



GE Free New Zealand

In Food And Environment Inc.

PO Box 13402, Wellington, NZ

11 March 2018

Response to New Plymouth District Council Draft Proposed Plan

We would like to address these areas in respect to the Objectives set out in your plan and the lack of any precautionary provisions in relation to GMO land use.

Objectives (p.18)

RD-O1 The contribution of rural activities, rural resources and regionally significant industries to the social and economic well-being of the community are recognised

RD-O5 Farming and rural-based activities are able to operate efficiently and effectively without being constrained or compromised by new incompatible land uses.

RD-O6 There are a range of opportunities for tangata whenua to exercise kaitiakitanga and provide for their unique social, cultural, economic and environmental well-beings across rural areas.

IB-O1 Significant areas of indigenous biodiversity are protected and maintained.

IB-O2 Indigenous biodiversity is maintained and enhanced and the threats to areas of biodiversity from pests and stock are managed.

IB-O3 There are ecological linkages between areas of indigenous biodiversity.

Natural Hazards:

NH-O2 Activities do not create new or exacerbate existing natural hazards.

NH-O3 Activities are designed and located to minimise the risk of damage from natural hazards.

Rural Plan Zone (p.123)

NH-P2

Control the activities that can occur in natural hazard areas, including:

4) activities that involve the use and storage of hazardous substances.

RPZ-O2 The role, function and predominant character of the Rural Production Zone is not compromised

Policies: (p.19)

RD-P1 Identify and provide land for the purpose of ensuring that rural activities and rural industry contribute to the social and economic well-being of the district where rural and rural industry activities are enabled and productive, versatile land is reserved for rural and rural industry activities

RD-P5 Allow for community activities that support the rural community and their sense of identity.

RD-P6 Manage activities at the rural zone interface to reduce conflict with surrounding activities and avoid, remedy or mitigate the adverse effects of incompatible activities.

IB-P2 Maintain and enhance indigenous biodiversity by:

- ensuring activities within or in proximity to areas of indigenous biodiversity do not compromise biodiversity values; recognising the benefits of active management of indigenous biodiversity,

- including pest and stock control and/or formal legal protection; and
- by potentially incompatible activities.

RPZ-O3 Activities do not reduce the potential for versatile land to be used in a productive and sustainable manner

RLZ-P3 Avoid activities that are incompatible with rural lifestyle character, including: residential subdivision and activities; industrial activities;

GE Free NZ in Food and Environment is a voluntary Organisation. We have members throughout New Zealand and in the New Plymouth region. We support our members by writing submissions, providing information to the members and the public concerning Genetic Engineering on a local, national and international level.

We totally support the **Issues, Objectives and policies outlined above** in relation to ensuring that existing farming practices operate efficiently and effectively without being constrained or compromised by new incompatible land uses.

Our members note that there are no GMO provisions in the New Plymouth District Plan plan. They are highly concerned over the adverse effects and consequences of GMO contamination and the compromises they will be forced to make regarding the economic loss to their businesses, farming and cultural activities, should GMO land use be introduced into the region at this time. We however would like to concentrate on the precautionary approach that underlies all sustainable development where there is an economic tension that is measured in risk / benefit model. This is directed especially toward GMO land use.

In the last 17 years since GMO's have been developed in New Zealand there is evidence that the expected outcomes have not come to fruition. In fact GM animal research at the facility in Ruakura have been a failure. GM animals' deformities have subjected them to immense pain and suffering.¹

Evidence from overseas, where GM crops have been grown for 15 years, has found an increasing level of pesticide use on crops, deleterious health effects from those working with and living near GM crops and an ever growing weed and insect resistance problem that is forcing other pesticide measures to be used with an increased battle for market dominance of their particular patented proprietary chemical. Conflicts over GMO pollution between farming neighbours has led to legal action; cultural and traditional beliefs are being disregarded; consumer resistance is still high and there is an export market premium for non-GMO produce. There are also potential adverse effects for unexpected and unknown medium-term and long-term impacts on soil biota, waterways and the natural environment generally arising from GMOs outside containment.

The New Plymouth region is an important area for dairy farms for the three major suppliers of milk and milk products in the area. These companies rely on their shareholder farmers for milk supply and there are many farmers who are highly concerned that their livelihoods will be affected if GMO's are released in the New Plymouth region. Tataua², Fonterra³ and Miraka Milks⁴ have a GMO Free requirement for the milk products. Concerns over the ability to control the grass genetic pollution is a major concern and it is important to have precautionary approach to any escape and release of GM until the negative effects are known on the region.

