

**STANDING COMMITTEE ON
ENVIRONMENT AND PUBLIC AFFAIRS**

**INQUIRY INTO MECHANISMS FOR ECONOMIC LOSS TO FARMERS IN
WESTERN AUSTRALIA CAUSED BY CONTAMINATION BY
GENETICALLY MODIFIED MATERIAL**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
TUESDAY, 24 APRIL 2018**

SESSION TWO

Members

**Hon Matthew Swinbourn (Chair)
Hon Colin Holt (Deputy Chair)
Hon Tim Clifford
Hon Samantha Rowe
Hon Dr Steve Thomas**

Hearing commenced at 10.35 am**Ms ANNE JONES****Manager, Gledhow Organics, sworn and examined:**

The CHAIRMAN: On behalf of the committee, I would like to welcome you to today's meeting. Before we begin, I must ask you to take either the oath or the affirmation.

[Witness took the affirmation.]

The CHAIRMAN: Have you signed a document entitled "Information for Witnesses", and have you read and understood that document?

Ms JONES: Yes.

The CHAIRMAN: These proceedings are being recorded by Hansard and broadcast on the internet. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record. Please be aware of your voice over the phone and try not to make any unnecessary noises so that it remains clear to hear you. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Would you like to make an opening statement to the committee?

Ms JONES: No; I am happy to continue into the questions as I am happy to answer whatever you would like me to answer.

The CHAIRMAN: Thank you. We did provide you with some questions in advance, so we will work our way through that. There may be some additional questions that we put to you and there may be questions that arise from any new lines of inquiry that come up. We will just proceed with that. Just for your information, presently with me is Hon Samantha Rowe and Hon Tim Clifford. Hon Colin Holt will be joining us about halfway through. We also have Alex Hickman, our advisory officer. You may get questions from any of the members of the committee, so if you are struggling with hearing anything or get a bit confused, just let us know and we will try to make sure we are as clear as we can be. Can you give us an overview of your business operations, including your organic certification by NASAA?

Ms JONES: Yes, we have a small family farm. It is 4.5 hectares and seven kilometres out of Albany. We grow summertime vegetables and vine fruit only. In the wintertime we grow green manure crops. We have been certified with NASAA for five years and we produce vegetables that go to the local markets and we also deliver into Perth.

[10.40 am]

The CHAIRMAN: Can you give us an overview of your supply chains for your organic produce, including where it is transported to and those who purchase your product?

Ms JONES: Yes, we deliver directly to shops in Albany; there are two shops that we supply into. Most of the produce, I would say 90 per cent, goes to Perth. We ship via Southern Regional Transport into

their Welshpool depot, and into Canning Vale Markets where we have dedicated arrangements with people at the markets for our customers to pick up from. We deal directly with retail outlets. We like to do it that way so that we get feedback from customers. We have two customers that we deliver to on a regular basis and about half a dozen other customers that we sell to on an ad hoc basis depending on what is available.

The CHAIRMAN: In relation to GM contamination, has your business ever experienced any GM contamination?

Ms JONES: We have never experienced it. We are quite lucky where we are—our farm is quite isolated. There are not any commercial properties around us, so the risk is quite low, and because we are horticulture, the risks at the moment are quite low.

The CHAIRMAN: Could you describe to us how GM material could potentially threaten your organic status?

Ms JONES: It is likely to come in through inputs. We bring seed into the property. Probably 50 per cent of our vegetable seeds comes in, and we get as much as we can through certified organic seed suppliers as part of our organic certification. That is a recommendation as part of our certification. But where we cannot access seeds, it is quite difficult. If there is not a great variety of seed available, then we gain permission from NASAA to get conventional seeds. For vegetable seeds at the moment, I think until GM technology branches more into fruit and vegetables, there is probably not a very high risk in the short term that we might get GM contamination, but there is currently a risk from the green manuring process that we have during the wintertime. If we cannot get pasture seeds—it is very difficult to get certified organic pasture seeds—we regularly get conventional seeds, with permission by NASAA. That is probably the highest likelihood of risk—where GM could contaminate the seeds.

