

**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 FOR THE FIRST RESPONDENT SEEKING AN  
URGENT DIRECTIONS HEARING**

9 March 2020

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**MAY IT PLEASE THE COURT:**

1. This memorandum is filed on behalf of the Tūpuna Maunga o Tāmaki Makaurau Authority (**Tūpuna Maunga Authority**).
2. Timetable orders were made by consent on 9 December 2019. Under those orders, the applicants' submissions were due on 5 March 2020. That date has now passed and the applicants' submissions have yet to be received.
3. The applicants have not sought an extension of time, or communicated with the other parties to explain why their submissions are delayed or when their submissions will be filed. The delay is serious: the Tūpuna Maunga Authority's submissions are due on 12 March 2020.
4. This is the second occasion on which the applicants have ignored Court directions, without seeking leave to do so or notifying the other parties. As the Court is aware, their reply evidence (which was due on 7 February 2020) was not filed until 18 February 2020, 11 days later.
5. While there is presently an application for leave to file an amended pleading before the Court, the timetable remains in effect and the applicant is not entitled to assume the outcome of the application.
6. The applicant's course of conduct is inconsistent with the agreement between the parties at the outset of this proceeding, namely that the proceeding would be advanced urgently. If the applicants persist in their non-compliance with the timetable orders made by the Court, the Court will face a *fait accompli* requiring the 20 March 2020 hearing date to be vacated, whatever the outcome of the leave application. That is not an acceptable way to conduct litigation and leaves the Tūpuna Maunga Authority in an untenable position.

7. The Authority respectfully seeks an urgent directions hearing to resolve these matters. Counsel is available by telephone at short notice.

**DATED** this 9<sup>th</sup> day of March 2020



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**Paul Beverley / Sebastian Bisley**  
**Counsel for the First Respondent**