

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH**

**I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHI**

**Decision No. [2024] NZEnvC 031**

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 on the papers

Last case event: 6 March 2024

Date of Decision: 11 March 2024

Date of Issue: 11 March 2024

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**DECISION OF THE ENVIRONMENT COURT**

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Under s 279 of the Resource Management Act 1991, the Environment Court grants the application by North Canterbury News/Radio New Zealand to take still

FRIENDS OF CONICAL HILL INC v HURUNUI DISTRICT COUNCIL



photographs subject to:

- (i) the Environment Court In-Media Coverage Guidelines 2011, in particular:
  - (a) the Standard Conditions for Film, without audio recording (Schedule 2);
  - (b) the Standard Conditions for Still Photography (Schedule 3);
  - (c) the basic courtesies to be observed at a hearing venue (Schedule 5);- all of which are attached to and form part of this decision.
- (ii) the following additional direction that the members of the court are not to be filmed or photographed during court.

## **REASONS**

### **Introduction**

[1] North Canterbury News/Radio New Zealand has made an application to film, record and take still photographs during the hearing of this appeal by Friends of Conical Hill Inc against the Hurunui District Council's decision to grant resource consent to Hanmer Springs Thermal Pools and Spa to install and operate a Flyride at Conical Hill Reserve – Conical Hill Road and 54 Lucas Lane, Hanmer Springs, Hurunui (RC210098).

[2] North Canterbury News/Radio New Zealand proposes to cover the first day of the resumed hearing commencing at 2.15pm on Monday, 18 March 2024.

### **Position of the parties**

[3] The parties were directed to advise by 6 March 2024 if they had any opposition

to the application for media coverage. All parties responded and while not opposing the application *per se*, all parties indicated varying levels of concern regarding ensuring adherence to the extensive confidentiality orders in place should media be present in court.

## **Guidelines**

[4] The Environment Court In-Court Media Coverage Guidelines 2011 (“the Guidelines”) apply to all proceedings in this Court except mediation, although they do not have legislative force and (as is evident in the title) are intended to be a guide only.

[5] The Guidelines provide that all matters relating to in-court media coverage are at the discretion of the Court. In making decisions and exercising discretion under the Guidelines the Court is to have regard to the following matters:

- the need for a fair hearing;
- the desirability of open justice;
- the principle that the media have an important role in the reporting of hearings as the eyes and ears of the public;
- the importance of fair and balanced reporting of hearings;
- the interests and reasonable concerns and perceptions of witnesses;
- the ability to accommodate media personnel and equipment in the hearing venue having regard to the reasonable requirements of the parties, counsel, witnesses and the Court;
- the avoidance of serious offence to tikanga Maori, including the disclosure of the locations of waahi tapu, and the avoidance of the disclosure of trade secrets or unreasonable prejudice to the commercial position of any person.

## **Discussion**

[6] On 13 February 2023 the court issued confidentiality orders prohibiting the disclosure, publication or communication of herpetology evidence related to this proceeding. Those orders were further expanded on 18 May 2023.

[7] The confidentiality orders are extensive and while they relate principally to the expert herpetology evidence, those parts of related evidence (such as expert planning evidence) and legal submissions which refer to such evidence are also the subject of the orders. The orders further direct the exclusion of the public during any part of the hearing during which this evidence is traversed or referred.

[8] The rationale for these extensive orders is set out in full in *Friends of Conical Hill v Hurunui District Council* [2023] NZEnvC 24 and need not be repeated here other than to say that the Court was satisfied that the orders were necessary to protect the location of significant habitat for threatened and at risk indigenous species, and that this outweighed the need for an open hearing.

[9] I have therefore considered this media application carefully within that context, weighing the desirability of open justice and the important role the media plays in that against the need to ensure that the confidentiality orders are upheld.

[10] In this instance and given that the confidential information is likely to be referred to throughout the hearing, I am not confident that I could allow the hearing to be recorded without undermining the confidentiality orders. I therefore find that it is not appropriate to make an order allowing the recording of the hearing.

[11] As for the application to film (without recording) and take still photographs, I see no reason not to grant this, however I make the following observations as to the logistics and practical application of this approval.

