

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

**I MUA I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision No. [2020] NZEnvC 129

IN THE MATTER of the Resource Management Act 1991 (**the Act**)

AND of an appeal under s 325 of the Act

BETWEEN **W J ALLISION**

(ENV-2019 -AKL-000172)

Appellant

AND **HAWKE'S BAY REGIONAL COUNCIL**

Respondent

Court: Environment Judge MJL Dickey sitting alone under s 279 of the Act

Date of decision: 19 August 2020

Date of Issue: 19 August 2020

DETERMINATION OF THE ENVIRONMENT COURT

- A. The appeal against the abatement notice is dismissed.**
- B. The abatement notice having been cancelled, no further order in relation to it is made.**



W J ALLISION v HAWKE'S BAY REGIONAL COUNCIL

REASONS

Introduction

[1] Warren James Allision (**the Appellant**) filed an appeal against an abatement notice dated 7 August 2019 issued to him by Hawke's Bay Regional Council (**the Council**). The notice required him to remove all building waste and demolition material, including the material used to form an unauthorised flood protection bank adjacent to the Mangoane River, at Puketitiri Road, Rissington, Napier.

[2] The Council's position has been that the abatement notice was appropriate until such time as the stopbank was removed or was the subject of a retrospective consent. The Appellant applied for such a consent, which was granted through to 31 May 2023. On that basis, the Council considered that the abatement notice was no longer appropriate, and it was cancelled. Written notice of the decision to cancel the abatement notice was given to the appellant.

[3] In response to the memorandum cancelling the abatement notice, the Court asked the parties whether there were any outstanding issues, including as to costs. On 8 April 2020 Ms Graham, counsel for the Council, advised the Court that the Council had no outstanding issues and would not be seeking costs. On 18 June 2020 the Court received correspondence from Ms Rahui, on behalf of the appellant, advising that the appellant did have outstanding issues concerning "the hazardous river access way that caused the flooding" and will be looking to claim costs. Ms Graham responded opposing any application for costs and advised that the issue of the hazardous river access way was not before the Court. No further response was received from the Appellant.

[4] In the Court's minute dated 23 July 2020, the Appellant was directed to set out his position on the appeal and on costs by 31 July 2020. The Court has not received a response from the Appellant.

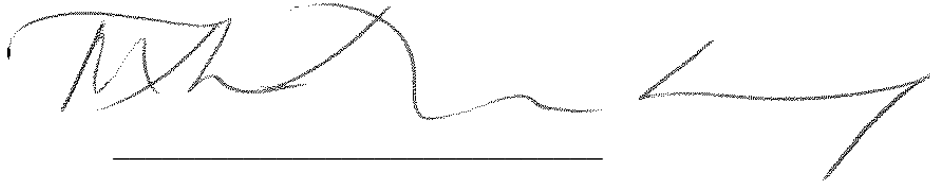
Determination

[5] The Appellant has been given several opportunities to advise his position on the appeal and advance his foreshadowed costs claim. He has failed to respond to the Court's directions. It is not in the interests of justice to have the appeal remain unresolved, given that the abatement notice which founded the appeal has been cancelled.

[6] The Appellant's appeal against the abatement notice is therefore dismissed on



the basis that the abatement notice has since been cancelled.



MJL Dickey
Environment Judge

