEA accredits further six bulk wheat exporters
26 August 2008	WEA accredits five bulk wheat exporters
1 July 2008	Wheat Exports Australia now open for business.

6 WEA Observations

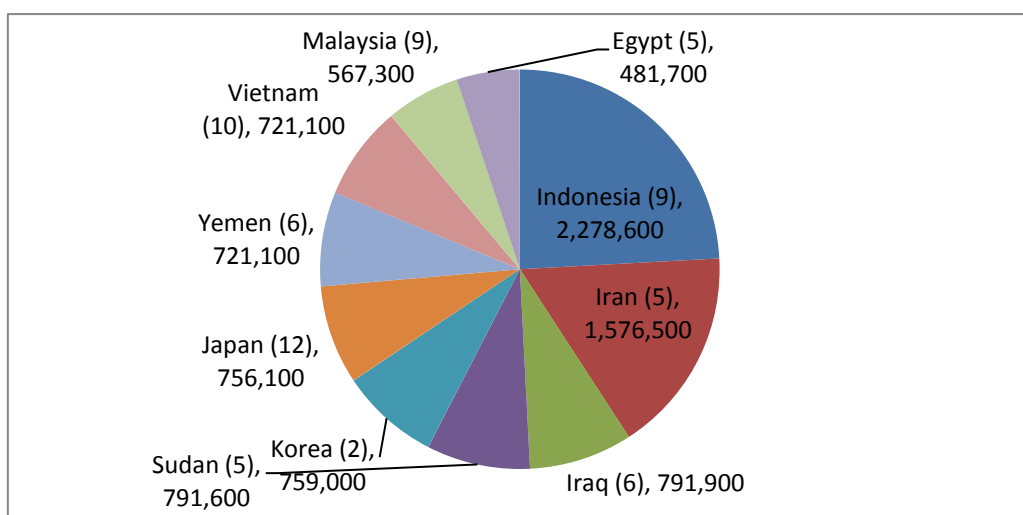
6.1 Smooth transition

The transition from a single bulk wheat exporter (AWBI) to multiple exporters has been relatively smooth.

In the 2008/09 marketing year more than 12.3 million tonnes of bulk wheat were exported by 17 accredited exporters to 42 countries, some of which had not received Australian wheat for many years. **Figure 9** provides details on the tonnages shipped to the top 10 countries in 2008/09.

The top three exporters accounted for 60 per cent of exports, and the top eight accounted for 90 per cent of total bulk exports. Two exporters shipped more than 2.5 million tonnes each. Another two shipped more than 1 million tonnes each.

Figure 9: Top 10 countries that received Australian bulk wheat by volume (tonnes) and; number of Australian exporters involved – 1 Oct 2008 to 30 Sept 2009



Source: ABARE

Note: The figures appearing in brackets represent the number of accredited exporters involved.

The volume and pattern of bulk wheat exports for 2008/09 compare favourably with previous years, considering:

- where previously there was one exporter, there were 17 active exporters for the 2008/09 harvest, operating in the midst of the global financial crisis
- 2006/07 and 2007/08 were drought years with a significant reduction in export volumes; as a result, little pressure was put on the logistics system
- the 2008/09 harvest was rain delayed, particularly in Western Australia
- growers carefully considered their marketing options and appeared to be warehousing wheat for longer periods.

Nearly all of the accredited wheat exporters have a demonstrated history, in some cases a very long history, as international marketers in grains and often other rural commodities. Many of these exporters have been exporting various commodities from Australia for some time and have

established longstanding customer relationships in diverse markets. These customers are often seeking the one organisation to handle a range of products from Australia and other origins.

A small number of accredited bulk exporters were relatively new to international bulk wheat marketing.

The WEA Report for Growers 2008-09 provides greater detail on recent Australian bulk wheat export experience.

6.2 Competition between bulk wheat exporters

Each applicant for accreditation is required to submit an estimate of the bulk wheat export tonnage it proposes to ship in each of the next three marketing years and demonstrate the availability of financial resources to undertake that export proposal. In 2008/09, proposed export volumes from 24 accredited companies totaled approximately 27 million tonnes, which is considerably greater than the 12.3 million tonnes of wheat actually exported.

