

## Ideas for submissions to your Annual District Council Plan.

- 1) Ask your council if they have any policy on GE/GMOs. Local Authorities do have jurisdiction to control GMO land use.
- 2) If no GE policy or symbolic zone only, check to see if there are any plans open for public submission.  
(Councils open public consultation on their plans: depending on your council, district, city, unitary, regional they develop plans (annual, district, long term community plan, regional plans and regional policy statement review.) All councils in any given region must abide by Regional Policy Statements).
- 3) If no public submission process is open, you can still follow the steps and ask if a full council meeting can hear your concerns, there is normally an opportunity for this.
- 4) Make a submission (or send a letter) to your council – encourage others like minded individuals to do the same and write letters to the paper to raise the profile of the issue.
- 5) Prepare a petition for wording (see below) Collect signatures to show the community has concerns over the issue. Network with like minded individuals for help.
- 6) Ask your council to put in place a strong precautionary GE policy/ provision or for all GMO land use and GMO aquaculture to be a discretionary or prohibited activity. Councils are making GE trials discretionary and full GE releases a prohibited activity.
- 7) Make sure mayor/ councillors and council planners have access to the independent GE reports and legal opinions on Whangarei District Council website. There are 3 reports 2004/5/12 .  
<http://www.wdc.govt.nz/PlansPoliciesandBylaws/Plans/Genetic-Engineering/Pages/default.aspx#Expand> Also policy documents from the Inter Council Working Party you can access to help your council towards a better understanding of the issues.
- 8) Obtain the precautionary or prohibitive GE wording/ policies that other councils have already put in place before being heard at council hearings so that there are options to discuss.

### **Background: Genetic Engineering/ Genetic Modification GE/GM Free zones**

Around the world GE Free food is preferred; more recently particularly due to emerging health problems. US companies are finding it harder to source due to contamination. New Zealand not only has an economic advantage for its products on the world market, but a chance for our growing seed companies to provide GE Free seeds to the world.

At present NZ has zero tolerance for GE organisms and imported seeds. Only 2 GE trials are currently running at Crown Research Institutes CRIs :- pine trees at Scion in Rotorua and GE cattle and goats (sheep also permitted) at AgResearch Hamilton. This GE trial proposed to include 9 species of animals in undisclosed locations around NZ for an unlimited time. Court action by GE Free NZ forced AgResearch to reapply for the current trial- 3 species, at Ruakura, Hamilton for a limited period.

**Since the Royal Commission of Inquiry into GM 2001** recommended that ‘...districts be allowed to exclude GM crops where their presence would be a significant threat...’ communities have been asking for GE Free zones.

**A Law Commission Study Paper on Liability 2002** stated ‘it is difficult to estimate the level of risk posed by GMOs or assess the magnitude of the potential damage. GMOs have the potential to create catastrophic levels of harm; cause irreversible damage; some of the potential negative effects of

GMOs will likely manifest in the long term and be diffuse in nature; and plaintiffs may face difficulty and expense in establishing causation and proving the extent of any damage. Genetically modified organisms are a source of ethical and spiritual concern for part of society.’

**The Hazardous Substances and New Organisms Act** HSNO is inadequate without any precaution or liability, thereby forcing costs for mitigation onto ratepayers should any accidental contamination to water, soil, indigenous flora and fauna or crops ensue.

**District, unitary and regional councils** are charged with controlling contaminants and maintaining biodiversity, so it is important they respond to the serious threats posed by GMOs. The Resource Management Act RMA enables councils to prepare combined plans where the cross boundary nature of issues demands it.

#### **GE Free zoning to date:-**

Early on (from 2001) several community boards, district, city and unitary councils declared symbolically GE Free (further policy needs to be put in place), Buller District council put a **2yr ban on GMOs**. All councils from S.Auckland to Cape Reinga put **precautionary or prohibitive GE policies in their longterm community plans** LTCCP and **precautionary GE policies in some annual plans** and Whangarei District Council instigated a **precautionary approach to GMO land use** until outstanding issues were resolved. Auckland City set a precedent in its Hauraki Gulf and Islands District Plan with **outright prohibition** of all GMOs since 1998.

### **What can Councils do?**

**Regional Councils** prepare regional policy statements for all district and city councils under their jurisdiction. The Resource Management Act requires regional councils to begin a review of their regional policy statements no later than 10 years after the statement became operative.

**Many regional councils are now reviewing their regional policy statements.**

These new policy statements are likely to be more specific and directive. District and city council plans must now give effect to regional policy statements. The RMA confers primary powers on local authorities and the Environment Court. In general, policies are locally generated and are interpreted and applied by the Court.

**Northland Regional Council** have placed precautionary GE provisions into the Northland Regional Policy Statement, and identified the GE issue as an Issue of Significance for Northland tangata whenua and an issue of concern for Northland communities.

