

**From:** [Gene Ethics](#)  
**To:** [Environment and Public Affairs Committee](#)  
**Subject:** RE: Answers to Qs, Supplementary Submission, and related documents, attached.  
**Date:** Sunday, 13 May 2018 7:09:35 PM

Hello Team:

Many thanks again for the opportunity to engage with the committee hearings.  
Also to make these and other written submissions.

Please find attached the following documents. We trust they will assist your deliberations.  
Should you need any further documents or Qs answered, please ask us.

1. Gene Ethics answers to Questions on Notice.
2. Gene Ethics supplementary submission.
4. Darren West MLC statement in Hansard.
5. CSIRO EU premium market.
6. Monsanto Licence & Stewardship Agreement.
7. Monsanto crop management plan.
8. Judgement in Perre vs Apand, where pure economic loss was awarded.
9. OGTR Biology of canola report.
10. DPIRD Coexistence letter - completely inadequate.
11. Statement on LLP of unapproved GM products in commerce, creating trade disruptions.
12. Coexistence regulations impacts on markets and welfare.
13. LLP in food and feed trade.
14. IFOAM paper on coexistence and contamination.
15. Strict Liability and the Gene Technology Act.
16. US Organic farmers pay the price for GM contam.
17. Liability, IP and GM crop impacts on global ag.
18. Status report on Tasmanian GM moratorium, history and future prospects.

Many thanks,

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## Answers to Questions on Notice, posed to Gene Ethics:

1. What is your position on funding for any proposed compensation scheme coming from general consolidated revenue rather than a levy (so there is no direct contribution from the GM industry)?

Taxpayers are not responsible, so should not foot the bill for the impacts of a well-known and predictable hazard that will lead to loss and harm.

The polluter pays principle applies, so the GM seed industry must be made liable for any economic loss that its activities or products cause. Yet clause 10 of Monsanto's Licence & Stewardship Agreement (LSA)<sup>1</sup> for Roundup Ready and Roundup Ready Triazine Tolerant canola seed transfers all of its potential liabilities onto licensed growers.

The small GM seed levy we propose (say, \$1/kg of GM seed, which Monsanto now sells for \$7.85/kg plus GST<sup>2</sup>) is a modest price for the GM/agrochemical industry to pay. It would ensure the security and financial recompense for the majority of farmers - those who remain GM-free. GM contamination is foreseeable and unavoidable as coexistence and segregation are fallible, as we discuss later.

2. What are the types of possible losses (both economic and otherwise) that a farmer might suffer as a result of GM contamination that you envisage they would be able to claim be covered by any compensation fund and why?

We must look to the future, not only past experience and present circumstances.

New GM techniques promise to bring a much greater range of GMOs (potentially any living thing) into our environments and production systems, for a great range of purposes (biopesticides, biocontrol agents, crop plants, animals, tree farms, fish, etc.). Claims could be based on proven and documented, present or future, loss or harm from GM contamination of land (private or public) or supply chains. The basis for claims might conceivably include things like:

- incursions of GM animals, plants, insects, micro-organisms etc.;
- loss of amenity, viability or productivity of the land – soil, water, air;
- lost biodiversity or species extinction, in soil, flora, fauna or aquatic ecosystems;
- loss of certification, such as non-GM, organic, or sustainable (e.g. EU);
- extra costs and losses for cleanup, decontamination or remediation;
- premiums lost in markets with zero tolerance, or if a threshold is breached;
- loss of suppliers, so businesses can no longer reliably source non-GM;
- loss of markets or market share.

3. A number of farmers who have made submissions to this inquiry state they grow GM and non-GM canola side by side successfully without any issues with contamination.

As no GM tests are readily available (100 strip tests cost \$6-800), it appears unlikely that most farmers check for GM contamination. When CBH or another grain handler tests and finds an elevated level of GM in non-GM, their testimony suggests they warn the grower of potential non-compliance and tell them to clean up their act.

