



## Kaipara District Plan Review Discussion Document

# General District-wide Matters

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## BACKGROUND

The new District Plan needs to include District-wide chapters related to:

- activities on the surface of water
- earthworks
- light
- noise
- signs
- temporary activities.

The new District Plan does not have to include a chapter on managing Genetically Modified Organisms (GMOs). However, if this topic is included, this chapter will be in the District-wide Matters section of the new District Plan.

### Activities on the surface of water

It is important to recognise the special values of our District's water bodies (e.g. Kai Iwi lakes, Kaipara Moana) and manage any impacts on these places. The general District-wide Matters chapter may include provisions to manage the use of boats, buildings or structures and recreational activities on the inland waters of the District, including the surfaces of rivers, lakes and wetlands. (Public access to these water bodies is addressed in a separate discussion document)

### Earthworks

Earthworks occur as part of subdivision and land use development, as well as other rural activities across the Kaipara District. The Operative District Plan provisions need to ensure any earthworks are appropriately managed and do not result in detrimental impacts on the environment (including the landscape and amenity values, or sedimentation of waterways). In general, district plans allow small scale earthworks in urban environments and other sensitive environments (such as outstanding natural landscapes) and permit larger volumes of earthworks in rural locations or less sensitive environments.

Northland Regional Council also has responsibilities for managing and controlling earthworks, particularly for larger scale developments and bulk earthworks. A separate set of earthworks provisions is included in the Regional Plan for Northland (Appeals Version – August 2020).

### Light

Lighting and glare are environmental effects that must be considered in any subdivision and land use development. Lighting has the potential to generate significant effects on amenity, and the health and wellbeing of neighbours, if it is not appropriately controlled. This issue can particularly affect residential environments, such as stadium/recreational park lighting or industrial lighting near residential properties.

There is also a growing awareness of the value of having 'dark skies' which are free from light pollution. The Kaipara District is perfectly positioned to protect

its night skies from light pollution, and the new District Plan can assist with this protection.

## Noise

Noise can impact on the amenity of the local environment, and the health and wellbeing of people. For this reason, activities must be managed to ensure they do not generate excessive noise. For example, Council may place limits on the operational hours of industrial or commercial activities which generate a significant amount of noise for a long time, particularly where this activity is occurring near a residential area.

## Signs

Signage in the Kaipara District supports local businesses, events and infrastructure, and provides information and directions. The new District Plan needs to include controls on the location, size and design of signs to ensure any amenity and traffic safety effects are managed.

Council currently also controls signs through its Bylaws as well through an Election Hoarding Policy. Part of the work on this topic will be to ensure these three documents are appropriately aligned in the future.

## Temporary activities

Temporary activities such as markets, sports events, fire work displays and concerts contribute to the vitality of communities within our District. These events are usually infrequent and only occur for a short period of time, but they can cause effects such as high traffic numbers and noise. District Plan provisions can be used to ensure any effects from temporary activities are

appropriate for the location.

## Genetically Modified Organisms (GMOs)

The use of GMOs has the potential to generate significant impacts on people, the environment and the economy. There is a lack of information, as well as scientific uncertainty about the effects of GMOs. The risk of irreversible effects could be significant if GMOs are not controlled.

While the Environmental Protection Agency (EPA) is responsible for approving field trials in New Zealand under the Hazardous Substances and New Organisms Act 1996, a High Court Appeal case (Federated Farmers of New Zealand Inc v Northland Regional Council [2016] NZHC 2036) questioned whether councils (both regional and district) had jurisdiction to manage GMOs. The Court concluded that councils do have jurisdiction and therefore can include provisions in their regional and district plans.

Our neighbouring territorial authorities (Far North and Whangarei District Councils and Auckland Council) have adopted an adaptive precautionary approach to managing the risks of outdoor use, storage, cultivation, harvesting, processing or transportation of GMOs. Some activities such as research within contained facilities, some veterinary vaccines and certain medical applications are permitted activities.

Kaipara District Council is the only council north of the Waikato District which has not adopted provisions for the management of GMOs, as we have been awaiting direction from the Northland Regional Policy Statement.

## KEY ISSUES

### Activities on the surface of water

- There are no specific provisions in the Operative District Plan related to activities on the surface of water. Given the cultural and ecological significance of the District's waterways, the new District Plan should provide clear policy related to activities on the surface of water to ensure Council can take into account any potential effects on the values of waterways.

