

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 s162

BETWEEN ROTORUA DISTRICT COUNCIL

Applicant

AND ROTOKAKAHI BOARD OF CONTROL

First Respondent

AND PERSONS UNKNOWN

Second Respondents

AFFIDAVIT OF BADEN JAMES NEYLON IN SUPPORT OF AN APPLICATION FOR
AN INJUNCTION

Affirmed: September 2024

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**AFFIDAVIT OF BADEN JAMES NEYLON IN SUPPORT OF AN APPLICATION FOR
AN INJUNCTION**

I, **BADEN JAMES NEYLON**, of Cambridge, operations manager, affirm -

1. I am employed as an operations manager by Universal Underground Ltd (**UUL**). UUL specialises in underground utility installation by way of directional drilling, pipe jacking, micro tunnelling and cable laying.
2. I have acted in my capacity as operations manager in relation to UUL's contribution to Stage One of the Tarawera Reticulation Scheme, which involves the installation of a reticulation pipeline along Tarawera Road.
3. The current work site is located on Tarawera Road next to Lake Rotokakāhi, where the last section of pipeline is being installed under one lane of Tarawera Road. One lane of Tarawera Road is closed for about 400 metres and has been fenced off with security fencing along the edge of the closed lane (the **work site**).
4. UUL was sub-contracted by civil engineering company Fulton Hogan (**FH**) to conduct drilling operations along Tarawera Road. UUL was engaged to conduct 24 hour works over the week of the 26 to 30 August 2024 in order to expedite the timetable of the works.

Incidents on 26 August 2024

5. On 26 August 2024 at around 5.30pm, I attended the work site situated adjacent to the boat ramp used to access Lake Rotokakāhi along Tarawera Road.
6. I was aware of the protests being held against the installation of wastewater infrastructure and had been briefed by FH staff as to the security steps taken to protect the site from protestor interference. These steps included a policy rule instructing all workers to let on-site security engage with and deescalate any protestors where necessary.

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7. Between 6:00pm and 7:00pm, UUL staff had fully established the site and were ready to begin drilling operations. It was around this time that protestors began approaching the work site.
8. At around 6:30pm, a group of 10 to 15 protestors arrived at the work site. For some time, these protestors remained behind the security fencing at the edge of the work site and were protesting in a manner that was unobtrusive to the works.
9. At around 7:00pm, UUL staff began breaking ground using a digger. At this point, the protest action escalated, and I witnessed the following:
 - (a) As a UUL staff member was operating a digger on site, protestors began shining torches and spotlights into the operator's eyes. This presented a risk of injury to the operator and to those workers nearby on site.
 - (b) At around 7:30pm, a group of around 10 protestors breached the security fence surrounding the work site and began to interfere with spotlights used to illuminate the work area. The protestors pulled out plugs and hit the spotlights' kill switches. This continued until the works were forced to cease and created a serious risk to workers, as the work site was often without light.
 - (c) Protestors outside of the work site also began to lean on and kick over the security fences. This meant there was a risk of the fencing being pushed or falling onto vehicles or other equipment.
 - (d) At around 9:00pm, a person (who I understood to be a kaumatua of the protest group) accompanied by 10 to 15 protestors breached the work site and demanded to speak with whoever was in charge. The kaumatua said that we were trespassing on their land and demanded to know what authority we had to conduct the works. The other protestors were recording this conversation on their cell phones. I did not answer.

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- (e) Further protestors then arrived and breached the boundary of the work site. By this stage, the security staff on site were outnumbered and a large group of protestors were hurling verbal abuse and threats at myself and the other UUL workers present.
10. From this point, protestor numbers increased (in my estimate to around 60 people). I witnessed many of these protestors enter the work site through gaps in the security fence that UUL had been utilising to access the work site to set up our drilling equipment.
11. The protestors would wait for and follow myself and other UUL staff as we exited the worksite to retrieve tools or otherwise from our vehicles. On one of these trips, as I was walking from the worksite to my vehicle, a protestor said, in a manner that was intentionally loud enough for me to hear, that he "*felt like grabbing his shotgun and blasting them [us]*" (i.e. us, the UUL workers).
12. I also overheard various threats of violence, including someone saying that something bad was going to happen to me if we continued the works and that over one hundred people were on their way to the site, and that we would be in deep trouble when they arrived.
13. Protestors within the work site then began intentionally standing in the way of UUL vehicles necessary to complete the drilling operation. At this point, myself and other UUL workers were unable to leave the work site as we had been boxed in by the protestors. We attempted to call for help, however the lack of reception along Tarawera Road blocked our messages and calls from being received.

Response

14. UUL ceased work at around 10:00pm because the protestors continued to enter the work site and it was deemed too unsafe for us to continue to operate. In order to leave the site, I was forced to explain to protestors

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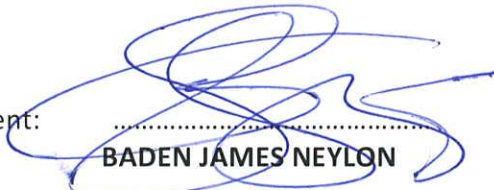
that UUL were leaving and ask that they allow myself and my team to exit the site, which they did.

Conclusion

15. Given the severity of the events that I have described in this affidavit, I do not have confidence that UUL workers and equipment will be safe on site as long as the protests continue. For this reason, I think that an injunction is necessary for UUL to return to site and complete the drilling works.

16. I have read the redacted incident reports annexed to the affidavit of Ross Dallaway made in support of this application and confirm that, where I have knowledge of the events recorded in those reports, they accurately record what I experienced on 26 August 2024.

Signature of Deponent:


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BADEN JAMES NEYLON

Affirmed by the abovenamed **BADEN JAMES NEYLON** at
this 18th day of September 2024 before me:



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A Solicitor of the High Court of New Zealand

Vernon Peter Woodhams
Solicitor
Cambridge