

**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

AFFIDAVIT OF PAUL FRANCIS MAJUREY

the day of 2020

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I **PAUL FRANCIS MAJUREY**, Chair of the Tūpuna Maunga o Tāmaki Makaurau Authority, solemnly and sincerely swear:

INTRODUCTION

1. I am a direct descendent of the eponymous ancestor Marutūāhu from all five of his sons. I whakapapa to all of the iwi of the Marutūāhu Confederation, comprising Ngāti Maru, Ngāti Whanaunga, Ngāti Tamaterā and Ngāti Pāoa.
2. I have been Chair of the Tūpuna Maunga o Tāmaki Makaurau Authority ("**Tūpuna Maunga Authority**") since its establishment in 2014.
3. I was also Chair of the Tāmaki Collective, the Treaty settlement negotiations entity for the following 13 iwi/hapū of Tāmaki that commenced negotiations with the Crown in July 2009 culminating in the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed of September 2012 ("**Tāmaki Collective Redress Deed**") and Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 ("**Tāmaki Collective Redress Act**"):
 - (a) Ngāi Tai ki Tāmaki;
 - (b) Ngāti Maru;
 - (c) Ngāti Pāoa;
 - (d) Ngāti Tamaoho;
 - (e) Ngāti Tamaterā;
 - (f) Ngāti Te Ata;
 - (g) Ngāti Whanaunga;
 - (h) Ngāti Whātua o Kaipara;
 - (i) Ngāti Whātua Ōrākei;
 - (j) Te Ākitai Waiohua;
 - (k) Te Kawerau ā Maki;
 - (l) Te Patukirikiri; and
 - (m) Te Rūnanga o Ngāti Whātua.
4. I am authorised to provide this affidavit on behalf of the Tūpuna Maunga Authority.

NGĀ TŪPUNA MAUNGA O TĀMAKI MAKAURAU

5. Tāmaki Makaurau has a powerful physical presence. Its shape and form reflects an active volcanic field setting. The Tūpuna Maunga (ancestral mountains) stand as the essence of Auckland, being central to our history, identity and point of difference around the world. Human occupation of Auckland spans around 1,000 years. Māori settled and established pā, kāinga and extensive cultivations in and around the Tūpuna Maunga over the centuries.
6. Auckland's Tūpuna Maunga are among the most significant spiritual, cultural, historical and geological landscapes in the Auckland region. The Tūpuna Maunga are fundamental to Mana Whenua. Sadly, this connection and relationship has been eroding since the nineteenth century with development on and around the Tūpuna Maunga resulting in some significant degradation, for example the complete destruction and obliteration of Maunga from quarrying.
7. Over the centuries, the Tūpuna Maunga have been central to the lives of the tribes of Tāmaki Makaurau as places of habitation, rituals of daily life and worship, the cultivation of food, and at times warfare. The tangible inscriptions of the Tūpuna remain today, as seen for example in the modified terraced fortified pā, cultivated areas and stone features.
8. The following Waitangi Tribunal statement reflects the enduring allure of Tāmaki:¹

“Auckland is now a highly urbanised area with very valuable real estate. In the pre-contact era, Tāmaki was likewise seen by Māori as a desirable place to live, no doubt because of its warm climate, multiple harbours, and good volcanic soil. Unsurprisingly, successive waves of invaders competed for dominance there down the centuries, and the early establishment of Pākehā settlement on the shores of the Waitematā only added to its attractions. Thus, it was – and remains – an intensively occupied part of the country, where constant habitation by changing populations of Māori as a result of invasions, conquests, and inter-marriage has created dense layers of interests.”

9. I acknowledge the 13 iwi/hapu of Ngā Mana Whenua o Tāmaki Makaurau who respectively comprise the following three rōpū (groupings) (in alphabetical order):
 - (a) Marutūāhu;

¹ *The Tamaki Makaurau Settlement Process Report (Wai 1362)*, 12 June 2007, at 13.

- (b) Ngāti Whātua; and
 - (c) Waiohua Tāmaki.
10. Each of the tribes have their rich and vibrant traditions and histories with Tāmaki Makaurau, especially the Tūpuna Maunga.
 11. The Tūpuna Maunga are sacred to Mana Whenua as taonga tuku iho (treasures handed down the generations). They are fundamental to our mana and identity.
 12. The following statement from the Waitangi Tribunal captures the world views of the Mana Whenua with the Tūpuna Maunga:²

“ .. maunga are iconic landscape features for Māori. They are iconic not because of their scenic attributes, but because they represent an enduring symbolic connection between tangata whenua groups and distinctive land forms. Sometimes, these land forms are the physical embodiment of tūpuna. Thus, associations with maunga are imbued with mana and wairua that occupy the spiritual as well as the terrestrial realm. Maunga express a group’s mana and identity. This connection and expression is an integral part of Māori culture.” [Footnote omitted]
 13. To the Mana Whenua of Tāmaki, the Tūpuna Maunga are the embodiment of our Tūpuna (ancestors). That is why the return of the Tūpuna Maunga to us through the Tāmaki Collective Treaty settlement is so significant – it represents the reconnection with our land and ancestors. That is also why the Treaty settlement arrangements for the governance and management of the Tūpuna Maunga, through the Tūpuna Maunga Authority, are significant. As discussed below, the ability for Mana Whenua to exercise our kaitiaki responsibilities over the Tūpuna Maunga, alongside Auckland Council in the spirit of the Treaty principle of partnership, is of immense cultural significance.
 14. In the case of Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert (**Ōwairaka / Te Ahi-kā-a-Rakataura**), the 13 iwi/hapu of Ngā Mana Whenua o Tāmaki Makaurau have varying histories and traditions, which is in part reflected by the dual Māori names for this Maunga. Significantly, it was to these Mana Whenua iwi that this Maunga was returned in settlement for the Crown’s breaches of the Treaty.

² *The Tamaki Makaurau Settlement Process Report (Wai 1362)*, 12 June 2007, at 95. This is the Waitangi Tribunal report on Treaty settlement processes in Tāmaki Makaurau. Many of the Mana Whenua tribes of Tāmaki participated in the inquiry process, including the Marutūāhu Iwi. The scope of the inquiry included the Tūpuna Maunga of Auckland.