This indicates that accredited exporters had the combined capacity and financial resources available to export more than twice the size of the Australian crop available for export in 2008/09, despite the difficult economic circumstances of the global financial crisis. It also indicates that competition amongst exporters was strong, with a potential benefit for Australian growers. While the average export volume was 725,000 tonnes, individual exporter volumes shipped ranged from 25,000 tonnes to 2.9 million tonnes.

Figure 10 shows total proposed bulk export tonnages for the next three marketing years, based on the sum of proposed export volumes submitted to WEA by all accredited exporters. It shows that the capability for exports is increasing; hence competition is likely to increase, again providing a potential benefit for growers. This experience in the first year of the new wheat marketing arrangements demonstrates the potential for further market development as exporters build their experience in the Australian bulk wheat market.

There are clear advantages for commodity traders in building volume to exploit a range of trading strategies, one of which is the opportunity for blending different grades of wheat to meet price points for customer specifications. Increasing competition in the Australian wheat market can be expected as accredited exporters compete to achieve a range of competitive trading strategies.

Figure 10: Proposed and actual bulk wheat export tonnages for 2008/09 to 2011/12 marketing years

	2008/09 proposed	2008/09 actual*	Actual as a % of proposed	2009/10 tonnes proposed	2010/11 tonnes proposed	2011/12 tonnes proposed
Aggregated Total	26,955,400	12,333,000	46%	24,130,000	29,200,000	32,625,000

Note: Figures current at 1 October 2009.

Source: WEA analysis

* 2008/09 actual tonnages are for the 2008/09 marketing year (1 October 2008 to 30 September 2009).

6.3 Supply chain

Growers are taking greater control of their wheat value chain by:

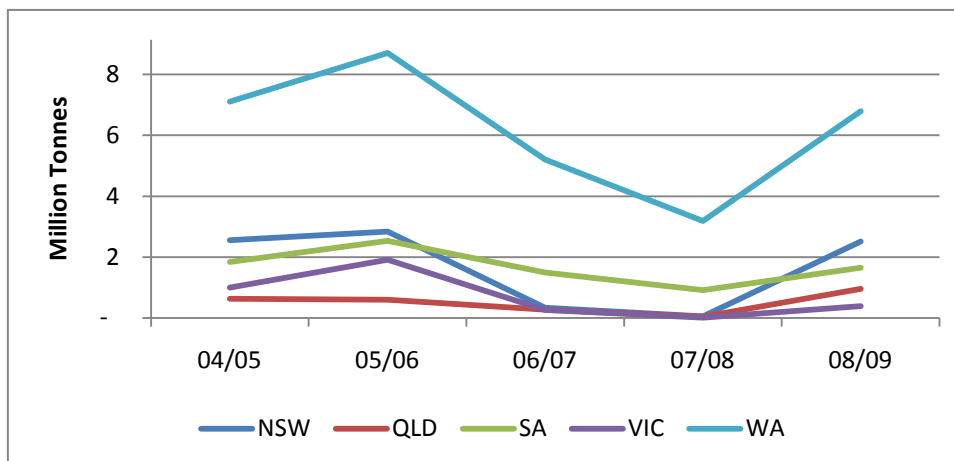
- continuing to increase on-farm storage
- warehousing in the bulk handling system for longer.

The limited availability of rail transport and the inability of the rail system to cope with the volume of grain movements to port have led to an increase in road transport. The bulk handlers have implemented systems to increase road receivals at port. For some growers the new marketing arrangements provide challenges in adapting to new business methods whereas in the past many of these decisions could be left to the pool manager.

For example, GrainCorp has endeavoured to reduce road delays at port when exporters are accumulating a wheat cargo by testing wheat upcountry (e.g. at Toowoomba for Brisbane port delivery). This means that any wheat which is outside specification is rejected prior to delivery to port. This avoids shipping delays at port if out-of-specification grain is detected during loading. This also avoids the cost of returning out-of-specification wheat from port.

