

**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  
MONDAY, 23 APRIL 2018**

**SESSION ONE**

**Members**

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

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**Hearing commenced at 9.30 am**

**Mr MARK ANDERSON**

**General Manager, National Association for Sustainable Agriculture Australia, examined:**

**The CHAIRMAN:** On behalf of the committee, I would like to welcome you to the meeting. Before we begin, I must ask you to take either the oath or affirmation. Can you do that now, please.

[Witness took the affirmation.]

**The CHAIRMAN:** You will have signed a document entitled “Information for Witnesses”. Have you read and understood that document?

**Mr ANDERSON:** 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. You do not need to worry about the microphones. You have got a headset, but if you are having issues with our hearing, please let us know immediately. 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?

**Mr ANDERSON:** Yes, I would, thank you. I would like to affirm that NASAA supports the coexistence of GM, non-GM and organic farming systems. I would like to confirm also that there is really no interpretation of the organic standard here or overseas that allows for GMO contamination at farm gate. I think that a lot of the interpretations of the 0.9 per cent adventitious allowance, which is a fair amount of the content of the questions that I have been given, is actually a misguided interpretation and I am happy to correct that. I am focused on this inquiry being an inquiry into the mechanisms for compensation for economic loss to farmers in Western Australia. A lot of what is contained within the questions seems to be focusing more on determining whether organics is a valid agricultural system and whilst, obviously, I am going to go through all those questions, I think that the focus from our perspective has been very much on responding to the inquiry in terms of compensation. I repeat the four proposals that we have as the main part of our submission are to establish a public fund, so that there is a no-blame compensation system; to develop an education campaign so that agricultural communities can better understand the issues at the interface of GM, non-GM and organic. We think that we should look at additional punitive matters in the case of someone abusing the no-blame fund and we would be happy to have a broader right-to-farm legislation come out of this, which can deal with a range of issues. On all of that, NASAA is very happy to be part of whatever working groups or other solutions you find for both determining what the public fund should compensate and to assess compensation when it is needed.

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**The CHAIRMAN:** We did provide you with a list of questions and what we propose to do, Mr Anderson, is to work our way through that list and that will, hopefully, give us an opportunity to explore any other avenues as they arise, but we will just work our way through that in the meantime. I will do the primary questioning, but the other members of the committee here may jump in at some stage to ask you any questions that they want answered. So, the first question that we pose to you was asking you to describe the general organic certification process that NASAA adopts when it grants organic certification as well the auditing process when testing for the presence of genetically modified organisms. Are you able to address us on that, please?

**Mr ANDERSON:** Sure. The organic certification process is aligned with the Australian standard, the national standard, as well as the NASAA standard, and it is also aligned with standards around the world. So, the key component of that is to have a three-year period during which prohibited substances are not allowed into the farming process. We do a soil test at the beginning of that period to see whether there is anything in the soil which is of undue concern to us, and the farmer will move to adopting organic practices and not including any prohibited substances over the three-year period and then every year we will go out and assess that process. The organic certification is a process-based certification, so there is actually not a lot of testing in it. There is a lot of looking at processes and talking to farmers about things like their organic management plan for their site and that sort of thing. There is not a lot of testing. We do not necessarily test for the presence of GM in that process and we would not unless we were particularly concerned that there was a need to, and generally that is not the case.

[9.40 am]

**The CHAIRMAN:** Are you able to detail the process by which NASAA comes to a decision to suspend or decertify an organic producer on the grounds of GM contamination and the basis upon which this decision is made? For example, would the mere presence of GM material on a farm be sufficient, or must it be of the same species and a genetic contamination has occurred?

**Mr ANDERSON:** I can outline this, but it is all in the standards, including the National Standard for Organic and Bio-Dynamic Produce. That is what we call the export standard and that is the standard that has become a kind of default domestic standard for Australia. If GM material is detected, the process—this is not a process that happens very often—would be to first alert your certification body, if it happens to be NASAA or one of the other five certification bodies. Then an inspector would come out as soon as possible from that certification body and look at the site and determine whether contamination has occurred; and, if so, what area of the farm has been contaminated.

**The CHAIRMAN:** Who alerts the certification body?

**Mr ANDERSON:** Many people will alert a certification body to a breach of the rules across a whole range of breaches. In the case of GMOs and with Steve Marsh, he alerted us himself to the presence of what he suspected was GMO material on the property. Anyone can alert a certification body to a breach of the standard.

**Hon COLIN HOLT:** Who is it usually, though?

**Mr ANDERSON:** Well, usually for GMO it is not a situation.

**The CHAIRMAN:** Right.

**Mr ANDERSON:** There is not a usually for GMO. In terms of other breaches of certification or the standard, there are many channels for us to be alerted to that.