**Environment Bay of Plenty** has a precautionary policy on GM in its regional policy statement after the Environment Court decided to support that GM was an emerging issue. (Thanks to Soil and Health funding) Wording allows for it to be dealt with by tougher rulings in the future.

**District councils**(collectively referred to Territorial Authorities under the RMA) are charged with preparing district plans and must give effect to regional policy statements. Most district plans are now fully operative, and many councils are embarking on their 'second generation' plans. A variation to your District Plan could be to class GE experiments/commercial release (outside the strict containment of the laboratory) as i) a Prohibited Activity; or ii) a Non-complying/Discretionary Activity that would require public notification and a Resource Consent.

**Hastings District Council** has proposed similar rules (as Auckland and Northland District Councils) in order to capture regional branding opportunities that would arise from an official GM Free status. The proposed district plan is to make GE trials a discretionary activity whilst any GE release would be prohibited. <http://www.hastingsdc.govt.nz/files/all/documents/districtplan/review/proposed/29.1-hazardous-substances-and-genetically-modified-organisms-district-wide-activity.pdf>

**Whangarei District Council** proposed plan change with proposed GMO land Use Controls and more <http://www.wdc.govt.nz/PlansPoliciesandBylaws/Plans/Genetic-Engineering/Documents/Proposed-Plan-Change/Proposed-Plan-Change-131-GMO.pdf>

**Unitary councils-** Gisborne, Nelson City, Tasman District and Marlborough have the function of regional councils and TAs. Nelson City Council was one of the first to declare GE Free symbolically.

**Auckland** There has been a decade of community participation in development of plans for the Regional Policy Statement by the Auckland Regional Council, Waitakere eco-city's GE-free zone, and the establishment of local GE-free Zones. In December 2012 Albert-Eden Local Board passed a motion for a GE-Free Zone in continuation of the declaration made in 1999 by local communities including Waitakere, Western Bays, Waiheke, and Devonport. **Auckland Council has important protections against harm from GMOs / GE that are now included in the Auckland proposed Unitary Plan.**

**Bay of Plenty** <http://press.gefree.org.nz/press/20140210.htm>

The Environment Court decision upheld the right for the Bay of Plenty Regional Council, in its **Regional Policy statement, for a precautionary approach** to be taken on the growing of genetically modified (GMO) crops in the region. It also has given Councils the right, after the appropriate processes have been fulfilled; to place policies and rules around the GMO land use activities, if they are deemed to be of regional significance by the community

<http://www.boprc.govt.nz/media/321876/environment-court-decision-18-dec-2013-env-2012-339-000041-part-one-section-17.pdf>

Councils can now be forward thinking by identifying emerging issues that require a precautionary approach to protect their people, local environment and economic wellbeing.

**Hastings** <http://www.hastingsdc.govt.nz/geneticmodification> Issues surrounding Genetic Modification (GM) have been raised by the District's food producers through a number of different forums including the Long Term Plan. One perspective on the issue has resulted in the establishment of Pure Hawke's Bay, who are seeking a moratorium on GM field trials in the region (for a period of 10 years) and are **seeking the inclusion of rules in the District Plan** to enforce this.

Some GE submissions to Hastings council are available on line including an excellent one from Kerry Grundy from Whangarei District Council detailing ICWP and reports. The outcome of future policy is anticipated in draft as *"Avoidance of unacceptable risk to the community and the environment from the 'release' or 'field trialling' of Genetically Modified Organisms"*

<http://www.hastingsdc.govt.nz/files/all/documents/districtplan/review/15.8hazardoussubstances.pdf>

**Examples of GMO policies and wording adopted by local government :- LTCCP's:**

*"Council will adopt a precautionary approach to the management of biotechnology in general and to GMO land uses in particular. It will continue to investigate ways of maintaining the district's environment free of GMOs until outstanding issues such as liability, economic costs and benefits, environmental risks, and cultural effects are resolved. Together with other Northland and Auckland councils on the Inter-council Working Party on GMO Risk Evaluation and Management Options, Council has committed to investigating possible local and/or regional management of GMO land uses under the Resource Management Act."* Whangarei District Council operative Long Term Council Community Plan 2012/22

Northland Regional Council Adopted Long Term Council Community Plan 2004-14 and adopted LTCCP 2006-16

\* P. 40 LTCCP *"The Regional Council is a member of a Northland inter-council working group to discuss a common approach to the management of genetically modified organisms in Northland. Until this group has completed it's work, the council has decided to adopt a precautionary approach. This means that there should be no further development and field testing of transgenic organisms envisaged for agriculture, horticulture and forestry in Northland, nor any commercial release, until*

*the risk potential has been adequately identified and evaluated and a strict liability regime put in place."*

