

Submitters comments on expert planners provisions

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Michael Payne

From: j c <youcangetmeonline@yahoo.com>
Sent: Monday, 21 January 2019 5:59 p.m.
To: Ben Lee
Subject: Submitter comments: Minute 8

Dear Ben,

Comment by Auckland GE-Free Coalition (AGEFC)

This is to provide comment on Minute 8 (issued by Council).

Because land and marine environments are contiguous, activities on land can create contaminants that go into the CMA.

To mitigate against this, and to provide the best chance of success rather than allow the risk of land use undermining the intended protection of the CMA measures, the plans should mention this and prohibit related activities on land where impact potentially includes the protected CMA.

AGEFC requests the following be reflected in the proposed plan:

C.1.1.8.4

Point 1. amend to mention conditional or full release as prohibited.

D 5.3.0

Paragraph 1. delete the words 'as far as can be reasonably achieved', as this unnecessarily adds ambiguity

Add a further clause to reference the important relationship to other plans that ideally the NRC would be fully harmonised with.

(new) F 01.06

District Plan provisions are also applicable to control and prohibit outdoor trials, conditional release and release of genetically modified organisms on land (outside of the CMA)

Please keep us informed.

Yours sincerely

Jon Carapiet
Spokesman for AGEFC

Michael Payne

Subject: FW: GMOs and the environment - issues, concerns

From: Benjamin Pittman [<mailto:pittman.benjamin@gmail.com>]

Sent: Friday, 25 January 2019 11:50 a.m.

To: mailroom <mailroom@nrc.govt.nz>

Subject: GMOs and the environment - issues, concerns

Tēnā koutou!

As a submitter to the hearings last year, related to the matter of GMOs, I wish to make the following points as the NRC undertakes further consideration.

1. Along with GE Free Northland colleagues and others, I continue to support and advocate precautionary and/or prohibitive GE/GMO provisions in the Coastal Marine Area/CMA but equally in relation to land-based provisions.
2. The NRC has an important responsibility to the *entire* Northland environment and it truly is alarming to note that, regardless of very detailed and credible submissions made to it at the hearings (let alone previously) that NRC appears to think it can allow precaution/prohibition in the CMA while ignoring the risks of outdoor use of GE/GMOs in land-based environments.
3. While it is pleasing to hear that the NRC is looking place precautionary and prohibitive provisions in the Coastal Marine Area (CMA) of the new Regional Plan for Northland, it appears to me to be extremely naive that there is a failure to recognise that without the same provisions for land-based environments, any GE experiments/field trials or releases on land will, whether as pollen, seeds or whatever, eventually contaminate soils, waterways and air before eventually ending up in and affecting the CMA the NRC is supposedly wanting to protect.
4. Whangarei District Council and Far North District Council do have excellent GMO rules, policies and provisions within their District plans and NRC as the overarching authority, is conversely being derelict in its duty in failing to do likewise.
5. Within all of this debate also, the NRC has totally ignored the concerns and tikanga of iwi, hapū, whanau, marae and individuals in relation to GMOs/GE in a way that is typically ignorant, arrogant and insulting. Kei ā koutou ngā hē, kei ā o mātou tūpuna te utu!

Nāku noa nā,
Benjamin Pittman

Dr Benjamin Pittman PhD(UTS), MFA(Hons) *Auck.*, MHPed(*UNSW*), BFA(*Auck*), DipTchg(*NZ*), DipSecTchg(*ASTC*), DipAPC(*CISyd*), Nat.Cert.IV, HMH(TRAM) *Whg*

*" Je ne connais qu'une liberté et c'est la liberté de l'esprit. "
" I know only one freedom and that is the freedom of the spirit. "*

Antoine de Saint-Exupéry

Michael Payne

From: Benjamin Pittman <pittman.benjamin@gmail.com>
Sent: Friday, 25 January 2019 10:15 p.m.
To: mailroom; Ben Lee
Subject: Further comment

Tēnā anō koutou:

In my submission today I also meant to comment on the fact that without any provisions in the Kaipara District plan related to GMOs/GE, their area will be potentially seriously impacted by the NRC's lack of concern in relation to land-based experiments/field trials or releases. Further, given the critical role of Kaipara Harbour as a huge eco system and breeding ground for fish species, the entire range of responsibilities under the requirements of kaitiakitanga is seriously at risk. NRC is showing how appallingly ignorant and shortsighted it is and the question has to be asked, whose special interests are you looking after?

Benjamin Pittman

Dr Benjamin Pittman PhD(UTS), MFA(Hons) *Auck.*, MHPed(*UNSW*), BFA(*Auck*), DipTchg(*NZ*), DipSecTchg(*ASTC*),
DipAPC(*CISyd*), Nat.Cert.IV, HMH(TRAM) *Whg*

" Je ne connais qu'une liberté et c'est la liberté de l'esprit. "
" I know only one freedom and that is the freedom of the spirit. "

Antoine de Saint-Exupéry

BEFORE THE NORTHLAND REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a hearing before the Northland Regional Council in relation to the Proposed Northland Regional Plan and submissions concerning genetic modification and genetically modified organisms

**FEDERATED FARMERS RESPONSE TO
JOINT WITNESS STATEMENT OF PLANNERS**

Federated Farmers of New Zealand Incorporated
(Northland Province)

Gavin Keith Forrest
General Manager Policy and Advocacy
Federated Farmers of New Zealand Inc

Dated 25 January 2019

Background

As outlined in Gavin Forrest's Statement of Evidence dated 12 October 2018, and supported by the expert evidence Professor Andrew Allen, Federated Farmers considers insufficient justification has been provided to proceed with restrictions on the use of genetically modified organisms (GMOs) and genetic engineering (GE) in the Proposed Regional Plan for Northland as the proposed provisions are a significant departure from the Proposed Plan (that included no such provisions) and there are no current or imminent risks and any risks with respect to the introduction of GMO/GE in Northland's CMA or the region as a whole will be and must be considered by the Environmental Protection Authority.

