



State governments and GM crops

In 2003 and 2004, various bans on the commercial cultivation of genetically modified (GM) crops, or more specifically GM canola varieties, were implemented by most state governments in Australia. The moratoria in place in New South Wales (NSW), South Australia (SA), Victoria and Tasmania were reviewed by the respective governments in 2007-08.

GM Free Zones – potential within the national system

There is provision within Australia's Federal gene technology legislation to create zones free of GM crops. Under the *Commonwealth Gene Technology Act 2000*, the Ministerial Council, comprising of federal, state and territory ministers, has the opportunity to issue a policy principle, "Recognising areas, if any, designated under state law for the purpose of preserving the identity of one or both of GM or non-GM crops for marketing purposes."

Introducing a policy principle

The Ministerial Council agreed in 2003 to issue a policy principle to recognise the rights of state and territory governments to designate zones for GM or non-GM crops for marketing purposes.

This means that the Federal Gene Technology Regulator's decision to grant a commercial release licence for a GM crop must recognise any laws the states and territories make in respect of preserving the identity of GM and/or non-GM crops for marketing purposes. For example, when a state government implements a policy principle recognising a GM-free area, in granting any GM crop licence, the Regulator must respect this area as GM-free and exempt it from any licence approval.

State governments – where do they stand?

As GM canola reached its final assessment for commercial release by the OGTR, some state governments expressed concerns about the market impacts of the new varieties, and proceeded to implement legislation to allow them more time to consider these issues. The legislation is as follows:

The **Australian Capital Territory (ACT)** has introduced a moratorium on the commercial release of GM food crops in the ACT until 2006+.

The moratorium will be reviewed annually. The Health Minister has indicated that the ACT will continue to support licensed, scientific research into genetically modified organisms (GMOs) being conducted in the territory.

In July 2007, the **NSW** Government established an Independent Review Panel to re-examine the impact of the moratorium on the commercial cultivation of GM canola in the state. The Review Panel examined market acceptance of GM canola and found that the concerns about the impact of GM canola on markets and trade had largely been resolved. The information the Review Panel received included strong evidence that the introduction of GM canola to NSW would have minimal impact on market access or prices for the majority of Australian canola. The review therefore recommended the moratorium on the cultivation of GM canola in NSW be removed.

In December 2007, the NSW Government amended the *Gene Technology (GM Crop Moratorium) Act 2003*. The government extended the Act until July 2011 and replaced the GM canola specific moratorium orders with a blanket moratorium on all GM food crops. The amended legislation provides for the approval of the commercial cultivation of a specific GM food crop where the relevant industry makes an application which addresses criteria on industry preparedness to manage the GM food crop. The application is assessed by an Expert Committee which provides advice to the Minister.

A representative of the canola industry in NSW made an application to the Minister for GM canola to be approved for commercial cultivation in NSW in 2007. The Minister referred the application to an Expert Committee who assessed the application and provided advice to the Minister that the application met the specified criteria.

On 14 March 2008, the Minister announced the approval of the commercial cultivation of GM canola in NSW.

Genetically modified cotton has not been banned in NSW and has been grown commercially since 1996.

Both the **Queensland** and **Northern Territory** Governments support the national gene technology regulatory scheme and have not implemented any further legislation.

The **South Australian (SA)** Government reviewed its moratorium on the commercial cultivation of GM crops in 2007. The *Genetically Modified Crop Advisory Committee* of SA prepared a report for the SA Minister of Agriculture, Fisheries and Forestry which examined any market and trade impacts on the introduction of GM crops. The committee recommended that the SA Government lift the moratorium except on Kangaroo Island. However, despite the review recommendations, on 8 February, 2008 the SA Government announced its decision to extend its moratorium.

The legislation does provide for exemptions to allow field trials to continue under specific conditions.

