



Meeting note: joint ministers meeting on gene technology regulator - 27 June 2024

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Actions sought from ministers	
<i>Name and position</i>	<i>Action sought</i>
To Hon Penny SIMMONDS Minister for the Environment	None

Appendices and attachments
Appendix 1: Talking points for joint ministers meeting on gene technology regulator – 27 June 2024

Key contacts at Ministry for the Environment			
<i>Position</i>	<i>Name</i>	<i>Cell phone</i>	<i>First contact</i>
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Purpose

1. Minister Collins is chairing a joint ministers' meeting on the proposed gene technology regulator at 10.15 am on 27 June 2024. This document provides you with notes and talking points to support you if you are able to attend. Glenn Wigley, General Manager Waste and HSNO Policy will be attending the meeting on behalf of the Ministry for the Environment (MfE).

Context

Previous meeting

2. This will be the fourth meeting of the Gene Technology Ministerial Group. The last meeting was held on 11 June 2024 and discussed a briefing (#ref 2324-3529) from Minister Collins KC on options for the new gene technology legislation. At the meeting it was agreed that:
 - i. The regulator's decision-making should be based on whether or not risks can be managed to an acceptable level to protect the environment and human health
 - ii. The regulator should not be required to assess potential benefits of an application when making a decision
 - iii. The legislation should not include a reference to the precautionary approach
 - iv. Ethics should be excluded from consideration on the basis that these issues are already dealt with in other specialised legislation
 - v. The legislation should include a purpose statement that conveys that the intent is to enable the safe use of gene technologies by managing environmental and human health risk
 - vi. There should be a single statutory decision-maker supported by advice from a technical advisory committee and other relevant agencies
 - vii. That the Ministry of Primary Industries (MPI) would continue to be the primary enforcement agency for the gene technology regulatory regime.

Current briefing

3. The Ministry for Business, Innovation and Employment (MBIE) have produced another briefing (#ref 2324-3917) outlining further aspects of the gene technology regime. MfE officials have been sent a draft of this briefing. Key aspects of are outlined below.
 - viii. MBIE recommend establishing an advisory committee mechanism to address Māori rights and interests, and in particular to identify and address risks to kaitiaki relationships between Māori and particular species and places. There are some risks with this approach, but MBIE consider this is the best way to provide certainty

to the regulator and applicants about how the regulator will meet the Crown's obligations under the Treaty of Waitangi.

- ix. MBIE recommend that trade risks arising from the approval of genetically modified organisms are best addressed through improvements to agricultural assurance processes, and the legislation should not include a specific mechanism requiring the regulator to address these risks.
- x. MBIE recommend removing councils' ability to restrict the use of genetically modified organisms (GMOs) under the Resource Management Act 1991 (RMA). The imposition of further restrictions at the local level has the potential to undermine the effectiveness of specialist regulatory decisions and would potentially duplicate more expert assessments. We are working with resource management staff within MfE on how this change may occur. We understand that this proposal would align with the approach Minister Bishop is taking to phase 3 of the Resource Management Reform which ensures that the RMA has as narrow a scope as required.
- xi. MBIE propose creating the ability for the regulator to undertake joint regulatory assessments where organisms are regulated under multiple regimes. In the scenarios where this is most likely to occur, other regimes are charged with managing distinct risks that would be beyond the capability of the gene technology regulator to address, and therefore a single approval is not feasible.
- xii. MBIE recommend Ministers consider including a power to issue general policy directions to the regulator in the legislation, and that this mechanism may be a more effective means to provide for Ministerial oversight of the regulator than a call-in power on individual decisions.
- xiii. MBIE propose that existing compliance and enforcement powers in the Hazardous Substances and New Organisms (HSNO) Act 1996 should be transferred over to the new Act. They believe these powers are adequate and this will minimise complexity for MPI as the compliance and enforcement agency.
- xiv. MBIE recommend that the legislation should include the ability to put in place a requirement for producers of nucleic acid sequences to screen these for potentially dangerous sequences, should this be considered necessary in future.

Next steps

- 4. MBIE propose that Minister Collins KC take a draft Cabinet paper in late June, together with refined costing information for the chosen form of regulator which will enable consultation with the Minister of Finance before commencing wider ministerial consultation.

Non-GM new organisms

- 5. MfE officials are progressing work regarding changes to the non-GM Organisms sections of the HSNO Act that the Gene Technology Act will necessitate.
- 6. After discussions with the EPA and MBIE, we have determined which provisions will require immediate removal or amending to avoid perverse outcomes. These will be enacted through the Gene Technology Reform Bill that MBIE is progressing.
- 7. There are a number of provisions that can be amended at a later date. These provisions are a mixture of changes that will make the interaction between the HSNO Act and the

Gene Technology Act smoother and changes that will make standalone aspects of the new organisms regime more effective. These will be enacted through a sperate HSNO Amendment Bill. MBIE officials tell us they will be noted, at a high level, in their upcoming Cabinet paper and we are supportive of this.

8. Officials are preparing a briefing seeking your approval on:
 - i. how we propose to make the necessary changes to the HSNO Act
 - ii. the policy decisions for those provisions which will require immediate changes (to be included in the Gene Technology Reform Bill).

Appendix 1: Talking points for joint ministers meeting on gene technology regulator – 27 June 2024

1. MfE officials are broadly supportive of the approach proposed by MBIE regarding the legislation to support the gene technology regulator.
2. MfE officials are working with MBIE officials to identify the best way to change the HSNO Act and RMA in support of this legislation. The proposed approach was included in the weekly update for 24 June, to ensure Minister Bishop was informed.
3. MfE officials are supportive with a single, joint regulatory application assessment between the Gene Tech Bill and HSNO Act for applications that overlap the two regimes. Officials will be briefing you on how the two regimes interact.