

REPORT



TO Strategy and Community Committee
 ON 18 February 2010
 FROM Maximus Smitheram – Manager: Sustainability and Natural Heritage
 APPROVED BY Warren Maclennan – Assistant Chief Executive
 SIGNATURE

SUBJECT **GENETICALLY MODIFIED ORGANISMS: COLMAR-BRUNTON SURVEY RESULTS AND INTER-COUNCIL WORKING PARTY RECOMMENDATIONS**

FILE REF TP/20/13

PURPOSE OF REPORT:

<input type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input checked="" type="checkbox"/> Policy decision	<input type="checkbox"/> Statutory process
<input checked="" type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? Outcome 6: <i>We will continue to value, protect and enjoy the natural environment.</i>
(iii)	Implications in terms of Long Term Council Community Plan/Annual Plan? Yes: <i>'Council has adopted a precautionary approach to field trialling or use of genetically modified organisms. In that context, Council advocacy and participation will extend to representing Rodney community interests associated with the potential for outdoor field trialling or release of genetically modified organisms in the district' p78.</i>
(iv)	Implications in terms of other Council Strategic documents or Council Policy? Organic friendly status. A Living Vision for Rodney's economy.
(v)	Is a budget amendment required? An amendment would be required to pursue a new rule by way of a plan change, noting procedural requirements and the high likelihood of challenge to such a rule and the cost of defence. Timing would mean that this would be a matter for the amalgamated Auckland Council.

(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required?
	Submissions on proposed inclusions without section 32 support were considered through the hearings process on the District Plan and declined in favour of the Joint Inter-Council initiative to consider a community response to field release of genetically modified organisms. A Colmar Brunton survey was completed in November 2009. Submissions could be considered on any rule proposals as part of a s32 Resource Management Act (RMA) analysis.
(vii)	Does a decision on this matter require Auckland Transition Agency approval? (yes / no / advice being sought?)
	No

FINANCIAL IMPLICATIONS:

Capital cost implications	No
Is it currently budgeted for?	No
Funding source of capital costs	No
Ongoing operational cost implications	Plan change cost if this option is pursued jointly based on s32 analysis. Potentially substantial cost if proceeding alone and there is legal challenge.
Is it currently budgeted for?	Yes, limited investigation costs linked with the Inter-Council Working Party as part of s32 RMA analysis.
Funding & rating impact (whether resulting from capital expenditure or arising directly)	Environmental and community risk and liability is where significant costs could arise if an adverse genetic engineering (GE) release event occurred.

SUMMARY:

This report presents the Colmar Brunton (CB) Genetically Modified Organisms Survey for Rodney District (**Appendix 1**), the Auckland Region results (**Appendix 2**) and a summary analysis of the survey for all Northland Peninsula Councils (**Appendix 3**). The Inter-Council Working Party on Genetically Modified Organisms Risk Evaluation and Management Options (the Working Party) considered the survey findings on 17 November 2009 (minutes are attached as **Appendix 4**). The working party recommendations to the Council following the survey and analysis are presented for the Committee's consideration. Rodney District Council is represented on the working party by Councillor Grahame Powell.

The Council is an active participant in the Inter-Council initiative because it has serious concerns about the risks associated with the field trialling and release of genetically modified organisms (GMOs) in Rodney and/or in the Northland Peninsula. In particular, the Council is concerned that GMO field trialling or release presents significant environmental, economic and socio/cultural risks and there are inadequate legal liability provisions. The cost of unintended consequences of GMO release could then lie with the community and with the Council. In response, the Council adopted a precautionary approach to field trialling or use of GMOs in its Long Term Council Community Plan 2009 - 2019 and has actively participated in investigating community response options. The CB survey helps to understand general community views on the issue for Council consideration.

The CB survey applied to the Northland Peninsula jurisdictions of the Auckland Regional Council (ARC), Northland Regional Council (NRC), Far North District Council (FNDC), Whangarei District Council (WDC), Kaipara District Council (KDC), Rodney District Council (RDC) and Waitakere City Council (WCC). The survey was completed in November 2009 and addressed the question of whether the Community favoured a regulatory response from Council (amongst other insights).