Historically Western Australia has been the state with the largest proportion of bulk wheat export sales. Findings in the WEA Growers Report 2008 indicate that Western Australia has had the lowest supply chain costs (up-country silo to port). As indicated in **Figure 11**, as an average over the past five years, Western Australia has represented 57.6% of Australia's total bulk wheat exports, followed by South Australia (15.7%), New South Wales (15.4%), Victoria (6.7%) and Queensland (4.7%).

Figure 11: A state-by-state comparison of bulk wheat exports between 2004/05 and 2008/09



Source: WEA analysis

Various states have conducted reviews or have under review investment in infrastructure resources such as roads and rail facilities. The use of road and rail provides an ongoing debate in the industry.

6.4 Markets and marketing issues

The long-term competitiveness of the Australian wheat industry, both production and marketing, as with many other traditional commodities, is less likely to lie with being the lowest-cost supplier and more with effectively meeting the particular needs of key customers in target markets.

Wheat is in the mature phase of the product life cycle and is sold largely as a commodity. Some individual wheat growers or grower groups have sought to capture a greater share of the consumer dollar by developing product oriented differentiation strategies. Such strategies are increasingly common in other agricultural sectors such as dairy, beef and sheep meat and for a range of horticultural products, such as wine. These strategies require greater responsiveness to specific consumer requirements and may offer wheat growers further opportunities to capitalise on the niche marketing of foods based on the particular properties of Australian wheat varieties.

Australian food and fibre businesses increasingly are adopting a whole-of-chain focus to their marketing. Implementation of the new wheat marketing arrangements provides opportunities for continuing supply chain innovation for both bulk and non-bulk wheat. These potential innovations include supply chain efficiencies in areas such as grain handling and storage. They also include measures to capture consumer value such as on-farm quality assurance programs, and the development of a standard language to enable the functional characteristics of varieties to be identified.

6.5 Benefits

As a result of its ongoing consultations with exporters and other stakeholders, WEA has identified a number of benefits from the new wheat marketing arrangements.

6.5.1 Accreditation and monitoring

Exporters have indicated to WEA that the accreditation and monitoring process has required them to enhance their governance and risk management processes; this may have been of greater benefit to the smaller exporters.

Some exporters have indicated that accreditation by an Australian Government Authority is beneficial when dealing with some international buyers. Accreditation from an independent government agency (WEA) has also proved a useful marketing tool for many exporters in their engagement with growers.

WEA has the flexibility to impose conditions it considers appropriate to the activities of a particular exporter. WEA's intent in specifying additional conditions of accreditation (such as restricting the purchase of wheat for export) has provided additional security for growers.

The new wheat marketing arrangements have generated both costs and benefits. The various WEA costs were outlined in earlier sections of this submission. Stakeholder comments to WEA both positive and negative are listed below.

- “We found the process thorough and rigorous.”

- "We had a strong view that accreditation would be the best outcome (for our company) and our customers, and we were conscious that we should be exposed to a high standard of scrutiny - and that is what WEA did."
- "We found everyone at WEA accessible and helpful during the entire process. WEA told us how long the process would take up front and they were spot on."
- "The most time consuming part of becoming accredited is the preparation. It is a lengthy and arduous process, however once the application was lodged I thought the accreditation was reached very quickly. It is a necessary process to continue our business effectively."
- "...it has been a very rewarding process and one that I believe has added a lot of value to (our) business, not just from an export customer point of view, but just as important, internal procedures and processes."
- "... (we) would welcome the 3 year term of accreditation should it be granted to us as this would provide us with greater certainty to develop and invest further in our Australian bulk wheat export business."
- "...we found the (external) audit constructive and useful especially with respect to risk management and how it would apply to our business strategy as we move from a primarily containerised grain shipper to bulk shipper."
- "... (the external) audit report has also assisted us in now re defining risk management processes and we would be willing to implement the report recommendations."
- "... (the external) audit report forms a strong policy base to enhance to a level recommended by the risk management standard."
- "... (the external) audit was difficult although it has identified a number of issues that we had not thought of, this has been of benefit to our business."
- "While we remain willing to cooperate with WEA, we note that WEA does not have an unlimited power to request information. WEA's power is constrained by section 25(2) of the Wheat Export Marketing Act to information "relevant to the functions or powers of WEA."
- "While our company has aspired to developing an enterprise risk management system through developing and improving compliance with AS/NZS 4360, it needs to be recognised that an ERM system is not required by AS/NZS 4360, nor by the ASX Corporate Governance Principles (2nd edition)."
- "... (we) were surprised by the rigour of the accreditation process, but generally found it reasonable."

