

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TAMAKI MAKAUROA**

Decision [2024] NZEnvC 095

IN THE MATTER OF

an appeal under s 325 of the Resource
Management Act 1991

BETWEEN

NEW PLYMOUTH PISTOL CLUB

(ENV-2022-AKL-000182)

Appellant

AND

NEW PLYMOUTH DISTRICT
COUNCIL

Respondent

Court: Environment Judge MJL Dickey sitting alone under s 279 of the
Act

Hearing: On the papers

Last case event: 28 March 2024

Date of Decision: 30 April 2024

Date of Issue: 30 April 2024

**DECISION OF THE ENVIRONMENT COURT ON APPLICATION
FOR ACCESS TO COURT DOCUMENTS BY NON-PARTIES**

A: The application for access to Court documents is granted.

B: The following documents are to be released to Mr Bryan Phillips:

(a) Notice of appeal dated 9 September 2022;

(b) Abatement notice dated 18 August 2022; and



(c) Amended abatement notice dated 5 December 2022.

REASONS

Introduction

[1] This matter concerns an appeal against an abatement notice issued by the New Plymouth District Council (the **Council**) in relation to restrictions on the shooting of firearms at 228 De Havilland Drive, Bell Block, New Plymouth

[2] On 27 March 2024, Mr Phillips filed an application for access to “*all documents and reports which have been presented by both parties... including the report required from the New Plymouth Pistol Club due on 29 March 2024*”.¹ Mr Phillips advised that he is a neighbour of the appellant and that he has made a noise complaint to the Council in the past. He has made this request “*out of concern for transparency*”.

District Court (Access to Court Documents) Rules 2017

[3] Rule 8(1) of the District Court (Access to Court Documents) Rules 2017 stipulates that every person has the right to access the formal court record relating to a civil proceeding. The formal court record is defined by Rule 4 as documents kept in the registry of the court and include a register or index, a published list that gives notice of a hearing, a judgment, an order, or a minute of the court, including any record of the reasons given by a judicial officer.

[4] Where a person is not entitled to access a document relating to a proceeding as of right, Rule 11 provides the option to make a written request for access. Rule 11 has several procedural requirements, including that the applicant must detail the documents sought and the reasons and purpose for doing so.

[5] Once the parties to the proceeding have been provided the opportunity to respond, the Judge may then refuse the application, grant the request in whole or in part with or without conditions, or refer it to a Registrar to determine.²

¹ Application for Access to Court Documents by Bryan Phillips dated 27 March 2024.

² District Court (Access to Court Documents) Rules 2017, rule 11(7).

[6] When determining an application under Rule 11, the Judge must have regard to the provisions in Rules 12 to 14.

Parties' positions

[7] Mr Phillips' application was referred to the parties.

[8] By email dated 22 April 2024, the Council advised the Court that it had no objection to the request. No response was received from the appellant.

Consideration

[9] The notice of appeal forms part of the formal court record and will therefore be provided. The abatement notice and updated abatement notice to which the appeal relates form part of the appeal and will also be provided. The Registrar will provide general advice to Mr Phillips as to the current status of matters and next steps.

[10] Mr Phillips' application sought access to all documents and reports that have been provided to the Court. Having regard to Rule 13(a) as it relates to the balancing of matters to be considered prior to a substantive hearing, I am not minded to grant Mr Phillips' request in full pending resolution of the appeal. In the present circumstances, I consider that the orderly and fair administration of justice requires that access to documents be limited.

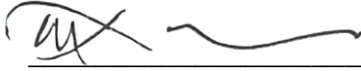
[11] The Court notes for completeness that no submissions and/or evidence have been filed in relation these proceedings as the matter has not been timetabled toward a substantive hearing.

Outcome

[12] The following documents are to be released to Mr Phillips:

- (a) Notice of appeal dated 9 September 2022;
- (b) Abatement notice dated 18 August 2022; and

(c) Amended abatement notice dated 5 December 2022.



MJL Dickey
Environment Judge

