

I hereby give notice of the following Extraordinary meeting:

Meeting:	Kaipara District Council
Date	Wednesday 05 September 2018
Time	10.30am
Venue	Northern Wairoa War Memorial Hall, Dargaville

Open Agenda

Membership

Chair: Mayor Jason Smith

Members: Deputy Mayor Peter Wethey
Councillor Anna Curnow
Councillor Victoria del la Varis-Woodcock
Councillor Julie Geange
Councillor Libby Jones
Councillor Karen Joyce-Paki
Councillor Jonathan Larsen
Councillor Andrew Wade

Jason Marris
General Manager Governance, Strategy and Democracy

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**Extraordinary meeting of Kaipara District Council
Wednesday 05 September 2018 in Dargaville**

1 Opening

Pursuant to Clause 22(2), Schedule 7 of the Local Government Act 2002, the Mayor has called an Extraordinary meeting of Council.

1.1 Karakia

1.2 Present

1.3 Apologies

1.4 Confirmation of Agenda

The Committee to confirm the Agenda.

1.5 Conflict of Interest Declaration

Elected Members are reminded of the need to be vigilant to stand aside from decision-making when a conflict arises between their role as Mayor and Councillors and any private or other external interest they might have. It is also considered best practice for those members to the Executive Team attending the meeting to also signal any conflicts that they may have with an item before Council.

2 Deputations, Presentations and Petitions

3 Minutes

3.1 Confirmation of Open Council minutes 23 August 2018

General Manager Governance, Strategy and Democracy 1601.23

Recommended

That the unconfirmed minutes of the Kaipara District Council meeting held 23 August 2018 be confirmed as a true and correct record

Kaipara District Council

Minutes

Meeting	Kaipara District Council
Date	Thursday 23 August 2018
Time	Meeting commenced at 9.36am Meeting concluded at 4.06pm
Venue	Gateway North Conference Room – 1999 State Highway 1, Kaiwaka
Status	Unconfirmed

Membership

Chair: Mayor Jason Smith

Members: Deputy Mayor Peter Wethey
Councillor Anna Curnow
Councillor Victoria del la Varis-Woodcock
Councillor Julie Geange
Councillor Libby Jones
Councillor Karen Joyce-Paki
Councillor Jonathan Larsen
Councillor Andrew Wade

Jason Marris
General Manager Governance, Strategy and Democracy

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Minutes of the Ordinary meeting of Kaipara District Council
23 August 2018 in Kaiwaka
1 Opening
1.1 Karakia

Councillor del la Varis-Woodcock opened the meeting with a karakia.

1.2 Present

Mayor Jason Smith, Deputy Mayor Peter Wethey, Councillors Anna Curnow, Victoria del la Varis Woodcock, Julie Geange, Karen Joyce-Paki (via audio link for items 1—4.2), Jonathan Larsen and Andrew Wade

In Attendance

Name	Designation	Item(s)
Curt Martin	Acting Chief Executive	All
Dean Nuralli	Acting General Manager Regulatory, Planning and Policy	All
Donnick Mugutso	Acting General Manager Infrastructure	All
Sue Davidson	General Manager Risk, IT and Finance	All
Jason Marris	General Manager Governance, Strategy and Democracy	All
Henri van Zyl	Roading Manager	All
Shakhin Sharma	Roading Projects Engineer	All
Paula Hansen	Policy Planner	1—4.2
John Burt	Property and Commercial Advisor	4.3—Close
Peter Winder	Crown Manager	5.1
Lisa Hong	Governance Advisor	All (Minute-taker)

Adjournments

Reason	Start	Finish
Tea break	10.58am	11.08am
Lunch break and Council Briefing	1.04pm	2.59pm
Tea break	3.01pm	3.19pm

1.3 Apologies

Moved Curnow/Geange

That the apology of Councillor Libby Jones be received.

Carried

1.4 Confirmation of Agenda

Moved Smith/Wethey

That Kaipara District Council confirms the agenda, with the addition of the public forum presentation as item 2.2 'Kaiwaka Can'.

Carried

1.5 Conflict of Interest Declaration

Nil.

2 Deputations, Presentations and Petitions

2.1 Mangawhai Community Opportunity Shop Trust, Roger Hill

Roger Hill tabled correspondence between the Mangawhai Community Opportunity Shop Trust and Kaipara District Council and spoke in the public forum.

2.2 Kaiwaka Can, Derek Christensen

Derek Christensen tabled a copy of the presentation and spoke in the public forum.

3 Minutes

3.1 Confirmation of Open Council minutes 26 July 2018

General Manager Governance, Strategy and Democracy 1601.23

Moved Smith/Curnow

That the unconfirmed Open minutes of the Kaipara District Council meeting held 26 July 2018 be confirmed as a true and correct record.

Carried

3.2 Committee minutes confirmed in July 2018

General Manager Governance, Strategy and Democracy 1616.01

Moved Larsen/del la Varis-Woodcock

That Kaipara District Council receives the confirmed Open minutes of the following Kaipara District Council Committee meeting, for information:

- *Reserve Contributions Committee meeting held 18 January 2018.*

Carried

4 Decision

4.1 Smokefree and Vape-free Kaipara Policy - Confirmation of draft Policy for consultation

Policy Manager and Policy Planner 4702.04.04

[Secretarial Note: Bridget Rowse, Smokefree Advisor from Northland District Health Board, tabled a presentation and spoke to this item.]

Moved Smith/Geange

That Kaipara District Council:

- 1 *Receives the Policy Manager's and the Policy Planner's report 'Smokefree and Vape-free Kaipara Policy - Confirmation of draft Policy for consultation' dated 07 August 2018; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Agrees with the direction provided for in the draft Smokefree Kaipara Policy, circulated as Attachment Two to the aforementioned report, incorporating feedback provided; and*
- 4 *Approves the draft Smokefree Kaipara Policy in accordance with Council's Significance and Engagement Policy, incorporating feedback provided; and*
- 5 *Forms a panel of three Elected Members, being Councillors Wethey, Joyce-Paki and Curnow to consider submissions and make recommendations to Council.*

Carried

5 Information

5.1 Crown Manager Six Monthly Report June 2018

General Manager Governance, Strategy and Democracy 1203.01

[Secretarial Note: Crown Manager Peter Winder spoke to this item. This item was taken out of order, between items 4.1 'Smokefree and Vape-free Kaipara Policy - Confirmation of draft Policy for consultation' and 4.2 'Alcohol Control Bylaw and Statement of Proposal - Adoption of drafts for consultation' to facilitate the speaker.]

Moved Smith/Curnow

That Kaipara District Council:

- 1 *Receives the General Manager Governance, Strategy and Democracy's report 'Crown Manager Six Monthly Report June 2018' dated 03 August 2018; and*
- 2 *Receives Attachment 1 to the above-mentioned report, being 'Report of the Kaipara District Council Crown Manager' dated June 2018.*

Carried

Meeting adjourned at 10.58am

Meeting recommenced at 11.08am

4 Decision

4.2 Alcohol Control Bylaw and Statement of Proposal - Adoption of drafts for consultation

Policy Planner 3211.02

Moved Smith/Geange

That Kaipara District Council:

- 1 *Receives the Policy Planner's report 'Alcohol Control Bylaw and Statement of Proposal - Adoption of drafts for consultation' dated 07 August 2018 and its attachments; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Determines that a bylaw is the most appropriate way of addressing the perceived problem(s) associated with alcohol consumption in a public place; and*
- 4 *Adopts the Statement of Proposal for the Kaipara District Public Places Alcohol Control Bylaw including draft bylaw for public consultation; and*
- 5 *Agrees that the proposed alcohol control areas below and their associated controls as shown in the Statement of Proposal (circulated as Attachment Three to the aforementioned report) are to be consulted on alongside the draft Alcohol Control Bylaw. These being to:*
 - a) *"Amend Mangawhai controls to: apply continuously (24hours a day) starting at 8.30pm on 01 December through to 7.00am on 01 March the following year and from 8.30pm to 7.00am (10.5hrs) for every other day of the year starting on 01 March at 8.30pm and ending 01 December at 7.00am each year. The control area is to remain the same, plus an extension to the Mean Low Water Springs.*
 - b) *Retain current alcohol control areas and controls – place 24hours a day all year round for Ruawai and Dargaville. The areas are to stay the same for Ruawai, with the addition of schools for Dargaville.*
 - c) *Retain current alcohol control areas and controls – from 8.30pm to 7.00am the following day on each day throughout the year for the following areas:*
 - i *Te Kopuru – Retain days and time but also include the school and Council property adjoining current control area that sits behind residential properties;*
 - ii *Pouto - Retain days and time, and extend control area to the Mean Low Water Spring mark;*

- iii *Glinks Gully - Retain days and time and extend control area to the Mean Low Water Spring mark;*
 - iv *Baylys Beach - Retain days and time and extend control area to the Mean Low Water Spring mark;*
 - v *Omamari - Retain days and time and extend control area to the Mean Low Water Spring mark;*
 - vi *Aranga - Retain days and time and extend control area to the Mean Low Water Spring mark;*
 - vii *Kaihu - Retain days and time and area. Modification of area could be considered through consultation with the community.*
- d) *Introduces a new alcohol control area for Tinopai with a proposed control of 24hours a day every day of the year for consultation.*

And

- 6 *Forms a Hearing Panel made up of three Elected Members, being Councillors Curnow, del la Varis-Woodcock and Joyce-Paki, one of whom will be the chair of the panel, and delegates to the Hearing Panel the responsibility to hear submissions and to provide recommendations to Council.*

Carried

Councillor Joyce-Paki left the meeting (audio-link) at 11.43am.

