

Example of abatement notice under s322(1)(a)(ii)

ABATEMENT NOTICE UNDER SECTION 322 OF THE RESOURCE MANAGEMENT ACT 1991

TO: *[Person doing or planning to do the offending action, or on whose behalf it is being planned/done. 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:

[Cease doing something or not undertake something where the thing being ceased/not undertaken is or is likely to be noxious, dangerous, offensive or objectionable to such an extent that it has or is likely to have an adverse effect on the environment. List the actions to be ceased - note: see commentary on Zdrahal v Wellington CC]

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 – Note that the timeframe must be a reasonable one having regard to the circumstances and should not be shorter than 7 days if the person is otherwise complying with the RMA]

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)(a)(ii) of the Resource Management Act 1991

The reason(s) for this notice are:

[Give details. Note the two step test – noxious, dangerous, offensive, objectionable + adverse effects. The effects, and the basis for the thing being offensive inter alia should be stated 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.

Lodging an appeal will automatically stay this notice as long as you are complying with the Resource Management Act 1991, any regulations made under that Act, a rule in a plan, or a resource consent.

[Note: If the person is breaching the Resource Management Act 1991, regulations, a rule in a plan, or resource consent, you may wish to lodge a notice under both s322(1)(a)(i) and s322(1)(a)(ii) in which case utilise Form 1 for s322(1)(a)(i) and add reference to s322(1)(a)(ii) in paragraph 5 of that template]

You also have the right to apply in writing to _____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]*