

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

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*MEMORANDUM OF COUNSEL*

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12 December 2019

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## MEMORANDUM OF COUNSEL

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### MAY IT PLEASE THE COURT

1. This memorandum is filed following:
  - (a) the memorandum of counsel for the applicants dated 12 December;  
and
  - (b) the memorandum of counsel for the first respondent dated 12 December.
  
2. Matters have now developed beyond the position set out in the memorandum for the applicants dated 12 December. In particular:
  - (a) The occupation of Ōwairaka Mt Albert continues, in part because there is no Court order preventing implementation of the decision to fell trees. The fact that the respondents refused to provide formal written confirmation of their position did not assist that perception.
  - (b) There have also concerns that, prior to the substantive fixture, there might be attempts to implement the decision to get rid of the trees through other means, such as poisoning or ringbarking. These concerns have arisen from intelligence and messages. Although the effect would be to undermine a Court order to prevent felling, some might see such action as not breaching an order precluding only felling.

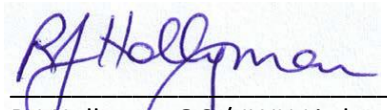
The applicants are obtaining an affidavit recording the above.

3. In those circumstances the applicants seek the making of more clearly expressed orders as follows:

*The Respondents are directed not to implement the challenged Decision (as defined in the statement of claim) until the Applicants' judicial review application is determined. That includes taking any*

*steps implementing the decision, including on-site preparation or access restrictions, felling, poisoning, ringbarking or otherwise.*

4. Such an order is in substance no different from that sought by consent and in relation to which the Authority now abides the decision of the Court.
5. It is hoped that the comfort provided through such a Court order could mean that the protest and ongoing presence on the mountain would come to an end.
6. It is also hoped that the order sought can be made on the papers. In the event however that the First Respondent does now wish to be heard, counsel ask that the matter be listed as soon as possible.

  
RJ Hollyman QC / JWH Little  
Counsel for the applicants