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**Hon COLIN HOLT:** Maybe I can ask a question about that. You mentioned earlier certification for prohibited substances. What are some of those other prohibited substances when you are looking for organic certification, or lack of those prohibited substances?

**Mr ANDERSON:** It is a range of synthetic herbicides, pesticides, fungicides and various other non-organic materials that you may have on site, including nitrogen-based artificial fertilisers.

**Hon COLIN HOLT:** What about weeds or anything like that?

**Mr ANDERSON:** Are they prohibited?

**Hon COLIN HOLT:** Yes.

**Mr ANDERSON:** Weeds are not prohibited outside of the various weeds acts. They are not prohibited specifically by any organic standard.

**Hon COLIN HOLT:** So if synthetic herbicides are not allowed, are most of the cases of reporting around breaches of that certification around herbicide or pesticide spray drift? Is that a common occurrence, more common than GM?

**Mr ANDERSON:** Not that I am aware, no. I do not see it as being very common. I would have to look into that and see how many cases we have of pesticide drift. I am not fully aware of that at the moment. Most of the breaches are to do more with the processing associated with a primary product once it leaves the farm gate. Most of the issues that we have to deal with in terms of determining whether something contains a prohibited product or not relates to investigating the inputs that go into the processing post farm gate.

**Hon COLIN HOLT:** Can you give us some examples?

**Mr ANDERSON:** I can supply some examples later on. I am not scientifically in charge of that part of the organisation—I am the general manager for NASAA—but I can give you a list of examples post this if you wish.

**The CHAIRMAN:** Perhaps we can take that as a question on notice, and we will put that to you in writing following the hearing. I asked whether or not the mere presence of GM material on a farm would be sufficient to be decertified or suspended. I do not think you specifically answered that question. The question there, I suppose, is: is the mere presence of GM material enough to be suspended or decertified or does it need to be of the same species and a genetic contamination?

**Mr ANDERSON:** The mere presence or the presence of GM on a farm where it may become involved in the production of an organic product is what we are looking at here, such as if someone happens to have some seed. It is also assessed by an auditor who goes out. If I was an auditor and I went out to someone's farm and I found a big bag of GM seed and it was meant to be an organic farm, the mere presence of that GM seed would start me thinking about whether it is being used on the farm, and then I would ask for testing and I would investigate the process. The presence can put in train an investigative process that could end wherever it ends.

In terms of whether it has to be the same species, no, it does not have to be the same species, and the national standard again prohibits GM as part of a parallel process. You cannot grow some GM over here and some organic over here on the same farm and still comply with the standard. That means that if your property has GM contamination from a species that you are not necessarily growing, it is still considered GM contamination, and the standard says that you need to be decertified for a period of five years in that case.

**The CHAIRMAN:** So would it be fair to say you do not certify farms that grow both GM and non-GM crops on the same farm?

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**Mr ANDERSON:** Correct.

**The CHAIRMAN:** So farmers who claim that they can grow non-GM next to genetically modified without any issues perhaps are stretching the bounds of credibility in terms of being a certified organic farm or a certified non-GM farm?

**Mr ANDERSON:** I am not sure that there is certification for non-GM, so that makes it a little easier. I think that the determination of what is GM and non-GM in the public sphere and in terms of producing non-GM canola in this instance is open to interpretation. The way that you have to grow organic canola and the details about how to manage GM within that system are not open to a lot of interpretation. It is defined pretty consistently across the standards. So, a non-GM farmer may feel as though they are protected. I guess it is their decision about whether they feel they are protected or not. They could well be. There are all sorts of things they could do in terms of stopping drift across their property or leaving buffer zones around their property so that it would not be contaminated. At the end of the day, I am not entirely sure who is testing the non-GM grain as opposed to the organic grain. As I said, organics is a process, rather than a testing-based system at large. I am not quite sure what the non-GM farmers are doing to prove that their product is non-GM, but I do not believe there is a certification scheme for it.

**Hon COLIN HOLT:** Just let me get this right. If a certified organic farmer is producing, let us say, organic wheat and is certified by a certification organisation, and someone inspected it and found a bag of GM canola, that would be enough for the organisation to question the processes around organic certification?

**Mr ANDERSON:** You are drawing a fairly long bow. What would happen if an auditor went there and had a look and found a bag of GM canola on a farm that was an organic wheat farm, they would probably scratch their head and say, "Bob, what's this doing here? I don't understand. You grow wheat, not canola." He would say, "I'm just minding it for a friend." It is like having cigarettes when you are 15 or something like that, perhaps. I do not know. If he was growing canola though, that auditor would say, "Hang on, this looks like a breach is happening on this property and I have to investigate further."

**Hon COLIN HOLT:** Even though he may not have grown any seeds, so there is no contamination—the contamination might be zero—there is a potential that they could be decertified for zero tolerance?

