



Resource Management Knowhow

Practical legal knowledge and resources to help get your work done

Introducing the third Westlaw NZ Know-How product, Resource Management, a unique combination of expertly crafted legal workflow and precedents.

What is Know-How?

Available exclusively on Westlaw NZ, Know-How is a new workflow solution from Thomson Reuters which delivers a task oriented step by step guide through legal matters. Each workflow step combines expertly authored guidance on that step, the identification of tasks related to the step, and seamless integration with relevant checklists

and downloadable forms and precedents from Brookers Precedents products on Westlaw NZ. Know-How serves as both an aide-mémoire and guide for more senior practitioners, and is ideal for supervising and training less experienced staff. Improve the productivity of your practice and be confident that correct processes are followed.

Resource Management Workflows and Precedents

Thomson Reuters *Resource Management Workflows* are designed to provide lawyers and resource management professionals with step by step information in the form of easy to follow modules which explain the procedures and various tasks that need to be completed in relation to two key areas of practice under the Resource Management Act 1991.

The modules are designed to be used by those new to practice and procedure under the Resource Management Act 1991 (recently amended by the Resource Legislation Amendment Act 2017), non-specialists who occasionally deal with matters relating to resource consent procedures and enforcement mechanisms, and senior resource management practitioners who, either wish to delegate various tasks to more junior practitioners, or who need to refresh their memories about aspects of resource management practice and procedure that they have not dealt with for a while.

1. Resource consents:
 - When a resource consent is required
 - How to apply for a resource consent
 - Resource consent decision making processes
 - Challenging resource consent decisions
 - Environment Court processes.
2. Enforcement and compliance:
 - The five enforcement mechanisms available under the Resource Management Act, namely abatement notices; infringement notices; excessive noise directions; enforcement orders; and prosecution and two other mechanisms that are relevant to enforcement, water shortage directions and emergency works; and
 - Power of entry by council enforcement officers onto private land, applications for search warrants and production orders.



- 1 Expert commentary
- 2 Alert box
- 3 Tip box
- 4 Task box
- 5 Legislation link
- 6 Precedent link
- 7 Link to further reading

Notice of Appeal

Steps Resources

Step 1 Drafting a Notice of Appeal

Step 2 Lodging notice of appeal

Step 3 Service of Notice of Appeal

Step 4 **Notice of Appeal doesn't comply with timeframes or other legal requirements**

Last Revised: 20 Feb 2017

If a Notice of Appeal does not comply with the legal requirements (for example if some information is missing), the Registrar will record it as having been received, subject to any error or omission being notified. The Registrar will notify the person lodging the documents of the amendments required, and specify a date, not more than five working days after 'knew or ought to have known' that to be done. The Registrar will also notify the other parties of the date by which the amendments are required.

1 If the required amendments are not made within the specified time, the Court will consider whether to grant a further extension of time, or whether to strike out the appeal under s.229(6) of the RMA.

If an appeal is lodged after the time limit for appeal has expired (5 working days after receiving the council's decision), the Registrar will record the appeal as having been received, subject to the time limit being waived, and will advise the proponent and other parties accordingly. In advising the conditional receipt of the appeal, the Registrar will notify a date by which any application for waiver of the time limit, and any objection to granting the waiver, must be lodged. The test for granting a waiver is whether any party will be unduly prejudiced by doing so (refer to s.281 of the RMA).

2 **Alert**

If one of your clients is aware that the appeal is lodged out of time, you should make an application for the waiver with the Notice of Appeal. You can find the appropriate form for the waiver at Form 38 of the Resource Management (Forms and Procedures) Regulations 2012. Resource Management Procedures (Form 38).

3 **Tip**

If you can get written consent to the waiver from the other parties to the appeal, and lodge those consents with the application for waiver, then the extension of time for lodging the appeal will normally be granted. In other cases, good grounds will have to be made out, and the Court must be satisfied that no other party will be unduly prejudiced by granting the waiver.

4 **Tasks**

You will need to:

- (1) If your appeal is out of time, try to get written consents from the other parties for the late appeal provided it does not exceed the timeframe as you need to lodge the application for waiver as soon as possible;
- (2) If your appeal is out of time, download an appropriate form and fill out an application for waiver;
- (3) Lodge the application for waiver at the same time as the Notice of Appeal.

