

Report to the Environment Committee  
from John Sherriff, Manager Resource Investigations

## **Resource Management Infringement Notices**

### **1. Purpose**

To:

- inform the Committee about recent changes to the Resource Management Act 1991 enabling the Council to issue infringement notices;
- outline the procedures proposed for using infringement notices in the Wellington Region; and
- seek approval for changes to the delegations manual to facilitate the use of infringement notices.

### **2. Background**

The Resource Management (Infringement Notice) Regulations 1999 were assented to by the Governor General on 11 October 1999. These regulations give local authorities the option of responding to certain offences under the Resource Management Act 1991 (RMA) by issuing an infringement notice (similar to a parking or speeding ticket) instead of proceeding with a full prosecution. These new regulations took effect from 1 February 2000.

The decision to allow infringement notices to be issued for RMA offences is arguably recognition of the huge variation in seriousness of offending under the RMA. Offences against the same section of the RMA can be trivial in their environmental effects or they can be serious. It also recognises the high costs incurred by both the regulatory agency and offenders when a prosecution is sought.

Infringement notices will be able to be used for 10 of 20 offences under the RMA. These include breaches of sections 9, 12, 13, 14 and 15 (these relate to: the use of, land, the coastal marine area and the beds of rivers and lakes; the taking, use, damming or diverting of water; and the discharge of contaminants into the environment), and breaches of abatement notices (other than a notice issued under section 322(1)(c) which relates to unreasonable noise), excessive noise directions, water shortage

directions and section 22 which relates to failure to provide certain information to an enforcement officer.

Infringement notices will be issued by enforcement officers. The prescribed infringement fees range from \$300 to \$1000. A copy of the schedule of infringement offences and fees is included in Attachment 3.

### **3. Some Nuts and Bolts of Infringement Notices**

Once an infringement notice has been issued, the person issued with the notice has 28 days to pay the infringement fee. If the person pays the infringement fee within 28 days that is the end of the matter and no further enforcement action can be taken. If they do not pay within that time period they will be issued with a reminder notice. If, after another 28 days, they still have not paid the fee then the matter is passed to the Department of Courts who will collect the fee for us.

A person receiving an infringement notice has two options for challenging the notice. They may refute the decisions to issue an infringement notice and in writing request that the Regional Council has the matter heard by the District Court.

They can also make submission to the Court about the level of fee imposed. To do this they must write to the Council, accept responsibility for the incident and outline the basis of their submission. Written submissions are considered by the Court but no hearing is held.

In both cases, the Council can decide to either withdraw the notice or get the Court to adjudicate on the matter.

### **4. WRC Infringement Notice Procedures**

Procedures for implementing infringement notices within the Wellington Region have been developed to ensure that they are only used where they are considered to be the most appropriate enforcement tool and that they are implemented in a consistent manner across the Region. A copy of these procedures is provided as Attachment 2.

The main feature of these procedures is that the decision to issue an infringement notice will only be made after all evidence and the circumstances related to the incident have been fully considered. Infringement notices will not be issued instantaneously like a parking ticket. This is because, in a worst case scenario, an infringement notice may end up with a court case. The WRC needs to be sure that it has sufficient grounds to take a case to this ultimate conclusion before it issues an infringement notice.

Guidelines for helping staff to decide whether an infringement notice should be used have also been prepared. A copy of these guidelines is included with Attachment 2.

## 5. **Changes to Existing Delegations**

Some changes need to be made to the current delegations for these procedures to be implemented.

The specific changes are:

- The functions listed in the warrants for Enforcement Officer should be amended to recognise their ability to prepare and issue infringement notices.
- Officers with Delegation A authority (Divisional and Departmental Manager level) need to be delegated the task of deciding whether to accept requests for hearings or submissions in relation to infringement notices.

## 6. **Communication**

Information about the Council's ability to issue infringement notices will be passed to the general community using press releases and an article in Elements.

## 7. **Recommendations**

*That the Committee recommend to the Council that the delegation manual be amended, as outlined in the attachment to this report, to allow the implementation of infringement notices in accordance with the procedures and guidelines prepared for the Wellington Region.*

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Attachments: 3