A farmer growing GM and non-GM side by side appears unlikely to want to bear the extra cost of harvesting, binning and transporting the two separately, without earning the non-GM premium. Without the premium the extra segregation costs could not be justified.

<sup>1</sup> Monsanto, Licence & Stewardship Agreement (LSA) for Roundup Ready and Roundup Ready Triazine Tolerant canola seed. <http://www.monsantoglobal.com/global/au/products/Documents/2017%20Roundup%20Ready%20Canola%20LSA%20FINAL.pdf>

<sup>2</sup> Monsanto, Canola Licensing. <http://www.monsantoglobal.com/global/au/products/Pages/canola-licensing.aspx>

As Darren West MLC explained to the WA parliament, when his own load was down-graded at Avon he,

“was also informed that if a truck with two trailers arrives at a CBH receival site, with one trailer containing GM canola and the other trailer containing non-GM canola, both those trailers must be tipped into the GM pile.” And, “It was conceded that thousands, if not tens of thousands, of tonnes of non-GM canola from across the state are delivered into the GM pile. The grower concerned still gets paid the premium for non-GM canola. ... The loss to the industry, which will be spread across all the farmers, must run into hundreds of thousands of dollars.”<sup>3</sup>

Thus CBH fixes the system for GM growers through loss sharing and provides a secret subsidy to the GM industry.

\* Would any proposed compensation fund only be accessible to those farmers who exclusively grow conventional or organic crops or also to those who grow both crops? If so, please explain in what circumstances it would be accessible.

Certified organic growers are prohibited from growing GM crops so this circumstance could not arise for them. Only conventional non-GM growers would be affected.

A farmer growing both GM and non-GM canola may conceivably be compensated, like everyone else. But segregation and coexistence protocols are known to fail everywhere and often, with natural environments also contaminated.<sup>4</sup>

The WA Primary Industries Department’s voluntary Coexistence Guidelines<sup>5</sup> are often breached so should be mandatory and enforceable. For instance, DPIRD’s advice is:

“To assist in managing various systems that may be within close proximity, growers should discuss individual production system requirements with their neighbours. The proforma letter (see: [Coexistence letter](#)) can be used to help you initiate a discussion with your neighbours.”

Yet Michael Baxter ignored Steve Marsh’s warning letter, rejected his overtures when they met, and did not co-operate during mediation as Monsanto and the PGA had indemnified him. It was reported that,

“the WA Court of Appeal allowed Mr Marsh’s challenge to the costs order and ordered Mr Baxter to provide information about any arrangements between himself and Monsanto and the Pastoralists and Graziers Association to pay his trial costs. ... Monsanto managing director Daniel Kruithoff confirmed the biotech seed producer had helped fund the defence.”<sup>6</sup>

So, a farmer who grows a GM and non-GM crop together, concurrently, should expect that any claim they might make for compensation would be qualified, especially if the events and circumstances triggering compensation were within their capacity to reasonably foresee and mitigate.

Losses due to events further up the supply chain may be considered for farmer compensation.

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<sup>3</sup> Extract from *Hansard* [COUNCIL— Wednesday, 2 December 2015] p9268b-9269a Hon Darren West. CONTAMINATED NON-GENETICALLY MODIFIED CANOLA, *Statement*.

<sup>4</sup> Gilbert, N. (2010) GM crop escapes into the American wild - Transgenic canola found growing freely in North Dakota. <https://www.nature.com/news/2010/100806/full/news.2010.393.html>

<sup>5</sup> DPIRD. Coexistence of different production systems. <https://www.agric.wa.gov.au/genetic-modification/coexistence-different-production-systems>

<sup>6</sup> Monsanto: We backed GM farmer Michael Baxter’s legal fight. News Corp Australia, April 8, 2015. <https://www.perthnow.com.au/news/wa/monsanto-we-backed-gm-farmer-michael-baxters-legal-fight-ng-03b165e7c0e5a59c5fb96ce42d8f216b>

But compliance with DPIRD Guidelines, Monsanto's Roundup Ready canola Crop Management Plan (CMP) and a grower's own actions, inactions or inaction, may also be evaluated in a decision to disqualify or modify their claim.

