

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

CIV-

UNDER THE LOCAL GOVERNMENT ACT 2002

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

BETWEEN ROTORUA DISTRICT COUNCIL a territorial authority
under the Local Government Act 2002 and having its
principal place of business at 1061 Haupapa Street,
Rotorua

Applicant

AND PERSONS UNKNOWN

Respondents

**APPLICATION FOR INJUNCTION RESTRAINING COMMISSION OF AN OFFENCE
UNDER SECTION 162**

Dated: 16 May 2024

TOMPKINS | WAKE

Kate Cornege (Kate.Cornege@tompkinswake.co.nz)
Wendy Embling (Wendy.Embling@tompkinswake.co.nz)

Westpac House
Level 8
430 Victoria Street
PO Box 258
DX GP 20031
Hamilton 3240
New Zealand
Ph: (07) 839 4771
tompkinswake.com

**APPLICATION FOR INJUNCTION RESTRAINING COMMISSION OF AN OFFENCE
UNDER SECTION 162**

To the Registrar of the District Court at Rotorua
and
To the Respondents

This document notifies you that -

1. The applicant, Rotorua District Council operating as Rotorua Lakes Council (**RLC**), applies for orders that:
 - (a) the respondents are restrained from stopping, obstructing, or interfering with the works as defined in Schedule 1 to this application, whether directly or indirectly;
 - (b) the respondents are restrained from entering the work zone, as defined in Schedule 1 to this application, without authorisation from RLC and/or the person in charge of the worksite;
 - (c) the respondents are restrained from stopping or obstructing vehicles authorised by RLC or its contractors from accessing the work zone; and
 - (d) service of the above orders is to be effected on the respondents by:
 - (i) displaying a copy of the orders at each location that, from time to time, forms part of the work zone; and
 - (ii) posting a copy of the orders on RLC'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 the subcommittee of the Lake Rotokākahi Control Board (at

jemma.hamiorasmith@gmail.com;

wallylee72@gmail.com; petermoke.pm@gmail.com).

2. The grounds on which the orders are sought are as follows:
 - (a) RLC is the owner and occupier of Tarawera Road pursuant to sections 316 and 317 of the Local Government Act 1974.
 - (b) RLC has authorised its contractor, Fulton Hogan Limited, to carry out wastewater works along Tarawera Road (as more particularly defined in Schedule 1, the '**works**').
 - (c) The works form part of the Tarawera Wastewater Reticulation Scheme which was the subject of public consultation and was approved by RLC in June 2021.
 - (d) Between 29 January and 1 February 2024 unknown respondents negligently, wilfully or maliciously stopped, obstructed or interfered with the works in contravention of section 232 of the Local Government Act 2002.
 - (e) RLC has a reasonable expectation that, when works commence again, the respondents and/or other 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) Sections 162 and 232 of the Local Government Act 2002;
 - (b) Rule 20.13(3) of the District Court Rules 2014;
 - (c) *Auckland Council v Occupiers of Aotea Square, Auckland Central* DC Auckland CIV-2011-404-2492 21 December 2011 and *Thames-Coromandel District Council v Henare* [2011] DCR 460.

(d) 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; and
- (iv) Connar Raimona dated 14 May 2024.

Dated: 16 May 2024



K E Cornegé
Counsel for the applicant

SCHEDULE 1

1. The **works** are 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, earthworks and site reinstatement.
2. The **work zone** means:
 - (a) The area of Tarawera Road that is, from time to time, being used by RLC's contractors and subcontractors to undertake the works (**worksite**) as identified by temporary traffic management delineators **plus** a 1m buffer zone around the perimeter of the worksite.
 - (b) Fulton Hogan's construction yard on Spencer Road, Rotorua.