Northland citizens and the Northland regional Council have the right and will have ample opportunity to submit their views to the Environmental Protection Authority on any applications to introduce GMOs/GE into New Zealand including supporting applications that will provide a benefit to Northland's environment and/or economy.

Attachment B

GMO provisions – Federated Farmers proposed wording

B Definitions

<i>Genetically Modified Organism (GMO)</i>	As defined in the Hazardous Substances and New Organisms Act 1996
<i>Genetically Modified Organism Field Trials</i>	Same meaning as "Field test" as defined in the Hazardous Substances and New Organisms Act 1996
<i>Genetically modified organism release</i>	To allow the organism to move within New Zealand free of any restrictions other than those imposed in accordance with the Biosecurity Act 1993, the Conservation Act 1987 and/or the Hazardous Substances and New Organisms Act 1996 (the "HSNO Act")
<i>Genetically Modified Veterinary Vaccine</i>	A veterinary vaccine that is defined as a Genetically Modified Organism under the HSNO Act
<i>Genetically modified medical applications</i>	A medical application that is defined as a Genetically Modified Organism under the HSNO Act
<i>Viable Genetically Modified Veterinary Vaccine</i>	A veterinary vaccine that is defined as a Genetically Modified Organism under the HSNO Act

C Rules

C.1.8 Genetically Modified Organisms

C.1.8.1a Genetically modified organisms in the coastal marine area

The fact that an organism is generically modified does not, in itself, alter or negate any other provisions that apply to that organism, in the Regional Plan.

C.1.8.1 Genetically modified organisms in the coastal marine area – permitted activities

The following activities in the coastal marine area involving genetically modified organisms are permitted activities:

1. research and trials within contained laboratories,
2. and medical applications (including vaccines) involving the use of viable and / or non-viable genetically modified organisms, and
3. veterinary applications of genetically modified organisms (including vaccines) provided that any veterinary application of viable genetically modified organism vaccines is used in accordance with requirements of the HSNO Act and the Agricultural Compounds and Veterinary Medicines Act 1997.

The RMA activities this rule covers:

- Use of genetically modified organisms in the coastal marine area (s12(3))
- Discharge of genetically modified organisms that are “contaminants” under the definition in s2 of the RMA (s15(1)(a))

C.1.8.2 Genetically modified organism field trials - permitted activity

A genetically modified organism field trial in the coastal marine area is a permitted activity provided:

1. The genetically modified organism field trial has the relevant approval from the Environmental Protection Authority and the application is consistent with Environmental Protection Authority approval conditions for the activity.

The RMA activities this rule covers:

- Use of genetically modified organisms in the coastal marine area (s12(3))
- Discharge of genetically modified organisms that are “contaminants” under the definition in s2 of the RMA (s15(1)(a))

C.1.8.4 GMO releases – permitted activity

Any:

1. genetically modified organism release, or
2. genetically modified organism field trial,

is a permitted provided the genetically modified organism release or field trial has the relevant approval from the Environmental Protection Authority and the application is consistent with Environmental Protection Authority approval conditions for the activity.

Commented [FFNZ1]: While the Courts have agreed that Council's have the power to control the use of GMOs, Federated Farmers contends that Council's do not have the power to control the "release" of new organisms as this is clearly the role of the EPA under Part 5 of the HSNO Act.

The RMA activities this rule covers:

- Use of genetically modified organisms in the coastal marine area (s12(3))
- Discharge of genetically modified organisms that are "contaminants" under the definition in s2 of the RMA (s15(1)(a))

D Policies

D.5 Coastal

D.5.29 Adaptive approach to the management of genetically modified organisms

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

F Objectives

F.0.15 Use of genetic engineering and the release of genetically modified organisms

The coastal marine area is protected from adverse effects on the environment associated with the use of genetic engineering and the release of genetically modified organisms by ensuring that all releases have been approved by the EPA.



GE Free New Zealand

In Food And Environment Inc.

PO Box 13402, Wellington, NZ

Tel: 027 479 4195

21 January 2019

Dear Mr Shepherd and Council members,

We ask that you consider our strike through considerations and comments that we have highlighted in **yellow** in Attachment B. The three points are.

1. C.1.8.4 - We ask that consideration is given to adding the words **"conditional or full"** release as prohibited activities. (p.4)
2. D.5.30 - The RMA (s:5 & 17) and HSNO (s:13) shall avoid any adverse effects. There is no justification to add **"reasonably be achieved"** as this will lead to interpretation of happens if a breach occurs. The applicant can argue reasonableness but as we have seen in the past it is an excuse for poor management. Over sight by MPI is responsible for monitoring all field trials and annual reports are required by the EPA. At the end of a trial the facility must have any GMO or heritable material retrieved or destroyed. (p.4)
3. We ask that you consider adding a further clause (F.0.16) for clarification on GMO's **outside the CMA**. (p.6)

We would like to thank the expert planners for their work on the GMO provisions and their capture of the concerns our members have on this issue.

