



I hereby give notice that an ordinary meeting of the Environment, Climate Change and Natural Heritage Committee will be held on:

**Date:** Wednesday, 5 March 2014  
**Time:** 9.30am  
**Meeting Room:** Reception Lounge Level 2  
**Venue:** Auckland Town Hall  
301-305 Queen Street  
Auckland

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## **Environment, Climate Change and Natural Heritage Committee**

### **OPEN AGENDA**

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#### **MEMBERSHIP**

**Chairperson** Cr Wayne Walker  
**Deputy Chairperson** Cr Linda Cooper, JP  
**Members** Cr Dr Cathy Casey  
Cr Ross Clow  
Cr Chris Darby  
Cr Hon Chris Fletcher, QSO  
Cr Mike Lee  
Member Liane Ngamane  
Cr John Watson  
Member Karen Wilson

**Ex-officio** Mayor Len Brown  
Deputy Mayor Penny Hulse  
**Independent Maori  
Statutory Board** Member David Taipari

(Quorum 11 members)

**Crispian Franklin**  
**Democracy Advisor**

**28 February 2014**

Contact Telephone: (09) 373 6205

Email: [crispian.franklin@aucklandcouncil.govt.nz](mailto:crispian.franklin@aucklandcouncil.govt.nz)

Website: [www.aucklandcouncil.govt.nz](http://www.aucklandcouncil.govt.nz)

## TERMS OF REFERENCE

### Areas of Activity

- Management and monitoring of Auckland's bio-diversity and eco-systems including natural hazards
- Sustainability frameworks for natural resource management
- Projects and programmes to deliver on energy management and climate change targets
- Environmental initiatives including coastal and freshwater management
- Environmental and climate change impacts of waste management
- Facilitating partnerships and collaborative funding models to support environmental initiatives

### Responsibilities

Within the specified area of activity the Committee is responsible for:

- In accordance with the work programme agreed with the parent committee, developing strategy and policy, including any agreed community consultation, to recommend to the Regional Strategy and Policy Committee
- Acting as a community interface for consultation on policies and as a forum for raising community concerns, while ensuring community engagement is complementary to that undertaken by local boards
- Making decisions within delegated powers

### Powers

All powers necessary to perform the Committee's responsibilities

Except:

- (a) powers that the Governing Body cannot delegate or has retained to itself (see Governing Body responsibilities)
- (b) where the Committee's responsibility is limited to making a recommendation only
- (c) where a matter is the responsibility of another committee or a local board
- (d) the approval of expenditure that is not contained within approved budgets
- (e) the approval of expenditure of more than \$2 million
- (f) the approval of final policy
- (g) deciding significant matters for which there is high public interest and which are controversial
- (h) the commissioning of reports on new policy where that policy programme of work has not been approved by the Regional Strategy and Policy Committee

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## 1 Apologies

At the close of the agenda no apologies had been received.

## 2 Declaration of Interest

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

## 3 Confirmation of Minutes

That the Environment, Climate Change and Natural Heritage Committee:

- a) confirm the ordinary minutes of its meeting, held on Wednesday, 11 December 2013, including the confidential section, as a true and correct record.

## 4 Petitions

At the close of the agenda no requests to present petitions had been received.

## 5 Public Input

Standing Order 3.21 provides for Public Input. Applications to speak must be made to the Committee Secretary, in writing, no later than **two (2)** working days prior to the meeting and must include the subject matter. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders. A maximum of **thirty (30) minutes** is allocated to the period for public input with **five (5)** minutes speaking time for each speaker.

At the close of the agenda no requests for public input had been received.

## 6 Local Board Input

Standing Order 3.22 provides for Local Board Input. The Chairperson (or nominee of that Chairperson) is entitled to speak for up to **five (5)** minutes during this time. The Chairperson of the Local Board (or nominee of that Chairperson) shall wherever practical, give **two (2)** days notice of their wish to speak. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders.

This right is in addition to the right under Standing Order 3.9.14 to speak to matters on the agenda.

At the close of the agenda no requests for local board input had been received.

## 7 Extraordinary Business

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“An item that is not on the agenda for a meeting may be dealt with at that meeting if-

- (a) The local authority by resolution so decides; and
- (b) The presiding member explains at the meeting, at a time when it is open to the

public,-

- (i) The reason why the item is not on the agenda; and
- (ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting.”

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“Where an item is not on the agenda for a meeting,-

- (a) That item may be discussed at that meeting if-
  - (i) That item is a minor matter relating to the general business of the local authority; and
  - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.”

## **8 Notices of Motion**

At the close of the agenda no requests for notices of motion had been received.

## Update on Meeting of the Inter Council Working Party on Genetically Modified Organisms (ICWP)

File No.: CP2014/02049

### Purpose

1. The purpose of this report is to table the minutes of the ICWP meeting held on 13 December 2013 and to record any implications for Auckland Council.

### Executive Summary

2. The pertinent points of the ICWP meeting, held on 13 December 2013, are outlined in the Discussion section below and the meeting minutes are attached at Attachment A.
3. The significant issue for Auckland Council is the development of a Memorandum of Understanding (MOU) between participating councils to coordinate statutory procedures for a combined response and shared funding of any legal challenge.
4. There are no other issues for Auckland Council.

### Recommendation/s

That the Environment, Climate Change and Natural Heritage Committee:

- a) receive the Update on Meeting of the Inter Council Working Party on Genetically Modified Organisms (ICWP) report.

### Discussion

5. A meeting of the *Inter Council Working Party on Genetically Modified Organism (GMO) Risk Evaluation and Management Options*, known as the ICWP, was held on 13 December 2013 to discuss matters arising from the previous meeting on 30 January 2013.
6. The meeting in Whangarei was attended by Councillor Wayne Walker and staff representative, Nola Rundle.
7. Items of interest to Auckland Council that were discussed at the meeting include:
  - Aligning public notification of district plan changes for genetically modified organism (GMO) management by Whangarei District Council and Far North District Council with the Auckland Council's unitary plan statutory process.
  - Providing an opportunity for Northland Regional Council to discuss the conflicting position with the ICWP recommendations in their proposed wording of the precautionary principle in their Regional Policy Statement.
  - Developing a Memorandum of Understanding (MOU) between participating councils to coordinate statutory procedures to enable a combined response and shared funding of any legal challenge. It should be noted that at this stage no provision has been made for the funding of any possible legal challenge.
  - Discussion on implications for the prepared Section 32 report with the Resource Management Reform Bill coming into effect from 4 December 2013.
  - Consideration of the statement by the Minister for the Environment regarding future amendment to the Resource Management Act excluding local government from a role in GMO management.

- Discussion on progressing member Kaipara District Council's inclusion in making a plan change for GMO management as recommended by the ICWP. This action was moved to be included in the Mayoral Forum on 17 February 2014. The briefing paper provided for the Mayoral Forum is attached at Attachment B.

## Consideration

### Local Board Views

8. A copy of this report will be forwarded to all Local Boards for their information.

### Maori Impact Statement

9. A copy of this report will be forwarded to Te Waka Angamua and the Independent Maori Statutory Board for their information.

### General

10. There are no general considerations associated with this report.

## Implementation Issues

11. There are no implementation issues associated with this report.

## Attachments

No.	Title	Page
A	Minutes of ICWP Meeting 13.12.2013	9
B	Briefing Paper to Mayoral Forum 17 February 2014	19

## Signatories

Authors	Nola Rundle - Specialist Land
Authorisers	Ludo Campbell-Reid - Environmental Strategy & Policy Manager

Minutes of Meeting of the Inter-Council Working Party on GMO Risk Evaluation and  
Management Options  
13 December 2013, Forum North, Whangarei District Council

Membership of Working Party

Present member councils on the Working Party are: Whangarei District Council (WDC), Far North District Council (FNDC), Kaipara District Council (KDC), Northland Regional Council (NRC) and Auckland Council (AC). NRC is not participating in the present work stream. KDC does not have an elected representative.

Attendees:

Dr Kerry Grundy – Chairperson/Convener -WDC - Team Leader Futures Planning  
HWM Sheryl Mai – Mayor - WDC  
Heather Osborne – Policy Planner - WDC  
Cr Wayne Walker – Chair Environment, Climate Change and Natural Heritage Committee – AC  
Nola Rundle – Land Management Specialist - AC  
Cr Tania McInnes – Deputy Mayor - FNDC  
Sarah Robson – Policy Planner – FNDC  
Marty Robinson – Member Bay of Islands/Whangaroa Community Board - FNDC  
Paula Hanson – Policy Planner - KDC

Apologies:

NRC

Meeting commenced at 10.30 am.

1. Welcome to attendees and around the table introductions.
2. Apologies accepted and confirmation of minutes of last meeting on 30 January 2013.
3. Update by the Chairperson received.
4. The recommendations from the minutes of the last meeting of the Working Party on 30 January 2013 were discussed and actions relating to those recommendations are outlined below (with recommendations from the minutes in italics):
  - (a) *That the Chairperson's update be received, and apologies accepted.*  
Done. No further action required.
  - (b) *That the following documents (the documentation) be received:*
    - (i) *Managing Risks Associated with the Outdoor Use of Genetically Modified Organisms: Cover Note by Dr Grundy. January 2013.*
    - (ii) *Draft Proposed Plan Change to the District/Unitary Plan: Managing Risks Associated with the Outdoor Use of Genetically Modified Organisms. January 2013.*

- (iii) *Draft Section 32 Report (Volume 1): Draft Proposed Plan Change to the District/Unitary Plan: Managing Risks Associated with the Outdoor Use of Genetically Modified Organisms. January 2013.*
- (iv) *Supporting Documentation to the Draft Section 32 Report (Volume 2): Managing Risks Associated with Outdoor Use of Genetically Modified Organisms. January 2013.*
- (v) *Legal Opinion from Dr R.J. Somerville QC: Outdoor Use of Genetically Modified Organisms (GMOs). 18 January 2013.*

Done. No further action required.

- (c) *That consultants Mitchell Partnerships, Simon Terry Associates, Duenorth Ltd and Legal Counsel Dr R.J. Somerville QC be thanked for providing the documentation requested by the Working Party.*

Done. No further action required.