As it now stands, CBH's stringent GM management and testing protocols throughout their management chains mean that all their grain grower members bear the cost of premiums foregone for non-GM down-grading to GM. This is not fair or reasonable but whether such losses are compensable should be open to further discussion.

4. A farmer who grows conventional canola and has neighbours who grow GM canola has submitted to the Committee that the incursion of GM canola onto his property has not resulted in any economic loss. He states the GM canola seed was eliminated along with weeds in the normal way when preparing for the next crop and that GM canola seedpods shatter, fall to the ground and are not recovered in the harvesting process. \* What is your feedback on this?

Your witness Terry Enwright confirmed that GM contamination is common on his land. But he claims to be able to manage the incursions and sustain no economic loss, so he does not seek any compensation for his time and management cost. His farm systems may be congenial to this approach but many others around the world have not been so lucky.<sup>7</sup>

However, Terry's claims also confirm our assertion that WA DPIRD's voluntary Coexistence Guidelines do not work, and also that Monsanto's Roundup Ready canola Crop Management Plan (CMP) serves corporate interests and does not protect non-GM growers.

Terry dismisses GM contamination as trivial now but his attitude encourages complacency despite future GM disasters becoming a greater possibility. Many more animals, plants and other GMOs, created using the new CRISPR GM techniques, are set to be let loose. Industry and establishment science envisage such organisms being used as biopesticides<sup>8</sup>, biocontrol agents<sup>9</sup>, medfly control<sup>10</sup>, crop plants, animals, tree farms, fish, etc. A GM Compensation fund would be a vital community asset then.

Agribusiness is already responsive to emerging threats to its interests. For instance, WAFarmers needs more proof<sup>11</sup> that GM wheat would not seriously threaten Australia's \$3-4 billion pa wheat export market and saw a trilateral industry statement as "an attempt by the biotech companies involved to get everybody in North America, Canada and Australia to grow GM wheat at the same time so that there could be no consumer backlash generated toward any particular company." Asian noodle makers<sup>12</sup> and other commodity importers say they will not use GM wheat and zero tolerance for any GM may apply.<sup>13</sup>

Monsanto stopped researching GM wheat in 2004<sup>14</sup> and, after buying a share in the WA wheat and barley research company Intergrain in 2010 and increasing its stake in 2013, sold its share back to the WA Government in 2016.<sup>15</sup> Commercial GM wheat is not grown anywhere in the

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<sup>7</sup> Monsanto vs. US Farmers - Center for Food Safety.

<https://www.centerforfoodsafety.org/files/cfsmonsantovsfarmerreport11305.pdf>

<sup>8</sup> Lundgren, J G and Duan, J J. *BioScience*, Volume 63, Issue 8, 1 August 2013, Pages 657–665, RNAi-Based Insecticidal Crops: Potential Effects on Nontarget Species. <https://doi.org/10.1525/bio.2013.63.8.8>

<sup>9</sup> Wilson, K. Could WA be the genetic testing ground for 'synthetic mice' to end mice? Sydney morning Herald, 24 February 2018. <https://www.smh.com.au/environment/conservation/could-wa-be-the-genetic-testing-ground-for-synthetic-mice-to-end-mice-20180221-h0wev9.html>

<sup>10</sup> Michelle Stanley, Joanna Prendergast ABC Rural Genetically modified fruit flies show promise in eradicating expensive Medfly 18 January 2017. <http://www.abc.net.au/news/rural/2017-01-18/gm-medfly-work-shows-promise/8191692>

<sup>11</sup> Heard G, and Hinkley B. WAFarmers reserves decision, 13 June, 2014.