The communities surveyed, including Rodney, would prefer stricter regulation of genetically modified (GM) plants and animals. There were clear community concerns about the degree of regulatory protection they had, which supports the precautionary approach and investigation which the Council has undertaken. Two thirds or more of those surveyed favoured regulation of at least a strength that would make users of genetically modified organisms (GMOs) legally responsible for any environmental or economic harm - either through local regulation or by way of changes to national legislation (Rodney 63%). Two thirds or more of the residents polled also wanted local or regional councils to have a role in regulating GMOs in their areas, either by setting local rules or by a change of legislation at the national level. Support ranged from 66% to 75% for individual council areas (66% for RDC).

The Working Party now refers the CB survey results to the Councils for their consideration. The Working Party recommends further national level advocacy to address Council concerns. It also recommends continuation of the investigation required to protect local community interests including preventing or minimising risk of social, economic, cultural or environmental harm through a local regulatory response. Two Working Party councils, WDC and KDC reported in December 2009 and adopted similar resolutions to those proposed below. The remaining Councils are expected to make similar reports in the near future.

RECOMMENDATION:

- (a) That the report on Community Management of Genetically Modified Organisms and the findings of the Colmar Brunton Survey be received.**
- (b) That the recommendations from the 17 November 2009 meeting of the Inter-Council Working Party on Genetically Modified Organism Risk Evaluation and Management Options be adopted.**
- (c) That the Rodney District Council make a high level political approach to the Government, in collaboration with other Councils on the Working Party, seeking a formal response to local concerns over genetically modified organisms, particularly in regard to liability.**

1.0 Background

1.1 Purpose of this report

This report presents the findings of the CB Survey of community views on GMOs and presents Working Party recommendations from its meeting on 17 November 2009 for the Committee's consideration.

For consistency of reporting, where possible this report uses and/or paraphrases text prepared by WDC on this issue for its meeting on 16 December 2009. KDC also reported this matter using the same information on 16 December 2009. The remaining Working Party Councils are expected to make similar reports in the near future.

1.2 Introduction

In 2003, local government sought changes to the Hazardous Substances and New Organisms Act 1996 (HSNO) that would allow it to meet its responsibilities under other statutes, such as the Local Government Act 2002 (LGA) and the Resource Management Act 1991 (RMA), when dealing with GMOs. At the same time, a range of community groups submitted in respect of the New Organisms and Other Matters Bill seeking various additional safeguards and protections.

The role local government should take in the regulation of GMOs was a focal point of submissions to the New Organisms and Other Matters Bill. Local Government New Zealand (LGNZ) and a number of local authorities presented submissions to Parliament contending that, at very least; there was a lack of clarity as to the roles and responsibilities of local government with respect to genetic modification (GM) regulation. In particular, it was argued by LGNZ that the responsibilities placed on local government were not matched by provisions that would allow local government to influence GMO activities.

Parliament's Education and Science Select Committee reviewed these submissions and determined that no material change was required to the Bill. The effect of the subsequent changes to HSNO was to pave the way for the release of GMOs while leaving local government with no means to influence the assessment or management of GMOs at a national level. Local authorities would have no more influence on decisions by the national regulator, the Environmental Risk Management Authority (ERMA), than any other submitter or individual with respect to a particular application (beyond assured notification of the proposed activity).

In the absence of reforms being enacted to meet local government's concerns, and public disquiet remaining strong, the public has directed its dissatisfaction and anxieties over genetic modification to local government. Local authorities in the Northland and Auckland regions have been subject to significant and continuous lobbying by their communities since the moratorium on general releases of GMOs to the environment was lifted in 2003. This has resulted in large numbers of submissions to Annual Plans, Long Term Council Community Plans (LTCCPs), and District Plans; together with petitions to councils, lobbying of councillors, and on-going communication with staff. This lobbying has not abated over time, but rather has increased and remains significant.

Local authorities in the Northland/Auckland region have responded to these community concerns by forming an Inter-council Working Party on GMO Risk Evaluation and Management Options (the Working Party). As the name suggests, the Working Party is charged with evaluating risks to local bodies and their communities in the Northland/Auckland regions from outdoor uses of GM together with response options to those risks, including regulation of GMO land uses under the RMA. The Working Party is only concerned with outdoor uses of GMOs, including field trials and releases to the environment.

