

P U R E H A W K E S B A Y

**Environmental Policy Section
Hastings District Council
Private Bag 9002
Hastings 4156**

Comments on the Rural Discussion Document, Hastings District Plan

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Pure Hawke's Bay is an expanding group of local food producers committed to building the region's reputation as a food-producing region known throughout the world for sustainability.

Within that frame, outdoor activities involving genetically modified organisms (GMOs) in food production pose a considerable economic threat to growers individually and to the regional brand that Hawke's Bay growers are working hard to build and capitalize upon. Preserving the region's current status as a GM Free food producer under the District Plan would both eliminate the risk and capture the branding and economic opportunities that a GM free producing status offer.

This submission, consequently, focuses exclusively on the risks that the GM food production issue presents for Hawke's Bay and the suitability of the Hastings District Plan to mitigate these risks.

We welcome the opportunity to make this submission and look forward to discussing this issue further with the Council in due course.

The vision: Hawke's Bay as a premium food producing region

We share and support the vision articulated for Hawke's Bay in the Long-Term Council Community Plan as "the premier land based production region of the South Pacific". In an increasingly competitive world market, Hawke's Bay food producers will need to have clear points of difference and will, we believe, rely increasingly on a regional brand. In that environment, the region's future lies in marketing high-value, niche market products renowned for being produced in a region committed to sustainability/environmental integrity.

In many of our high value export markets, GM free food production is fundamental to market access, not some mere 'warm and fuzzy'.

Recognising the importance of keeping our food production GM Free is not about being for or against GM. Nor is it about being for or against new technologies. Irrespective of the merits or otherwise of the science, the market reality is stark: GM is simply not

wanted by many of our high value markets.

As food producers, we are firmly pro-science and look to new technologies, systems and approaches that help make production more sustainable and are valued in the market place. Remaining GM Free in food production does not cut us off from advances in gene science, as GMOs for food production/outdoor use are just one set of applications in modern biotechnology that we can draw upon to achieve more sustainable and sophisticated practices.

Trend: Continuing pariah status of GM foods in the market place and risks to the region

The market resistance to GM foods that erupted in Europe in the mid-1990s and spread to Asia and the Pacific has not dissipated. Signals from the markets we supply are as strong as ever and they are clear for conventional and organic exporters alike. It is not simply that GM food is rejected by many buyers in our key markets, but that trace contamination will not be tolerated. More insidious and difficult for us to counter would be perceptions that produce from the Bay would likely be contaminated if any GM food production were to occur.

This is both a significant risk and a major opportunity. The risk arises as outdoor GM food production in the region would impose economic losses on a wide range of local food producers and damage the region's reputation just as we attempt to build it.

The opportunity is one of branding: Announcing to the world that Hawke's Bay is a GM free food producer would be a cornerstone of our reputation as a place of premium, high quality food, where growers are closely aligned to the values and aspirations of our customers. And not incidentally, growers whose production commands premium prices.

It is not within the scope of this submission to document in detail evidence of market responses to GM foods and trace contamination. Growers in Hawke's Bay already sell to highly sensitive markets, and must meet strict traceability requirements to demonstrate the absence of GM foods in bulk or in trace levels. A recent European Commission survey is representative of attitudes to GM in the EU:

GM food is still the Achilles' heel of biotechnology. The wider picture is of declining support across many of the EU Member States – on average opponents outnumber supporters by three to one, and in no country is there a majority of supporters. European Commission, *Europeans and Biotechnology in 2010. Winds of change?* Eurobarometer, European Directorate-General for Research, October 2010.

We believe the possibility of developers seeking to conduct outdoor experiments or “conditionally release” GMOs in our region is increasing.

The review of the District Plan is therefore timely, as we believe definitive action is required to secure the region's GM Free food producer status.

Scope of the policy required: outdoor commercial and experimental GM food activities

To be clear about the parameters of the policy we believe the District Council should be enshrining, **our focus is outdoor experimental activities involving GM food and feed crops and commercial GM food production**. It does not include laboratory-based research activities involving GMOs, nor does it cover medical applications that might be available and used in the community.

Outdoor field trials of experimental GM food lines: Breaches of containment have been all too routine in field trials approved by ERMA, the national regulator. The most recent of these has revealed deficiencies in the regulatory regime that leave growers and the wider community exposed. A MAF-commissioned review of a breach from a Plant and Food experiment found fault in the ERMA process and in MAF monitoring. These prevented a prosecution (and therefore proper accountability from the operator) from being taken. Further, gaps in the liability regime under HSNO leave open the possibility that local authorities would be liable for clean up of an activity that adhered to ERMA-set controls but still resulted in contamination.