Yours sincerely,

Jon Muller
Secretary GE Free NZ

Attachment B - GMO provisions – agreed wording

B Definitions

<i>Genetically Modified Organism (GMO)</i>	<p>Unless expressly provided otherwise by regulations, any organism in which any of the genes or other genetic material:</p> <p>(a) have been modified by in vitro techniques; or</p> <p>(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.</p> <p>This does not apply to genetically modified products that are not viable and are no longer genetically modified organisms, or products that are dominantly non- genetically modified but contain non-viable genetically modified ingredients, such as processed foods.</p>
<i>Genetically Modified Organism Field Trials</i>	<p>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.</p>
<i>Genetically modified organism release</i>	<p>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 1987.</p> <p>A Release may be without conditions (s34, HSNO Act) or subject to conditions set out s38A of the HSNO Act.</p>
<i>Genetically Modified Veterinary Vaccine</i>	<p>A veterinary vaccine that is a genetically modified organism as defined in this Plan.</p>
<i>Genetically modified medical applications</i>	<p>The manufacture, trialling or use of viable and/or non-viable genetically modified organisms for medical purposes recognised as medicines under the Medicines Act 1981 and approved as safe to use by the Ministry of Health, including Environmental Protection Authority approved releases, except for the outdoor cultivation of pharmaceutical producing organisms.</p>
<i>Viable Genetically Modified Veterinary Vaccine</i>	<p>A genetically modified veterinary vaccine that could survive or replicate in the environment or be transmitted from the inoculated recipient.</p>

C Rules C.1.8 Genetically Modified Organisms

C.1.8.1 Genetically modified organisms in the coastal marine area – permitted activities

The following activities in the coastal marine area involving genetically modified organisms are permitted activities:

1. research and trials within contained laboratories, and
2. medical applications (including vaccines) involving the use of viable and / or non-viable genetically modified organisms, and
3. veterinary applications of genetically modified organisms (including vaccines) provided that any veterinary application of viable genetically modified organism vaccine is supervised by a veterinarian.

The RMA activities this rule covers:

- Use of genetically modified organisms in the coastal marine area (s12(3))
- Discharge of genetically modified organisms that are “contaminants” under the definition in s2 of the RMA (s15(1)(a))

C.1.8.2 Genetically modified organism field trials - discretionary activity

A genetically modified organism field trial in the coastal marine area is a discretionary activity provided:

1. The genetically modified organism field trial has the relevant approval from the Environmental Protection Authority and the application is consistent with Environmental Protection Authority approval conditions for the activity.
2. A Risk Management Plan is provided that addresses all matters set out in Policy D.5.33.
3. Details of a performance bond, with an approved trading bank guarantee, is provided that addresses all matters set out in Policy D.5.32.

Notification:

Any application for resource consent under rule C.1.8.2 must be publicly notified.

The RMA activities this rule covers:

- Use of genetically modified organisms in the coastal marine area (s12(3))
- Discharge of genetically modified organisms that are “contaminants” under the definition in s2 of the RMA (s15(1)(a))

C.1.8.3 Viable genetically modified veterinary vaccines - discretionary activity

The use of any viable genetically modified veterinary vaccine that is not a permitted activity under rule *C.1.8.1 Genetically modified organisms in the Coastal Marine Area – permitted activities*, is a discretionary activity, provided:

1. The genetically modified veterinary vaccine has the relevant approval from the

Environmental Protection Authority and the application is consistent with Environmental Protection Authority approval conditions for the activity.

2. Details of a performance bond, with an approved trading bank guarantee, is provided that addresses all matters set out in Policy D.5.32.

Notification:

Any application for resource consent under rule C.1.8.3 must be publicly notified.

The RMA activities this rule covers:

- Use of genetically modified organisms in the coastal marine area (s12(3))
- Discharge of genetically modified organisms that are “contaminants” under the definition in s2 of the RMA (s15(1)(a))

C.1.8.4 GMO releases – prohibited activity

Any:

1. genetically modified organism release, (conditional or full), or
2. genetically modified organism field trial, or
3. use of any viable genetically modified veterinary vaccine, that is not a permitted or discretionary activity in Section C.1.8 of this Plan, is a prohibited activity

The RMA activities this rule covers:

- Use of genetically modified organisms in the coastal marine area (s12(3))
- Discharge of genetically modified organisms that are “contaminants” under the definition in s2 of the RMA (s15(1)(a))

D Policies

D.5 Coastal

D.5.28 Precautionary approach to assessing and managing genetically modified organisms

Adopt a precautionary approach to assessing and managing the:

1. Risks;
2. Uncertainty and lack of information; and
3. Significance, scale and nature of potential adverse effects.

associated with the use of genetic engineering or the release of genetically modified organisms in the coastal marine area.

D.5.29 Adaptive approach to the management of genetically modified organisms

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

D.5.30 Avoiding adverse effects of genetically modified organism field trials

Ensure that any resource consent granted for genetically modified organism field trials avoid, as far as can reasonably be achieved, risk to the environment, adverse effects on indigenous flora

and fauna, and the relationship of tangata whenua with flora and fauna from the use, storage, cultivation, harvesting, processing or transportation of a genetically modified organism.

D.5.31 Liability for adverse effects from genetically modified organism activities

Require consent holders for a genetically modified organism activity to be liable, including financial accountability, (to the extent possible) for any adverse effects caused beyond the site for which consent has been granted for the activity.

D.5.32 Bonds for genetically modified organism activities

Require bonds as a condition of resource consents for the use of genetically modified organisms to provide for the redress of any adverse effects (including any adverse economic effects on third parties) that become apparent during or after expiration of a consent, including consideration of (but not limited to) the following:

- (a) the significance, scale, nature and timescale of potential adverse effects;
- (b) the proposed measures to be taken to avoid those effects;
- (c) the monitoring proposed to establish whether an adverse effect has occurred or whether any adverse effect has been appropriately remedied; and
- (d) the likely scale of costs associated with remediating any adverse effects that may occur.