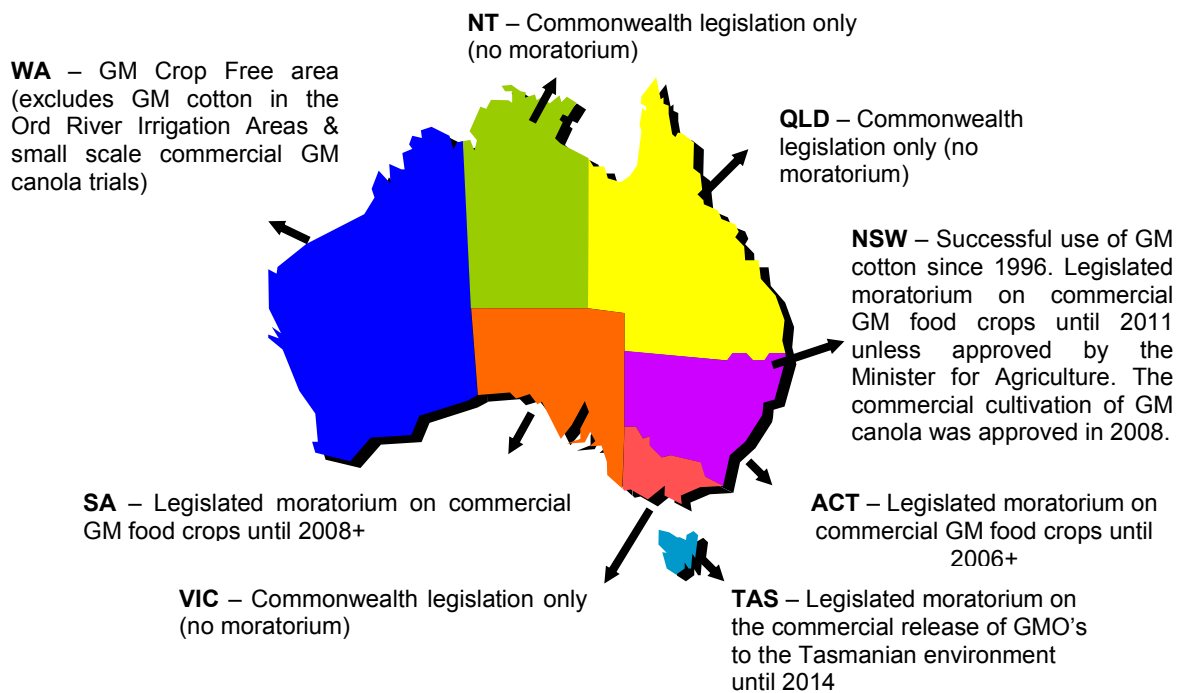
The **Tasmanian** Government reviewed its moratorium on the commercial release of GM crops and animals in 2008. A *Joint Select Committee* was appointed to undertake a review of the moratorium. The Committee recommended that the ban on the commercial production of GM food crops in the state be extended and reviewed after five years. The main reason for the recommendation was to allow Tasmania to stay “GMO free” in order to gain a market advantage. GM poppy field trials have continued in the state despite the moratorium.

In 2007, the **Victorian** Government established an Independent Review Panel to identify the impacts of the current moratorium and any potential moratoria on the Victorian economy. The final report prepared for the Victorian Minister for Agriculture stated that “The Panel finds no compelling market or price advantage that can be attributed to Australia’s non GM status as a bulk canola exporter over the past four years.” The recommendations by the panel included that the Victorian Government allow the moratorium on GM canola to expire.

On 27 November, 2007 the Victorian Government announced that it would let the moratorium on the commercial cultivation of GM canola expire in February 2008.

In December 2003, the *Genetically Modified Crops Free Areas Bill 2003* was passed by the **Western Australian** Parliament. In March 2004, the Premier designated the whole of the state as an area in which GM crops must not be cultivated. In November 2008, the newly elected Western Australian Minister for Agriculture and Food, granted an exemption under the *Genetically Modified Crops Free Areas Act 2003* for the commercial cultivation of GM cotton in the Ord River Irrigation Areas. Another exemption was granted in December 2008 for small scale commercial GM canola trials in the State. The *Genetically Modified Crops Free Areas Act 2003* will be reviewed as soon as practicable after the expiration of five years from its commencement (24 December 2003).

The Australian State of Play



Towards a national approach?

Recent moves by the NSW and Victorian governments to end bans on the commercial cultivation of federally-approved GM canola varieties are supported by both industry and a recent review of the federal gene technology regulatory system, who in the past have endorsed a truly national approach to gene technology regulation in Australia as outlined below.

Industry support

In 2005, the Australian Government Department of Agriculture, Fisheries and Forestry (DAFF) commissioned the Agriculture and Food Policy Reference Group to examine the responsibilities of governments and industry in taking future action to enhance the sustainability, competitiveness and profitability of the agriculture and food sector.