NGĀ MANA WHENUA O TĀMAKI MAKĀURAU SETTLEMENT

15. In July 2009, the Crown and Tāmaki Collective entered into Treaty of Waitangi settlement negotiations. In September 2012, the Crown and Tāmaki Collective signed the Tāmaki Collective Redress Deed. The return of the Tūpuna Maunga and motu (islands) to the iwi/hapū of the Tāmaki Collective and the establishment of the Tūpuna Maunga Authority were key outcomes of the settlement. To give effect to the Deed of Settlement, the Tāmaki Collective Redress Act was enacted.
16. The purpose of the Act states:

“3 Purpose of Act

The purpose of this Act is to give effect to certain provisions of the collective deed, which provides shared redress to the iwi and hapū constituting Ngā Mana Whenua o Tāmaki Makaurau, including by—

- (a) **restoring ownership of certain maunga and motu of Tāmaki Makaurau to the iwi and hapū, the maunga and motu being treasured sources of mana to the iwi and hapū;** and
- (b) **providing mechanisms by which the iwi and hapū may exercise mana whenua and kaitiakitanga over the maunga and motu;** and
- (c) providing a right of first refusal regime in respect of certain land of Tāmaki Makaurau to enable those iwi and hapū to build an economic base for their members.” [Emphasis added]

TRANSFER OF TŪPUNA MAUNGA

17. One of the general ‘rules’ of Treaty negotiations and settlements is that the Crown will only transfer Crown-owned land.
18. Thus, while there are over fifty volcanic features in Tāmaki Makaurau, the majority being in private ownership, the Crown would only agree to transfer the Crown-owned portions of 14 Tūpuna Maunga in the Tāmaki Collective Settlement.
19. The following 14 Tūpuna Maunga were vested in the post-settlement governance entity of the Tāmaki Collective (the Tūpuna Taonga o Tāmaki Makaurau Trust (“**Tūpuna Taonga Trust**”)) following the passage of the Tāmaki Collective Redress Act:
 - (a) Matukutūruru/Wiri Mountain;
 - (b) Maungakiekie/One Tree Hill;
 - (c) Maungarei/Mount Wellington;
 - (d) Maungawhau/Mount Eden;

- (e) Maungauika/North Head;³
 - (f) Ōwairaka/Te Ahi-kā-a-Rakataura/Mount Albert;
 - (g) Ōhinerau/Mount Hobson;
 - (h) Ōhuitarangi/Pigeon Mountain;
 - (i) Ōtāhuhu/Mount Richmond;
 - (j) Pukewīwī/Puketāpapa/Mount Roskill;
 - (k) Rarotonga/Mount Smart;⁴
 - (l) Te Kōpuke/Tītīkōpuke/Mount St John;
 - (m) Takarunga/Mount Victoria; and
 - (n) Te Tātua a Riukiuta/Big King.
20. While ownership of Māngere Mountain and the Maungakiekie / One Tree Hill (northern land) remained with the Crown, these areas are also administered by the Tūpuna Maunga Authority under the Tāmaki Collective Redress Act.
21. As noted, the return of these taonga to Mana Whenua is of immense significance. The Preamble to the Tāmaki Collective Redress Act confirms:
- "The maunga and motu are taonga in relation to which the iwi and hapū have always:
- (a) maintained a unique relationship; and
 - (b) honoured their intergenerational role as kaitiaki."
22. Following generations of Crown Treaty breaches and harm to the Tūpuna Maunga and to Mana Whenua, the return of the Tūpuna Maunga to us was not only immensely significant in that we were able to reconnect with our ancestors, it also marked the start of a journey of tangibly and meaningfully reconnecting with the Tūpuna Maunga and directly providing for their care and wellbeing. The Tūpuna Maunga Authority arrangements discussed below allow Mana Whenua, through a unique co-governance arrangement with Auckland Council, to be at the forefront of the process of caring for and restoring the wellbeing of the Tūpuna Maunga.

³ Administration of Maungauika was transferred from the Department of Conservation to the Tūpuna Maunga Authority on 18 January 2019 as confirmed in the New Zealand Gazette.

⁴ Under the Tāmaki Collective Redress Act, administration of Rarotonga/Mount Smart remained with Auckland Council.

23. These new arrangements are relevant also to honouring the principles of the Treaty of Waitangi, for example:
- (a) the Tāmaki Collective Redress Deed and Tāmaki Collective Redress Act reflect the Treaty principle of ‘redress’ – the settlement represents the conclusion of a long period of Treaty breaches, Waitangi Tribunal processes, and negotiations with the Crown through the Office of Treaty Settlements (now known as Te Arawhiti), leading to the provision of redress for the historic breaches of the Treaty of Waitangi;
 - (b) the ‘co-governance’ structure of the Tūpuna Maunga Authority reflects the Treaty principle of ‘partnership’ – in this case the coming together of elected representatives of both Mana Whenua and the Auckland Council in a partnership to govern the Tūpuna Maunga; and
 - (c) the return of the Tūpuna Maunga to Mana Whenua and the ability for Mana Whenua to work in partnership to govern the Tūpuna Maunga reflects the Treaty principle of ‘active protection of Mana Whenua interests’.
24. This process of honouring and reflecting the principles of the Treaty of Waitangi is also immensely significant to Mana Whenua.
25. It is also important to note at this point, specifically in the context of these proceedings, that the wellbeing of the Tūpuna Maunga is the fundamental consideration for Mana Whenua and the Tūpuna Maunga Authority.
26. The intergenerational responsibility of Mana Whenua as kaitiaki, recognised in the Tāmaki Collective Redress Act, means that we are absolutely committed to the care and wellbeing of the Tūpuna Maunga. The same ethos applies to the Tūpuna Maunga Authority, and everything the Authority does is focussed on that wellbeing.

Ōwairaka / Te Ahi-kā-a-Rakataura / Mt Albert

27. As was the case for many of the Tūpuna Maunga, not all of Ōwairaka / Te Ahi-kā-a-Rakataura was able to be transferred to Mana Whenua, as areas not owned by the Crown were excluded. The area of Ōwairaka / Te Ahi-kā-a-Rakataura that was transferred to Mana Whenua (9.54 hectares), and that is subject to the jurisdiction of the Tūpuna Maunga Authority, is reflected in

the map for Ōwairaka included in the IMP, which I exhibit and mark “PM1”.⁵ The map also shows the current reserve classification.

28. That map shows that not all of Ōwairaka / Te Ahi-kā-a-Rakataura is under the jurisdiction of the Tūpuna Maunga Authority, and there are areas containing indigenous and exotic vegetation outside of the Authority’s area of jurisdiction, for example on the adjacent Watercare land. Further, significant areas of the lower flanks of Ōwairaka / Te Ahi-kā-a-Rakataura are now covered by housing, and so the Authority has no jurisdiction over those areas or ability to influence the return to indigenous vegetation. That makes the Authority’s initiative to restore indigenous vegetation in the area that it does administer even more critical, particularly as that area contains the ‘tahi’ (summit) which is especially sacred to Mana Whenua.

