

**BEFORE THE ENVIRONMENT COURT  
AT AUCKLAND**

**I MUA I TE KŌTI TAIAO O AOTEAROA  
KI TĀMAKI MAKĀURAU**

**Decision No. [2020] NZEnvC 179**

IN THE MATTER of the Resource Management Act 1991 (**the RMA**)

AND of an *ex parte* application for interim enforcement orders pursuant to ss 314 & 320 of the RMA

BETWEEN NORTHLAND REGIONAL COUNCIL  
(ENV-AKL-2020-000166)

Applicant

AND LUKE JOHN GLAMUZINA  
First Respondent

AND SOUTH ROAD WAIPU LIMITED  
First Respondent

Court: Environment Judge Dickey sitting alone under ss 309(2) and 319 of the RMA

Hearing: On the papers

Appearances: Ms K de Silva for the applicant  
Ms C Sheard for the respondents

Date of Decision: 20 October 2020

Date of Issue: 20 October 2020

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**FINAL DECISION OF THE ENVIRONMENT COURT IN RELATION TO AN  
APPLICATION FOR ENFORCEMENT ORDERS**

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## ORDERS

- A: These enforcement orders are in relation to:
- (a) Luke John Glamuzina (**the First Respondent**); and South Road Waipu Limited (**the Second Respondent**); and
  - (b) The Property owned by the Second Respondent at South Road, Waipu, Record of Title Identifier NA92B/783, North Auckland Land Registration District, comprising an area of approximately 45.3220 hectares, legal description Lot 6 Deposited Plan 165679 (**the Property**).
- B: Pursuant to sections 314(1)(a)(i) and 314(1)(a)(ii) of the Resource Management Act 1991 (**RMA**), the First Respondent and the Second Respondent are required to immediately cease, and are prohibited from commencing, any outdoor burning of scrub, forestry slash and other vegetation at the Property.
- C. Pursuant to sections 314(1)(b)(i) and 314(1)(b)(ii) of the RMA, the First Respondent and the Second Respondent, if they wish to commence outdoor burning of scrub, forestry slash, and other vegetative matter at the Property must:
- (a) Arrange for a suitably qualified and experienced air quality expert to provide a Plan with the steps to be undertaken to ensure that any outdoor burning at the Property of scrub, forestry slash, and other vegetative matter, complies with condition 1) of Rule C.7.1.1 of the Proposed Regional Plan for Northland (**the Plan for Burning**); and provide the Plan for Burning to the Northland Regional Council (**the Council**) (by email to [mailroom@nrc.govt.nz](mailto:mailroom@nrc.govt.nz)) for approval; and/or
  - (b) Lodge with the Council a complete application for Resource Consent for outdoor burning at the Property of scrub, forestry slash, and other vegetative matter, pursuant to Rule C.7.1.9 of the Proposed Regional Plan for Northland.
- D. Pursuant to sections 314(1)(b)(i) and 314(1)(b)(ii) of the RMA, the First Respondent and the Second Respondent are allowed to commence and continue outdoor burning at the Property of scrub, forestry slash, and other vegetative matter upon:
- (a) Receipt of written approval from the Council of the Plan for Burning and



subject to compliance with the steps specified in the Plan for Burning; and/or

- (b) Issue of a Resource Consent pursuant to Rule C.7.1.9 of the Proposed Regional Plan for Northland authorising outdoor burning of scrub, forestry slash, and other vegetative matter and subject to compliance with the Resource Consent.

### Terms and conditions

- E. Pursuant to section 314(5) of the RMA, these Orders apply to the personal representatives, successors and assigns of the First Respondent and the Second Respondent to the same extent as they apply to the First Respondent and the Second Respondent.

### Service

- F. These Orders shall take effect from when these Orders are served on the First Respondent and the Second Respondent.

### Costs

- G. Costs are reserved.

## REASONS

### Introduction

[1] On 12 October 2020 the Northland Regional Council (**the Council**) applied *ex parte* for interim enforcement orders against Luke John Glamuzina and South Road Waipu Limited to address the discharge of offensive, objectionable and dangerous smoke from the burning of piles of scrub, forestry slash, and other vegetative matter at a Forestry Block at South Road, Waipu.<sup>1</sup>

[2] The land to which the application relates is located at South Road, Waipu, Record of Title Identifier NA92B/783 North Auckland Land Registration District. It comprises an area of approximately 45.3220 hectares, and is legally described as Lot 6 DP 154679 (**the Property**). The Property is owned by South Road Waipu Limited. Mr Luke

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<sup>1</sup> In addition to the orders sought in this application the Council has also issued abatement notices against Mr Glamuzina and South Road Waipu Limited on 3 September 2020 and issued infringement notices to South Road Waipu Limited on 16 September 2020 and 28 September 2020. See affidavit of Ms Rowan, at [23]-[25].