- (d) *That the Working Party refers the Draft Proposed Plan Change to the District/Unitary Plan, the Draft Section 32 Report (Volumes 1 & 2) as received, together with Dr Somerville's legal opinion and the Convener's Cover Note, to the participating member councils on the Working Party for determination of their next steps.*
- (e) *That the Working Party acknowledges the importance of a collaborative approach to support the effectiveness of the draft proposed plan provisions and its preference for a consistent approach; and that the Working Party recommends the participating Working Party councils adopt in principle the Draft Proposed Plan Change and Draft Section 32 Report for the purpose of inclusion in their respective District/Unitary Plans.*

In relation to recommendations (d) and (e), the Draft Proposed Plan Change, Draft Section 32 Report (vols 1 and 2), and legal opinions from Dr Royden Somerville QC have been received by all councils on the Working Party.

AC has included the provisions outlined in the Draft Proposed Plan Change in its Proposed Unitary Plan which is now going through the statutory submissions and hearings process (the GMO provisions from the Unitary Plan were provided to the meeting).

WDC has adopted a Plan Change based on the provisions outlined in the Draft Proposed Plan Change for inclusion in its District Plan (the Proposed Plan Change was provided to the meeting). This Plan Change will be publicly notified in May 2014 so as to align with the AC statutory process to enable a joint defence to any possible challenge when council decisions on commissioners' recommendations are made. The AC statutory process takes longer than that which applies to the WDC Plan Change.

FNDC has agreed in principle to proceed with a plan change process to regulate the outdoor use of GMOs through provisions in the Far North District Plan in collaboration with other councils. It has not yet produced or adopted a plan change.

KDC has continued its 'observer' stance.

- (f) *That subject to the Working Party councils' determinations in respect to recommendation (e) above, a memorandum of understanding between the participating councils to jointly manage any further statutory process, including response to possible legal challenge, be prepared and provide for the joint funding of that process, where possible (on an equitable basis as used for previous work).*
- (g) *That prior to signing a memorandum of understanding, a process be developed to enable co-ordination between participating councils in respect of statutory procedures (and timing) concerning the introduction of plan provisions into planning documents for managing the outdoor uses of GMOs.*

Points (f) and (g) from the minutes of the last Working Party meeting recommend developing a process to enable co-ordination between participating councils in respect of statutory procedures and timing concerning the introduction of plan provisions into planning documents and that a memorandum of understanding between participating councils be prepared to jointly manage the statutory process, including response to (and funding of) possible legal challenge. Points (f) and (g) will be discussed below.

- (h) *That the Working Party notes that the plan provisions and accompanying Section 32 Report are in draft and will not be final until such time as they are publically notified as a change to, or introduction of, a district or unitary plan, and that new information and/or consultation which may occur in the intervening period may be considered in the documentation.*
- (i) *That the Working Party notes that the Resource Management Reform Bill 2012 now before Parliament may have implications for the introduction of plan provisions into RMA planning documents and that the Working Party keeps up to date on the progress of the Bill and its implications to the Working Party.*

The Resource Management Reform Bill was passed in 2013 and contained new provisions that amended section 32 of the RMA. Section 32(2) now requires an assessment of the effects of the proposed plan provisions on economic growth and employment and that these effects be quantified if practicable. The new provisions came into effect on 4 December 2013, subsequent to the completion of the Working Party's section 32 evaluation and the Auckland Council's section 32 report. These provisions will apply to WDC's proposed plan change in 2014 and to any other member council's plan change. It may also apply to the Auckland Council's section 32 analysis at some future point. Auckland Council will need to determine this. It was proposed at the meeting that these new requirements be met by way of an update of, or supplement to, the Working Party's existing section 32 report by the original authors of that report. It is not expected to involve significant analysis nor cost. The cost of the update could be shared by all member councils undergoing plan changes further reducing costs to each council.

There was also discussion at the meeting on statements by the Minister for the Environment regarding future amendment of the RMA to exclude any role for local government in managing GMOs under the RMA. Since these earlier statements there have been no formal actions by central government. It was agreed that the Working Party would keep a watching brief in regard to possible amendments to the RMA and in the meantime would rely upon its earlier agreed statement regarding this matter. This statement is attached to these minutes.

- (j) *That the Working Party makes the documentation public on 4 February 2013 prior to the public agenda release for Auckland Council's Auckland Plan Committee meeting on 12 February 2013.*

Done. No further action required.

- (k) *That the Convenor of the Working Party prepares a press statement prior to public release of the documentation for the use of the participating Working Party councils.*

Done. No further action required.

- (l) *That the Working Party refers the documentation when public to the Northland Regional Council for its consideration associated with its current process of review of the Northland Regional Policy Statement.*

The Working Party documentation was sent to the Northland Regional Council (NRC). The Proposed Northland Regional Policy Statement (RPS) released for public submissions remained silent on GMOs. WDC and FNDC submitted, along with more than 300 other submitters, requesting that provisions relating to GMOs be included in the RPS. Two parties (Federated Farmers and Farmers of Northland) requested that it remain silent on GMOs. Following the hearings on submissions, the commissioners recommended precautionary provisions relating to GMOs be inserted into the RPS.

NRC adopted these recommendations. However, as worded, the provisions are conflicting with the Working Party's Draft Proposed Plan Change and the AC and WDC proposed unitary/district plan provisions. They restrict the proposed precautionary approach to GM plants only, whilst preventing councils from addressing liability. WDC has lodged an appeal with the Environment Court to amend the provisions to align with the Working Party's Proposed Plan Change and the AC and WDC's proposed unitary/district plan provisions (a copy of this appeal was provided to the meeting). The appeal is unlikely to be heard until late 2014 or early 2015. Negotiations and mediation are likely during 2014.

- (m) *That the Working Party acknowledges initiatives to consider the management of GMOs in other jurisdictions, in particular in Hawke's Bay and the Bay of Plenty, and resolves to make the documentation available to those organisations when public, and that the chairman communicates with those jurisdictions as to opportunities for collaboration and cost sharing.*

The Working Party documentation was sent to Hastings District Council and Bay of Plenty Regional Council.

Hastings District Council (HDC) notified its reviewed district plan in November 2013. It contains provisions relating to GMOs similar to those proposed by the Working Party, i.e. GMO releases are prohibited and GMO field trials are discretionary activities with liability requirements attached. Hearings on submissions are expected to begin in May 2014 and last from 12 – 18 months. Submissions relate to the whole plan not just GMOs. Council decisions on recommendations from hearings are expected around the end of 2015. This puts HDC ahead of the Working Party councils' timeline but these timelines are subject to change. So there is still potential for HDC to be part of a joint defence with Working Party councils to legal challenge should it so desire.

Bay of Plenty Regional Council included a precautionary statement on GMOs in its Proposed Regional Policy Statement. It was appealed by Scion (NZ Forest Research Institute) and went to a hearing in the Environment Court in December 2013. A decision from the Court has not yet been released.

- (n) *That Local Government New Zealand (LGNZ) be further informed of the progress of the Working Party and be provided with the documentation, when public, in order to consider the implications for local government generally and possible LGNZ involvement.*

Done. LGNZ acknowledged receipt but has not provided any further feedback.

- (o) *That the Working Party continues to monitor developments and precedents, including those internationally, to help ensure Working Party councils are kept up to date on GMO developments of relevance to them.*

The matter of Zinc Finger Nuclease or ZFN-1 was discussed at the meeting. In a surprise decision earlier this year the EPA determined, against advice from its own staff, that a new type of GM technique, ZFN-1, is not GM under NZ law and is not subject to the provisions of the HSNO Act. The Sustainability Council of NZ has appealed that decision to the High Court. The Court has yet to release its ruling. The ruling will set a precedent. If the EPA's decision is allowed to stand, NZ could lose its GE free status. The ruling could also open the way for other new GM techniques to bypass the HSNO Act.

The technique induces genetic mutation using in vitro techniques to produce a new organism, thus would seem to be a GMO under the definition contained in the HSNO Act. However, the status of ZFN-1 has yet to be determined in our overseas markets. Should these organisms be field trialled or commercially cultivated in NZ, and export markets subsequently deem them to be GMOs, this could have significant negative economic impacts on food exporters and organic producers. The Working Party Convenor will continue to monitor this development and others that may have impact on the Working Party and member councils.

### **Managing the Statutory Plan Change Process and Developing a Memorandum of Understanding for Possible Joint Defense to Challenge through the Courts.**

In accord with recommendations (f) and (g) from the meeting of the Working Party on 30 January 2013, the Convenor presented a time line for coordinating plan changes between participating member councils (this timeline is attached to the minutes). In essence, to enable a joint defense to any possible future challenge to the Environment Court, each council would need to progress its statutory plan change/unitary plan process to arrive at an approximately similar date for council decisions on hearings commissioners' recommendations. The opportunity for appeals to be lodged follows the notification of the plan change/unitary plan as adopted by council.

The projected date for council decisions on commissioners' recommendations for the Auckland Unitary Plan is mid 2016. The actual date for decisions on the GMO provisions is unknown at this stage, and could be somewhere between late 2015 and late 2016. Mid 2016 has been taken as the best estimate at this point in time.

To reach a similar date for council decisions on hearings commissioners' recommendations for the Northland territorial authorities, plan changes would need to be notified around the same time in May 2014. This gives a two year period to complete the process as opposed to AC's three year period. If

Northland councils do not notify their plan changes at approximately the same time around May 2014 they will not be able to jointly defend future challenges through the courts. This timing is crucial. Also, to assist the joint defense to possible legal challenge, each council needs to submit on other councils' plan changes/unitary plan provisions when the opportunity arises. To this end, the Northland councils need to submit on the Auckland Unitary Plan before the close of submissions on 28 February 2014.

It is necessary for AC to hold its own hearings on submissions because it operates under special legislation. But there is the potential for Northland councils to hold joint hearings. This would be preferable for both pragmatic and financial reasons. One, it ensures all councils in Northland receive the same recommendations from hearings commissioners and, two, it enables those councils participating to share the costs of hearings and associated processes. WDC has offered to manage the process to avoid duplication as much as possible. This arrangement will need further discussion between the participating councils.

The issue of sharing of resources and cost sharing during the statutory process prior to council decisions on hearings commissioners recommendations, and subsequent legal challenge (if any), also needs further discussion. There is potential to share information, including expert witness statements and legal input, for submissions, and during hearings of submissions, particularly at joint hearings between Northland councils but also potentially between Northland councils and AC.