WEA notes there has been negative feedback from industry directly to the Productivity Commission, as detailed in submissions and transcripts of hearings.

6.5.2 Port access

The access test imposed on exporters providing grain terminal services has helped to ensure fair access to those services for other accredited exporters. This has been achieved in part by WEA's oversight of the shipping stems and the continuous disclosure rules, as a condition of accreditation of the bulk handling companies.

The accreditation and monitoring process has maintained pressure on the integrated bulk handling companies not to exploit the move to deregulation by extracting excessive rents from their monopoly assets. The ACCC access arrangements, notwithstanding the associated costs for terminal operators, have provided a mechanism for increasing transparency in the fees and charges for others accessing the terminals.

6.5.3 Communications

The stakeholder forums both prior to and since the introduction of the Scheme have been favourably received as they have provided opportunities for a range of stakeholders to engage on the new arrangements.

WEA newsletters and fact sheets, distributed to more than 1,000 industry stakeholders and published on the WEA website, have contributed to a better appreciation of the considerable structural and cultural change involved in the implementation of the Scheme.

6.5.4 Industry development

Creative value chain initiatives are emerging among the many exporters of wheat in containers who are continuing to build relationships with customers in both new and traditional markets. Some of these exporters will move to bulk exports as their grower base expands the tonnage delivered and as the overseas clients demand greater volume. They need to be encouraged to build value in these initiatives and develop their business and marketing skills.

The new marketing environment has enabled and encouraged wheat growers to take greater control of their own destinies through the decisions they make beyond the farm gate. It has enabled and encouraged them to apply the considerable marketing skills and experience that they had already acquired (including through marketing other non-regulated commodities) to their wheat production and marketing decisions. Nevertheless, some growers have found the move from the regulated environment to be more challenging.

6.6 Stocks information

There is a diversity of opinion concerning the timely availability of information on wheat stocks. Exporters have consistently indicated to WEA that to have information on stocks available at silo level would aid pricing and help target purchases and stock swaps.

Exporters have indicated that this information should be available at an up-country silo level with the data aggregated by grade and warehouse position (thus ensuring that the stocks of individual growers/ owners are not identified). This information has implications for many domestic and export industries using wheat including domestic food manufacturing and livestock industries. WEA is broadly supportive of this view.

Two bulk handlers indicated to WEA (one during a joint site visit with ACCC) that they did not want stocks data published, as it was considered to be proprietary and as such, is used for the benefit of their marketing arm.

7 Concluding Comments

The objectives of the Act are:

- (a) to promote the development of a bulk wheat export marketing industry that is efficient, competitive and advances the needs of wheat growers;
- (b) to provide a regulatory framework in relation to participants in the bulk wheat export marketing industry.

From a WEA perspective, the implementation of the Scheme is assisting the achievement of the objectives of the Act through the accreditation of multiple exporters now competing for a share of Australian bulk wheat exports.

This has been achieved through a period of major international disruption to credit and financial markets and substantial fluctuation in currency exchange rates. In addition, wheat prices, which are largely determined by international supply and demand conditions, have declined substantially during this time.

WEA considers that the transition from the previous highly regulated bulk wheat export arrangement to a more liberalised environment has occurred relatively smoothly.

WEA has been rigorous in implementing the provisions of the Scheme to ensure compliance with the eligibility criteria and that accredited exporters meet the 'fit and proper' test. WEA continues to monitor accredited exporters within the terms of the Scheme.

There have been no cases of financial failure by the companies involved or any known incidents where accredited exporters have failed to meet their contractual obligations to growers or buyers.

