



**Hon Ken Baston MLC
Minister for Agriculture and Food; Fisheries**

Ref: 47-06944



Hon Simon O'Brien MLC
Chair
Standing Committee on Environment and Public Affairs
Parliament House
PERTH WA 6000

Dear Mr O'Brien

PETITION NO 69 – GENETICALLY MODIFIED CROPS FREE AREAS ACT 2003

I refer to your letter of 18 February 2015 regarding the receipt of a petition and submissions on the *Genetically Modified Crops Free Areas Act 2003* (GMCFAA).

A response to the issues raised is included below.

1. Retain the GMCFAA

Australia has a rigorous regulatory system for genetically modified (GM) organisms. The Commonwealth Gene Technology Act 2000 (the Commonwealth Act) was enacted to protect the health and safety of people and the environment, by identifying and managing any risks posed by or as a result of gene technology through regulating dealings with GM organisms.

The Commonwealth Act established the Office of the Gene Technology Regulator (OGTR). Before a GM crop can be released (or trialled) a licence must be obtained from the OGTR. This requires an extensive assessment and consultation process, including contacting authorised agencies and the public for comment. A licence for a field trial will take approximately 90 working days to be assessed. A licence for release of a GM crop can take up to 255 working days. Further information about the consultation process, including copies of issued licences and risk management plans are available on the OGTR website (www.ogtr.gov.au)

Although States and Territories have committed to a consistent national approach regarding GM licensing and assessment, the States and Territories can make laws relating to GM organisms for marketing purposes. The GMCFAA is WA legislation based on marketing grounds.

The GMCFAA was introduced as it was felt the State's markets and good reputation could be damaged if the introduction of GM crops was allowed before adequate segregation and identity preservation systems were in place.

The GMCFAA allows the designation of areas of the state where cultivation of GM crops is not permitted. In accordance with section 4 of the GMCFAA, in May 2004 the whole of Western Australia (WA) was designated as an area in which GM crops must not be cultivated (GMCFAA Order).

Two exemptions to this general prohibition have been granted. In 2009, commercial plantings of GM cotton were allowed in the Ord River Irrigation Area, and in 2010, commercial plantings of GM canola were permitted throughout WA.

Since GM canola was permitted in 2010 it has grown to approx. 20% of total canola plantings, demonstrating the demand for this technology.

Industry has demonstrated its ability to effectively manage the segregation of GM and non GM crops in the supply chain. This is demonstrated by the fact that Europe (a non-GM importer) has remained WA's largest export market for canola, despite the 2010 exemption allowing the production of GM canola.

Repeal of the GMCFAA will not affect the licensing process for GM crops, or the national regulatory system established under the Commonwealth Act. The assessment process to ensure the safety of the material will be unchanged. Repeal of the GMCFAA will mean that once a crop has been approved as safe by the Regulator, there is no additional legislative impediment for WA growers.

Regarding food labelling (as raised in some of the submissions), all GM foods intended for sale in Australia and New Zealand must undergo a safety evaluation by Food Standards Australia New Zealand (FSANZ), which is part of the Australian Government Health portfolio.

FSANZ safety assessments are carried out on a case-by-case basis, with each new genetic modification being assessed individually for its potential impact on the safety of the food. The responsibility for food labelling (once food has been assessed as safe) also rests with FSANZ. The purpose of labelling is to help consumers make an informed choice about the food they buy.

A summary of the labelling requirements is included below:

- GM foods, ingredients, additives, or processing aids that contain novel DNA or protein must be labelled with the words 'genetically modified'.
- Novel DNA or protein is defined in the Food Standards Code as DNA or a protein which, as a result of the use of gene technology, is different in chemical sequence or structure from DNA or protein present in food which has not been produced using gene technology.
- Labelling is required when genetic modification results in an altered characteristic in a food, e.g. soy beans with changed nutritional characteristics such as an increase in their oleic acid content.

- 'GM free' and 'non-GM' claims are made voluntarily by food manufacturers and are subject to relevant fair trading laws
- GM foods that do not contain any novel DNA or protein or altered characteristics do not require labelling. The composition and characteristics of these foods is exactly the same as the non-GM food. These are typically highly refined foods, such as sugars and oils, where processing has removed DNA and protein from the food. (Canola oil made from GM canola falls into this category and thus does not require labelling.)
- Flavours containing no more than 0.1% novel DNA or protein do not require labelling
- When there is no more than 1% (per ingredient) of an approved GM food unintentionally present as an ingredient or processing aid in a non-GM food labelling is not required.
- Food prepared and sold from restaurants, takeaway food outlets, caterers is exempt from GM food labelling requirements. The food business must supply consumers with information about the product which is not misleading or untruthful.
- The WA Department of Health has a role in investigating complaints of non compliance with the FSANZ requirements, but in practice these are referred to local councils for investigation. The WA Department of Health has no role in labelling requirements and queries on this matter should be directed to FSANZ.

