

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

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

Decision No. [2024] NZEnvC 061

IN THE MATTER OF

an application under s 325(3A) of the
Resource Management Act 1991

BETWEEN

M & R NEWSOME

(ENV-2023-AKL-000202)

Appellant

AND

AUCKLAND COUNCIL

Respondent

Court: Environment Judge M J L Dickey

Last case event: 18 March 2024

Date of Decision: 28 March 2024

Date of Issue: 28 March 2024

DECISION OF THE ENVIRONMENT COURT

A: The stay of the abatement notices is extended to 31 May 2024.

REASONS

Introduction

[1] This appeal relates to abatement notices issued by the Auckland City Council (**Council**) on 7 November 2023 requiring Mr and Mrs Newsome (**Appellants**), to immediately remove the building partly within the road reserve and partly within the

M & R Newsome v Auckland Council



front yard at 1/213 Lake Road, Belmont, Auckland.

Appeal and application for stay

[2] The appeal against the abatement notice was filed on 27 November 2023. The appeal was accompanied by an application for stay of the abatement notice.

[3] On 25 January 2024, stay of the abatement notice was granted until 29 March 2024 and the parties were directed to report back to the Court on the status of the matter by 20 March 2024.¹

Steps to date

[4] In response to case management directions issued on 5 December 2023, the parties advised one another and the Court of their agreement to participate in court-assisted mediation. Following the Court's decision to stay the abatement notices, the appeal was mediated on 12 March 2024.

[5] On 18 March 2024, the parties filed a joint memorandum updating the Court on progress.

[6] At the conclusion of mediation, the parties agreed on a process that they hope will narrow the issues. This includes seeking advice from relevant experts. It is anticipated that this advice will be available by 24 April 2024 and that a further mediation may be required upon receipt.

Continuation of the stay

[7] In light of the ongoing processes, the parties seek the following directions:

- (a) a further reporting date of **30 April 2024**;
- (b) a further mediation in **May 2024**; and

¹ NZEnvC 002 [2024].

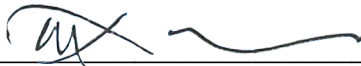
(c) an extension of the stay to **31 May 2024**.

[8] In the circumstances as they presently stand, I consider that the likely effect on the environment of granting an extension of the stay will be relatively minor and acceptable on a temporary basis. I have also taken into account the fact that both parties agree to the stay of the proceedings. On this basis I accept that it would be unreasonable for the Appellants to comply with the abatement notices while the present mediation process is underway.

Outcome

[9] The application for stay is granted until 31 May 2024.

[10] I grant the directions sought as set out at [7].



MJL Dickey
Environment Judge