4.3 Budget Carryovers 2017/2018

Acting General Manager Infrastructure 2304.0

Moved Smith/Curnow

That Kaipara District Council:

- 1 *Receives the Acting General Manager Infrastructure's report 'Budget Carryovers 2017/2018' dated 10 August 2018; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Approves the carryover of the following budgets from the 2017/2018 financial year to the 2018/2019 financial year:*

Project	Budget Carryover	Comments
Roading		
000 LEDs	\$724,609	<i>For the LEDs we have completed the renewal work for the P category lights (replaced with new LED luminaire), the next step is to do the design</i>

		<i>work for the V categories. With these there is a bit more work involved, it needs to be designed for each light gap, meaning either a stronger luminaire, or a new post.</i>
<i>164 Emergency Works and Preventative 'Maintenance</i>	<i>\$246,156</i>	<i>We have completed 17 of the 19 slips that was a result of the two cyclones, Debbie and Cook, the two remaining slips is under construction at the moment.</i>
District Leadership		
<i>10636 Electronic Document and Records Management</i>	<i>\$110,000</i>	<i>Project briefs are being developed for each software application, and then being prioritised. Options and costs for these projects will become clearer when this is completed.</i>
<i>10716 Microsoft Azure Cloud Migration</i>	<i>\$60,000</i>	<i>Project briefs are being developed for each software application, and then being prioritised. Options and costs for these projects will become clearer when this is completed.</i>
<i>10718 GIS Shared Service</i>	<i>\$60,000</i>	<i>Project briefs are being developed for each software application, and then being prioritised. Options and costs for these projects will become clearer when this is completed.</i>
<i>10649 Mangawhai Office Extension</i>	<i>\$35,000</i>	<i>Delays finalising plans and specifications. Work commenced prior to 30 June 2018 and the majority of Plans and Specifications have been finalised with the architect building consent and procurement of contractors start August 2018.</i>
<i>10038 Civic Building Renewals (Dargaville Office)</i>	<i>\$40,000</i>	<i>Delays finalising plans and specifications due to being more complicated and broader than originally anticipated.</i>
Community		
<i>10709 Dargaville Placemaking</i>	<i>\$25,000</i>	<i>This project was to be completed on 30 June, but the contractor was held up on another project and now weather has impacted on works and contractor has not been able to complete.</i>
<i>10087 Kai Iwi facilities Boat Ramp</i>	<i>\$30,000</i>	<i>Did not have enough information at the start of this project and investigation was required, we are now in discussion with NRC and Engineer for designs and consents to make sure we achieve the right outcomes. This project is tied up with the other project at Taharoa Domain completion date end of 2018/2019 financial year.</i>
<i>10326 Building Renewal and Earthquake Stabilisation</i>	<i>\$50,000</i>	<i>Delays finalising plans and specifications due to being more complicated and broader than originally anticipated.</i>

10705 Public Toilets – Lake Waikare	\$40,000	The original project was to make the existing toilets in the Lake Waikare Education Centre building accessible to the public from outside. It was decided if we could secure additional external funding we would install a stand-alone toilet as this was a better option. This is a project in conjunction with additional funding from MBIE of \$90,500. We were unable to start this project until we confirmed we had secured the additional funding and we are about to start construction. Toilet has been ordered and is due for delivery in August 2018 along with the materials for campervan dump station, expected completion September 2018.
10520 Community Infrastructure - District	\$36,000	An application has been lodged with Tourism Infrastructure Fund (TIF) for additional funding to complete this project. We cannot start work until we receive a decision. Expecting positive outcome. This is part of an application with TIF for a boardwalk at Baylys Beach from carpark to beach past toilets for safe access to beach.
10523 Mangawhai Community Park – Implement Master Plan	\$21,000	Unable to complete due to weather constraints. Completion due date September 2018.
10524 Cycleway/Walkway – develop and implement strategy	\$39,000	This is part of an application with Provincial Growth Fund (PGF) for Kaihu Valley Rail Trail. We are waiting to hear if we have been successful before we can continue, we also need to do a full feasibility and business case along with consultation with all the adjoining property owners. If funding is unsuccessful we will need to reassess this project. Some work has been done with maps and project management costs to investigate possible routes and basic investigation prior to going to full feasibility.
10704 Mangawhai Heads to Alamar Crescent Walkway	\$74,000	This a part of the Picnic Bay to Pearl Street walkway. We started this project but received a lot of feedback which put a stop to the project. This project needs a lot more consultation, feasibility study and consents before it can commence. This is a part of the bigger Coastal walkway linkages project identified through the Mangawhai Community Plan process.
10706 Taharoa Domain RMP Biosecurity screen for boat ramp	\$34,000	This project could not be started as it was identified in conjunction with the boat ramp and we are in discussion with NRC and Engineer for

		<i>designs and consents. Completion date end of 2018/2019 financial year.</i>
<i>10060 Elderly Housing Renewals</i>	<i>\$11,000</i>	<i>Project not started due to changes in staff.</i>
Total	\$1,635,765	

Carried

Councillor Geange requested that her vote against be recorded.

4.4 Comes Road, Mangawhai, Improvement report

Roading Projects Engineer 4102.069

Moved Geange/Wethey

That Kaipara District Council:

- 1 *Receives the Roding Projects Engineer's report 'Comes Road, Mangawhai, Improvement report' dated 11 August 2018; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Resolves to approve the recommended Option A, which is to undertake routine maintenance estimated at \$200,090 + GST, to be prioritised and funded from existing budgets.*

Carried

4.5 Road stopping and amalgamation: 623 Golden Stairs Road, Paparoa

Roding Manager 4102.17

Moved Geange/Smith

That Kaipara District Council:

- 1 *Receives the Roding Manager's report 'Road stopping and amalgamation: 623 Golden Stairs Road, Paparoa' dated 10 August 2018; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Agrees in principle to the stopping of a portion of the section of Golden Stairs Road in Paparoa, as marked red on aerial map (see Attachment 2 to the afore-mentioned report) under s116 of the Public Works Act subject to reaching prior agreement with the*

purchaser on the terms and conditions of the Sale and Purchase Agreement, subject to the sale price being no less than \$7,800 plus GST (if any), and that the purchaser meets all costs associated with the transaction: and

- 4 *Delegates authority to the Chief Executive to finalise the sale of the stopped portion of road of the section of Golden Stairs Road in Paparua, as marked red on aerial map (see Attachment 2 to the afore-mentioned report).*

Carried

5 Information

5.2 Northland Transportation Alliance Quarterly Update

NTA Manager and Roading Manager 41 QR/NTAQR

Moved Curnow/Geange

That Kaipara District Council receives the Northland Transportation Alliance Manager's and Kaipara District Council Roading Manager's report 'Northland Transportation Alliance Quarterly Update' dated 07 August 2018 and the information contained therein.

Carried

5.3 Chief Executive's Report July 2018

Acting Chief Executive 2002.02.18/July

Moved Smith/del la Varis-Woodcock

That Kaipara District Council receives the Chief Executive's Report for the month of July 2018.

Carried

5.4 Reserve Contributions Committee - Appointment of Deputy Mayor Wethey

Governance Advisor 1203.01

Moved Curnow/Smith

That Kaipara District Council:

- 1 *Receives the Governance Advisor's report 'Reserve Contributions Committee - Appointment of Deputy Mayor Wethey' dated 13 August 2018 and its Attachment 1; and*
- 2 *Notes the Mayoral appointment of Deputy Mayor Peter Wethey to the Reserve Contributions Committee.*

Carried

5.5 Resolutions Register and Action Tracker**Governance Advisor 1202.05****Moved Geange/Smith**

That Kaipara District Council receives the Governance Advisor's Resolutions Register and Action Tracker dated 14 August 2018.

Carried**Meeting adjourned at 1.04pm****Meeting recommenced at 2.59pm****Moved Smith/Curnow**

That this meeting of Kaipara District Council continue, exceeding six hours (at 3.30pm), pursuant to clause 4.2 of the Kaipara District Council Standing Orders.

Carried**Meeting adjourned at 3.01 pm****Meeting recommenced at 3.19pm.**

6 Public Excluded Council minute items 23 August 2018

The meeting went into Public Excluded session at 3.19pm.

Moved Smith/Curnow

That the public be excluded from the following part of the proceedings of this meeting namely:

- *Confirmation of Public Excluded Council minutes 26 July 2018;*
- *Senior Citizens Hall Society, Fagan Place, Mangawhai – Lease; and*
- *Sale of Section, Aranga Coast Road.*

The general subject matter of each matter to be considered while the public is excluded, the reasons for passing this resolution in relation to each matter and the specific grounds under s48(1) of the Local Government Official Information and Meetings Act, 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered:	Reason for passing this Resolution	Ground(s) under Section 48(1) for the passing this resolution:
<i>Confirmation of Public Excluded Council minutes 26 July 2018</i>	<i>Section 7(2)(g) maintain legal professional privilege Section 7(2)(i) enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</i>	<i>Section 48(1)(a) That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</i>
<i>Senior Citizens Hall Society, Fagan Place, Mangawhai - Lease</i>	<i>Section 7(2)(i) enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</i>	<i>Section 48(1)(a) That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist</i>
<i>Sale of Section, Aranga Coast Road</i>	<i>Section 7(2)(i) enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</i>	<i>Section 48(1)(a) That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</i>

Carried



7 Open Council minutes 23 August 2018

The meeting returned to Open session at 4.05pm.

Closure

The meeting closed at 4.06pm.