Consideration of GMO's is important because the Auckland and Northern councils have identified them as a risk issue after their 10-year consultation and section 32. The Hazardous Substance and New

¹ <http://www.gefree.org.nz/assets/pdf/GE-Animals-in-New-Zealand.pdf>

² <https://www.tatua.com/our-milk/>

³ <https://www.fonterra.com/nz/en/what-we-stand-for/lush-pastures/FonterraandGM.html>

⁴ <http://www.miraka.com/nz/100-new-zealand-high-quality-milk-resources/>

Organisms (HSNO) Act only has jurisdiction on any adverse effects of GMO's whilst they are in containment. As soon as GMO's fully released the HSNO Act no longer governs them. This is because a GMO is considered a new organism, and there by governed under HSNO, until it is released then it is no longer governed by the EPA, but any hazards arising or contamination, falls on councils as the responsible body.⁵

HSNO and RMA responsibilities

The conclusions of the nine council strong "Inter Council Working Party on GMO Risk Evaluation & Management Options" (Auckland-Cape Reinga) applies to all councils in New Zealand regarding the gaps in central government decision reach through the Hazardous Substances and new Organisms Act (HSNO). Local regulation in the northern Councils has been deemed highly necessary when it comes to GMOs release in the regions.

Dr. Royden Somerville: QC reports detail that local authorities do have jurisdiction for managing GMOs as an outdoor land use.

These reports are –

Community Management of GMOs: Issues, Options and Partnership with Government. 2004⁶

Community Management of GMOs II: Risks and Response Options. 2005⁷

Community Management of GMOs III: Recommended Response Options (September 2010)⁸

This has been supported by the Environment Court⁹ and High Court challenges in 2015 and 2017.

Further there has been argument that GMO's are not mentioned in the RMA and therefore not the responsibilities of councils. In recent years there have been Resource Management Act (RMA) changes and several legal decisions giving, "*jurisdiction under the RMA for regional councils to make provision for control of the use of GMOs through regional policy statements and plans.*" as stated by Judge L.J Newhook (2015),

The cases and decisions are

1. The Environmental Court, NZ Forest Research Institute Ltd (Scion) v Bay of Plenty Regional Council ENV-2013-AKL-146
2. Federated Farmers of New Zealand v Northland Regional Council ENV 2013 AKL 0001610, Decision No. [2015] NZEnvC 89).
3. The High Court (CIV-2015-488-0064 [2016] NZHC 2036)
4. The Appeal Court, Federated Farmers of New Zealand had abandoned their Court of Appeal case CA 541/2016 (31 October 2017).

These legal decisions can be found on the GE Free NZ website - <http://www.gefree.org.nz/ge-free-court-council-submissions/>

On 18 September 2017, the Resource Management Act (RMA) section 360D officially set down in law the right to place GMO provisions in Council plans without Ministerial interference.

360D Regulations that prohibit or remove certain rules

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister but subject to subsection (2), make regulations to prohibit or remove specified rules or types of rules that would duplicate, overlap with, or deal with the same subject matter that is included in other legislation.

⁵<http://www.legislation.govt.nz/act/public/1996/0030/93.0/DLM382982.html>

⁶[Community Management of GMOs - Issues, Options and Partnership with Government](#) [315.5kb]

⁷[Community Management of GMOs II - Risks and Response Options](#) [503.2kb]

⁸[Community Management of GMOs III - Recommended Response Option](#) [256.7kb]

⁹ ENV-2013-AKL-161 - [2015] NZEnvC 89

(2) Subsection (1) does not apply to rules or types of rules that regulate the growing of crops that are genetically modified organisms.

(3) In subsection (2), genetically modified organisms has the meaning given in section 2(1) of the Hazardous Substances and New Organisms Act 1996.

GE Free members would like council to implement a GMO section in the NPDP. The RMA's implicit requirement in the purpose and principle that requires the precautionary approach/principle is applied to all its decision-making.