We understand that some may hold out hope for future GMOs and believe that research should continue. Even accepting that this might be the case, field trials to develop these can be conducted in other regions of New Zealand that are not seeking to build their brand and global reputation as we are here in Hawke's Bay. Conditions in the Bay are not unique to New Zealand and there is no particular value-add or need to experiment with GMOs in the Bay to establish their agronomic suitability here.

Duration: Markets might become more receptive to GM food and feed products, but for the foreseeable future, GM free food and feed production offers the best opportunity for our producers, the region's brand and economy.

In ten years, as a new District Plan is being developed, this issue can be revisited if there is reason to review the region's GM free producer status.

Reconciling farmer choice with collective needs

As food producers, we respect the right of each farmer/grower to make their own decisions about what approaches best suit their land and production. We value that autonomy highly ourselves.

But GM food production is different because of the way it is perceived in the market place.

Consumers and buyers in our high-value markets not only do not want GM produce, they are highly sensitive to trace levels of GM that can arise from neighbouring GM production. GM contamination incidents in New Zealand involving trace levels of GM in imported seed stocks illustrate the sensitivity of our export markets to even a suspicion of GM presence.

As we noted earlier, it would be extremely difficult for GM Free growers in Hawke's Bay to counter perceptions that produce from the Bay was contaminated if any GM food production were to occur. To say nothing of the likely reality that contamination *would* occur.

That means that for the foreseeable future, a decision by an individual grower or farmer would affect all food producers and processors in the region. We are all in this together.

The role of the Hastings District Council: Jurisdiction with respect to outdoor GMO activities

Regional protection through national regulatory regime not an option

Clearly, the best solution would be for national regulation to explicitly allow regions/communities to opt out of GM releases and/or to create GM Free food producer zones. That is not an option. Over the past ten years, numerous approaches have been made by councils and Local Government New Zealand to Government seeking changes to the national law to provide for this. Both Labour and National Governments have made clear no changes will be made to the Act. That route is therefore closed and in order to preserve the district/region's GM Free food producer status, a response is required under the RMA.

It is undisputed that local authorities can regulate outdoor GMO use in their territories through the RMA. We are looking to the Council to introduce rules that enshrine the Bay's status as a GM Free food producer for the presumed ten-year life of the District Plan. These rules would, for example, prohibit the outdoor use of living GM food and feed varieties.

Hastings District Council and other councils we will be approaching will not be starting empty-handed. Over the last seven years, an inter-council working party formed by seven councils in the Auckland and Northland regions has done extensive research into how best to protect their communities and economy from outdoor GMO activities. This includes legal opinion by Dr Royden Sommerville QC regarding the options available to local authorities under the RMA.

The policy analysis commissioned by the Northland region councils has:

- Confirmed local authorities – in particular, district councils – can regulate GM land uses in addition to national regulation.
- Identified the RMA as superior to the Local Government Act for managing the risks associated with GM land uses.
- Examined the risks for local government from outdoor GM activities approved at the national level.
- Canvassed regulatory options for managing such activities locally, under the RMA.

This is set out and discussed at length in the following reports commissioned by Whangarei District Council in conjunction with Far North District Council, Kaipara District Council, Rodney District Council and Waitakere District Council:

Interim Opinion on Land Use Controls and GMOs. 2004, Dr Royden Somerville QC

Community Management of GMOs: Issues, Options and Partnership with Government. 2004. Simon Terry Associates

Opinion on Land Use Controls and GMOs. 2005. Legal opinion by Dr Royden Somerville QC

Community Management of GMOs II: Risks and Response Options. 2005. Mitchell Partnerships and Simon Terry Associates

Review of GE Issues and Options Report for Whangarei District Council. 2005. Independent review of the Mitchell Partnerships/Simon Terry Associates report by Dr Karen Cronin, Victoria University

A further report outlining recommended response options is to be released by the Northland councils in April 2011.

We request that the Hastings District Council indicate its intent to address the status of GMOs as a subject of regulation in the District Plan. From our perspective, the sooner this is done, the better, in the interests of a full public discussion of the issues. For example, a stakeholders group might be established to formulate a recommended approach to incorporate in the draft District Plan that will be presented for formal public consultation.

Of course, Pure Hawke's Bay would like to be represented in any process, informal or formal, the Council sets forth to examine the GMO issue.

John Bostock

Will McFarlane

Scott Lawson