Potential problems arising from having different hearings at Auckland Council and the Northland councils were discussed at the meeting. There is the potential for different recommendations from the commissioners at the separate hearings. There may be differences in the provisions subsequently subject to appeal or even no appeal at Auckland Council as opposed to appeals to the Northland councils, or visa versa.

Any future memorandum of understanding needs to reflect these possibilities. The memorandum needs to be flexible in regard to joint action between AC and Northland councils and more prescriptive between Northland councils. Prior to any future memorandum of understanding, a funding model for sharing costs of any joint defense to legal challenge needs to be agreed. The memorandum could also include sharing of resources and costs during the submission and hearings of submissions stages. These are matters that need further discussion between member councils on the Working Party.

Following discussion, the recommendations below were agreed by the Working Party:

- (a) That the Chairperson's update be received, apologies accepted, and minutes of the last meeting on 30 January 2013 confirmed.
- (b) That the Working Party reaffirms the desirability for, and benefits of, a collaborative approach between councils on the Working Party to the management of GMOs.
- (c) That the Working Party receives the Statutory Timeline tabled by the Chairperson, and acknowledges the necessity for alignment of statutory processes between AC and Northland councils to enable the sharing of resources for, and costs of, those statutory processes, including joint defense to any potential legal challenge. It is acknowledged that this timeline may change as the statutory process progresses.

- (d) That the Working Party notes that to enable the sharing of resources for, and costs of, statutory processes, including joint defense to potential legal challenge, the Northland councils will need to notify plan changes in May 2014 (or thereabouts) so as to align with the timeline for the AC Unity Plan process.
- (e) That the opportunity for a collaborative approach to, and cost sharing of, regulation of GMOs under the RMA is available until mid 2014, and thereafter closed, be communicated to the FNDC and the Leadership Team at KDC. Given the contribution of both councils to the collaborative research and lobbying undertaken by the Working Party up until this point, both councils need to be very clear of the importance of the mid 2014 deadline for further collaborative action.
- (f) That there are opportunities for Northland councils to hold joint hearings on submissions on proposed plan changes and to collaborate on processes surrounding those hearings, and that WDC has offered to coordinate those processes to increase efficiency, avoid duplication, and lower costs to other Northland councils. It was noted that costs to KDC could be kept to a minimum should it choose to participate.
- (g) That the Convener of the Working Party put together a draft memorandum of understanding in regard to collaborating on the statutory plan change/unitary plan process, the sharing of resources and costs wherever possible, but in particular, during the hearing of submissions and defense to legal challenge stages. That this draft memorandum be circulated to member councils for comment and, when finalized, for signing by the member councils involved in the statutory process.
- (h) That the Convener of the Working Party initiate discussions on a funding model to be agreed for any future cost sharing arrangements (on an equitable basis as used for previous work) during the statutory plan change/unitary plan process, including appeals to the Environment Court.
- (i) That the Working Party notes the necessity for member councils to submit (in support) on GMO plan provisions in other member councils' planning documents, and that the close of submissions on the Auckland Unitary Plan is 28 February 2014.
- (j) That the Northland Mayoral Forum, scheduled for February 2014, discuss the above matters and that the Convener of the Working Party put together a briefing paper to assist those discussions.
- (k) That the Convener of the Working Party be available to speak to the FNDC and/or KDC should he be requested to do so.
- (l) That the Working Party notes the opportunity for liaison between the Working Party and Local Boards in Auckland and Community Boards in the Far North District and that the Convener of the Working Party be available to speak to any Local/Community Board if requested.
- (m) That the Convener of the Working Party keep in contact with Hastings District Council regarding the progress of its reviewed district plan through the statutory process with a view to sharing resources and costs where possible in respect to GMO provisions, but particularly in regard to any defense to legal challenge to those provisions.
- (n) That the section 32 report produced by the Working Party be updated by the authors to include the requirements of the amended section 32 provisions that came into effect on 4 December 2013.

That the costs of this update be shared by those councils proposing to include GMO provisions into their RMA planning documents.

- (o) That the Working Party keeps a watching brief in regard to possible amendments to the RMA that would exclude a role for local government in the management of GMOs and that until that happens the Working Party continues to support the position outlined in the earlier agreed statement released by the Working Party.
- (p) That the Working Party continues to monitor developments, nationally and internationally, regarding GMOs to ensure Working Party councils are kept up to date on GM matters of relevance to them.

The meeting closed at 12.30 pm.

**Inter-council Working Party on GMO Risk Evaluation and Management Options: statement regarding comments in the media from the Hon Amy Adams Minister for the Environment  
Dr Kerry Grundy, Convener of the Working Party, (09) 430 4200, kerryg@wdc.govt.nz**

Given the comments in the media concerning possible central government amendment of the Resource Management Act (RMA) to exclude a local government role in managing risks from GMOs, participating councils on the Inter-council Working Party on GMOs have agreed to make the following statement.

Under the current legislation, local government has jurisdiction to manage the risks from GMOs under the RMA in addition to national regulation under the Hazardous Substances and New Organisms Act (HSNO) provided that the requirements of the RMA are met. This has been set out in a legal opinion obtained by the Working Party from Dr Royden Somerville QC. It has also been confirmed by Ministers for the Environment in both the previous Labour led Government and the present National led Government. It has been further confirmed by Crown Law opinions. The former Minister for the Environment in the present Government, the Hon Nick Smith, wrote in a letter to the Working Party dated 5 August 2010:

*“ The government’s position is that GMOs are most appropriately controlled by the Hazardous Substances and New Organism’s Act 1996 (HSNO Act)...However, this does not preclude a council from restricting or preventing the use of GMOs in their region, provided that this action meets the relevant requirements of the Resource Management Act 1991 (RMA).”*

Councils in Northland and Auckland (including Far North, Kaipara and Whangarei District Councils, Auckland Council and predecessor councils) in response to on-going concerns expressed by their communities including tangata whenua, have collaboratively investigated the risks posed by GMOs in the environment, together with options to manage those risks, over a period of ten years. They have also lobbied central government extensively to amend HSNO to address those risks, particularly by putting in place a strong mandatory precautionary requirement on decisions to trial or release GMOs to the environment, along with strict liability provisions for possible harm resulting from outdoor use of GMOs.

In response to the continued refusal by central government to address those concerns, the Working Party commissioned draft district/unitary plan provisions, a supporting section 32 evaluation and report, and accompanying legal opinions from Dr Somerville QC to enable councils on the Working Party to insert provisions in their RMA planning documents to manage the risks from outdoor use of GMOs. These provisions provide the following benefits to communities and councils in Northland and Auckland:

- (a) An assured, community determined level of risk at the local/regional level compared to lack of surety at the national level. The Northland/Auckland communities (as the ultimate risk bearers) have indicated that they want a strong

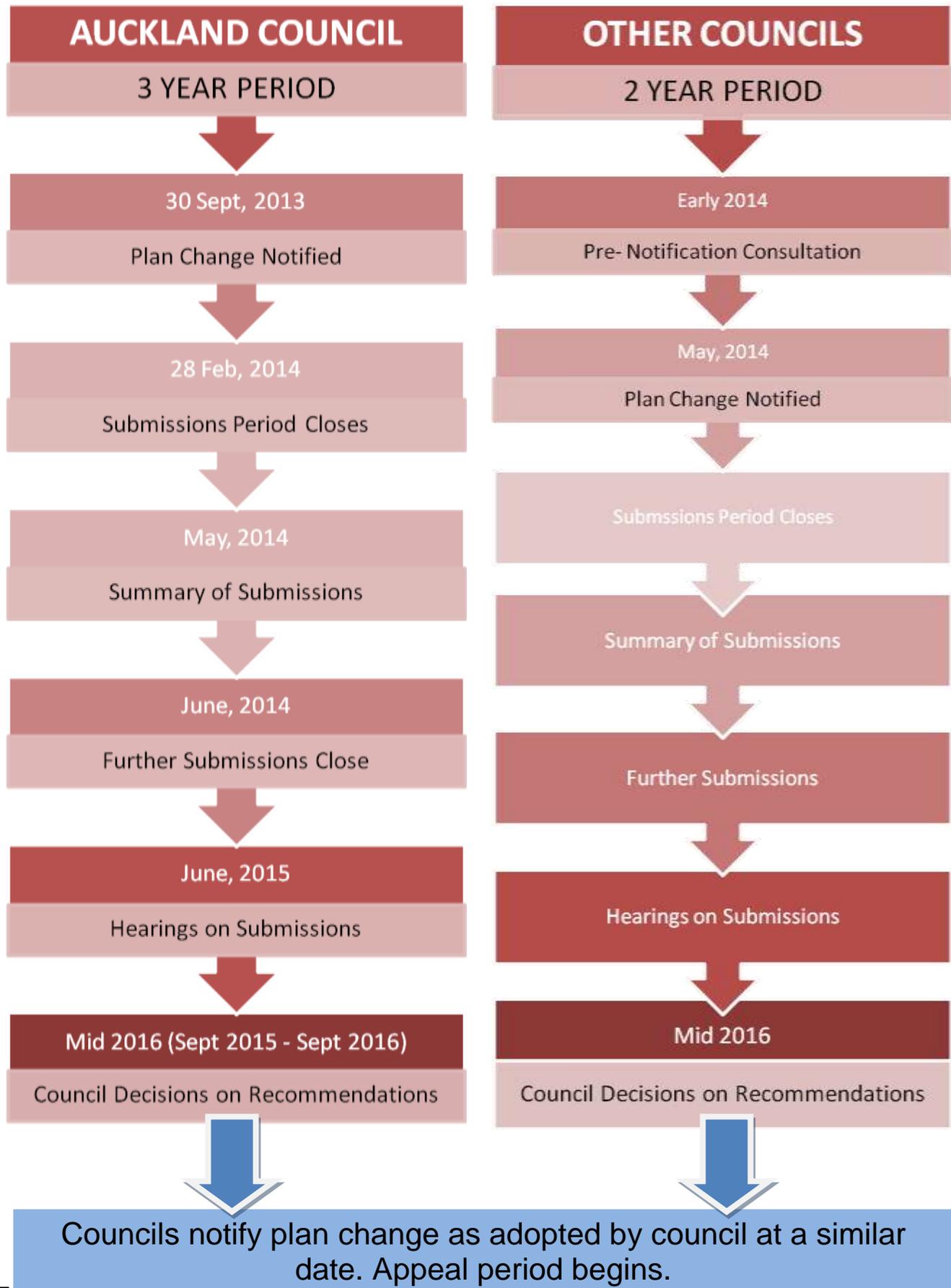
- precautionary approach to the risks from GMOs as opposed to HSNO's weaker requirement for the EPA to *consider* the necessity for caution.
- (b) The avoidance of potential major financial exposure for constituents and councils from possible GM contamination and/or eradication or control of unwanted GMOs, whilst retaining opportunities to benefit from GMOs in the future should such opportunities arise.
  - (c) A strict liability regime, including bond and financial fitness rules, that provides (to the extent possible) for users of GMOs to pay the cost of any damages (environmental and economic) resulting from that usage (which HSNO does not impose). Linked to this is a duty of care to existing conventional and organic farmers that their social and economic well being will not be adversely affected by the use of GMOs.
  - (d) Local and regional marketing and branding advantages, based at least in part on the GE Free status of the area, in order to seek price premiums for agricultural production and underpin tourism activities. At present GM food products do not command a price premium – rather they can result in a reduction in price – in the global market.
  - (e) A policy position that is representative of the strong cultural concerns of Maori in Northland and Auckland regarding GMOs indicated in iwi and hapu resource management and environmental documents and in other forums, including submissions from Maori on Northland/Auckland planning documents. Given the high proportion of Maori in the Northland/Auckland region, this is of greater significance than nationally.