TŪPUNA MAUNGA AUTHORITY

29. The Tāmaki Collective Redress Act established a bespoke co-governance architecture for the Tūpuna Maunga.
30. The structure recognises both the important relationship Mana Whenua have with these sacred places and their importance to, and connection with, all the people of Auckland. As noted, the Tūpuna Maunga Authority is a tangible expression of the spirit and Treaty principle of partnership, in this context between Mana Whenua and Auckland Council.
31. The Tūpuna Maunga Authority is the statutory authority established under Part 3 of the Tāmaki Collective Redress Act.
32. Each of the 14 Tūpuna Maunga continue to have their reserve classifications under the Reserves Act, and the Tūpuna Maunga Authority is the ‘administering body’ for each of the Maunga under the Tāmaki Collective Redress Act and Reserves Act. The Reserves Act (as well as the Tāmaki Collective Redress Act and other relevant legislation) is a key statute within which the Authority operates.
33. The Tūpuna Maunga Authority has six representatives appointed from Mana Whenua, and six representatives appointed from Auckland Council. There is also a non-voting Crown representative appointed by the Minister for Arts, Culture and Heritage.

⁵ IMP at page 37.

34. The chair is elected by the Mana Whenua representatives, and deputy chair elected by the Auckland Council representatives.
35. The Mana Whenua members of the Tūpuna Maunga Authority are appointed by the following three Mana Whenua rōpū – with two representatives from each rōpū (listed in alphabetical order):
- (a) Marutūāhu Rōpū;
 - (b) Ngāti Whātua Rōpū; and
 - (c) Waiohua-Tāmaki Rōpū.
36. The Auckland Council members are appointed by Auckland Council. To date, for each term there have been three governing body and three local board representatives.
37. The Tūpuna Maunga Authority members for the 2019-2021 term are as follows (in alphabetical order):
- (a) Josephine Bartley;⁶
 - (b) Cathy Casey;⁷
 - (c) Alf Filipaina (Tūpuna Maunga Authority Deputy Chair);⁸
 - (d) Dennis Kirkwood;⁹
 - (e) Paul Majurey (Tūpuna Maunga Authority Chair);¹⁰
 - (f) Chris Makaore;¹¹
 - (g) Zaelene Maxwell-Butler;¹²
 - (h) [member to be appointed], Ngā Mana Whenua o Tāmaki Makaurau (Ngāti Whātua Rōpū);
 - (i) [member to be appointed], Ngā Mana Whenua o Tāmaki Makaurau (Ngāti Whātua Rōpū);
 - (j) Hauāuru Rawiri;¹³
 - (k) Lemauga Lydia Sosene;¹⁴

⁶ Auckland Council (Governing Body).

⁷ Auckland Council (Governing Body).

⁸ Auckland Council (Governing Body).

⁹ Ngā Mana Whenua o Tāmaki Makaurau (Waiohua-Tāmaki Rōpū).

¹⁰ Ngā Mana Whenua o Tāmaki Makaurau (Marutūāhu Rōpū).

¹¹ Auckland Council (Chair: Maungakiekie-Tāmaki Local Board).

¹² Ngā Mana Whenua o Tāmaki Makaurau (Waiohua-Tāmaki Rōpū).

¹³ Ngā Mana Whenua o Tāmaki Makaurau (Marutūāhu Rōpū).

¹⁴ Auckland Council (Chair: Māngere-Ōtāhuhu Local Board).

- (l) Toni Van Tonder;¹⁵ and
- (m) [member to be appointed], Crown Representative.

38. The Tūpuna Maunga Authority is subject to the following statutory direction under the Tāmaki Collective Redress Act:

“109 Functions and powers

- (1) The Maunga Authority has the powers and functions conferred on it by or under this Act or any other enactment.
- (2) In exercising its powers and carrying out its functions in relation to the maunga, the Maunga Authority must have regard to —
 - (a) the spiritual, ancestral, cultural, customary, and historical significance of the maunga to Ngā Mana Whenua o Tāmaki Makaurau; and
 - (b) section 41(2).
- (3) In exercising its powers and carrying out its functions in relation to the administered lands, the Maunga Authority must have regard to the spiritual, ancestral, cultural, customary, and historical significance of the administered lands to Ngā Mana Whenua o Tāmaki Makaurau.”

“41 Maunga must remain as reserves vested in trustee

...

- (2) The maunga is held by the trustee for the common benefit of Ngā Mana Whenua o Tāmaki Makaurau and the other people of Auckland.”

39. In summary:

- (a) the Tūpuna Maunga were vested back in Ngā Mana Whenua o Tāmaki Makaurau through the Collective Treaty settlement. Following so many years of Treaty breaches, grievances, Waitangi Tribunal processes and negotiations with the Crown, the return of our Tūpuna is of immense significance to Ngā Mana Whenua o Tāmaki Makaurau;
- (b) the Tūpuna Maunga are held for the common benefit of Ngā Mana Whenua o Tāmaki Makaurau and the other people of Auckland;
- (c) the Tūpuna Maunga Authority reflects the important principles of partnership, active protection and co-governance, hence the equal representation from Ngā Mana Whenua o Tāmaki Makaurau and Auckland Council; and

¹⁵ Auckland Council (Devonport-Takapuna Local Board).

- (d) the Tūpuna Maunga Authority is required to have regard to the spiritual, ancestral, cultural, customary, and historical significance of the Maunga to Ngā Mana Whenua o Tāmaki Makaurau and to the 'common benefit' principle.

The spiritual, ancestral, cultural, customary and historical significance

40. I have discussed the significance of the Tūpuna Maunga to Mana Whenua from a spiritual, ancestral, cultural, customary, and historical world view. This underscores the importance of the Tūpuna Maunga Authority acting to care for and restore the wellbeing of the Tūpuna Maunga.
41. A key principle for the Mana Whenua world view is to see the Tūpuna Maunga returned to a state of indigenous vegetation.
42. For Mana Whenua, the return to indigenous vegetation is an important part of the journey of reconnection with the Tūpuna Maunga. All of our histories, all of our matauranga (knowledge) and all of our connections with the spiritual and temporal worlds of the Tūpuna Maunga revolve around native flora and fauna. They are imprinted on the very names of the Maunga - Maungawhau and Maungakiekie (in reference to the native whau tree and kiekie plant) and Matukutūruru (in reference to the native owl) are a few examples. Returning the Tūpuna Maunga to a state of indigenous vegetation reflects the Māori worldview that the vegetation that originally cloaked these significant Maunga should be restored. That is fundamental to our identity.
43. Mana Whenua understand that such restoration is not possible in an absolute sense. For example, areas of the historical landform of Ōwairaka / Te Ahi-kā-a-Rakataura that are not administered by the Tūpuna Maunga Authority (eg, Watercare land and private residential properties) contain exotic vegetation. That underscores the importance of the restoration programme for that part of the Maunga that is administered by the Authority.
44. I am aware that some individuals of mataawaka (non-Mana Whenua) descent have made public statements claiming that the restoration programme for Ōwairaka / Te Ahi-kā-a-Rakataura, which includes the removal of 345 exotic trees, will harm the mauri of the Maunga. Moreover, that the removal of any exotic tree will also be harmful.
45. That is not the world view of Mana Whenua for Ōwairaka / Te Ahi-kā-a-Rakataura who fully support the programme. To state the obvious, historically there were no exotic trees on Ōwairaka / Te Ahi-kā-a-Rakataura. Also, the

programme will see 345 trees removed (182 are pest species and a large number of the others pose a risk to health and safety and the archaeological fabric of the Maunga through their invasive root structure), and 13,000 native plantings, 2,700 of which have already been planted. The outcome of the programme will materially enhance the mauri of Ōwairaka / Te Ahi-kā-a-Rakataura. Finally, to apply the 'logic' of the claims to harming mauri, any trees with Dutch Elms disease or Kauri dieback or one that is close to toppling over could never be removed.