The Working Party currently comprises: Far North District Council (FNDC), Kaipara District Council (KDC), Rodney District Council (RDC), Whangarei District Council (WDC), Waitakere City Council (WCC), Northland Regional Council (NRC) and the Auckland Regional Council (ARC). Auckland City Council and North Shore City Council are presently observers on the Working Party. The Working Party is convened by WDC.

1.3 Community management of GMOs

As part of its investigations, the Working Party commissioned a series of reports to investigate the nature and extent of risks local authorities could expect to face from outdoor activities involving GMOs and the response options to address those risks.

The first report (*Community Management of GMOs: Issues, Options and Partnership with Government*) examined the issue of whether local government had jurisdiction under the LGA and RMA to regulate GMOs. Based upon a legal opinion from Dr Royden Somerville QC, the report found that the HSNO Act did not preclude management of activities involving GMOs in the environment by local authorities under the RMA or the LGA. In other words, local authorities do have jurisdiction to manage land uses involving GMOs in the environment under the RMA and LGA over and above the regulation prescribed nationally under the HSNO Act.

The report also argued that provisions in planning documents formulated under the RMA would be the most appropriate mechanism to regulate activities involving GMOs in the environment at a local or regional level. There are a range of approaches to regulating such land uses, including total prohibition, selective prohibition, spatial management areas, or case specific regulation through scrutiny of discretionary or non-complying activities.

The report also found that amendment of the HSNO Act to allow territorial and regional authorities to set local and/or regional controls over and above those set nationally by ERMA would provide a more direct means to achieving the desired outcomes sought by a community in regard to GMO land uses in its district or region. In addition, should HSNO be amended to put in place a strict liability regime holding the developers and/or users of GE technology liable for all subsequent damages, further amendment of the Act (for local and/or regional controls) could be avoided.

The second report (*Community Management of GMOs II: Risks and Response Options*) examined in greater depth the risks to local government and their communities in Northland

and Auckland posed by GMO releases to the environment. A series of risks to councils and their constituents were identified and can be classed under three general headings.

Environmental risks include:

- Adverse effects on non-target species, including indigenous flora and fauna;
- GM plants becoming invasive and disrupting ecosystems;
- altered genes transferring to other organisms;
- development of herbicide or pesticide resistance creating 'super-weeds' or 'super-pests'.

Economic risks include:

- loss of income (and/or legal action) through contamination (or even perceived contamination) of non-GMO food products triggering market rejection of produce;
- negative effects on marketing and branding opportunities, including damage to regional marketing initiatives such as the 'Naturally Northland' brand, and damage to tourism;
- costs associated with environmental damage, such as cleanup costs for invasive weeds and pests in reserves, parks, and open space.

Socio-cultural risks include:

- effects on Maori cultural beliefs (the concepts of whakapapa, mauri, tikanga, and kaitiakitanga, for example);
- ethical concerns, such as mixing genes from different species and use of human genes;
- effects or perceived effects on human health of food derived from GMOs.

Against these risks, important deficiencies in the national level regulation of GMOs were identified. A key gap is that there is no liability under HSNO for damage arising as a result of an activity carried out in accordance with an approval from the Environmental Risk Management Authority (ERMA) or from a general release. Common law actions would very rarely be an effective remedy so affected parties would tend to bear any losses arising from unexpected events and ineffective regulation of GMOs. While economic damage resulting from GM contamination would in the first instance fall on individual constituents, such damage could occur across wide groupings of producers and thus become a community concern. Councils may also be exposed to damage and financial costs.

Furthermore, there is no requirement under HSNO for applicants to prove financial fitness and no requirement for bonds to be posted in order to recover costs should damage occur. In consequence, parties who may cause damage but do not have sufficient resources to cover resulting costs are not held financially accountable and, once again, costs would tend to fall on affected parties (private persons, communities and local authorities).

Another important deficiency is that HSNO makes the exercise of precaution a matter for ERMA's discretion. Precaution is an option, not a requirement. This results in a lack of surety of outcome for local government on two levels:

- whether ERMA would agree with and act at all on specific concerns that may be held by a council and its community; and
- whether, for the risks ERMA concurs need addressing, it would exercise the same degree of caution as would a council and its community.

