

# THE STATE OF INDUSTRIAL HEMP IN AUSTRALIA

## A summary analysis and strategic approach to FSANZ A1039

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## **INTRODUCTION**

In October 2011, WEFTS commenced an independent analysis of the dynamics, issues, stakeholders and processes associated with a change to the FSANZ Food Standards code to legalize hemp as a food. This summary report is in support of application A1039 submitted by Dr. Andrew Katelaris on December 4<sup>th</sup> 2009<sup>1</sup>. WEFTS calls for the legalization of hemp farming, processing, production, supply, sale, import and export of hemp based food products for the purposes of human consumption.

## **EXECUTIVE SUMMARY**

In a paper<sup>2</sup> published on October 2011, Australian Trade Minister Dr Craig Emerson noted that by 2035, the Asian population is set to increase by over 1 billion people. By that time, the Australian population is anticipated to be approaching 35 million<sup>3</sup>. According to Minister Emerson demand for protein rich foods is set to soar<sup>2</sup>. With an increasing reliance on grain stock for human consumption and livestock contributing 11% of Australia's total greenhouse gas emissions<sup>4</sup>, Australia must look beyond animal products to service this demand.

A nation that prides itself on its agricultural output, Australia is an important contributor to the world's food security. Looking to the future, the intelligent and responsible development of agriculture is paramount to ensuring our quality of life continues to be maintained and enhanced in step with the massive demands put on Australian resources by overseas interests, and a growing middle class worldwide.

Well into the 1800s, industrial hemp was the single largest trade commodity worldwide<sup>5</sup>. In the 1930s, a movement to ban hemp arose in the United States. The specific reasons for this are the subject of heated discussion, but it is



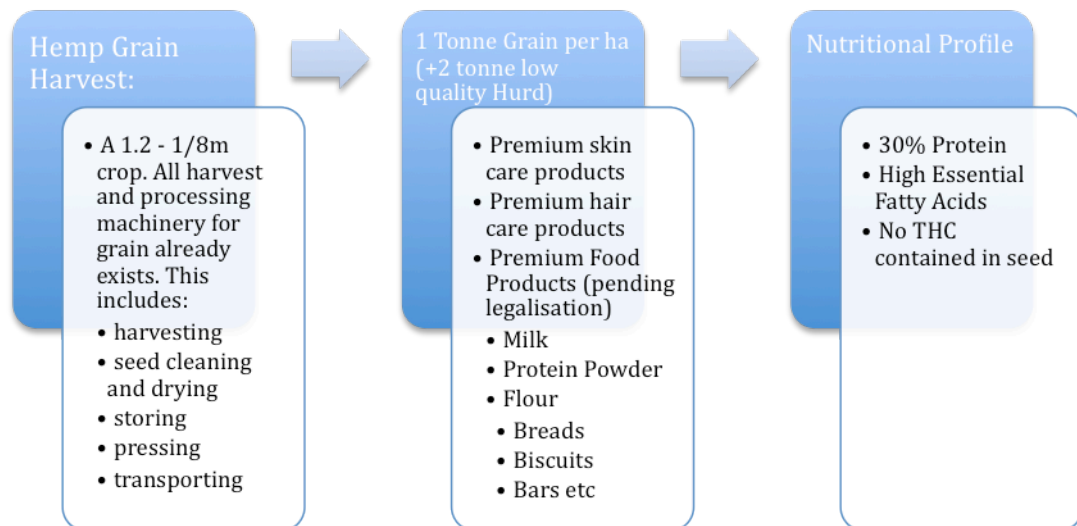
generally agreed that the psychoactive property exhibited by a small percentage of the many varieties of cannabis became the singular focus of the campaign to successfully ban all species of hemp. Consequently, breeding of Industrial Hemp since circa 1930 has focused quite specifically on producing strains which would perform very poorly as sources of drug material. Recognizing the value of industrial hemp, the ban on its cultivation has since been lifted in near all countries, and industrial hemp is once again grown and harvested. throughout the world, including most of Australia where it is still a fledgling industry.