[12] The application seeks approval to attend and record on the afternoon of March 18<sup>th</sup> only. On the basis of the current timetable, the afternoon will be taken up with legal submissions (which are to be taken as read), some housekeeping matters and the commencement of the herpetology evidence. The public (including media) is excluded from those parts of the hearing touching on the herpetology evidence and it is likely that much of the afternoon will be taken up with that. As such, the opportunity to record on that day may be very limited.

**Outcome**

[13] The application to record the proceeding is declined. The application to film (without recording) and take still photographs is granted subject to the conditions imposed by the Court.



L J Semple  
Environment Judge



## **Schedule 2 Standard Conditions for Film**

- Only one camera may be situated in the hearing venue, regardless of how many people are given authority to film. In the event there is a dispute between those authorised to film as to whose camera will be situated in the court room, the judge will rule.
- The camera must be situated in a position approved by the judge.
- Any person wishing to instruct the camera operator during a hearing must sit next to the camera operator and must give any instructions as unobtrusively as possible and in such a manner as not to interfere in any way with the running of the hearing.
- While the judge is sitting in court for chambers or in closed court, no filming must take place.
- Members of the public attending the hearing must not be filmed in or at the hearing venue.
- Counsel's papers must not be filmed.
- Exhibits must not be filmed without leave of the judge.
- No filming may take place at the hearing when the judge is not present, except with prior leave of the judge.
- The media applicant and representatives of the media applicant must at all times conduct themselves appropriately.
- Film taken must not be published or broadcast until at least 10 minutes have elapsed.
- Despite paragraph 10, film taken may be published or broadcast live or at any time if the judge grants leave.
- The media applicant must maintain a copy of all publications or broadcasts using film taken at a hearing and must supply a copy to the court if requested by the judge.
- Film taken must not be used other than in the programme or on the website nominated in the application form.
- Film taken must not be used in any promotional broadcasts or as trailers.

### **Schedule 3 Standard Conditions for still photography**

- The photographer must be situated in a position approved by the judge.
- Any person wishing to instruct the photographer during a hearing must sit next to the photographer and must give any instructions as unobtrusively as possible and in such a manner as not to interfere in any way with the running of the hearing.
- While the judge is sitting in court for chambers or in closed court, photographs must not be taken.
- Members of the public attending the hearing must not be photographed in or at the hearing venue.
- Counsel's papers must not be photographed.
- Exhibits must not be photographed without leave of the judge.
- No photographs may be taken at the hearing when the judge is not present, except with prior leave of the judge.
- The media applicant and representatives of the media applicant must at all times conduct themselves appropriately.
- Photographs taken must not be used other than in the print media or online content nominated in the application form.
- The media applicant must maintain a copy of all published photographs taken in or at the hearing venue and must supply a copy of them to the court if requested by the judge.

## **Schedule 5 Hearing Venue Courtesy**

- When in a hearing venue, there are basic courtesies to observe that will help ensure the court process is not interrupted or distracted.
- Please attend suitably and professionally dressed.
- Where possible, sit in the area provided for the media.
- You may not eat or drink in the hearing venue.
- You must stand when the members of the court enter or leave the hearing venue.
- If entering or leaving a venue while a hearing is in progress, please do so quietly.
- Remain as quiet as possible in the hearing venue.
- Sometimes a judge might order that no one enter or leave the venue, to ensure quiet and focus. This might happen during the testimony of a particular witness, during an address by counsel or when the judge is giving a decision.
- If the judge addresses you during the proceeding and you need to respond, you should stand and address the judge as, “Your Honour”.

### **Media identification**

Before the court begins the hearing please provide suitable identification to the court’s hearing manager showing that you are a member of a recognised media organisation. Suitable identification is an identification card or letter from your organisation along with your personal identification (eg, a driver licence).

Please do not be offended by this requirement. It is designed to ensure that only members of recognised media organisations can benefit from the use of the press benches and other privileges accorded to such members (eg, those relating to the use of electronic communication devices).

### **Electronic communication devices**

Electronic communication devices include cellphones, pagers, personal digital assistants and computers with electronic communication capabilities. As a general rule such devices should be turned off before entering a hearing venue and they must be turned off if they have an audible call alert. They must not be used for voice calls within the venue.

Electronic communication devices may, however, be used by members of recognised media organisations for silent electronic communication of information, subject to the restrictions set out in the Environmental Court’s In-Court Media Coverage Guidelines 2011. They must be used as unobtrusively as possible and in such a manner as to not interfere in any way with the running of the hearing.