Glamuzina is the sole Director and Shareholder of South Road Waipu Ltd.

### Orders sought

[3] The Council's application was made under ss 314(1)(a)(i), 314(1)(a)(ii), 314(1)(b)(i), 314(1)(b)(ii) and 320 of the Resource Management Act 1991 (**RMA**). As filed, the Council sought the following orders in respect of the respondents' activities at the Property:

...

2. Pursuant to sections 320(1), 314(1)(a)(i) and 314(1)(a)(ii) of the Resource Management Act 1991 (**RMA**), the First Respondent and the Second Respondent are required to immediately cease, and are prohibited from commencing, any outdoor burning of scrub, forestry slash and other vegetation at the Property.
3. Pursuant to sections 320(1), 314(1)(b)(i) and 314(1)(b)(ii) of the RMA, the First Respondent and the Second Respondent, if they wish to commence outdoor burning of scrub, forestry slash, and other vegetative matter at the Property, must:
  - (a) Arrange for a suitably qualified and experienced air quality expert to provide a Plan with the steps to be undertaken to ensure that any outdoor burning at the Property of scrub, forestry slash, and other vegetative matter, complies with condition 1) of Rule C.7.1.1 of the Proposed Regional Plan for Northland (**the Plan for Burning**); and provide the Plan for Burning to the Northland Regional Council (**the Council**) (by email to mailroom@nrc.govt.nz) for approval; and/or
  - (b) Lodge with the Council a complete application for Resource Consent for outdoor burning at the Property of scrub, forestry slash, and other vegetative matter, pursuant to Rule C.7.1.9 of the Proposed Regional Plan for Northland.
4. Pursuant to sections 320(1), 314(1)(b)(i) and 314(1)(b)(ii) of the RMA, the First Respondent and the Second Respondent are allowed to commence and continue outdoor burning at the Property of scrub, forestry slash, and other vegetative matter upon:
  - a. Receipt of written approval from the Council of the Plan for Burning and subject to compliance with the steps specified in the Plan for Burning; and/or
  - b. Issue of a Resource Consent pursuant to Rule C.7.1.9 of the Proposed Regional Plan for Northland authorising outdoor burning of scrub, forestry slash, and other vegetative matter and subject to compliance with the Resource Consent.

[4] The Council applied for the orders to be made on the following conditions pursuant to ss 320(1) and 314(5) of RMA:

- (a) That the orders apply to the personal representatives, successors and assigns of the First Respondent and the Second Respondent to the same extent as they apply to the First Respondent and the Second Respondent; and
- (b) That the orders shall take effect from when these Orders are served on the First Respondent and the Second Respondent.



## Grounds for enforcement orders<sup>2</sup>

[5] The interim enforcement orders were sought on the following grounds:

- (a) Outdoor burning has been undertaken at the Property on a number of occasions, with complaints being made to the Council on 22 June 2002, 31 August 2020, 3 September 2020 ; 9 September 2020, 17 September 2020, 18 September 2020, 19 September 2020, 25 September 2020 and 4 October 2020.<sup>3</sup>
- (b) The outdoor burning at the Property does not comply with condition 1) of permitted activity rule C.7.1.1, and Rule C.7.1.9 requires resource consent to undertake the activity.
- (c) The Council has not granted a resource consent; and the burning at the Property is in contravention of section 15(2A) of the RMA.
- (d) The burning of scrub, forestry slash, and other vegetative matter at the Property is causing excessive smoke and is a nuisance for the neighbours of the Property.<sup>4</sup> The smoke and ash from the fires is also having adverse effects on the animals that live in the vicinity.<sup>5</sup>
- (e) There is no evidence of any steps taken to comply with condition 1) of Rule C.7.1.1. and avoid or mitigate adverse effects; and the Council has strong grounds for considering that the adverse effects will continue.<sup>6</sup>
- (f) The orders sought are necessary to prevent further contravention of s 15(2A) of the RMA and to avoid the continuing adverse effects on the neighbours.

## Evidence in support

[6] In support of the application the Council has filed 11 affidavits as follows:

- (a) Affidavit of Stephen Paul Cross affirmed on 9 October 2020 (Compliance Team Leader for Armourguard Security);

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<sup>2</sup> Memorandum for Northland Regional Council in support of *ex parte* application for interim enforcement orders dated 9 October 2020.