WEA recognises that the transition to a more deregulated marketing environment has involved substantial structural change which is impacting on the whole supply chain. This adjustment is expected to continue as the Australian export wheat industry continues to develop its competitiveness, improve its efficiency and advance the needs of wheat growers, and the bulk wheat export marketing industry generally, as envisaged by the Act.

Appendix A

WEA INTERNAL CORPORATE POLICY REGISTER

This document describes the high level framework for WEA's awareness of, response to and articulation of Government policy relating to corporate governance.

Policy Area	Issuing Agency	Policy Transmission	WEA Internal Policy
Human Resources	Australian Public Service Commission Department of Employment, Education and Training Remuneration Tribunal	APSC Circulars APSC website Workplace Relations Advices DEEWR portfolio contact Remuneration Tribunal circulars	WEA Human Resource Manual
Financial Management	Department of Finance and Deregulation	Finance Circulars Finance website	Chief Executive Instructions
Fraud Control Plan	Department of Finance and Deregulation	Commonwealth Fraud Control Guidelines 2002 issued under Regulation 19 <i>Financial Management and Accountability Regulations 1997</i> :	WEA Fraud Control Plan
Business Continuity Plan	ANAO	ANAO Business Continuity Planning Better Practice Guide	WEA Business Continuity Plan
Procurement	Department of Finance and Deregulation	Commonwealth Procurement Guidelines (CPGs) Procurement Advices Finance Circulars Finance website	WEA Procurement Guidelines
Information Management	National Archives of Australia Australian Government Information Management Office	Advices, newsletters	WEA Information Management Framework including ITC Policy, ITC Procedures, Records Management Policy, RM Business Rules
Security	Attorney General Defence Signals Directorate Australian Security Intelligence Organisation	The Australian Government's Protective Security Manual (AGPSM) Australian Government Information and Communications (ISM) Advices, newsletters	WEA Security Policy WEA Protective Security Manual
Freedom of Information	Attorney General Prime Minister and Cabinet	FOI Practitioners Forum, advices	WEA complies with central policy and directions
Privacy	Privacy Commissioner	Privacy contact officers network Advices, newsletters	WEA complies with central policy and directions
Occupational Health and Safety and Workers Compensation	Comcare	Comcare account manager Advices, newsletters	WEA complies with central policy and directions
Legal	Attorney General (Office of Legal Services Co-ordination)	Legal Services Directions OLSC Bulletins	WEA complies with Legal Services Directions
Workplace Diversity	Australian Public Service Commission	APSC Circulars APSC website	Workplace Diversity Plan, Disability Action Plan, Human Resources Manual
Internal Audit	Australian National Audit Office Department of Finance and Deregulation	ANAO website and publications	Strategic Internal Audit Plan
Insurance	Comcover	Advices, newsletters Comcover account manager	Comcover insurance policy

Appendix B

WEA NOTIFIABLE MATTERS – GUIDELINES

(This may be updated from time to time and published on the WEA website)

Wheat Export Accreditation Scheme

Introduction

In accordance with sections 25 and 26 of the *Wheat Export Accreditation Scheme 2008* (the Scheme), accredited wheat exporters are required to report notifiable matters to Wheat Exports Australia (WEA).

A **notifiable matter** includes the occurrence of an event or change in circumstance which could have an impact on the accreditation of the exporter.

As a guide for accredited exporters, an event or circumstance is considered to be a notifiable matter if it constitutes grounds on which WEA could suspend or cancel an accreditation or if it is likely to lead to the conclusion that the exporter is no longer 'fit and proper' under the Scheme.

Such matters include changes in circumstances to those represented by the exporter to WEA during the application process (including in the Application Form and any subsequent information).

Background

It is a condition of accreditation under the Scheme that accredited exporters notify WEA when:

- (i) an event or circumstance occurs which may have a material impact on the accredited exporter's continuing eligibility as a fit and proper company (section 25), or¹
- (ii) a new executive officer is appointed (section 26).

This condition includes the obligation to report significant changes with respect to a related body corporate of the accredited exporter.