***Anything that can be grown to provide industry with manufacturing materials  
will bring new revenue to agriculture***

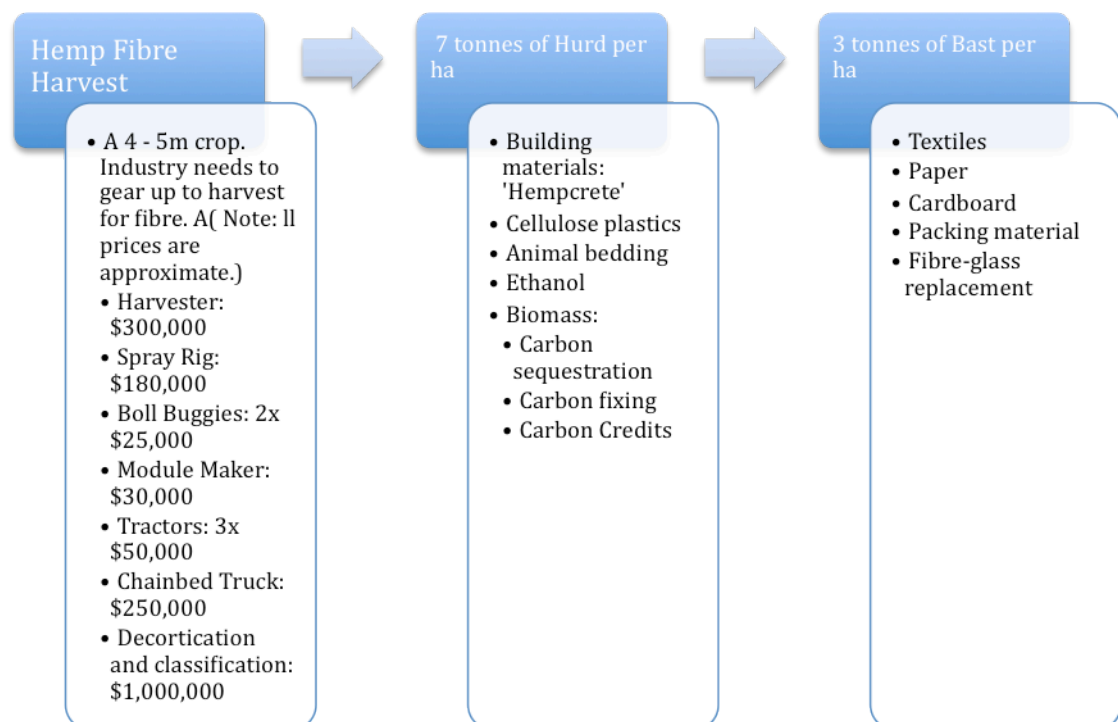
- Henry Ford

The hemp industry is composed of three 'legs' represented by the three parts of the plant used. The hurd (the pithy white core) produces building materials, natural plastics and fuel ethanol. The bast (long, fibrous outer bark) produces high quality textiles, paper, and a strong fiberglass alternative. The Hemp grain (seed) produces a high protein, nutrient rich food known as the single best source of plant based essential fatty acids. These three legs form the hemp industry who's co-operation enable the sector to grow.