<sup>3</sup> Affidavit of Ms Rowan, Table of complaints at pages 4-6.

<sup>4</sup> Affidavit of Ms Scott, at [63].

<sup>5</sup> Affidavit of Ms Holden, at [21], Affidavit of Mr Holden at [17], Affidavit of Mr McCutcheon at [9] and Affidavit of Ms Jones at [21].

<sup>6</sup> Affidavit of Ms Scott, at [65] and [66].



- (b) Affidavit of John Te Mana Marsom sworn 6 October 2020 (Animal Management Officer);
- (c) Affidavit of Obi Raj Khanal sworn 9 October 2020 (Resource Scientist – Air for the Northland Regional Council);
- (d) Affidavit of Michael James Payne affirmed 9 October 2020 (Policy Specialist, Strategy, Policy and Planning for the Northland Regional Council);
- (e) Affidavit of Rowan Kathleen Scott sworn 9 October 2020 (Environmental Monitoring Officer);
- (f) Affidavit of Tracey Lucille Holden sworn 8 October 2020 (Accounting consultant);
- (g) Affidavit of Steven Charles McCutcheon sworn 6 October 2020 (Retired);
- (h) Affidavit of Lisa Jones sworn 7 October 2020 (Dairy Farmer);
- (i) Affidavit if Paul Andrew Holden sworn 8 October 2020 (Handyman);
- (j) Grant James Peacock sworn 8 October 2020 (Retired); and
- (k) Cherie Lynne Peacock sworn 8 October 2020 (Nanny).

### ***The Regional Plan***

[7] Rule C.7.1.1 of Proposed Regional Plan for Northland (**Regional Plan**) permits the discharge of contaminants from outdoor burning, provided specified conditions are met.<sup>7</sup>

[8] The Regional Plan defines outdoor burning as:

Outdoor burning

Burning that takes place outside a building or fully enclosed indoor area including in an incineration device.

[9] The burning taking place at the Property is consistent with the Regional Plan's definition of Outdoor burning.<sup>8</sup> However, the outdoor burning that is occurring at the

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<sup>7</sup> The Regional Plan was adopted by the Council on 4 May 2019. All appeals on C.7.1.1 - outdoor burning (outside the Whangarei Air shed) have been resolved, without any changes, as detailed in *Public and Population Health Unit of the Northland District Health Board v Northland Regional Council* [2020] NZEnvC 102. Rule C.7.1.1 should be therefore be treated as operative from 9 July 2020. See affidavit of Mr Payne, at [16].

<sup>8</sup> Affidavit of Mr Payne, at [21].



Property does not comply with the conditions of Rule C.7.1.1. For example, condition 1 states:

(1) the discharge does not result in any noxious, dangerous, offensive or objectionable odour, smoke, dust, or any noxious or dangerous levels of airborne contaminants beyond the boundary of the subject Property or in the coastal marine area, ...

[10] The Regional Plan does not define the term *offensive*. However, Appendix H.7 provides guidance on interpreting the terms *noxious*, *dangerous*, *offensive* and *objectionable effects*. Appendix H.7 defines offensive as:<sup>9</sup>

Offensive

"giving or meant to give offence; disgusting, foul-smelling, nauseous, repulsive"

[11] Appendix H.7(2)(b) identifies the following key considerations when assessing whether a discharge results in offensive or objectionable effects:

I. location of an activity and sensitivity of the receiving environment - for example, what may be considered offensive or objectionable in an urban area, may not necessarily be considered offensive or objectionable in a rural area;

II. reasonableness - whether or not an activity is offensive or objectionable should be determined by an ordinary person who is representative of the community at large and neither hypersensitive nor insensitive; and

III. existing uses - it is important to consider what lawfully established activities exist in an area, that is, if a new activity requires a permit, the effect of existing discharges of contaminants into air should be considered.

[12] In this case Mr Marsom and Mr Cross assessed the discharge when they visited the Property. Both concluded that the discharge resulted in *offensive smoke* beyond the boundary of the Property.