The resulting report released in 2006, *Creating our Future: Agriculture and Food Policy for the Next Generation* said in relation to the moratoria currently in place across Australia, "In view of the potentially significant human health, environmental and economic benefits from using biotechnology in agriculture and food production, and the costs to Australians of failing to capture them...state governments should lift their moratoriums on the commercial use of GM crops immediately, and work with the Australian Government, industry and researchers to achieve nationally consistent traceability and tolerance protocols, and to clarify legal liability surrounding the use of GM organisms in agriculture and food products."

Regulatory recommendations

After months of community consultation and consideration, a review of Australia's gene technology legislation was tabled in the Australian Parliament in April, 2006.

One recommendation from the review related to the extent to which state bans on the growing of GM crops had undermined the nationally consistent framework intended by the regulatory system by going against the federal regulator's decisions.

The review noted that there was no evidence of adverse impacts on markets by GM crops grown overseas, and concluded that the bans were having detrimental rather than beneficial impacts. It recommended that all jurisdictions should reaffirm their commitment to a nationally consistent scheme and work together to develop a national co-existence framework.

The Australian grain industry approach

Australia has a significant investment in gene technology across most major commodity sectors, and momentum is building from commodity and farmer associations for access to this technology in order to remain globally competitive.

In 2007, the Australian grains industry released a document titled, *Delivering market choice with GM canola* in order to demonstrate the Australian grains industry's capacity to use GM canola and deliver market choice.

The Australian grains industry recognises customer needs and has outlined the protocols, procedures and processes that are either already in place, or will need to be in place, for the introduction of GM canola.

The statement explores three broad ways GM canola can be managed in the supply chain:

- co-existence with other canola varieties and other grains;
- in a semi-integrated system; and,
- in a separate supply chain.

The grains industry's recognises that choice must be a priority across the supply chain so that all customers – from farmers to consumers - can use or access the products of their choice.

The report *Delivering market choice with GM canola* is endorsed by 29 industry organisations including six state farmers' associations, the National Farmers' Federation, ABB Grain, NACMA and the Grain Growers Association.

Further information

ACT Gene Technology (GM Crop Moratorium) Bill 2004.

www.legislation.act.gov.au/b/db_10630/default.asp

Commonwealth - Gene Technology Act 2002.

[www.frl.gov.au/comlaw/legislation/actcompilation1.nsf/0/0A2F6253DBF1CBE7CA257313000E8674/\\$file/GeneTechnology2000_WD02.pdf](http://www.frl.gov.au/comlaw/legislation/actcompilation1.nsf/0/0A2F6253DBF1CBE7CA257313000E8674/$file/GeneTechnology2000_WD02.pdf)

Creating our Future: Agriculture and Food Policy for the Next Generation, 2006. DAFF.

www.agfoodgroup.gov.au/data/assets/pdf_file/0003/248385/creating_our_future_full_report.pdf

Delivering Market Choice with GM canola (2007).

Single Vision Grains Australia

www.afa.com.au

Department of Primary Industries Victoria – Review of the moratorium on GM canola

www.dpi.vic.gov.au/dpi/nrenfa.nsf/LinkView/5477226A88881F86CA2572E300074EEF89E6C67B468BD2A7CA256FB70001BAB8

Department of Primary Industries New South Wales – GM canola moratorium information

www.dpi.nsw.gov.au/agriculture/field/oilseeds/canola/gm/review/qa-on-gm-moratorium-decision

Office of the Gene Technology Regulator (OGTR).

www.ogtr.gov.au.

PIRSA South Australia - Genetically modified crops

www.pir.sa.gov.au/gmc

State, Territory and Australian Governments' Response to the Recommendations of the Statutory Review of the *Gene Technology Act 2000* and the *Gene Technology Agreement 2001*. 2006

[www.health.gov.au/internet/wcms/publishing.nsf/Content/CE28398A33AF02E6CA25707400080A57/\\$File/Governments%20Response%2027%20Oct%2006%20Final.pdf](http://www.health.gov.au/internet/wcms/publishing.nsf/Content/CE28398A33AF02E6CA25707400080A57/$File/Governments%20Response%2027%20Oct%2006%20Final.pdf)

Tasmania – Policy Statement Gene Technology, 2009-2014

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Western Australia - GM Crops Free Areas Bill 2003

www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Bills+-+All