As long as national regulation under HSNO fails to provide these assurances to councils and communities in Northland and Auckland the Working Party will continue to support regulation under the RMA to achieve such outcomes until (and if) the legislation is amended to prevent councils from doing so. If this should occur, other parties have indicated that they may rescind these amendments and amend HSNO to require the national regulator (EPA) to take into account local government controls on GMOs. When (and if) this occurs, councils on the Working Party will be in a position to continue the process of changing their planning documents to address the concerns of their constituents.

**PLAN CHANGES– STATUTORY TIMELINE**

Item 9

Attachment A



## Briefing Paper to Mayoral Forum 17 February 2014

At its meeting on 13 December 2013, the Inter-council Working Party on GMO Risk Evaluation and Management Options recommended that the next meeting of the Northland Mayoral Forum, scheduled for February 2014, be updated on the progress of the Working Party and that the Convener of the Working Party put together a short briefing paper to assist those discussions.

### Background

Councils in Northland and Auckland, including Far North, Kaipara and Whangarei District Councils, Northland Regional Council, and Auckland Council (also representing predecessor councils) in response to on-going concerns expressed by their communities, including tangata whenua, formed an Inter-council Working Party on GMO Risk Evaluation and Management Options in 2003. Councils on the Working Party have collaboratively investigated the risks posed by genetically modified organisms (GMOs) in the environment, together with options to manage those risks, over a period of ten years. They have also lobbied central government extensively to amend the Hazardous Substances and New Organisms Act (HSNO) to address those risks, particularly by putting in place a strong mandatory precautionary requirement on decisions to trial or release GMOs to the environment, along with strict liability provisions for possible harm from use of GMOs.

In response to the continued inaction by central government in addressing those concerns, the Working Party commissioned draft district/unitary plan provisions, a supporting section 32 evaluation and report, and accompanying legal opinions from Dr Somerville QC to enable councils on the Working Party to include provisions in their RMA planning documents to manage the risks from outdoor use of GMOs should they choose to do so.

As determined by the section 32 analysis, the plan provisions are based upon a precautionary approach to the outdoor use of GMOs with the level of precaution related to the level of risk arising from the particular use in question. A precautionary approach, based upon the precautionary principle that has evolved globally, is an adaptive approach to risk management that requires decision makers to exercise caution, including the prohibition or postponement of an activity, when faced with uncertainty (including scientific uncertainty) and insufficient information, particularly in situations of high potential costs and irreversibility.

Based upon such an approach, the plan provisions provide for research within contained laboratories, medical applications and veterinary vaccines as permitted activities under the RMA (i.e. they require no planning permission), outdoor field trials as discretionary activities (i.e. they require a consent from council), and releases to the environment as prohibited activities (i.e. no consent can be applied for or granted). This classification is based upon a hierarchy of risks, from negligible for permitted activities through to high risk for prohibited activities. Discretionary activities (outdoor field trials) are subject to development and performance standards, including the requirement for bonds to cover possible economic or environmental damage and on-going monitoring requirements.

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 and the community. A council or a GMO developer can initiate a plan change to alter the status of a GMO activity from prohibited to discretionary. A change to discretionary status for a particular GMO or class of GMOs would then be subject to the prescribed development and performance standards set out in the plan change, particularly the liability and monitoring provisions.

By adopting this approach, the planning provisions in the draft plan change address community preferences for a strong precautionary approach to the outdoor use of GMOs based upon a level of risk the community, as the ultimate risk bearers, has indicated it is prepared to carry, whilst at the same time keeping future opportunities open should new information on costs and/or benefits become available. These provisions arose from, and are supported by, the section 32 evaluation and accompanying section 32 report. They are also supported by the legal opinions from Dr Somerville QC and by case law, particularly the *Coromandel Watchdog v Ministry of Economic Development* decision referred to by Dr Somerville in his latest opinion.

### **Collaborative Planning Under the RMA**

The Working Party recommended that member councils work collaboratively to introduce the provisions outlined in the Draft Plan Change, Section 32 Report and legal opinions produced by the Working Party into their RMA planning documents, and that they align the plan change process to facilitate collaboration and cost sharing between councils and a joint defence to legal challenge should it be required.

Subsequently, Auckland Council has included provisions in its Proposed Unitary Plan based upon the draft Plan Change, Section 32 Report and legal opinions produced by the Working Party. The Proposed Unitary Plan was publically notified on 30 September 2013. Whangarei District Council has adopted a plan change on GMOs based upon the documentation produced by the Working Party and aligned with the provisions in the Auckland Unitary Plan. This is due to be notified in May 2014 so as to align with the Auckland Council's Unitary Plan process to enable a joint defence to possible legal challenge. Far North District Council has agreed in principle to proceed with a plan change process to regulate the outdoor use of GMOs through provisions in the Far North District Plan in collaboration with other councils. Kaipara District Council has yet to make a decision on including GMO provisions in its district plan. Northland Regional Council has included precautionary provisions relating to GMOs in its Regional Policy Statement as Adopted by Council. These provisions are currently under appeal.

To facilitate a collaborative approach by member councils on the Working Party, including a joint defence (and joint funding of such a defence) to possible challenge in the Environment Court, it is important for participating councils to co-ordinate the statutory timeframes for introducing GMO provisions into their planning documents. Auckland Council has a three year time limit to complete the submissions and hearings on its Unitary Plan and have most of the Plan operative (except those aspects under appeal). The Northland councils have a two year limit. To reach a similar point in time for possible appeals on GMO provisions to arise (mid 2016) Northland councils need to notify their plan changes around the same time in May 2014. This timing is crucial. If Northland councils do not notify their plan changes at this time they will not be able to jointly defend future challenges through the courts. Also, to assist the joint defense to possible legal challenge, each council needs to submit on other member councils' plan changes/unitary plan provisions when the opportunity arises.

It is necessary for Auckland Council to hold its own hearings on submissions because it operates under special legislation. But there is the potential for Northland councils to hold joint hearings. This would be preferable for both pragmatic and financial reasons. One, it ensures all councils in Northland receive the same recommendations from hearings commissioners and, two, it enables those councils participating to share the costs of hearings and associated processes. Whangarei District Council has offered to manage the process to avoid duplication as much as possible. This arrangement will need further discussion between the participating councils.

The issue of sharing of resources and cost sharing during the statutory process prior to council decisions on hearings commissioners recommendations, and subsequent legal challenge (if any), also needs further discussion. There is potential to share information, including expert witness statements and legal input, for submissions, and during hearings of submissions, particularly at joint hearings between Northland councils but also potentially between Northland councils and Auckland Council.

To assist the alignment of statutory processes between Auckland Council and Northland councils to enable the sharing of resources for, and costs of, those statutory processes, including joint defense

to any potential legal challenge, the Working Party has recommended a memorandum of understanding be agreed to by participating councils and a funding model for sharing costs of any joint defense to legal challenge be developed. This funding model could be based upon the funding model used for sharing the costs of the Draft Proposed Plan Change, Section 32 Report and legal opinions commissioned by the Working Party. The memorandum could also include sharing of resources and costs during the submission and hearings of submissions stages.

### Other Local and Central Government Initiatives

Hastings District Council notified its reviewed district plan in November 2013. It contains provisions relating to GMOs similar to those proposed by the Working Party, i.e. GMO releases are prohibited and GMO field trials are discretionary activities with liability requirements attached. Hearings on submissions are expected to begin in May 2014 and last from 12 – 18 months. Submissions relate to the whole plan not just GMOs. Council decisions on recommendations from hearings are expected around the end of 2015. This puts Hastings District Council ahead of the Working Party councils' timeline but these timelines are subject to change. So there is still potential for Hastings District Council to be part of a joint defence with Working Party councils to legal challenge if it wishes.

Bay of Plenty Regional Council included a precautionary statement on GMOs in its Proposed Regional Policy Statement. It was appealed by Scion (NZ Forest Research Institute) and went to a hearing in the Environment Court in December 2013. A decision from the Court was released on 18 December 2013 which largely supported the precautionary provisions with some wording changes. Thus, the Environment Court has supported the inclusion of a precautionary approach to the outdoor use of GMOs in an RMA planning document. The Court also indicated in its decision that the Council may propose more directive regulation in the future, including objectives, policies and rules, if it considers it necessary, and justifiable.

There was also discussion at the Working Party meeting on statements by the Minister for the Environment regarding future amendment of the RMA to exclude any role for local government in managing GMOs under the RMA. Since these earlier statements there have been no formal actions by central government. It was agreed that the Working Party would keep a watching brief in regard to possible amendments to the RMA and in the meantime would rely upon its earlier agreed statement regarding this matter. This statement is appended to the briefing paper.

### Conclusions

The collaborative approach to the issue of GMOs in the environment undertaken by local authorities in the Northland and Auckland regions has been a cautious yet responsible way to proceed with this contentious and complex issue. It is an excellent example of local government working together to address common concerns raised by their respective communities. It has also been a fiscally responsible approach to adopt. By sharing the costs of research and possible regulation amongst all local authorities in the Northland/Auckland region, the cost to individual councils and to ratepayers has been minimised.