D.5.33 Risk management plan for genetically modified organism field trials

A Risk Management Plan for genetically modified organism field trials must include, but is not limited to, the following:

1. The species, characteristics and lifecycle of the genetically modified organism;
2. All research undertaken that characterises and tests the genetically modified organism, and the certainty associated with the accuracy of that information;
3. The areas in which the genetically modified organism, including discharges, is to be confined;
4. Proposed containment measures for the commencement, duration and completion of the proposed field trial;
5. The actual and potential adverse effects to the environment, cultural values and economy associated with the field trial, including in the event the genetically modified organism escapes from the contained area;
6. The proposed measures, including contingency measures, that will be taken to avoid, remedy or mitigate actual and potential adverse effects;
7. Details of the monitoring to be undertaken, including how and by whom monitoring will be undertaken;
8. Reporting requirements;
9. Recommended conditions of resource consent covering the matters listed above.

F Objectives

F.0.15 Use of genetic engineering and the release of genetically modified organisms

The coastal marine area is protected from adverse effects on the environment associated with

the use of genetic engineering and the release of genetically modified organisms.

F.0.16 District Plan provisions

District Plan provisions are also applicable and control and prohibit outdoor trials and release of genetically modified organisms on land (outside the CMA).

Michael Payne

From: Kerikeri Organic <organics@value.net.nz>
Sent: Friday, 25 January 2019 6:25 p.m.
To: mailroom; Ben Lee
Cc: 'Claire Bleakley'
Subject: GE FREE Tai Tokerau submission to NRC PRPN GE/GMOs issue (in response to wording by Expert Planners (Vern Warren, David Badham, Peter Reaburn) et al
Attachments: GMO Provisions 25.1.2019.pdf

att: NRC Chairman and all councillors

Northland Regional Council

Private Bag 9021

Whangarei 0148

Te Tai Tokerau

Tena koutou

GE Free Tai Tokerau, an original submitter to the NRC proposed new Regional Plan for Northland on the important GE/GMO* issue, would like to formally lodge this comment in response to the Expert Planner wording (written by Vern Warren, David Badham, and reporting officer Peter Reaburn) circulated by NRC last December.

The Expert Planner proposed wording was written in keeping with the NRC's preliminary decision to only place strong precautionary and prohibitive GE/GMO wording in the Coastal Marine Area (CMA) of the new Regional Plan for Northland.

While we strongly support robust precautionary and prohibitive GE/GMO provisions and other wording in the Coastal Marine Area (in the new Regional Plan for Northland) in our view NRC needs to extend those precautionary and prohibitive GMO provisions to the land of Northland as well (as Auckland Council has done in the operative Unitary Plan).

We point out that the NRC Chairman states in point 3 of NRC's Minute 8, "to be clear, this is a preliminary view and is not the Council's final decision." (ie. only having precautionary and prohibitive GE/GMO provisions in the CMA).

We ask that the NRC now revisit their preliminary decision, review the Expert Evidence of Professor Jack Heinemann, Dr. Shaw Mead, Dr. Damian Wojick (PSGR), Dr. Benjamin Pittman and economist Dr. John Small and that of Tai Tokerau Iwi, hapū, whanau and amend its preliminary decision to ensure strong precautionary and prohibitive GE/GMO provisions in both the CMA and on land (in keeping with the wishes of original submitters including Tai Tokerau mana whenua).

In respect to the Expert Planners proposed provisions

C Rules

s.42a Legal effect of rules

Interpretation of rules

Para 8 reads

"Within the Northland Region this means that field trialling of a GMO *within the* CMA requires consent"

We believe this should be better worded to state

" Within the Northland Region this means that field trialling of a GMO *that is likely or foreseeable to have an effect on the* CMA requires consent"

This will help to capture activities outside the CMA that will have an impact on the CMA

We support the 21 January 2018 submission (feedback) by original submitter GE FREE NZ (attached to this email), already lodged by GE FREE NZ with NRC, **however** we would like to point out that the specific wording (proposed addition to the Expert Planners wording) that GE FREE NZ suggests for **F.0.16 needs amending**

GE FREE NZ proposed addition currently reads:

"F.0.16 District Plan provisions

District Plan provisions are also applicable and control and prohibit outdoor trials and release of genetically modified organisms on land (outside the CMA)."

We agree F.0.16 should be included but the wording amended to read:

F.0.16 District Plan provisions

Operative Northland District Plan provisions in Whangarei and Far North District (WDC PC131 and FNDC PC18) are also applicable and assist in controlling outdoor GE experiments/ field trials (including additional liability/ bond requirements that the HSNO Act does not require) and prohibit release of genetically modified organisms on land (outside the CMA).

However, Kaipara District Council has not to date undertaken a similar GMO plan change and NRC will honour its obligation (as the over arching environmental authority in Tai Tokerau) to protect natural and physical resources (and manage them in a truly sustainable manner). NRC is mindful of its obligation to address the concerns and wishes of Tai Tokerau mana whenua regarding the risks of outdoor use of GE/GMOs (on land and in the CMA) and to protect the valuable existing GM free enterprises of Northland primary producers (conventional, IPM and organic).

In our view, the new Regional Plan for Northland MUST be compatible/ consistent with the Auckland Unitary Plan.

the Auckland Unitary Plan has achieved excellent precautionary and prohibitive GE/ GMO provisions on both land and in the CMA. We have grave concerns that NRC has not (in its preliminary decision) proposed precautionary and prohibitive GE/GMO provisions on LAND as well as in the CMA (as Auckland has wisely done).

In the CMA, the Auckland Unitary plan has made:

- General releases of GMOs a prohibited activity.
- Field trials a discretionary activity with performance standards relating to liability and the posting of bonds.
- Has limited permitted activity statuses for activities such as GMOs within contained laboratories and veterinary vaccinations.
- Has made it clear that council is not opposing ethical and humane GE experiments in the strict containment of the laboratory

The Land and the Coast are inextricably linked.

