

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TAMAKI MAKAU**

Decision No. [2024] NZEnvC 004

IN THE MATTER OF

an appeal under section 325(2) of the
Resource Management Act 1991

AND

an application under section 325(3B) of
the Act

BETWEEN

MARK IVAN ZAKNICH

(ENV-2022-AKL-000108)

Appellant

AND

AUCKLAND COUNCIL

Respondent

Court: Environment Judge MJL Dickey

Hearing: On the papers

Last case event: 23 January 2024

Date of Decision: 26 January 2024

Date of Issue: 26 January 2024

**DECISION OF THE ENVIRONMENT COURT EXTENDING STAY OF
ABATEMENT NOTICE**

A: The stay of the abatement notice is extended to 16 February 2024.



REASONS

Background

[1] Mr Zaknich (the **Appellant**) is the owner of the property at 129, 131 and 131A Waitakere Road, Auckland (the **Property**). The Appellant is the owner and operator of a strawberry farm that supplies New Zealand's supermarkets. For this purpose, the Appellant has erected polytunnels and uses an existing irrigation pond on the Property for its strawberry crop.

[2] On 19 November 2021, Auckland Council (the **Council**) issued an abatement notice concerning the Property. The abatement notice required four actions: installation of erosion and sediment controls, removal of the polytunnels, submissions of a remediation action plan (**RAP**) for the reclaimed stream and 'associated natural wetland', and implementation of the RAP.

[3] The appeal was lodged with the Court on 5 May 2022 together with an application for stay of the abatement notice. Stay of the abatement notice was granted on 12 May 2022 and was last extended to 19 December 2023 to allow the progress made by the parties toward resolution to continue.

Council Memorandum – 23 January 2024

[4] On 23 January 2024, the Council filed a reporting memorandum to update the Court on matters. It was advised that the parties have made considerable progress toward resolution of the appeal, including a practical way forward for the remediation of the site. The Council considers that the parties are very close to agreement on the documents formalising resolution.

[5] The Council was unable to contact counsel for the Appellant in late December 2023 and was advised in an automatic email reply that counsel would be away on leave until 30 January 2024. The Council sought directions for an extension of time for filing draft consent documentation and a further continuation of the stay to 16 February 2024.

The Court's View

[6] I accept the Council's report that the parties are close to resolution of the appeal and therefore think it is appropriate that an extension of the stay is granted.

Decision

[7] The stay of the abatement notice is extended until 16 February 2024.



MJL Dickey
Environment Judge