The submissions also make a number of claims as fact that are contradicted by various sources regarding the safety, benefits and international position on GM technology. Recent statistics on the global status of commercialised biotech crops can be found at:

<http://www.isaaa.org/resources/publications/briefs/49/executivesummary/default.asp>

Australian also research confirms that GM cotton and GM grain growers have seen economic benefits, while the Australian environment has benefited from a major reduction in pesticide use.

Australia's cotton industry is worth more than \$1 billion annually, and there are around 1500 cotton growing families in NSW and Qld. After 16 years of growing GM cotton, GM varieties represent almost 100% of cotton produced in Australia (http://www.abca.com.au/wp-content/uploads/2012/09/ABCA_Resource_Guide_3_v2.pdf). GM cotton has a sound track record of safe and successful use in Australia, with no adverse incidents recorded of growing these varieties, while environmental benefits are clearly evident. In the past decade, Australian cotton producers have reduced their insecticide use by about 80% with some crops not sprayed for insects at all (<http://cottonaustralia.com.au/cotton-library/fact-sheets/cotton-fact-file-biotechnology>).

2. An independent review of the GMCFAA

Section 19 of the GMCFAA required a review of the GMCFAA five years after commencement. This review was conducted in 2009 (before the exemption allowing GM canola). The review recommended another review be carried out in a further 5 years, however this is not a statutory requirement.

The Department of Agriculture and Food WA has consulted with key industry and marketing representatives as to their views on the repeal of the GMCFAA from a commercial marketing perspective.

The key themes from the consultation were:

1. Market choice is the determinant of commerciality and marketability.

Price signals specific to each grain type and market will determine in any one year the respective premiums and discounts for GM and non-GM grain. Whilst a number of markets allow GM grains to be imported, other markets have restrictions which will need to be considered by industry when providing pricing and segregations.

There needs to be a level of comfort amongst non-GM crop growers that they can maintain their markets for non-GM crops, noting that this appears achievable, and canola is a good test case for this.

2. Necessity of segregation through the supply chain

The growth of GM canola has proven that industry can manage the segregation of GM crops from non-GM crops. Europe (a non-GM importer) has remained WA's largest export market for canola despite the 2010 exemption order permitting commercial cultivation of GM canola within WA.

Industry can manage the supply chain for GM crops through industry codes of practice/standards/declarations.

3. Technology

Co-existence of new technology and existing technology should be inclusive in terms of recognising all farming systems, including GM. Repeal of the GMCFAA gives choice to those looking at new technologies.

3. Support GM free farming

All farming choices are supported.

The Department of Agriculture and Food WA spends over \$10 million per annum on non-GM related activities. Much of this work is directly relevant to organic and biodynamic growers. For example, work focused on the management of weeds and diseases and installation and operation of weather stations are highly relevant to organic and biodynamic growers.

Market choice is important, and all growers should have the right to choose a production system that works for their personal and business values, whether that is GM or non GM.

4. Introduce Farmer Protection Legislation

It appears this is referring to the introduction of a strict liability scheme, which was considered by the independent statutory review of the *Gene Technology Act 2000*.

In summary, the review found that a strict liability system would not remove the need for court action, as the plaintiff would still need to prove a causal link between the GMO and the damage incurred, as well as the extent of their loss in order to receive damages.

The review also considered that in other jurisdictions strict liability schemes relate to superhazardous goods, and it is contradictory to treat a product found to be safe by the federal Regulator as superhazardous.

The review also noted that applying a strict liability scheme to the licensee of the technology could remove the incentive for growers to take steps to avoid the unintended presence of GM in a neighbour's field. This would not be a reasonable solution.

The review therefore determined that a strict liability regime should not be introduced. A full copy of the review is available online at: [http://www.health.gov.au/internet/main/publishing.nsf/Content/gene-gtmc.htm/\\$FILE/Stat_Review_GeneTechAct_01.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/gene-gtmc.htm/$FILE/Stat_Review_GeneTechAct_01.pdf)

In summary, I am confident that the industry can effectively manage segregation as demonstrated by the last 5 years of commercial GM canola production and there is no need to restrict production areas by legislation.

Yours sincerely



KEN BASTON MLC
MINISTER FOR AGRICULTURE AND FOOD

17 MAR 2015