

**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

MEMORANDUM OF COUNSEL FOR APPLICANTS

10 March 2020

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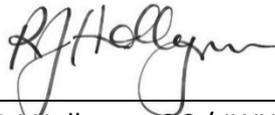
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MEMORANDUM OF COUNSEL FOR APPLICANTS

1. This memorandum is filed in response to the first respondent's memorandum dated 10 March 2020, which seeks an "urgent directions hearing".
2. The first respondent complains that the applicants have not yet filed their submissions for the substantive judicial review hearing. The first respondent's memorandum assumes that (i) the applicants' submissions were due on 5 March and (b) the judicial review application is scheduled to be heard on 20 March 2020.
3. Neither of those things is correct. The applicants' submissions are due 10 working days before the hearing of the judicial review application (Minute of Justice Lang dated 9 December 2019 at [3], making orders proposed at [6](c) of the joint memorandum dated 8 December 2019).
4. The hearing of the judicial review application is scheduled to commence 8 June 2020 (Minute of Justice Palmer dated 17 February 2020 at [2]). That means the applicants' submissions are due 25 May 2020, and the respondents' submissions 5 working days later.
5. It is correct that 20 March 2020, the original fixture date, has been retained for now – but only "in case it is required to hear an *interlocutory application*": see Justice Palmer's Minute dated 17 February 2020 at [2].
6. That was a reference to the application for leave to amend the applicants' claim to add an RMA ground of review (currently being heard on the papers); and potentially the applicants' application for interim relief, which may need to be pursued if the first respondent withdraws its undertaking not to fell the 345 non-native trees on the reserve at Owairaka / Mt Albert until the judicial review is determined.
7. The first respondent contends that the 20 March date should instead be retained for the substantive hearing. However, that depends on the outcome of the application for leave currently before the Court (in accordance with an agreed timetable).

8. (The first respondent also complains about a previous timetable breach – a 7 working day delay in the applicants’ evidence in reply. However, the respondents took no issue with the delay at the time and have not identified any prejudice).
9. Counsel are available for the telephone conference if required.

Dated 10 March 2020

A handwritten signature in black ink, appearing to read 'R J Hollyman', written over a horizontal line.

R J Hollyman QC / JWH Little
Counsel for the Applicants