### Earthworks

- The current provisions relating to earthworks within each zone needs to be reviewed, as the provisions have proven to be more lenient than the community would like to see, especially in the rural, industrial and commercial zones. There have been report of considerable negative impacts as a result of large earthworks occurring. Similarly, it has become evident that the limit of 200m<sup>3</sup> is overly restrictive, with a large number of enquiries regarding consents and also complaints received.



## KEY ISSUES continued

### Earthworks continued

- Earthworks associated with subdivision need to be considered in conjunction with other land use rules to ensure a consistent approach that supports an overall positive outcome.
- The thresholds for earthworks within outstanding natural landscape areas, natural character areas and significant natural areas need consideration, as these are more sensitive environments where the impacts of earthworks activities can have significant effect on the affected area.
- Earthworks close to the National Transmission Gridline need consideration, as earthworks activities within proximity to the transmission lines is a hazard which has the potential to affect the distribution of electricity both nationally and regionally.

**Note:** *Mining, quarrying and extraction activities are considered in the Energy, Infrastructure and Transport Discussion Document.*

### Noise

- The Operative District Plan does not align with industry best practice and national standards for assessing noise.
- Noise sensitive activities, such as residential activities and retirement villages, require specific policy and provisions related to noise.

### Lighting

- The Operative District Plan does not align with national standards for measuring glare and lighting and industry best practice.
- Opportunity to provide for the value of 'dark skies' across the District.

### Signs

- Review the current provisions for signs, both in terms of best practice and whether the sign size requirements are working in practice

### Temporary activities

- The lack of specific rules for temporary activities places more reliance on these activities meeting

the performance standards in the Plan (for permitted activities). Similarly, the activity status for the proposal is dictated by which performance standard cannot be complied with.

- Some temporary activities may 'slip through the gaps' of the current (effects-based) plan, for example temporary storage of shipping containers.

### Genetically Modified Organisms (GMOs)

- The Operative District Plan does not include any GMO provisions. There is a comment in the Operative District Plan (Chapter 2.1.2) indicating that Kaipara District Council will give effect to provisions included in the Northland Regional Policy Statement.
- Theoretically, the absence of GMO rules leaves the District at risk of liability if genetically modified matter crossed from the Kaipara District into another district and contaminated crops or livestock, where regulations are in place.
- The new District Plan needs to give effect to the Regional Policy Statement for Northland by introducing provisions similar to Kaipara District's neighbouring councils. The District Plan needs to manage GMO matters related to land use activities, as the Regional Plan for Northland only provides for GMO matters within the Coastal Marine Area (CMA).



## IWI INTERESTS AND IWI MANAGEMENT PLANS

All General District-wide Matters are of interest to Iwi, as these provisions impact the way in which land is developed and how activities can be carried out. Of notable mention are activities on the surface of water, earthworks and GMOs. Activities on the surface of the water can have a direct impact on the mauri (life force) of the water body and earthworks can disturb historic and cultural heritage. GMOs have the potential to cause significant issues to existing land use activities, including who is ultimately accountable if GMOs are released in an uncontrolled manner.

There are two Iwi Management Plans (IMPs) that must be taken into account:

- Te Uri o Hau Kaitiakitanga o Te Taiao 2011
- Nga Ture mo Te Taiao o Te Roroa 2009.

Both IMPs refer to activities on the surface of water, and earthworks and GMOs. Particularly, the IMPs emphasise that any adverse effects generated by activities on the surface of water, earthworks and GMOs are managed and mitigated to ensure the protection of the environment.

## SUMMARY OF THE OPERATIVE DISTRICT PLAN PROVISIONS

The Operative District Plan includes rules for earthworks, with different provisions applying for earthworks within an Outstanding Natural Landscape. The Plan also includes rules for lighting, noise, signs and temporary activities. It does not currently include any specific provisions for activities on the surface of water or GMOs. For further detail of the Operative District Plan provisions, refer to the Appendix 1.

## NEXT STEPS

As Council develops provisions for the new District Plan, technical experts such as noise consultants and geotechnical engineers may be engaged to assist with drafting the technical aspects of the noise and earthworks provisions. A review of best practice and accepted standards will further inform some elements of the General District-wide Matters chapters.