Confirmed

Chair

**Kaipara District Council
Dargaville**

Unconfirmed

4 Decision

File number: 2105.37 **Approved for agenda**
Report to: Council (Extraordinary)
Meeting date: **05 September 2018**
Subject: **Genetically Modified Organisms - District Plan Position**
Date of report: 31 August 2018
From: Paul Waanders, District Planner
Report purpose **Decision** **Information**
Assessment of significance **Significant** **Non-significant**

Summary

The Kaipara District Plan (DP) only identifies Genetically Modified Organisms (GMOs) as an issue and deferred any decision on provisions until the Regional Policy Statement (RPS) has included provisions to that effect. The RPS has now become operative and a recommendation from Council is required to provide guidance for the DP and/or the Proposed Regional Plan.

Recommendation

That Kaipara District Council:

- 1 *Receives the District Planner's report "Genetically Modified Organisms - District Plan Position" dated 31 August 2018; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Decides in principle that the District Plan be amended to include the necessary provisions related to Genetically Modified Organisms similar to those of the other Upper North Island Local Authorities' District Plans; and*
- 4 *Accepts that this District Plan change will be part of the comprehensive review of the District Plan; and*
- 5 *Conveys its intent to the Northland Regional Council in relation to the upcoming Proposed Regional Plan hearings.*

Reason for the recommendation

The adjoining local authorities have already progressed their district plan changes, some of which have also become operative. The Kaipara District Plan will be the only District Plan that does not regulate Genetically Modified Organisms through its District Plan in the Region, hence the recommendation that Council follows the other local authorities in eventually amending its District Plan.

Reason for the report

The Genetically Modified Organisms (GMO) provision in the RPS became operative on 14 June 2018. The Northland Regional Council (NRC) is now progressing the Proposed Regional Plan with hearings

submissions on GMOs being heard by the full NRC in October 2018. NRC staff are preparing the s42A hearings reports and requested territorial authorities to indicate if they intend providing for controls on GMOs within their District Plans. The GMO plan change for Whangarei became operative on 14 July 2018 (Attachment 1) whilst the GMO plan change for Far North District Council (FNDC) will become operative on 19 September 2018 (Attachment 2). The Auckland Unitary Plan provisions on GMO will become operative in September 2018 when the next group of provisions of the Unitary Plan becomes operative (Attachment 3). Kaipara District Council has not prepared a GMO plan change although it was represented in the Inter-Council Committee and participated up to the point that a plan change would have been notified. Now that the RPS is fully operative and the Proposed Regional Plan is on the point of submissions being heard, KDC is being asked to indicate its intention.

Background

Various councils received submissions on the first Long Term Plans (LTP) in 2003 to regulate GMOs. This was also the topic of a Royal Commission and it was widely accepted that a precautionary approach should be followed when dealing with GMOs.

The issue of Risk and Liability were the two matters that were the most hotly debated i.e. who will bear the risk and who will take the liability if something goes wrong.

In 2003 the Northern councils comprising of all the local authorities in Northland as well as Rodney, Waitakere and Auckland Regional Council formed an Inter-Council Working Party on GMOs with Auckland City and North Shore City Council as observers. After amalgamation the new Auckland Council became a full member of this Working Party.

In July-August 2009 the Inter-Council Working Party did a public survey through ColmarBrunton to ascertain the public's view on the topic of GMOs and published these surveys for the individual local authorities and for the Upper North Island combined. At that time there was strong support that local authorities should have a role in regulating GMOs within their jurisdiction.

On 25 May 2011 KDC formally decided to participate in the Inter-Council Working Party and would nominate a Council representative on the Working Party. Before that time staff participated in the Inter-Council Working Party. At its meeting on 26 October 2011 the then Mayor was appointed to the Working Party and Council debated the alternative options of:

- 1 Use the Long Term Plan consultation programme to consult on the matter; or
- 2 Agree to contribute to the Section 32 process for a plan change; or
- 3 Wait for the RPS to be completed; or
- 4 Do nothing.

The matters of risk and liability have not yet been satisfactorily addressed and a quick survey of potential and documented risk indicates that these matters are real.

Risks for KDC can be viewed in terms of adverse impacts created by:

- Legal cases against KDC or its communities, business and industrial sectors;
- Environmental escapes of GMOs;
- Economic disaster caused by contamination and destroyed branding reputations;
- Health risks;

- Social and cultural offensive policies and controls;
- Scientific uncertainty;
- Ongoing legacies caused by all the above.

A plethora of scientific reports and associated health risks are available at www.gefree.org.nz

Brassica. The New Zealand Institute for Plant and Food Research Ltd failed to comply with two Hazardous Substances and New Organisms (HSNO) Act controls at the GM brassica field test (GMF06001) on three occasions in 2008. **Aribidopsis Thalian Plant** lab breaches in 2008-2009. **Scion pine trees.** Protestors destroyed trees they claimed were breaching lab controls. **Beauveria bassiana.** An escapee fungus from a lab at Lincoln University. Occurs naturally in soils throughout the world and has been employed as a biological insecticide to control a variety of pests. The university and research agency involved had been previously implicated or found responsible for other GE experiment breaches (Allen, 2018).

<http://www.odt.co.nz/news/national/250070/potential-gm-outbreak-university> CRISPR–Cas9* and Zinc finger nucleases are part of new GE techniques - gene-editing, knocking out genes, and altering the DNA of a plant or animal. Proponents in the Industry are advocating that these GMOs should escape regulation. Scientific studies have revealed, many collateral and unexpected genetic changes take place. Physicians and Scientists for Global Responsibility (PSGR) warn that there are unscientific and naive exaggerations of what the technology can achieve. "There is so little that is really known about the long-term (or even short term) effects of gene-drive deployment that, in our opinion, it would be utter foolishness to unleash it on the environment, especially something as delicate as our native ecology." <https://genomebiology.biomedcentral.com/articles/10.1186/s13059-017-1237-8> Air New Zealand is selling a GE vegan burger on its Los Angeles to Auckland flights, however, its legality has been questioned as it has escaped food safety regulation. The GE burger has been developed and tested by Impossible Foods and contains fake GE blood so the "burger sizzles". The fake blood is derived from yeast *Pichia pastoris* genetically engineered with a Soy Leghemoglobin Protein (SLH). Documents accessed by Friends of the Earth under the Freedom of Information Act (FOIA) state that the "FDA believes that the arguments presented, individually and collectively, do not establish the safety of SLH for consumption, nor do they point to a general recognition of safety." The US Food and Drug Administration (FDA) also noted that soybean is one of the most common allergenic foods. As well as doubts over the credibility of sustainability claims made for the burger, the FDA had declined to approve key GE ingredients and warns that there may be unexpected allergens. It is not known if the passengers have even been informed of the unapproved ingredients and potential allergenic effects that might occur or if the crew had been properly trained to recognise and deal with an allergic reaction. "The GE product has failed to meet the regulatory safety standards and the decision to sell it makes Air New Zealand responsible if harm occurs," (GE Free NZ, 2018) https://www.nzherald.co.nz/travel/news/article.cfm?c_id=7&objectid=12082092

During 2013 the KDC Commissioners discussed the matter but it was agreed that this plan change was of low priority and that any changes should be agreed by elected representatives.

Although no budget was available to undertake the Section 32 analyses it was anticipated that, if Kaipara would have to go it alone, it would be more expensive and therefore it was accepted that Kaipara would participate in the Section 32 process.

With the pool of participating local authorities contributing according to population size KDC participated in the development of the Section 32 and potential plan changes.

Kaipara however finalised its second generation DP in 2013 and included the following as an issue without progressing the plan change further due to various debates and possible Court appeals on the Proposed RPS provisions (which were subsequently resolved), and the possibility to influence central government to provide for the risk and liability matters in the HSNO Act 1996 (which did not result in any resolution).

“2.1.2 Genetically Modified Organisms

The community continues to be concerned about the central government regulatory regime for the field release of Genetically Modified Organisms. The issue of risk and the question of liability continues to remain unanswered.

Kaipara District Council is a member of the Inter-Council Working Party on Genetic Engineering. The strength of this Working Party is its collaborative approach between the Local Council members. The Working Party agrees on a precautionary approach for the management of Genetically Modified Organisms in the environment and is concerned about the issue of risk and liability. The Working Party takes every opportunity to lobby and work with central government to address the issue of regulatory gaps in the Hazardous Substances and New Organisms Act 1996, and the resulting environmental, economic and liability risks which are faced by local government in respect of the field release of Genetically Modified Organisms.

The inclusion in Regional Policy Statements of a precautionary stance towards Genetically Modified Organisms is being considered by both the Northland and Auckland Regional Councils. A regional approach to this issue is considered by Kaipara District Council to be appropriate. Council will ‘give effect’ to this approach on Genetically Modified Organisms within Kaipara District through the District Plan if it is included in the Northland Regional Policy Statement.”

The Auckland Council as well as FNDC and WDC progressed their plan changes but these were embroiled in various Environment Court cases and the NRC was challenged in the High Court on matters of jurisdiction. The High Court and the Environment Court found in favour of the local authorities that jurisdiction has been proven, and then finalised the RPS with the territorial authorities resolving the appeals on the Far North and Whangarei District plan changes (five years of legal battle).

The RPS became fully operative on 14 June 2018 with the following provisions relating to GMOs:

“2.6 Issues of significance to tangata whenua – natural and physical resources

The following issues have been identified by iwi authorities as regionally significant as they relate to the state of, and pressures on, natural and physical resources:

- (a)
- (g) *The use of genetic engineering and the release of genetically modified organisms to the environment.*

6.1.2 Policy - Precautionary approach

Adopt a precautionary approach towards the effects of climate change and introducing genetically modified organisms to the environment where they are scientifically uncertain, unknown, or little understood, but potentially significantly adverse.