This was well articulated by a number of Expert Witnesses who spoke at the NRC PRPN GE/GMO hearings on 30/31 October 2018 and tabled substantive Evidence.

Essentially, land based activities will affect the CMA.

Oysters are affected by land-based activities.

Oysters are not able to be harvested or consumed after heavy rain because of toxins carried by runoff from land via streams and rivers to the sea.

Water quality is affected by land based activities.

Swimming is dangerous after rain because faecal coliforms, etc. being swept from land to the sea.

Run-off from land affects the coastal marine environment.

It stands to reason that a GMO on land (for instance, if introduced in the Kaipara District, which does not have rules in its District Plan to restrict or prohibit the use of GMOs) would end up in the Coastal Marine Area in the event of a weather bomb, gale or onshore event.

Any outdoor use of GE/GMOs (GE experiment/ field trial/ release) activity on land will result in GMOs finding their way into the CMA, having an undesirable impact on the Coastal Marine Area.

The expert witnesses engaged by GE Free Tai Tokerau provided considerable detail regarding the vectors for GMO contamination: that land based fungi, micro flora, micro fauna, vegetative material, seeds, pollen and other heritable material will find its way from the land, via soils, waterways and air, to the CMA.

Once in the CMA they will foreseeably be consumed by, or have an impact on the Coastal marine population.

It is clear that any GMO on land (for instance, an outdoor GE experiment/ field trial or release in the Kaipara District, which does not have rules in its District Plan to restrict or prohibit the use of GMOs) would end up in the Coastal Marine Area via various vectors (which would be exacerbated in extreme weather events).

Although KDC intends to undertake a GE/GMO plan change in the District Plan it should not be relied on as a foregone conclusion that it will be achieved.

The NRC must act with the District Plans it has in front of it, and not rely on conjecture and hypotheses.

Whangarei District and the Far North District have rules in their respective Plans.

Kaipara does not have rules in its District Plan re GMOs, and this must be taken into account by the NRC when addressing and protecting the Northland Coastal Marine Area

The NRC (irrespective of what District Councils may or not do) has an obligation to protect natural and physical resources and manage them in a truly sustainable manner (as well as protect the valuable existing export GM free enterprises of Northland constituents including primary producers)

Genetically Modified Organisms that make the transition from the land to the CMA (effectively unduly influencing / contaminating the CMA) will have an adverse impact on the Coastal Marine environment and its flora and fauna – seaweed, kelp, oysters, pipi, mussels and fish (kai moana). It is for this reason that there should be provisions, policies and objectives in the Proposed Regional Plan helping to control outdoor GE experiments/ Field Trials and prohibiting the outdoor release of GMOs, protecting land (soils & waterways), sea, and air.

NRC must show leadership (as Auckland Council has done) and give guidance to the entire Region, placing strong precautionary and prohibitive GE/GMO provisions, policies and objectives for land and in the CMA in the new Regional Plan for Northland (complementing the Auckland Unitary and the FNDC and WDC excellent operative GMO plan changes).

Thank you.

We wish to be heard. Please keep us informed.

Nga mihi

Martin Robinson

Secretary, GE Free Tai Tokerau

PO Box 1439

Whangarei 0148

Te Tai Tokerau

*noting that controversial and risky new genetic techniques like CRISPR/ gene editing result in gene edited organisms that are GMOs, as detailed in the Expert Witness Evidence of Professor Jack Heinemann, Dr. Shaw Mead, Dr. Damian Wojick of Physicians & Scientists for Global Responsibility Charitable Trust (NZ), Dr. Benjamin Pittman, Dean Satchell (immediate past President NZ Farm Forestry Association), and others



GE Free New Zealand

In Food And Environment Inc.

PO Box 13402, Wellington, NZ

Tel: 027 479 4195

21 January 2019

Dear Mr Shepherd and Council members,

We ask that you consider our strike through considerations and comments that we have highlighted in **yellow** in Attachment B. The three points are.

1. C.1.8.4 - We ask that consideration is given to adding the words **"conditional or full"** release as prohibited activities. (p.4)
2. D.5.30 - The RMA (s:5 & 17) and HSNO (s:13) shall avoid any adverse effects. There is no justification to add **"reasonably be achieved"** as this will lead to interpretation of happens if a breach occurs. The applicant can argue reasonableness but as we have seen in the past it is an excuse for poor management. Over sight by MPI is responsible for monitoring all field trials and annual reports are required by the EPA. At the end of a trial the facility must have any GMO or heritable material retrieved or destroyed. (p.4)
3. We ask that you consider adding a further clause (F.0.16) for clarification on GMO's **outside the CMA**. (p.6)

We would like to thank the expert planners for their work on the GMO provisions and their capture of the concerns our members have on this issue.

Yours sincerely,

Jon Muller
Secretary GE Free NZ

Attachment B - GMO provisions – agreed wording

B Definitions

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<i>Genetically Modified Organism Field Trials</i>	<p>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.</p>
<i>Genetically modified organism release</i>	<p>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 1987.</p> <p>A Release may be without conditions (s34, HSNO Act) or subject to conditions set out s38A of the HSNO Act.</p>
<i>Genetically Modified Veterinary Vaccine</i>	<p>A veterinary vaccine that is a genetically modified organism as defined in this Plan.</p>
<i>Genetically modified medical applications</i>	<p>The manufacture, trialling or use of viable and/or non-viable genetically modified organisms for medical purposes recognised as medicines under the Medicines Act 1981 and approved as safe to use by the Ministry of Health, including Environmental Protection Authority approved releases, except for the outdoor cultivation of pharmaceutical producing organisms.</p>
<i>Viable Genetically Modified Veterinary Vaccine</i>	<p>A genetically modified veterinary vaccine that could survive or replicate in the environment or be transmitted from the inoculated recipient.</p>

C Rules C.1.8 Genetically Modified Organisms

C.1.8.1 Genetically modified organisms in the coastal marine area – permitted activities

The following activities in the coastal marine area involving genetically modified organisms are permitted activities:

1. research and trials within contained laboratories, and
2. medical applications (including vaccines) involving the use of viable and / or non-viable genetically modified organisms, and
3. veterinary applications of genetically modified organisms (including vaccines) provided that any veterinary application of viable genetically modified organism vaccine is supervised by a veterinarian.