The report then proceeds to outline and evaluate various options that are available under the RMA to address the above risks. All options (apart from the do-nothing option) involve inserting provisions in territorial authority district plans or in regional policy statements or regional plans to address in differing ways the potential risks arising from GMO land uses.

Firstly, the liability issues could be addressed by way of performance standards in plans or conditions attached to resource consents that require financial accountability for environmental damage and avoidance of economic loss. Consent conditions may be able to be used to recover financial losses. The use of bonds to cover potential damage is also available under the RMA and could be made mandatory in planning documents.

Secondly, the risks posed by different classes of GMOs could be addressed by designating different GMO land uses as either discretionary or prohibited activities in planning documents. The report outlines four options including making all GMO land uses discretionary activities, prohibiting all GMO land uses, along with two different combinations of discretionary and prohibited activities.

The report emphasises that decisions to prohibit GMO land uses are reversible. That is, if particular GMO land uses were shown in the future to be advantageous to the district, whilst not imposing substantial costs or risks, those land uses could be removed from the prohibited status and deemed to be permitted or discretionary activities. On the other hand, decisions to allow GMO land uses are by and large irreversible. Once released to the environment GMOs were most likely there forever, irrespective of the consequences. In addition, once GMOs were released commercially, the district's/region's GE Free status would be permanently lost, along with any marketing and branding advantages that GE Free status afforded.

1.4 Community consultation

Finally, the Report recommended a joint community consultation programme as the next stage in the GE initiative. Because communities, along with councils, are the ultimate risk bearers of GMO land uses, it is argued that it is a reasonable expectation to consult with them on the level of risk they are prepared to carry. In this way, councils and their communities could arrive at an acceptable level of risk they were prepared to carry, along with an appropriate management system to lower risks from GMO land uses to that agreed level.

The community consultation programme could consist of two approaches. Firstly, a regional telephone survey could be conducted, the results of which would be analysed at a regional level and also disaggregated enabling analysis at a district/city level. In this way the Working Party on GE would be able to gauge the level of support for local government management of GMO land uses over the whole of the Northland Peninsula and also within each of the individual district or city council boundaries.

Secondly, a public notification/submission consultative programme could be undertaken by each district/city council. This could be structured to permit analyses at both regional and district/city levels. The aim of this procedure would be to allow interested parties, both major stakeholders (such as farmer groups, GE Free Northland, business interests, the Department of Conservation (DoC), and other environmental and community groups) and members of the public, together with tangata whenua groups, to present their particular viewpoints on the proposals.

The two approaches would thus compliment each other. The telephone survey would gauge the level of support in the general community for local/regional management of GMO land uses. It would not favour, or be subject to capture by, any particular interest group but rather would garner response from the overall community or general public (i.e. the 'silent majority'). Telephone surveying is structured to obtain a random sample of respondents and thus responses representative of the general public or the community at large.

The notification/submission process, on the other hand, would specifically allow for interest groups (pro-GE, anti-GE and neutral) to express their particular views on the proposals. These groups, representing farmer lobby groups (both conventional and organic), the biotechnology industry, business groups, GE Free Northland and other environmental and community groups, DoC, and Maori groups, could be argued to have an interest in the issue perhaps greater than the general public and thus warrant specific targeting for comment. This, of course, would not exclude individual members of the public making submissions, nor having those submissions included in subsequent analyses.

This two-pronged approach, it was felt, would result in a robust and defensible programme of public consultation that would be valuable for both gauging community support for local/regional management of GMO land uses and for supporting any subsequent plan change should one occur as a result of the community consultation. Also, should a plan change eventuate, the results of the consultation programme would make a substantial contribution to the required RMA section 32 analysis.

