

**E-MAIL**

70

3/4/20 @ 4:10pm

IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY

I TE KŌTI MATUA O AOTEAROA  
TĀMAKI MAKĀURĀU 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 MAKĀURĀU  
AUTHORITY**

**First Respondent**

**AND** **AUCKLAND COUNCIL**

**Second Respondent**

---

**MEMORANDUM OF COUNSEL FOR SECOND RESPONDENT REGARDING  
THE FILING OF UNSWORN AFFIDAVITS**

---

3 April 2020

---

 **Simpson Grierson**  
Barristers & Solicitors

Padraig McNamara / Sarah Mitchell  
Telephone: +64-9-358 2222  
Facsimile: +64-9-307 0331  
Email: padraig.mcnamara@simpsongrierson.com  
DX CX10921  
Private Bag 92518  
Auckland

**MAY IT PLEASE THE COURT:**

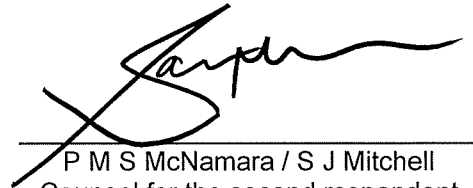
1. This memorandum is filed on behalf of Auckland Council (**Council**), the second respondent in these proceedings. In accordance with the timetabling directions of Palmer J dated 12 March 2020<sup>1</sup> the Council is to file and serve its statement of defence and any further evidence in support by 4pm on 3 April 2020.
2. The Council has filed its statement of defence which is supported by two affidavits:
  - (a) the affidavit of Brooke James Macdonald Dales; and
  - (b) the affidavit of Barry Lloyd Kaye.
3. However, as a result of the restrictions in place due to the current Covid-19 epidemic (**Covid-19 Restrictions**), Mr Kaye and Mr Dales have been unable to affirm their supporting affidavits before a witness authorised to take oaths and declarations.
4. Mr Kaye and Mr Dales have both signed their affidavits, confirming that they are in their final form. Absent the Covid-19 Restrictions both affidavits would have been affirmed and filed in the usual way.
5. The purpose of this memorandum is to provide an unconditional undertaking of counsel for the second respondent that the affidavits of Brooke James Macdonald Dale and Barry Lloyd Kaye are in the same form as if they had been affirmed, and that affirmed copies of those affidavits in the same form will be filed as soon as reasonably practicable.

---

<sup>1</sup> *Norman v Tūpuna Maunga o Tāmaki Makaurau Authority* [2020] NZHC 492.

6. We respectfully request that the statement of defence be accepted for filing, together with the unsworn affidavits of Mr Dales and Mr Kaye in support and this memorandum.

**Date:** 3 April 2020



---

P M S McNamara / S J Mitchell  
Counsel for the second respondent