*"Support precautionary approach towards GE" Community Priority under the Theme of "Kaipara District's special character and healthy environment" (p. 88, Kaipara District Council LTCCP)*

**Proposed wording for Proposed Plan Change for District/ Unity Plan -Whangarei District Council -GMO Policies**

1. Precautionary Principle-To adopt a precautionary approach by prohibiting Release of a GMO, and by making Field Trials of a GMO a discretionary activity.
2. Financial Accountability-To ensure that a resource consent granted for the Field Trials of a GMO is subject to conditions that ensures that the consent holder is financially accountable (to the extent possible) for any adverse effects associated with the activity, including clean-up costs and remediation, including via the use of bonds.
3. Risk Avoidance-To ensure that a resource consent granted for the Field Trials of a GMO is subject to conditions that serve to avoid, as far as can reasonably be achieved, risk to the environment from the use, storage, cultivation, harvesting, processing or transportation of a GMO.
4. Monitoring Costs-To ensure that a resource consent granted for the Field Trials of a GMO is subject to a condition requiring that monitoring costs are met by the consent holder.
5. Liability-To require consent holders for a GMO activity to be liable (to the extent possible) for any adverse effects caused beyond the site for which consent has been granted for the activity.
6. Adaptive Approach-To adopt an adaptive approach to the management of the outdoor use, storage, cultivation, harvesting, processing or transportation of a GMO in the district through periodic reviews of these plan provisions, particularly if new information on the benefits and/or adverse effects of a GMO activity becomes available.

Ref:-<https://www.mfe.govt.nz/publications/rma/rma-guide-aug06/html/page3.html>

Ministry of the Environment Guide to the Resource Management Act 2 Who, How, What May 2002 Law Commission Study Paper 14 Liability for loss resulting from the development, supply or use of GMOs

[http://www.lawcom.govt.nz/sites/default/files/publications/2002/08/Publication\\_104\\_263\\_SP14.pdf](http://www.lawcom.govt.nz/sites/default/files/publications/2002/08/Publication_104_263_SP14.pdf)

Royal Commission Of Inquiry into GM 2001 <https://www.mfe.govt.nz/publications/organisms/royal-commission-gm/index.html>

How to create a GE Free zone – Zelka Grammer Organic NZ March/April 2013 Vol 72 No.2

<http://www.hastingsdc.govt.nz/files/all/documents/districtplan/review/proposed/29.1-hazardous-substances-and-genetically-modified-organisms-district-wide-activity.pdf>

Proposed Hastings District Plan Nov 2013- Trials discretionary-Release prohibited

<http://purehawkesbay.org/overwhelming-support-for-local-decisions-on-gm-free-status-national>

Four out of five New Zealanders think councils should be able to keep their districts GM Free using local plans, according to a Colmar Brunton poll. 2.12.2013

**Letter to council** - feel free to alter.

Dear (name of council)

As a [ratepayer/ farmer/ primary producer/ mana whenua etc), I/we write to urge [council name] to use their rights to set protections on genetically modified organisms (GMO) releases and hazardous substances under the Resource Management Act.

Outdoor use of GMOs in [ region] poses significant risks for our business and the entire [region's/district's] food-based economy (or...phrase "existing valuable GM free status"). Key export markets are sensitive to even trace levels of GM content in food products and should local production suffer GM contamination, serious costs would fall on growers and food processors. If a GMO proves to be an invasive species and becomes a serious weed, then councils/ ratepayers may end up paying the costs for control programmes or eradication.

That is why it is in the [district's / region's] interests to be able to ensure it is properly protected from GM releases.

The RMA's suitability for providing the opportunity for GMO policy has been established through a ten-year investigation by a working party of councils in the Northern Peninsula, which identified serious gaps in the national HSNO regime.

In particular:

There is no option under HSNO for territories to establish themselves as GM free food producer zones, should that status provide regional branding and marketing opportunities.

The EPA assesses national economic potential, not the impact on our regional economy. The outcomes for one region may be quite different to those for the country as a whole.

Local authorities have no special status under HSNO. As such, decisions by the regulator on proposed outdoor GM activities do not have to give any particular weight to submissions made by councils.

Liability for cleaning up damage arising from a nationally approved GM release could fall on councils and ratepayers.

Nick Smith when Minister for the Environment did confirm that local authorities can restrict or prevent the use of GMOs in their district or region under the Resource Management Act provided that they can show that it is necessary in addition to national regulation under HSNO.

The gaps in the HSNO Act are detailed in several consultancy reports

[http://www.wdc.govt.nz/PlansPoliciesandBylaws/Plans/Genetic-](http://www.wdc.govt.nz/PlansPoliciesandBylaws/Plans/Genetic-Engineering/Pages/default.aspx#Expand)

[Engineering/Pages/default.aspx#Expand](http://www.wdc.govt.nz/PlansPoliciesandBylaws/Plans/Genetic-Engineering/Pages/default.aspx#Expand) and legal

opinions by Dr Royden Sommerville QC.

