

BEFORE THE ENVIRONMENT COURT  
I MUA I TE KOOTI TAIAO O AOTEAROA

Decision No. [2018] NZEnvC 165

IN THE MATTER of the Resource Management Act 1991  
AND of an application for enforcement orders  
pursuant to section 316 of the Act  
BETWEEN NELSON CITY COUNCIL  
(ENV-2018-CHC-177)  
Applicant  
AND PETER GREGORE BAILEY  
Respondent

Court: Environment Judge J R Jackson

Hearing: In Chambers at Christchurch

Date of Decision: 6 September 2018

Date of Issue: 6 September 2018

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**ENFORCEMENT ORDERS**

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A: Under sections 314 and 319 of the Resource Management Act 1991, the Environment Court orders that Peter Gregore Bailey of 65 Wellington Street, Nelson:

- (1) remove the chiller unit structure from 65 Wellington Street, Nelson ("the property") within **two weeks** after service of the order of the court; and
- (2) cease placing on the property any other structure or other structures which contravene the rules of the Nelson Resource Management Plan **immediately** after service of the order of the court.

B: Costs are reserved.



## REASONS

### Introduction

[1] On 1 August 2018 the Nelson City Council lodged an application for enforcement orders seeking that Peter Gregore Bailey and Louise Eveline Hayes remove a chiller unit structure from 65 Wellington Street, Nelson ("the property") and not place any other structure or structures on the property which contravene the rules of the Nelson Resource Management Plan ("NRMP").

[2] The application was accompanied by affidavits in support of Ms J A Lancashire, and Mr N W Henderson, a planning officer and an enforcement officer respectively, employed by the Council. Ms Lancashire deposed<sup>1</sup> that the chiller unit is in breach of rules REr.25 and REr.35 NRMP and considers the only way to achieve compliance with the permitted standards is to remove the chiller unit from the property<sup>2</sup>.

[3] Orders were initially sought against the two respondents, however after the proceeding commenced the Council advised they could not locate the second respondent Louise Eveline Hayes.<sup>3</sup> The Council further advised<sup>4</sup> that they are content to remove the second respondent from the proceedings as it appears she has not lived at the property for some time and had not been involved in the activity which is the subject of the orders.

[4] Any respondent wishing to oppose the application was directed to lodge and serve a notice of opposition and affidavit in support by 22 August 2018, with any reply to be lodged and served by 5 September 2018.<sup>5</sup>

[5] No response from the respondent has been received. Accordingly the orders are unopposed.

### Orders

[6] On the basis of the affidavits before it the court is satisfied that the making of

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<sup>1</sup> Affidavit of Jennifer Anne Lancashire dated 25 July 2018 at 40.

<sup>2</sup> Affidavit of Jennifer Anne Lancashire dated 25 July 2018 at 51.

<sup>3</sup> Affidavit of Neil William Henderson dated 8 August 2018.

<sup>4</sup> Notice of application for enforcement order dated 23 August 2018.

<sup>5</sup> Directions per the acknowledgement letter dated 7 August 2018.



these enforcement orders falls within the court's jurisdiction, and should be made to ensure compliance with the Act.

**Outcome**

[7] I will grant the application for enforcement orders on the terms sought.

[8] Costs are reserved.

For the court:

  
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**J R Jackson**  
**Environment Judge**