[13] Because the activity at the Property is deemed offensive, it does not comply with the condition 1) of Rule C.7.1.1. The activity is therefore a discretionary activity under C.7.1.9 (Burning not a permitted, restricted discretionary or non-complying activity - discretionary activity). Rule C.7.1.9 requires resource consent to be granted to authorise the activity. In this case the Council has not granted any resource consents for the discharge of contaminants into air from outdoor burning at the Property.<sup>10</sup>

[14] A discharge of contaminants into the air in a manner that contravenes the rules of the Regional Plan is a contravention of s 15(2A) of the RMA, unless the discharge:

(a) is expressly allowed by a national environmental standard or other regulations; or is expressly allowed by a resource consent; or

<sup>9</sup> Appendix H.7(2)(b) of the Regional Plan

<sup>10</sup> Affidavit of Mr Payne, at [31].



(b) is an activity allowed by s 20A of the RMA.

[15] In this case the discharges of contaminants to air and land are not expressly allowed by a national environmental standard or other regulations. The activity is also not an activity allowed by s 20A of the RMA.<sup>11</sup>

***The effects of outdoor burning***

[16] The most common environmental effect of burning large amounts of scrub, forestry slash and other vegetative matter is smoke and odour nuisance at or beyond the Property boundary.<sup>12</sup> Ash particles landing on roofs can contaminate drinking water. Smoke, odour, and ash can also restrict people from enjoying outdoor activities.<sup>13</sup>

[17] People exposed to smoke from burning of scrub, forestry slash, and other vegetative matter can be affected by having irritated eyes and nose, throat and airways. Some people experience having a cough, chest tightness or difficulty breathing.<sup>14</sup>

[18] The main air contaminants released from open burning of scrub, forestry slash and other vegetative matter is particulate matter, carbon monoxide (**CO**), volatile organic compounds (**VOCs**), polycyclic aromatic compounds (**PAHs**), and heavy metals such as mercury.<sup>15</sup>

**Volatile Organic Compounds (VOCs)**

[19] Burning scrub, forestry slash and other vegetative matter releases hundreds of organic compounds that fall within this category. Formaldehyde, benzene, toluene, styrene are common VOCs. Toxic effects of VOCs include, haematological, neurological, hepatic, renal effect and mucosal irritation.<sup>16</sup>

**Polycyclic Aromatic Hydrocarbons (PAHs)**

[20] PAHs are generally formed during incomplete combustion of organic matter. Bushfires produce PAHs including one of the most toxic PAHs called benzo(a)pyrene (BaP).<sup>17</sup>

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<sup>11</sup> Affidavit of Mr Payne, at [35].

<sup>12</sup> Affidavit of Mr Khanal, at [21].

<sup>13</sup> Affidavit of Mr Khanal, at [22].

<sup>14</sup> Affidavit of Mr Khanal, at [33].

<sup>15</sup> Affidavit of Mr Khanal, at [20].

<sup>16</sup> Affidavit of Mr Khanal, at [40].

<sup>17</sup> Affidavit of Mr Khanal, at [41].



[21] PAHs are classified as human carcinogens and BaP is classed as one of the most potent carcinogens known. Burning scrub, forestry slash and other vegetative matter releases BaP as soot (the majority of soot is PM<sub>2.5</sub>) and also remains in ash. People exposed to PAHs have been found to be affected with respiratory diseases, tuberculosis and bronchitis. Long term exposure to PAHs can cause lung cancer.<sup>18</sup>

### PM<sub>2.5</sub>

[22] Particulate matter that has aerodynamic diameter less than 2.5 micron is called PM<sub>2.5</sub>. The fine particulate matter PM<sub>2.5</sub> in smoke are more harmful than larger particles to human health.<sup>19</sup> PM<sub>2.5</sub> are small enough to be inhaled. Fine particulate matter exposure increases mortality, hospital admissions and emergency department visits.<sup>20</sup>

### Carbon monoxide (CO)

[23] Incomplete combustion of material that contains carbon releases CO into the air. CO reduces the oxygen carrying capacity of the blood. People with heart, lung, anaemia and children are most susceptible from CO exposure. CO poisoning can be lethal.<sup>21</sup>

### ***The effects of outdoor burning in this case***

[24] Tree trunks and stumps are being burned on the Property. They contain high carbon.<sup>22</sup> In addition the burning occurring at the Property does not appear to be clean burning or hot burning. The photos and videos taken on 9 September 2020 by Mr Marsom show smouldering heaps and some of the heaps are full of dirt. This is the perfect example of incomplete combustion.<sup>23</sup>

### The Ruakaka Air Monitoring Station

[25] Since December 2012, the Council has been monitoring PM<sub>10</sub> (particulate matter smaller than 10 microns in aerodynamic diameter) from its air monitoring station situated at Peter Snell Road, Ruakaka.<sup>24</sup>

[26] Two graphs illustrating daily PM<sub>10</sub> concentration recorded at the Ruakaka Air Monitoring Station between 15 and 27 June 2020, and between 24 August and 29

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<sup>18</sup> Affidavit of Mr Khanal, at [43].

