

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2026] NZEnvC 97

IN THE MATTER

of the Resource Management Act 1991

AND

of a purported appeal under clause 14
of the First Schedule of the Act

BETWEEN

GAVIN MOLLOY

(ENV-2025-CHC-119)

Appellant

AND

TE TAI POUTINI PLAN
COMMITTEE

Respondent

Court: Environment Judge K G Reid

Hearing: In Chambers on the papers

Date of Decision: 30 April 2026

Date of Issue: 30 April 2026

DECISION OF THE ENVIRONMENT COURT

A: The purported appeal is struck out.

REASONS

Introduction

[1] The Te Tai o Poutini Plan Committee (TTPP Committee) is responsible

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for preparing a new combined proposed plan covering the whole of the West Coast. On 10 October 2025 the TTPP Committee notified its decisions version Te Tai o Poutini Plan (TTPP), including Variations 1 and 2.

[2] On 18 November 2025 the Environment Court granted waivers to extend the appeals period to 8 December 2025, and the period to join an appeal as a s274 party to 19 January 2026. That date was later extended to 2 February 2026.¹

[3] On 8 December 2025, Mr Molloy purported to lodge a notice of appeal concerning the Franz Alpine Resort Development located north of Franz Josef. That notice, and the question of whether its deficiencies warrant strike-out, is the subject of this decision.

Background

[4] On 18 December 2025 the registry emailed Mr Molloy as follows:²

Before I can process your notice of appeal, can you please fill out the form attached. This ensures that your notice of appeal addresses everything that we require to process it (e.g. identifies the correct legislation, whether you are a trade competitor etc.) You can attach your current version of appeal to the back of the new form should you wish, so that all the information you have discussed is still included, we just need the formal form filled out at the front of it.

Once I have received this, I will finish processing it and send you a formal acknowledgement letter of your appeal.

[5] A further email was sent on 14 January 2026 stating:³

¹ *Re Te Tai O Poutini Plan Committee* [2025] NZEnvC 372.

² Registry email to G Molloy regarding Environment Court – Appeal against TTPP (18 December 2025).

³ Registry email to G Molloy regarding Environment Court – Appeal against TTPP (14 January 2026).

I note that you have not attended to the below email from my colleague. I also note that payment has not been made or an application for fee waiver filed (as indicated in your file and pay receipt). I have attached a fee waiver application form for you to complete.

If you wish your appeal to be processed, then you need to attend to both Form 7 and the fee waiver application by 28 January 2026.

[6] The hearing manager called Mr Molloy on Tuesday 3 February 2026 and drew to his attention the emails regarding the appeal. Mr Molloy advised he would attend to the emails the next morning.

[7] A Minute issued dated 12 February 2026 advising of what further information was required for his appeal to be accepted as complete. That Minute was also posted to Mr Molloy.⁴ The covering letter dated 16 February 2026 stated: “If you do not complete the forms via post or electronically then your appeal may be struck out.”

The deficiencies in Mr Molloy’s notice of appeal

[8] The procedural requirements for lodging a notice of appeal against a decision on a proposed plan change is prescribed by Form 7 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003. While an appellant is not required to use Form 7 itself, any notice of appeal must contain the information required by that form. A copy of Form 7 was provided to Mr Molloy as an attachment to the registry’s email dated 18 December 2025 and a further copy was appended to the Minute posted on 16 February 2026.

[9] Regardless of the format in which a notice of appeal is submitted, certain information must be provided to ensure that the court and all other parties understand the nature of the appeal, the parts of the decision challenged, the

⁴ This was sent to the PO Box recorded on the original submission appended to the purported notice of appeal.

reasons for the challenge, and the relief that is sought.

[10] As set out in the Minute dated 12 February 2026, I am satisfied that the following details have been provided:⁵

- (a) appellant details – full name of the appellant and a contact phone number has been provided. Mr Molloy’s email address was provided through the court’s File and Pay system;
- (b) submission - Mr Molloy states he made a submission on the proposed rezoning. Further, a submission is appended as pp 8 and 9 of the document lodged;
- (c) relief sought – the notice in its current form seeks as relief that the court recognises the alleged misleading conduct and incorporates s 5.4A of the current District Plan into the TTPP, allowing reconsideration of the project as a safe and viable growth option for the region;
- (d) required attachments – attached to:
 - (i) a copy of your submission or further submission (with the submission you supported/opposed).
- (e) service of documents – include address for service (email is provided), contact details (phone number is provided).

[11] Also recorded in that Minute was that the further information required is:⁶

- (a) trade competitor statement;
- (b) decision details – although not specifically in its current form it can be inferred that the notice relates to the “TTP Plan process”, specifically “the rezoning of Franz Alpine Resort from Tourist/Residential”, the grounds being that this has been done based on misleading information from

⁵ At [11].

⁶ At [12].

Westland District Council representatives on the Committee.;

- (c) required attachments:
 - (i) a copy of the relevant decision (or part of it);
 - (ii) any other documents necessary to understand the appeal (other than those already attached).
- (d) signature of the appellant or authorised representative and the date.