**Mr ANDERSON:** Not in the case of the wheat field if that is all that they grow.

**Hon COLIN HOLT:** I thought you said earlier it would not matter what species it was.

**Mr ANDERSON:** If it was growing on site, yes. The auditors have to assess all of these cases as they come through, and if they come through and they see evidence, then they will investigate that evidence to see whether they believe that GMO is being grown on the property or is able to contaminate the organic produce on the property, even if it is not the same species.

[9.50 am]

**Hon COLIN HOLT:** I think the key to understanding for us is that this is about compensation mechanisms for potential contamination from GM crops. We are trying to get an understanding of when the decision is made that it is contaminant and what happens to the foreseen cost to the organic farmer. So, I think it is legitimate to try to understand how and when you certify and decertify.

**Mr ANDERSON:** We decertify on the basis of evidence collected by an auditor and then based on an analysis by NASAA certified organic and our certification officers. That is the process for

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decertification. I guess there are a million ways that that could happen in terms of various scenarios. Each one is assessed independently.

**Hon COLIN HOLT:** Again, some examples of that would be useful for the committee.

**Mr ANDERSON:** An example of assessing a decertification for any product?

**Hon COLIN HOLT:** Yes, why not?

**Mr ANDERSON:** Sure.

**The CHAIRMAN:** We will take that one on notice as well and we will put that to you in writing.

**Hon TIM CLIFFORD:** You mentioned that there was a five-year period where they are not allowed to be certified as organic if they are found to be contaminated. Do you know how many cases there have been where you have had to impose that cooling-off period? To your knowledge, how difficult is it to get back to that status once you are contaminated? I am guessing that financially that is quite a bit of hardship on the producer. So, how many, and how hard is it to get back to that status?

**Mr ANDERSON:** There is one, and that is Steve Marsh v Baxter. That is the only case where we have decertified someone for GMO pollution. The five years is set aside as a period that our scientists feel is necessary to allow for any of the GM seed to have grown and be identified. If you know the area where you believe the contamination has occurred, then you monitor that over five years to see whether any GM material grows there, and then at the end of that five years, you can be recertified, assuming that nothing has grown there.

**Hon TIM CLIFFORD:** When they lose their certification, do they move to just produce—I am just sort of seeing it as a process where the farmer might be forced to move to GM because the five years to reclaim their certification might impose too much of a financial hardship upon them?

**Mr ANDERSON:** The way the standards have been established is with a lot of consultation around the world, and the five-year period came from, I think, situations in Europe where they felt that you needed to have—this is specifically for people who have been growing GMO and then they want to go into organic. How long does that farm need to not have GMO growing on it before you feel safe that the crop is going to be all organic? Sorry, I have forgotten your question.

**Hon TIM CLIFFORD:** It is sort of a chicken-and-egg thing, where if they have been contaminated, I just thought it might be easier for some of these farmers, instead of working their way back to non-GMO status, they have to —

**Mr ANDERSON:** If they have gone to all of the trouble of becoming an organic grain farmer, which is not necessarily easy, and they believe in that system, which in my experience most organic farmers do believe in the system that they are operating under, it is fairly unlikely they would make a decision to go to GMO. What they would do is grow non-GMO grain and sell it into the non-GMO market by whatever standards there are there. That is what you do—you basically keep growing your organic system, probably, and just sell it into the non-GMO system and cop the loss until you get certified again.

**The CHAIRMAN:** Just to be clear, you are saying that the only decertification case you are aware of is the one involving the farmer Steve Marsh; is that right?

**Mr ANDERSON:** Correct.

**The CHAIRMAN:** That is GM contamination, to be more specific?

**Mr ANDERSON:** What has happened since then is of course the organic industry has more than doubled. I am not sure whether the GMO industry has grown, but I do know that the organic industry has more than doubled since then. There certainly have not been many cases in the past, but if you

look to Europe and what they are doing over there, they have a much bigger organic market over there and they have a lot more of these issues, and part of the reason that we are talking today is, I think, in response to a submission regarding the situation in Europe.

**The CHAIRMAN:** Just to clear it up for me to get to the point, if a farmer's land is decertified for no longer being organic due to the presence of a genetically modified organism, it takes five years for them to be able to re-establish their organic status. That is a mandatory period of five years. Therefore, mitigation actions taken by the farmer immediately will not affect that five-year period—for example, clearing the land of any crops or contaminated material will not change that five-year period of being excluded from organic certification?

**Mr ANDERSON:** Not at the moment, no. That period is there specifically to deal with the issue that it would be very difficult to find every seed or every bit of GM material that was distributed anywhere other than waiting for it to grow, and so that is five years to wait for it to grow. That period is being assessed at the moment and it could be varied. It may go up or it may go down; we are not sure. It is currently being assessed by the OISCC group—the Organic Industries Standards and Certification Committee—and the Department of Agriculture and Water Resources.