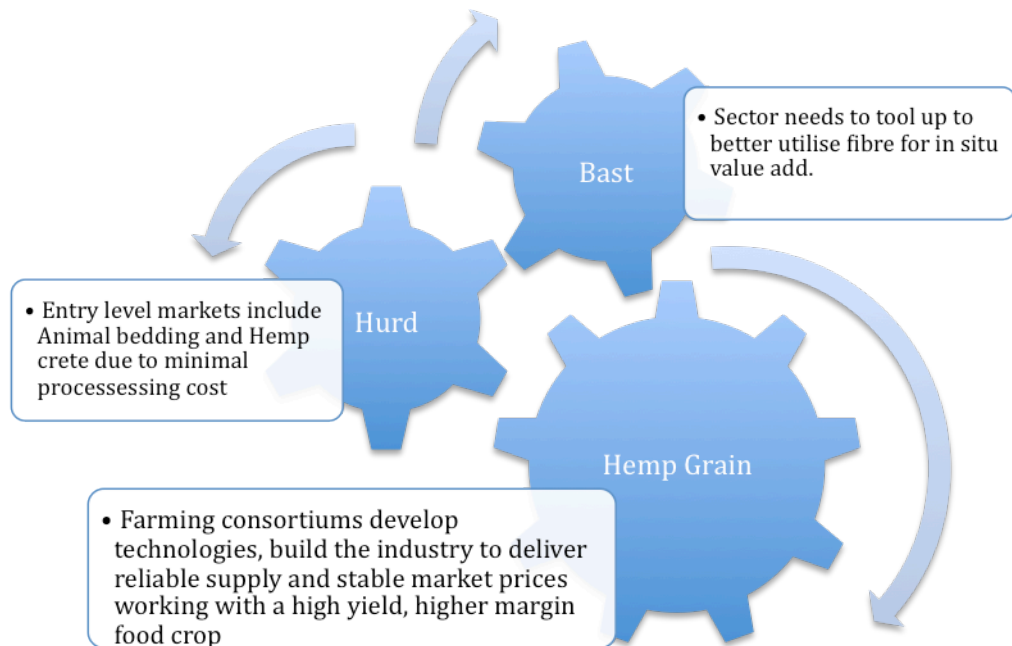
ref: See Endnotes and references: 6



Due to legislative restrictions Australian farmers nor consumers can enjoy the benefits of the hemp seed as a nutrient rich food. This has proved inhibitive for the growth of this industry. The reason for this is Hemp seed may be viably



farmed on smaller acreage, processing can be done using existing technology, and there are more established markets for hemp meal and oil as a food and skincare product. For while the Hemp food industry doesn't exist, a food industry does, as does all the processing technology to make, package and distribute a range of hemp based food products.



Hemp is one of the highest producers of biomass with significant carbon sequestration capacity.<sup>7</sup> It can be grown using significantly less water than cotton<sup>8</sup>, needs fewer pesticides, no herbicides. Moreover, hemp has significant environmental benefits<sup>9</sup>. Industrial hemp's carbon sequestration potential within a 90 – 140 day harvest cycle, and capacity for carbon fixing in a range of products makes hemp the single best candidate for the carbon farming initiative.

The proliferation of low THC industrial hemp can participate in and support a strategy to undermine the cultivation of high THC hemp. According to the NSW Department of Primary Industries, cross pollination of industrial hemp with high THC cannabis crops undermines the productive integrity of those



rogue high crops; pushing them outside an 8km radius of Industrial Hemp crops to maintain their efficacy.

Canada's hemp food and fibre industry has increased 300% over the last few years. The hemp retail market in the US has grown to \$419 million (2010)<sup>10</sup>. Yet Australia remains the only country in the western world where it is illegal to import, produce, or consume hemp based foods. Despite this inconsistency with acceptable world standards, Australian Industrial Hemp farmers continue to develop some of the world's leading technologies in high yield seed stock and farming techniques.<sup>6</sup> Without proper support of this industry, there is a real risk of Australian innovation going overseas to be exploited by other countries.

The legalization of industrial hemp for human consumption represents a critical intermediary step for Australia to participate in a growing local and international market demand for a broad range of hemp based products. Industrial hemp crop capacities for in situ value add and other production multipliers, represents significant mid-long term benefits to the development of regional Australia. Such benefits include employment, economic development, product innovation, and diversification of regional industry. Industrial hemp's carbon sequestration potential and capacity for carbon fixing in a range of products makes hemp the single best candidate for carbon farming initiatives. Furthermore, due to cross pollination, the proliferation of low THC industrial hemp is a reasonable strategy to undermine the productive integrity of high THC Cannabis.

Change to the FSANZ code enabling the legalization of industrial hemp as a food will bring Australia in legislative and production harmony with other producing countries. Given Australia will be the last country in the developed world to do so, there is no question that the concerns raised by various stakeholders are surmountable.



## BACKGROUND

The cultivation of Industrial Hemp is legal throughout Australia, except for the Northern Territory and South Australia. Tasmania has the longest history of cultivation with the passing of legislation in 1995, and NSW the shortest, passing the Hemp Industry Act 2008.

Citing the aforementioned Act, farmers are able to acquire a license<sup>1</sup> to cultivate, grow and/or supply low THC Industrial hemp:

- (a) for commercial production,
- (b) for use in any manufacturing process,
- (c) for scientific research, instruction, analysis or study,
- (d) for any other purpose prescribed by the regulations.