1.5 Committee resolutions

The Council Strategy and Policy Committee received a detailed report on the GMO Inter-Council Initiative on 2 August 2007 and made the following decision inter alia:

- (b) *That 1 December 2005 Strategy and Policy Committee resolutions c), e), and f) be reconfirmed. [see Note below]*
- (c) *That the Council reaffirms its support for a joint collaborative approach to investigating a regulatory response to the field release of GMOs if liability issues are not addressed by Central Government.*
- (d) *That subject to satisfactory participation of Northland and Auckland Councils that the Council participates in the proposed process of public consultation.*
- (e) *That a delegation in regard to the final form and timing of the community consultation be given to the RDC representative on the Inter-Council Working Party on GE, in consultation with the Chairperson of the Strategy and Policy Committee and the Director District Strategy and Planning.*
- (f) *That Council preference be recorded for the participation of all or most Northland and Auckland Councils, as may be required, to ensure the effectiveness of consultation and the potential for participating Councils to make a robust regulatory response to recognise Community views and address environmental and community risk and liability issues.*

(Minute No. 874/08/07)

Note: The reference in resolution (b) above is reconfirming the following resolutions from the 1 December 2005 Strategy and Policy Committee meeting:

- (c) *That the role of the Whangarei District Council as co-ordinating agency for the purpose of commissioning the reports and co-ordinating the Inter-Council Working Party on GE be acknowledged.*
- (e) *That the Committee authorise the expenditure of \$10,000 for the purposes of undertaking community consultation as a component of a Section 32 analysis.*
- (f) *That the Council continues to take every opportunity to lobby the Government to address the issue of regulatory gaps in the Hazardous Substances and New Organisms Act 1996 and the resulting environmental, economic and liability risks which are faced by local government in respect of the field release of genetically modified organisms.*

(Minute No. 1828/12/05)

A detailed update on the progress on all of these resolutions was provided to the Committee on 4 September 2008. In particular, RDC delegations were already in place to proceed with community consultation and awaited only that the Council preference that all or most Northland Peninsula councils formally agreed to participate.

In due course all other councils on the Working Party except for the NRC passed resolutions agreeing to jointly commission and finance the telephone survey. Tenders were called and received from three polling companies. CB was chosen as the preferred provider. After extensive consultation between members of the Technical Group of the Working Party and CB a survey questionnaire was developed and agreed upon.

1.6 Results of survey

Survey fieldwork was undertaken between 21 July and 18 August 2009. The sample size was 400 for each participating local council and 500 for the ARC, giving a total of around 2,500 responses. The results have a maximum error of 4.9% at the 95% confidence level.

The results of the telephone survey were finalised by CB in early November 2009 and were subsequently discussed at a meeting of the Working Party on 17 November 2009. Each of the councils participating in the survey received a report of results for its jurisdiction and the results were aggregated to regional levels, i.e. for the Auckland Region and for the Northland Region. The RDC report is attached to this agenda item as **Appendix 1**, and the Auckland Region report as **Appendix 2**. An analysis of the results for all councils and both regions is attached as **Appendix 3**. Reports for other councils on the Working Party are available on request. The main points arising from the results for the Rodney district were:

- (a) Significant levels of dissatisfaction with the existing regulatory regime for GMOs, particularly in regard to liability. The poll indicated that around 66% of RDC residents were dissatisfied with the way GMOs were regulated and wanted the RDC to have a role in regulating GMOs, either directly through setting rules or when ERMA is processing GMO applications.
- (b) A divided view for local regulation of GMOs through RDC setting rules in the district. 44% percent of residents did not want RDC to set rules as opposed to 40% who did. Of those who supported local regulation, prohibition was the most favoured level of regulation (50%) with food production prohibited/other uses allowed next preferred (25%) and strict liability provisions next favoured (22%).
- (c) Of those who did not support local regulation, there was significant support to lobby Government to amend the legislation to make users of GMOs legally responsible for economic or environmental harm (59%) and a divided view on whether to allow a local or regional council to reject GMOs for its jurisdiction when ERMA is processing GMO applications (46% agree, 45% disagree).
- (d) Support for regulation to make users of GMOs strictly liable for economic or environmental harm. 62% of RDC respondents favoured regulation (locally or nationally) of at least the strength of making users of GMOs legally responsible for economic or environmental harm.
- (e) Support for only producing food that is GE free (52%) but also support for leaving options open for the future (63%). Divided views on whether GM would harm the local food industry (38% yes 42% no) and tourism industry (38% yes and 42% no). Rejection that GMOs would provide economic benefits to the district (47% no, 28% yes). A strong rejection that people should be able to use GMOs if they chose (65% no, 25% yes).