**The CHAIRMAN:** Can you give us an indication of the kinds of premiums that the people you certify obtain for their organic produce?

**Mr ANDERSON:** There is definitely a premium, and it depends on what kind of produce it is and it depends on the market. I am certainly very aware of premiums between 10 and 100 per cent. You would regularly hear that. The people who analyse the industry say that there is an average of 25 per cent across a whole lot of different products and a whole lot of different situations, so generally that is kind of what you are expecting. If you look at something like wheat, in a good season you might get 30 per cent or 40 per cent more for organic wheat; in a bad season, you will get 100 per cent more for organic wheat, depending on how much grows. There is a significant difference.

**The CHAIRMAN:** When you say “the people who analyse the industry”, who do you mean by that? Who are you referring to there?

**Mr ANDERSON:** There is an annual report called the “Australian Organic Market Report”, which collects a lot of data from all of the certifiers. In those reports, and also in conversation with people within the industry, 25 per cent is generally considered an average. But, as I said, an average does not make a great deal of sense. If you are talking about potatoes on the one hand and wheat on the other hand, it is up and down, obviously. But in all cases, you hear of a higher margin for organic, and that is part of the reason that people grow it.

**The CHAIRMAN:** Obviously in Western Australia, canola is the key one for us, because that is the market in which we still have genetically modified product. Who publishes that report, do you know?

**Mr ANDERSON:** It is called Australian Organic Ltd.

**The CHAIRMAN:** A submitter has stated that nowhere in the current Australian organic standards is zero tolerance to GMOs explicitly stated. GMOs are listed as a prohibited input and some Australian certifiers have incorrectly interpreted this to mean zero tolerance. What is NASAA's position on this statement?

[10.00 am]

**Mr ANDERSON:** Look, I think this is a bit a scurrilous, really. All three functioning Australian standards ban GMOs in multiple locations. Our standard, the NASAA standard, has 30 mentions of

GMOs being specifically excluded in all sorts of levels of production and input. National standard 1.2.6 reads —

GMO products are not compatible with organic and bio-dynamic management practices and are not permitted ...

It is very, very clear that GMs are not part of organic management systems, and any interpretation otherwise ignores the fact that this is a consistent stream that runs through every organic standard in the world. It is highly unlikely that everyone has made some sort of mistake, I think, with their interpretation.

**The CHAIRMAN:** Does the description of GMOs as a prohibited input in your standard effectively mean zero tolerance?

**Mr ANDERSON:** It does mean zero tolerance, yes. It is also mentioned elsewhere as zero tolerance, and in other places within the standards it is specifically excluded as something that we can consider under any circumstances. There are circumstances under which a substance that would normally be prohibited is allowed—it is called a derogation. It is there specifically for things such as there is a mouse plague and a government says you need to bait using a particular kind of bait, and it may be something that is not within the organic standards normally, but we will assess that and say, “Okay, if you can minimise the effect that is going to have and the chance of that getting involved in the food production side, we will allow you to use that bait, and the government is saying you should use it.” So there are these very occasional situations where we have to allow a prohibitive substance into the organic system. It is always with a lot of rules and regulations around it put on by the certifying body, and it is usually only when a government demands it. But in no circumstances is GM part of that derogation process.

**Hon SAMANTHA ROWE:** Mr Anderson, has that ever occurred to date, to your knowledge?

**Mr ANDERSON:** Yes, it has occurred. We issue derogations in those sorts of circumstances. Again, I do not have a list of them with me, but it is something that happens reasonably regularly. We have got 3 000 organic farmers operating in all the landscapes of Australia, so there is lots of opportunity for this kind of thing to have to be dealt with. Organics very much wants to be able to grow the industry and we do not want to get so one-eyed about what we are doing that we cannot fit in with other things that are important. For instance, at the moment we are talking with biosecurity about various fungicides and treatments for seeds that are coming in, trying to find treatments other than fungicidal treatments. If that does not happen, we have a reasonably Catholic view of things, I think.

**The CHAIRMAN:** Are you able to provide us with a list of the derogations you have done perhaps in the last 10 years?

**Mr ANDERSON:** I think so, but I am not sure. There are a couple of questions here further on as well where I am not quite sure about privacy issues and how they are affected by this hearing and whether they are overridden by this hearing or not. I can certainly give you examples without the names of the specific farms or farmers.

**The CHAIRMAN:** We can take submissions in private. These things will be put to you in writing as questions on notice. When you respond, if you wish them to have a private status, it is important that you let us know so that that happens and that can be considered by the committee. In most circumstances, that is what we do.

**Mr ANDERSON:** Okay. But I take it that the point of this really, and what you are looking at, is how many times has it happened and what were the circumstances more generally?

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**The CHAIRMAN:** Yes, and perhaps most particularly in Western Australia, obviously, rather than in other states.