Existing regulation already accommodates sector activity which includes the growing, transporting and pressing of seed, the transport of industrial hemp oil, and its use in a range of existing cosmetic and other products. There are no specific provisions in the HEMP Industry Act 2008 stating the purposes for which industrial hemp may or may not be grown. However, the supply, sale, and consumption of hemp as a food is currently illegal in Australia.

In 2002, Food Standards Australia & New Zealand (FSANZ) reviewed and advised that hemp is safe and suitable for human consumption, acknowledging a broad range of nutritional benefits. Despite this recommendation, State, Territory and Federal health ministers composing the Ministerial Council rejected the application on the grounds that the availability of hemp foods may increase consumer acceptance of illicit Cannabis use and pose problems for drug enforcement agencies.

On the 4<sup>th</sup> of December 2009, FSANZ received a submission from Dr. Andrew Katelaris calling for 'low THC hemp' to be recognised and legalised as a food. This makes reference to the plant which can already be legally cultivated as a



fibre, fabric and fuel throughout most of Australia. Hemp Industry Act 2008 Sect 3 defines Low THC hemp as “any plant of the genus Cannabis, by whatever name that plant may be called, that has a concentration of THC in its leaves and flowering heads of no more than 1%, and includes the seed of any such plant and any product (such as oil or fibre) derived from any such plant.”

In March 2011, FSANZ completed their consultation paper, and floated the principal issues for public comment. Response was strong and broad, with the general public at large indicating strong support for the availability of hemp based foods, and access to the nutritional values therein. This matter is not disputed by FSANZ.

Petitions were produced and submitted by Hemp Foods Australia, and Happy Herbal Highs.

Particularly strong submissions in support of A1039 came from:

- Paul Benhaim, founder of Hemp Foods Australia<sup>11</sup>
- John Hall: Industrial Hemp Association of Queensland<sup>12</sup>
- Andrew Davidson – Director of Midlands Seed Ltd<sup>13</sup>
- Lyn Stephenson, President of the Industrial Hemp Association of Victoria<sup>14</sup>
- Phil Warner EcoFibre Industries Operations Pty. Ltd<sup>15</sup>
- Adrian Clarke of Textile and Composite Industries Pty. Ltd.<sup>6</sup>
- Chris Fowlie of the Hempstore Aotearoa<sup>16</sup>

The Canadian Trade Commission submitted a response stating they would be ‘happy to provide further details on regulating Low THC Hemp as food.’<sup>17</sup>





On the whole, there are near no reservations as to the safety, or the nutritional benefits associated with hemp. (The department of Health and Ageing have commented that they are “not aware of evidence confirming that cannabis / THC can be consumed safely at low levels”; however this is contrary the FSANZ stated position, which is supported by the Queensland government who acknowledge hems “favorable nutritional profile”.) Moreover, in this instance, the DoHA seem to have over looked the fact that the seed nor seed products contain THC.

The issues according to state and government agencies are:

1. Managing public perception related to high THC cannabis
2. The revision of state and federal legislation
  - QLD: Drugs Misuse Act 1986<sup>18</sup>
  - <sup>19</sup>NZ Misuse of Drugs Act 1975<sup>20</sup>
  - NZ: Misuse of Drugs Regulations 1977 (Reg 22)<sup>21</sup>
  - NZ: Food (safety) Regulations 2002<sup>22</sup>
  - NZ :Misuse of drugs (Industrial Hemp) Regulations 2006<sup>23</sup>
  - <sup>24</sup>SA: Controlled Substances Act 1984 <sup>25</sup>
  - Other acts pending.
3. Law enforcement of illegal cultivation and consumption<sup>26</sup>
4. Concerns of additional costs and burdens on regulatory agencies<sup>27</sup>
5. International drug control conventions to which Australia is a signatory<sup>28</sup>
  - Article 4 of the Single Convention on narcotic Drugs 1961
  - Article 7 of the Convention on Psychotropic Substance 1971
  - Schedule 8 and 9 of the (Commonwealth) Poisons Standard 2010
  - (Commonwealth) Criminal Code Act 1995

The Queensland government’s submission requests that the application be restricted to hemp seeds and specifically exclude leaf, roots, flowers or stem material. The Queensland Health Forensic and Scientific Services have proposed that all food hemp seeds are sterilized.