46. There is another historical factor relevant in this context. Many of the Tūpuna Maunga functioned as fortified Pa. To construct these large-scale defended fortifications, land was cleared of vegetation, trees were felled to construct extensive palisades and extensive earthworks were made to construct defensive terraces. Importantly, before any of these types of works were undertaken, the appropriate spiritual rites were conducted. Just as occurs today with the work of the Tūpuna Maunga Authority, for example as discussed by Mr Turoa.
47. Another aspect of that cultural connection is the cultural landscape including 'viewshafts' (the views to and from the Tūpuna Maunga across various points in Tāmaki).
48. While the importance of the Tūpuna Maunga to Mana Whenua is not their scenic attributes, the visual connection with the Tūpuna Maunga is fundamental. For example, when kaikorero (tribal speakers on formal occasions) pay homage to the ancestral Maunga, they do it by turning to the Maunga and personally addressing the taonga and ancestor. So too, Mana Whenua reaffirm their identity daily by visually taking their cultural bearings from the Maunga. That is very much the case for me.
49. Sadly, this connection and relationship has been eroding since the nineteenth century with development on and around the Tūpuna Maunga resulting in some significant degradation of the Maunga as well as the viewshafts.
50. This is reflected in the Integrated Management Plan¹⁶ approved by the Tūpuna Maunga Authority under the "Takotoranga Whenua / Landscape Value" which reflects the importance of views to and from the Tūpuna

¹⁶ Attached to affidavit of Ms Bell as "JB1".

Maunga for Mana Whenua and all Aucklanders. The IMP includes the following statement in relation to that value:¹⁷

“The significance of the Tūpuna Maunga to mana whenua and all Aucklanders creates an opportunity to ensure the protection and enhancement of the physical and visual integrity of these natural features in the surrounding urban environment. Their significance includes the distinctive and impressive earthworks such as terracing, rua (storage pits), and defences, which are characteristic of pā on the maunga. These reflect the extent and nature of past use and occupation of the Tūpuna Maunga by mana whenua, and are of exceptional archaeological significance both nationally and internationally.”

51. The Tūpuna Maunga Authority has been active in the protection of viewshafts to the Tūpuna Maunga. The Authority has actively participated in the Auckland Unitary Plan (the combined Resource Management Act policy statement and plan for the Auckland region) processes to protect the viewshafts through making submissions and appearing in the hearings. The viewshafts are formally recognised and protected in the Auckland Unitary Plan.
52. More recently, the Tūpuna Maunga Authority commenced declaratory proceedings in the Environment Court in relation to the protection of those viewshafts, and those proceedings have settled with an ongoing programme of work agreed to ensure the continued protection of the viewshafts.
53. Again, for Mana Whenua, the protection of the viewshafts is a critical part of the journey of reconnection with the Tūpuna Maunga, and that is reflected in the work of the Tūpuna Maunga Authority and the proposals for Ōwairaka/ Te Ahi-kā-a-Rakataura.

Tūpuna Maunga Authority structure/architecture

54. The Collective Redress Act provides a unique structure for the governance and management of the Tūpuna Maunga. This structure was carefully designed and negotiated through the Treaty settlement negotiations that led to the Tūpuna Maunga arrangements reflected in that Act.
55. By way of summary:
 - (a) the Tūpuna Maunga were vested in Mana Whenua;
 - (b) the Tūpuna Maunga Authority was established as a co-governance authority, comprising half Mana Whenua and half Auckland Council

¹⁷ IMP at page 65.

- representatives. The Authority provides the governance role for the Tūpuna Maunga;
- (c) the Tūpuna Maunga remain as reserves under the Reserves Act with, for the time being, their existing reserve classifications;
 - (d) the Tūpuna Maunga Authority is the 'administering body' of the reserves under the Reserves Act;
 - (e) the Tūpuna Maunga Authority prepares and approves an Integrated Management Plan – this is the key document to set the strategic direction for the governance and management of all the Tūpuna Maunga, through a publicly notified process;
 - (f) the operational management of the Tūpuna Maunga is undertaken by Auckland Council, in accordance with the Annual Operational Plan;
 - (g) in relation to the Annual Operational Plan:
 - (i) the Annual Operational Plan is agreed in draft by the Tūpuna Maunga Authority and the Auckland Council;
 - (ii) the Annual Operational Plan is then incorporated (in summary form) in Council's draft annual plan which is subject to a public submission process;
 - (iii) the Tūpuna Maunga Authority and Auckland Council together hear submissions on that part of the draft annual plan that relates to the Tūpuna Maunga; and
 - (iv) the Tūpuna Maunga and Auckland Council together agree and finalise the Annual Operational Plan (and a summary is included in Council's approved annual plan); and
 - (h) Auckland Council then undertakes the operational management of the Tūpuna Maunga in accordance with the Annual Operational Plan and any delegations from the Tūpuna Maunga Authority.

Tūpuna Maunga Authority activities

56. Important steps have already been made by the Tūpuna Maunga Authority towards the long-term intergenerational vision for the restoration of the Tūpuna Maunga, for example:

- (a) annual Love Your Maunga days across the Tūpuna Maunga that enable the people of Tāmaki Makaurau to connect with their Maunga while enjoying warm entertainment;
- (b) increasing community involvement through a volunteer framework across the Tūpuna Maunga where Tūpuna Maunga Authority management work closely with community groups to protect the health and well-being of the Maunga;
- (c) approving public events on the Tūpuna Maunga, including those relating to Matariki, Te Reo Māori, Manu Aute, Māori sports and lifestyle, mana whenua hikoi, educational activities, school sports, fun runs, art installations, concerts, dance, picnics, movie screenings, weddings and Christmas and Easter events;
- (d) declaring the Tūpuna Maunga smoke and alcohol free spaces;
- (e) implementing a major programme of restoring native vegetation and habitat for native wildlife while protecting the culturally and historically significant fabric of the Tūpuna Maunga, including initiating the planting of 74,000 native species across the Maunga (involving schools and local communities);
- (f) planting of trees on the tihi (summit) of Maungakiekie/One Tree Hill;
- (g) significant weed and pest removals;
- (h) removing stock from the Tūpuna Maunga given the health and safety risks and the damage caused to the archaeological fabric of the Maunga;
- (i) implementing a major programme of track upgrades across the Tūpuna Maunga;
- (j) pedestrianisation of the tihi of all the Tūpuna Maunga that have road access to the summits;
- (k) implementing a traffic management programme to ensure fair access by people to the Tūpuna Maunga given their popularity;
- (l) implementing a signage programme across the Tūpuna Maunga; and
- (m) implementing a market rental regime for Tūpuna Maunga recognising the privilege for lessees to occupy space on Maunga.