The rationale for the collaborative approach was three-fold. Firstly, a collaborative approach would assist in lobbying central government to amend the HSNO Act. Secondly, it would lower costs, both for research and for future plan changes if that was the course of action agreed to. Lastly, to ensure regulation by local authorities under the RMA was most effective it would be best coordinated and implemented on a regional basis. Individual councils could regulate unilaterally on aspects dealing with liability, such as compensation requirements, posting bonds for GMO activities, etc., and requirements for monitoring, but could face more challenges (depending on particular GMOs) enforcing GMO exclusion zones, for example.

On a regional basis, however, there is a realistic possibility of setting in place a comprehensive system of management under the RMA if that system is agreed to by all (or most) local authorities in the region. For example, because of its unique geography, the Northern Peninsula is especially well

placed to undertake such a regional approach. Should all (or most) local authorities north of the Auckland City southern boundary agree upon a common regulatory system it is possible that this could be successfully implemented, administered and enforced under the provisions of the RMA.

Dr Kerry Grundy  
Team Leader (Futures Planning)  
Whangarei District Council

**Inter-council Working Party on GMO Risk Evaluation and Management Options: statement regarding comments in the media from the Hon Amy Adams Minister for the Environment**

Dr Kerry Grundy, Convener of the Working Party, (09) 430 4200, [kerryg@wdc.govt.nz](mailto:kerryg@wdc.govt.nz)

Given the comments in the media concerning possible central government amendment of the Resource Management Act (RMA) to exclude a local government role in managing risks from GMOs, participating councils on the Inter-council Working Party on GMOs have agreed to make the following statement.

Under the current legislation, local government has jurisdiction to manage the risks from GMOs under the RMA in addition to national regulation under the Hazardous Substances and New Organisms Act (HSNO) provided that the requirements of the RMA are met. This has been set out in a legal opinion obtained by the Working Party from Dr Royden Somerville QC. It has also been confirmed by Ministers for the Environment in both the previous Labour led Government and the present National led Government. It has been further confirmed by Crown Law opinions. The former Minister for the Environment in the present Government, the Hon Nick Smith, wrote in a letter to the Working Party dated 5 August 2010:

*“The government’s position is that GMOs are most appropriately controlled by the Hazardous Substances and New Organism’s Act 1996 (HSNO Act)....However, this does not preclude a council from restricting or preventing the use of GMOs in their region, provided that this action meets the relevant requirements of the Resource Management Act 1991 (RMA).”*

Councils in Northland and Auckland (including Far North, Kaipara and Whangarei District Councils, Auckland Council and predecessor councils) in response to on-going concerns expressed by their communities including tangata whenua, have collaboratively investigated the risks posed by GMOs in the environment, together with options to manage those risks, over a period of ten years. They have also lobbied central government extensively to amend HSNO to address those risks, particularly by putting in place a strong mandatory precautionary requirement on decisions to trial or release GMOs to the environment, along with strict liability provisions for possible harm resulting from outdoor use of GMOs.

In response to the continued refusal by central government to address those concerns, the Working Party commissioned draft district/unitary plan provisions, a supporting section 32 evaluation and report, and accompanying legal opinions from Dr Somerville QC to enable councils on the Working Party to insert provisions in their RMA planning documents to manage the risks from outdoor use of GMOs. These provisions provide the following benefits to communities and councils in Northland and Auckland:

- (a) An assured, community determined level of risk at the local/regional level compared to lack of surety at the national level. The Northland/Auckland communities (as the ultimate risk bearers) have indicated that they want a strong precautionary approach to the risks from GMOs as opposed to HSNO’s weaker requirement for the EPA to *consider* the necessity for caution.
- (b) The avoidance of potential major financial exposure for constituents and councils from possible GM contamination and/or eradication or control of unwanted GMOs, whilst retaining opportunities to benefit from GMOs in the future should such opportunities arise.
- (c) A strict liability regime, including bond and financial fitness rules, that provides (to the extent possible) for users of GMOs to pay the cost of any damages (environmental and economic) resulting from that usage (which HSNO does not impose). Linked to this is a duty of care to existing conventional and organic farmers that their social and economic well being will not be adversely affected by the use of GMOs.
- (d) Local and regional marketing and branding advantages, based at least in part on the GE Free status of the area, in order to seek price premiums for agricultural production and underpin tourism activities. At present GM food products do not command a price premium – rather they can result in a reduction in price – in the global market.

- (e) A policy position that is representative of the strong cultural concerns of Maori in Northland and Auckland regarding GMOs indicated in iwi and hapu resource management and environmental documents and in other forums, including submissions from Maori on Northland/Auckland planning documents. Given the high proportion of Maori in the Northland/Auckland region, this is of greater significance than nationally.

As long as national regulation under HSNO fails to provide these assurances to councils and communities in Northland and Auckland the Working Party will continue to support regulation under the RMA to achieve such outcomes until (and if) the legislation is amended to prevent councils from doing so. If this should occur, other parties have indicated that they may rescind these amendments and amend HSNO to require the national regulator (EPA) to take into account local government controls on GMOs. When (and if) this occurs, councils on the Working Party will be in a position to continue the process of changing their planning documents to address the concerns of their constituents.



## Further Clarification Of and Action On Maui's Dolphin Threats Management

File No.: CP2014/02455

### Purpose

1. The purpose of the report is to provide a further review of the ministerial decisions on the Maui's Dolphin Threat Management Plan (TMP) and to offer a strategic approach by Auckland Council to implement means to assist in risk minimisation or elimination.

### Executive Summary

2. Following a presentation to its 11 December 2013 meeting, the committee requested a follow-up report at its next meeting of 4 March 2014 addressing mitigation of residual threats to Maui's dolphin and the wider Auckland west coast environment.
3. Since December, the council has received a response from the Ministry for Primary Industries (MPI) on questions on outstanding concerns arising from the ministerial decisions. The Department of Conservation (DOC) had already verbally addressed questions posed to them, which were outlined in the 11 December 2013 report.
4. Of key interest has been the first collaborative research scoping meeting, on 17 February 2014, between MPI, DOC, Auckland Council and Waikato Regional Council. Northland Regional Council was invited, but did not attend. This will be an ongoing, high-level group seeking alignment of effort and transparent communications between agencies.
5. This meeting resulted in further answers to outstanding questions from the TMP decisions.
6. This report outlines the mitigation strategy for each threat to Maui's dolphin, and implicitly, the Auckland west coast marine environment and responses begun so far. It also provides a summary of recent council submissions on oil mining and the Exclusive Economic Zone (EEZ) as a significant threat to the dolphin.

### Recommendation/s

That the Environment, Climate Change and Natural Heritage Committee:

- a) write to the Minister for Primary Industries seeking a reconsideration of ring-netting in the Manukau Harbour entrance.
- b) approve representation on the Maui's Research Advisory Group at all levels.
- c) approve in-kind assistance for the *Toxoplasma* genotyping cat sampling programme run at Massey University.
- d) request a report back on the policy options for addressing feral cat issues.
- e) support development of a safe-boating campaign around Maui's dolphins.

### Discussion

7. The 2012 Maui's TMP Review covered many threats to Maui's dolphin. Auckland Council took a strong stance on the protection of this animal, the most endangered dolphin on Earth. Maui's dolphin is only found on the west coast of the North Island, with Auckland waters being its heartland.
8. There are an estimated 55 Maui's dolphins remaining, making any loss of a single individual significant to the chance of extirpation (localised extinction) of this sub-species. Maui's are a

sub-species (*Cephalorhynchus hectori maui*), with Hector's dolphin (*Cephalorhynchus hectori hectori*) being the other sub-species. Hector's dolphins have now been found in the Maui's population, blurring this distinction.

9. When the Threats Management Plan decisions were released in early December 2013, Auckland Council questioned MPI and DOC on threats mitigations optioned during the 2012 TMP review submission process, which seemed to have no apparent decision in the final TMP. DOC and MPI have now replied to these questions.
10. Much of the work on defining the means to mitigation is still now in a formative stage and Auckland Council have been invited to work within a statutory agency group with MPI (Fisheries Act), DOC (Marine Mammals Protection Act) and other regional councils (RMA, LGA bylaws) in assessing ways forward. A wider range of stakeholders (mana whenua, universities, NGOs, other central government agencies, and recreational and industry sectors) will likely join this discussion at the next level.
11. Auckland Council has begun investigating simple ways to begin to help solve outstanding problems. West coast Local Boards have also shown a strong interest in helping.
12. A summary of each threat and the proposed actions follows.

### Commercial Ring-netting – Harbours

13. The main change to netting is found in the redefinition of ring-netting as not falling under the category of set-netting. It is proposed that commercial ring-netting be allowed in the mouth of the Manukau, closed since 2003. Ring-netting has been allowed within the extension inside the harbour which was put in place in 2008. The method is day-lit and attended with soak time of only 30 minutes and with the net attached to the vessel at all times.
14. The rationale for allowing ring-netting comes from a belief by MPI that the method was unintentionally captured by the generic term "set-netting" closures. This requires investigation as the writer was principal author of the 2002 changes and does not clearly recall this. We have asked DOC and MPI for clarification. We also need to know what economic estimate was used for the stated gain of \$200,000/annum in reintroducing the fishery; price at the gate or downstream added-value to the fish and chip shop endpoint, else it may be a biased over-perception. Auckland Council may want to observe this fishery in more detail as it begins to operate to assess effects on activities under its jurisdiction. Seasonality of grey mullet and kahawai runs and seasonal feeding behaviour on these stocks may pose added risks, dolphin and fisher wanting the same fish in the same place.
15. In terms of any further harbour spatial closures, the council should support the development of better survey and sightings programmes which will inform the extent of the home range of the animal in the Manukau and Kaipara Harbours. The position taken by the council in its TMP review submission is that set-netting should be banned in all harbours.

### Commercial Trawling

16. The main change to trawling will be the implementation of a four year phase-in of observer coverage, until now only taking place on set-netters outside the immediate closure zones. There will be a 25% increment over four years, reaching 100%. This may be human or electronic (camera) observation.

### West Coast North Island Marine Mammal Sanctuary

17. Auckland Council questioned why the entire protection regime, including controls on both non-fisheries and fisheries threats, could not be bundled as mechanisms under the Marine Mammals Protection Act (MMPA) via the Marine Mammal Sanctuary (MMS). Recent legislation has brought into line powers between Fishery Officers and DOC Rangers and equalised the fine regime. Also, the new Taranaki set-net closure undertaken under the MMPA by the Minister of Conservation was a step in the proposed direction. It is likely that this added enforcement and compliance work brought fully under DOC may be a resource issue preventing this type of rationalisation. Implications for the South Island MMSs may

also be an issue as Hector's and Maui's are essentially managed discretely until the full review of both in 2018.