<http://www.farmweekly.com.au/news/agriculture/agribusiness/general-news/wafarmers-reserves-decision/2701835.aspx?storypage=0>

<sup>12</sup> GMFAA, GM wheat: \$7.5 billion trade at risk. <http://www.gmfreesaustralia.org.au/news/gmwheat7.5billiontradeatrisk>

<sup>13</sup> No appetite for Australian GM wheat (2013)

<http://www.gmfreesaustralia.org.au/assets/script/ckfinder/userfiles/files/No%20Appetite%20GM%20Wheat%20Report.pdf>

<sup>14</sup> <http://www.fwi.co.uk/business/monsanto-stops-gm-wheat-efforts.htm>

<sup>15</sup> Schroeder, E. InterGrain undergoes change in ownership, September 12, 2016. <http://www.fwi.co.uk/business/monsanto-stops-gm-wheat-efforts.htm>

world.<sup>16</sup> Yet GM wheat field trials in Oregon that ended in 2001 have contaminated US wheat exports and disrupted wheat exports to Japan, South Korea, Thailand and other key markets.<sup>17 18</sup>

\* Are you aware of farming practices currently being followed in the agricultural industry which ensure successful segregation of GM and non-GM material that prevent economic loss from occurring?

No, and we assert that segregation and coexistence, even at the lower threshold of detection, are impractical and not implemented.

5. The Committee has received evidence from some submitters that a zero tolerance for organic standards is unreasonable and is driving confrontation over the mixture of GM and non-GM crops, pointing to maximum permitted levels of other substances in food. Also some submitters have stated they believe the issue of GM contamination in Australia has become a contentious issue due to the organic standards being too tight. \* What is your position on these statements?

The GM industry frames this debate as Organic vs GM farmers but it is nothing of the sort. The vast majority of conventional growers remain GM-free and are also at risk of GM contamination, pure economic loss and other harms.

The GM companies – Bayer/Monsanto; Chemchina/Syngenta; and Dow/Dupont (Corteva Agriscience) – will initially own 70% of the world's cultivated seed varieties (both conventional and GM) and 60% of chemicals initially, with BASF the other main player. Yet they cannot sell most of their industrial products to organic producers. They see the burgeoning organic sector as a threat to seed and chemical sales, and their profits.

So it is no surprise that CropLife, which represents these giants in 91 countries, led the naysayers against a Compensation Fund – GIWA; PGA; WAF; and Monsanto.

Individual family farmers who have experienced the GM threat, the GM-free Farmers and Network of Concerned Farmers deserve a similar hearing. They are all at risk and a GM Compensation Fund would serve their interests.

Organic standards worldwide mandate zero tolerance for GM and that is what their customers demand. To ensure global market access for organic produce, Australia's organic certifiers must comply with these standards.

Among his testimony before your committee, George Bradley who was Baxter's lawyer commented that the courts were resistant to granting relief in cases that could only show pure economic loss. But he also said that they were not impossible to win. The case he could not recall was Perre vs Apand which concerned a case of potato blight which resulted in the potato growers near the infected property also being quarantined and unable to send their crop to WA.<sup>19</sup>

\* How would you suggest the issue of divergent views on tolerance levels (i.e. zero vs 0.9%) is overcome and a consensus reached to enable a clear way forward on determining what constitutes reasonable economic loss due to GM contamination?

A consensus among the rank and file farming community may be possible around the following.

1. agree that coexistence and segregation often fail for all agricultural industries and their activities, such as GM contamination, spray drift, blown weed seeds, wandering animals, etc.

<sup>16</sup> Heinemann, J and Wickson, F. Why would Australia want to grow genetically modified wheat? The Conversation, October 21, 2011. <https://theconversation.com/why-would-australia-want-to-grow-genetically-modified-wheat-3755>

<sup>17</sup> Illegal GM wheat contamination in the US. <https://gfoats.com.au/illegal-gm-wheat-contamination-in-the-us/>

<sup>18</sup> <https://www.theguardian.com/environment/2013/may/29/oregon-genetically-modified-wheat-monsanto>