The RMA activities this rule covers:

- Use of genetically modified organisms in the coastal marine area (s12(3))
- Discharge of genetically modified organisms that are “contaminants” under the definition in s2 of the RMA (s15(1)(a))

C.1.8.2 Genetically modified organism field trials - discretionary activity

A genetically modified organism field trial in the coastal marine area is a discretionary activity provided:

1. The genetically modified organism field trial has the relevant approval from the Environmental Protection Authority and the application is consistent with Environmental Protection Authority approval conditions for the activity.
2. A Risk Management Plan is provided that addresses all matters set out in Policy D.5.33.
3. Details of a performance bond, with an approved trading bank guarantee, is provided that addresses all matters set out in Policy D.5.32.

Notification:

Any application for resource consent under rule C.1.8.2 must be publicly notified.

The RMA activities this rule covers:

- Use of genetically modified organisms in the coastal marine area (s12(3))
- Discharge of genetically modified organisms that are “contaminants” under the definition in s2 of the RMA (s15(1)(a))

C.1.8.3 Viable genetically modified veterinary vaccines - discretionary activity

The use of any viable genetically modified veterinary vaccine that is not a permitted activity under rule *C.1.8.1 Genetically modified organisms in the Coastal Marine Area – permitted activities*, is a discretionary activity, provided:

1. The genetically modified veterinary vaccine has the relevant approval from the

Environmental Protection Authority and the application is consistent with Environmental Protection Authority approval conditions for the activity.

2. Details of a performance bond, with an approved trading bank guarantee, is provided that addresses all matters set out in Policy D.5.32.

Notification:

Any application for resource consent under rule C.1.8.3 must be publicly notified.

The RMA activities this rule covers:

- Use of genetically modified organisms in the coastal marine area (s12(3))
- Discharge of genetically modified organisms that are “contaminants” under the definition in s2 of the RMA (s15(1)(a))

C.1.8.4 GMO releases – prohibited activity

Any:

1. genetically modified organism release, (conditional or full), or
2. genetically modified organism field trial, or
3. use of any viable genetically modified veterinary vaccine, that is not a permitted or discretionary activity in Section C.1.8 of this Plan, is a prohibited activity

The RMA activities this rule covers:

- Use of genetically modified organisms in the coastal marine area (s12(3))
- Discharge of genetically modified organisms that are “contaminants” under the definition in s2 of the RMA (s15(1)(a))

D Policies

D.5 Coastal

D.5.28 Precautionary approach to assessing and managing genetically modified organisms

Adopt a precautionary approach to assessing and managing the:

1. Risks;
2. Uncertainty and lack of information; and
3. Significance, scale and nature of potential adverse effects.

associated with the use of genetic engineering or the release of genetically modified organisms in the coastal marine area.

D.5.29 Adaptive approach to the management of genetically modified organisms

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

D.5.30 Avoiding adverse effects of genetically modified organism field trials

Ensure that any resource consent granted for genetically modified organism field trials avoid, as far as can reasonably be achieved, risk to the environment, adverse effects on indigenous flora

and fauna, and the relationship of tangata whenua with flora and fauna from the use, storage, cultivation, harvesting, processing or transportation of a genetically modified organism.

D.5.31 Liability for adverse effects from genetically modified organism activities

Require consent holders for a genetically modified organism activity to be liable, including financial accountability, (to the extent possible) for any adverse effects caused beyond the site for which consent has been granted for the activity.

D.5.32 Bonds for genetically modified organism activities

Require bonds as a condition of resource consents for the use of genetically modified organisms to provide for the redress of any adverse effects (including any adverse economic effects on third parties) that become apparent during or after expiration of a consent, including consideration of (but not limited to) the following:

- (a) the significance, scale, nature and timescale of potential adverse effects;
- (b) the proposed measures to be taken to avoid those effects;
- (c) the monitoring proposed to establish whether an adverse effect has occurred or whether any adverse effect has been appropriately remedied; and
- (d) the likely scale of costs associated with remediating any adverse effects that may occur.

D.5.33 Risk management plan for genetically modified organism field trials

A Risk Management Plan for genetically modified organism field trials must include, but is not limited to, the following:

1. The species, characteristics and lifecycle of the genetically modified organism;
2. All research undertaken that characterises and tests the genetically modified organism, and the certainty associated with the accuracy of that information;
3. The areas in which the genetically modified organism, including discharges, is to be confined;
4. Proposed containment measures for the commencement, duration and completion of the proposed field trial;
5. The actual and potential adverse effects to the environment, cultural values and economy associated with the field trial, including in the event the genetically modified organism escapes from the contained area;
6. The proposed measures, including contingency measures, that will be taken to avoid, remedy or mitigate actual and potential adverse effects;
7. Details of the monitoring to be undertaken, including how and by whom monitoring will be undertaken;
8. Reporting requirements;
9. Recommended conditions of resource consent covering the matters listed above.

