



**Hon Alannah MacTiernan MLC
Minister for Regional Development; Agriculture and Food;
Minister Assisting the Minister for State Development,
Jobs and Trade**

6 February 2018

Our ref: 64-03797
Your ref: Petition No. 10

Hon Matthew Swinbourn MLC
Chair
Standing Committee on Environmental and Public Affairs
Legislative Council Committee Office
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Mr Swinbourn

PETITION NO 10 - COMPENSATION FOR GENETICALLY MODIFIED (GM) FREE FARMERS

Thank you for your letter dated 17 August 2017 regarding a petition requesting information on containment of genetically modified (GM) crops and the idea of a compensation fund for growers who have incurred economic loss resulting from accidental presence of GM material.

I support the Committee investigating whether there needs to be a mechanism to protect non-GM farmers from contamination. In particular, there needs to be an examination of whether current laws of tort are adequate or whether strict liability for cross contamination should apply as it does in European Union Member States such as Austria, Denmark and France.

There are two Australian standards for organic production systems and these do not clearly define the tolerance level for unintended presence of GMOs. The Commonwealth Department of Agriculture and Water Resources (DAWR) has advised that as the standards are guidelines DAWR has the power to negotiate market access conditions between Australia and its international trading partners for organic produce.

CBH Group has an effective segregation and identity preservation system to handle grain and deliver the grain to meet customer specifications. Since the adoption of GM canola in WA no shipments of grain have been rejected due to the unintended presence of GM canola in non-GM canola shipments and the GM sensitive European Union continues to be the major export destination for WA canola. The AOF advised that since the introduction of GM Canola in Australia the industry has not lost any markets for the canola.

The submission from Ms Janet Grogan, principal petitioner, refers to a media article which states "...GM wheat will soon be introduced to WA by a farmer in Morowa." The Department has informed me that, to the best of its knowledge, no applications to commercially grow GM Wheat varieties in WA have been received by the Office of the Gene Technology Regulator, nor have any commercial licences been issued to this effect, to date.

The 2005-06 independent Statutory Review of the Commonwealth's *Gene Technology Act 2000* considered the need for strict liability rules for potential economic damage from mixing GM and non-GM crops. The review concluded that the current law allows for effective remedies for persons incurring damage from GM crops.

However, in WA's only case in 2014, *Marsh v Baxter*, the court found against the non-GM farmer so it may be useful to review the adequacy of existing laws. The judge assessed that it had not been shown that there had been any unreasonable interference by Mr Baxter in the Marshes' use and enjoyment of Eagle Rest. In relation to common law negligence, the judge considered that the "*presenting circumstances was without precedent. In prior cases courts had adopted a cautious attitude when allowing claims for pure economic loss. No basis in principle was shown to extend the law to these events. Furthermore, Mr Baxter had not been shown to have acted negligently, either by growing or then by swathing the lawfully grown GM canola crop in 2010.*" I've attached a summary of the judgement for this case to this letter.

I hope this information is helpful.

Yours sincerely

A handwritten signature in black ink that reads "Alannah MacTiernan". The signature is written in a cursive style with a large, stylized initial 'A'.

**HON ALANNAH MACTIERNAN MLC
MINISTER FOR REGIONAL DEVELOPMENT; AGRICULTURE AND FOOD;
MINISTER ASSISTING THE MINISTER FOR STATE DEVELOPMENT,
JOBS AND TRADE**