The CHAIRMAN: Do you engage in any testing of that green manuring that you are referring to? Is that tested for GM material?

Ms JONES: To be honest, we had not really thought about the risk until we actually sat down and considered our proposal. We have not done testing in the past. We sort of understand the process a lot better. I think it is probably something that we are going to have to consider in the future or be a whole lot more stringent about where the feed comes from in future.

The CHAIRMAN: Do the clients that you sell to test for GM contamination?

Ms JONES: Not that I am aware of.

The CHAIRMAN: Are you aware of any non-GM farmers having experienced GM contamination?

Ms JONES: No, the Baxter v Marsh case is the only one that I am familiar with, not personally, but through the media.

The CHAIRMAN: Do you obtain a premium for your organic products?

Ms JONES: Yes, we definitely do. The premium would range between 10 per cent and 300 per cent.

The CHAIRMAN: How do you objectively measure that? Is that just against the market values of non-organic produce that you are testing?

Ms JONES: Yes, that is correct. The pricing of everything that goes through the Canning Vale Markets is available from the Canning Vale Markets website. We will look at that occasionally, just to get a bit of an idea of how much the difference is. We also have to price our products based on the supply and demand within the organic industry, and that is why there is such a great variation.

The CHAIRMAN: Would you put this premium solely down to your organic status?

Ms JONES: Definitely, yes.

The CHAIRMAN: There are no other particulars about the way you do your business that could justify the differences in prices?

Ms JONES: No. We deal directly with shops that specialise in selling certified organic produce. We have to provide our certification to these people so that they know that what we are saying is certified is actually certified. On our certification it lists what we are allowed to grow under the auditing system. All of the species we grow are listed on our certification. We would not have access to those markets if we did not have certification.

The CHAIRMAN: Do your customers demand zero GM contamination?

Ms JONES: They demand that we are certified, and they would understand that zero tolerance on GM material being GM contamination, so I can only assume that that is part of their thinking.

The CHAIRMAN: Does your certification require you to have zero GM contamination? Is that one of the conditions of your certification?

Ms JONES: It is. There is a statement in the guidelines which says that we would lose our certification if there was any GM material found on our property.

The CHAIRMAN: Can you provide us with any examples of a loss of market access for you that may be caused by GM contamination?

Ms JONES: We get audited. We actually have inspectors come onto our property every two years, and every alternate year we do a self-audit, and on both occasions, whether it is in front of the inspector or whether we actually have to send it in to the certifying body, we provide them with evidence of our production systems. We have to show what inputs we have put in, where we harvest, how much we harvest—records of that nature—and where it goes to. They need to be able to see the whole supply chain: how it is transported, where the customers are, how we invoice, how we manage our stock on hand, how we handle things as they come off out of the paddock, and transportation. The whole supply chain is audited. So, at any stage of that process, if there was some GM contamination—the whole process is set up to minimise that happening. We are not allowed to, for example, put our produce on the same pallet as a conventional farmer's produce, even if it is going to the same place. It is all about maintaining the integrity of the product so that the customers can be assured that what they are paying for is exactly what they get. In terms of contamination, if there was GM material entered into the system anywhere along the supply chain, then we would not be able to sell that product.

[10.50 am]

The CHAIRMAN: The committee has received submissions that a zero tolerance for organic standards is unreasonable and is driving confrontation over the mixture of GM and non-GM crops, pointing to maximum permitted levels of other substances in food. Also, some submitters have stated they believe the issue of GM contamination in Australia has become a contentious issue due to the organic standards being too tight. Do you consider zero tolerance for GM contamination reasonable; and, if so, why?

Ms JONES: I think it is reasonable. In my opinion, it comes down to the precautionary principle. I do not personally believe that there have been enough studies into the environmental and health impacts of GM food to allow it into our system, and a lot of people that I know feel the same way. When you look at what products are available even in Coles and Woolworths, you see there are branded GM-free products and I think that suggests to me that there are consumers who are looking

for that kind of thing. I do not think they would bother with that kind of branding if consumers were not asking for it. Is it reasonable? I think it is reasonable. Is that enough?