### Seabed Minerals Exploitation

#### Mineral Exploration Classification

18. The Proposed Auckland Unitary Plan continues the approach of the operative Auckland Regional Plan: Coastal with regard to mineral exploration and extraction activities in the coastal marine area. In terms of disturbance of the seabed under RMA section 12(1) (c), exploration is a permitted activity provided various size and area controls are met. Well drilling activities would generally exceed these controls, meaning they are a restricted discretionary activity. Oil and gas drilling rigs would be classified as a discretionary activity in terms of their construction and occupation by a structure and related discharges. Such consents are generally 'bundled' together in RMA processes and so would be treated as a discretionary activity as a whole.
19. The council submission to the Proposed Auckland Unitary Plan (PAUP) includes a request to classify disturbance from oil and gas exploration as a discretionary activity to recognise the environmental risks involved. Other mineral exploration activities would remain as permitted or restricted discretionary activities.

#### Proposed Auckland Unitary Plan Overlays

20. Much of the near-shore (to 1 km) west coast coastal marine area is mapped as an overlay due to its environmental values. These include significant ecological areas, outstanding natural landscapes, outstanding natural features and high or outstanding coastal natural character. Many activities within the overlays have a more restrictive activity status than other areas.

#### Seismic Surveying

21. The voluntary 2012 Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations (the Code) has very strong limitations due to the reliance on a visual sighting distance of 1-1.5 km when the actual impact of the noise levels of seismic survey can have effects over a potential 20 nm radius.
22. The TMP proposes to move the Code from voluntary to mandatory, but this does not overcome its limitations. There will be a review of the Code, but it is unlikely to change in this regard.
23. The key mechanisms which councils have under the RMA is through limit-based underwater noise rules, such as have now been introduced into the PAUP which requires construction activities and seismic survey in excess of 200 dB to obtain a restricted discretionary activity consent and take into account their impacts on marine mammals.
24. A recent stranding of nine Orca in Southland, concurrent with seismic survey in southern Otago, offers opportunity for establishing cause and effect of underwater noise on strandings. Samples have been taken during necropsy which may shed some light.

#### Oil Exploration and Drilling

25. Recent council submissions have been addressing the expanding interest in offshore oil. A summary of each follows:

##### **New Zealand Block Offer 2014 – Proposal for Petroleum Exploration Permit Round (November 2014)**

26. This proposal identified several onshore and offshore areas to be open for the exploration permit tender round in 2014 under the Crown Minerals Act. Council's submission sought that the areas be amended to be at least 12 nautical miles offshore and that environmental concerns be taken into account. A key concern raised in the council's submission was that the proposed block offer areas extended to six nautical miles from shore, which is within Maui's dolphin habitat.

##### **Activity Classifications under the EEZ Act (September 2013 and January 2014)**

27. In September 2013, the government released a discussion document seeking feedback on how various activities, including exploratory drilling for oil and gas, should be classified in regulations under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act). The council submission did not support the proposed classification of such drilling as non-notified discretionary.
28. This proposal was released as draft regulations in December 2013 with submissions closing on 31 January 2014. The council submission reiterated that oil and gas exploration should be classified as a notified activity. Petroleum drilling in the EEZ has a low probability of occurrence but a highly significant consequence to the west coast environment should an oil spill occur. This justifies a publicly notified process that allows for an independent expert review of proposals.

### **Prospecting Permit Application (December 2013)**

29. In December 2013, New Zealand Petroleum and Minerals (a branch of the Ministry of Business, Innovation and Employment) notified the council that it had received an application for a prospecting permit under the Crown Minerals Act that covered an extensive area of EEZ and coastal marine area to the west of Auckland. Prospecting does not include drilling and there is no consultation process for prospecting permits. The council sent a letter to NZPM to repeat the concerns about potential effects on Maui's dolphins that were raised in the submission to block offer process.

### **Sand-mining**

30. In its submission to the TMP review Auckland Council supported a total ban on seabed mining activity in the MMS. It also welcomed the development of a Code of Conduct if only to make more transparent the implications of extensive sand-mining.
31. Within the PAUP, sand mining is within 'mineral prospecting and mineral exploration'. Small scale sampling is a permitted activity in the general coastal marine zone:
32. Proposed Auckland Unitary Plan, 3.I.6.2.7.1 - The disturbance must be limited to:
- removal of a maximum of 1m<sup>3</sup> of uncompacted material, or 0.2m<sup>3</sup> of compact material, in any 24-hour period
  - any drilling device must be no larger than 250mm (head size)
  - less than 5m<sup>3</sup> of the foreshore or seabed must be disturbed.
33. Prospecting and exploration over these limits is a restricted discretionary activity. In the overlays it is prohibited or non-complying. Actual sand mining would be classified as "mineral extraction". This is discretionary in the general coastal marine zone and prohibited or non-complying in the overlays.

### **Oil Spills**

34. Auckland Council supported enhanced response effectiveness from oil spills in its submission. The reality is, we would be ill-resourced for an immediate response and west coast sea-states would not likely allow containment by boom retention or clean-up by skimming. Dispersants are controversial for their toxicity.

### **Thundercat Racing**

35. The TMP review council submission said that, given the description of threats presented by DOC in the TMP review discussion paper, Thundercat racing is not an acceptable risk to Maui's in their core range. The Waitakere Ranges Local Board received a permit application for this event and consulted Environmental Strategy and Policy (ESP). The DOC evaluation and council's submission position were presented to the Board, resulting in a decline of the application.

### **Recreational Boating**

36. In its TMP submission, Auckland Council supported awareness-raising of both Maui's dolphins and the required practices of vessel operation in their habitat. This suggests the

need for a media campaign targeted at boat and fishing clubs and to mooring holders and marinas to instigate improved voluntary behavioural changes.

### Scientific Research

#### Disease

37. The council also supported more extended disease research in its submission, including Toxoplasmosis, Brucellosis and wider necropsy screening for disease and parasites.

#### Toxoplasmosis

38. Twenty-five percent of recent dolphin loss, of both Maui's and Hector's dolphins, are associated with effects of the parasite. Recent actions by the council have been around specific threats, including Toxoplasmosis. Environmental Strategy and Policy (ESP) staff have begun discussions with Infrastructure and Environmental Services (IES) Biosecurity staff and, potentially, Parks staff in a sampling programme to help Massey University. The University is contracted to DOC to conduct necropsy of beach-cast dolphins as well as genotyping *Toxoplasma* in samples associated with cats and cat faeces, the only known vector for this parasite entering the marine environment. A marine sentinel species such as bivalve shellfish may also be looked at as an indicator.

### Marine Mammals Protection Act 1978 (MMPA)

39. Several aspects of the Marine Mammals Protection Act 1978 remain problematic and should be considered for amendment. One is the requirement for fishers to release a dead by-caught marine mammal at sea once measurements are made. In the case of the January 2012 mortality, much information could have been gained except for this rule. The Act also refers to a population recovery period being in the order of 20 years when realistically Maui's dolphin may take 100-200 years to reach the carrying capacity of the environment it once spanned. The MMPA Act needs revisioning.

## Consideration

### Local Board Views

40. This report is informational only. ESP recently presented to the Waitakere Ranges Local Board on Maui's issues, at their invitation, and is open to any Local Board wanting an update. This offer will be extended via Local Board Support.

### Maori Impact Statement

41. All mana whenua iwi were informed by being sent a copy of this report.
42. The upcoming Harbours Accord (similar to maunga and motu returns, but for harbours) has implications to this issue.

### General

43. There are no general issues associated with this report.

## Implementation Issues

44. The report suggests the beginning of in-kind support via the newly established Maui's Research Advisory Group. It is early days yet in terms of any funding requirements. Any research assistance is being done through existing infrastructure.
45. The recommended development of a safe boating campaign around Maui's dolphins will require coordination of necessary resources (staff and budget) across several council divisions, departments and units.

## Attachments

There are no attachments for this report.

## Signatories

Authors	Will Trusewich - Coastal Specialist
Authorisers	Ludo Campbell-Reid - Environmental Strategy & Policy Manager

## Auckland Household Waste Survey

File No.: CP2014/02732

### Purpose

1. To provide the committee with a summary of the results of the Auckland Household Waste Prevention Study including its utility in informing waste prevention and behaviour change initiatives in support of Auckland's goal of zero waste and the Waste Management and Minimisation Plan.

### Executive Summary

2. The Auckland Household Waste Prevention Study was the first region-wide, representative study of Aucklanders' attitudes to waste. It looked at behaviours, attitudes, motivations and barriers in relation to a range of everyday actions that people can take to reduce their waste. The study's results:
  - Provide a baseline measure of Aucklanders' attitudes and behaviours around waste prevention
  - Will be used to inform the development of behaviour change initiatives in support of Auckland's zero waste goal and the Waste Management and Minimisation Plan.
3. This report provides a brief overview of the survey for the committee's information and future discussions around implementation of Auckland Council's Waste Management and Minimisation plan. The survey summary report is attached to this item for the committee's information.

### Recommendation

That the Environment, Climate Change and Natural Heritage Committee:

- a) receive the 'Auckland Household Waste Survey' Report.

### Discussion

4. The Auckland Household Waste Prevention Study was the first region-wide, representative study of Aucklanders' attitudes to waste. It looked at behaviours, attitudes, motivations and barriers in relation to a range of everyday actions that people can take to reduce their waste. The study's results:
  - Provide a baseline measure of Aucklanders' attitudes and behaviours around waste prevention
  - Will be used to inform the development of behaviour change initiatives in support of Auckland's zero waste goal and the Waste Management and Minimisation Plan.

#### *Method*

5. The study surveyed a representative sample of 3,210 Auckland residents from September to October 2012. Quotas were used to ensure representation of all local board areas, Asian and Pacific Island residents and apartment dwellers.

6. The study looked at behaviours and attitudes in relation to the following waste streams: recycling, food waste, garden waste, reusable nappies, large household and hazardous waste.