<sup>19</sup> Robin Shute, Phillips Fox, Economic Loss - The High Court's Position, Released November 1999. [http://www.tved.net.au/index.cfm?SimpleDisplay=PaperDisplay.cfm&PaperDisplay=http://www.tved.net.au/PublicPapers/November\\_1999\\_Lawyers\\_Education\\_Channel\\_Economic\\_Loss\\_The\\_High\\_Court\\_s\\_Position.html](http://www.tved.net.au/index.cfm?SimpleDisplay=PaperDisplay.cfm&PaperDisplay=http://www.tved.net.au/PublicPapers/November_1999_Lawyers_Education_Channel_Economic_Loss_The_High_Court_s_Position.html)

2. make DPIRD Coexistence Guidelines and Corporate Management Plans mandatory and enforceable, to encourage compliance.

3. reward those who minimize harm to other producers and supply chains and also meet market standards, by delivering the premiums available back to them.

4. establish a no-fault Farmer's Compensation Fund, with levies on inputs so that resources are available, when needed, to automatically compensate those suffering extra costs, losses or harm as a result of GM contamination occasioning provable economic loss or harm.

6. In its hearing the Department of Primary Industry and Regional Development stated it could not see any basis to treat GM canola any differently to any other legal crop and impose mandatory farming practices to manage GM and GM-free crop coexistence. \* What is your response?

We explained our approach above. The Department of Primary Industry and Regional Development has a long history of backing the introduction of GM crops which it seeks to justify by proposing no options, other than its own. Yet its earlier advice to government is in part responsible for the present state of affairs, where anyone harmed has no affordable recourse.

Coexistence and segregation are flawed concepts that operate poorly in the real world. But their performance and compliance could be improved if the present DPIRD suggestions were mandatory, monitored and enforced.

The Compensation Fund is a reasonable alternative to allowing the GM industry to write contracts that transfer its liabilities onto GM growers. When GM contamination occurs, it's either farmer vs farmer or the GM-free grower sustains the loss. This is unjust, so the seed patent owner should finance the Fund through a levy.

7. The Department also stated that a study conducted in 2002 found the highest amount of cross-pollination between adjacent canola crops was 0.07%, which is very much less than the low level tolerance of 0.9%. \* What is your feedback on this and what do you think this says about the potential for contamination of non-GM canola?

GM contamination of non-GM canola is inevitable and ubiquitous. The 0.9% threshold has been met only because WA's GM canola has been a maximum of 30% of production (or maybe just 20%, as so much non-GM is also dumped in the GM bin?). CBH also checks at several points in its supply chain which also helps keep its shipments below 0.9% GM, through dilution.

Low Level Presence (LLP) as set out in the International Statement<sup>20</sup> is a concept that the Washington-based Biotech Industry Organization (BIO) and CropLife created to facilitate the TransPacific Partnership trade deal. LLP does not address crop segregation or supply chain management, except as they relate to trade in bulk commodities and processed foods. Its 12 national signatories do not include most of our major overseas buyers in Europe and Asia.

DPIRD cherry picked old evidence. Pollen transfer is a minor source of GM contamination in commercial production systems, compared to other vectors. As the OGTR reports:

"Rieger et al. (2002) showed that random cross-pollination was recorded at low frequencies to distances of up to 3 km from the pollen source. On a field basis, the highest outcrossing frequency observed was of 0.07%, with no outcrossing observed in 36.5% of the fields studied (Rieger et al. 2002)."<sup>21</sup>

<sup>20</sup> Australian Department of Agriculture and Water Resources, International Statement on Low Level Presence. <http://www.agriculture.gov.au/ag-farm-food/biotechnology/international-statement-low-level-presence>

<sup>21</sup> OGTR, Biology of Brassica napus L. (canola) and Brassica juncea (L.) Czern&Coss. (Indian mustard) V 2.1, Feb 2017 p. 53. [http://www.ogtr.gov.au/internet/ogtr/publishing.nsf/Content/5DCF28AD2F3779C4CA257D4E001819B9/\\$File/Biology%20of%20Canola%20and%20Indian%20mustard%20February%202017.pdf](http://www.ogtr.gov.au/internet/ogtr/publishing.nsf/Content/5DCF28AD2F3779C4CA257D4E001819B9/$File/Biology%20of%20Canola%20and%20Indian%20mustard%20February%202017.pdf)