The Queensland Police Service have responded to the application with a confidential submission.

FSANZ completed a second assessment in early November 2011 available at:

<http://www.foodstandards.gov.au/foodstandards/applications/application1039lowt4708.cfm>

FSANZ has floated this assessment and are open for public comment until February 15<sup>th</sup> 2012. The most current process states that the FSANZ board will complete its final approvals by mid April, notify the Ministerial Council in late April, and publish the outcome by early July 2012 if no review is requested.

**STAKEHOLDERS:**

- State and federal departments and their ministers on the Ministerial Council<sup>29</sup>
- Food Standards Australia New Zealand (FSANZ)
- Existing hemp farmers throughout Australia
- Prospective hemp farmers throughout Australia
- Existing Hemp wholesalers and retailers of non hemp food products
- Prospective hemp wholesalers and retailers of hemp food products
- Prospective local and international investors
- The Industrial Hemp Associations of various states.
- National Cannabis Prevention and Information Centre
- Signatories to the petitions submitted to FSANZ
- Existing hemp food consumers



- Prospective hemp food consumers
- The Australian Media
- The Australian Public
- International hemp producers with an interest in exporting to Australia
- International hemp markets with an interest in importing from Australia.

#### END NOTES AND REFERENCES

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<http://www.foodstandards.gov.au/foodstandards/applications/applications/a1039lowt4708.cfm> (accessed 7th Oct 2011)
2. Trade Minister's Office 2011, 'White Paper on Australia in the Asian Century'  
Sec: 'Widening the Vision'  
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<http://www.climatechange.gov.au/en/publications/projections/australia-emissions-projections/agriculture.aspx#livestock> (accessed 31st Oct 2011)
5. <http://industrialhempaustalia.com.au/industrial-hemp/>  
(accessed 27th Oct 2011)
6. A1039 Textile & Composite Industries - Clarke A.pdf  
Textiles and Composite Industries Pty. Ltd. - Adrian K. Clarke  
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7. 'Hemp biomass for Energy' by Tim Castleman,  
Fuel and Fibre Company (2001)  
<http://fuelandfiber.com/Hemp4NRG/Hemp4NRGRV3.htm>  
(accessed 27th Oct 2011)
8. A1039 Industrial Hemp Assoc QLD - Hall.pdf  
Industrial Hemp Association of Queensland Inc. – John Hall



See: "Business Case for Carbon Soil Sequestration & Industrial Hemp Production"

9. "Hemp offers some real environmental advantages, particularly with regard to the limited need for herbicides and pesticides. Hemp is therefore pre-adapted to organic agriculture, and accordingly to the growing market for products associated with environmentally-friendly sustainable production."  
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10. "Industrial Hemp Profile." Agricultural marketing resource center.  
By Ray Hansen, content specialist, AgMRC, Iowa State University  
[http://www.agmrc.org/commodities\\_products/fiber/industrial\\_hemp\\_profile.cfm](http://www.agmrc.org/commodities_products/fiber/industrial_hemp_profile.cfm)
11. A1039 Hemp Foods Australia Pty Ltd - Paul Benhaim.pdf  
Available at:  
<http://www.foodstandards.gov.au/foodstandards/applications/applicationa1039lowt4708.cfm>
12. A1039 Industrial Hemp Assoc QLD - Hall.pdf  
Available at:  
<http://www.foodstandards.gov.au/foodstandards/applications/applicationa1039lowt4708.cfm>
13. A1039 Midland Seed Ltd - Andrew Davidson.pdf  
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<http://www.foodstandards.gov.au/foodstandards/applications/applicationa1039lowt4708.cfm>
14. A1039 IHVA - Stephenson.pdf  
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<http://www.foodstandards.gov.au/foodstandards/applications/applicationa1039lowt4708.cfm>
15. A1039 Ecofibre Industries - Warner P.pdf  
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<http://www.foodstandards.gov.au/foodstandards/applications/applicationa1039lowt4708.cfm>
16. A1039 The Hempstore Aotearoa - Fowler C.pdf  
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<http://www.foodstandards.gov.au/foodstandards/applications/applicationa1039lowt4708.cfm>
17. A1039 Canadian High Commission - Small M.pdf  
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<http://www.foodstandards.gov.au/foodstandards/applications/applicationa1039lowt4708.cfm>
18. [www.legislation.qld.gov.au/LEGISLTN/.../D/DrugsMisuseA86.pdf](http://www.legislation.qld.gov.au/LEGISLTN/.../D/DrugsMisuseA86.pdf)



