

**In the Matter** of the Local Government (Auckland Transitional Provisions) Act 2010 (**LGATPA**) and the Resource Management Act 1991 (**RMA**)

**And**

**In the Matter** of an appeal pursuant to section 156(1) of the LGATPA

**Between** Federated Farmers of New Zealand

**Appellant**

**And** Auckland Council

**Respondent**

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**Notice of the University of Auckland's Wish to be a Party to Proceedings under s274**

**Dated 28 August 2018**

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To: the Registrar  
Environment Court  
**Auckland**

1. The University of Auckland (**University**) wishes to be a party to the following proceedings:
  - (a) Federated Farmers of New Zealand's (**Federated Farmers**) appeal against a decision of Auckland Council (**Council**) on Chapter E37: Genetically Modified Organisms provisions

included in the Proposed Auckland Unitary Plan (**Unitary Plan**).

2. The University made a submission on the Chapter E37 (**E37**) provisions. More significantly in relation to the Federated Farmers appeal to this Court, the University was the Appellant in an appeal under s157 of the LGATPA High Court proceedings (CIV-2016-404-2318). A judgement of Whata J<sup>1</sup> (**the judgement**) allowed the appeal and ordered the Council to make changes to the activity rules in E37. (refer “decision” attached to the Notice of Appeal). The University, the Council, Federated Farmers, the Soil and Health Association of NZ Limited and the Whangarei District Council were parties to that appeal.
3. The University is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. The University is interested in all of the proceedings.
5. The University is interested in the following particular issues:
  - (a) Any changes to the amended Chapter E37: Genetically Modified Organism Activity Rules from those the High Court directed the Council to make.
  - (b) The question of whether there was jurisdiction for Federated Farmers to appeal to this Court:
    - (i) Paragraph [4] of the judgement records the agreement of the parties that the appeal may be resolved by consent on the basis of the relief set out in Appendix A to the judgement.
    - (ii) **Attachment A** to this Notice is the joint memorandum of the parties to the High Court recording the parties consent. Reference is made to paragraphs 2, 3, 20 and 21, and that Mr Gardner signed the memorandum on behalf of Federated Farmers.
    - (iii) The reservation of an appeal opportunity as set out in paragraphs [19] and [20] of the judgement was for

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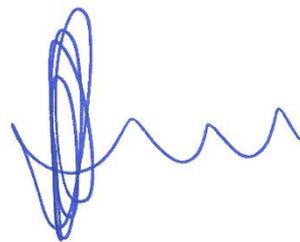
<sup>1</sup> *The University of Auckland v Auckland Council* [2017] 1150

submitters to the E37 provisions who had an interest in the activity rules but were not parties to the High Court proceedings, and therefore might have been deprived of an opportunity to be heard;

- (c) Because Federated Farmers gave its formal consent to the E37 activity rules being amended to make unambiguous provision for viable and non-viable GMO medical vaccines as a permitted activity (as requested by the University in its appeal), which consent was relied upon by the High Court in making directions to amend the relevant rules,<sup>2</sup> whether the appeal to this Court is an abuse of process, and vexatious.
6. The University opposes the relief sought and contends that there is no jurisdiction for Federated Farmers to appeal; alternatively the appeal is vexatious and an abuse of process.
7. The University agrees to participate in alternative dispute resolution of the proceedings.

**Signature:**

**University of Auckland** by its authorised agent:

A handwritten signature in blue ink, consisting of a large, circular scribble followed by a series of smaller, connected loops.

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**Richard Brabant**

**Date:**

28 August 2017

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<sup>2</sup> Judgement, paragraphs [20], [22].

**Address for service:** Richard Brabant  
Level 2, Broker House, 14 Vulcan Lane  
PO Box 1502, Shortland St  
**Auckland**

**Telephone:** (09) 306 2900

**Facsimile:** (09) 309 6667

**Email:** richard@brabant.co.nz

**And To:** Appellant

**And To:** Respondent