[http://www.wdc.govt.nz/PlansPoliciesandBylaws/Plans/Genetic-Engineering/Documents/Proposed-](http://www.wdc.govt.nz/PlansPoliciesandBylaws/Plans/Genetic-Engineering/Documents/Proposed-Plan-Change/Legal-Opinions-combined.pdf)

[Plan-Change/Legal-Opinions-combined.pdf](http://www.wdc.govt.nz/PlansPoliciesandBylaws/Plans/Genetic-Engineering/Documents/Proposed-Plan-Change/Legal-Opinions-combined.pdf) The investigation also identified the RMA as providing

local authorities with the ability to address those gaps through a proposed plan change and draft s32 analysis.

On the basis of the working party's reports, Whangarei, Auckland and Far North councils have decided to introduce rules to their draft district, regional and unitary plans that would prohibit GM releases and make GM field trials discretionary activities.

Northland Regional Council have placed a strong precautionary GE policy into the Northland new Regional Policy Statement, and identified the GE issue as an Issue of Significance for Northland tangata whenua and an issue of concern for Northland communities. Hastings District Council has also proposed similar rules (as Auckland and Northland District Councils) in order to capture regional branding opportunities that would arise from an official GM Free status. Environment Bay of Plenty has so far introduced a precautionary policy on GM releases to its regional policy statement.

Local Government NZ recognise the unacceptable longterm risks and costs of GMOs, as do independent scientists monitoring current failures in the regulation of GMOs.

It is in [region or district's] interests to rule on GM releases because:

The Government does not intend to close the loopholes that leave councils and communities liable for any costs arising from releases approved by the national regulator.

Government aims to delete key environmental sections from the RMA (including s6 &7) removing councils' ability to create an additional tier of local protection by ruling on outdoor GM activities.

We ask that council preserve our GE Free status and the [district's/regions] strategic options into the future and write to Environment Minister Amy Adams opposing any law change that strips the ability of councils to set additional protections and submit against the proposed changes to the RMA when a bill comes before Parliament. Local Government New Zealand should represent local authority interests on this matter in any submissions to Parliament

GM food production is a strategic issue for regional economies. There are opportunities for regional branding initiatives to align with export market demands. The brand benefits available from a region's GM Free food producer status is an opportunity that Hastings District Council recognises. Under New Zealand law the costs of damage resulting from an "officially approved" GE organism may fall on the local community. Under "socialised risk", ratepayers and the New Zealand public may be forced to pay for clean-up and compensation if GE uses go wrong.

We ask that councils put in rulings to make GE trials a notified and discretionary activity and that releases are prohibited until the risks are adequately identified and evaluated, credible systems for ensuring the protection of organic and conventional primary production, and genetic engineering shows some evidence of benefit overseas.

At very least we ask that council put in a strong precautionary wording against the outdoor use of GMO's in our region.

## Petition

**We, the undersigned, ask that council take notice of the emerging issue of the significant risks of outdoor use of GMOs (genetically engineered organisms) and take a strong precautionary approach to all outdoor GMO land use by:-**

- 1) Including a precautionary GE statement into Council policy to ensure our existing valuable GM free status is retained. The outdoor use of GMOs threatens our biosecurity, unique biodiversity, primary producers, other ratepayers, economy and the public health. The economic advantage of being GM free must be retained to protect food quality and farmers access to key markets and premiums. It is also imperative that local communities are not held liable for unintended or unforeseen adverse impacts of outdoor use of GMOs.
- 2) Prohibiting all GMO releases in Council plan and making any EPA approved outdoor GE experiments/ field trials a Discretionary notifiable activity, with stringent local requirements including strict liability provisions.

**These precautionary and prohibitive requirements in our local plan would create a much needed additional tier of protection against risks of the outdoor use of GMOs, given the serious deficiencies, in the Hazardous Substances and New Organisms (HSNO) Act; and identified both by Local Government NZ and other councils.**

### Or

We, the undersigned, ask that council take notice of the emerging issues of GE and take a precautionary approach to GMO land use by:-

- 1) Including a precautionary statement into the (annual/ district/ long term community plan/ regional plans / regional policy statement review) supported by policies that will ensure our economic advantages for quality food production are retained and that liability for mitigation does not fall to the ratepayer.
- 2) Making GE trials a notified and discretionary activity with stringent local requirements including strict liability provisions and any GE releases are prohibited

**These precautionary approaches add an additional tier of protection against risks of outdoor use of GMOs , given the serious deficiencies, in the Hazardous Substances and New Organisms (HSNO) Act; and identified both by Local Government NZ and other councils.**