Explanation:

Climate change and the introduction of genetically modified organisms to the environment have a greater potential for significant but scientifically uncertain adverse effects than other natural processes and activities. Taking a precautionary approach means that where there are threats of significant or irreversible adverse effects, and there is scientific uncertainty as to the extent of those effects, decision-makers shall assume the threat of significant or irreversible effects is a reality. The response should be in proportion to the degree of significance and irreversibility of the threat and the degree of scientific uncertainty.

When adopting a precautionary approach decision-makers may apply the following criteria:

Consideration of the degree of significance or irreversibility:

- *the scale of the threat;*
- *the value of the threatened environment;*
- *whether the possible adverse effects are able to be managed or contained;*
- *the level of public concern; and*
- *whether there is a rational or scientific basis for the concern.*

Consideration of the degree of scientific uncertainty:

- *what would constitute sufficient evidence;*
- *the level of scientific uncertainty; and*
- *the potential to reduce scientific uncertainty.*

6.1.5 Method – Statutory plans and strategies

The regional and district councils should apply Policy 6.1.2 when reviewing their plans or considering options for plan changes and assessing resource consent applications.

Explanation:

Method 6.1.5 implements Policy 6.1.2”.

The only instruction from the RPS to be given effect to in the District Plan is to:

“Adopt a precautionary approach towards the effects of..... introducing genetically modified organisms to the environment where they are scientifically uncertain, unknown, or little understood, but potentially significantly adverse.”.

That matter is partially addressed in the Kaipara DP although time has moved on and it should be updated to reflect the present relevant situation. That however can be done with the comprehensive review of the DP.

Issues

The issue before Council is that the RPS has now become operative, The Whangarei District Plan Change on GMO has become operative, the Far North District Plan Change and the Auckland Unitary Plan Change on GMO will soon become operative soon, leaving Kaipara as an island amongst all the Upper North Island local authorities which does not have provisions to regulate GMOs with regards to risk and liability.

One of the risks will be that if genetically modified matter crosses the district border and contaminates crops or livestock across the boundary into a district where regulations are in place, Kaipara District Council might be held accountable for such contamination and might be found liable.

The Kaipara DP will in its present form be giving effect to the RPS although not quite implementing the provisions of Method 6.1.5 of the RPS as there is no provision in the DP for assessing resource consents for GMOs.

The Proposed Regional Plan received several submissions to provide for methods to implement the precautionary approach including in the CMA where the district councils do not have jurisdiction. Various request to correlate the provisions with that of the Whangarei, Far North and Auckland provisions were submitted. As Kaipara does not have any regulatory provisions these may be stated in the Regional Plan and the DP can then not have provisions that are contrary to those provisions. The alternative is that the Regional Plan will only provide for GMO matters within the Coastal Marine Area (CMA) and leave the land-based provisions for the territorial authorities to provide for, hence the request from the NRC that KDC declares their preference.

Factors to consider

Community views

The community has indicated in the 2009 survey that they wish Council to take an active role in regulating GMOs in its district. If a plan change is promoted, pre-notification consultation can be undertaken with key stakeholders and the community will then be formally consulted when the plan change is notified.

Policy implications

Council's Significance and Engagement Policy has been considered in relation to this item.

The decisions or matters of this Agenda item do not trigger the significance criteria outlined in Council's Significance and Engagement Policy and the public will be informed via the Council's website publication of the Agenda as well as the formal consultation processes during the plan change notification.

Financial implications

If Council initiates a plan change, it could use the previous Section 32 information but it will have to be updated including an in-house generated pre-notification consultation. The advantage however is that Kaipara could use the versions developed by the other councils that have already gone through the plan change process and legal challenges.

Cost estimate is about \$30,000 to process the plan change using existing information which is about half of the cost if a fresh application was to be undertaken.

Legal/delegation implications

The Kaipara DP does contain the issue of precaution but it may be challenged as it is not a Policy nor a method of regulation.

The Proposed Regional Plan may provide methods which takes this matter out of Council's hands whilst other neighbouring councils can regulate GMOs themselves.

Options

The original four options are still applicable albeit in a different way:

Option A: Consult on the matter first to see if the opinion of the community and Government has changed and promote the outcome through the LTP or through the Environmental Protection Agency (EPA). The disadvantage is that the regulation still has to be through an RMA method rather than through a local government method in relation to risk and liability. The EPA will consult on GMOs but has been reluctant to put liability regimes in place.

Option B: Undertake a plan change to provide for a regulatory framework to control the risk and liability of GMOs.

The existing Section 32 and results of various Court actions can be used and the plan change can be adapted according to the latest opinions on the matter. However, the longer it takes to follow this process the more irrelevant the information in the sec 32 reports might become requiring a full repeat of the process.

Option C: Wait for the Proposed Regional Plan to see how the matter of GMOs is going to be regulated on a regional scale. The disadvantage is that KDC did not make any submission or further submission on this matter and is therefore not entitled to participate in the discussions. WDC, Auckland City Council and FNDC did make submissions with only FNDC asking alignment with the DP.

As a local authority KDC can become a party in the event that any Court case eventuates.

Option D: Do nothing and wait to see what come out of all of the debates and decide later if GMOs will be included into the DP to regulate risk and liability if not done so sufficiently through the Regional Plan.

Assessment of options

Notwithstanding the fact that KDC was part of the Inter-Council Working Party and has contributed to the cost and development of the plan change up to the Section 32 phase it has subsequently decided not to progress the plan change. This will leave a gap in the Upper North Island which can either be filled by the Regional Plan or by progressing a Kaipara plan change notwithstanding that is very late in the process. The ideal is that KDC undertakes a plan change to regulate GMOs as part of its Plan Review and gives such an undertaking so that the Regional Plan can be silent on the matter and only provide for those matters within the CMA.

Assessment of significance

For the time until the plan change is notified KDC will rely on the Issue Statement to follow a precautionary approach regarding GMOs and trust that EPA will consult on these applications.

Recommended option

The recommended option is Options B for initiating a plan change and inform the NRC about its intent in relation to the Proposed Regional Plan.

Next step

Council debates its preference in the light of the adjacent councils' DP provisions and its view on provisions that might be incorporated into the Proposed Regional Plan.

Attachments

- 1 [GMO Whangarei District Plan](#)
- 2 [GMO FNDC District Plan](#)
- 3 [GMO Auckland Unitary Plan](#)

Attachment 1

Extracts from the Operative Whangarei District Plan



**WHANGAREI
DISTRICT COUNCIL**

Council Seal of Approval

Plan Change 131 Genetically Modified Organisms (GMO)

I hereby certify that Plan Change 131 was approved by the Planning and Development Committee under delegation from the Whangarei District Council at their meeting on Thursday 21 June 2018 and shall become operative on 12 July 2018.



K E Candy
Legal Counsel / Council Secretary
Dated: 29 June 2018

4 Meaning Of The Words

Environmental Protection Authority and EPA*

means the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011.

Field Trials (Tests)

means, in relation to a genetically modified organism, the carrying on of outdoor trials, on the effects of the organism under conditions similar to those of the environment into which the organism is likely to be released, but from which the organism, or any heritable material arising from it, could be retrieved or destroyed at the end of the trials.

Genetically Modified Organism and GMO

means, unless expressly provided otherwise by regulations, any organism in which any of the genes or other genetic material:

- a) have been modified by in vitro techniques; or
- b) are inherited or otherwise derived, through any number of replications, from any genes or other genetic material which has been modified by in vitro techniques.

N.B. For the absence of doubt, this does not apply to GM products that are not viable (and are thus no longer GM organisms), or products that are dominantly non-GM but contain non-viable GM ingredients (such as processed foods).

Genetically Modified Veterinary Vaccine

means a veterinary vaccine that is a genetically modified organism as defined in this Plan. Veterinary Vaccine means a biological compound controlled by the Agricultural Compounds and Veterinary Medicines Act that is used to produce or artificially increase immunity to a particular disease and has been tested and approved as safe to use by a process similar to that conducted for approval and use of medical vaccines.

Viable Genetically Modified Veterinary Vaccine

means a genetically modified veterinary vaccine that could survive or replicate in the environment or be transmitted from the inoculated recipient.

GMO.1

Genetically Modified Organisms

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GMO.1 Genetically Modified Organisms	
GMO.1.1	<i>Description & Expectations</i>
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GMO.2 GMO Land Use Controls	
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GMO.1.1 Description and Expectations	

The purpose of this chapter is to manage the outdoor use of Genetically Modified Organisms (GMOs). The outdoor use of GMOs can have adverse effects on people, communities, tangata whenua, social and cultural wellbeing, the environment and the economy.

Sources of risk from the outdoor use of GMOs include:

- Socio-cultural risk - concerns of Maori, such as mauri, whakapapa, tikanga, including the integrity of nature, the mixing of genes from unrelated species, and effects on indigenous flora and fauna.
- Environmental risk - including adverse effects on non-target species (e.g. birds and insects), genetically modified (GM) plants becoming invasive and disrupting ecosystems, and altered genes transferring to other organisms.
- Economic risk - the risk that cultivation of GM crops will cause economic damage, in particular through accidental or unintentional migrations of GMOs resulting in GM contamination appearing in non-GM crops and associated market rejection and loss of income, negative effects on marketing and branding opportunities, and costs associated with environmental damage.

There is a lack of information, including scientific uncertainty, concerning the effects of GMOs in the environment and risks of irreversible, adverse effects which could be substantial. In order to manage the effects of outdoor use, storage, cultivation, harvesting, processing or transportation of GMOs, an adaptive precautionary approach to risk management is adopted for the Whangarei District.