GM tolerance in seed for planting (0.5%) and harvested seed (0.9%) are arbitrary. But in seed production more realistic buffer zones are required as GM contamination is a key threat. Buffer zones of 100 and 200 meters, or trap crops that are discarded, are enforced to ensure seed purity below the threshold of detection. The OGTR also says,

“Isolation distances for *Brassica* spp. basic and certified seed production are of 200 m and 100 m, respectively (Seed Services Australia 2013). Because of their small size (30-40 µm wide), canola pollen grains can become air-borne and be transported by wind.”<sup>22</sup>

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<sup>22</sup> Ibid. p. 12

## Gene Ethics' supplementary comments

Q: Can you envisage there being possible factual scenarios which might have led to a different result in the Marsh v Baxter case?

Had the first judge known Monsanto and the PGA had indemnified Baxter for his costs, he may have taken a different view of the facts. After all, Appeal Judge McLure contested his judgment, concluded the Marshes should have been awarded compensation, and found NASAA was correct to decertify the Marsh's farm.

This also shows the failure of the common law and existing laws to redress the economic losses and extra costs that GM-free farmers may sustain when land or supply chains are GM contaminated.

Q: DPIRD Coexistence Guidelines to which we referred in evidence can be found at:

<https://www.agric.wa.gov.au/genetic-modification/coexistence-different-production-systems>

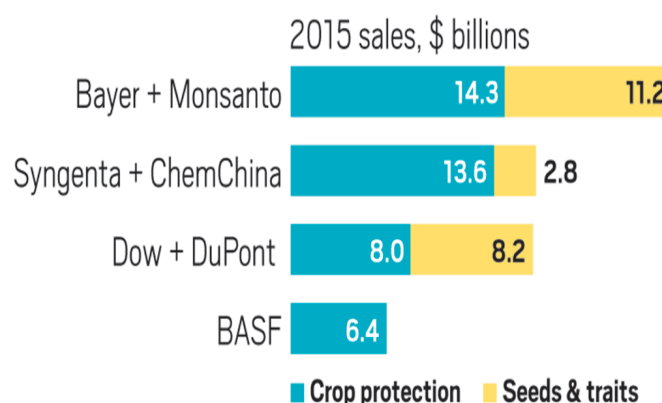
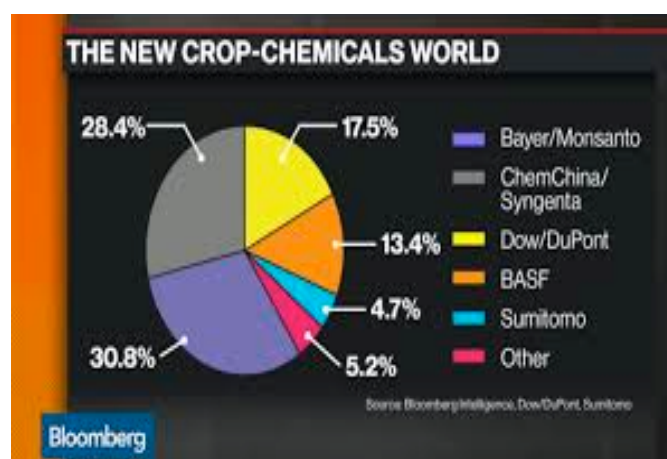
Q: Actions for unlicensed patent use in Australia may deter GM-free farmers from making compensation claims. What would be your recommendation on overcoming this?

We referenced the terms of Monsanto's Licence and Stewardship Agreement, attached, which reflect a corporate attitude that would tend to intimidate would be claimants. A no-fault Compensation Fund would be the best antidote to such deterrence as they would not have to deal with the seed patent owner at all.