Indigenous Biodiversity: IB 01-03, IB-P2

Maintain and enhance indigenous biodiversity by:

- *Ensuring activities within or in proximity to areas of indigenous biodiversity do not compromise biodiversity values; recognising the benefits of active management of indigenous biodiversity, including pest and stock control and/or formal legal protection; and*
- *By potentially incompatible activities.*

There is concerning data highlighting the hazards that GMO and their associated pesticides are having on the environment. The genetic pollution from GMO's should be considered hazardous substances in relation to their pollution and self-perpetuating invasive qualities. Due to the loss of vital pollinators and ecosystems that are being killed through intensive land use, GMO's add another hazard layer to ecosystem destruction.

Rural Plan Zone: NH 02,03, NH-P2

Activities do not create new or exacerbate existing natural hazards.

Activities are designed and located to minimise the risk of damage from natural hazards.

Control the activities that can occur in natural hazard areas, including:

4) Activities that involve the use and storage of hazardous substances.

The pollution of the environment from excessive industrial agriculture destroys the natural values for people and the environment. Studies have shown that there has been a devastating impact on insect numbers attributable to pesticides and intensive farming methods¹⁰. In part this is because the insects have had their food sources destroyed affecting all trophic levels of animal and bird life. Though no studies have been conducted in the New Zealand environment per se, Dr Ngaire Hart research found a 60% decline in native bee numbers and these bees are the primary source for native plant pollination¹¹. There are also many native birds that rely on insects as a food source; the piwakawaka (fantail)¹² and kiwi to name a few.

We would like to see added in the natural hazards NH-2P (4) policy "genetically modified organisms, GMO" after hazardous substances.

New Category for GMO's.

We suggest that GMO's are placed in a stand-alone category. It is important that council rules and policies are collaborative and consistent with Councils in across regions. We ask the New Plymouth District Council to support the approach taken by the Auckland Unitary Plan and Whangarei / Far North District Councils and adopt their rules, policies and objectives toward the outdoor use of GMO's and insert GMO provisions into the Proposed District Plan, as outlined below:

¹⁰ Hallmann CA, Sorg M, Jongejans E, Siepel H, Hofland N, Schwan H, et al. (2017) More than 75 percent decline over 27 years in total flying insect biomass in protected areas. PLoS ONE12(10): e0185809.

¹¹ <https://www.fndc.govt.nz/services/the-far-north-district-plan/plan-changes/plan-change-18/Pre-Circulated-Evidence-GEFree-Ngaire-Hart2.pdf>

¹² <http://www.doc.govt.nz/nature/native-animals/birds/birds-a-z/fantail-piwakawaka/>

Issue: Genetically Modified Organisms.

The environment, including human health and well being, is safe from the adverse effects of GMO's from land use activities.

Resource Consent Categories -

- Field Trials - Discretionary Activity
- Food-related GMO Releases - Prohibited Activity
- Non-food-related GMO Releases - Prohibited Activity.

Policies:

1. Adopt a precautionary approach by prohibiting the general release of a GMO
2. Require outdoor field trialling of GMOs to be a discretionary activity to avoid the risk effects to the environment from the use, storage, cultivation, harvesting, processing or transportation.
3. Adopt an adaptive approach through periodic reviews of these plan provisions, particularly if new information on the benefits and/or adverse effects of a GMO activity becomes available.
4. Require the holder of a resource consent granted for the outdoor field trialling of a GMO is financially accountable for any adverse effects associated with the activity,
5. Enable the use of GMOs approved releases for medical and veterinary applications, except for the outdoor cultivation of pharmaceutical producing organisms.
6. Require where appropriate, more stringent measures than those required under the provisions of the HSNO Act to manage potential risks.
7. Require all monitoring costs to be met by the consent holder.

Reasons and Explanations:

The objectives, policies and methods seek to achieve the following:

1. Manage risk and avoid adverse effects on people, communities, tangata whenua, the economy and the environment associated with the outdoor use of GMOs.
2. Provide the framework for a unified approach to the management of the outdoor use of GMOs to address cross-boundary effects.
3. Ensure accountability by GMO operators for the full costs related to the monitoring of GMO activities, and any migration of GMOs beyond specified areas, including unintentional GM contamination.
4. Ensure accountability by GMO operators for compensation via performance bonds in the event that the activity under their operation results in adverse effects to third parties or the environment.
5. The manufacture, trialling or use of viable and/or non viable genetically modified organisms for medical purposes recognized as medicines under the Medicines Act 1981 and approved as safe to use by the Ministry of Health, including the EPA approved releases except for the outdoor cultivation of pharmaceutical producing organisms

We fully support the Soil and Health submission.

Yours sincerely,

Jon Muller
Secretary GE Free NZ