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An Automatic Right for Wheat Producers to Bulk Export Their Own Grain

Whilst export of grain in containers will remain deregulated and be the most likely choice for export by individual growers it is notable that in the first round of export applications addressed to Minister McGauran there was one for 27,000 tonne submitted on behalf of a group of individual growers.

Another individual grower in WA has predicted his business will plant approximately 100,000 hectares of grain this season.

Subsequent to my brief reading of the draft legislation, I have contacted the Parliamentary Library for advice regarding the rights of individual growers to directly export the wheat they produce on their own properties.

I enclose their response which confirms my concern that there is no special provision within the legislation to give bulk export rights to individual growers either personally or as a group, to export their own production.

The requirements created for accreditation will be a problem for certain growers whose business is not incorporated and it may not be possible to do so. Whilst I recognise that there is a constitutional issue of some importance arising in this area the requirement that a entity be a trading corporation would be a significant deterrent to individual wheat growers wishing only to export their own product.

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**THE ELECTORATE OF
O'CONNOR COVERS
THE FOLLOWING 50
LOCAL GOVERNMENTS**

- Albany, Boyup Brook,
- Broomehill, Bruce Rock,
- Carnamah, Coorow,
- Corrigin, Cranbrook,
- Cunderdin, Dakwallinu,
- Dandaragan, Denmark,
- Dowerin, Dumbleyung,
- Geraldton, Gnowangerup,
- Goomalling, Greenough,
- Irwin, Jerramungup,
- Katanning, Kellerberrin,
- Kent, Kojonup, Kondinin,
- Koorda, Kulin, Lake Grace,
- Mingenew, Moora, Morawa,
- Mt Marshall, Mukinbudin,
- Narembeen, Nungarin,
- Perenjori, Plantagenet,
- Quairading, Ravensthorpe,
- Tambellup, Tammin,
- Three Springs, Trayning,
- Victoria Plains, Wagin,
- West Arthur, Wickepin,
- Wongan-Ballidu,
- Woodanilling, Wyalkatchem

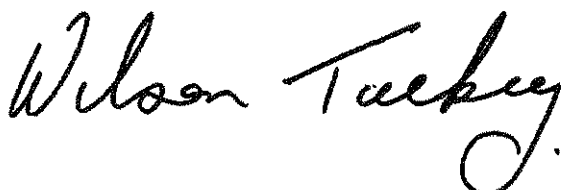
The solution therefore is to exclude persons or corporations who wish to bulk export product produced on their own properties from the export accreditation requirements, as they are not middlemen and if they take such a choice, assume their own risk or must take such steps as factoring to secure their financial position.

I have recently enquired in China regarding opportunities for such trade and believe that once enlightened with the difficulties, progressive wheat growers will be anxious to pursue this option so as to maximise their returns.

They should be protected however, in terms of equal rights of access to storage, handling and ship loading facilities, which I note is also a matter of concern for some larger operators.

Considering the considerable market power of the established grain handlers, I would also make it a point of this submission that the legislation be robust in this regard and thus guarantee that whosoever exports wheat, that the price they offer wheat growers cannot be depreciated by unfair arrangements in the handling and storage area.

Yours sincerely

A handwritten signature in cursive script that reads "Wilson Tuckey". The signature is written in black ink and is positioned below the typed name.

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Encl

You asked if the *Wheat Export Marketing Bill 2008* extends to the right, preferably automatic, for wheat producers to export their own production, either individually or in a clearly defined group, and does it assume the role of the middle man as being the exporter.

Accreditation

The draft *Wheat Export Marketing Bill 2008* provides [Division 3, subclause 11(1)] that to be accredited as a wheat exporter, the company must be (a) registered as a company under the *Corporations Act 2001* and (b) that it must be a 'trading corporation' to which paragraph 51(xx) of the Constitution applies.

The Minister for Agriculture, Fisheries and Forestry in his press release of 5 March 2008 confirmed that an accredited wheat exporter must be a corporation.

Comment: Presumably this means that, in order to export, unincorporated farms would either have to incorporate or join with other farms to form a company which would seek accreditation. Note that the *Trade Practices Act* authorises 'collective bargaining' under which groups of sellers are legally allowed to join together to bargain with buyers. This may be relevant to wheat farmers who wish to join together to bargain with accredited wheat exporters.

There is an exception to the incorporation requirement if wheat is exported in a bag or a container that is capable of holding not more than 50 tonnes of wheat.

Model

The legislation seems to assume that a wheat grower will sell to an accredited company. Thus unless growers are accredited—that is, are incorporated and are 'fit and proper' [paragraph 11(1)(c)]—the growers would not be able to export on their own account (with the exception noted above).