**Mr ANDERSON:** Okay.

**The CHAIRMAN:** Organic export notice 2018–01, which was recently issued by the federal Department of Agriculture and Water Resources, titled “Guideline for responding to contamination by prohibited substances or materials in the organic export supply chain”, recommends that where there has been an accidental introduction of a prohibited substance, including GMOs, the appropriate sanction should be the issuing of a corrective action request only, not a suspension or decertification of the relevant unit. What is NASAA’s position on this?

**Mr ANDERSON:** We are supportive of the position. In practice, we are not quite sure where it is going to get to, and as yet none of this has flowed through into the national standards, so none of our practice can change until this comes through to the national standards. Once that has happened, we can review that. We understand that a corrective action response is an appropriate response, but you have to be able to list a corrective action that does achieve what you need to achieve, and this is the thing that proves increasingly difficult with GMO contamination in terms of seed. We cannot send someone out there with their vacuum cleaner to do 80 or 100 hectares of vacuuming everything up. Therefore, unless the corrective action ends up with the result that there is no GMOs on the property, issuing the correct corrective action is a bit of a moot point.

**The CHAIRMAN:** The committee has received evidence that a zero tolerance for organic standard is unreasonable and is driving confrontation over the mixture of GM and non-GM crops, pointing to the maximum permitted levels of other substances in food. Also, some submitters have stated that they believe the issue of GM contamination in Australia has become a contentious issue due to the organic standards being too tight. When did NASAA first introduce a zero tolerance for GM material in its standard for organic certification?

**Mr ANDERSON:** As I understand it, it has always been in the standards, and certainly it has been in all standards since the inception of GM material being available for agriculture.

**The CHAIRMAN:** Are you able to describe the rationale for maintaining a zero tolerance rather than an allowance for unintentional presence of GMOs, and why NASAA considers this is reasonable?

**Mr ANDERSON:** Yes. There are reasons associated with health and wellbeing and environment, and many, many reasons about why people feel that they do not want GM material in the landscape, but at the back of all of that, for organics it is also about market demand. The organic market is based on the exclusion of GM materials in the foods that are produced. So any attempt by NASAA to move into a situation where we tolerate a percentage of GM material would affect our ability to sell organic product within our own market in terms of the way our market would assess that, and also quite specifically in terms of the international market, where it is prohibitive specifically in all of those other standards. It is not about NASAA being reasonable or unreasonable; it is about NASAA being aligned with international standards as they are around organic produce, making sure that Australian farmers have the opportunity to produce produce that can be certified to that standard and are then able to export it to huge organic markets around the rest of the world.

**The CHAIRMAN:** How would you suggest the issue of divergent views on tolerance levels—i.e. zero versus 0.9 per cent—is overcome and a consensus reached to enable a clear way forward on determining what constitutes reasonable economic loss due to GM contamination?

**Mr ANDERSON:** There are not divergent views on tolerance levels. The 0.9 per cent has been bandied around for quite a while and I think it is largely misinterpreted. There is a zero tolerance at farm gate within all organic certification systems. The 0.9 per cent is a concession that the EU

brought in to allow for the fact that there was a fair bit of GM about and they could not really test below that to see what the content was of something. You may find that you have got 0.9 per cent in your product and you have no idea why it is there because it has not been reported as containing GM throughout the whole production cycle. As I understand it, they are looking at reducing this further to 0.5 per cent. But the 0.9 per cent is only in final product; it is not at farm gate. So I can get my muesli bar tested, and if it has less than 0.9 per cent, that means I can sell it as organic because it does not contain GMs. I can also sell it as not containing GMs within the European market—it is the same level of standard for both—and off I go. If it has got more than that, it is no longer considered organic. It is adventitious—it is saying that accidentally I have got some GM product in my organic product, and the organisation that is certifying that processor will tell them that they need to go back, find where that GMO product came from in their production chain, remove it, and show the certifier that they have removed it. So it is not a tolerance where every year you can make something that has 0.9 per cent GMO in it and still call it organic; it is quite the opposite. What it says is, okay, if it is less than 0.9 per cent, we will let you get away with it this time and call it organic, because that 0.9 per cent is something that is in all sorts of products and it is called non-GM in Europe, but you have to go and find it and get rid of it from now on.

[10.10 am]

That is only within the European standards. It is important to understand most people in Europe, as I understand it, buy organic food based on their local country standards. The EU is a low standard that is common across all the EU, but if I am a German, I am going to buying on Naturland or something like that; you buy local country standards. None of the country standards in Europe allow for any GM in any finished product.

**The CHAIRMAN:** In your standard at clause 3.2, it states —

The NASAA Organic Standard prohibits the presence of GMO's either deliberate or accidental in any segment of the organic food chain.