The application of a precautionary approach shall mean that the Release of a GMO is prohibited and that Field Trials of a GMO (where the proponents of such activities have prior approval from the Environmental Protection Authority (EPA)) shall be a discretionary activity so as to avoid the risks of potential adverse effects. Some activities, such as research within contained facilities, some veterinary vaccines and certain medical applications are permitted activities. The classification is based upon a hierarchy of risks, from negligible for permitted activities to high risk for prohibited activities. Discretionary activities (Field Trials) are subject to development and performance standards, including a requisite for bonds to cover possible environmental or economic damage and monitoring requirements.

The application of an adaptive risk management approach is to avoid foreclosure of potential opportunities associated with a GMO development that could benefit the district. There is the ability to review a particular GMO activity if it were to become evident during the field trial stage, or in light of other new information, that the particular GMO activity would be of net benefit to the district and that potential risks can be managed to the satisfaction of Council. Council or a GMO developer can initiate a plan change to change the status of an activity.

GMO.1

Genetically Modified Organisms

It is anticipated that the objectives, policies, eligibility rules and general development and performance standards in this chapter will achieve the following results:

1. Adoption of a precautionary approach to manage potential risks (social, cultural, environmental and economic) associated with the outdoor use of GMOs.
2. Ensuring users of GMOs are financially accountable in the long-term through bonding and financial fitness provisions for the full costs associated with the GMO activity. This includes accidental or unintentional contamination, clean-up, monitoring and remediation.
3. Protection of local/regional marketing advantages through reducing risks of adverse effects associated with market rejection and loss of income from GM contamination of non-GM crops, and negative effects on marketing, branding and tourism opportunities.
4. Addressing cultural concerns of Maori, particularly given that Maori make up a considerably greater proportion of the population in Northland than is represented nationally.

GMO.1.2 Eligibility Rules

1. Research within contained laboratories involving GMOs is a permitted activity.
2. Medical applications involving the manufacture and use of non-viable GM products are permitted activities.
3. The use of non-viable genetically modified veterinary vaccines and viable genetically modified veterinary vaccines with a specific delivery dose supervised by a veterinarian are permitted activities.
4. The use of viable genetically modified veterinary vaccines not supervised by a veterinarian are discretionary activities.
5. Other GMO activities not requiring consent as a discretionary activity or listed as a prohibited activity are permitted activities.
6. Field Trials of GMOs (where the proponents of such activities have prior approval of the EPA) are discretionary activities.
7. Food-related and non food-related GMO Releases are prohibited activities.

Note: permitted activities may require consents and / or permits under other legislation / plans.

GMO.1.3 Notification

All applications for resource consent must be publicly notified.

GMO.2

GMO Land Use Controls

GMO.2.1 Objectives

1. The environment, including people and communities and their social, economic and cultural wellbeing and health and safety, is protected from potential adverse effects associated with the outdoor use, storage, cultivation, harvesting, processing or transportation of GMOs through the adoption of a precautionary approach, including adaptive responses, to manage uncertainty and lack of information.
2. The sustainable management of the natural and physical resources of the district with respect to the outdoor use of GMOs, a significant resource management issue identified by the community.

GMO.2.2 Policies

1. Precautionary Principle

To adopt a precautionary approach by prohibiting Release of a GMO, and by making Field Trials of a GMO and the use of viable GM veterinarian vaccines not supervised by a veterinarian 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, the mauri of flora and fauna, and the relationship of mana whenua with flora and fauna 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.

GMO.2.3 Information Requirements

Applications for GMO Field Trials are to provide:

- Evidence of approval from the EPA for the specific GMO for which consent is sought. The duration of any consent granted will be aligned with EPA approval terms.
- Details of proposed containment measures for the commencement, duration and completion of the proposed activity.

GMO Land Use Controls

- Details of the species, its characteristics and lifecycle, to which the GMO activities will relate.
- Research on adverse effects to the environment, cultural values and economy associated with the activity should GMOs escape from the activity area, and measures that will be taken to avoid, remedy or mitigate such effects.
- Evidence of research undertaken that characterises and tests the GMO, and the certainty associated with the accuracy of that information.
- A management plan outlining on-going research and how monitoring will be undertaken during, and potentially beyond, the duration of consent.
- Details of areas in which the activity is to be confined.
- Description of contingency and risk management plans and measures.

GMO.2.4 General Development & Performance Standards

Without limiting the discretion reserved to Council on any application for consent, discretionary activities are to comply with the following minimum controls in order to establish in the district. The general development and performance standards are in addition to any controls/conditions that are imposed and monitored by the EPA under the Hazardous Substances and New Organisms (HSNO) Act.

1. Bond

Council requires the applicant for the resource consent to provide a performance bond, with an approved trading bank guarantee, in respect of the performance of any one or more conditions of the consent, including conditions relating to monitoring required of the GMO activity (prior to, during and after the activity). This bond is to be available for payment to redress any adverse environmental effects and any other adverse effects to third parties (including economic effects) that become apparent during or after the expiry of the consent. The form of, time and manner of implementing and discharging the bond shall be decided by, and be executed to the satisfaction of Council.

2. Monitoring Costs

All costs associated with monitoring required for discretionary activities will be borne by the consent holder. This includes any monitoring that is required to be undertaken beyond the consent duration, as required by a resource consent condition.

3. Assessment of Applications and Conditions

Where necessary, more stringent measures than those required under the provisions of the HSNO Act may be imposed to manage potential risks. A review clause (pursuant to Section 128 RMA) may be included in the conditions, where deemed necessary, to address any future changes in technology, and the scope of environmental, economic and cultural effects. An application for a discretionary activity may be granted with or without conditions, or be declined by the Council having regard to the relevance of the following matters:

- **Site Design, Construction and Management**

Site design conditions should ensure GMO sites are designed and managed in a manner that avoids or minimises risks of adverse effects from activities carried out on the site. This shall include provisions to prevent the migration of GMOs beyond the area designated for the activity.

GMO.2

GMO Land Use Controls

- **Transport**

Ensure the transportation of GMOs is carried out in a manner that minimises the risk of adverse effects by preventing the escape of GMOs from the transporting vehicles. Appropriate procedures must be in place to ensure that any vehicle visiting the site is thoroughly cleaned and checked prior to leaving the site to avoid unintentional GMO distribution.

- **Monitoring**

A GMO discretionary activity may require monitoring during, and beyond the duration of consent. Monitoring is to be carried out by either the Council or consent holder with appropriate reporting procedures to the relevant regulatory authority.

- **Reporting**

Reporting requirements by the consent holder will be stipulated in the consent conditions.

GMO.2.5 Particular Matters

Matters that will be considered when determining the amount of bond required are:

- What adverse effects could occur and the potential significance, scale and nature of those effects, notwithstanding any measures taken to avoid those effects.
- The degree to which the operator of the activity has sought to avoid those adverse effects, and the certainty associated with whether the measures taken will avoid those effects.
- The level of risk associated with any unexpected adverse effects from the activity.
- The likely scale of costs associated with remediating any adverse effects that may occur.
- The timescale over which effects are likely to occur or arise.
- The extent of monitoring that may be required in order to establish whether an adverse effect has occurred or whether any adverse effect has been appropriately remedied.

A monitoring strategy for a GMO discretionary activity can include the following matters:

- Inspection schedules for the site, storage areas and equipment (daily, weekly, monthly, events based).
- Testing of procedures (e.g. accidental release response).
- Training programmes for new staff, updates for existing staff.
- Audits of sites and site management systems.
- Sample testing of plants, soils and water in neighbouring properties or localities for the presence of migrated GMOs.

Attachment 2

Extracts from the Proposed Far North District Plan

19 GENETICALLY MODIFIED ORGANISMS

CONTEXT

Genetic modification (GM) refers to a set of techniques that alter genetic makeup by adding, deleting or moving genes (within or between species) to produce new and different organisms. Genetically modified organisms (GMOs) are products of genetic modification. Another term often used to refer to the same technique is genetic engineering (GE).

A wide range of GM products are being researched and developed for commercialisation. While the GMOs commercialised to date are, in general, directed at reducing harvest losses by combating pests and viruses, research into future varieties is attempting to considerably widen the scope of applications. This includes improved growth in plants, improved tolerance to environmental conditions, and creating entirely new products and sectors of economic activity in agriculture, horticulture, plantation forestry, dairying, aquaculture and medicine.

The absolute and relative benefits associated with the development and use of GMOs is continually being redefined as this and other forms of applied biotechnology advance. However there remains scientific uncertainty with respect to potential adverse effects of GMOs on natural resources and ecosystems. The risks could be substantial and certain consequences irreversible. Once released into the environment, most GMOs would be very difficult to eradicate even if the funding were available for this, irrespective of the consequences. If the GMO is related to a food product, the "GE Free" food producer status of a district or region would likely be permanently lost, along with any marketing advantages that status confers.

The relevant legislation which applies to the management of GMOs in New Zealand is the Hazardous Substances and New Organisms Act 1996 (HSNO Act). The HSNO Act establishes the legal framework for assessments by the national regulator, the Environmental Protection Authority (EPA). This Act sets minimum standards (section 36) and provides for the EPA to set additional conditions that are to apply to a particular GMO activity.

While the HSNO Act provides the means to set conditions on the management of GMOs within a specific geographic area or irrespective of location, councils have jurisdiction under sections 30 and 31 of the Resource Management Act 1991 (RMA) to control land and water use activities involving field trials and the release of GMOs, to promote sustainable management under the RMA.

Local regulation can address key gaps that have been identified in the national regulatory regime for the management of GMOs, in particular the absence of liability provisions and the lack of a mandatory precautionary approach. Benefits of local level regulation, in addition to the controls set by the EPA, include:

- Ensuring GM operators are financially accountable in the long-term through bonding and financial fitness provisions for the full costs associated with the GMO activity. This includes accidental or unintentional contamination, clean-up, monitoring and remediation.
- Adoption of a precautionary approach to manage potential risks (economic, environmental, social and cultural) associated with the outdoor use of GMOs.
- Protection of local/regional marketing advantages through reducing risks associated with market rejection and loss of income from GM contamination of non-GM crops, and negative effects on marketing, branding and tourism opportunities.
- Addressing cultural concerns of Maori, particularly given that Maori make up a considerably greater proportion of the population in Northland than is represented nationally.