57. I exhibit and mark “**PM2**” a paper entitled “Maunga Authority: Term Highlights” which provides a high-level summary of the Authority’s activities and was presented at the Authority’s Hui 50 (25 September 2019).

INTEGRATED MANAGEMENT PLAN, STRATEGIES, OPERATIONAL PLANS

Integrated management plan

58. The key early focus for the Tūpuna Maunga Authority after its establishment in late 2014 was to prepare and approve an Integrated Management Plan (“**IMP**”) for all the Tūpuna Maunga. This is the key strategic document that guides the Authority and the operational work of Auckland Council (discussed further below).
59. Through the IMP, the Tūpuna Maunga Authority has established a set of values for the Tūpuna Maunga which are identified in the affidavit of Ms Bell. A key role for the Tūpuna Maunga Authority is to ensure these values are recognised and provided for.
60. Section 58 of the Tāmaki Collective Redress Act requires the Tūpuna Maunga Authority to prepare and approve the IMP for the Tūpuna Maunga. The IMP performs the role of a ‘reserve management plan’ under the Reserves Act, and the IMP is prepared in accordance with the process set out in section 41 of the Reserves Act (which involves a public engagement and submission process).
61. The IMP is a higher level ‘integrated’ management plan as it covers all the Tūpuna Maunga, rather than the historic approach of preparing one plan for each individual reserve.
62. The process for the preparation and approval of the IMP is covered in detail in the affidavit of Ms Bell, and the IMP is attached to that affidavit.
63. As Ms Bell notes, the IMP involved an extensive public process, including (by way of summary):
- (a) an initial public ‘notice of intention’ to prepare the IMP, inviting interested persons or groups to provide suggestions on what should be addressed in the IMP – this was prior to the actual preparation of the first draft IMP;
 - (b) specific initial engagements with a range of parties including Mana Whenua, Local Boards, and a range of interest groups;

- (c) the development of the draft IMP;
 - (d) the public release of an 'informal' version of the draft IMP for public comment and specific engagement on that informal draft IMP (this is not a statutory requirement but is considered best practice in terms of public participation);
 - (e) the preparation of the formal 'proposed IMP', the public notification of that proposed IMP and a period for submissions to be made, followed by the opportunity for submitters to be heard on those submissions; and
 - (f) hearings and final decisions and unanimous approval of the IMP by the Tūpuna Maunga Authority.
64. As Ms Bell notes, there were several opportunities for engagement in the IMP process and there was a very positive level of engagement from the public and interested parties. One example of that positive engagement is referred to in the affidavit of Ms Barton from the Friends of Maungawhau.
65. As Ms Bell also notes, the IMP contains several 'values' and 'pathways' that guide decision-making in relation to vegetation management on the Tūpuna Maunga.
66. The Tūpuna Maunga Authority adopted an innovative approach to the IMP. Rather than focus on the 'rulebook' approach to a reserve management plan, the Authority focussed on an IMP that would articulate a strategic vision based on values and pathways.
67. As noted in the IMP, the 'values' weave together and give expression to Mana Whenua and other world views, and the diverse connections and histories in a manner that complements and creates a richness to the relationship all peoples have with the Tūpuna Maunga.¹⁸
68. The 'pathways' in the IMP elaborate on the values, and signal a need for change in the approach to the integrated care and management of the Tūpuna Maunga as taonga and wāhi tapu to Mana Whenua and the people of Auckland.

¹⁸ IMP at page 54.

69. This new approach to integrated management planning by the Tūpuna Maunga Authority was recognised by the Resource Management Law Association through the national documentation award in 2016.
70. Examples of the values and pathways in the IMP that are relevant to these proceedings are set out below.

Takotoranga Whenua / Landscape Value

71. The value of 'Takotoranga Whenua / Landscape' (section 8.7 of the IMP) and its associated pathway of 'Active Restoration and Enhancement of the Natural Features of the Maunga' sets out the intention to:
- (a) increase the biodiversity, structural diversity and native habitat values of the Tūpuna Maunga and their hinterland by enhancing plant health, soil health, native food resources and habitat connectivity through the development and implementation of an Ecological Restoration Strategy (page 67, bullet point 2); and
 - (b) ensure planting and other landscape features are compatible with the protection of the natural and cultural features of the maunga (page 67, bullet point 3).

Mauri Punaha Hauropi / Ecology and Biodiversity Value

72. The value of 'Mauri Punaha Hauropi / Ecology and Biodiversity' (section 8.8 of the IMP) and associated pathways of 'Maunga Tū Ora, Maunga Tū Makaurau Ora / if the Maunga are well, Auckland is well' and 'protect and restore the biodiversity of the Tūpuna Maunga'. Applicable guidance within each pathway includes:
- (a) rekindle Mana Whenua connections, such as planting of traditionally used plants, with the ecological and biodiversity values of the Tūpuna Maunga (page 70, bullet point 3);
 - (b) restore suitable areas of the Tūpuna Maunga with indigenous ecosystems. Decisions on location, plant choice, and staging would draw on traditional and scientific knowledge (page 71, bullet point 1); and
 - (c) removal of invasive plant and animal pests (page 71, bullet point 4).

73. Section 9 of the IMP deals with delivering the values and pathways and provided direction on the guidelines and strategies that were prepared to give effect to these. This section sets the direction for the subsequent Tūpuna Maunga Strategies. The following direction is given in relation to vegetation management:

- (a) the Design Guideline and Recreation Strategy must ensure, amongst other considerations, "... areas of planting and facilities are appropriately located, designed (culturally based) and constructed to complement the landform, nature of surroundings, and reduce visual distractions." (reference 9.13.5 and 9.15.11);
- (b) the Biodiversity Strategy must as a minimum address:
 - (i) the protection and enhancement of indigenous species including threatened plant and animal species already present on the Tūpuna Maunga (9.19.1);
 - (ii) replanting and restoring the indigenous biodiversity of the Tūpuna Maunga (9.19.2);
 - (iii) replanting and restoring traditional indigenous mana whenua flora and fauna (9.19.3);
 - (iv) a planting regime with plant choice based on use of appropriate and representative species (9.19.6); and
 - (v) explore native grassland establishment where appropriate (9.19.9).

74. Finally, the IMP sets out the following mandatory considerations that must be addressed in the preparation and development of Individual Tūpuna Maunga Plans with respect to vegetation management:

- (a) manage vegetation to protect cultural features and visitor safety (9.26.10);
- (b) native planting and ecological restoration and enhancement (9.26.22); and
- (c) proactively manage plant pests and inappropriate exotic vegetation (9.26.23).