The equivalent national standard for organic and biodynamic produce states —

The use of genetically modified/engineered seed and transgenic plants or the application of GMO derived substances for treating plants is prohibited in organic and bio-dynamic farming.

Why do you believe that the national standard omits the words “either deliberate or accidental”, which is included in your standard?

**Mr ANDERSON:** I assume it is just poor drafting. I cannot really speak for the authors, but I am quite sure that there was never any intention that that slight variation in wording would mean that GMOs were not banned, that accidental GMOs were not banned within the national standard. Again, refer the national standard to all those international standards because the national standard is created as an exported standard. What it is doing is saying, “We’re going to align the Australian product with the standards in all those countries around world.” In some cases, they will get give us equivalence if it will meet that standard. There is no reason at all why our national standard would be written to be lower than the standards of our customers. It is specifically there to make sure that Australian export product meets the standards of our customers and the standards of our customers, whether they are written in German, French or Chinese, are all very, very firm on the fact that they do not want their product to have any GMOs in it.

**The CHAIRMAN:** So it would be fair to say that you believe the national standard by the appearance of the word “use” is intended to cover both deliberate and accidental?

**Mr ANDERSON:** Yes.

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**The CHAIRMAN:** Some submissions have pointed to the fact that there are low-level tolerances for other contaminants as well as processing aids in food. Why should the GM be any different?

**Mr ANDERSON:** It kind of goes back to my previous answer, I suppose; it is about market demand. People do not want a little bit of GM in their food; they want none in there. One of our major exports at the moment is halal food. I am pretty sure if we talking about halal food, we would not be asking how much pork can you have in it and it is still okay. This market wants zero tolerance for GM and we provide that—we provide that assurance.

**The CHAIRMAN:** Are there organic standards in other country with a zero tolerance threshold? I think you have answered that.

**Mr ANDERSON:** Yes, all of them is the answer.

**The CHAIRMAN:** Some submitters have stated that the existing common law provides sufficient coverage for any damage by GMOs and that there has not been a single legitimate instance in Australia of a non-GM or organic grower suffering a pure economic loss directly resulting for the unintended presence of an approved GMO. What is your position, or what is NASAA's position, on this statement?

**Mr ANDERSON:** I think that is true. We are very lucky. As I said before, the organic industry has more than doubled since *Marsh v Baxter* kicked off. We have an example in Europe, which is one of the reasons that has driven this process, as I understand, of a need to find a compensation mechanism. We can look to them and see if that is going to be part of our future, and if it is part of our future, what sort of mechanism do we want? As I said at the beginning, our focus was very much, when we read the inquiry term of reference, we thought, okay, we are moving into a situation where we are going to have compensation so what is the best way to deliver that compensation? Our response has been very much around that, not necessarily focused on the justification for the need of compensation. But at the same time, we are very happy to see this type of compensation broadened out into a more right-to-farm of kind of compensation if that is needed, so it does not have just be about GM and non-GM.

**The CHAIRMAN:** What was NASAA's position on the finding by the court in *Marsh and Baxter* that the cause of the economic loss by *Marsh* was the misapplication of NASAA standards?

**Mr ANDERSON:** Look, we really have no position on that. It started eight years ago, as I said. That was the finding of the court and it was the opinion of the court, I guess, that that was the case. We do not believe that our standards are misapplied and, as I said, it is not just NASAA. Sometimes reading through this it feels as though we are a very unique organisation, and the way we make decisions and determine things is very unique. It is far from unique. It is very, very strongly aligned with a similar body of thought and investigation all around the world. At the moment, it has a \$100 billion market associated with people upholding standards that are aligned with each other. I can understand that a court may decide that standards are misapplied. Courts can decide many things, but it does not really alter our application of our standard because we have larger issues than a single court case.

**Hon COLIN HOLT:** I wonder if I can put the question in a different way. I think you have already said that the presence of GMO at the farm gate in terms of a product is important so it has to be a GM-free product at the farm gate. You also said you often have tolerances for one-off events of, you know, go and clean it up, which also comes in with the standard being put out by the federal Department of Agriculture and Water Resources. It seems that there is a bit of tolerance around, "There's been an accident. We can't accept your organic produce this time, but if you go and clean up the mess then we can allow you organic certification." You can correct me on some of these

generalisations—that is no problem. Given the Marsh v Baxter case, do you think NASAA may have responded differently than to remove the organic status, given what you have already said around some tolerances, testing a product at the farm gate for non-contamination? Do you think NASAA might have done things differently?

**Mr ANDERSON:** I have not actually said anything about testing a farm gate product for non-contamination. I think in fact it would be almost impossible to test a farm gate product for non-contamination without spending a lot of money. That said, the cost of testing for GMO is dropping rapidly so anything that has to do with assessing whether GM is present or not within these kinds of system, the ground rules for that could change. Individual testing is down to \$3 a test, I heard the other day, so that come mean that it does become economically viable to have your property tested for whether there is GMO present or not and also to determine where it came from. At the moment, it has mainly been about process testing, not about chemical testing or scientific testing. There is nothing at the farm gate that tests it. There are some derogations that will issue for prohibited substances but they are only in a situation where that is mandated for other reasons and they are always very many specific.

