

IN THE ENVIRONMENT COURT  
AT WELLINGTON

I TE KOTI TAIAO O AOTEAROA  
KI TE WHANGANUI-A-TARA

Decision No. [2021] NZEnvC 2

IN THE MATTER OF the Resource Management Act 1991 (the Act)

AND a notice of motion under s 87G of the Act for resource consent applications in relation to activities associated with Te Ahu a Turanga: Manawatū Tararua Highway Project.

BY WAKA KOTAHI NZ TRANSPORT AGENCY

(ENV-2020-WLG-000104)

Applicant

Court: Alternate Environment Judge BP Dwyer

Hearing: On the papers under s 279 of the Act

Last case event: Costs agreement, 19 January 2020

Submissions: Mr D Randal for Waka Kotahi NZ Transport Agency

Date of Decision: 28 January 2021

Date of Issue: 28 January 2021

---

**DETERMINATION OF THE ENVIRONMENT COURT ON COSTS**

---

A: An order for costs is made in favour of the Crown against Waka Kotahi NZ Transport Agency for the sum of \$52,372.31 (incl. GST)).



## REASONS

### Introduction

[1] On 11 March 2020 Waka Kotahi NZ Transport Agency lodged applications with the Manawatū-Whanganui Regional Council for a suite of resource consents for the construction, operation and maintenance of the Te Ahu a Turanga: Manawatū Tararua Highway Project. This application was accompanied by a request for the application to be referred directly to the Environment Court for determination. The Council granted the request and the matter was heard and determined before the Environment Court.

[2] In decision [2020] NZEnvC 192 consent was granted subject to conditions.<sup>1</sup> The issue of costs under s 285(3) of the Act was reserved.

### The issue of costs

[3] Section 285(3) of the Act provides that the Environment Court may order any party to proceedings before it to pay to the Crown all or any part of the Court's costs and expenses. In respect of those applications referred under s 87G to the Court for determination, the Court must apply a presumption that costs under subsection (3) are to be ordered against the applicant (s 285(5)(a)(ii)) and when deciding on the amount of any order it decides to make, the Court must have regard to the fact that the proceedings are at first instance (s 285(5)(b)).

#### Section 285

- (1) The Environment Court may order any party to proceedings before it to pay to any other party the costs and expenses (including witness expenses) incurred by the other party that the Court considers reasonable.  
...
- (3) The Environment Court may order any party to proceedings before it to pay to the Crown all or any part of the court's costs and expenses.  
...
- (5) In proceedings under section 87G, 149T, 198E, or 198K, the Environment Court must,—
  - (a) when deciding whether to make an order under subsection (1) or (3),—
    - (i) apply a presumption that costs under subsections (1) and (3) are not to be

---

<sup>1</sup> At [332].

- ordered against a person who is a party under section 274(1); and
- (ii) apply a presumption that costs under subsection (3) are to be ordered against the applicant; and
  - (b) when deciding on the amount of any order it decides to make, have regard to the fact that the proceedings are at first instance.

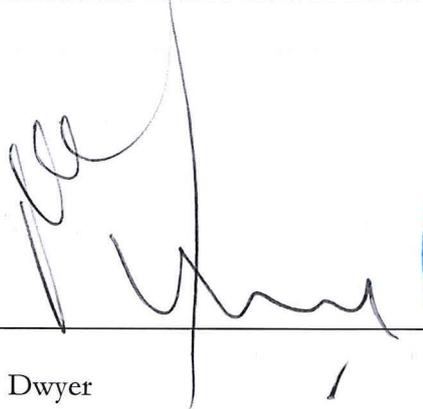
[4] In accordance with s 285 of the Act, the Registrar, on behalf of the Court, and counsel for Waka Kotahi NZ Transport Agency have agreed that a sum of \$45,541.14 (excl. GST) is an appropriate amount to be paid in relation to the expenses incurred by the Court in this matter.

[5] Accordingly, the Registrar and Waka Kotahi NZ Transport Agency have requested that an order for costs be made in favour of the Crown against Waka Kotahi NZ Transport Agency of \$52,372.31 (incl. GST – GST invoice to issue with decision).

#### **Determination**

[6] I have none of the information before me which has produced the agreement between the Registrar and Waka Kotahi NZ Transport Agency, such as information about the costs and expenses incurred in determining this application. Therefore, while I am prepared to make the order as sought, by consent, I wish to be clear that the order does not represent a reasoned determination of the Court.

[7] The Court orders, by consent, that Waka Kotahi NZ Transport Agency pay the Environment Court's costs in the sum of \$52,372.31 (incl. GST) to the Crown.



BP Dwyer

Alternate Environment Judge

