

BEFORE THE ENVIRONMENT COURT

Decision No. [2017] NZEnvC 87

IN THE MATTER

of the Resource Management Act 1991

AND

of an application for an interim enforcement order under ss 314 and 320 of the Resource Management Act 1991

BETWEEN

PALMERSTON NORTH CITY COUNCIL
(ENV-2016-WLG-000006)
Applicant

AND

LESLIE WILLIAM FUGLE
First Respondent

AND

FARM HOLDINGS (4) LIMITED (in
liquidation)
Second Respondent

Court: Environment Judge B P Dwyer sitting alone under s 309 of the Act

Hearing: In Chambers at Wellington

Date of Decision: 20 June 2017

Date of Issue: 20 June 2017

FURTHER DECISION OF THE ENVIRONMENT COURT

A: Interim enforcement order amended.

REASONS



Introduction

[1] On 22 January 2016, the Court issued a decision¹ making an interim enforcement order against both Respondents to require them to cease physical works on the land at 177 Aokautere Drive and 50 Johnstone Drive, Palmerston North.

[2] On 8 December 2016, the Court approved amendments to the order (including) to allow works to be undertaken that are necessary to implement resource consents. The Court requested a formal order for execution.

[3] The Council subsequently applied for further changes to the Interim Order but that application was withdrawn. The parties have asked that the Court now execute the variation it approved on 8 December 2016. The liquidator of the Second Respondent agrees to this order.

Order

[4] Upon reading the ex-parte application for enforcement orders dated 21 January 2016, for an interim enforcement order pursuant to sections 314 and 320 of the Resource Management Act, the affidavit of Craig Laurence Auckram sworn on 20 January 2016 in support, and the memorandum of counsel for the Applicant dated 21 January 2016 the Court orders:

- (a) LESLIE WILLIAM FUGLE and FARM HOLDINGS (4) LIMITED must immediately cease all physical works on land legally described as Lots 1 and 2 Deposited Plan 464570 and Lot 2 Deposited Plan 484516 and contained in Certificates of Title 617071, 617072, and 686764, except those works on Lot 1 Deposited Plan 464570 that have been previously consented to.

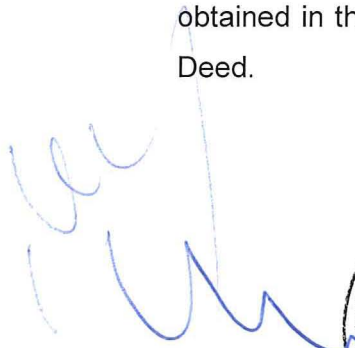
The location for which the enforcement orders are made is 177 Aokautere Drive Palmerston North and 50 Johnstone Drive Palmerston North, on land legally described as Lots 1 and 2 Deposited Plan 464570 and Lot 2 Deposited Plan 484516 and contained in Certificates of Title 617071, 617072, and 686764.


Nothing in this Order shall prevent any person or entity from carrying out works described at (i) and (ii) below on the land comprised in computer freehold registers 706790 and 745189:



¹ *Palmerston North City Council v Fugle* [2016] NZEnvC 10.

- (i) works required to fulfil obligations pursuant to the Deed Governing Construction of Johnstone Drive, Aokautere, Palmerston North entered into between the Palmerston North City Council and Aokautere Land Holdings Limited on or about 29 November 2016 (the Deed);
- (ii) works necessary to implement the resource consent(s) to be obtained in the furtherance of Stage 1 and Stage 2 pursuant to the Deed.





B P Dwyer
Environment Judge