F Objectives

F.0.15 Use of genetic engineering and the release of genetically modified organisms

The coastal marine area is protected from adverse effects on the environment associated with

the use of genetic engineering and the release of genetically modified organisms.

F.0.16 District Plan provisions

District Plan provisions are also applicable and control and prohibit outdoor trials and release of genetically modified organisms on land (outside the CMA).



Physicians and Scientists for Global Responsibility

New Zealand Charitable Trust

Formerly Physicians and Scientists for Responsible Genetics New Zealand

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Date 25 January 2019

Mr Ben Lee

BY EMAIL ATTACHMENT

Planning & Policy Team

Northland Regional Council

Private Bag 9021

Whangarei Mail Centre

WHANGAREI 0148

Dear Ben

FURTHER SUBMISSION OF PSGR IN RESPONSE TO COUNCIL'S DECISION TO LIMIT ITS CONSIDERATION OF GMO RELEASES ONLY IN ITS COASTAL MARINE AREA

1. Council's decision to seek only a CMA-limited assessment by planners - your 'Joint Witness Statement of Planners' - (undated) refers.
2. PSGR wishes to advance a further submission on this matter.
3. PSGR notes that your Council directed the planners to confine their advice to the narrow matter of GMOs only in the Coastal Management Area (CMA).
4. PSGR contends that the Council's CMA-constraining terms of reference for the planners was arguably unlawful in that:-
 - a) It ignored a relevant consideration that GMO releases on land would likely reach and could possibly have an adverse effect upon the CMA.
 - b) Council, in explicitly disregarding such a relevant consideration, arguably exposes Council to a legal challenge that it has used its discretionary powers improperly.
 - c) Council has advanced no compelling reasoning for its exclusion of land-based releases of GMOs. Thus that Council decision appears to be arbitrary, unconscionable and therefore unlawful.
 - d) Further, such an arbitrary decision is inconsistent with Council's praiseworthy recognition of the need to use regulatory powers to address GMO-related threats to people and the

environment that the precautionary principle and/or probability suggests may have material first, second and third-order adverse effects.

- e) Council's exclusion of GMO's in the land environment is arguably unlawful in that such an exclusion is likely to run counter to, circumvent or undermine the purposes and intent of the Resource Management Act 1991 (RMA).
- 5. Council's 'opinion' that it is free to disregard land-based releases of GMO's (in the absence of compelling reasoning) is arguably likely to be found – on a test in the higher courts – to be an opinion that could not be reasonably held and therefore that its associated decision on exclusion of land-based releases of GMO's was (perhaps) an unintentional or mistaken misapplication of public power.
- 6. PSGR wishes to offer a suggestion that may be helpful to Council.
- 7. PSGR assumes that Council (from its approach giving rise to the PSGR contentions listed above) has not had access to unbiased, well-informed and relevant scientific opinions that have advised Council on the hit-and-miss nature of current genetic engineering technologies (particularly that CRISPr new technologies are not accurate as their proponents claim). Or, if Council claims that it has received such advice, then PSGR contends that such advice was either incomplete or misleading or inadequate; or that the Council has not subsequently given due weight to risks that arise from the release of land-based GMOs.
- 8. PSGR therefore offers to use its contacts to provide Council with access to such independent and expert scientific opinions so that the extent to which regulatory controls are needed in both land and marine areas (in order to address properly RMA purposes) is approached in a way that gives due weight to both probabilities of adverse outcomes and the appropriate exercise of the precautionary principle in Council's use of its public powers to set subordinate legislation.

RECOMMENDATION

That Council should seek and commission independent and expert scientific opinion on genetic engineering techniques that assesses risks on land and at the coastal margins of the release of genetically-modified substances; and that such scientific opinion should take into account the public interest and therefore a precautionary approach while giving due weight to relevant statutory purposes.

We trust that this assessment and its associated recommendation is helpful to Council.

Your sincerely

Brian M Maskell, Trustee

Physicians & Scientists for Global Responsibility

Email contact: brian@sdf.co.nz

Telephone contacts: Cell – 021 757 321; Telephone & fax: 07 345 5091

BEFORE NORTHLAND REGIONAL COUNCIL

IN THE MATTER of a Regional Plan Review the Resource
Management Act 1991 (**RMA**)

AND

IN THE MATTER A submission on the Proposed Draft
Northland Regional Plan

BY **SOIL & HEALTH ASSOCIATION OF
NEW ZEALAND INC**
(Submission No: 2017PRP291)

**MEMORANDUM ON BEHALF OF
SOIL & HEALTH ASSOCIATION OF NEW ZEALAND INC
IN RESPONSE TO PLANNERS CONFERENCING**

Dated: 24 January 2019

Solicitor acting:
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MAY IT PLEASE THE PANEL:

1. Soil & Health Association of New Zealand Inc ("Soil & Health") have reviewed the planning provisions that have been agreed as a result of planning conferencing and circulated to the parties. Mr Vern Warren, Soil & Health's planning adviser, attended that conferencing.
2. Soil & Health thank the Council for the opportunity to further comment on those provisions.
3. There were no areas of disagreement between Soil & Health's planner and that of the other planners, including Mr Warren and Mr Reaburn for Northland Regional Council.
4. Soil & Health support the provisions that are contained in the joint conferencing statement and believe they are the most effective and appropriate provisions to manage and control GMOs within the Northland CMA.
5. The reasons for this are well articulated in the evidence and submissions made by Soil & Health at the substantive hearing of this matter.
6. Soil & Health requests that one further relatively minor addition is made to the provisions. Soil & Health consider that the following matter should be added to Policy D.5.33 as another matter which a Risk Management Plan for genetically modified field trials must include:

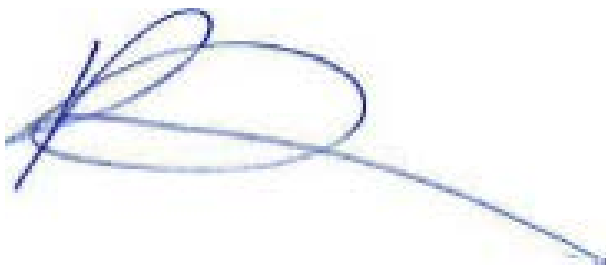
(10) provision for the systematic review and approval of any amendments to the Risk Management Plan by Council.