Environment Court's power to strike out an appeal

[12] Proceedings under the Resource Management Act 1991 are inherently participatory, reflecting Parliament's intention that a wide range of affected persons be able to engage meaningfully in environmental decision making.

[13] Plan change proceedings are participatory in nature and participants, many of whom are lay litigants, are encouraged to take part. Accordingly, the court has long recognised that it must strike a balance between facilitating access to justice by ensuring that procedural requirements should not be applied so rigidly as to exclude genuine participation by lay litigants. Where a notice of appeal is incomplete but capable of remedy, the court will generally afford an appellant the opportunity to correct the defect. However, where deficiencies cannot be remedied or where an appeal is fundamentally flawed the court may exercise its strike out powers under s279(4).

[14] Section 279(4) states:

An [Environment Judge] sitting alone may, at any stage of the proceedings and on such terms as the Judge thinks fit, order that the whole or any part of that person's case be struck out if the Judge considers—

- (a) That it is frivolous or vexatious; or

- (b) That it discloses no reasonable or relevant case in respect of the proceedings; or
- (c) That it would otherwise be an abuse of the process of the [Environment Court] to allow the case to be taken further.

Do the deficiencies in the appeal warrant strike out?

[15] The notice of appeal as filed is informal, but more significantly, does not include a number of the mandatory matters required by Form 7. While the use of the prescribed form is not compulsory, compliance with its substantive requirements is.

[16] It is well established that the court's power to strike out should be used sparingly.⁷ In *Briggs v Kapiti Coast District Council*⁸ the court stated that:⁹

The power to strike out appeals is one which this Court exercises sparingly. Public participation in Resource Management appeals is encouraged by the Act itself and by the Court as a matter of policy. It is frequently the case that documents filed with the Court by persons representing themselves, without the benefit of legal Counsel, lack the precision which the Court might expect from documents drafted by legal practitioners. The Court has wide powers to grant waivers, make directions and seek particulars, which enable technical deficiencies and ambiguities in proceedings to be remedied without prejudice to other parties.

[17] As is the court's usual practice in such circumstances, Mr Molloy has been afforded the opportunity to remedy the identified deficiencies.¹⁰ On behalf of the court, the Registry has attempted to support Mr Molloy to the extent that it can

⁷ *Briggs v Kapiti Coast District Council* 2008 WL 5005169. *Te Kura Pukeroa Maori Inc v Thames-Coromandel District Council* 2007 WL 2718408.

⁸ *Briggs v Kapiti Coast District Council* 2008 WL 5005169.

⁹ At [17].

¹⁰ See *Macfarlane v Canterbury RC EnvC C080/99*. *Tuhakaraina v Bay of Plenty Regional Council* 2009 WL 3060435 at [15]. *Hauraki Maori Trust Board v Waikato Regional Council* 2004 WL 551541.

properly do so.

[18] No response was received by 26 February 2026. Since that deadline has passed, other parties have made further enquiries as to whether the court will, or has proceeded to strike out the appeal.¹¹

[19] Caselaw indicates that a failure to engage with the court's processes can amount to an abuse of court processes.¹² In this instance, I am concerned that Mr Molloy has not taken steps to remedy the identified deficiencies nor provided any explanation for failing to do so.

[20] I am further concerned that this lack of engagement will prejudice the progress of the TTPP, which is presently at the stage where parties are coordinating how best to progress court-facilitated mediation. Without the active participation of all appellants, some prejudice is likely to occur.

[21] I am satisfied that Mr Molloy has been given ample opportunity to remedy the deficiencies with the purported appeal. Mr Molloy has also been given ample opportunity to seek a waiver or pay the requisite filing fee. At the time of writing, Mr Molloy has failed to do so.

[22] The failure to remedy the deficiencies in the appeal, the failure to pay the filing fee (or apply for a waiver) and the failure to engage with the court's processes to remedy these issues for approaching three months, despite the urging of the registry and deadlines set by the court, together amount in my judgement to an

¹¹ Email of R Argyle counsel for Westland District Council to the Registry (5 March 2026). Email of A Balme counsel for the TTPP Committee to the Registry (24 March 2026). Note, Westland District Council had earlier notified the Registry of an intention to join Mr Molloy's appeal as an interested party under s274 RMA if the appeal was accepted for filing.

¹² *Tuhakaraina v Bay of Plenty Regional Council* 2009 WL 3060435 at [17]-[18]. See also *Wainuiototo Bay Property Co Ltd v Waikato Regional Council* 2003 WL 25882259 at [21]-[22]; where the Environment Court held that it would be an abuse of the court's process to allow the appeals to be taken further on the basis that the appellants had failed to adhere to directions from the court and had not responded to correspondence from the court.

abuse of process Accordingly, I strike out the appeal under s270(4) of the RMA.

Directions

[23] Accordingly, I direct that the file is to be closed and no further action is to be taken on it.



K G Reid
Environment Judge

