

**IN THE ENVIRONMENT COURT
AT WELLINGTON**

**I TE KŌTI TAIAO O AOTEAROA
KI TE WHANGANUI-A-TARA**

Decision No. [2023] NZEnvC 240

IN THE MATTER

of an appeal under s 325 of the
Resource Management Act 1991

BETWEEN

TRACEY MARIE GREEN

(ENV-2023-WLG-000015)

Appellant

AND

KĀPITI COAST DISTRICT
COUNCIL

Respondent

Court: Environment Judge L J Semple sitting alone under s 309 of the
Act

Hearing: In chambers at Wellington

Last case event: 7 November 2023

Date of Decision: 8 November 2023

Date of Issue: 8 November 2023

DECISION OF THE ENVIRONMENT COURT

A: The Application for Stay of the Abatement Notice is granted pending a decision on the appeal.



GREEN v KĀPITI COAST DISTRICT COUNCIL

REASONS

[1] Ms Green filed an appeal against an abatement notice on 17 October 2023. Ms Green has also applied for a stay of that abatement notice. The Council does not consent to the stay being granted.

[2] Under s 325(3D) RMA I need to consider the likely effects on the environment of allowing the stay and whether it is unreasonable for Ms Green to be required to comply with the abatement notice pending a decision on this appeal.

[3] The abatement notice is dated 28 September 2023 and requires the removal of a relocatable house on the property at 121-127 Peka Peka Road, Waikanae on or before 1 November 2023.

[4] The abatement notice confirms that Council has been aware of the relocatable house on the property since early March 2023 but did not progress an abatement notice at that time pending agreement that the house would remain unoccupied and safe and an application for the appropriate planning approval would be progressed.

[5] No planning approval has yet been sought and photographs taken on 7 September 2023 indicate to Council that piling works have now been carried out.

[6] The application for stay is accompanied by an affidavit from Ms Green dated 17 October 2023. Her evidence is that she is in the process of preparing a planning application, the house remains unoccupied and safe and no piling work has been undertaken for the house. Ms Green states in her application for stay that it is unreasonable to have the house removed within a month from the abatement notice being issued as “house moving companies are unable to relocate the house for 3 months” and “I cannot afford another \$96,0000 to relocate the house and start the process over”.¹

[7] I have considered the application and Ms Green’s affidavit evidence. I

¹ The notice refers to \$960000.00 however it is assumed \$96,000 is the correct figure

consider the effects on the environment of allowing the relocatable home to remain on site, safe and unoccupied pending resolution of the appeal, are likely to be minimal. I also accept that arranging removal of the home is likely to take considerable time and cost to resolve and it would be unreasonable to require this pending resolution of the appeal.

[8] I therefore grant the stay pending resolution of the appeal. The house is to remain safe and unoccupied and no piling works are to be undertaken. Case directions will follow. The matter requires timely resolution and if mediation is not considered useful, the matter will be set down for a hearing early 2024.

Order

[9] The stay is granted. The parties are to lodge a status report by Tuesday 23 January 2024.



L J Semple
Environment Judge