7. Soil & Health understand that a Risk Management Plan is intended as a living document in that a consentholder may wish/need to update their Risk Management Plan after consent has been granted. Soil & Health appreciate that updates to the Risk Management Plan may be desirable over time to take into account new information/methodology in terms of how risks related to GMOs are mitigated, avoided and managed. However, Soil & Health are also concerned that there is potential for the intent of a Risk Management Plan to erode over time, by subsequent amendment by the consentholder if this is not overseen by Council. Soil & Health consider that the new criteria proposed will mean that one of the compulsory features of a Risk Management Plan are

provisions which make it clear to the consent holder and others that any proposed amendments to the Risk Management Plan, post-consent, must be considered and approved by Council. This is sensible given the relationship between the Risk Management Plan and the proposed bond provisions. Soil & Health consider that Risk Management for GMOs in the CMA does pose significant threats and that continued Council oversight of the content of Risk Management Plans is appropriate in the circumstances. It is requested that the planners consider this issue and the wording proposed (or any similar wording that would address this concern) when conferencing resumes.

8. Soil & Health respectfully request that the Panel confirm these provisions in the form agreed to by the planners and adopt these provisions into the NRP with the one addition proposed by Soil & Health set out above.

Dated: 24 January 2019



Phernne Tancock
Counsel on behalf of
Soil and Health Association of New Zealand Inc

Michael Payne

From: Linda Grammer <linda.grammer@gmail.com>
Sent: Saturday, 26 January 2019 11:45 a.m.
To: mailroom
Cc: Ben Lee; Evania Arani
Subject: Zelka Linda Grammer comment on Expert Planner wording GE/GMO NRC PRPN

resending (as power cut yesterday)

25 January 2019

att: NRC Chairman Bill Shepherd and all councillors
and relevant staff
Northland Regional Council

NRC Proposed new Regional Plan for Tai Tokerau

Tēnā koutou

As an original submitter to the NRC proposed new Regional Plan for Northland (on the important GE/ GMO issue), I would like to lodge the following comment:

As a primary producer (involved in various valuable GM free enterprises) I strongly support the NRC preliminary decision to place precautionary and prohibitive GE/GMO provisions (these obviously apply to any gene edited organisms, which are GMOs) in the Coastal Marine Area of the proposed new Regional Plan. However, the wording proposed by the Expert planners needs to be strengthened (as advised by GE Free Tai Tokerau and GE Free NZ) and the precautionary GE/GMO provisions need to be extended to the land area of Tai Tokerau.

As the over arching environmental protection authority for Tai Tokerau, it would be remiss (and unacceptable) for NRC not to place precautionary and prohibitive GE/GMO provisions relating to land as well (this is especially important given that Kaipara District Council has not to date undertaken a excellent GMO plan change as Whangarei District Council and Far North District Council has achieved). My farming colleagues in Kaipara (and other Kaipara ratepayers and residents) are vulnerable to a outdoor GE/ GMO application being Lodged (this could take place at any moment) with the EPA (and the EPA has never turned down an application for a outdoor GE experiment/ field trial or conditional release despite robust submissions in opposition from interested parties/ local primary producers and others).

In my view, it would be highly irresponsible (and naive) of NRC to think that (highly necessary) precautionary and prohibitive GMO provisions in the CMA would be effective, if NRC also does not address the risks of GE/GMOs on land (which would create contaminants, discharges to soil, water and air, which would invariably end up in the CMA, contaminating kai moana etc).

A number of highly qualified, independent scientists of high calibre provided Expert Witness Evidence to NRC during the NRC PRPN hearings late last year (30/31 October 2018) detailing how any GE/GMO activities on land would adversely impact on the CMA (and that once a GMO reached the sea, it it would be impossible- given marine currents and other vectors- to control).

NRC should act to ensure that the new Regional Plan is consistent with and complimentary to the excellent precautionary and prohibitive GE/GMO provisions on land and in the CMA in the Auckland Unitary Plan, protect Kaipara Districts land (and huge harbour), support WDC and FNDC's excellent operative GMO plan changes, and act on the information provided to you by Tai Tokerau mana whenua including Expert Witness Dr. Benjamin Pittman.

I note that all Tai Tokerau Iwi and hapu have a strong precautionary and prohibitive GE/GMO position (as achieved by unanimous decision at the November 2012 hui called by Te Runanga A Iwi O Ngapuhi at Kaikohe). This latest to all the respective rohe of all Tai Tokerau Iwi authorities (on land and sea).

Thank you. I do support the comment lodged by GE Free Tai Tokerau and GE Free NZ (including detailed comment on the Expert Planners proposed wording as relates to the CMA) and any comment / input made by Tai Tokerau mana whenua.

Please keep me informed and please protect Northland's existing valuable GE free status and "Northland, naturally" brand, our food sovereignty, economy, and our access to key markets and premiums for our land based produced goods (sold to discerning customers in NZ and overseas).

Nga mihi

Zelka Linda Grammer

original and further submitter to the NRC PRPN GE/GMOs/ controversial new genetic technologies (including gene editing and gene drive)

Whangarei

email: linda.grammer@gmail.com