

# TS-38 Enforcement

## ROLES AND RESPONSIBILITIES

- **TA/BCA**

To develop policy and procedures in respect to identifying, and determining matters of non compliance, infringements and other offences against the building act.

Responsible for authorising enforcement officers (sec 372)

Responsible for pursuing enforcement of offences with other authorities eg the Chief Executive of the DBH or the courts.

- **Building Manager**

Responsible for approving any enforcement actions within the scope of delegated authorities.

- **Building Officer**

Responsible for identifying, managing, obtaining and collating information in respect to matters of non-compliance, infringements and other offences against the building act.

Responsible to issue infringement notices within scope of delegated authority.

## BACKGROUND

- “Enforcement” by the TA/BCA is the carrying out of actions in response to offences committed against the act.

- Enforcement may be for:

  - Infringements ( sec 370 – 374)

  - Specific prescribed offences relating to building control ( sec 365-369)

  - Offences related to non compliance with specific sections of the act ( sec 27 40 42 58 85 101 108 114 116B 124 128 168 363 364 )

## PROCEDURE

### 1. INFRINGEMENTS

1.1 Infringements will be prescribed by the Regulations ( sec 402) (when Gazetted).

1.2 The TA appoints authorised officers in accordance with section 372.

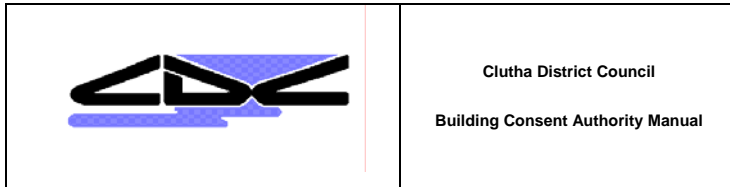
1.3 Once infringements have been gazetted authorised officers may issue notices when an infringement has occurred.

1.4 Authorised officers seek approval prior to issue of the notice subject to the delegations policy of Council.

1.5 Notices must be issued in the prescribed form ( sec 373).

1.6 Notices may be served either by hand or by post.

1.7 Payment of infringements will be the responsibility of the TA.



## 2. OTHER OFFENCES

- 2.1 The Building Officer will identify when an alleged offence has or is being committed.
- 2.2 BCA Manager will decide whether to proceed with any enforcement actions.
- 2.3 A decision will be made to either :
  - Pass information on to the Chief Executive of the DBH
    - Sec 27 Using a building product or method which is subject to a warning or ban
    - Sec 85 Offences related to licensed building practitioners.
    - Sec 364 Offences relating to the sale of residential property by a developer without a CCC.
    - Sec 366 Impersonating a building consent authority
  - Pursue enforcement with other authority eg through the District Court
    - Sec 365 Failing to comply with a directive
    - Sec 367 Obstructing the execution of powers under the act
    - Sec 368 Removing or defacing notices
    - Sec 369 Making false or misleading statements.
    - Sec 40 Building work not in accordance with consent
    - Sec 42 Failure to apply for Cert Acceptance urgent works
    - Sec 58 Failure to pay levy
    - Sec 101 Required compliance schedule not obtained
    - Sec 108 Building warrant of fitness offences
    - Sec 114 Change of use / extension of life / subdivision
    - Sec 124 Dangerous /earthquake prone / insanitary
    - Sec 128 Using building subject to warning notice
    - Sec 168 Failure to comply with notice to fix
    - Sec 363 Public use without CCC / CPU
- 2.4 Where enforcement may be pursued by the TA the Building Officer will collect all relevant information to the alleged offence including witness statements, inspection records photographs etc. A file will be prepared.
- 2.5 The file will be reviewed by the BCA Manager who will decide whether to proceed further.
- 2.6 The delegated officer may seek legal advice prior to taking further proceedings.

## NOTES

### RELATED POLICIES / PROCEDURES / DOCUMENTS

- DBH – Building Officials Guide to the Building Act – summary of offences table
- Delegations Manual
- Earthquake-prone Building Policy
- Dangerous and Insanitary buildings policy