

Covering Note – Whangarei District Council Plan Change 131 – Genetically Modified Organisms

The following information should be read in conjunction with the Whangarei District Council's Plan Change 131 - Genetically Modified Organisms (GMOs) and the accompanying section 32 evaluation and report.

Section 32 Report – Managing Risks Associated with Outdoor Use of Genetically Modified Organisms – January 2013, Volumes 1 and 2.

The Inter-Council Working Party on GMO Risk Evaluation and Management Options (the Working Party), comprising Auckland Council, Far North District Council, Kaipara District Council and Whangarei District Council, commissioned draft generic district/unitary plan provisions, a supporting section 32 evaluation and report, and accompanying legal opinions from Dr Somerville QC. Whangarei District Council's plan change 131 is based upon the draft generic plan change document produced by the Working Party. The generic section 32 report (Managing Risks Associated with Outdoor Use of Genetically Modified Organisms, January 2013, Volumes 1 and 2) is equally applicable to both documents. However, when consulting the section 32 report please note the following.

The generic section 32 report refers to the 'Northern Councils' comprising those councils mentioned above and to the 'Northern Peninsula' covering the jurisdictions of those same councils. The 'Plan Change' referred to in the section 32 report is the generic plan change produced by the Working Party (*Proposed Plan Change to the District/Unitary Plan – Managing Risks Associated with the Outdoor Use of Genetically Modified Organisms*). The generic section 32 report has not been altered to refer specifically to the Whangarei District Council, to the Whangarei District, or to Plan Change 131. It is necessary therefore to read 'Whangarei District Council' where the section 32 report refers to the Northern Councils, 'Whangarei District' where the section 32 report refers to the Northern Peninsula and 'Plan Change 131' where the section 32 report refers to the Plan Change. References to the Coastal Marine Area should be disregarded.

Annex

The section 32 report (volume 1) includes an annex that was completed in May 2014. The annex addresses the changes that were made to section 32 of the Resource Management Act 1991 (the Act) in the Resource Management Amendment Act 2013.

Additional pre-consultation

In addition to the consultation referred to in the generic section 32 report, Council has also undertaken the following pre-consultation for Plan Change 131.

- Neighbouring local authorities (Far North District Council, Kaipara District Council, Auckland Council and Northland Regional Council) have been kept informed on the progress of Plan Change 131, through meetings of the Inter-council Working Party on GMO Risk Evaluation and Management Options and through communication undertaken by the Convenor of the Working Party.
- Copies of Proposed Plan Change 131 and notice of intention to notify the plan change was sent to the Ministers for the Environment, Local Government, Primary Industries and Conservation on 25 November 2013. A response was received from the Minister for the Environment on 11 February 2014. In summary, the response advised that decisions regarding the testing and release of GMOs are best dealt with at the national level.
- A Hui on Plan Change 131 for local iwi/hapu was held at Terenga Paraoa Marae on 4 March 2014.

- A presentation on Plan Change 131 was given to Te Huinga (hapu representatives of Whangarei District) at the groups May 2014 meeting. The plan change documentation was made available at the meeting.

Proposed Plan Change to the District Plan/Unitary Plan – Managing Risks Associated with the Outdoor Use of Genetically Modified Organisms – January 2013

As mentioned above, the Inter-Council Working Party on GMO Risk Evaluation and Management Options commissioned generic district/unitary plan provisions applicable to all member councils on the Working Party. These are included in the document *Proposed Plan Change to the District/Unitary Plan – Managing Risks Associated with the Outdoor Use of Genetically Modified Organisms, January 2013*. These plan provisions have been included in Auckland Council's Proposed Unitary Plan and in changes to the district plans of Far North District Council and Whangarei District Council. The provisions in each council's planning documents are based on the provisions in the generic plan change document. The objectives, policies and rules relating to land use are the same. The rest of the wording has been kept as consistent as possible. The formatting has been changed to be consistent with the formatting of the individual plans.

The formatting of the generic plan change into the Whangarei District Plan format has altered the numbering of the objectives and policies. The generic section 32 report refers to the numbering of the objectives and policies in the generic plan change report rather than the numbering used in Plan Change 131. The generic plan change needs to be cross referenced when reading the generic section 32 report. The following table summarises the numbering changes due to the formatting of Plan Change 131.

Objectives and Policies	Generic plan change numbering	Plan change 131 numbering
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.	2.3.1	Objective 1
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.	2.3.2	Objective 2
Precautionary Principle To adopt a precautionary approach by prohibiting Release of a GMO, and by making Field Trials of a GMO a discretionary activity.	2.3.1.1	Policy 1
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.	2.3.1.2	Policy 2
Risk Avoidance To ensure that a resource consent granted for the Field Trials of a GMO is subject to conditions that serve to avoid, as far as can reasonably be achieved, risk to the environment from the use, storage, cultivation, harvesting, processing or transportation of a GMO.	2.3.1.3	Policy 3
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.	2.3.1.4	Policy 4
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.	2.3.1.5	Policy 5
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.	2.3.1.6	Policy 6

The generic district/unitary plan change document addresses both district and unitary plans. As a result, there are some provisions in it which are only applicable to unitary or regional plans. For example, section 2 in the generic document deals with GMOs in the Coastal Marine Area. Whangarei District Council does not

have jurisdiction over the Coastal Marine Area. Therefore, these provisions have not been included in plan change 131. Plan change 131 also has a number of minor changes in wording from the generic proposed plan change document. These are outlined below. All plan changes are checked by Council's lawyer and the minor differences are the outcome of this legal check.

- The words "general release" in reference to GMOs has been replaced with the word "Release", which is defined in plan change 131.
- The phrases "outdoor field trials" and "outdoor field trialling" have been replaced by the term "Field trials", which is defined in plan change 131.
- The following phrase has been added to the introduction of the 'General Development and Performance Standards' so the standards are not confused with restricted discretionary provisions; "Without limiting the discretion reserved to the Council on any application for consent, discretionary activities are to comply with the following minimum controls ..."
- In regard to bonds the phrase "akin to a bank guarantee" has been substituted with the phrase "with an approved trading bank guarantee".
- The word "exact" has been deleted from the paragraph relating to 'Bonds' in the 'General Development and Performance Standards' section.
- The word "means" has been included at the beginning of each defined term.
- The acronym "GMO" has been added to the definition of "Genetically Modified Organism".

Overall, the intent and meaning of plan change 131 is the same as the generic plan change provisions commissioned by the Working Party despite very minor differences in wording.