The CHAIRMAN: Yes, that is fine. On page 2 of your submission you state that Marsh and Baxter demonstrates that the spread of genetically modified canola seed had an adverse effect on Marsh's agricultural activities. The committee has received evidence from some submitters that the common law is adequate or that a single case is not sufficient to draw a conclusion that the common law remedies are inadequate to compensate GM farmers. Can you envisage there being possible factual scenarios where it might have led to a different result to the one in Marsh and Baxter?

Ms JONES: I probably do not know enough about what actually happened in the lead-up to that to comment on that, I do not think. I guess my position would be the aftermath of it in the media about the costs that Steve Marsh had to put up at the end, the breakdown of relationships within the community and the contentiousness and tensions that it caused within the community, I think it is unnecessary. I think we do need to have mechanisms in place to make sure that that does not happen again. It should not be up to these people to try and regain something that has been lost. If we had mechanisms in place where it was very clear who is responsible for what and what processes need to be in place for controlling and clean-up and even compensation, then it just takes away all that tension and confusion within the community.

The CHAIRMAN: Some submitters have asked that if a compensation scheme was introduced for GM contamination, that there should also be compensation for other sources of contamination such as weeds or weed intrusion, which they claim is a particular problem from organic farms having poor weed control. Do you have a position on this?

Ms JONES: Can I ask what they mean by a weed?

The CHAIRMAN: I suspect a weed would be a plant that they do not want to grow in a particular spot, but as to what they specifically mean, I think we just take the general view that a weed is any unwanted plant.

Ms JONES: A plant growing in the wrong place?

The CHAIRMAN: Essentially, yes.

Ms JONES: It is a difficult one because a plant that might be a weed in a cropping scenario to a particular farmer who has got his wheat crop in, for example, would not be a weed when he goes through his rotations, if he has got livestock and he ends up back in pasture. So, there is that element of it that a weed might only be a weed for a moment of time. Administering weed intrusion is difficult in terms of what is a weed at a particular point in time?

The CHAIRMAN: Ms Jones, I think really what these submitters are getting at is to say that essentially GM contamination is no different to other forms of contamination that might occur from, for example, weed intrusion or chemical over-sprays and that there is no justification for treating it any differently to those kind of intrusions into neighbouring properties. I suppose the question here is: is there a sufficient difference between GM and other forms of intrusions into neighbouring properties?

Ms JONES: Okay. I would say that if the weed causes the same kind of concern as GM technologies are, then they should be treated the same way. I think we can argue that that would be a fair and reasonable approach. The difficulty would be in, firstly, saying where the fault is, because weed seeds can stay in the soil for a decade. Saying that a weed comes from your neighbour's place is quite difficult to prove, and I think what we are talking about in this inquiry is setting up rules around what can be proved and what can be controlled and how to manage that. I think it would be quite

difficult to do for weeds. But having said that, if it could be proved and there is a weed causing a loss of market access to another farmer, then it should be treated the same way.

The CHAIRMAN: Are you familiar with the organic export notice 2018-01?

Ms JONES: No. We do not export; we only do domestic markets.

The CHAIRMAN: All right. Perhaps if we just go to the substance of that in the sense that the notice now recommends that where there has been accidental introduction of a prohibited substance, including GMOs, the appropriate sanction by the certification body should be the issuing of a corrective action request only and not a suspension or decertification of the relevant unit. What we have been asking people is what their view is of that. Rather than having your organic status or your non-GMO status taken away, you are only required to take corrective actions.

Ms JONES: I think it should definitely be pursued. I think it is really worth looking into whether that can be included as part of a larger package, I suppose, because as I was saying before about our organic certification standards covering the whole supply chain, if we are contaminated at the production level, then there are all sorts of questions around what that contamination means in terms of then entering into the system and potentially contaminating food sources through animal feed or directly through seeds directly to consumers. But I think if the contamination happens off the farm, if it is within the transport system or being in some kind of handling or packaging system, if you can clean it out, then there is really no reason in my mind why that organic product has not maintained its integrity. It should definitely be looked at. You would need to look at a case-by-case basis too, depending on what the contamination is and where it falls, I think.

