

IN THE DISTRICT COURT / I TE KŌTI Ā ROHE
ROTORUA / TE ROTORUA-NUI-A-KAHUMATAMOMOE

CIV-2024-063-000364

UNDER THE LOCAL GOVERNMENT ACT 2002

IN THE MATTER of an application for an injunction to restrain commission
of an offence under s 162

BETWEEN ROTORUA DISTRICT COUNCIL

Applicant

AND ROTOKAKAHI BOARD OF CONTROL

First Respondent

AND UNKNOWN PERSONS

Second Respondents

WITHOUT NOTICE APPLICATION FOR INJUNCTION RESTRAINING
COMMISSION OF OFFENCES (RENEWED AND AMENDED)

Dated: 1 October 2024

TOMPKINS | WAKE

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**WITHOUT NOTICE APPLICATION FOR INJUNCTION RESTRAINING
COMMISSION OF OFFENCES (RENEWED AND AMENDED)**

To the Registrar of the District Court at Rotorua

This document notifies you that –

1. The applicant, Rotorua District Council operating as Rotorua Lakes Council, applies for orders that:
 - (a) No person may stop, obstruct, or interfere with the works as defined in Schedule 1 to this application, whether directly or indirectly;
 - (b) No person may enter the work zone at any time during the construction period, both as defined in Schedule 1 to this application, without authorisation from Rotorua Lakes Council and/or its contractors in charge of any worksite;
 - (c) No person may stop or obstruct personnel, vehicles, or construction machinery authorised by Rotorua Lakes Council or its contractors from accessing the work zone;
 - (d) No person may park vehicles in areas identified by signage as no-parking areas as part of any traffic management plan in relation to the works at any time during the construction period;
 - (e) No person may erect or place any building, fence, or other obstacle of any kind on the road reserve forming part of the work zone at any time during the construction period; and
 - (f) Service of the above orders is to be effected by:
 - (i) using reasonable endeavours to display a copy of the orders at the boundaries of the work zone;
 - (ii) posting a copy of the orders on Rotorua Lakes Council's website and Facebook page;

- (iii) giving public notice of the orders in a newspaper circulating in the Rotorua District; and
- (iv) emailing a copy of the orders to solicitors for the Lake Rotokākahi Board of Control at the address for service provided in this proceeding.

2. The grounds on which the orders are sought are as follows:

- (a) Rotorua Lakes Council is the owner and occupier of Tarawera Road pursuant to sections 316 and 317 of the Local Government Act 1974.
- (b) Rotorua Lakes Council has authorised its contractor, Fulton Hogan Limited, to carry out wastewater works along Tarawera Road (as more particularly defined in Schedule 1).
- (c) Rotorua Lakes Council and its contractor are required to carry out the works safely by implementing traffic management measures (as more particularly defined in Schedule 1).
- (d) Between 29 January and 1 February 2024, and between 26 August and 28 August 2024, unknown persons negligently, wilfully or maliciously stopped, obstructed or interfered with the works in contravention of section 232 of the Local Government Act 2002.
- (e) There is a credible threat that, when works recommence, unknown persons will continue to stop, obstruct or interfere with the works.
- (f) The orders sought are not inconsistent with the New Zealand Bill of Rights Act 1990.

3. The application is made in reliance on:

- (a) Rules 7.16, 7.25 and 20.17 of the District Court Rules 2014.

- (b) Sections 162, 232 of the Local Government Act 2002 and section 353 of the Local Government Act 1974.
- (c) The judgment of Judge S R Clark made in this proceeding on 17 July 2024.
- (d) *Auckland Council v Occupiers of Aotea Square, Auckland Central* (2011) 9 HRNZ 339; *Wadsworth v Auckland City Council* [2013] NZHC 413; *Thames Coromandel District Council v Henare* [2011] DCR 460; *Tauranga City Council v Faulkner* [2016] NZHC 1440; *Stanton v Police* [2012] NZHC 70; *Police v Abbott* [2002] NZCA 451.
- (e) The affidavits of:
 - (i) Stavros Michael dated 10 May 2024;
 - (ii) Neil Vanner dated 9 May 2024;
 - (iii) Kenneth Robert McLeod dated 15 May 2024;
 - (iv) Connar Raimona dated 14 May 2024;
 - (v) Gerhardus Mostert dated 11 July 2024 and 27 September 2024;
 - (vi) Ross Dallaway dated 24 September 2024; and
 - (vii) Baden James Neylon dated 18 September 2024.

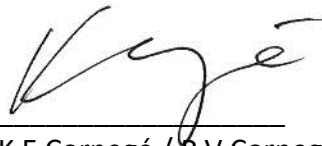
4. The application is made without notice to any other party on the following grounds:

- (a) that requiring the applicant to proceed on notice would cause undue delay or prejudice to the applicant; and
- (b) that the interests of justice require the application to be determined without serving notice of the application.

5. I certify that—

- (a) the grounds set out in paragraph 2 on which the application relies are made out; and
- (b) all reasonable inquiries and all reasonable steps have been made or taken to ensure that the application contains all relevant information, including any opposition or defence that might be relied on by any other party, or any facts that would support the position of any other party.

Dated: 1 October 2024



K E Cornegé / P V Cornegé
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SCHEDULE 1

1. The **works** are:
 - (a) the installation of the pipeline along Tarawera Road as part of Stage One of the Tarawera Wastewater Reticulation Scheme, including associated works such as drilling, valve assemblies, earthworks and site reinstatement; and
 - (b) associated traffic management measures including traffic signals, cones, security fencing, and lighting.

2. The **work zone** means:
 - (a) The section of Tarawera Road from Mead Road to the Blue and Green Lakes Lookout (as shown in Figure 1), including:
 - (i) any area being used by Rotorua Lakes Council's contractors and subcontractors as an active worksite from time to time (**worksite**);
 - (ii) any open traffic lane; and
 - (iii) the road reserve, to be identified by tape or otherwise at any location where the boundary of the road reserve is not the edge of Lake Rotokākahi.
 - (b) Fulton Hogan's construction yard on Spencer Road, Rotorua.

3. The **construction period** is the period starting from the date this order is made and ending on the day that is the works are completed.

Figure 1. Aerial photograph showing the approximate distance between The Blue and Green Lakes Lookout and Mead Road which is intended to be subject to the orders sought closing Tarawera Road.