75. For the Authority, the IMP clearly signals the process of revegetation for the Tūpuna Maunga including the removal of exotic trees. The Authority's expectation was that this direction would be implemented through the Annual Operational Plan process, across each of the Tūpuna Maunga in turn, and in the short to medium term. The IMP is intentionally and necessarily a high-level document (given that it covers 15 Maunga) that is intended to set out strategic direction on matters such as native planting and ecological restoration. It is not a document that deals with the operational details of how the IMP will be implemented – that is the role of the Annual Operational Plan and the operational processes (discussed below).
76. The IMP must also comply with the requirements of section 59 of the Tāmaki Collective Redress Act which requires that provision is made for Mana Whenua to undertake cultural activities. This is a unique approach to providing for Mana Whenua cultural activities on reserves. Again, this reflects the intention that Mana Whenua will be able to reconnect with the Tūpuna Maunga by carrying out cultural activities without the usual restrictions provided for by legislation such as the Reserves Act.
77. The IMP sets the strategic frame for the ongoing operational management and projects on the Tūpuna Maunga. The mechanism for the operational projects is the Annual Operational Plan which I discuss further below.

The Maunga strategies

78. Ms Bell also discusses the process for the Tūpuna Maunga Strategies.
79. As noted, the IMP sets out a series of high-level values and pathways that collectively establish the future decision-making framework for the Tūpuna Maunga.
80. The IMP also provided for the preparation of overarching strategies and guidelines for the protection, restoration, enhancement, open access and appropriate activities to be applied across the Tūpuna Maunga. These are not a statutory requirement (as is the case for the IMP) - the IMP identifies that the planning for the Tūpuna Maunga will be undertaken in a staged and sequenced manner, including through the Tūpuna Maunga Strategies.
81. The Tūpuna Maunga Strategies were unanimously adopted by the Tūpuna Maunga at its Hui 50 on 25 September 2019. There are six

overarching strategies to guide decision-making in relation to education; design; biodiversity; biosecurity; recreation; and commercial activities along with a monitoring strategy for the Maunga.

82. The strategies apply across the 15 Tūpuna Maunga and give effect to the high-level values and pathways of the IMP.
83. The next step will be Tūpuna Maunga plans. Again, these are not a statutory requirement - they are intended to provide ongoing specific guidance over time. Importantly, strategic and operational decisions continue in the meantime and during the processes of preparing these non-statutory strategies and plans.
84. In summary:
 - (a) the IMP sets the higher-level strategic direction for the governance and management of all the Tūpuna Maunga;
 - (b) the values and pathways in the IMP were developed and further informed through the (non-statutory) Tūpuna Maunga Strategies; and
 - (c) the operational management of the Tūpuna Maunga is undertaken by Auckland Council, in accordance with the direction of the Tūpuna Maunga Authority and the agreed Annual Operational Plan.

ŌWAIRAKA / TE AHI-KĀ-A-RAKATAURA RESTORATION PROJECT

85. As noted, the IMP provides the strategic direction for the ecological restoration of the Tūpuna Maunga. The IMP sets the mandate for the implementation of those IMP directives through the Annual Operational Plan process.
86. Section 60 of the Collective Redress Act provides that for each financial year, the Tūpuna Maunga Authority and Auckland Council must agree an 'Annual Operational Plan' to provide the framework in which the Council will carry out its responsibility to undertake the routine management of the Tūpuna Maunga. That responsibility for the Auckland Council is set out in section 61 of the Tāmaki Collective Redress Act.
87. There is also a document that has been adopted by the Tūpuna Maunga Authority entitled "Operating Procedures and Delegations for the Routine Management of the Maunga and Administered Lands". I exhibit and mark that document "**PM3**".

88. That delegation document provides specific delegations to the Council in relation to the various matters such as the 'maintenance of vegetation and structure trees'. The scope of the delegation confirms that it relates to matters of 'maintenance', such as general maintenance and care of trees; removal of dead and dying trees; and 'dead wooding' around high use areas.¹⁹ That document does not cover larger revegetation projects such as the Ōwairaka/Te Ahi-kā-a-Rakataura project, which is dealt with as a 'capital project' in the annual operational plan.
89. The ecological restoration proposal for Ōwairaka / Te Ahi-kā-a-Rakataura is part of a broader programme being undertaken across the Tūpuna Maunga. For example:
- (a) 180 exotic trees were removed at Maungarei;
 - (b) 150 exotic trees were removed at Mangere Mountain; and
 - (c) 165 exotic trees were removed at Ōhūiarangi.
90. It is also planned that ~74,000 native trees will be planted across the Tūpuna Maunga by 2021 (8,260 of which have already been planted).
91. As Mr Turoa explains in his affidavit, this ecological restoration proposal for Ōwairaka / Te Ahi-kā-a-Rakataura was included in the draft Annual Operational Plan for the year 2018/2019.
92. On 16 October 2017, at Hui 30 of the Tūpuna Maunga Authority, the draft Annual Operational Plan for 2018/2019 was part of the Agenda for discussion. I exhibit and mark "PM4" a copy of the relevant pages from that Agenda²⁰ and the Minutes for Hui 30.
93. The paper on the draft Annual Operational Plan confirms that feedback from the Authority on the matters to be addressed in that plan was also sought in Hui 26, Hui 27, Hui 28 and Hui 29.²¹
94. The Agenda for Hui 30 sets out the draft Annual Operational Plan for 2018/2019, together with a summary of that plan. That 'summary' is included as part of the Council's annual plan which is subject to public consultation each year.²²

¹⁹ At pages 10-11.

²⁰ Pages 1-100.

²¹ Page 9 of the Agenda for Hui 30, 16 October 2017.

²² Commencing on pages 12/93 of the Agenda for Hui 30, 16 October 2017.

95. The draft Annual Operational Plan explains the approach to operational management as follows:²³

“For each financial year the Tūpuna Maunga Authority and Auckland Council (council) must agree an operational plan. The plan outlines how council will carry out the routine maintenance of the Tūpuna Maunga (ancestral mountains) and administered lands under the direction of the Tūpuna Maunga Authority. This is a requirement under section 60 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 (the Collective Redress Act).

The operational plan outlines the work programme for the financial year, which comprises of a number of projects at a network and individual maunga level. Importantly, the operational plan sets out how these individual projects contribute to delivery of the Tūpuna Maunga Authority’s objectives and vision for the Tūpuna Maunga by linking them to one or more of the Tūpuna Maunga Values in the Integrated Management Plan.

This Operational Plan covers the financial years 2018/19, 2019/20 and 2020/21 in detail. Network-wide budgets are shown for a number of programmes. Once the guidelines and strategies and individual maunga plans have been developed, these will be able to be further refined to show spend on individual maunga.