<sup>19</sup> Affidavit of Mr Khanal, at [34].

<sup>20</sup> Affidavit of Mr Khanal, at [36].

<sup>21</sup> Affidavit of Mr Khanal, at [39].

<sup>22</sup> Affidavit of Mr Khanal, at [37].

<sup>23</sup> Affidavit of Mr Khanal, at [38].

<sup>24</sup> Affidavit of Mr Khanal, at [23].



September 2020, indicated elevated results of PM<sub>10</sub>.<sup>25</sup>

[27] There are several anthropogenic and natural sources of PM<sub>10</sub> such as dust, pollen, sea spray, vehicle emissions. However, it is reasonable to accept that burning at the Property may have contributed to the elevated PM<sub>10</sub> concentrations at the Ruakaka Air Monitoring Station. This is due to elevated PM<sub>10</sub> concentrations being evident on the same days that burning occurred at the Property.<sup>26</sup>

*The effects on the neighbours*

[28] The affidavits of the neighbours detail the impact the fires and smoke have had on those living in the vicinity of the Property. The neighbours' experience includes:

- (a) The smoke making their eyes itchy, developing sore throats, coughs and feeling tight chested.<sup>27</sup>
- (b) Having to leave their homes because the smoke was so extreme.<sup>28</sup>
- (c) Being unable to go outside.<sup>29</sup>
- (d) Being unable to open doors and windows or peg out washing.<sup>30</sup>
- (e) Ash from the fires covering the neighbouring properties, and downpipes needing to be disconnected to keep the ash out of watertanks<sup>31</sup>
- (f) Livestock and pets having runny and weepy eyes.<sup>32</sup>

***The likelihood that the fires will continue***

[29] The Council has submitted that there is no evidence of any steps having been taken to comply with condition 1) of Rule C.7.1.1. and avoid or mitigate adverse effects.<sup>33</sup>

[30] Mr Glamuzina has indicated that he plans to burn until the fire ban season which may mean the burning at the Property will continue until January 2021.<sup>34</sup> Mr Glamuzina

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<sup>25</sup> Affidavit of Mr Khanal, at [26]

<sup>26</sup> Affidavit of Mr Khanal, at [27].

<sup>27</sup> Affidavit of Mr Holden, at [16], Affidavit of Mr Peacock, at [9] and Affidavit of Ms Peacock, at [8].

<sup>28</sup> Affidavit of Ms Holden, at [11].

<sup>29</sup> Affidavit of Ms Holden, at [14]

<sup>30</sup> Affidavit of Ms Holden, at [9] and Affidavit of Ms Jones at [10].

<sup>31</sup> Affidavit of Ms Holden, at [13].

<sup>32</sup> Affidavit of Mr McCutcheon at [8]-[10].

<sup>33</sup> Affidavit of Ms Scott, at [66].

<sup>34</sup> Affidavit of Mr Marsom, at [19] and [21], Affidavit of Ms Scott, at [65].



has confirmed that he is responsible for the property.

### **Making an interim enforcement order**

[31] This Court's authority to make an interim enforcement order is conferred by s 320 of the RMA, which states:

#### **320 Interim enforcement order**

- (1) Except as provided in this section, the provisions of sections 314 to 319 apply to the application for, and determination of, an interim enforcement order.
- (2) If an Environment Judge or a District Court Judge considers it necessary to do so, the Judge may make an interim enforcement order—
  - (a) without requiring service of notice in accordance with section 317; and
  - (b) without holding a hearing.
- (3) Before making an interim enforcement order, the Environment Judge or the District Court Judge shall consider—
  - (a) what the effect of not making the order would be on the environment; and
  - (b) whether the applicant has given an appropriate undertaking as to damages; and
  - (c) whether the Judge should hear the applicant or any person against whom the interim order is sought; and
  - (d) such other matters as the Judge thinks fit.
- (4) The Judge shall direct the applicant or another person to serve a copy of the interim enforcement order on the person against whom the order is made; and the order shall take effect from when it is served or such later date as the order directs.
- (5) A person against whom an interim enforcement order has been made and who was not heard by a Judge before the order was made, may apply, as soon as practicable after the service of the order, to an Environment Judge or a District Court Judge to change or cancel the order; and, after hearing from the person against whom the interim enforcement order was made, the applicant, and any other person the Judge thinks fit, the Environment Judge or the District Court Judge may confirm, change, or cancel the interim enforcement order.
- (6) An interim enforcement order stays in force until an application for an enforcement order under section 316 is determined, or until cancelled by an Environment Judge or a District Court Judge under subsection (5), or cancelled by the Environment Court under section 321.