Q: Organic Export Notice. The International Federation of Organic Agriculture Movements has a global position on the new GM techniques and their products which trump local positions.

[https://www.ifoam.bio/sites/default/files/position\\_paper\\_v01\\_web\\_0.pdf](https://www.ifoam.bio/sites/default/files/position_paper_v01_web_0.pdf)

Q: Would compensation stifle Australian innovation? After the mergers, Dow/DuPont; ChemChina/Syngenta and Bayer/Monsanto will own and control >70% of the world's commercial seed, including all GM varieties, plus 60% of agrichemicals. Their basic R&D is offshore, not in Australia. Public sector breeders and researchers are also unaffected. The global PR face is CropLife.



Q: You say that any WA GM-free canola that is even remotely suspected of being exposed to GM contamination is downgraded and discounted. Are you able to provide us with further details? Are



you able to provide us with further details of this practice as well as examples, including any differences in prices received by growers? Can any such canola then be subsequently sold as GM; and, if so, would there also be a price discount? I also propose to put that question on notice, given that there may be some detail.

We rely primarily on the evidence of Darren West MLC, recorded in Hansard, that we reference elsewhere. A copy is also attached FYI.

We suggest you quiz senior CBH executives and other grain handlers about their management practices and decision procedures about GM canola marketing. We are not privy to that information.

Q: One point of view is that non-GM canola obtains a premium and another is that the oil content is the biggest determinant of value not whether it is GM or non-GM. What is your feedback on that assertion?

The Farm Weekly publishes the prices for GM and non-GM canola every week. There has been a premium since 2006 and in most recent weeks the discounted price of GM canola generally runs from around \$35/tonne down to \$25/tonne, depending on the silo that receives it.

There is also a difference in price according to oil content but that appears to be unrelated to the non-GM premium. Again, consult the industry experts.

Access to the European market is extraordinarily valuable as CSIRO recently confirmed. <http://www.abc.net.au/news/rural/2017-12-18/australian-canola-approved-as-low-emission-fuel-for-europe/9269232>

A Wagga Wagga oil processor is building a GM-free canola oil industry, exporting to the USA and India. <http://www.abc.net.au/news/2018-03-17/meet-the-man-who-put-wagga-wagga-in-indias-kitchens/9557238>

## Comments on some other matters

### CBH Introductory Statement

Canola receival standards are typically based on trading standards set by the Grain Industry Association of WA (GIWA). **The current trading standard for the unintended low level presence of GM canola in non GM canola is <0.9%, as approved by the Office of the Gene Technology Regulator (OGTR).** This trading standard has been adopted by CBH as our receival standard.

This assertion requires fact-checking. We can find no OGTR reference to setting thresholds of LLP in commercial systems. Specifically, GM canola licences DIR021 (Bayer) and DIR020 (Monsanto) for unrestricted commercial dealings with GM canola make no reference to allowable thresholds of contamination.

### CropLife submission

Any scheme that purports to introduce a compensation fund for the unintended presence of an approved GMO on the owner of the intellectual property of that GMO (i.e. seed company or technology developer), or a user of the technology (i.e. farmer/grower) needs to be vigorously opposed by those committed to sound and scientifically based public policy and regulation. **Such schemes would serve only to stifle the future of Australian agricultural research, innovation and competitiveness.**

Croplife seeks here to avoid the responsibilities that it should accept, under the polluter pays principle. We suggest the Committee asks CropLife for evidence to substantiate its assertion as the GM companies conduct their basic research outside Australia. In cotton, Monsanto and Bayer IP is licensed to Australian R&D organisations which incorporate the genes into locally adapted varieties. There is no evidence that such work would be hindered if a GM Contamination Fund

were established.