Generally, support for councils having a regulatory role was stronger in Northland than in the Auckland region (although WCC was more in line with Northland results). Northland councils were also more supportive of producing GM free food, more likely to believe GM would harm the local tourism and food industries, and less likely to believe that GMOs would provide economic benefits for the region. RDC preferences were in the lower range of responses indicated in points (a) to (e) above (see **Appendix 3** for comparisons with other council jurisdictions).

The results also showed that Maori were more concerned about GM than other ethnicities, particularly in the Northland region. Maori showed stronger support for councils setting rules, for prohibiting GMOs from the region, for producing GM free food, and were more likely to believe that GM will harm the local tourism and food industries.

Support for setting rules was strongest amongst semi-rural and rural residents in both regions while urban views varied – supportive in Northland (and Whangarei) and not in Auckland. Rural residents were more likely to favour prohibiting GMOs in both Northland and Auckland regions than were semi-rural or urban residents. Females were significantly more likely to support setting rules than were males in Rodney.

The most common reasons for supporting local regulation were that there was not enough known about the consequences of GM, that users of GMOs should be held accountable if something went wrong, and that people shouldn't mess with nature. Reasons for not supporting local regulation included being pro-GE, that Central Government should set rules, and that ERMA should make the final decisions over GMOs.

2.0 Issues

2.1 Working Party assessment

The results of the telephone survey were discussed at some length by the Working Party at its 17 November 2009 meeting, including implications for local and regional authorities on the Working Party, and implications for the present and future functions of the Working Party. Included here are the issues of further community consultation, further lobbying of Central Government, and possible regulation by local government. In light of the Working Party discussions on the results of the telephone survey, the following options and recommendations were discussed and adopted by those members of the Working Party that were present (and subsequently endorsed by the ARC and WCC):

Options to move forward:

- (a) That Central Government amend HSNO to address risk and liability issues and to better provide for local community involvement in decision making.

The CB Survey gives further mandate to this line of enquiry. Although unsuccessful, this approach has been favoured by all councils from the outset and should be continued.

A minimum response would be to set in place strict liability regulation.

Other options extend to putting in place a moratorium or adopting a similar position to Ireland for example. Ireland has adopted a GE Free stance as a deliberate marketing strategy to allow a globally small primary producer to take advantage of high value niche markets and to assist their tourism industry.

- (b) That councils continue investigation of the steps required to protect local community interests, including preventing or minimising risk of social, cultural, economic or environmental harm. Local regulation remains an effective potential remedy if deficiencies in national legislation are not addressed and the councils minimise risk by positioning themselves to be able to take that step.

After years of lobbying Central Government and analysing the risks and response options, it would appear that this is the only credible option for councils to meaningfully address community concerns. It has three advantages. It places pressure on Government, responds to community concerns, and it puts in place protection for the community from risk and liability issues, in particular the potential for economic and environmental harm to the community. The disadvantages are the costs and practicalities of completing a s32 analysis and potentially the introduction of variations to at least two plans and the completion of statutory process.

Under this approach, councils retain the capacity to undertake pre-consultation on potential rule changes. Further consultation could assist in the selection of rules and would constitute further s32 analysis. It does however have a cost and is likely to generate the usual poles of opinion on this issue from submitters. Consideration needs to be given to undertaking a public submission process agreed to by the Working Party at its last meeting on 4 July 2008. The telephone survey was one part of this community consultation programme. The other was a public submission process which would allow interest groups and other members of the public to express their views on the questions raised in the telephone survey.

Within the Auckland Region, local governance reform suggests that immediate progress on advancing a regulatory option for the Auckland Region is unlikely at this time. Completion of investigation of Council options, however, would support the capacity of the new Auckland Council to have robust options at its disposal if it wishes to put regulation in place.

