

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

MEMORANDUM OF COUNSEL FOR APPLICANTS

12 December 2019

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May it please the Court:

1. This matter was called on Monday, 9 December 2019 before Justice Lang. The Applicants and First Respondent filed a joint memorandum dated 8 December 2019, which records the parties' joint agreement as follows:

"The applicants and first respondent are now agreed that the status quo be preserved (the proposed tree felling not to take place) until the applicant's interim relief application is heard and determined. However, if the substantive judicial review proceeding can be allocated a priority fixture before the end of March 2020, the Authority is content to agree not to proceed with the felling until the judicial review application itself is determined. That would remove the need to hear the application for interim relief."

2. The orders sought by consent included, at paragraph 6(a), a direction to the respondents:

"...If a fixture can be allocated in March 2020, the respondents are directed not to implement the challenged Decision (as defined in the statement of claim) until that application is determined."

3. (The Second Respondent abided the Court's decision in relation to interim relief and did not oppose the timetabling orders sought.)
4. In the Court's Minute of 9 December 2019, the timetabling directions sought at paragraph 6(c) of the joint memorandum were made, and a one-day hearing has been set down for 20 March 2019 for the hearing of the judicial review application.
5. However, due to oversight, the direction sought at paragraph 6(a) of the joint memorandum, preserving the status quo pending the hearing of the judicial review application in March 2020, has not been made.
6. That direction removed the need for a hearing on urgent interim relief (if the trees are felled before that hearing, the judicial review application will be a nugatory).
7. The Applicants have subsequently sought but not been able to obtain, formal written confirmation from the First Respondent that the status quo will be preserved pending the hearing in March 2020.

8. The Applicants therefore urgently and respectfully request the Court make the order set out at paragraph 6(a) of the joint memorandum dated 8 December 2019 in order to preserve the status quo pending the substantive hearing, in the following terms:

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.



**R J Hollyman QC / JWH Little
Counsel for the Applicants**