Such mechanisms ignore the agronomic, economic and environmental benefits of GM crops and the rights of Western Australian farmers to choose what approved crops they want to grow on their own farms. It would impose **a costly mandate on farmers, technology providers and Western Australia's own publicly funded researchers, with no identifiable societal benefit.**

The Fund would be inexpensive to establish and operate, with a modest levy on GM seed sales. It is petty cash for Monsanto with profits of US\$2,260 million<sup>1</sup> and Bayer's distributable profits of Euro2,900 million, in 2017.<sup>2</sup>

CropLife claims GM canola directly benefited its licensed growers by \$16.37 million in 2015. Alone so the impact of a small levy on their profits would also be small.

Compensation schemes could expose **the entire supply chain to a broad liability for an event that may occur long after seeds have left their control.**

This claims the exact opposite of the real effect of a Farmer Protection Fund. The Fund would remove the burden of liability from supply chain managers by creating a no-fault system from which anyone bearing a loss or harm would be compensated.

### Media story on Terry Enwright's evidence

<https://thewest.com.au/business/agriculture/drifting-gm-canola-causes-no-problems-ng-b88787326z>

#### Drifting GM canola 'causes no problems'

*Jenne Brammer | The West Australian*  
Wednesday, 28 March 2018 10:28AM

Mt Barker farmer Terry Enright does not plant GM canola but is not opposed to it.

**A prominent WA grain farmer says his neighbours' genetically modified canola has regularly blown into his non-GM paddocks and germinated, but it has never caused problems nor had a financial impact.**

**Confirms that GM contamination events are common.**

Mt Barker farmer Terry Enright said he did not plant GM canola because, while not opposed to the technology, he believed he could profitably grow conventional or triazine-tolerant canola without the additional seed costs of GM canola.

Mr Enright, chairman of the Australian Export Grains Innovation Centre, was making a personal submission to the State parliamentary inquiry into possible compensation schemes for GM-contaminated farms.

The inquiry, by the standing committee on environment and public affairs, was sparked by a petition from Foodwatch WA, submitted by Upper House Greens member Diane Evers last year, attracting 98 public submissions as well as others which were kept private.

The inquiry comes two years after the high-profile case in which Kojonup organic farmer Steve Marsh unsuccessfully sued his neighbour Michael Baxter over GM canola contamination.

**Mr Enright said three of his four neighbours adopted GM canola and planted a number of paddocks adjoining his boundary. In 2010, he found big amounts of swathed GM canola had blown over the boundary fence from a neighbouring crop.**

**Confirms that wind can blow swathed GM canola over boundaries.**

<sup>1</sup> Monsanto, Financial Highlights. <https://monsanto.com/investors/reports/annual-reports/financial-highlights/>

<sup>2</sup> Bayer AG Financial Statements 2017. <https://www.bayer.com/en/financial-statements-bayer-ag-2017-en.pdf>

**“I was initially concerned as to the effect this might have on my ability to continue non-GM canola production,” he said.**

“However, it had absolutely no commercial or other effect on my farming systems and I continued to produce the non-GM canola for the next five years despite **subsequent wind events blowing GM canola on to my property.**

**Only possible because CBH operates the 0.9% threshold of allowable contamination.**

“The GM canola seed that arrived on to my property in December germinated the following autumn following the first rains, as does all other plants, and was eliminated along with weeds in the normal way when preparing for the next crop.”

**Presumes other management chemicals or practices are available, as Roundup would fail.**

The GM Free Farmers group said in its submission that it wanted a fund, paid into by GM seed merchants, to compensate non-GM landholders for contamination by GM seed or other GM material. The fund would have an independent administration with broad investigative powers.

**GM Free Farmers spokeswoman Ann-Marie Copeland** said this would entitle farmers to rapidly and efficiently recover any losses, extra costs or harm they suffered, without resorting to common law.

**Committee should call these farmers to give evidence.**

The Department of Primary Industries and Regional Development questioned whether it would be possible for the State to raise a levy independent of the Commonwealth to create a State-based compensation fund.

DPIRD plant product integrity manager John van Schagen said the Federal Government generally did not become involved in State matters and any compensation scheme funded through a levy would likely need to be national.