This Operational Plan also includes a ten year work programme overview and an indicative funding envelope for the next 7 years. This information will form the basis of the investment plan that will be incorporated into the draft Auckland Council 10 Year Budget (Long Term Plan) 2018-28.”

96. The draft Annual Operational Plan further states:²⁴

“Strategic framework: Tūpuna Maunga Values

In its Integrated Management Plan for the Tūpuna Maunga the Tūpuna Maunga Authority has articulated a set of values of the Tūpuna Maunga. The values promote the statutory purpose of the Tūpuna Maunga under section 109 of the Collective Redress Act, where in exercising its powers and functions the Authority must have regard to the spiritual, ancestral, cultural, customary and historical significance of the Tūpuna Maunga to Ngā Mana Whenua.

The values provide a strategic framework to guide the Tūpuna Maunga Authority in making any decision about the Tūpuna Maunga.

The values weave together and give expression to mana whenua and other world views, and the connections and histories in a manner that highlights the way in which these views complement each other and create a richness to the relationship people have with the Tūpuna Maunga and multiple ways in which these relationships are thought of and expressed.

The values are as follows:

...”

97. The indigenous revegetation projects were noted under the ‘healing’ heading under “Work Programme Overview”:²⁵

²³ Page 13 of the Agenda for Hui 30, 16 October 2017.

²⁴ Page 17 of the Agenda for Hui 30, 16 October 2017.

²⁵ Page 19-20 of the Agenda for Hui 30, 16 October 2017.

“In addition to expressing the objectives and vision for the Tūpuna Maunga, the values are the key driver of the Tūpuna Maunga work programme (see Table 1).

Priority programmes and projects over the first 3 years include:

Policy and Management

- Completion of several key strategy documents to deliver on the values and pathways outlined in the Tūpuna Maunga Integrated Management Plan

- Progressing the transfer of Maungauika / North Head administration from the Department of Conservation to Auckland Council, and transfer of land contiguous to other Tūpuna Maunga

Healing

- Protection and restoration of the tihi (summits) through restriction of vehicle access to the tihi and significant track and viewing platform developments

- Protection and restoration of historic kumara pits, pā sites and wahi tapu

- **Restoration of indigenous native ecosystems; reintroducing native plants and attracting native animal species; removing inappropriate exotic trees and weeds**

- Pest control on all maunga in line with Auckland’s plan to be pest free by 2050

Development

- Cultural interpretation including distinct entrance ways, pou whenua, visitor information hubs and educational signage

- Exemplary visitor infrastructure including tracks, view platforms, toilets and play spaces

- Removal of redundant infrastructure (built structures, water reservoirs, impermeable surfaces, etc) and returning areas to open space

- Commercial activities to develop alternative revenue streams to invest in the protection and enhancement of the values of the Tūpuna Maunga

Connection

- Mana whenua living connection programme focusing on their role as kaitiaki (guardians), restoring customary practices and associated knowledge and enabling cultural activities

- Developing on-site staff to enhance the visitor experience and help protect and enhance the Tūpuna Maunga

- Volunteer programmes to connect communities to the Tūpuna Maunga

- Education programmes, community events and a bespoke website that celebrates the living connection that all communities have with the Tūpuna Maunga

All projects are designed to deliver outcomes for the 13 iwi/hapū of the Tāmaki Collective and all the people of Auckland, enhance the mana and

mauri of the Tūpuna Maunga and deliver improved open spaces across the eight local board areas.

They will also enable a compelling case in a future UNESCO World Heritage bid for the Tūpuna Maunga, which will contribute to a Māori identity that is Auckland's point of difference in the world."

(emphasis added)

98. Under Table 1 "Work Programme Overview 2018 to 2028".²⁶

"Biodiversity programme: restore the indigenous biodiversity of the Tūpuna Maunga through the ongoing management of existing threatened plants, replanting of suitable areas with indigenous ecosystems and the reintroduction or attraction of indigenous species such as microorganisms, invertebrates, lizards and birds."

99. The draft Annual Operational Plan then identifies the operational activities to be undertaken on each individual Tūpuna Maunga, including Ōwairaka / Te Ahi-kā-a-Rakataura which is dealt with from pages 59 to 62 of the Agenda for Hui 30.

100. On page 60, under the value Takotoranga / Landscape, the following 'project' is identified:²⁷

"Protection and restoration of integrity of the Tūpuna Maunga"

101. The description of the project in that table is as follows:

"Network-wide programme to remove vegetation and revegetate - actions and staging to be confirmed"

102. There is an "x" recorded against the 2018/2019 year for that Ōwairaka / Te Ahi-kā-a-Rakataura project, and the following note appears below the table:

"Note: X indicates that this is part of a network-programme shown on page 70 which will be assigned to individual maunga through project plans that are still to be finalised/developed."

103. The revegetation programme for Ōwairaka / Te Ahi-kā-a-Rakataura was therefore part of a broader 'network' programme that is covered from page 83 of the Agenda. The plan states:

"There are a number of programmes that require further project planning to determine how they will be applied to each maunga. Once this has occurred, the individual maunga sections will be updated at the next available opportunity."

104. At Hui 36 (28 May 2018), a paper on the progress of the draft Annual Operational Plan 2018/2019 was provided to the Tūpuna Maunga

²⁶ Page 21 to 23 of the Agenda for Hui 30, 16 October 2017.

²⁷ Row 5 of the table setting out the Capital Expenditure Programme for Ōwairaka – years 1-3.

Authority. I exhibit and mark “**PM5**” a copy of the relevant pages from the Agenda²⁸ and the Minutes for Hui 36.

105. The paper on the draft Annual Operational Plan 2018/2019:
- (a) provided an update on the process for considering submissions on the draft Annual Operational Plan (as part of Auckland Council’s annual plan process);
 - (b) proposed some minor amendments to the draft Annual Operational Plan; and
 - (c) recommended that the Tūpuna Maunga Authority adopt the Annual Operational Plan.
106. The Tūpuna Maunga Authority unanimously adopted the Annual Operational Plan 2018/2019 at Hui 36.
107. The Annual Operational Plan 2018/2019 was also unanimously adopted by the Auckland Council Governing Body at its meeting on 28 June 2018. I exhibit and mark “**PM6**” a copy of the relevant minutes.²⁹
108. As provided for in the Tāmaki Collective Redress Act, a summary of the Annual Operational Plan was then included in the Council’s annual plan.
109. There were a number of updates provided to the Authority on the revegetation project for Ōwairaka / Te Ahi-kā-a-Rakataura.
110. At Hui 42 (3 December 2018), the following quarterly update which I exhibit and mark “**PM7**”, was provided to the Authority in relation to Ōwairaka / Te Ahi-kā-a-Rakataura:³⁰

“Developed planting plan and tree removal methodology and impact assessments to inform the resource consent application.”

