

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

Decision No. [2018] NZEnvC 24

IN THE MATTER of the Resource Management Act 1991
AND of appeals pursuant to s 325 of the Act
BETWEEN CTE HOLDINGS LIMITED
(ENV-2017-CHC-91)
AND CANTERBURY ENVIRONMENTAL
SERVICES LIMITED
(ENV-2018-CHC-3)
Appellants
AND CHRISTCHURCH CITY COUNCIL
Respondent

Court: Environment Judge J E Borthwick
Sitting alone under section 309 of the Act

Date of Decision: 1 March 2018

Date of Issue: 1 March 2018

DECISION VARYING STAY

A: Under sections 325(3E) and 279(1)(b) of the Resource Management Act 1991,
the Environment Court:

(a) amends Order A of decision [2018] NZEnvC 13 as follows:

The applications for stay of abatement notices by:

- (i) CTE Holdings Ltd; and
- (ii) Canterbury Environmental Services Ltd

— are granted until 31 May 2018, subject to the conditions set out in Schedule 1,
attached to and forming part of this decision.



- (b) amends Order B in decision [2018] NZEnvC 13 as follows:

The appeals are placed on hold until 14 June 2018.

- (c) inserts the following condition of stay into Schedule 1 of decision [2018] NZEnvC 13:

8. The maximum number of vehicles associated with HydroVac activities on the site shall be limited to 8 trucks and 2 utes. This excludes staff vehicles that are used only to transport staff to and from their place of work.

- B: Amended conditions of the stay and amended Orders for decision [2018] NZEnvC 13 are marked Schedules 1 and 2 respectively, and attach to and form part of this decision.
- C: The parties to file and serve a joint reporting memorandum by **Thursday 14 June 2018** advising the court as to how the substantive appeals will be determined.
- D: Costs are reserved.

REASONS

Introduction

[1] This proceeding concerns two appeals against abatement notices issued by the Christchurch City Council in respect of an activity involving the storage of trucks at 237 Prestons Road, Christchurch.

[2] On 9 February 2018 the court issued decision [2018] NZEnvC 13 granting a stay of two abatement notices, subject to conditions, pending resolution of the appeals.

Joint application to amend Order and conditions

[3] The parties have filed a series of joint memoranda¹ eventually seeking to amend:

- (a) Order A of decision [2018] NZEnvC 13, so that the stay is granted until



¹ Dated 12, 19 and 26 February 2018.

31 May 2018; and

- (b) the conditions associated with the stay, inserting a condition about the number of vehicles permitted on the site.

Discussion

[4] The parties seek to amend the terms of Order A which addresses the duration of the stay of the abatement notices, proposing the orders staying the abatement notice cease on 31 May 2018.

[5] The parties advise that resource consent to authorise activities at the site will not be sought and instead, Canterbury Environmental Holdings Ltd (trading as HydroVac) will relocate its business.² To allow reasonable time for this to occur, the parties agree that the stay should remain in place until 31 May 2018. At the request of the parties I record CTE Holdings Ltd and Canterbury Environmental Holdings Ltd have given the following undertaking:³

that neither CTE Holdings Ltd and Canterbury Environmental Services Ltd, trading as "HydroVac" will seek a resource consent to authorise the activities currently being undertaken by HydroVac at 237 Prestons Road in the future.

[6] Order B is amended by placing the appeals on hold to 14 June 2018. The directions subject to that Order are cancelled as they are no longer apply.

[7] Finally, the parties seek the inclusion of a condition limiting the number of vehicles permitted on the site. This was omitted from the decision staying the abatement notices by oversight. I will amend the Schedule of conditions so that it is included (as condition 8).

[8] As the parties are in agreement, I am prepared to amend the Orders as sought.

Outcome

[9] The amendments to Order A and the conditions attaching to decision [2018]

² Joint memorandum of counsel dated 26 February 2018 at [1].

³ Joint memorandum of counsel dated 26 February 2018 at [5].



NZEnvC 13 are made as sought. Order B is amended consequentially.

[10] To assist the parties, amended conditions of the stay and amended Orders for decision [2018] NZEnvC 13 are marked Schedules 1 and 2 respectively, and they attach to and form part of this decision.

[11] I direct the parties to file and serve a joint reporting memorandum by **Thursday 14 June 2018** advising the court as to how the substantive appeals will be determined.



J E Borthwick
Environment Judge



Schedule 1

The grant of the stay of the abatement notice is subject to the following terms and conditions:

1. Unless otherwise stated, the stay of the abatement notice applies to all activities undertaken by or in association with Canterbury Environmental Services Limited (trading as "HydroVac") on land located at 237 Prestons Rd, Christchurch and legally described as Lot 1 Deposited Plan number 48593 ("the site").
2. HydroVac's hours of operation are restricted to 07:00 – 19:00 Monday to Friday inclusive. No activities shall take place on weekends or public holidays.
3. Noise from HydroVac's activities shall not exceed 50 dBA L_{Aeq} (15 minute) at the notional boundary of any existing dwelling, as at 9 February 2018, excluding the dwelling on the subject site. For the purposes of this decision "notional boundary" has the same meaning as the definition given in the Christchurch District Plan. All noise monitoring shall be measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008, except that the provisions in NZS 6802 referring to Special Audible Characteristics shall not apply.
4. By Friday 15 February 2018 all non-consented signage at the site relating to HydroVac's activities must be removed. This condition includes any temporary and permanent free-standing signs located on the road verge.
5. There shall be no road side parking adjacent to the site. All Hydrovac vehicles are to park on-site.
6. Truck washing shall be undertaken on the site at a minimum distance of 50 metres from the site boundary with 245 Preston Rd. For avoidance of doubt, noise from the truck wash activity shall not exceed the noise limit specified in condition 3.
7. HydroVac's activities shall be conducted in a manner to ensure that there are no visible dust emissions from the site beyond the site boundary. HydroVac shall employ appropriate dust suppression measures to ensure that any discharge of visible dust emissions beyond the site boundary, including water plant and sprinklers, are suppressed.



8. The maximum number of vehicles associated with HydroVac activities on the site shall be limited to 8 trucks and 2 utes. This excludes staff vehicles that are used only to transport staff to and from their place of work.



Schedule 2

The amended Orders for decision [2018] NZEnvC 13 are as follows:

A: The applications for stay of abatement notices by:

- (i) CTE Holdings Ltd; and
- (ii) Canterbury Environmental Services Ltd

— are granted until 31 May 2018, subject to the conditions set out in Schedule 1, attached to and forming part of this decision.

B: The appeals are placed on hold until 14 June 2018.

C: The parties to file and serve a joint reporting memorandum by **Thursday 14 June 2018** advising the court as to how the substantive appeals will be determined.

D: Costs are reserved.

