

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

Decision No. [2021] NZEnvC 86

IN THE MATTER the Resource Management Act 1991
AND an application for enforcement orders
 under s316 of the Act
BETWEEN AUCKLAND COUNCIL
 (ENV-2021-AKL-057)

 Applicant
AND ELAINE JUANITA COWLIN AND
 DYLAN DAVIS LEWIS

 Respondents

Court: Environment Judge P A Steven
Hearing: On the papers in chambers in Christchurch
Appearances: N A Speir for Auckland Council
 E J Cowlin on behalf of herself and D D Lewis
Last case event: 17 June 2021
Date of Decision: 21 June 2021
Date of Issue: 21 June 2021

ENFORCEMENT ORDER

A: Under s279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:



AUCKLAND COUNCIL v COWLIN & LEWIS

1. Pursuant to s314(1)(b)(ii) of the Resource Management Act 1991, Elaine Juanita Cowlin and Dylan Davis Lewis are required to undertake the following within six (6) weeks of the date of these orders:
 - (a) reduce, by whatever means necessary, the total number of rabbits kept on the properties legally described as Lot 2 DP 29880 and Lot 3 DP 29880, situated at 13 and 15 Watling St, Mt Eden, to no more than sixteen (16) desexed rabbits; and
 - (b) maintain the total number of rabbits kept on the properties at no more than sixteen (16) desexed rabbits; and
 - (c) provide adequate containment measures on the properties to prevent the escape of rabbits beyond the properties' boundaries; and
 - (d) remove all food and vegetative matter, rabbit faeces, or any other material that is being kept outdoors at the properties and that is likely to attract pests and/or vermin, or to generate an odour, to such an extent that it has, or is likely to have, adverse effects on the amenity values of nearby properties of the nature described in the formal statements attached to the affidavit of Sigurd Bruu dated 31 May 2021 filed in these proceedings.

Or, in the alternative:

- (e) remove all rabbits from the properties, by whatever means necessary; and
 - (f) carry out the work described in order 1(d) above.
2. If the respondents fail to comply with order 1 above, Auckland Council may, pursuant to s315(2) of the Resource Management Act 1991, comply with the order on behalf of the respondents and the applicant and/or its agents may enter upon the properties for this purpose. The applicant may undertake any of all necessary measure, within a reasonable timeframe and on multiple days as necessary, in order to achieve compliance with the

order.

3. Pursuant to s315(2)(c) of the Resource Management Act 1991, the applicant may sell or otherwise dispose of any materials salvaged in complying with the order and after allowing for any monies received, recover any costs and expenses of complying with the order as a debt due from the respondents and, in the event that debt remains unpaid, those remaining costs or expenses owing may be registered under subpart 5 of Part 3 of the Land Transfer Act 2017 as a charge on the properties.
4. Pursuant to s314(3) of the Resource Management Act 1991, the respondents are required to adhere to the following terms and conditions:
 - (a) the order applies to the personal representatives, successors and assigns of the respondents to the same extent as it applies to the respondents.
5. The applicant is directed pursuant to s317 of the Resource Management Act 1991 to serve the respondents direct and that the orders shall take effect from when they are served.
6. Costs are reserved.

REASONS

Introduction

[1] On 1 June 2021 Auckland Council ('the applicant') applied for enforcement orders against Elaine Juanita Cowlin and Dylan Davis Lewis ('the respondents') pursuant to s316 Resource Management Act 1991 ('RMA') in relation to the properties situated at 13 and 15 Watling Street, Mt Eden and legally described as Lot 2 DP 29880 and Lot 3 DP 29880.

[2] Broadly speaking, the orders sought to address adverse amenity effects

caused by the respondents keeping a high and continuously breeding population of rabbits at the properties (currently estimated to be in the region of 300-400 animals).

Proposed enforcement orders agreed

[3] The applicant and the respondents have reached an agreement that enforcement orders be made that will resolve this matter.

Consideration

[4] I am satisfied that the orders proposed are necessary under s314(1)(b)(ii) RMA to avoid, remedy and/or mitigate persistent and ongoing adverse effects on the environment, namely adverse amenity effects.

Order

[5] Therefore the court makes the following enforcement orders, by consent:

1. Pursuant to s314(1)(b)(ii) of the RMA, Elaine Juanita Cowlin and Dylan Davis Lewis are required to undertake the following within six (6) weeks of the date of these orders:
 - (a) reduce, by whatever means necessary, the total number of rabbits kept on the properties legally described as Lot 2 DP 29880 and Lot 3 DP 29880, situated at 13 and 15 Watling St, Mt Eden, to no more than sixteen (16) desexed rabbits; and
 - (b) maintain the total number of rabbits kept on the properties at no more than sixteen (16) desexed rabbits; and
 - (c) provide adequate containment measures on the properties to prevent the escape of rabbits beyond the properties' boundaries; and
 - (d) remove all food and vegetative matter, rabbit faeces, or any other material that is being kept outdoors at the properties and

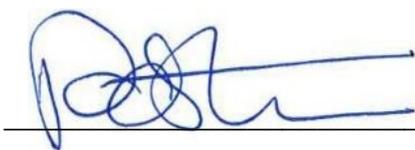
that is likely to attract pests and/or vermin, or to generate an odour, to such an extent that it has, or is likely to have, adverse effects on the amenity values of nearby properties of the nature described in the formal statements attached to the affidavit of Sigurd Bruu dated 31 May 2021 filed in these proceedings.

Or, in the alternative:

- (e) remove all rabbits from the properties, by whatever means necessary; and
 - (f) carry out the work described in order 1(d) above.
2. If the respondents fail to comply with order 1 above, Auckland Council may, pursuant to s315(2) RMA, comply with the order on behalf of the respondents and the applicant and/or its agents may enter upon the properties for this purpose. The applicant may undertake any or all necessary measures, within a reasonable timeframe and on multiple days as necessary, in order to achieve compliance with the order.
 3. Pursuant to s315(2)(c) RMA, the applicant may sell or otherwise dispose of any materials salvaged in complying with the order and after allowing for any monies received, recover any costs and expenses of complying with the order as a debt due from the respondents and, in the event that debt remains unpaid, those remaining costs or expenses owing may be registered under subpart 5 of Part 3 of the Land Transfer Act 2017 as a charge on the properties.
 4. Pursuant to s314(3) RMA, the respondents are required to adhere to the following terms and conditions:
 - (a) the order applies to the personal representatives, successors and

assigns of the respondents to the same extent as it applies to the respondents.

5. The applicant is directed pursuant to s317 RMA to serve the respondents direct and that the orders shall take effect from when they are served.
6. Costs are reserved.



P A Steven
Environment Judge