Given a council's general duties of care for its financial position and that of its constituents, there is a ready justification for councils to enforce mandatory conditions to provide for both financial accountability and avoidance of economic damage. These controls would act in addition to those that may be set by the EPA under the HSNO Act.

19.1 ISSUES

- 19.1.1 The outdoor use of GMOs can adversely affect the environment, economy, and social and cultural resources and values, and significant costs can result from the release of a GMO.

19.2 ENVIRONMENTAL OUTCOMES EXPECTED

- 19.2.1 Manage risk and avoid adverse effects on people, communities, tangata whenua, the economy and the environment associated with the outdoor use of GMOs.

- 19.2.2 Provide the framework for a unified approach to the management of the outdoor use of GMOs in the Far North to address cross-boundary effects.
- 19.2.3 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.
- 19.2.4 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.

19.3 OBJECTIVES

- 19.3.1 The environment, including people and communities and their social, economic and cultural well being and health and safety, is protected from potential adverse effects associated with the outdoor use, storage, cultivation, harvesting, processing or transportation of GMOs through the adoption of a precautionary approach, including adaptive responses, to manage uncertainty and lack of information.
- 19.3.2 The sustainable management of the natural and physical resources of the district with respect to the outdoor use of GMOs, a significant resource management issue identified by the community.

19.4 POLICIES

- 19.4.1 To adopt a precautionary approach by prohibiting the general release of a GMO, and by making outdoor field trialling of a GMO a discretionary activity.
- 19.4.2 To ensure that a resource consent granted for the outdoor field trialling 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.
- 19.4.3 To ensure that a resource consent granted for the outdoor field trialling 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.
- 19.4.4 To ensure that a resource consent granted for the outdoor field trialling of a GMO is subject to a condition requiring that monitoring costs are met by the consent holder.
- 19.4.5 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.
- 19.4.6 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.

19.5 METHODS OF IMPLEMENTATION

DISTRICT PLAN METHODS

- 19.5.1 Rules in the Plan to control GMO Field Trails and prohibit the release of GMOs in the Far North.
- 19.5.2 Where resource consents are required to undertake GMO activities protection of the environment, economy, society and cultural values may be achieved by imposing conditions of consent.

OTHER METHODS

- 19.5.3 The Council will liaise with other Councils in order to achieve an integrated approach to GMOs in Northland.
- 19.5.4 The Council will encourage all applicants to actively engage with the public and tangata whenua through early dialogue when developing land use proposals to ensure that adverse effects are avoided, remedied or mitigated.

COMMENTARY

The outdoor use of GMOs has the potential to cause adverse effects on the environment, economy and social and cultural wellbeing. The objectives and policies seek to protect the community and receiving environment from risk associated with any GMO activity.

The application of a precautionary approach to the outdoor use, storage, cultivation, harvesting, processing or transportation of GMOs in the district shall mean that:

- *The release of a GMO is prohibited (this is to avoid the risk that significant adverse environmental effects will arise, including adverse effects on the economy, community and/or tangata whenua resources and values); and*
- *Outdoor field trialling of a GMO (where the proponents of such activities have prior approval of the EPA) shall be a discretionary activity.*

Pastoral farming, dairying, horticulture and forestry are important land uses in the Far North and are major contributors to the local and regional economy. Therefore there are a range of outdoor GMOs that GMO developers could consider using in the district or region, including GM food crops, trees, animals, and pharma crops. The potential for adverse effects, including accidental contamination, resulting from the outdoor use of GMOs poses a “risk” to the community and environment. By specifying classes of GMOs and applying standards to the outdoor use of GMOs, the risks associated with their use, storage, cultivation, harvesting, processing or transportation can be reduced.

Within the Far North, this will involve managing and limiting the outdoor use of GMOs. Further, performance standards will be used to mitigate any adverse effects associated with contamination of GMOs beyond the subject site, thereby reducing the risks to the community, environment and economy.

Accidental or unintentional migration of GMOs that result in GMO contamination and subsequent clean-up and remediation can be expensive. Council therefore requires a GMO operator to meet all potential costs associated with the activity and will secure long-term financial accountability through appropriate standards and bonding provisions.

The EPA is not obligated to set monitoring requirements as a part of its approval process, and can only require monitoring where it is relevant to assessing environmental risk. Under section 35 of the RMA, a council has a duty to monitor, which can be expensive. Requiring a GMO operator to meet the costs of monitoring, via consent conditions, ensures the costs are met by the activity operator.

To avoid foreclosure of potential opportunities associated with a GMO development that could benefit the district or region, there is the ability to review a particular GMO activity if it were to become evident during the field trial stage or in light of other new information that a particular GMO activity would be of net benefit to the district or region and that potential risks can be managed to the satisfaction of Council. A council or a GMO proponent can initiate a plan change to change the status of a GMO activity.

19.6 RULES

Activities affected by this Section of the Plan must comply not only with the rules in this Section, but also with the relevant standards applying to the zone in which the activity is located (refer to **Part 2 - Environment Provisions**), and with other relevant standards in **Part 3 – District Wide Provisions**.

19.6.1 PERMITTED ACTIVITIES

An activity is a permitted activity if:

- (a) it complies with the standards for permitted activities set out in **Rules 19.6.1.1** below; and
- (b) it complies with the relevant standards for permitted activities in the zone in which it is located, set out in **Part 2 of the Plan - Environment Provisions**; and
- (c) it complies with the other relevant standards for permitted activities set out in **Part 3 of the Plan - District Wide Provisions**.

19.6.1.1 INDOOR USE AND RESEARCH INVOLVING GENETICALLY MODIFIED ORGANISMS

GMOs that are not specifically provided for in **19.6.2 Discretionary Activities** and **19.6.3 Prohibited Activities** below are a permitted activity. These include (but are not limited to):

- (a) Research within contained laboratories involving GMOs;
- (b) Veterinary Vaccines using GMOs; and
- (c) Medical applications involving the manufacture and use of non-viable GM products.

Note: Such activities may require consents and / or permits under other legislation / plans.

19.6.2 DISCRETIONARY ACTIVITIES

An activity is a discretionary activity if:

- (a) it does not comply with one or more of the standards for permitted activities as set out under *Rule 19.6.1.1*; but
- (b) it complies with *all rules of 19.6.2.1 Genetically Modified Organisms Field Trials, 19.6.2.2 Bond Requirements and 19.6.2.3 Monitoring Costs* below; and
- (b) it complies with the relevant standards for permitted, controlled, restricted discretionary or discretionary activities in the zone in which it is located, set out in *Part 2 of the Plan - Environment Provisions*; and
- (c) it complies with the other relevant standards for permitted, controlled, restricted discretionary or discretionary activities set out in *Part 3 of the Plan - District Wide Provisions*.

The Council may impose conditions of consent on a discretionary activity or it may refuse consent to the application. When considering a discretionary activity application, the Council will have regard to the assessment criteria set out under *Section 19.7*.

If an activity does not comply with the standards for a discretionary activity, it will be a non-complying activity unless it is a prohibited activity subject to *Section 19.6.3* below.

19.6.2.1 GENETICALLY MODIFIED ORGANISMS FIELD TRIALS

Outdoor field trialling of a GMO (where the proponents of such activities have prior approval of the EPA) shall be a discretionary activity.

Applications must provide:

- (a) Evidence of approval from the EPA for the specific GMO for which consent is sought.
- (b) Details of proposed containment measures for the commencement, duration and completion of the proposed activity.
- (c) Details of the species, its characteristics and lifecycle, to which the GMO activities will relate.
- (d) Research on adverse effects to the environment and economy associated with the activity should GMOs escape from the activity area, and measures that will be taken to avoid, remedy or mitigate such effects.
- (e) Evidence of research undertaken that characterises and tests the GMO, and the certainty associated with the accuracy of that information.
- (f) A management plan outlining ongoing research and how monitoring will be undertaken during, and potentially beyond, the duration of consent.
- (g) Details of areas in which the activity is to be confined.
- (h) Description of contingency and risk management plans and measures.

19.6.2.2 BOND REQUIREMENTS

Council requires the applicant for the resource consent to provide a performance bond (akin to a bank guarantee) in respect of the performance of any one or more conditions of the consent, including conditions relating to monitoring required of the GMO activity (prior to, during and after the activity), and that this be available for payment to redress any adverse environmental effects and any other adverse effects to third parties (including economic effects) that become apparent during or after the expiry of the consent.

The exact time and manner of implementing and discharging the bond shall be decided by, and be executed to the satisfaction of Council.

Matters that will be considered when determining the amount of the bond are:

- (a) What adverse effects could occur and the potential significance, scale and nature of those effects, notwithstanding any measures taken to avoid those effects.
- (b) The degree to which the operator of the activity has sought to avoid those adverse effects, and the certainty associated with whether the measures taken will avoid those effects.
- (c) The level of risk associated with any unexpected adverse effects from the activity.
- (d) The likely scale of costs associated with remediating any adverse effects that may occur.

- (e) The timescale over which effects are likely to occur or arise.
- (f) The extent of monitoring that may be required in order to establish whether an adverse effect has occurred or whether any adverse effect has been appropriately remedied.

19.6.2.3 MONITORING COSTS

A GMO discretionary activity may require monitoring during, and beyond the duration of consent. Monitoring is to be carried out by either the Council or consent holder with appropriate reporting procedures to the relevant regulatory authority.

