

**NOT  
RECOMMENDED**

**THE QUEEN**

v

**J JUNO CONSTRUCTION LTD**

**Coram**        **Eichelbaum CJ**  
                  **Heron J**  
                  **Anderson J**

**Hearing**     **28 October 1998**

**Counsel**     **J A Tannahill for appellant**  
                  **G J Burston for Crown**

**Judgment**   **28 October 1998**

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**JUDGMENT OF THE COURT DELIVERED BY EICHELBAUM CJ**

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Following a jury trial in the District Court the appellant was convicted on a charge that in contravention of Section 13(1)(a) of the Resource Management Act 1991 it demolished a part of a bridge structure on or over the bed of the Hutt River in a manner not expressly allowed by a rule in a regional plan and in any relevant proposed regional plan or a resource consent. Subsequently a fine of \$20,000 was imposed.

The company appealed against the conviction on grounds that the verdict was “against the weight of the evidence”, that the verdict was unreasonable having regard to the evidence, and that the summing-up was defective in a number of respects not particularised. In addition there was an appeal against the sentence on the ground that it was manifestly excessive.

On behalf of the appellant company Mr Tannahill advised the Court a little while ago that the appeal against the conviction would not be pursued. Yesterday he advised that the sentence appeal likewise would not be pursued and today he has appeared to confirm that the appellant company did not wish to proceed in either respect. No grounds have been drawn to our attention to substantiate the matters raised in the notice of appeal, and in the circumstances the appeal against conviction is dismissed. Likewise the sentence appeal is dismissed.

Mr Burston, appearing for the Crown, drew attention to the fact that in the District Court, on sentencing the question of costs was reserved and that has remained the position, no doubt pending the disposal of the appeal. Mr Burston advised that the Crown proposed to seek costs in the District Court and he drew attention to the fact that, the appeal having been dismissed, in the light of the decision of this Court in *R v Pellikan* [1959] NZLR 1319 there might be a difficulty, about any further appeal against the costs order, were the appellant minded to take that course. Mr Tannahill understands the position. Beyond noting the matter to which Mr Burston has drawn attention we are not required to say anything further about it or, of course, to express any view on the correctness of the proposition Mr Burston has advanced.

*Proceeds to be considered Cr*

Solicitors

Tannahills, Wellington for appellant  
Crown Solicitor, Wellington