[11.00 am]

The CHAIRMAN: In your submission you have put forward a proposal for the minister to declare genetically modified organisms as prohibited organisms under section 12 of the Biosecurity and Agricultural Management Act. How would this operate in tandem with the regulation of GMOs by the Office of the Gene Technology Regulator?

Ms JONES: They could work together. I think both those acts allow for those particular acts to work in conjunction with other acts. The Gene Technology Act is really well set up for developing guidelines and codes of practice, informing the public, and managing a licensing system. That act seems to be really well set up to cover one aspect of regulation, and I think the Biosecurity and Agricultural Management Act is more set up to conduct auditing systems and impose stop-work orders and penalties. I think they could work together quite well.

The CHAIRMAN: What category of prohibited organism would you advocate be assigned to GMOs under section 8 of the act?

Ms JONES: I think it would be possible. You should probably ask a lawyer this question, but, to me, in how I read the acts, I think it should be possible to have it as a declared pest, which does not mean that producers cannot still grow genetically modified organisms; it just allows for management plans to be developed around that and for stricter controls around that.

The CHAIRMAN: The reason we are asking you these questions is because it was part of your submission. We are obviously seeking your views as to how that might practically play out, rather than potentially a legal opinion on that. That is where we are coming from. Regarding your statement that a code of practice may be adopted for use in growing and handling GMOs, I note section 191 of the act, dealing with codes of practice, states —

- (1) The Minister may issue a code of practice for any or all of the following purposes —
 - (a) controlling declared pests;

- (b) keeping declared pests;
- (c) carrying out agricultural activities or other related activities so as to minimise the risk of an occurrence or the spread of a declared pest;
- (d) the use and management of chemical products;
- (e) the import of permitted organisms and prescribed potential carriers;
- (f) the supply and use of animal feed and fertilisers.

In your view, which of these provisions do you believe would apply to GMOs?

Ms JONES: I think the first three could apply to GMOs—controlling declared pests, keeping declared pests, and carrying out agricultural activities or other related activities.

The CHAIRMAN: What activities or dealings with GMOs that are currently permitted would be restricted under your proposals?

Ms JONES: I do not think that the ability to grow GMOs would be restricted in terms of it being prohibited. That is not what I am suggesting as part of these mechanisms. I think if producers want to grow genetically modified organisms, that is their choice. What I am suggesting is that legal and policy structures are put in place so that that can be controlled and not be a cause of concern for people who do not want to grow it.

The CHAIRMAN: You referred to licensed GMO operators. What in your view would be the agency that would license them and have power of revocation?

Ms JONES: The Gene Technology Act already has sections in place about licensing. I think it mostly focuses on imports—being able to bring new GM technologies into the country—but it has that structure set up already. I think it would fit more appropriately within that act and within that administrative structure—having the regulator there to oversee the licensing.

The CHAIRMAN: That is a commonwealth act, though, as I understand it.

Ms JONES: There is a commonwealth act and there is a WA act, and they both say exactly the same thing. That is the way that the commonwealth act was set up—it encouraged states and territories to have their own act and for them to be supportive of each other, I suppose—but the Western Australian act pretty much says exactly the same thing as the national act.

The CHAIRMAN: On page 3 of your submission, you state penalties in the form of compensation to aggrieved producers for contamination due to breach of conditions may also be introduced through amendment to the act. Can you provide some more details on this proposal, including how aggrieved producers would be identified, what types of losses any compensation would cover, and whether the GMO operator would be given the right to apply to the State Administrative Tribunal for a review of any penalty imposed or any other decision that affects them under the act?