Next Step

After reading proceed to the next subtopic Managing Appeal through the Court Process [Link 1: Pre-appeal request](#)

5 **Further Reading**

Practice Note

6 [Enforcement Court of New Zealand Practice Note 2014](#)

Putting an Application Together

Steps Resources

Step 1 Initial consultation

Step 2 Consultation

Step 3 Obtaining affected party approvals

Step 4 Review

Step 5 Assessment of Environmental Effects (AEE)

Step 6 Preparation of application

Step 7 Audit plan fees

Step 8 **Checklist**

Last Revised: 27 Feb 2017

To lodge the application, you will need to check that you have done the following:

- (1) completed and signed the [Application for resource consent \(AEE and AEE\) form](#) ([Application for resource consent \(AEE and AEE\) form](#));
- (2) obtained information related to the application, the activity to which the application is being made, the site owner and/or occupier details, a description of the activity for which consent is sought;

3 **Tip**

The AEE will contain the full description of the activity and the site. Form 9A will assess these two matters. See examples in completed application:

- [Example consent application and AEE - state residential dwelling](#)
- [Example consent application and AEE - commercial premises](#)

- (3) finalised the AEE (see [Assessment of Environmental Effects](#) in [Part 6](#), [Part 9](#) and [Part 10](#));
- (4) paid deposit fees to the council (see [Part 7](#), [Part 9](#) and [Part 10](#));

5 **Tip**

Prepare a covering letter to go to the council to accompany the application. This should set out that you are able to discuss any issues arising and that you would appreciate a letter confirming the date your application was lodged and name of the council officer assigned to process the application.

4 **Tasks**

You will need to:

- (1) Complete and sign [Form 9A - Application for resource consent \(AEE and AEE\)](#);
- (2) Organise AEE and [Form 9B - Application for resource consent \(AEE and AEE\)](#) as a package to be presented;
- (3) Prepare covering letter to council;
- (4) Pay deposit fees.

Next Step

After reading proceed to Council Process and Decision Making [Link 1: Checklist](#)

Resource Management Workflows – Expert Author



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Karenza is a sole practitioner environmental lawyer based in Auckland with 32 years' experience. Prior to setting up her own practice in Auckland in 2000, Karenza was a partner in a Hamilton Law Firm. She specialises in enforcement under the Resource Management Act and other local government and environmental legislation. Karenza currently acts for three regional councils (Northland, Taranaki and Manawatu-Wanganui) and also does some work for individuals (outside of the geographical regions of the councils she acts for). Karenza has written reports on prosecutions under the Resource Management Act and other enforcement related topics for the Ministry for the Environment. She has written manuals for local authorities on enforcement under the Resource Management Act and other environmental legislation. Karenza is consulting editor for Thomson Reuters Resource Management Tracker, a contributing author to the well regarded treatise *Environmental Law in New Zealand* and member of the editorial panel for Salmon RMA.

Steps Resources

Step 1: Applying the council's decision

Step 2: Matters to consider

Step 3: Facts to the Appeal

Step 4: Successors

Step 4. Successors

24th November 2018 20:17

The "successor" to an applicant or submitter (see [Steps 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100](#)) who also has a right to appeal, or to continue with an appeal. This is provided for under s 24 of the RMA.

This includes, but is not limited to, a successor in title (for example if the owner of a block of land appeals the council's decision not to allow it to build a house on that land and the owner sells to a new owner, that new owner can continue the same appeal as the "successor" to the original owner).

Alert
A successor includes an incorporated body that is the successor to an unincorporated body in s 24(2) of the RMA. Sometimes an unincorporated group (a group of residents) which submitted an application, may also form an incorporated society to make the appeal. This may be necessary to give them legal status for funding or other purposes.

Alert
However to be accepted as a "successor" by the Court, the membership of the incorporated body must be "substantially" the same as the membership of the unincorporated body. [Case summary: Attorney General v Attorney General \[2018\] 1 NZLR 1 \(NZCA\)](#) (NZCA 1/2018) [Resource Management \(online\) \(case of 48, Thomson Reuters at 1122 07\)](#).

There is no need to lodge an application to become a "successor" to an appeal. However, where a person (or party) wishes to become the successor of a party to an appeal, that person needs to give notice of the change in name to the Registrar of the Environment Court and to the other parties (refer to R 8.54 of the District Court Rules 2014).

Tasks
You will need to:
(a) If you are the successor to a party to an appeal, consider whether you wish to continue with the appeal.
(b) If so, ensure that you give notice to the Registrar of the Environment Court of the change in name.

Next Step
After reading proceed to the next sub-module: [Alerts of Appeal \(Step 5, District Court Rules of Appeal\)](#)

Further Reading
Case summary
[Resource Management \(online\) \(case of 48, Thomson Reuters at 1122 07\)](#)
District Court Rules 2014
[District Court Rules 2014, r 8.54](#)

- 1 links to cases
- 2 links to other Thomson Reuters commentary
- 3 links to internet materials

Introduction to RMA Enforcement Workflow

Steps

Step 1: General overview

Step 2: Informal and formal enforcement

Step 3: Enforcement mechanisms

Step 4: How can you obtain enforcement mechanisms?