### **Grounds for making an interim order *ex parte***

[32] Under s 320(2) of the RMA, an application for an Interim Order may be made without notice to the person against whom it is sought and without holding a hearing.

[33] In considering an application for an interim order, whether on notice or not, the issue is whether there is a sufficient basis on which to make an order before there has been a full hearing. Section 320(3) of the RMA sets out specific matters that must be



taken into account by the Court, as well as *such other matters as the Judge thinks fit*.<sup>35</sup>

[34] On 12 October 2020 the Court asked the Council if it intended to proceed on an *ex parte* basis or whether limited notification should take place on a *Pickwick* basis.<sup>36</sup>

[35] The Council responded to the Court by advising that it would prefer the matter proceed on an *ex parte* process. However, if an appearance by Mr Glamuzina could be urgently arranged after an affidavit of service was filed the Council conceded that it would be willing to proceed on a *Pickwick* basis.<sup>37</sup>

[36] The Court directed that the matter proceed on a *Pickwick* basis and a Judicial Telephone Conference would be convened as soon as advice of service was received. Advice of service was received on 14 October 2020.<sup>38</sup> Mr Glamuzina also responded to the Court, advising on 14 October 2020 that he would appoint a legal representative by the morning of 15 October 2020.

[37] A Judicial Telephone Conference was convened on the afternoon of 15 October 2020. During that Conference Ms Sheard (on behalf of the respondents) advised the Court that Mr Glamuzina accepts the enforcement orders being made on the terms sought by the Council. The parties confirmed that the only outstanding matter between them was the issue of costs.

[38] In addition, both parties agreed that the enforcement orders can now be made on a final, rather than an interim basis.

### **Evaluation**

[39] Given that the respondents agree to the enforcement orders being made, and all parties agree that these orders be made on a final basis, there is now no need for me to consider whether the enforcement orders should be made on an interim basis.

[40] I am satisfied that final enforcement orders should be made against Mr Glamuzina and South Road Waipu Limited.

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<sup>35</sup> *Berhampore Residents Assn Inc v Wellington City Council* (1992) 1 NZRMA 41; *Gulf District Plan Assn Inc v Arraw Properties Ltd*, Decision number. A129/02; *Friends of Sherwood v Auckland Council* [2018] NZEnvC 178.

<sup>36</sup> If there were to be any doubt whether a matter should proceed without notice, the applicant's counsel should give warning to the defendant's solicitor, certain procedural steps might be followed, often called a "Pickwick process". See *Pickwick International Inc (GB) Limited v Multiple Sound Distributors Ltd* [1972] 1 WLR 1213, [1972] 3 All ER 384.

<sup>37</sup> Memorandum for Northland Regional Council in response to 12 October 2020 direction from the Court, dated 12 October 2020.

<sup>38</sup> Affidavit of Service of Thomas Edmund William James, dated 14 October 2020.



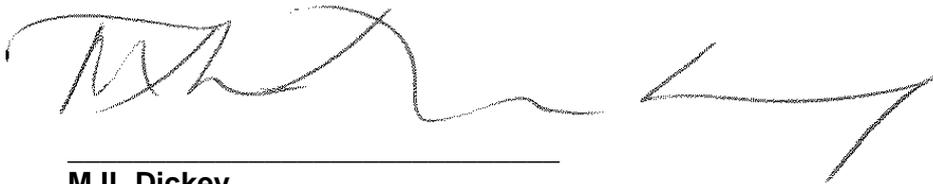
[41] I accept the evidence, as briefly summarised above, as sufficient to demonstrate that:

- (g) outdoor burning has occurred at the Property and that it had adverse effects on the environment and on human health; and
- (h) burning of vegetation on the Property is not authorised by a resource consent and is not otherwise permitted under the Regional Plan or the RMA.

[42] I also consider that it is appropriate to make orders that will prevent further non-compliance.

[43] For those reasons, within the discretion conferred by s 319 of the RMA and in consideration of all the relevant matters set out in ss 314-319 of the RMA, I make the enforcement orders set out at the beginning of this decision against the respondents Luke John Glamuzina and South Road Waipu Limited.

[44] Costs are reserved.



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**MJL Dickey**  
**Environment Judge**