19. NZ legislative issues and inconsistencies filed by Jenny Reid: Manager Food Safety: Science, Information & Risk Directorate, Ministry of Agriculture and Forestry, New Zealand Government.  
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See: Q.13  
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20. [www.legislation.govt.nz/act/public/1975/0116/37.0/contents.html](http://www.legislation.govt.nz/act/public/1975/0116/37.0/contents.html)
21. <http://www.legislation.govt.nz/regulation/public/1977/0037/latest/DLM54840.html>
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23. <http://www.legislation.govt.nz/regulation/public/2006/0163/latest/DLM389407.html>
24. SA legislative issues and inconsistencies filed by Joanne Cammans: Scientific Officer: Food Policy and Programs Branch SA Health.  
File: A1039 SA Health - Cammans.pdf  
Available at:  
<http://www.foodstandards.gov.au/foodstandards/applications/applicationa1039lowt4708.cfm>
25. <http://www.legislation.sa.gov.au/lz/c/a/controlled%20substances%20act%201984.aspx>
26. Queensland Police Services have submitted a confidential document referenced throughout the submission from the Queensland government.  
A1039 QLD Health - Bielby.pdf  
Available at:  
<http://www.foodstandards.gov.au/foodstandards/applications/applicationa1039lowt4708.cfm>  
WEFTS requested access to this document on 27<sup>th</sup> October 2011 as per the Freedom of Information Act. FSANZ procedure regarding FOI process follows:
- Within 14 days – an acknowledgement letter must be sent to the applicant
  - Within 30 days – the applicant must be notified of the FOI decision (other than documents in respect of which third party consultation is required to be undertaken)
  - Within 60 days – the applicant must be notified of the FOI decision in respect of documents requiring third party consultation
27. This issue has been represented as a ‘concern’ by selected government agencies who will not be affected. None have qualified their position.
28. This issue has been raised in the submission from the Department of Health and Ageing. Given that other countries, most notably Canada, are signatories to these international drug control conventions, it



would appear that it is Australia that is inconsistent and out of step with global conventions, by applying low THC hemp to them.

29. The Ministerial Council and territories represented:

**Australian Government:**

The Hon Tanya Plibersek MP  
Minister for Health and Ageing

The Hon Catherine King, MP  
Parliamentary Secretary for Health and Ageing

Senator the Hon Joe Ludwig  
Minister for Agriculture, Fisheries and Forestry

**New Zealand:**

The Hon Kate Wilkinson  
Minister for Food Safety  
Australia

**ACT:**

Ms Katy Gallagher, MLA (Labour)  
Minister for Health

**NSW:**

Lead Minister:  
The Hon Katrina Hodgkinson, MP  
Minister for Primary Industries

The Hon Jillian Skinner, MP : Liberal: member for the North Shore  
Minister for Health

**NT:**

Lead Minister:  
The Hon Konstantine Vatskalis, MLA  
Minister for Health

**QLD:**

Lead Minister:  
The Hon Geoff Wilson, MP  
Minister for Health

The Hon Tim Mulherin MP  
Minister for Agriculture, Food and Regional Economies

**SA:**

Lead Minister:  
The Hon John Hill, MP Labour



Minister for Health  
Minister for Health and Minister for Mental Health and Substance Abuse

The Hon Michael O'Brien, MP  
Minister for Agriculture, Food and Fisheries

**TAS:**

Lead Minister:  
The Hon Michelle O'Byrne, MP  
Minister for Health

The Hon Bryan Green, MP  
Minister for Primary Industries and Water

**VIC:**

Lead Minister:  
The Hon David Davis, MLC  
Minister for Health and Minister for Ageing

The Hon Peter Walsh, MP  
Minister for Agriculture and Food Security

**WA:**

Lead Minister:  
The Hon Dr Kim Hames, MB BS JP MLA  
Minister for Health

The Hon Terry Redman, MLA  
Minister for Agriculture and Food

