

**IN THE DISTRICT COURT
AT HAMILTON**

**CRN-1709500792, 793
[2018] NZDC 9213**

WAIKATO REGIONAL COUNCIL
Prosecutor

v

FULTON HOGAN LIMITED
Defendant

Hearing: On the papers

Judgment: 10 May 2018

**DECISION OF JUDGE HARLAND RECORDING
DISCHARGE WITHOUT CONVICTION**

Introduction

[1] I issued my reserved sentencing decision in relation to this matter on 23 March 2018. In relation to Fulton Hogan, I requested that counsel file a joint memorandum or memoranda addressing the costs of prosecution. I indicated, in paragraph [127] that, whilst I would be prepared to exercise my discretion in favour of Fulton Hogan to discharge it without conviction, this would only be on the basis that its share of the costs of prosecution are met by it.

[2] Counsel for the prosecution and Fulton Hogan filed a joint memorandum dated 6 April 2018 outlining:

- Fulton Hogan's offer to pay \$15,000 as a contribution towards the Council's costs, which it would meet itself rather than seeking to recover

those costs from its insurer;

- The Council's agreement that the sum of \$15,000 would be a meaningful contribution towards its costs.

[3] In a final reserved sentencing decision dated 10 April 2018, I indicated that once the prosecution and defendant advised the Court that the sum of \$15,000 has been received by the Council from Fulton Hogan, I would exercise my discretion to discharge it without conviction.

[4] I formally record that counsel for the prosecution and defendant have advised that the sum of \$15,000 has been received by the Council from Fulton Hogan, and accordingly the defendant is discharged without conviction in relation to CRN-1709500792 and CRN-1709500793.



M Harland
District Court Judge and Environment Judge