

IN THE ENVIRONMENT COURT
AT AUCKLAND

I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKAURAU

Decision No. [2021] NZEnvC 004

IN THE MATTER OF

the Resource Management Act 1991

BETWEEN

NORTHLAND REGIONAL
COUNCIL

(ENV-2021-AKL-011)

Applicant

AND

CROFT POLE DISTRIBUTORS
LIMITED

DARREL JAMES CROFT

Respondents

Court: Before Judge J A Smith sitting alone pursuant to s 279 and s 310
of the Act

Hearing: At Whangarei on 2 February 2021
Last case event:

Appearances: K de Silva for the Applicant
W McKean for the Respondents

Date of Decision: 2 February 2021

Date of Issue: 9 February 2021

ORAL JUDGMENT OF THE ENVIRONMENT COURT

Introduction

[1] The Regional Council has had a number of charges outstanding against Croft Pole Distributors in relation to a property operated by them at Croft Timber Company Limited at Factory Lane, Hikurangi, for some time. The parties have been extensive discussion and, as a result, have found a resolution which enables them



to move forward.

[2] The intent is that enforcement orders are made in respect of the waste disposal system for the premises and that, subsequently, the council are intending to withdraw this series of charges. These orders are to be made under s 314 to s 316 rather than under s 339 of the Act.

The issues

[3] The issues are covered in a number of reports, the short point being that the council is concerned with the wastewater and timber treatment to land at the property at Hikurangi and wish it to be redesigned and improved over the coming months.

[4] The parties have had some time to discuss the scale and the intent is now that they will finalise the design in the next one month and then apply for consent within four months. Once the consent is obtained, they will move to install the waste disposal system in accordance with the new design. The intent is that that will occur within nine months, but of course this is contingent to some extent on the time that the council takes to process the application. Accordingly, Mr McKean is anxious to maintain the ability to amend the timetable for proper reasons if there are such delays.

Consideration

[5] The parties originally filed this in the form of the applicant undertaking steps to obtain the consent and implement it. I take the view, rightly or wrongly, that the Court cannot demand a party apply for a resource consent, which is a voluntary step. On the other hand, the Court can suspend more substantive orders to allow that to occur. I prefer that adoption and, as a result, the parties have redrafted the enforcement order to reflect that approach.

Orders made

Given there is no opposition and the orders seem imminently sensible in the circumstances, I grant the enforcement orders in the terms attached, hereto as A,



which are as filed with the modified additions that I have noted to the parties, namely subject to review and if the conditions are not met, the Court orders that Croft Poles Distributors Limited cease discharging wastewater from the current disposal system, provided that the order is suspended so long as, and then the orders (1) to (5) as sought. Further orders that are separate to the suspension are (6), (7) and (8) of the orders sought. The final form of that will be attached to this decision and marked A.

[7] There are no costs sought, nor any made.



J A Smith

Environment Court Judge

A

IN THE ENVIRONMENT COURT
AUCKLAND
I Te Kōti Taiao Tāmaki Makaurau Rohe

Decision No. [2021] NZEnvC 005

IN THE MATTER the Resource Management Act 1991
AND

IN THE MATTER of an application for enforcement
orders under sections 314 and 316 of
the Act

BETWEEN **NORTHLAND REGIONAL COUNCIL**
ENV-2021 – AKL - 00011

Applicant

AND **CROFT POLE DISTRIBUTORS LIMITED**

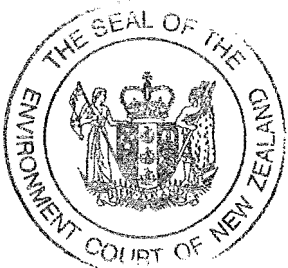
Respondent

Court: Environment Judge *JA Smith*, pursuant to
sections 314 and 316 of the Act

Date of Decision: *9 February 2021*

Date of Issue: *9 February 2021*

ENFORCEMENT ORDERS



ORDERS

1. These Enforcement Orders are in relation to:
 - a. Croft Pole Distributors Limited (**the Respondent**); and
 - b. The property owned by Croft Timber Company Limited at Factory Lane, Hikurangi, Record of Title identifier NA128B/132, North Auckland Land Registration District, comprising approximately 49.4792 hectares, legal description Lot 3, Deposited Plan 199741 (**the Property**).
2. Subject to review and further order of this Court, this Court orders the Respondent to cease discharging wastewater from the current wastewater disposal system, provided this order is suspended so long as the milestones numbered 3 -6 below are met.
3. Within one month of the date of these Enforcement Orders, the Respondent will instruct a suitably qualified expert to design an improved wastewater disposal system (including addressing the issues with discharges in Disposal Zone 2) for the discharge of wastewater (contaminants) to land at location coordinates 1717598E 6059185N and 1717582E 6059108N (**the New Design**).
4. Within four months of the date of these Enforcement Orders, the Respondent will, if necessary, lodge a complete application with the Northland Regional Council for a variation of the Resource Consent AUT.008528.04.04 and AUT.008528.05.01 so that the consent conforms with the New Design.
5. Within four months of the date of these Enforcement Orders, the Respondent will lodge a complete application with the Northland Regional Council for a variation of Resource Consent



AUT.008528.04.04 and AUT.008528.05.01 so that condition 10 which is worded “There shall be no ponding of wastewater within, or surface runoff of any contaminants from, the wastewater disposal areas as a result of the exercise of this consent” is varied to include definitions of the terms “ponding” and “surface runoff”.

6. The Respondent will install a wastewater disposal system that follows the New Design:
 - a. Within nine months of the date of these Enforcement Orders - if the New Design does not require a variation of the Resource Consent AUT.008528.04.04 and AUT.008528.05.01; or
 - b. In accordance with the deadline specified in the variation to the Resource Consent AUT.008528.04.04 and AUT.008528.05.01 - if a variation of the Resource Consent AUT.008528.04.04 and AUT.008528.05.01 is required for the New Design.

Service

7. These Orders shall take effect from when these Orders are served on the Respondent at its address for service.

Costs

8. The Respondent and the Applicant have reached agreement on costs and no order for costs is required.
9. Leave is reserved for the Respondent to apply for an extension of the above milestones if: there is a further COVID-19 lockdown that directly affects the Respondent’s ability to comply with the milestones; and/or the Northland Regional Council declines the



application for variation of the Resource Consent
AUT.008528.04.04 and AUT.008528.05.01 for the New Design.

DATED at *Auckland* this *9th* day of *February* 2021



[Handwritten signature]
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Environment Judge *JA Smith*