

December 19, 2014

The Uniform Legislation and Statutes Review Committee WA
Minister Baston

Dear Sir/Ms:

Thanks for the opportunity to comment on the Gene Technology (Western Australia) Bill 2014. The Bill purports to bring the state's law into lockstep with the Gene Technology Act 2000 (Commonwealth) so that state law would automatically be amended whenever the Commonwealth Act was changed.

The laws of the Commonwealth and all states and territories, combined, provide for the administration of the national regulatory system for notification, assessment, licensing and monitoring of all dealings with genetic manipulation (GM) techniques and their products.

We have many problems and disputes with the Regulator over the assessment processes used and licences issued. However, we will not argue our case for detailed changes here.

What we seek to ensure through the new WA Act is that the state (with other states and territories) plays an enhanced role in the Legislative and Governance Forum on Gene Technology (the Forum). All state parties should commit to improve their engagement through the Forum, with regular meetings to ensure the national regulatory system functions optimally and is more responsive to the public.

The proposed Bill should facilitate the Forum's decisions, with full respect for the rights and responsibilities of all parties to play their assigned roles. In particular, nothing should diminish the rights of States and Territories to regulate GMOs for marketing purposes, by establishing GM and GM-free Zones. This power is mandated under the statutory Gene Technology (Recognition of Designated Areas) Principle 2003, derived from Section 21 of the Commonwealth Act and this should not change.

The Bill must not create any opportunity for the uniformity of the State and Commonwealth Acts to necessitate a uniformity of action among the jurisdictions. For instance, there has been much pressure on South Australia and Tasmania to forego their GM-free Zones because others have permitted GM canola to be grown. But we recall that it was the Victorian and NSW governments in 2008, then WA in 2010, which unilaterally broke the GM-free consensus. The GM-free consensus had prevailed for five years from 2003, when GM herbicide tolerant canola licences were granted to Monsanto and Bayer, until 2008 when Roundup Ready canola was exempt from the state commercial crop GM bans in NSW and

Victoria, SA, the ACT, NT and Tasmania must retain the right to remain GM-free.

Another concern is that the new Act not weaken or diminish the powers and responsibilities conferred by the Western Australian GM Crops Free Areas Act (2003) which is a valuable adjunct to existing legislation. It has served the state well and its retention was recommended by the 2009 review.

We also urge the WA state government to be the first to enact Farmer Protection Laws, to create a fund from levies on the sale of GM seed. The fund so created would be used to automatically compensate any landholders who may suffer economic loss or harm from GM contamination. It is important that the GM industry pays its way and protects the majority of farmers who remain GM-free and earn a premium for their GM-free canola. The state must ensure there is nothing in the proposed Gene Technology (Western Australia) Act that would prevent it from passing a Farmer Protection Act.

Through the Forum, the states should be empowered to monitor and critique the level of public satisfaction with the performance of the Federal Regulatory system, and to propose amendments.

Please accept and favourably consider our comments.

Yours sincerely,

A handwritten signature in black ink that reads "Bob Phelps". The signature is written in a cursive style with a long horizontal stroke extending to the right from the end of the name.

Executive Director