111. At Hui 44 (4 March 2019), the following quarterly update which I exhibit and mark “**PM8**”, was provided to the Authority in relation to Ōwairaka / Te Ahi-kā-a-Rakataura (in the ‘Key Highlights for the Quarter’ section):³¹

‘[Key highlights for the quarter]’

“Vegetation restoration programme Significant progress in the planning for Te Pane-o Mataaho/Te Ara Puera/Māngere Mountain

²⁸ Pages 1-97.

²⁹ At page 4.

³⁰ At page 109.

³¹ At page 27.

Ōhūiarangi/Pigeon Mountain, Ōtāhuhu/Mt Richmond, Ōwairaka/Te Ahi-Ka Rakataura/Mt Albert and Te Tātua-a-Riukiuta/Big King.”

112. The following was also noted in that quarterly update for Ōwairaka / Te Ahi-kā-a-Rakataura:

“Consenting for vegetation restoration”

113. At Hui 46 (6 May 2019), the following quarterly update which I exhibit and mark “**PM9**”, was provided to the Authority in relation to Ōwairaka / Te Ahi-kā-a-Rakataura (in the ‘Key Highlights for the Quarter’ section):³²

“Vegetation restoration programme

Maungarei/Mt Wellington stage 2 removals completed and removals on Te Pane-o-Mataaho/ Te Ara Pueru / Māngere Mountain initiated and largely completed

Finalised planning and ordering of plants for planting between May – August on Maungarei, Ōhūiarangi, Ōwairaka and Te Pane-o-Mataaho.”

114. The Ōwairaka / Te Ahi-kā-a-Rakataura project is also provided for in the Annual Operational Plan for 2019/2020.
115. The Ōwairaka / Te Ahi-kā-a-Rakataura ecological restoration project was progressed by Auckland Council as an operational matter in accordance with the Annual Operational Plan. Mr Turoa explains in his affidavit the process that was worked through to implement this ecological restoration project for Ōwairaka / Te Ahi-kā-a-Rakataura.
116. A key step was for the application for resource consent to be prepared and lodged with the Auckland Council. That process is covered in the affidavits of Mr Yates and Mr Turoa. The process included very careful consideration of the project and its impact by independent technical specialists covering a range of disciplines including archaeology, landscape, ecology, noise and tree removal methodology; expert peer reviews commissioned by Auckland Council; and a decision by an independent commissioner. As set out in the affidavit of Mr Beach, that process included an individual tree-by-tree analysis on Ōwairaka / Te Ahi-kā-a-Rakataura.
117. Mr Turoa and I had a number of discussions regarding the progress of this project, in between the updates to the Authority referred to above. The Ōwairaka / Te Ahi-kā-a-Rakataura project was also fully discussed by the Authority at its various workshops and meetings, including as part of the

³² At page 11.

quarterly updates referred to above. As a result of those updates and formal and informal discussions, the Tūpuna Maunga Authority has had a clear understanding of the operational approach being taken to the ecological restoration project by the Council. It has understood, and agreed, with the Council's approach to the timing and scope of the restoration work. The Authority remains in full support of the Ōwairaka / Te Ahi-kā-a-Rakataura project and the manner in which it is being implemented by Auckland Council.

RESPONSES TO COMMENTS BY THE APPLICANTS

118. I have read the affidavit of Anna Marie Radford and the matters she raises in relation to the protest group and the Tūpuna Maunga Authority.
119. While it appears those assertions are not relevant to the statement of claim, I can note:
- (a) the Tūpuna Maunga Authority is highly regarded for its engagement with the communities of the Tūpuna Maunga;
 - (b) the affidavit of Ms Bell provides analysis of the extensive engagement undertaken for the IMP and other documents;
 - (c) one example of that is provided in the affidavit of Ms Barton for Friends of Mangawhau, which reinforces the open and collaborative approach of the Tūpuna Maunga Authority;
 - (d) the Tūpuna Maunga Authority has been open to engaging on this issue, and a hui was organised for that specific purpose on 28 November 2019. One of the outcomes of that hui was the release of the Owairaka Accord (which I exhibit and mark "**PM10**"). As Ms Radford acknowledges, she elected not to attend that hui; and
 - (e) the Tūpuna Maunga Authority remains open to engagement with community members to discuss these issues.

RESERVES ACT

120. I note that these proceedings have raised issues under the Reserves Act.
121. I confirm that the Authority is well aware of the Reserves Act. As noted, the Reserves Act is a key statute for the Tūpuna Maunga Authority (along with the Tāmaki Collective Redress Act and other relevant legislation) and that is recorded in all Agenda for the Hui of the Authority.

122. The Authority is also aware that Ōwairaka / Te Ahi-kā-a-Rakataura is a recreation reserve under section 17 of the Reserves Act. In terms of section 42(2) of that Act, I confirm, for the reasons set out in this affidavit, that the Authority considers that the proposed tree removals at Ōwairaka / Te Ahi-kā-a-Rakataura are necessary for the proper management and maintenance of the reserve, for the management and preservation of other trees and bush and in the interests of the safety of persons. In terms of section 42(3), I confirm, for the reasons set out in this affidavit, that the Authority is also satisfied that the tree removals will be undertaken in a manner that will have a minimal impact on the Maunga and that an appropriate revegetation programme is in place.

CONCLUSIONS

123. In summary:

- (a) there is a deep and fundamental relationship between Mana Whenua and the Tūpuna Maunga and this has been recognised through the Tāmaki Collective Redress Act (as has the relationship for all the people of Auckland with the Tūpuna Maunga);
- (b) the context of the Tāmaki Collective Treaty settlement, the unique settlement arrangements and the Treaty principles is fundamental to understanding the statutory mandate and work of the Tūpuna Maunga Authority;
- (c) the Tāmaki Collective Redress Act provides clear roles for the Tūpuna Maunga Authority and Auckland Council in terms of the Authority setting the strategic direction through the IMP, and the Council carrying out operational management in accordance with the Annual Operational Plan (which implements the IMP);
- (d) the Tūpuna Maunga Authority has approached ecological restoration on Ōwairaka / Te Ahi-kā-a-Rakataura very carefully. That is reflected, for example, in the resource consent process, the extensive level of independent technical expert analysis and advice, the decisions of the independent RMA commissioner granting the consents on the basis of the conditions of consent and the very low level of potential adverse effect;

- (e) the implementation of the Ōwairaka / Te Ahi-kā-a- Rakataura ecological restoration project will be undertaken by Auckland Council in accordance with the Annual Operational Plan; and
- (f) the implementation of the Ōwairaka / Te Ahi-kā-a- Rakataura ecological restoration project has been reported back to the Tūpuna Maunga Authority at Hui on a regular basis and the Authority continues to support that project and the implementation of it by Auckland Council.

SWORN by **PAUL FRANCIS**

MAJUREY at)

This day of 2020)

before me:)

P F MAJUREY

A solicitor of the High Court of New Zealand