## PROPOSED CHANGES

- New provisions are to be developed in the new District Plan which will provide details of what types of activities, buildings or structures on the surface of water need to be controlled and in what locations to ensure the intrinsic values of waterways are appropriately recognised.
- The existing provisions for earthworks in the Operative District Plan will be revised to ensure that the adverse effects of both subdivision and land use activities are appropriate for the scale of the earthworks and their location (for example, whether some of the current thresholds are too restrictive or too lenient).
- The noise provisions for each zone will be developed and updated to reflect national standards for assessing noise, and to align with industry best practice.
- The provisions for lighting and glare will be developed and updated to reflect National standards for measuring glare and lighting, to align with industry best practice.
- The provisions for signage will be developed in the new District Plan. Amendments to the signage provisions may be required to achieve a practical approach to signage across the district, considering the amenity and character values associated with the relevant zone as well as traffic safety implications.
- In the development of the new District Plan, clear direction will be provided on temporary activities (such as concerts, markets and cultural events), particularly where adverse effects are likely to occur.
- A chapter on managing GMOs which aligns with the approach being taken by neighbouring territorial authorities (Auckland Council, and the Far North and Whangarei District Councils).

## APPENDIX 1

### RELEVANT LEGISLATION AND NATIONAL DIRECTION

Resource Management Act 1991	
Section 13	Restriction on certain uses of beds of lakes and rivers.
Section 16	Duty of avoid unreasonable noise.
Section 17	Duty to avoid, remedy, or mitigate adverse effects.
Hazardous Substances and New Organisms Act 1996	
Numerous sections in the legislation apply to the development and release of new organisms.	

### REGIONAL GUIDANCE

Regional Policy Statement for Northland	
Issue 2.6	Issues of significance to tangata whenua – natural and physical resources.
Policy 6.1.2	Precautionary approach.
Proposed Regional Plan for Northland (Appeals Version)	
The earthworks provisions in the Regional Plan may apply in conjunction with District Plan requirements.	

## OPERATIVE KAIPARA DISTRICT PLAN 2013 - RELEVANT PROVISIONS

Activities on the Surface of Water	The Operative District Plan does not currently include any specific provisions for activities on the surface of water, however many of the rules use the banks of rivers, lakes, streams as a trigger for activities requiring a resource consent. For example, if a building or structure were proposed to be constructed on a water body, the building or structure would require a resource consent as it would trigger rules such as the setback requirements.
Earthworks	There are multiple rules applying to earthworks in the Operative District Plan within the Rural, Industrial/Commercial and Maori Purposes Maori Land/Maori Purposes Treaty Settlement Land and depends on whether the site is within an overlay area or not.
Light and Glare	There are multiple rules applying to light and glare in the Operative District Plan within the Rural, Industrial/Commercial and Maori Purposes Maori Land/Maori Purposes Treaty Settlement Land which require a measurement of 10 lux at any point on the boundary of any Residential zoned site.
Noise	There are multiple rules applying to noise in the Operative District Plan within the Rural, Industrial/Commercial and Maori Purposes Maori Land/Maori Purposes Treaty Settlement Land which require different measurements depending on which zone the noise rules apply to and are measured either at or within any other site zoned Residential, or within the 'notional boundary' of a dwelling in the Rural or Maori Purpose Zones.
Signs	There are multiple rules applying to signs in the Operative District Plan within the Rural, Industrial/Commercial and Maori Purposes Maori Land/Maori Purposes Treaty Settlement Land and includes signs on and adjacent to roads and on buildings.
Temporary Activities	<p>Temporary Activities are defined in the Operative District Plan as follows:</p> <p><b>TEMPORARY ACTIVITIES</b></p> <p><i>An activity which is undertaken for a short term, not exceeding five days duration or more than 500 attendees, either as an isolated event or as a series of events where the cumulative period of operation is less than 12 days in a calendar year, and includes any gala, sports event, festival, hui or other community activity.</i></p> <p>As the Operative District Plan is an effects-based plan (as opposed to an activities-based plan or hybrid), a temporary activity is a permitted activity if the proposed activity complies with the performance standards set out in the zone chapters. Where the proposal does not meet the performance standards, the activity may become a controlled, restricted discretionary, discretionary or non-complying activity.</p>
Genetically Modified Organisms (GMOs)	There are no provisions in the Operative District Plan relating to Genetically Modified Organisms (GMOs), apart from some general comments included in Chapter 2.1.2 (District Wide Resource Management Issues).



# Attachment D