2.2 Working Party recommendations

The Working Party made the following recommendations with a view to a joint way forward and with the intention that they be referred to all Working Party Councils for their consideration:

- (a) *That the Convenor of the Working Party write to the Government to convey the Colmar Brunton findings indicating community concern in the Northland Peninsula that current national regulation is deficient (particularly in regard to liability) and does not adequately provide for local community involvement in decisions which affect their areas, and request a formal response to address the social, economic, cultural and environmental risks associated with the field trialling and release of genetically modified organisms (GMOs).*
- (b) *That all Working Party councils receive and review the Colmar Brunton findings for their respective jurisdictions, and for the Northland Peninsula, and consider making a direct high level political approach to Government seeking a formal response to local concerns regarding social, economic, cultural and environmental risks associated with the field trialling and release of GMOs.*
- (c) *That the Working Party continue the steps of investigation required to protect local community interests including preventing or minimising risk of social, economic, cultural or environmental harm. The investigation will include the option of making a community response through local regulation, including the formulation and analysis of potential rules for consideration at the regional and local level.*
- (d) *That the Working Party continues to monitor developments and precedents, including international precedents to help ensure that all councils are well positioned to respond to applications which may have significance for their communities.*
- (e) *That recommendations (a), (b), (c) and (d) above be reported to all Working Party councils for their consideration together with the Colmar Brunton findings.*
- (f) *That the Working Party acknowledge and thank Kerry Grundy, Convenor of the Working Party, Simon Terry, of Simon Terry and Associates, and Colmar Brunton for their work and contribution in support of the Working Party.*

The budgetary implications of point (c) above were discussed by the Working Party as most councils have limited funds committed to further work on this project this financial year. It is envisaged that this work stream would largely be at officer level and little budgetary commitment needed at this stage. Some consultancy fees may accrue but if jointly funded by all councils these would be minor.

3.0 **Options**

- 3.1 Reject the Working Party recommendations. This option would be inconsistent with previous Council decisions and participation and would be inconsistent with the Council's LTCCP 2009 - 2019 which adopted a precautionary approach.
- 3.2 Adopt the Working Party recommendations in part or with amendments. This option is not supported as the Council was a party to the recommendations and they are consistent with the direction set by previous Council decisions. The recommendations retain the two key aspects of seeking national-level regulatory change to address risk and liability issues of concern to the Council, and to position the Councils to be able to make a regulatory response if these issues remain unaddressed. The recommendations also provide for a continuation of the monitoring of relevant developments pertaining to the field trialling or release of GMOs. WDC and KDC have adopted the recommendations unchanged. The recommendations do not fetter additional activities that the Working Party Councils may individually wish to pursue in the context of the recommendations.

- 3.3 Adopt the Working Party recommendations unchanged. This option is supported as being consistent with Council participation to date and in response to the Colmar Brunton findings for the RDC. In particular, 66% of RDC residents want RDC to have a role in regulating the use of GM plants and animals, either by setting local rules or when ERMA is processing applications, and 63% favour regulation of GM plants and animals of at least a strength that would make GMO users legally responsible for any environmental or economic harm – either by local regulation or through changes to national legislation. The Working Party recommendations are targeted at these issues.

4.0 Conclusion

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

The precautionary stance adopted by the Council in its LTCCP would appear to have a wide base of community support. The results of the CB poll indicate significant unease in the community with the existing regulatory regime for GMOs, particularly in regard to liability for possible economic or environmental harm arising from GMO land uses in the district. There is a clear message that the users of GMOs should be made legally responsible for any harm caused.

Given the fact that it is the community (and Council) who ultimately carry the risk of this technology, the councils on the Working Party have taken the view that the community should be consulted as to what level of risk they are prepared to carry. This was the main purpose of the survey: to determine the level of risk that the community is prepared to carry and to then determine how best to manage that level of risk.

The community has responded with a strong message that it is not prepared to carry the risks involved with the release of GMOs to the environment and it is the developers and users of this technology who should carry those risks. The community's preferred level of risk can only be achieved either by changes to national legislation or by local regulation.

The actions available to the Councils are two-fold. Firstly, to renew lobbying of Central Government to amend the national legislation governing GMOs to put in place a full strict liability regime for any economic or environmental harm caused by GMOs and/or to allow local or regional councils the right to reject GMOs in their jurisdictions when applications are made to ERMA to trial or release GMOs.

The other action is to continue investigations on the possibility of regional and/or local regulation of GMOs including the formulation and analysis of potential rules for consideration at the regional or local level. In essence, this means advancing investigations on local/regional regulation to the point at which councils on the Working Party are able to make a decision in principle on whether to introduce rules into local or regional planning documents. Given the re-organisation of local government in the Auckland region such a decision for the whole of the Northland/Auckland region is unlikely prior to October 2010.