

**IN THE DISTRICT COURT  
AT GISBORNE**

**I TE KŌTI-Ā-ROHE  
KI TŪRANGANUI-A-KIWA**

**CRI-2021-016-001211  
[2023] NZDC 22030**

**GISBORNE DISTRICT COUNCIL**  
Prosecutor

v

**YANNIS KOKKOSIS  
GYPSY INVESTMENTS LIMITED**  
Defendants

Hearing: 22 September 2023  
Appearances: A Hopkinson for the Prosecutor  
A Simperingham for the Defendant  
Judgment: 22 September 2023

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**NOTES OF JUDGE B P DWYER ON COMPLETION OF SENTENCING**

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[1] On 30 August 2023 I partially completed a sentencing of two Defendants, Gypsy Investments Limited (GIL) and yourself, Mr Kokkosis, on charges brought by Gisborne District Council for contravening s 9(1) of the Resource Management Act 1991. The details of the charges are found in my sentencing notes from the previous partial sentencing (the Decision)<sup>1</sup> which should be read in conjunction with these notes.

[2] As recorded in the Decision GIL was convicted and fined the sum of \$20,000

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<sup>1</sup> *Gisborne District Council v Kokkosis* [2023] NZDC 19069.

plus costs. Mr Kokkosis, who is the sole director of and shareholder in GIL sought a discharge without conviction on two bases relating to:

- Potential loss of his current employment;
- Potentially being unable to obtain future employment in Canada as a helicopter pilot.

[3] I rejected the second ground for reasons set out in the Decision. Nor was I prepared to grant a discharge at that time on the potential loss of current employment basis. I found that if there was a reasonable likelihood that Mr Kokkosis might lose his job as a result of a conviction in this matter, that consequence would be out of all proportion with the seriousness of his offending. However the only information before the Court as to whether that was likely to happen was a declaration from Mr Kokkosis, unsupported by any confirmatory third-party material.

[4] I adjourned completion of Mr Kokkosis' sentencing until today to give him the opportunity to provide further documentation in that regard. On 15 September Mr Simperingham filed a memorandum on his client's behalf, effectively abandoning the discharge application as it related to his current employment. The memorandum advised that Mr Kokkosis has resigned his employment effective as of 6 October 2023, because publicity arising out of the trial has already damaged his employer's reputation and because he personally has been the subject of adverse comment at his workplace. Those consequences are unfortunate and unwarranted in light of the Court's findings that although the Defendants removed contaminated soil from the Site without obtaining a resource consent (as they had been advised was needed) they were not responsible for the contaminated soil being there in the first place and as part of the removal process they remediated the limited area of contamination.

[5] Those things said, the outcome is that I decline the application for discharge without conviction and Mr Kokkosis is hereby convicted on the charge against him.

[6] In the earlier Decision I had indicated that the appropriate penalty to be imposed on Mr Kokkosis, should he be convicted, was a fine of \$10,000. I have

reconsidered that indication having regard to Mr Simperingham's contention that in light of Mr Kokkosis' upcoming loss of employment, a sentence of community work would be appropriate.

[7] Although I have not been provided with sufficient information to enable me to assess Mr Kokkosis' financial capacity to pay a fine of the amount identified, the submission reminds me that while imposition of a fine is far and away the most common outcome of RMA prosecutions, that should not be regarded as an automatic outcome and the Court must always have regard to the full range of sentencing options available in any case.

[8] In this case the wrong that must be penalised was potential harm to the Gisborne community brought about by disturbing contaminated soil other than as approved by resource consent. The seriousness of this offending was mitigated by the limited proven spatial extent of the contamination; the short period of the disturbance works and the remediation undertaken.

[9] In the case of GIL those factors are recognised by the fine imposed on that company which is at the lower end of the penalty scale, where the maximum fine for a corporate defendant is \$600,000.

[10] Taking all of those matters into account, I have determined that the appropriate penalty for this offending in your case Mr Kokkosis, is the imposition of a modest penalty of community work. It may be that your skills as a machine operator can be put to some beneficial use for the community in that regard.

[11] Accordingly, I sentence you to undertake 50 hours of community work. You will pay solicitor costs in accordance with the Costs in the Criminal Cases Regulations 1987 (to be fixed by the Registrar, if need be) and Court costs of \$130.

  
B P Dwyer  
Environment/ District Court Judge