IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKAURAU ROHE

CIV-2019-404-2682

Under the	**JUDICIAL REVIEW PROCEDURE ACT 2016**
Between	**AVERIL ROSEMARY NORMAN AND WARWICK BRUCE NORMAN**
	Applicants
And	**TŪPUNA MAUNGA O TĀMAKI MAKAURAU AUTHORITY**
	First Respondent
And	**AUCKLAND COUNCIL**
	Second Respondent

MEMORANDUM OF COUNSEL FOR THE FIRST RESPONDENT

13 December 2019

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MAY IT PLEASE THE COURT:

INTRODUCTION

1. This memorandum is filed on behalf of the Tūpuna Maunga o Tāmaki Makaurau Authority.

2. Counsel refers to the applicants' second memorandum of counsel and the second affidavit of Ms Radford, both filed on 13 December 2019. The applicants now seek orders from the Court in different terms than those agreed between the parties.

3. The Authority responds as follows:

    (a) It is an independent authority established under Act of Parliament.

    (b) The membership of the Authority comprises leadership of Ngā Mana Whenua o Tāmaki Makaurau, Auckland Council (Governing Body / Local Boards) and the Crown.

    (c) It has now committed, via its solicitors, twice in writing to the Court that it will not fell the trees before this judicial review application is determined. This obviously includes by any means: ringbarking, poisoning or otherwise.

    (d) The matters now being raised by the applicants are, at best, fanciful. There is no rational or sensible basis for suggesting that the Authority would, having made those commitments to the Court, then take action to circumvent those commitments and harm the trees on Ōwairaka.

    (e) Although the applicants' memorandum suggested that this assertion was made on the basis of unspecified "*intelligence and messages*" (applicants' memorandum of counsel dated 13 December 2020, at [2(a)]), the second affidavit of Ms Radford provides no evidential foundation: it is mere speculation (see [4] of that affidavit).

    (f) Specious allegations of this sort are irresponsible in the context of an already heated public debate.

4. The Authority submits that no such orders are necessary, but otherwise abides the Court's decision.

DATED this 13th day of December 2019

Paul Beverley / Sebastian Bisley
Counsel for the First Respondent