

Our Reference: AN210001 / 210722119801
Valuation Reference: 21591-251-00

28 July 2021

Jason & Michelle Bourke & Darryle Fantham
17 Paisley Road
RD 1,
Kaiapoi 7691,

Dear Jason and Michelle

**Abatement Notice – AN210001– Non Compliance with Resource CONSENT
RC135396 and RC165217 (Ext), 17 Paisley Road, Flaxton**

Further to our discussions with Simon Hedley (Elrick Consulting) last week, please find a copy of the Abatement Notice that formalises the timeframes and action(s) required to achieve compliance, leading into the current District Plan review process.

The Abatement Notice AN210001 has been issued under section 322(1(b)(ii) of the Resource Management Act 1991, requiring a person to do something that is necessary to ensure compliance with a resource consent, in this case being condition 2 of RC165217 removal of a dwelling by 30th June 2021.

The timeframe to achieve this has been pushed out until **30th June 2022**, which will enable some 12 months for you to either seek resource consent for the activity, or to undertake the necessary building alterations to enable you to comply with the definition of a 'dwellinghouse' under the Waimakariri District Plan.

Note that failure to comply with this Abatement notice is an offence under the Resource Management Act (1991) which could result in further enforcement action; therefore please take the time to read the Abatement Notice and actions required to gain compliance within the specified timeframe.

Further information can be sought from either myself, or the Duty Planner on 0800 965468.

Yours faithfully



Jamie Woods
Planning Compliance and Enforcement Team Leader

Encl

**ABATEMENT NOTICE UNDER SECTION 322
OF THE RESOURCE MANAGEMENT ACT 1991**

To **Jason & Michelle Bourke and Darryle Fantham**

17 Paisley Road
RD 1,
KAIAPOI 7691

1. The **Waimakariri District Council** ("**Council**") gives notice that you must take the following action, **either**:
 - 1.1. Remove one of the 2 dwellings originally consented under resource consent RC135396 and under the time extension resource consent RC165217 from the site, being 17 Paisley Road, Flaxton, **or**;
 - 1.2. Reduce the liveable floor area of one of the dwellings and to relocate the dwellings to be within 30 metres of one another, so as to comply with the definition of dwelling under the Waimakariri District Plan:

"Dwellinghouse means any habitable structure, occupied or intended to be occupied in part or in whole as a residence and, except in relation to any cluster housing within Maori Reserve 873, includes one additional physically separated dwellinghouse that is no more than 75 square metres in gross floor area and is located within 30 metres of the primary dwellinghouse. For the purposes of this definition there shall be only one kitchen facility under any individual roof structure."
2. The location to which this abatement notice applies is:

17 Paisley Road, Flaxton. LOT 1 DP 61798.
3. You must comply with this abatement notice within the following period:
 - 3.1. The action required under this notice shall take place **prior to or on 30 June 2022**. This timeframe has been identified to enable you to either seek resource consent for the activity, or to undertake the necessary building alterations to enable you to comply with the definition of a 'dwellinghouse' under the Waimakariri District Plan.
4. This notice is issued under section 322(1)(b)(ii)
 - 4.1. Section 322(1)(b)(ii) - requiring that person to do something that, in the opinion of the enforcement officer, is necessary to ensure compliance by or on behalf of that person with this Act, any regulations, a rule in a plan or a proposed plan, or a resource consent, and also necessary to avoid, remedy, or mitigate any actual or likely adverse effect on the environment—
5. The reasons for this notice are:
 - 5.1. Resource Consent RC135396 condition 2 then superseded by the resource consent RC165066 decision which provides consent to retain the structure as a temporary non complying dwelling on the site until 30th June 2021; expired on this date. A resource consent is required to retain more than one dwelling onsite.
 - 5.2. The erection of a secondary dwelling on a rural zoned property is a non-complying activity within the Waimakariri District Plan under Rule 31.1.1.1. Objectives and policies of the plan in part seek to avoid dwellinghouse development that results in any loss of rural character.

- 5.3. You are the registered owner(s) of the property.
- 5.4. You have been in receipt of recent correspondence advising of this requirement.
- 5.5. The *temporary Residential Accommodation - Single additional unit on any one lot policy* that enabled the second dwelling is no longer in effect.
6. If you do not comply with this notice, you may be prosecuted under Section 338 of the Resource Management Act 1991 (unless you appeal and the notice is stayed as explained below).
7. You have the right to appeal to the Environment Court against the whole or any part of this notice. If you wish to appeal, you must lodge a notice of appeal in form 49 with the Environment Court within 15 working days of being served with this notice.
8. An appeal does not automatically stay the notice and so you must continue to comply with it unless you also apply for a stay from an Environment Judge under Section 325(3A) of the resource Management Act 1991 (see form 50). To obtain a stay, you must lodge both an appeal and a stay with the Environment Court.
9. Lodging an appeal will automatically stay this notice as long as you are complying with the Resource Management Act 1991, any regulations made under that Act, a rule in a plan, or a resource consent.
10. You also have the right to apply in writing to the **Waimakariri District Council** to change or cancel this notice in accordance with Section 325A of the Resource Management Act 1991.
11. The **Waimakariri District Council** authorised the enforcement officer who issued this notice. Its address is:
- Waimakariri District Council
215 High Street
Private Bag 1005
Rangiora 7440
12. The enforcement officer is acting under the following authorisation:
- 12.1. The enforcement officer Christopher James Woods is acting under a warrant issued by the Waimakariri District Council, with the following authorisation:
- 12.2. Under Section 38(1)(a) of the Resource Management Act 1991 Christopher James Woods is authorised to carry out all of the following functions and powers as an ENFORCEMENT OFFICER under that Act.
1. To serve on any person an abatement notice pursuant to Section 322 of that Act.
 2. To carry out at any reasonable time, inspections of any place or structure (except a dwelling house) for any of the purposes set out in Section 332(1) of that Act.
 3. To issue and/or serve on any person an infringement notice pursuant to Section 343C of that Act.

[Handwritten signature]

Signature of enforcement officer

28th July 2024

Date