Ms JONES: I think it should be quite easy to identify the aggrieved producers. You are going to have either an organic certification or a biodynamic certification, for which it is quite clear what the tolerances are and what the difference in premiums would be. I am not sure how it works for producers that just want to be branded as producing things that are GM free, but I imagine that there would be either contracts already in place so that that product can be secured by whoever is bringing that to the customer—whether they are doing it directly or through a value-adding process—otherwise there should be a history of selling to a particular organisation that specialises in GM free. I think you could identify them quite easily.

The CHAIRMAN: The next part of that question was the types of losses that any compensation would cover.

Ms JONES: Clearly, for producers who are certified organic, you could compare the price that they had been receiving for a particular product against what the conventional standard price is to calculate the difference in what that reduced price is valued at. But it probably should continue that maybe they would have to estimate their harvests so that any future earnings from those products could be covered until such time that they can reclaim their certification. That might not work the same way for GM-free producers. There would also be costs associated with trying to both clean up the contamination and find and break into different supply chains. It takes a lot of work to develop up your supply chains, certainly in the horticultural area. It is a bit easier, I guess, for wheatbelt farmers. So, case by case again.

[11.10 am]

The CHAIRMAN: So what you are saying is almost a loss of reputation compensation?

Ms JONES: Loss of reputation? That is a really difficult one.

The CHAIRMAN: You are saying in relation to building up your supply chains, and obviously that is in relation to good faith and all those other sorts of things, so would you be suggesting —

Ms JONES: They are probably two different things. Access to a different supply chain would be taking the time to find new customers and develop relationships with the new customers, and working out the logistics of getting your product to those customers. In the horticultural area, logistics is really difficult, especially for cold storage things, and that is just within the local domestic market, so I cannot imagine how much more difficult that would be for export markets. But regaining the trust of your consumers, that is a damaging the brand issue, and that is a really long-term problem. I cannot really imagine how you might value reclaiming that. It is probably a greater industry sort of question, especially for the organic industry. It is not just about damaging my brand. If we were contaminated, it would not just be about damaging my particular brand as a producer of organic vegetables; it would be about damaging the organic certification brand, which relies so much on having the processes in place to ensure quality control. That would be industry-wide. It is a difficult question to answer, because if you are talking about compensation for a particular grower, it could be a broader issue than that at that point. Sorry, that probably does not help you much in your inquiry, but that is probably what would need to be done.

The CHAIRMAN: Yes, okay. Do you think that through any mechanism for compensation there should be rights of appeal to the State Administrative Tribunal to review any penalty imposed or other decisions that are effected under this act?

Ms JONES: I think there should always be the opportunity to appeal legal decisions. There should be some way to do that, definitely.

The CHAIRMAN: I am just conscious of our time. We have one more question here. A number of submitters have advocated the implementation of the principles of farmer protection legislation, and they have stated that this would ensure that farmers affected by any GM contamination do not have to resort to the common law and have access to a speedy, no-fault compensation. What are your views on this proposal?

Ms JONES: I actually cannot comment on that. I am not really familiar with farmer protection legislation principles, so I will keep it short and say I am sorry; I cannot really answer that question.

The CHAIRMAN: That is fine. Does anyone have any other questions?

Hon TIM CLIFFORD: Do you think the lack of compensation mechanisms for non-GM farmers is currently a deterrent to people looking to get into the organic industry?

Ms JONES: That is an interesting question. I am not sure if I can answer that question. I would not put it on the top of my list of reasons why producers might be hesitant to go down the path of organic certification, and I have got a few. It may be, but at this stage, given that there are only a select few technologies available for producers to utilise, I would not say that that would be a primary reason for people not being involved in organic certification.

The CHAIRMAN: Thanks for your time today, Ms Jones. Sorry about the problems with the technology earlier, but I think we persevered and found a way. A transcript of this hearing will be forwarded to you for correction. If you believe that any corrections should be made because of typographical or transcription errors, please indicate these corrections on the transcript. If you want to provide additional information or elaborate on particular points, you may provide supplementary evidence for the committee's consideration when you return your corrected transcript of evidence. Once again, I would like to thank you for your time today.

Ms JONES: Thank you for giving me the opportunity.

Hearing concluded at 11.16 am