In all cases, they do not involve GM, and that is because the derogation process is about complying with things like safety and maybe health. You know, you might have to give your flock something that we would not recommend as organic, but it has to protect other flocks in the area or herds or whatever they are. This is all very much about welfare and health and minimising risk, biosecurity, those kinds of things. There is not an issue with GM around any of those so there is no situation where you would issue a derogation for GM for the benefit of the biosecurity or the health of a herd or something like that. All the standards prohibit GMs much more than they prohibit any other single substance. You might have a list of prohibited substances, but every standard specifically mentions GM as you go through the standard. The European standard mentions it hundreds of times so there is not opportunity to issue a derogation for it. All you can do is try and work out whether it is there or not. Given the kind of science that there was around eight years ago, the way that you worked out whether something was there or not was you had to wait and see if it would grow. Our advice from our scientists, you need five years to do that, and that is aligned with other standards as well as. Who knows what the future might hold being able to assess whether or not it is there. If the testing increases, there could be other remedies—I do not know.

[10.20 am]

**Hon COLIN HOLT:** What about right now? Would NASAA have done any differently now? If it comes up now or next week, would NASAA do anything differently.

**Mr ANDERSON:** I do not think so, no. I would need to talk to our people, but I do not see why we would do anything differently. Certainly, the only thing that would change would be whether or not there was a methodology to prove that there was no GMO on the property. We were called out to a situation where it was believed there was GMO on the property and we were satisfied that there was GMO on the property, and he was decertified for five years. If we were called out to another suspect site where there might be GMO on the property and there was a way of determining that there was definitely was not, our actions would be different. But it is very much a question of individual situations and, as I said, in the future it may be a question of improved sampling techniques or testing techniques or whatever. There may be other alternatives. NASAA very much does not want to create a situation where we are implying in any way that GMO farmers have not got a right to farm, that GM-free farmers have not got a right to farm, that organic farmers have not got a right to farm. All we are saying is that the organic industry is a \$2 billion industry in Australia at the moment, \$100 billion around the world. The markets to our immediate north are going bunta

and we want to be able to maintain the integrity of that industry going forward for the benefit of regional Australia, because the beauty about organics is that extra 25 per cent margin, it goes all the way down through the farm gate—that is where the money is going. In a lot of other products the margin is elsewhere. Organics gives a great margin actually into regional Australia and we would like to do whatever we can to make sure that we can secure that for organic farmers.

**Hon COLIN HOLT:** Thank you.

**The CHAIRMAN:** We are going to and push on here because we only have about 10 minutes left, so if you could perhaps keep your answers as precise and direct as you can.

**Mr ANDERSON:** Sorry.

**The CHAIRMAN:** Do not apologise, it is just that time is always our enemy here.

**Mr ANDERSON:** If you could just give me the number of the next answer, that would be excellent.

**The CHAIRMAN:** It is 1.1.4. That is what we are dealing with. It is a question that some submitters have stated that because GM canola cannot cross-pollinate with other crops, farmers will not suffer economic loss because contamination is not possible. What we are interested in is your position on that statement.

**Mr ANDERSON:** It gets back to the issue of parallel production and pollution into the food stream regardless of whether it is the target species or not.

**The CHAIRMAN:** Yes. It would be fair to say I think you have probably covered that previously and it is not just about whether or not they are pollinating but whether or not they are just present in the first place.

The committee notes that NASAA's website states its organic and biodynamic standard is being reviewed. Has the NASAA organic standard with respect to the treatment of GMOs been amended following Marsh and Baxter?

**Mr ANDERSON:** No.

**The CHAIRMAN:** If so, why? When do you expect your review to be finalised?

**Mr ANDERSON:** The review of OISCC reviewing the period of decertification?

**The CHAIRMAN:** Yes. Your website is saying that you are reviewing your organic and biodynamic standards. I was just asking when you expect that review to be complete.

**Mr ANDERSON:** We review them on an annual basis or on an as-needs basis. Our own standard is quite flexible. It is ours. Often those reviews are driven by much smaller things than changes to the decertification period for GM contamination. They would be driven by new chemistry that may come onto the market. There might be a new type of yeast that we suspect may be created artificially in some way and so we need to make a decision about whether that is on our prohibited substances or not. There is ongoing finessing of the standards as they meet with changes around us, recent changes to the office of gene technology, the process associated with CRISPR genes and all that sort of stuff, that is the sort of thing that will drive changes to our standard. In terms of the national standard, the national standard is driven through OISCC, which we spoke about earlier. The changes to that standard, at the moment it is looking at whether the period of decertification post-GM contamination should be changed.

