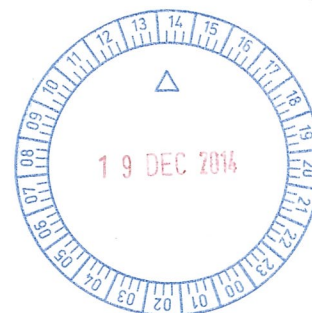




**Australian Government**  
**Department of Health**  
 Office of the Gene Technology Regulator



Hon Kate Doust MLC  
 Chair  
 Standing Committee on Uniform Legislation and Statutes Review  
 Legislative Council of Western Australia  
 Parliament House

To the Hon Kate Doust MLC

**Submission to the Inquiry into Gene Technology (Western Australia) Bill 2014**

Thank you for the invitation to provide a submission to the inquiry into the Gene Technology (Western Australia) Bill 2014 (the Bill) being undertaken by the Legislative Council's Standing Committee on Uniform Legislation and Statutes Review.

I am providing this submission in my capacity as the Gene Technology Regulator (the Regulator) and therefore from the perspective of the independent office holder charged with the national scheme for regulating gene technology. The nationally consistent scheme was established under the intergovernmental Gene Technology Agreement (the IGA), and to ensure full constitutional coverage is comprised of the Commonwealth and State and Territory gene technology laws.

The object of the scheme, as set out in the *Gene Technology Act 2000* (C/w) and the IGA, is to protect the health and safety of people, and to protect the environment, by identifying risks posed by or as a result of gene technology, and by managing those risks through regulating certain dealings with genetically modified organisms (GMOs). My role as Regulator, supported by the Office of the Gene Technology Regulator, involves the risk assessment, management and monitoring of dealings involving gene technology to ensure compliance with the legislation<sup>1</sup>. I and my staff are also responsible for certification of physical containment facilities, accreditation of organisations and maintaining a public record of approved dealings with GMOs.

I note that the Bill would replace the current *Gene Technology Act 2006* (WA) (WA Act) and adopt the provisions of the Commonwealth *Gene Technology Act 2000* and Gene Technology Regulations 2001, including any future amendments, as laws of Western Australia and provides for the Regulator to have the same powers and functions as under the Commonwealth Act. Such a 'lock-step' approach would ensure that the regulatory requirements of the Commonwealth and West Australian legislation were always consistent.

The Commonwealth legislation is reviewed regularly to ensure it keeps pace with advances in technology and the latest scientific understandings of risk. A 'lock-step' approach avoids any periods of inconsistency before amendments to the Commonwealth legislation are incorporated into State

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<sup>1</sup> See [www.ogtr.gov.au](http://www.ogtr.gov.au)

legislation. Inconsistency between Commonwealth and State/Territory legislation could mean that organisations doing similar work with GMOs within a given jurisdiction would be subject to different regulatory requirements depending on which legislation applied to them. Inconsistency could result in confusion and uncertainty for regulated organisations as to which provisions apply, create potential compliance issues for organisations and the Regulator, and potentially undermine risk management.

The Gene Technology Acts of New South Wales, the Northern Territory and Tasmania automatically adopt changes to the Commonwealth legislation by reference, thereby avoiding potential periods of inconsistency. The 'lock step' approach has been raised in several recent reviews. The 2011 independent review of the Commonwealth Act<sup>2</sup> recommended adoption of a 'lock step' approach by States and Territories but the 2013 All of Governments' Response noted that this was a matter for individual jurisdictions to decide<sup>3</sup>. The 2012 independent review of the WA Act<sup>4</sup> also recommended adoption of a lock step approach, as did the 2013 independent review of the Queensland *Gene Technology Act 2001* (Qld). In its 2014 response, the Queensland government indicated that it proposes to adopt the lock step approach<sup>5</sup>.

It is not within my remit to comment on the question of whether the Bill may have an impact upon the sovereignty and law making powers of the Parliament of Western Australia. However I note that the Bill provides for tabling in Western Australia Parliament of amendments to the Commonwealth legislation and that the Tasmanian legislation includes a similar provision. In this context, it may also be noted that under the IGA proposed amendments to Commonwealth legislation require agreement from a majority of jurisdictions.

In closing, from my perspective of administering the national gene technology regulatory scheme it is my view that adoption of the lock step approach proposed in the Bill would provide for consistency of regulatory requirements and clarity for regulated stakeholders. Should the committee require any further information about the administration of the gene technology regulatory scheme I and my office would be happy to provide it.

Yours sincerely



Dr Robyn Cleland  
Acting Gene Technology Regulator

19 December 2014

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<sup>2</sup> 2011 Review of the *Gene Technology Act 2000*

<http://www.health.gov.au/internet/main/publishing.nsf/Content/gene-techact-review>

<sup>3</sup> Australian Government and state and territory governments' response to the recommendations of the 2011 Review of the *Gene Technology Act 2000*

<http://www.health.gov.au/internet/main/publishing.nsf/Content/gene-techact-review>

<sup>4</sup> 2012 Report of the Review of the *Gene Technology Act 2006*

[http://www.parliament.wa.gov.au/publications/tables/papers.nsf/displaypaper/3814984a0957e19ec8c5236648257a53002ac8b3/\\$file/4984.pdf](http://www.parliament.wa.gov.au/publications/tables/papers.nsf/displaypaper/3814984a0957e19ec8c5236648257a53002ac8b3/$file/4984.pdf)

<sup>5</sup> Queensland Government response to the recommendations of the Review of the *Gene Technology Act 2001* (Queensland) April 2014, <https://publications.qld.gov.au/dataset/gene-tech-act-review>