

Example of abatement notice under s322(1)(b)

ABATEMENT NOTICE UNDER SECTION 322 OF THE RESOURCE MANAGEMENT ACT 1991

TO: *[property owner/occupier or person causing adverse effects or on whose behalf adverse effects are being caused. Include, if possible, the person's address and date of birth]*

ADDRESS FOR SERVICE: *[property address/Registered Office if company]*

_____ COUNCIL gives notice that you or your agents must:

[Do something – ensure you state an action that would avoid, remedy or mitigate actual or likely adverse effects on the environment, and necessary to ensure compliance with the Act, District Plan or a Resource Consent. List actions required and give precise details]

Location in respect of which this abatement notice applies:

[Street address and legal description]

You must comply with this abatement notice within the following period:

[State timeframe – eg, “immediately upon receipt of this notice” or state specific date Note that the timeframe must be a reasonable one having regard to the circumstances]

This notice imposes the further following conditions:

[Delete if no further conditions imposed]

This notice is issued by a formally appointed _____ Council Enforcement Officer under:

Section 322(1)(b)(i) and/or 322(1)(b)(ii) of the Resource Management Act 1991

[Delete one if not relevant – section 322(1)(b)(i) relates to notices against person causing adverse effect; section 322(1)(b)(ii) relates to notices against owner/occupier of the land]

The reason(s) for this notice are:

[Give details. Include reference to what is being contravened in the Act, District Plan and/or Resource Consent. State effects with enough precision to allow the recipient a reasonable opportunity to understand the case against him/her and consider an appeal]

If you do not comply with this notice, you may be prosecuted under section 338 of the Resource Management Act 1991 (unless you appeal and the notice is stayed as explained below).

You have the right to appeal to the Environment Court against the whole or any part of this notice. If you wish to appeal, you must lodge a notice in form 49 with the Environment Court within 15 working days of being served with this notice.

An appeal does not automatically stay the notice and so you must continue to comply with it unless you also apply for a stay from an Environment Judge under section 325 (3A) of the Resource Management Act 1991 (see form 50). To obtain a stay, you must lodge both an appeal and a stay with the Environment Court.

You also have the right to apply in writing to Auckland City Council to change or cancel this notice in accordance with the section 325A of the Resource Management Act 1991.

_____ Council authorised the Enforcement Officer who issued this notice. Its address is:

_____ Council
[Address]

The Enforcement Officer is acting under the following authorisation:

[Officer name, warrant number and date]

.....
Signature of Enforcement Officer

.....
Dated: [Date]