**The CHAIRMAN:** In your testing of GM material on certified organic farms, what is the highest percentage of contamination that NASAA has found?

**Mr ANDERSON:** We do not test GM material on certified organic farms. We have not done it before, we have not been called to do it. Again, it is a process. With the case of Steve Marsh's place we were

able to determine that we were convinced that it was genetic material that had come onto that farm from next door. We did not need to actually test anything other than the plants that came up as a result. I think about 14 plants came up and we probably tested those. I have only been here for a couple of years so I am not across everything that we have done there. We do not test the contamination if we do not find it. On another side though, I do not see how physically you can test a farm for a percentage of GM contamination. Again, you look at 0.9 per cent in Europe; it is about testing a product. Here is a muesli bar; we will chop a bit up and test it. Here is a farm; how do you test a whole farm for that? Statistically, I think it would be absolutely close to impossible to detect 0.9 per cent or 0.6 per cent in however many tonnes of grain you have got. I am not aware of anyone doing that.

**The CHAIRMAN:** In addition to Mr Marsh, are you, or is NASAA, aware of farms of any of its clients that it has certified that specifically adjoins GM products?

**Mr ANDERSON:** I am aware of all the certified organic farms that we certify. The organisations that are certified are listed on our website. It is the same for the other certifiers. We all have a commitment to list all of the organisations that certify in a public space. I have no idea who is using GM products.

**The CHAIRMAN:** So you do not know whether there are any adjoining the farms that you have certified—that is basically what you are saying.

**Mr ANDERSON:** I assume that there would be, but without having a list of who is using GM products, it is very hard to tell.

[10.30 am]

**The CHAIRMAN:** Are you able to provide us with the details of any of NASAA's primary producer clients who have had corrective action requests, suspensions and de-certifications as a result of GM contamination, as well as any who have lost customers and markets as a result of GM contamination? I think we will give that question on notice, because this is a public hearing and I do not think we want those particular details given out.

**Mr ANDERSON:** Yes; correct.

**The CHAIRMAN:** So can you please take that one on notice?

**Mr ANDERSON:** Yes, certainly.

**The CHAIRMAN:** Some submitters have stated that a GM compensation scheme would be a deterrent to the advancement of future biotechnology options. What is NASAA's position on this statement?

**Mr ANDERSON:** The biotechnology is being developed in many places all around the world. Specifically, what we are talking about at the moment is being developed in some markets in the United States in particular. I think it is a bit of a long bow to draw to think that a compensation scheme for farmers at this sort of local level is going to stop Monsanto or whoever from investing in their GM development.

**The CHAIRMAN:** Your submission recommends that a working group consider broader right-to-farm legislation and associated compensation mechanisms to manage claims beyond GM contamination. Some submitters have asked whether, if a compensation scheme was introduced for GM contamination, there would also be compensation for all sources of contamination, including weed intrusion, which some have submitted is a problem from organic farms due to a lack of weed control. What is your feedback on this position?

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**Mr ANDERSON:** I think everyone should manage their weed issues appropriately—organic, non-organic, whatever. I have no problem with having rules and actions around properties where there are weed incursions onto other properties. I think the main thing is to make sure that these kinds of issues can be dealt with in a way that has minimum ill-will, I guess.

**The CHAIRMAN:** The Australian Farm Institute recently stated —

If this Inquiry finds that there should be economic compensation mechanisms for GM contamination (other than those that are available under common law), it sets a precedent that the WA government would not want to establish; ie. market-based, arbitrary accreditation standards taking priority over legal, best-practice farming methods.

What is your response to that statement?

**Mr ANDERSON:** Just quickly, I think organics is the fastest-growing agricultural market in Australia and in the world at the moment. It is not a precedent to manage this interface between GM and non-GM and organic. The governments of Europe are already struggling with this process. So there is no precedent set; it is just about catching up with the future. There is nothing arbitrary about accreditation standards; it is quite the opposite. Whilst it is complex and requires human judgement at many, many levels, it is not arbitrary. It has alignment with standards all around the world, particularly when it comes to GM.

**The CHAIRMAN:** We have run out of time, but we have some additional questions that arose out of the evidence that was given on 11 April. We will put those questions to you on notice and ask for your response to those.

**Mr ANDERSON:** Okay.

**The CHAIRMAN:** Mr Anderson, we really appreciate you attending today via video link, with all the attached problems with delays and all that stuff. It has been very helpful. 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. For those questions that have been taken on notice, the committee requests that you provide your answers to the questions taken on notice when you return your corrected transcript of evidence. 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. Thank you for your time, Mr Anderson.

**Mr ANDERSON:** Thank you.

**Hearing concluded at 10.33 am**

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