It is the responsibility of accredited exporters to track and report on notifiable matters.

Such notification must be submitted to WEA in the required format as soon as practical, but in any event within 14 days of the event or circumstance occurring or a new executive officer being appointed.

The following guide provides an explanation on the type and nature of issues that may constitute a notifiable matter. The list of events or occurrences is not intended to be exhaustive.

¹ For the purpose of the Scheme a reference to a 'company' includes a co-operative.

Notifiable Matters – Company or Co-operative

1. A notifiable matter occurs when:
 - a company or a co-operative becomes externally administered
 - a company is deregistered as a company under Part 2A2 of the *Corporations Act 2001*
 - a co-operative is demutualised or ceases to exist.
2. In a financial context, notifiable matters include material changes such as:
 - adverse changes to the financial position of the accredited exporter including material deviation from forecast
 - adverse changes to the accredited exporter's funding position and/or financial support available to it
 - withdrawal of, changes to or breaches of covenants and/or limits in a credit facility to an accredited exporter
 - withdrawal of or changes to a guarantee or funding facility provided by a related entity of the accredited exporter, for example an accredited exporter's parent company
 - an adverse change to an accredited exporter's credit rating or ratings outlook.
3. In a corporate governance context, notifiable matters include material changes in:
 - corporate structure
 - corporate policies
 - shareholdings or voting powers impacting on control of the accredited exporter
 - a related body corporate of the accredited exporter
 - major trading activities
 - risk management arrangements.
4. In relation to a fit and proper company, notifiable matters include matters where the company or an executive officer:
 - has been or becomes convicted of an offence against an Australian law or a foreign law, where the offence relates to dishonest conduct
 - has been or becomes convicted of an offence against an Australian law or a foreign law, where the offence relates to the conduct of business
 - has or has had an order for a pecuniary penalty made against it/them under the *Corporations Act 2001* or section 76 of the *Trade Practices Act 1974*
 - contravenes a condition of the company's accreditation
 - has been or becomes convicted of an offence against section 136.1, 137.1 or 137.2 of the Criminal Code
 - has committed a contravention or a serious contravention of a designated sanitary or phytosanitary measure
 - commits or becomes involved in a contravention of a United Nations sanctions provision
 - commits or becomes involved in a contravention of an Australian law or a foreign law where the contravention relates to trade in barley, canola, lupins, oats or wheat
 - commits any fraudulent acts relevant to or impacting on wheat export trading activities.

5. A notifiable matter also includes any other material change to the information provided to WEA (including but not limited to the Application Form and subsequent information) which may adversely impact on the accreditation of the exporter, including the export proposal.

Notifiable Matters – New Executive Officer

6. A Notifiable Matter also occurs where a new executive officer is appointed.

The *Wheat Export Marketing Act 2008* defines an executive officer of a company as:

- a director of the company; or
- the chief executive officer (however described) of the company; or
- the chief financial officer (however described) of the company; or
- the secretary of the company.

Notifiable Matters – Forms

7. An accredited exporter must submit a report in the required format to WEA as soon as practicable but no later than 14 days from the occurrence of a notifiable matter.
8. For the purpose of reporting a notifiable matter, two forms have been approved by WEA:
 - Report about Notifiable Matter Form
 - New Executive Officer Notification Form.
9. These forms can be found online at:
<http://www.wea.gov.au/WheatExports/Forms090408.htm>

Protected Confidential Information

In accordance with section 73 of the *Wheat Export Marketing Act 2008*, information may be protected confidential information if it is contained in a report given to WEA under the Scheme, and the person who gave the report claims the information is commercial-in-confidence information.

Accredited exporters making such a claim must mark the relevant information as ‘commercial-in-confidence’. Accredited exporters should note that WEA may disclose protected confidential information in some circumstances (as set out in section 74(3) of the *Wheat Export Marketing Act 2008*).

WEA Consultations and Presentations during 2008-09

Grower Information Sessions

- Fifty-two information sessions arranged by the Department of Agriculture, Fisheries and Forestry, to explain the new wheat export marketing arrangements, were conducted in Western Australia, New South Wales, South Australia, Victoria and Queensland throughout August and September 2008. The sessions were held in partnership with state farming organisations and were attended by more than 1,200 people in total.

