

**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, directors of Auckland

Applicants

and

Tūpuna Maunga o Tāmaki Makaurau Authority, a body established under section 106 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014

First Respondent

and

Auckland Council, a unitary authority established under the Local Government (Auckland Council) Act 2009

Second Respondent

APPLICANTS' REPLY TO SECOND RESPONDENT'S
AMENDED STATEMENT OF DEFENCE

21 April 2020

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APPLICANTS' REPLY TO SECOND RESPONDENT'S AMENDED STATEMENT OF DEFENCE

1. They admit the positive allegations in paragraph 4(b) and repeat paragraphs 4 and 58 of the amended statement of claim
 2. They admit the positive allegations in paragraph 21.
 3. They deny the positive allegations in paragraph 23.
 4. In answer to paragraph 26, they:
 - (a) admit that breeding season for most birds ended in January;
 - (b) deny that the impact of the Decision on birds is appropriately managed through the conditions of the resource consent granted by the Council on 20 February 2019; and
 - (c) say further that ecologists employed by the Department of Conservation advised in a report provided to the Council (Nicholas Turoa) in November 2019 that "the resource consent conditions...do not suitably minimise potential risks to native bird species that are legally protected under the Wildlife Act 1953". They rely upon that report as if pleaded in full.
- 4.2 In answer to paragraph 63(d), they:
- (a) admit that the Council concluded that the different activities for which consent was sought at the same time (namely (i) removing all non-native trees across the reserve and (ii) planting native shrubs and trees in certain parts of it) would, when considered together, have or be likely to have adverse effects on the environment that were no more than minor; and
 - (b) otherwise deny the positive allegations in paragraph 63(d).
- 4.3 In answer to paragraph 69(d), they:
- (a) admit that the Council's conclusion that there were no adversely affected persons related to the adverse effects of the different

activities for which consent was sought, when considered together;
and

- (b) otherwise deny the positive allegations in paragraph 69(d).