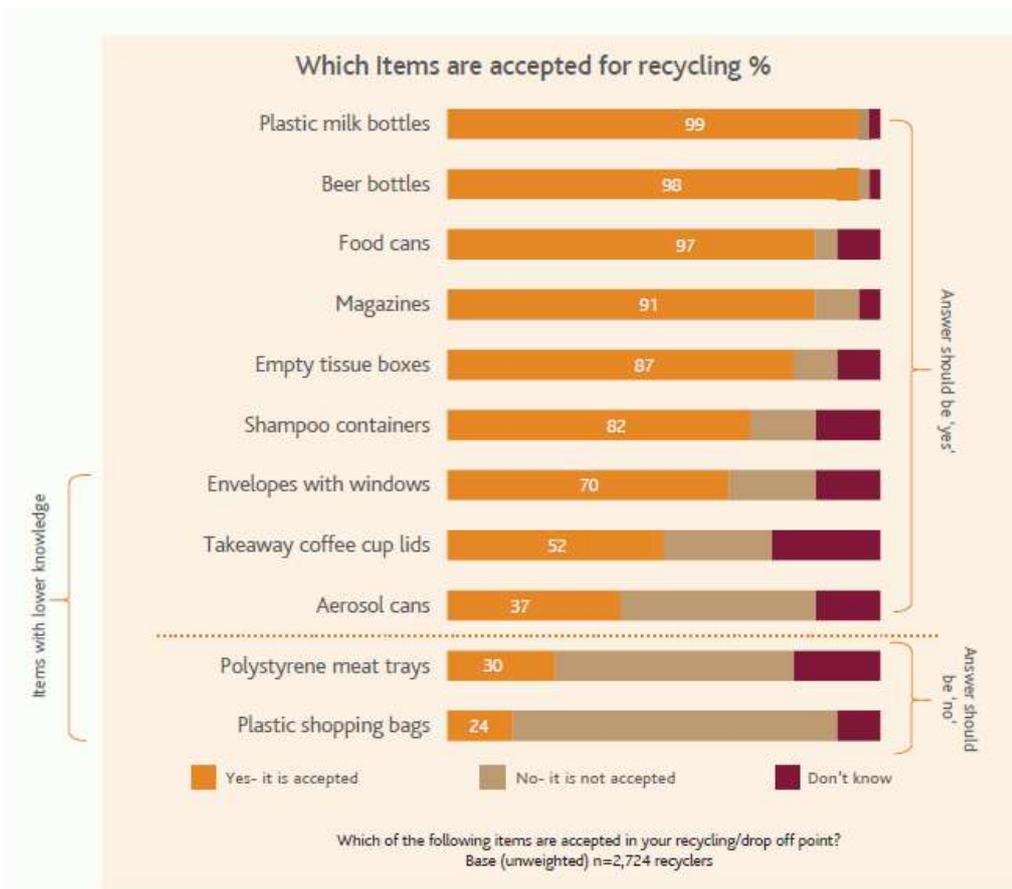
*Attitudes*

7. The study showed that most Aucklanders are motivated to minimise their waste, finding that :

- Three-quarters (74%) of Aucklanders agree that waste is an important issue.
- More than eight out of ten Aucklanders (83%) think that wasting food is wrong
- More than half of Aucklanders (59%) feel responsible for their impact on the environment

*Recycling*

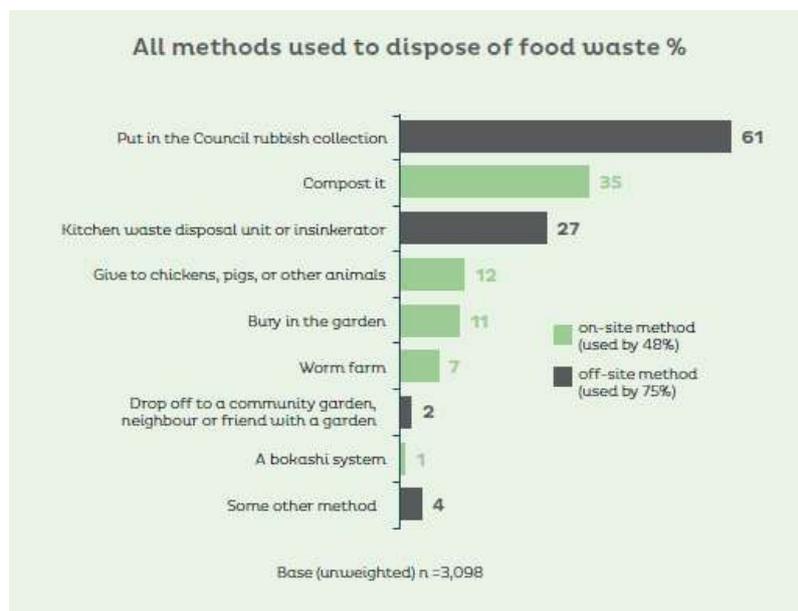
8. The study found that 9 out of 10 Aucklanders recycle at least some of their waste. Most Aucklanders also have a good understanding of what should be recycled. However, as Figure One shows, many Aucklanders are still confused about whether some specific items should be recycled, such as plastic bags, polystyrene meat trays and aerosol cans.



**Figure One: Aucklanders knowledge of which items can be recycled.**

*Food waste disposal*

9. Food waste makes up around 40% of the typical rubbish bin collected by council.
10. The study found most Aucklanders use multiple methods to dispose of their food waste:
  - As Figure Two shows, the most common way for Aucklanders to dispose of their food waste is through the council kerbside rubbish collection (45% use this as their main way of getting rid of food waste and 61% use it for some or all of their food waste)
  - A relatively high proportion of Aucklanders use an insinkerator for food waste (16% use this as their main way of disposing of food waste and 27% use it for some or all)
  - 48% of Aucklanders also dispose of food waste on site, through methods such as composting (35%), giving to animals (12%), burying in soil (11%), or worm farms (10%)
  - Very few Aucklanders use either worm farms (3%) or Bokashi (0%) as their main way of getting rid of food waste



**Figure Two: All methods used to dispose of food waste by Aucklanders**  
(note – most people use more than one method so numbers sum to more than 100)

*Reasons for composting, and barriers to getting started*

11. Some of the main reasons Aucklanders give for composting are that it's "good for the garden" and that it's "the right thing to do."
12. One in five Aucklanders who are not currently composting their food waste (19%) say they are willing and able to start. Some of the main barriers people list to getting started are:
  - It's easier to use the council kerbside rubbish collection (33%)
  - A lack of space (15%)
  - Sounds smelly and messy (5%)

*Cloth versus disposable nappies*

13. Around one in ten Aucklanders (11%) live in a household with a child that is currently using nappies. More than three-quarters of these households (78%) use disposable nappies all the time, 8% use cloth nappies all the time, while 14% use both.
14. Of those who do not currently use cloth or reusable nappies, 28% say nothing would make them consider using them in future. However, 15% say that they are willing and able to use reusable nappies in future, and 23% say that have no strong opinion either way.
15. The top three things that would encourage people to use reusable nappies more are:
  - saving money (26%)
  - knowing more about the environmental impact of disposables (15%)
  - knowing more about how to use reusable nappies (10%).
16. The full results of the Household Waste Prevention Study are available online on the council website at <http://www.aucklandcouncil.govt.nz/EN/environmentwaste/Pages/Home.aspx> and this presentation is attached to this report.
17. The Auckland Household Waste Prevention Study's findings are currently informing council's planning for waste prevention and behaviour change initiatives in support of Auckland's goal of zero waste and the Waste Management and Minimisation Plan

## Consideration

### Local Board Views

18. The findings of this survey were presented to all local boards at their November or December meetings under the Infrastructure & Environmental Services Quarterly Update report.

### Maori Impact Statement

19. It is recognised that the tangata whenua world view reflects the council's waste plan's emphasis on an integrated life cycle approach to the management of natural resources and the concepts of zero waste, waste recovery and waste minimisation.
20. The Auckland Household Waste Survey used quota sampling to ensure the main ethnic groups in Auckland were represented, including Maori. Of the 3,210 responses, 198 were provided by Maori. These responses were then weighted to bring them into line with the percentage of Maori in the Auckland population according to the 2006 New Zealand Census. Key results relating to Maori are:
  - 83% of Aucklanders feel that wasting food is wrong and 83% of Maori feel the same
  - 74% of Aucklanders feel that waste reduction is an important issue and 79% of Maori feel that way too
21. Engagement with iwi under the WMMP has indicated a strong interest in being involved in achieving the WMMP's objectives, through engagement on projects such as the Resource Recovery Network and zero waste marae. Moving forward, it is envisioned that many WMMP projects will provide opportunity for active Maori involvement as council moves towards the more holistic management of natural resources

### General

22. N/A

## Implementation Issues

23. There are no legal or legislative implications arising from the activities detailed in this report. All programmes and activities are within budget for Auckland Council Annual Plan and Long Term Plan documents.
24. The information and insights gathered under the Auckland Household Waste Survey is being used to inform the behaviour change planning required for the implementation of Auckland Council's Waste Management and Minimisation Plan and services changes going forward.

## Attachments

No.	Title	Page
A	Waste Prevention Survey Summary ( <i>Under Separate Cover</i> )	

## Signatories

Authors	Mara Bebich - Senior Relationship & Engagement Advisor
Authorisers	John Dragicevich - Manager Infrastructure and Environmental Services



## Waste Management and Minimisation Plan Update Report

File No.: CP2014/02322

### Purpose

1. To provide the committee with a brief update on council's work in implementing three projects which are part of the Auckland Waste Management and Minimisation Plan (WMMP).

### Executive Summary

2. Auckland's Waste Management and Minimisation Plan (WMMP) was approved by the governing body in June 2012, after extensive consultation with the public, key stakeholders and local boards.
3. The vision of the plan is: *"to become the most liveable city in the world, Auckland will aim for the long-term, aspirational goal of 'Zero Waste' by 2040, turning its waste into resources."*
4. To help achieve this goal, the plan sets out a series of actions to be implemented by council. The key projects involved in implementing the WMMP, include:
  - the establishment of the Waste Minimisation and Innovation Fund
  - adoption of the Solid Waste Bylaw and development of related waste controls
  - development and implementation of a comprehensive procurement process to support the major changes to kerbside collection services that were approved in the WMMP
  - initial work to develop a Resource Recovery Network (RRN) throughout the region.
  - moving to a consistent, booked, on-property, annual, rates-funded residential inorganic collection service across Auckland.
  - communication strategies and engagement activities to both prepare communities for change and achieve our waste minimisation outcomes as defined in the WMMP
5. A report to the Regional Strategy and Policy Committee in December 2013 summarised the progress that has been made on these projects. This report provides a further update on three key projects of the WMMP; Resource Recovery Network, Inorganic collections and Special community engagement.