A monitoring strategy for a GMO discretionary activity can include the following matters:

- (a) Inspection schedules for the site, storage areas and equipment (daily, weekly, monthly, events based).
- (b) Testing of procedures (e.g. accidental release response).
- (c) Training programmes for new staff, updates for existing staff.
- (d) Audits of sites and site management systems.
- (e) Sample testing of plants and soils in neighbouring properties for the presence of migrated GMOs.

19.6.3 PROHIBITED ACTIVITIES

19.6.3.1 OUTDOOR RELEASE OF GENETICALLY MODIFIED ORGANISMS

Outdoor release of food-related and non-food-related Genetically Modified Organisms, not otherwise provided for in *Rules under 19.6.1* and *19.6.2 above* is a prohibited activity.

19.7 NOTIFICATION

All applications for resource consent under rule 19.6.2 must be publicly notified.

19.8 ASSESSMENT CRITERIA

The matters set out in s104 and s105, and in Part II of the Act, apply to the consideration of all resource consents for land use activities.

In addition to these matters, the Council shall also apply the relevant assessment matters set out below.

- (a) Site design conditions should ensure GMO sites are designed and managed in a manner that avoids or minimises risks of adverse effects from activities carried out on the site. This shall include provisions to prevent the migration of GMOs beyond the area designated for the activity.
- (b) Ensure the transportation of GMOs is carried out in a manner that minimises the risk of adverse effects by preventing the escape of GMOs from the transporting vehicles. Appropriate procedures must be in place to ensure that any vehicle visiting the site is thoroughly cleaned and checked prior to leaving the site to avoid unintentional GMO transportation.
- (c) Reporting requirements by the consent holder will be stipulated in the consent conditions.
- (d) Where necessary, more stringent measures than those required under the provisions of the HSNO Act may be imposed to manage potential risks. A review clause (pursuant to Section 128 of the Act) may be included in any conditions, where deemed necessary, to address any future changes in technology, and the scope of environmental, economic and cultural effects.
- (e) The duration of any consent will be aligned with EPA approval terms.

3 DEFINITIONS

Note: Any words included under this section shall have the meaning as defined here throughout this Plan unless specifically stated otherwise in the text of the Plan. Where the definition of a word is identified as being from the Resource Management Act 1991 (or any other Act), these words have been included in a Glossary.

GENETICALLY MODIFIED ORGANISM FIELD TRIALS (TESTS)

In relation to a genetically modified organism (GMO), the carrying on of outdoor trials, on the effects of the organism under conditions similar to those of the environment into which the organism is likely to be released, but from which the organism, or any heritable material arising from it, could be retrieved or destroyed at the end of the trials.

GENETICALLY MODIFIED ORGANISMS (GMOs)

Unless expressly provided otherwise by regulations, any organism in which any of the genes or other genetic material:

- (a) have been modified by in vitro techniques; or
- (b) are inherited or otherwise derived, through any number of replications, from any genes or other genetic material which has been modified by in vitro techniques.

For the absence of doubt, this does not apply to genetically modified (GM) products that are not viable (and are thus no longer GMOs), or products that are dominantly non-GM but contain non-viable GM ingredients (such as processed foods).

GENETICALLY MODIFIED ORGANISM RELEASE

To allow the organism to move within New Zealand free of any restrictions other than those imposed in accordance with the Biosecurity Act 1993 or the Conservation Act 19874.

A release may be without conditions under s34 of the Hazardous Substances and New Organisms Act 1996, (HSNO) or subject to conditions under s38A of the HSNO Act.

Attachment 3

Extracts from the Proposed Auckland Unitary Plan

Auckland Regional Policy Statement

B10. Ngā tūpono ki te taiao - Environmental risk

Kia o-whiti, kia mahara te ao tūroa

Vigilance and consideration of the natural environment.

Genetically modified organisms

The outdoor use of genetically modified organisms could adversely affect the environment, economy and social and cultural resources and values. There is disagreement concerning the effects of genetically modified organisms in the environment and the level of risk of irreversible adverse effects. There is also disagreement concerning the relationship between and demarcation of the management regimes for genetically modified organisms under the Hazardous Substances and New Organisms Act 1996 and the Resource Management Act 1991.

Given the potentially broad range of possible genetically modified organisms, the range of risks could be substantial and may be irreversible. In these circumstances a cautious approach to managing the risks associated with the outdoor use of genetically modified organisms is appropriate.

B10.5. Genetically modified organisms

B10.5.1. Objective

(1) The natural and physical resources of Auckland are protected from adverse effects of the outdoor use of genetically modified organisms.

B10.5.2. Policy

- (1) Adopt a cautious approach, including adaptive responses, to the outdoor use of genetically modified organisms.

Genetically Modified Organisms

Genetic modification refers to a set of techniques that alter genetic makeup by adding, deleting or moving genes (within or between species) to produce new and different organisms. Genetically modified organisms are products of genetic modification. The benefits and risks of genetically modified organisms are continually being redefined as biotechnology advances. However, there remains disagreement about the potential adverse effects of genetically modified organisms on natural resources and ecosystems. The risks could be substantial and certain consequences could be irreversible. Once released into the environment, most genetically modified organisms would be very difficult to eradicate. For these reasons, the activity status of genetically modified organism field trials is discretionary and that of genetically modified organisms' releases is prohibited. The regulation of genetically modified organisms in New Zealand is under the Hazardous Substances and New Organisms Act 1996. The Hazardous Substances and New Organisms Act 1996 establishes a framework for assessment of genetically modified organisms by the Environmental Protection Authority. This Act sets minimum standards for the creation and use of genetically modified organisms and enables the Environmental Protection Authority to set additional conditions for a particular genetically modified organism. The Council also has jurisdiction under the Resource Management Act 1991 to control discharges of contaminants and land use, including genetically modified organism field trials and genetically modified organism releases. In exercising this jurisdiction, the Council will seek to ensure that adverse effects on the environment are appropriately avoided, remedied or mitigated, including:

- to ensure that those who are using land to release genetically modified organisms are fully accountable for all costs associated with the genetically modified organism activity including taking all

practicable steps to avoid unintentional contamination, and to undertake appropriate clean-up, monitoring and remediation;

- to adopt a cautious approach to the management of potential risks (economic, environmental, social and cultural) associated with the outdoor use of genetically modified organisms;
- to address cultural concerns of Mana Whenua.

The Council does not seek to foreclose potential opportunities associated with a particular genetically modified organism that could benefit the community or the area. If it became evident during field trials or in light of new information that release would be of benefit to Auckland and that potential risks can be managed satisfactorily, the status of a particular activity involving a genetically modified organism could be assessed as part of a plan change.

Auckland Unitary Plan

E37. Genetically modified organisms

E37.1. Background

The outdoor use of genetically modified organisms has the potential to cause adverse effects on the environment, the economy and social and cultural wellbeing. The objectives and policies seek to protect the community and receiving environment from risks associated with genetically modified organisms. The application of a precautionary approach to the outdoor use, storage, cultivation, harvesting, processing or transportation of genetically modified organisms in Auckland means that:

- the outdoor release of a genetically modified organism is prohibited (this is to avoid the risk that significant adverse environmental effects will arise, including adverse effects on the economy, community and/or Mana Whenua resources and cultural heritage values); and
- outdoor field trialling of a genetically modified organism (with prior approval of the Environmental Protection Authority (EPA)) is a discretionary activity.

Pastoral farming, dairying, horticulture and forestry are important land uses in Auckland and are significant contributors to the local and regional economy. Aquaculture is also a growing primary industry in New Zealand. Therefore, there is a range of outdoor genetically modified organisms that genetically modified organism developers could consider using in Auckland, including genetically modified food crops, trees, animals, aquaculture products and pharmaceutical crops. The potential for adverse effects, including accidental contamination, resulting from the outdoor use of genetically modified organisms poses a risk to the community and environment. By specifying classes of genetically modified organisms and applying standards to the outdoor use of genetically modified organisms, the risks associated with their use, storage, cultivation, harvesting, processing or transportation can be reduced.

Within Auckland, this will involve managing and limiting the outdoor use of genetically modified organisms. Further, rules and controls will be used to mitigate any adverse effects associated with contamination by genetically modified organisms beyond the subject site, thereby reducing the risks to the community, environment and economy. Accidental or unintentional migration of genetically modified organisms that result in genetically modified organism contamination and subsequent clean up and remediation can be expensive. The Council therefore requires a genetically modified organism consent holder to meet all potential costs associated with the activity and will secure long term financial accountability through appropriate standards and bonding requirements.

The Environmental Protection Authority is not obliged to set monitoring requirements as part of its approval process, and can only require monitoring where it is relevant to assessing environmental risk. Under section 35 of the Resource Management Act 1991, the Council has a duty to monitor, which can be expensive. Requiring a genetically modified organism consent holder to meet the costs of monitoring, via consent conditions, ensures the costs are met by the consent holder, rather than the community. The resource consent status indicates the levels of risk considered acceptable by the community for that particular genetically modified organism activity and class.

Genetically modified medical applications involving the use of viable and/or non-viable genetically modified organisms (including EPA approved releases, vaccines and medical research) are permitted under this Plan. Genetically modified medical applications are also regulated by other legislations, including the Hazardous Substances and New Organisms Act 1996 (HSNO), the Medicines Act 1981 and by the Ministry of Health.

