

WDC A.225

1 September 2017

Ministry of Justice
Environment Court Unit
PO Box 7147
Wellesley Street
AUCKLAND 1141

cc: Robert@robertmagkill.com

Mike.Wakefield@aucklandcouncil.govt.nz

rgardner@fedfarm.org.nz

Richard@brabant.co.nz

Partners

Graeme Mathias, LLB (Hons)
Grant Currie, LLB
Arthur Fairley, LLB (Hons)
Michael Badham, LLB, BA
Vaughan Syers, LLB
Peter Magee, LLB
Anna Patterson, LLB (Hons), BA (Hons)

Associates

Wayne Coutts, NZILE
Rupert Wakeman, LLB, BA
Sarah Shaw, LLB, BSocSc, PGDipREP
Maree Stenberg, LLB, BA

re: Federated Farmers of New Zealand v Auckland Council -ENV-2017-AKL

We enclose notice of a wish to be a party to the appeal in this matter on behalf of Whangarei District Council.

Yours faithfully
THOMSON WILSON

Per: 

G J MATHIAS
Partner

E-mail: dy@thomsonwilson.co.nz

encl.

BEFORE THE ENVIRONMENT COURT

ENV-2017-AKL-

IN THE MATTER of the Local Government (Auckland
Transitional Provisions) Act 2010
and the Resource Management Act
1991

A N D

IN THE MATTER of an appeal under section 156(1) of
the Local Government
(Auckland Transitional Provisions)
Act 2010

BETWEEN **FEDERATED FARMERS OF
NEW ZEALAND**

Appellant

A N D **AUCKLAND COUNCIL**

Respondent

**NOTICE OF WISH TO BE A PARTY TO PROCEEDINGS
DATED: 2017**

THOMSON WILSON

Solicitors
125 Bank Street
Whangarei 0110
Phone: (09) 430-4380
Fax: (09) 438-9473

Partner Responsible:
Email:

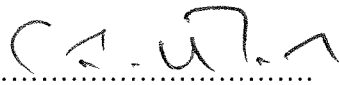
P O Box 1042
Whangarei 0140

Graeme Mathias
gjm@thomsonwilson.co.nz

TO: The Registrar of the Environment Court at Auckland

1. **Whangarei District Council** wishes to be a party to the appeal by Federated Farmers of New Zealand against a decision of Auckland Council as recorded in the judgement of the High Court in The University of Auckland v Auckland Council [2017] NZHC 1150.
2. **Whangarei District Council** is:
 - (i) a local authority;
 - (ii) a party which has an interest in the proceedings that is greater than the general public in that it is a local authority which is promoting a plan change providing for genetically modified organisms which is the general subject matter of this appeal; and
 - (iii) a party who made submissions to Auckland Council on Chapter E37 of the Auckland Unitary Plan relating to genetically modified organisms.
3. **Whangarei District Council** is not a trade competitor for the purposes of Section 308C or 308C(A) of the Resource Management Act 1991.
4. **Whangarei District Council** is interested in all of the proceedings.
5. **Whangarei District Council** opposes the relief sought because:
 - (i) There is jurisdiction for the determination of the High Court in its judgment of 30 May 2017 and in the event that there is not then there is no right to appeal to this Court;
 - (ii) If there is jurisdiction under the Resource Management Act to consider the appeal and provide for GMOs then there is jurisdiction to differentiate between organisms for regulatory purposes on the grounds that an organism is genetically modified;

- (iii) The Section 32 analysis for the Auckland Unitary Plan supported the provisions brought forward with such provisions being in accordance with the evidential analysis such including a scientific assessment;
 - (iv) There is no need for a further evaluation pursuant to S.32AA of the Resource Management Act;
 - (v) The provisions provided for in Unitary Plan Rule E37.4.1 are appropriate and within jurisdiction;
 - (vi) Section 360D of the Resource Management Act confirms the jurisdiction for the relevant provisions in Chapter E37 of the Auckland Unitary Plan;
 - (vii) Whether the decision does or does not “cover the field” is irrelevant.
6. As the Appellant has consented to the determinations which are now the subject of appeal this appeal should be struck out on the basis that it is vexatious and/or an abuse of process.
7. **Whangarei District Council** agrees to participate in a mediation or other alternative dispute resolution of the proceedings.



.....

G J Mathias

Counsel for Whangarei District Council

Date: 1 September 2017

Address for Service of Whangarei District Council:

C/- Thomson Wilson, 125 Bank Street, Whangarei

Documents for service may be left at that address for service or may be:

- posted to the solicitor at P O Box 1042, Whangarei 0140; or
- transmitted to the solicitor by fax to (09) 438 9473; or
- emailed to the solicitor at: dy@thomsonwilson.co.nz