### Recommendation

That the Environment, Climate Change and Natural Heritage Committee:

- a) receive the 'Waste Management and Minimisation Plan Update Report'.

### Discussion

6. Auckland Council's Waste Management and Minimisation Plan (WMMP) was approved by the governing body in June 2012, after extensive consultation with the public, key stakeholders and local boards.
7. The vision of the plan is: *"to become the most liveable city in the world, Auckland will aim for the long-term, aspirational goal of 'Zero Waste' by 2040, turning its waste into resources."*
  - To help achieve this goal, the plan also sets some bold targets. These are:
  - to reduce the amount of domestic kerbside waste sent to landfill by 30% by 2018, from 160 kg to 110 kg per capita per year.
  - to reduce council's own in-house waste by 30% per capita by 2018

- to reduce total council and private sector influenced waste to landfill by 30% by 2027
  - To achieve this final target, council will have to work closely with the commercial sector as council only directly influences approximately 17% of the waste stream.
8. The WMMP identifies a series of key actions that will be needed to achieve these targets and based on these, council officers have begun work on a series of major projects.
9. A report to the Regional Strategy and Policy Committee in December 2013 summarised the progress that has been made on these projects. Some of these projects, like establishing the Waste Minimisation and Innovation Fund (WMIF), have already been completed successfully. For other projects, such as the procurement of new waste collection services, there is still a significant amount of work underway.
10. This report provides a further update on three key WMMP projects, Resource Recovery Network, Inorganic collections and Special community engagement.

*Development of a Resource Recovery Network*

11. One key project identified in the WMMP was the need to establish a Resource Recovery Network (RRN) for the Auckland region. This will consist of a network of facilities that provide a convenient place for local residents and businesses to drop off their used furniture, clothes, whiteware, hazardous waste, and other materials. These materials could then be recycled or reused, rather than being sent to landfill.
12. Planning for the RRN is well underway and it is envisaged it would include:
- a small number of large Resource Recovery Parks focused predominantly on commercial waste or resources that would act as more substantial hubs of the network
  - a larger number of smaller Community Recycling Centres (CRCs) focused on serving local households and businesses
  - local Drop-off Depots for isolated areas or where there is limited space.
13. These facilities will be spread across the city and run by businesses, community organisations, and iwi and create valuable opportunities for local employment. Moreover they will enable large quantities of materials to be diverted from landfill.
14. In the short-term, five council-owned sites have been identified as being priorities for redevelopment into resource recovery facilities from 2014. These are the:
1. Waiuku Transfer Station
  2. Waitakere Refuse and Recycling Centre
  3. Central isthmus site (location to be confirmed)
  4. Devonport Transfer Station
  5. Helensville Resource Recovery Centre
15. It is envisaged that some of these community recycling facilities could be run as not-for-profit or social enterprises by community groups. Several local boards have also become involved in funding or supporting feasibility studies for CRCs, and this may shape where other centres are established in future.
16. Council is taking a holistic approach to the procurement process for the RRN, including consideration of the social and environmental benefits of different providers.
17. As part of the procurement plan for the major service changes which was approved by the Tenders and Procurement sub-committee of council on 3 September 2013, the following procurement activity has been initiated for the development of the RRN and inorganic collections :
- Requests for Expressions of Interest (REOI) for Inorganic Collections released by council to the market.

- Request for Proposal (RFP) for the provision of Operational Services for Waiuku Community Recycling Centre to be released by end of February.

*New Inorganic Collection Service*

18. Most areas of Auckland currently have kerbside inorganic collections. There are a number of negative impacts of this system, which include untidy streets, destruction of useable items, 22,000 tonnes of material collected sent to landfill, illegal dumping, and health and safety issues for public and staff.
19. A new, consistent, Inorganic Collection Service will be introduced across Auckland from July 2015. This will be available to all eligible residential rateable properties and will be rates-funded. Householders will pre-book a collection service, and materials will be collected from within the householder's property.
20. The new service will be designed to feed re-usable and recyclable materials to the Resource Recovery Network to ensure as many materials as possible are diverted from landfill, creating opportunities for local businesses and social enterprises through repair, refurbishment, dismantling, and sale of items.
21. To inform the design of this service and procurement activities, trials of a possible new methodology were conducted in Pakuranga and Howick during October and November 2013 with the following results:
  - Over 200 households agreed to participate in the trial
  - An average of 110kg was collected per household.
  - A large proportion of materials put out could be recycled or reused and therefore diverted from landfill. At least 54% of material collected could be recycled or reused. If waste timber, which currently has a cost to process into industrial fuel, is included, 75% of the materials collected were considered recoverable when processed through a Community Recycling Centre.
  - Feedback from residents was largely positive, especially after the comparative social/environmental benefits and costs of the two methodologies were explained.
  - In addition the trial has supported the benefits anticipated from the new service when it is introduced in July 2015 such as:
    - Diversion of as many materials away from landfill as possible
    - Reduction in the amount of illegal dumping
    - Cleaner and safer streets
    - Community involvement and a focus on sustainability and
    - Linkages between inorganic collections and the establishment of Community Recycling Centres

*Communication strategy and community engagement to prepare for change*

22. Council is in the process of finalising a region-wide communications strategy that will support the implementation of the major waste service changes proposed in the WMMP. This communications plan will ensure Aucklanders understand what they need to do when new services, such as the kerbside organics collection, are introduced. It will also ensure that Aucklanders feel inspired to help achieve the aspirational goal of zero waste by 2040.
23. In line with the priority areas identified in the WMMP, a tailored community engagement and development approach is also being used to support communities who are likely to experience the greatest challenges in adapting to a user pays rubbish collection system. The

focus is particularly on areas where there are vulnerable communities, such as South Auckland, the Maungakiekie-Tamaki area, and the Hauraki Gulf Islands.

24. In these areas there has been engagement with over 1,200 residents, community leaders, organisations and businesses to determine the barriers and constraints to waste minimisation and what will motivate and inspire people to change. This process is revealing the enthusiasm of residents and organisations to develop community-led solutions to waste issues. Some key themes identified that will inspire people to engage include:
- Growing food, gardening and composting
  - Neighbourhood solutions and champions
  - Community pride and safety
  - Creativity, fun and competitions
  - Opportunities for employment, training and social enterprise
25. As a result of the engagement process a number of initiatives and community led projects are underway. A particular focus has been on identifying 'waste champions' and providing them with training and support to take knowledge, skills and resources back to their own communities.
26. Otara has been an area where there has been a high level of interest, and community leadership on embracing the zero waste vision. As a result a short four minute DVD has been made that highlights the energy and passion coming from this community. It is also indicative of the energy that is being generated in other communities.
27. Over the last year approximately 300 people have attended 'Waste 101 workshops' and 25-30 people continue to be involved as waste champions. They are committed to taking the knowledge and skills gained back to their local communities. In Otara, a contract with Otara Health Charitable Trust has resulted in 35 neighbourhood support leaders learning new skills in composting and recycling. Training has also been provided to council's community development facilitators so they can also support communities they are working with to be prepared for the changes to collections.
28. There has also been a growing interest around cloth nappies. Approximately 14% of waste in the average Manukau rubbish bag are disposable nappies and sanitary waste. Over the last year three early childcare centres have taken to only using cloth nappies. A recent public workshop in Papatoetoe on cloth nappies was attended by 90 people.
29. Through the engagement process people want to see local businesses and Council also demonstrating good waste minimisation practices. As a result we have been working with local business associations in Otara, Manurewa and Mangere Bridge on waste minimisation options for town centres.
30. The engagement in the South has inspired a number of groups to apply to the Waste Management and Innovation Fund (WMIF). Approximately one third of the successful WMIF applications for the second round have come from community organisations in the South. Of particular note are applications from:
- Friends of Ambury Farm in Mangere Bridge who are committed to their community being a waste wise community. They have developed a blog where they are recording stories of waste initiatives in their community.
  - Hope N Help in Papatoetoe who are developing a social enterprise to re-use old sari's and remake them into soft furnishings and clothes
  - Crosspower Ministries who are developing a community recycling centre from their base in Otara
31. Council is now beginning the process of investing further resources into each of the four local board areas to continue the development and deliver community owned and driven waste initiatives that will result in reduction of waste to landfill in ways that strengthen communities and contribute to wider social, economic and environmental outcomes. In each local board area Council will contract a local community organisation to deliver on this work.

32. As well as this special engagement there is the ongoing delivery of the regional waste minimisation programmes for the community, businesses and schools.

#### Conclusion

33. In summary, council has made good progress throughout 2013 towards implementing the WMMP.
34. Going forward implementation of the WMMP will continue to be a demanding task. In particular, the implementation of the major changes in waste services that are scheduled to begin after July 2015 will be a major part of council's work programme over the next three years. The development and delivery of the RRN will also be a major project that will require an integrated cross-departmental approach.

## Consideration

### Local Board Views

35. Local boards receive regular reports on council's progress towards implementing the WMMP through the Infrastructure and Environmental Services quarterly update reports to the local boards.
36. Local boards have also expressed support for many of the projects involved in implementing the WMMP. For example, a number of boards have become involved in funding scoping or business studies for Community Recycling Centres.

### Maori Impact Statement

37. It is recognised that the tangata whenua world view reflects the WMMP's emphasis on an integrated life cycle approach to the management of natural resources and the concepts of zero waste, waste recovery and waste minimisation.
38. Some mana whenua and other Maori organisations have already indicated a strong interest in being involved in achieving the WMMP's objectives, through engagement on projects such as the RRN. Moving forward, it is envisioned that many WMMP projects will provide opportunity for active Maori involvement as council moves towards the more holistic management of natural resources.

### General

39. N/A

## Implementation Issues

40. There are no legal or legislative implications arising from the activities detailed in this report. All programmes and activities are within budget for Auckland Council Annual Plan and Long Term Plan documents.

## Attachments

There are no attachments for this report.

## Signatories

Authors	Parul Sood - Manager Waste Planning Ian Stuppel, Manager Solid Waste
Authorisers	John Dragicevich - Manager Infrastructure and Environmental Services