

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH  
I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHĪ**

**Decision No. [2023] NZEnvC 237**

IN THE MATTER

of an appeal under s 120 of the  
Resource Management Act 1991

BETWEEN

FRIENDS OF CONICAL HILL  
INCORPORATED

(ENV-2022-CHC-000007)

Appellant

AND

HURUNUI DISTRICT COUNCIL

Respondent

AND

HANMER SPRINGS THERMAL  
POOLS AND SPA

Applicant

Court: Environment Judge L J Semple sitting alone under s 279 of  
the Act

Hearing: In chambers at Wellington

Last case event: 16 October 2023

Date of Decision: 2 November 2023

Date of Issue: 2 November 2023

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**DECISION OF THE ENVIRONMENT COURT  
CONFIDENTIALITY AND ACCESS TO COURT DOCUMENTS  
ORDERS**

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A: The Court makes the confidentiality orders set out in Appendix A.

B: Pursuant to the District Court (Access to Court Documents) Rules 2017, the

FRIENDS OF CONICAL HILL INC v HURUNUI DISTRICT COUNCIL



Court grants access to Mr D Williams of Newsroom to the legal submissions and evidence, subject to the amended confidentiality orders set out in Appendix A.

## REASONS

### Introduction

[1] The Applicant applied to amend the Court's confidentiality orders on 18 August 2023. The purpose of the application is to capture parts of Ms Whyte's evidence. The paragraphs the Applicant seeks to include refer to or quote herpetology evidence. The Applicant noted the Court had included such evidence in its orders previously. The Applicant also seeks to add Ms Whyte's Annexure A, which shows the location of lizard habitat, to the orders.

[2] The Court considered the application. I directed the Applicant to amend the order to refer to dates of evidence and submissions for all the documents referred to in the orders. I directed the Applicant to submit suggested orders. The Applicant has done so. It notes that the parties may need to seek further amended confidentiality orders to capture parts of legal submissions that may be presented in relation to the resumed hearing.

[3] I find the amendments are a logical extension to the orders already made by the Court. I will grant them.

### Orders

[4] Amended confidentiality orders are made, as set out in Appendix A. Mr D Williams of Newsroom will continue to have access to the legal submissions and evidence, subject to the amended orders.



L J Semple  
Environment Judge



## **Appendix A: Draft amended Confidentiality Orders**

A: Pursuant to ss 277(2), 279(1)(b) and 279(1)(e) of the Resource Management Act 1991 and Rule 6(b) of the District Court (Access to Court Documents) Rules 2017, the Environment Court orders the Herpetology Evidence may be disclosed on the following terms:

- (a) The Herpetology Evidence is:
  - (i) the briefs of evidence of Dr Mandy Tocher dated 21 October 2022 and Professor Shaun Ogilvie dated 16 September 2022 as they address herpetology;
  - (ii) the brief of evidence of Dr Marieke Lettink dated 21 October 2022;
  - (iii) the supplementary evidence of Dr Mandy Tocher dated 2 March 2023 and 18 August 2023, Dr Marieke Lettink dated 26 July 2023 and Professor Shaun Ogilvie and Professor Ann Brower dated 22 September 2023;
  - (iv) the joint witness statement(s) addressing herpetology dated 9 November 2022 and 13 October 2023;
  - (v) the court transcript of the evidence of Dr Mandy Tocher, Dr Marieke Lettink and Professor Ogilvie for the hearing between 27 February 2023 and 7 March 2023;
  - (vi) the court transcript of the evidence of Dr Mandy Tocher, Dr Marieke Lettink, Professor Ogilvie and Professor Ann Brower for the resumed hearing between 6 and 10 November 2023; and
  - (vii) paragraphs [24], [25], [26], [30], [32], [33], [56], [60], [77], [78] of applicant's legal submissions dated 27 February 2023;
  - (viii) paragraphs [2.5], [2.6], [2.37], [2.53], [2.54], [2.59], [2.65], [2.68], [2.71], [2.74], [2.76], [2.83] of the appellant's legal submissions dated 27 February 2023;

- (ix) paragraphs [22], [24]-[25] and [31]-[34] of the Council's legal submissions dated 27 February 2023;
  - (x) paragraphs [58]-[60], [62], [65]-[68], [94]-[95] and [98]-[100] of Ms Jane Whyte's evidence dated 21 October 2022;
  - (xi) paragraphs [8.35]-[8.53], [9.28], [9.31], [9.33], [9.56], [9.58], [9.60], [9.62], [9.65], [9.67]-[9.69], [11.5], [12.1] and [13.1] of Ms Kelsey Bewley's evidence dated 21 October 2022;
  - (xii) paragraphs [30], [64], [65.2], [95], [100], [102], [105], [114], [133], [138], [139.4], [139.5], [139.6], [157] of Ms Whyte's supplementary evidence dated 18 August 2023; and
  - (xiii) the Overall Landscape Plan (*OLP*), including the Stop Station Landscape Plan and the Top Station Landscape Plan, that is attached as Annexure A of Ms Whyte's supplementary evidence dated 18 August 2023.
- (b) for the avoidance of doubt, the Herpetology Evidence does not include:
- (i) paragraphs [22]-[25] and [248]-[311] of the Statement of Evidence of Mandy D Tocher dated 21 October 2022 which address the NZ Falcon; and
  - (ii) paragraphs [3.17] and [6.1]-[6.8] of the evidence of Shaun Craig Ogilvie dated 16 September 2022.
- (c) that part of the hearing at which the Herpetology Evidence is heard shall be held with the public excluded. The exclusion of the public does not apply to any party;
- (d) the disclosure, publication or communication of the Herpetology Evidence in this proceeding in whole or in part to those other than the court, counsel and the parties to this appeal (including their expert witnesses) is prohibited;
- (e) the Herpetology Evidence:

- (i) is to be kept on the court file and is to have a notice attached notifying the reader that it contains confidential information which is only accessible by the court, counsel and the parties to this appeal; and
  - (ii) is not to be uploaded on the Environment Court's website.
- (f) the transcript produced from the part of the hearing at which the Herpetology Evidence is discussed, is to be provided to counsel appearing on the basis that it will only be distributed by counsel to Mandy Tocher, Marieke Lettink, Shaun Ogilvie, Ann Brower, Ms J Whyte, Ms K Bewley and Mrs J Batchelor. The transcript is not to be disclosed to any other person or party. The court's copy of the transcript is to remain on the court file and is to be marked "confidential", with a copy of this order attached. The Herpetology Evidence (including the transcript), will become part of the court file;
- (g) the court file is not to be searched, inspected or copied without the leave of the court;
- (h) the orders above will remain in full force and effect until further order of the court; and
- (i) leave is reserved for any party to this proceeding to seek further (or amended) orders or directions from the court (if necessary).