



The Hon Katrina Hodgkinson MP

Minister for Primary Industries
Minister for Small Business

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25 JAN 2013

Mr Matthew Crossey
Chief Executive Officer
CropLife Australia Limited
Locked Bag 916
CANBERRA ACT 2601

Dear Mr Crossey

Thank you for your letter of 21 November 2012 concerning the *Gene Technology (GM Crop Moratorium) Amendment (Farmer Protection) Bill 2011*.

The Private Member's Bill was introduced in the Legislative Council on 24 November 2011 by The Hon Jeremy Buckingham MLC. The Bill has not yet been debated in either house.

In NSW the *Gene Technology (Crop Moratorium) Act 2003* permits genetically modified (GM) cotton or canola to be grown in research trials, or commercially, provided these activities are appropriately licensed by the Commonwealth.

As you know, the Commonwealth's Office of the Gene Technology Regulator (OGTR) undertakes a comprehensive risk assessment for each licence application, including risks to neighbouring properties. The OGTR prepares a Risk Assessment and Risk Management Plan (RARMP) for each application which addresses such risks if identified. The OGTR's determination may impose conditions on licence holders to ensure adequate management of identified risks.

The NSW Government supports the current process for managing licence applications and the commercial use of approved varieties of GM crops, and there have been no reported cases of GM contamination in NSW.

The Department of Primary Industries does not support the proposal for an offence of strict liability as contained in the Private Member's Bill as the remedies available in the existing legislation for adventitious release of GM organisations are considered to be adequate without being excessively onerous on GM farmers.

The issue of liability for GM contamination and loss of revenue and/or market access was considered in detail as part of the Commonwealth's review of the *Gene Technology Act 2000* in 2006. The Commonwealth review concluded that a special strict liability regime for compensation of farmers if their crops are contaminated by GM food crops should not be introduced. The Commonwealth found that the liability risks associated with GM crops

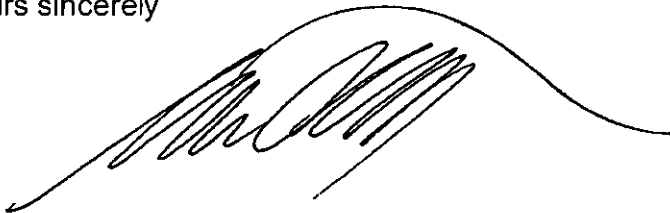
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could be resolved through recourse to existing statute and common law rights. This is the case where any other activities of a farmer affect a neighbour. It is appropriate that NSW comply with the Commonwealth's position.

In the event that a non-GM crop is contaminated by a GM crop, both non-GM and GM farmers have common law remedies at their disposal, including trespass, negligence, nuisance and breach of contract.

I have asked that Dr Philip Wright, Chief Scientific Officer, be available to discuss this matter further with you. Dr Wright may be contacted on 02 6391 3165.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Katrina Hodgkinson', with a long, sweeping horizontal line extending to the right.

Katrina Hodgkinson MP
Minister for Primary Industries