Step 5: Objections

Step 6: Kinds of enforcement

Step 7: Local authorities

Step 8: Roles of "local authority" and "consent authority"

Step 9: Requirements on local authorities to enforce the RMA

Step 10: Local authorities – Enforcement policy

Step 11: Data on enforcement taken by local authorities

Step 12: Courts

Step 11. Data on enforcement taken by local authorities

24th November 2018 20:17

The Ministry for the Environment (known as MfE) has a responsibility under s 26 of the RMA to monitor and report on the effectiveness of the RMA and overall performance in implementing the RMA.

MfE undertook 10 bi-annual surveys between 1995 and 2013 to collect information from local authorities about their use of RMA processes including enforcement. The reports are on the MfE website: <https://www.mfe.govt.nz/monitoring-and-reporting/monitoring-and-reporting/2013/>

The bi-annual survey was replaced in 2014 with the National Monitoring System for the RMA. Data on local authorities' implementation of the RMA using this new system for 2014/15 is on the MfE website: <https://www.mfe.govt.nz/monitoring-and-reporting/monitoring-and-reporting/2014/>

Some of the data collected by MfE about the usage by local authorities of abatement notices, infringement notices, excessive noise directions, enforcement orders, and prosecution, is referred to in RMA Enforcement Workflows.

Next Step
After reading proceed to [Step 12, Courts](#)

Further Reading
Ministry for the Environment: Annual surveys for 1994/95 to 2012/13
[Ministry for the Environment: Previous reporting - RMA Survey of Local Authorities \(14 June 2014\) https://www.mfe.govt.nz/monitoring-and-reporting/monitoring-and-reporting/2013/](https://www.mfe.govt.nz/monitoring-and-reporting/monitoring-and-reporting/2013/)

Ministry for the Environment: Reporting for 2014/15 <https://www.mfe.govt.nz/monitoring-and-reporting/monitoring-and-reporting/2014/>

Resource Management Workflows – Expert Author



Antoinette Besier LLB (First Class Honours), Master of Regional and Resource Planning (Distinction), Bachelor of Arts

Antoinette qualified as a Barrister and Solicitor of the High Court in New Zealand in 2005. Antoinette specialises in resource management and local government law and has had over 20 years' experience in this sector. Prior to qualifying as a lawyer, Antoinette worked as a planner, working both in local government (resource consent assessment and policy development) and as a consultant. This experience has provided a valuable practical base for her legal work. Antoinette is a director of Tasman Law Ltd, a specialist practice that she established in 2015 in Nelson. Tasman Law provides advice and representation in resource management, local government and enforcement law for the three local authorities on the top of the South Island. Antoinette has a strong background in public law, tutoring for two years in this subject and received the Robert Orr McGechan award for her published work in this area. She enjoys the challenge of explaining the law in a variety of mediums; legal journals, tutorials, practical workshops or presenting papers at conferences.

What does Know-How include?

Step by step guide – processes are mapped out into clear and simple steps that efficiently guide you towards the right outcomes.

Expert guidance – each step is accompanied by expertly written practical assistance and advice.

Tasks – the steps provide a separate list of tasks that need to be completed at each stage of a process.

Notes and Further Reading references – highlight and link to related materials that provide guidance and supplementary information.

Same platform access – related research publications and additional precedents are also available on Westlaw NZ, subject to subscription.

Forms and precedents – downloadable templates provided in context for immediate use. Download a precedent as a Microsoft Word document. Used in conjunction with the unique Thomson Reuters Precedents Drafting Aide, users can save and adapt precedents to their own, specific needs.

Easy to follow steps in each workflow module

- Expertly written practical advice for every step
- Notes provide further information and guidance
- Each step is distilled into a series of tasks
- The forms and precedents related to each step are handily grouped together in the Resources tab
- Use the Precedents Drafting Aide to draft and complete your documents with speed and efficiency



Why Choose Know-How?

Currency that will keep you agile

With updates during the year from our experienced practitioner authors, you can be confident that our workflow and precedents reflect the significance of ongoing legislative and regulatory change.

Day-to-day workflow, precedents, and research together on one powerful platform seamlessly move between workflows, precedents, and research and enjoy all the authority, reliability and flexibility of Westlaw NZ.

Achieve day-to-day efficiency

Whether you are managing high-volume work, coming new to a particular area of practice or supervising more junior members of staff, Know-How helps you save time and money. Know-How ensures no steps are missed and tasks are accurately completed so you can minimise the risk of mistakes and maximise time and cost efficiencies for your business and your clients.

**Ready to try out Resource Management Know-How workflow?
Request a free trial today.**

**Contact your Thomson Reuters Account Manager
or email marketingNZ@thomsonreuters.com**

For more information visit www.thomsonreuters.co.nz/workflow



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