The use of genetically modified veterinary vaccines is a permitted activity where the vaccines are non-viable, or if viable, their administration is a specific delivery dose supervised by a veterinarian. Any other use of viable genetically modified veterinary vaccines is a discretionary activity. Non-viable genetically modified veterinary vaccines tend not to persist in the environment, appear to be low risk and are difficult to monitor, making control by the Plan less appropriate. Viable genetically modified veterinary vaccines can have higher risks if their administration is not supervised or controlled by a veterinarian. An example is a viable genetically modified veterinary vaccine distributed by way of edible food or edible plants, which cannot be supervised by a veterinarian, and which may present higher risks to the environment and to the health and safety of people. In this circumstance the Council will have the discretion to require controls or to decline an application. The Council will also be able to respond quickly if there are compelling reasons for its use to benefit human or animal health and welfare. It is generally expected that if a discretionary activity consent is granted, it would apply as a consent for the use of the viable genetically modified veterinary vaccine on any land in the region, noting that specific conditions such as exclusions of specified areas may apply.

Approval from the Environmental Protection Authority is required as a precondition for all applications for resource consent. The duration of any consent granted will be aligned with the Environmental Protection Authority approval terms.

E37.2. Objective

- (1) The environment, including people and communities and their social, economic and cultural well-being and health and safety, is protected from potential adverse effects associated with the outdoor use, storage, cultivation, harvesting, processing or transportation of genetically modified organisms.

E37.3. Policies

- (1) Adopt a precautionary approach by prohibiting the outdoor release of a genetically modified organism, and by making outdoor field trialling of a genetically modified organism and the use of viable genetically modified veterinary vaccines not of a specific dose and supervised by a veterinarian a discretionary activity.
- (2) Provide for the use of Environmental Protection Authority approved non-viable and/or viable genetically modified medical applications (including genetically modified vaccines) as a permitted activity.
- (3) Require that the holder of a resource consent granted for the outdoor field trialling of a genetically modified organism is financially accountable (to the extent possible) for any adverse effects associated with the activity, including clean-up costs and remediation, including through the use of bonds.
- (4) Require outdoor field trialling of genetically modified organisms to avoid, as far as can reasonably be achieved, risks to the environment or to the mauri of flora and fauna or to the relationship of Mana Whenua with flora and fauna from the use, storage, cultivation, harvesting, processing or transportation of a genetically modified organism.
- (5) Require all monitoring costs to be met by the consent holder.
- (6) Require that the outdoor use of genetically modified organisms does not result in migration of genetically modified organisms beyond the area designated by:
 - (a) ensuring adequate site design, construction and management techniques;

(b) preventing the escape of genetically modified organisms from transporting vehicles or vessels;
and

(c) ensuring all heritable material is removed upon the conclusion of the activity.

(7) Adopt an adaptive approach to the management of the outdoor use, storage, cultivation, harvesting, processing or transportation of a genetically modified organism through periodic reviews of these plan provisions, particularly if new information on the benefits and/or adverse effects of a genetically modified organism activity becomes available.

(8) Require, where appropriate, more stringent measures than those required under the provisions of the Hazardous Substances and New Organisms Act 1996 to manage potential risks.

E37.4. Activity table

Table E37.4.1 Activity table specifies the activity status of the use of genetically modified organisms on land pursuant to section 9(3) of the Resource Management Act 1991 and the activity status of works, occupation and activity in the coastal marine area pursuant to sections 12(1), 12(2) and 12(3) of the Resource Management Act 1991.

Activity	Activity status
(A1) Research and trials within contained laboratories involving the use of genetically modified organisms, medical applications involving the use of viable and/or non-viable genetically modified organisms (including genetically modified vaccines), veterinary applications involving the use of non-viable genetically modified organisms and any other genetically modified organism release or use not specifically provided for or prohibited	P
(A2) Genetically modified organism field trials on land and within the coastal marine area and any structure intended to house, or otherwise contain, plants and animals which are associated with the conducting of genetically modified organism field trials	D
(A3) The use of any viable genetically modified veterinary vaccine of a specific dose supervised by a veterinarian	P
(A4) The use of any viable genetically modified veterinary vaccine not otherwise provided for	D
(A5) Genetically modified organism releases – food-related on land and within the coastal marine area and any structure intended to house or otherwise contain plants and animals which are associated with outdoor genetically modified organisms releases, except as specifically provided for	Pr
(A6) Genetically modified organism releases – non food-related on land and within the coastal marine area and any structure intended to house or otherwise contain plants and animals which are associated with outdoor genetically modified organism releases, except as specifically provided for	Pr

E37.5. Notification

(1) Any application for resource consent for the following activities must be publicly notified:

(a) genetically modified organism field trials on land and within the coastal marine area and any structure intended to house or otherwise contain plants and animals which are associated with the conducting of genetically modified organism field trials; or

(b) the use of any viable genetically modified veterinary vaccine not otherwise provided for.

(2) Any application for resource consent for an activity listed in Table E37.4.1 Activity table and which is not listed in E37.5(1) above will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.

(2) When deciding who is an affected person in relation to any activity for the purposes of section 95E of the Resource Management Act 1991 the Council will give specific consideration to those persons listed in Rule C1.13(4).

(3) E37.6. Standards

All activities listed as a discretionary activity in Table E37.4.1 Activity table must comply with the following discretionary activity standards. These standards are in addition to any controls/conditions imposed by the Environmental Protection Authority.

E37.6.1. Approvals

(1) All genetically modified organism discretionary activities must:

- (a) have the relevant approval from the Environmental Protection Authority; and
- (b) be undertaken in accordance with Environmental Protection Authority approval conditions for the activity.

E37.6.2. Bond requirements

(1) The Council requires the holder of a resource consent for an activity involving the use of a genetically modified organism to provide a bond in respect of the performance of any one or more conditions of the consent, including conditions relating to monitoring required of the genetically modified organism activity (prior to, during and after the activity), and that this bond be available to pay or reimburse any costs incurred by, or on behalf of, the Council to avoid, remedy or mitigate any adverse environmental effects and any other adverse effects to, or on, third parties (including economic effects), that become apparent during the exercise or after the expiry of the consent.

(2) The exact time and manner of implementing and discharging the bond will be decided by, and be executed to the satisfaction of, the Council.

(3) All of the following matters will be considered when determining the amount and type of the bond:

- (a) what adverse effects could occur and the potential significance, scale and nature of those effects, notwithstanding any measures taken to avoid those effects;
- (b) the degree to which the consent holder for the activity has sought to avoid those adverse effects, and the certainty associated with whether the measures taken will avoid those effects;
- (c) the level of risk associated with any unexpected adverse effects from the activity;
- (d) the likely scale of costs associated with remediating any adverse effects that may occur;
- (e) the timescale over which effects are likely to occur or arise; and
- (f) the extent of monitoring that may be required in order to establish whether an adverse effect has occurred or whether any adverse effect has been appropriately remedied.

E37.6.3. Monitoring

(1) A discretionary activity for a genetically modified organism may require monitoring during, and beyond, the duration of consent. Monitoring is to be carried out by either the Council, or

the consent holder, with appropriate reporting procedures to the relevant regulatory authority.

(2) A monitoring strategy for a discretionary activity for a genetically modified organism can include all of the following matters:

- (a) inspection schedules for the site, storage areas and equipment (daily, weekly, monthly, events based);
- (b) testing of procedures (e.g. accidental release response);
- (c) training programmes for new staff, and updates for existing staff;
- (d) audits of sites and site management systems; and
- (e) sample testing of plants, soils and water in neighbouring properties or localities for the presence of migrated genetically modified organisms.

E37.6.4. Reporting

(1) Reporting requirements by the consent holder must be stipulated in the consent conditions.

E37.7. Assessment – controlled activities

There are no controlled activities in this section.

E37.8. Assessment – restricted discretionary activities There are no restricted discretionary activities in this section.

E37.9. Special information requirements

(1) An application for:

- (a) the use of any viable genetically modified veterinary vaccine not otherwise provided for; or
- (b) for genetically modified organism field trials on land and within the coastal marine area and any structure intended to house or otherwise contain plants and animals which are associated with the conducting of genetically modified organism field trials

must be accompanied by all of the following:

- (i) evidence of approval from the Environmental Protection Authority for the specific genetically modified organism for which consent is sought;
- (ii) details of the proposed containment measures for the commencement, duration and completion of the proposed activity;
- (iii) details of the species, its characteristics and lifecycle, to which the genetically modified organism activities will relate;
- (iv) research on adverse effects to the environment and economy associated with the activity should genetically modified organisms escape from the activity area, and measures that will be taken to avoid, remedy or mitigate such effects;
- (v) evidence of research undertaken that characterises and tests the genetically modified organisms, and the certainty associated with the accuracy of that information;
- (vi) a management plan outlining on-going research and how monitoring will be undertaken during, and potentially beyond, the duration of consent;

- (vii) details of areas in which the activity is to be confined; and
- (viii) a description of contingency and risk management plans and measures.

5 Public Excluded Council agenda items 05 September 2018

Recommended

That the public be excluded from the following part of the proceedings of this meeting namely:

- *Confirmation of Public Excluded Council minutes 23 August 2018; and*
- *Office Accommodation Opportunity: Agreement in principle.*

The general subject matter of each matter to be considered while the public is excluded, the reasons for passing this resolution in relation to each matter and the specific grounds under s48(1) of the Local Government Official Information and Meetings Act, 1987 for the passing of this resolution are as follows:

<i>General subject of each matter to be considered:</i>	<i>Reason for passing this Resolution:</i>	<i>Ground(s) under Section 48(1) for the passing this resolution:</i>
<i>Confirmation of Public Excluded Council minutes 23 August 2018</i>	<i>Section 7(2)(i) enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</i>	<i>S48(1)(a) That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</i>
<i>Office Accommodation Opportunity: Agreement in principle</i>	<i>Section 7(2)(i) enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</i>	<i>S48(1)(a) That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</i>

6 Open Council agenda 05 September 2018

Closure

**Kaipara District Council
Dargaville**