



# GE Free New Zealand

*In Food And Environment Inc.*

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## **Response to Waikato District Council Draft Proposed Plan**

We would like to address these areas in respect to GMO land use.

Section A,

Section B: Rules - Categories of Activities

Prohibition of GMO on land use

Section: C: genetic pollution

Biodiversity and Habitats

Contamination genetic technologies – New Organisms as understood by HSNO

Land Contamination Whakamaru.

A new section should be inserted specifically on GMO's.- Issues, Objectives and Policies

Prohibited in the outdoors and notified for field tests.

NRS sites – Ruakura

**GE Free NZ in Food and Environment** is a voluntary Organisation. We have many members in the Far North region. We support our member 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 **Rural Resources - 1A.6. Issues, Objectives and policies in** relation to ensuring that rural actions do not constrain or compromise existing lawfully established productive rural activities.

Our members are highly concerned as to the economic and cultural threats to their business activities and wellbeing, should GMOs be introduced into their community 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 research at the very facility in Ruakura GM animals have been a failure. GM animals' deformities have subjected them to immense pain and suffering. <sup>1</sup>

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 Waikato is the centre of dairying having head offices and 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 many farmers who are highly concerned that their livelihood's will be affected if GMO's are released in the Waikato. Tatua<sup>2</sup>, Fonterra<sup>3</sup> and Miraka Milks<sup>4</sup> 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.

Why this is important is because as has been identified in the 10-year consultation by the Auckland and Northern councils, the Hazardous Substance and New 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 a new organism but is still a GM one<sup>5</sup>.

### **Section A : Plan Overview and Strategic Directions**

We would like to ask if there could be inclusion of GMO section in the PWDP. The precautionary approach /principle is under review and we would like to support the RMA's implicit requirement in the purpose and principle that requires the precautionary principle be applied to all its decision-making.

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

<sup>2</sup> <https://www.tatua.com/our-milk/>

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

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

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

The conclusions of the nine council strong “Inter Council Working Party on GMO Risk Evaluation & Management Options” (Auckland-Cape Reinga) found local regulation 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. 2004<sup>6</sup>
- Community Management of GMOs II: Risks and Response Options. 2005<sup>7</sup>
- Community Management of GMOs III: Recommended Response Options (September 2010)<sup>8</sup>

This has been supported by the Environment Court<sup>9</sup> 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 LJ 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*

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

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

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

<sup>9</sup> ENV-2013-AKL-161 - [2015] NZEnvC 89

*(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.*

*(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.*

It is important that council rules and policies are collaborative and consistent with Councils in across regions. We ask the Waikato 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 Plan.

**Section B : Environmental Protection Area** is to protect and enhance ecosystems and ecological corridors, and protect the habitats of plants, birds and other wildlife. There is some 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.

**Section C: Amenity values as defined under the RMA**

*The natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.*

The pollution of the environment from industrial agriculture destroys the amenity values for people and the environment. The birds and trees that rely on pollinators have been severely affected by increase in pesticides on their food sources. Our National Parks and wild spaces attract many people who enjoy the outdoors specifically to experience the wonderful diverse wildlife we have. Studies have shown that there has been a devastating impact on insect numbers attributable to pesticides and intensive farming methods<sup>10</sup>. In part this is because the insects have had their food sources destroyed affecting all trophic levels of animal and bird life. Though few insect studies have been conducted in New Zealand, Dr Ngaire Hart research found a 60% decline in native bee numbers and these bees are the primary

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<sup>10</sup> 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.

source for native plant pollination<sup>11</sup>. There are also many native birds that rely on insects as a food source; the piwakawaka (fantail)<sup>12</sup> and Tauhou (wax eye) are mainly insect eating birds.

We ask that the adverse effects of genetically modified organisms should be added to the Land use policy.

### **Strategically Important Industrial and Research Sites.**

**Contaminated Sites:** GM animal sites should be registered on the LIM reports. We note that Whakamaru Field test site was closed down with the ashes of the 3000 GM sheep buried at the field test site. The site was sold within 3 months of the last animal incinerated. This site has never had any remedial research conducted on it to see if genetic contamination would pose a human health or animal health risk. After the failed experiment there was no further monitoring and any responsibility for further site inspection or monitoring would fall on Council.

### **Deferred Zones:**

The AgResearch Ruakura animal field test site should be the only area zoned for GMO activity. Any new field tests must obtain resource consent and be notified.

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

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

## **Decision sought.**

We suggest that GMO's are separately categorised. For consistency with neighbouring districts the Council insert into the Waikato District Council Draft Proposed Plan GMO provisions that replicate the Auckland Unitary Plan<sup>13</sup> as below:

### **Resource Consent Categories –**

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

### **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.

### **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:

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<sup>13</sup><http://unitaryplan.aucklandcouncil.govt.nz/Images/Auckland%20Unitary%20Plan%20perative/Chapter%20E%20Auckland-wide/5.%20Environmental%20Risk/E37%20Genetically%20modified%20organisms.pdf>

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

Yours sincerely,

Jon Muller  
Secretary GE Free NZ