WEA met with the following grower organisations:

- AgForce Queensland
- Agricultural Bureau of South Australia
- Grains Council of Australia
- Grain Growers Association
- National Farmers' Federation
- NSW Farmers Association
- Pastoralists and Graziers Association of WA
- South Australian Farmers' Federation
- Victorian Farmers Federation
- West Australian Grain Group
- Wheat Growers' Association
- Western Australian Farmers Federation.

WEA attended the following conferences:

- Australian Securities and Investments Commission Summer School 'Global Crisis – the Big Issues for Our Financial Markets' 2009
- Australian Grains Industry Conference 2008
- GCA Grains Industry Forum 2009
- Grain Growers Association Innovation Generation Conference 2008
- Grain Logistics 2009
- ABARE Outlook 2009
- Western Australian Farmers Federation Conference 2009
- Victorian Farmers Federation Grains Conference 2009
- Grains West Expo 2009.

WEA met with the following industry associations:

- Agribusiness Association of Australia
- Australian Grain Exporters Association
- Australian Seed Federation
- Grain Industry Association of Victoria
- Grain Industry Association of Western Australia

- Grain Trade Australia (formerly NACMA)
- Rural Marketing & Supplies Association.

WEA met with the following agribusinesses:

- Agfarm Solutions Pty Ltd
- AgIntel Pty Ltd
- AgRisk Management Pty Ltd
- Agvise Pty Ltd
- Arrow Commodities Pty Ltd
- Australian Bulk Alliance Pty Ltd
- Australian Crop Forecasters Pty Ltd
- Australian Grain Technologies Pty Ltd
- Austock Group Ltd
- Australian Growers Direct Pty Ltd
- Balco Australia Pty Ltd
- Bellata Gold
- BRI Research Pty Ltd
- Callum Downs Broking Pty Ltd
- Clarke Grain Pty Ltd
- Commodity Inspection Services (Australia) Pty Ltd
- Consolidated Grain Industries Pty Ltd
- Global Grain Australia Pty Ltd
- Golden Harvest Grain Exports
- Grain Link WA Pty Ltd
- Greentree Farming Exports Pty Ltd
- InterGrain Pty Ltd
- Kondinin Group Limited
- Pars Ram Brothers (Australia) Pty Ltd
- Philip Brodie Grains
- Plum Grove Pty Ltd
- Premium Grain Handlers Pty Ltd
- ProFarmer Australia Pty Ltd
- Professional Grain Services Pty Ltd
- Riordan Grain Services
- Rural Logic Australia Pty Ltd
- Strategic Design + Development Pty Ltd.

WEA met with the following foreign representatives:

- Asociación de Cooperativas Argentinas (Association of Argentinean Cooperatives)
- Canadian Wheat Board
- Delegation of the European Commission to Australia, Canberra
- Embassy of the Republic of Iraq, Canberra
- Japanese flour millers
- Ministry of Agriculture, Forestry and Fisheries, Japan
- USDA Foreign Agricultural Service – US Embassy, Canberra.

WEA met with the following banks and other organisations

- Australia and New Zealand Banking Group Ltd
- Rabobank Australia Ltd
- Commonwealth Bank Ltd
- National Australia Bank Ltd
- Aries MLB (Marine Consultant)
- Curtin University.

WEA presentations

- Association of Argentinean Cooperatives November 2009
- Grains West Expo August 2009
- Grain Logistics April 2009
- GGA February 2009
- GCA March 2009
- NSW Farmers Association, Grains Committee July 2009
- AgForce Grains December 2008
- Grain Industry Association of WA November 2008
- Association of Argentinean Cooperatives November 2008
- Japanese Flour Millers October 2008
- Australian Seed Federation October 2008
- Canadian Wheat Board October 2008
- Grains Australia Conference July 2008
- Australian Crop Forecasters - Wheat Export Seminar July 2008
- Grains Research and Development Corporation July 2008.