

9. APPOINTMENT OF ENFORCEMENT OFFICERS UNDER LOCAL GOVERNMENT ACT 2002

Officers responsible City Water and Waste Manager	Authors David Rolls, Solicitor, DDI 941-8892
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The purpose of this report is to recommend that the Council appoint and warrant a number of officers of the Council's City Water and Waste Unit as enforcement officers under the Local Government Act 2002 and to delegate certain powers to those officers.

APPOINTMENT OF ENFORCEMENT OFFICERS

Section 177(1) of the Local Government Act 2002 authorises local authorities to appoint persons as enforcement officers in relation to any offences against that Act and against Bylaws made under that Act. Section 177(2) requires local authorities to issue written warrants to persons it appoints as enforcement officers under section 177(1). Clause 32(1) of the Seventh Schedule to the Act prohibits the Council from delegating its power to warrant such enforcement officers.

The Act confers upon enforcement officers powers to seize and impound property which is involved in the commission of an offence (sections 164 and 165), powers to enter upon land for enforcement purposes (section 172), and the power to require any person that the officer believes is committing or has committed an offence to provide certain information (section 178).

The officers of the City Water and Waste Unit, named in recommendation (1) below, are responsible for detecting offences against:

- (a) The Christchurch City Trade Wastes Bylaw 2000;
- (b) The Christchurch City Water Related Services Bylaw 2001;
- (c) Section 224 of the Act (relating to water wastage);
- (d) Section 225 of the Act (relating to waterworks);
- (e) Section 227 of the Act (relating to water meters);
- (f) Section 230 of the Act (relating to offences by occupiers of premises);
- (g) Section 232 of the Act (relating to damage to Council works or property);
- (h) Section 238 of the Act in relation to notices issued under Section 459 of the Local Government Act 1974 (these concern the construction, alteration, cleansing and repair of private drains).

Both of the abovementioned bylaws were made under the Local Government Act 1974. However, section 293(1) of the Local Government Act 2002 deems both bylaws to be bylaws validly made under the latter Act.

The officers will also be responsible for checking utility services on any land or in any building in terms of section 182(1) of the Act. This is for the purpose of ascertaining whether or not water is being wasted, drainage works are being misused or any appliance or equipment associated with a local authority utility service is in a condition that makes it dangerous to life or property.

POWER TO GIVE NOTICE UNDER SECTION 182(2) OF THE LOCAL GOVERNMENT ACT 2002

Section 182(2)(b) of the Local Government Act 2002 provides that before an enforcement officer may enter any land or building for the any of the purposes specified in section 182(1) the local authority must have given reasonable notice to the occupier of the land or building of the intention to exercise that power.

In the interests of efficiency, it is recommended that the Council delegate to the enforcement officers it appoints under that Act the power to give such notice.

REMOVAL OF WORKS IN BREACH OF BYLAWS

Section 163 of the Local Government Act 2002 provides that if it is authorised by a bylaw, a local authority may remove or alter a work or thing that is, or has been constructed in breach of a bylaw.

Clause 14 of the Christchurch City General Bylaw 1990 empowers the Council to remove or alter a work or thing that is, or has been constructed in breach of a bylaw. Where the work or thing is situated upon private land Clause 14(a) empowers the Council to serve a notice on the owner or occupier of that land requiring its removal. If the notice is not complied with then the Council may itself effect the removal at the expense of the owner or occupier. Where the work or thing is on, over or above a road, public place or reserve Clause 14(b) empowers the Council to remove it without notice and at the cost of the person who placed it there.

To promote the effective and efficient administration of both the Christchurch City Trade Wastes Bylaw 2000 and the Christchurch City Water Related Services Bylaw 2001 it is recommended that the Council delegate its powers under Clauses 14(a) and 14(b) of the Christchurch City General Bylaw 1990 to each of the enforcement officers it appoints to detect offences against those bylaws. The Council did, in 1994, delegate such powers to every bylaw Inspector appointed under Clause 9 of the General Bylaw. It is not suggested that this earlier delegation be revoked.

COMPLIANCE WITH DECISION-MAKING REQUIREMENTS OF THE LOCAL GOVERNMENT ACT 2002

It is considered that the decisions sought from the Council in relation to this report concern matters of a minor administrative nature only. Consequently it is suggested that no specific action need be taken in respect of the requirements of sections 77 and 78 of the Local Government Act 2002.

Recommendation: That the Council:

1. Appoint and warrant, as enforcement officers pursuant to section 177 of the Local Government Act 2002 -

- (a) Bruce Alexander Bennett
- (b) Donald Arthur Cooper
- (c) Rex Arnold Donnelly
- (d) Michael John Hohaia
- (e) Robert Arthur Johnson
- (f) Richard Scott Masters
- (g) John Charles McBeath
- (h) Graham Kenneth McIlroy
- (i) Andrew John McNeil
- (j) Robert Charles Meek
- (k) Daniela Nathalie Murugesu
- (l) John Patrick Noonan
- (m) Gareth Huw Phillips
- (n) Floyd Raymond Rudolph

for the purpose of detecting offences against the abovementioned sections of that Act and abovementioned bylaws and for the purposes specified in section 182(1) of that Act;

2. Delegate, pursuant to Clause 32(1) of the Seventh Schedule to the Local Government Act 2002, to each of the persons named in recommendation 1. (severally) the power to give notice under section 182(2)(b);
3. Delegate, pursuant to Clause 7(1) of the Christchurch City General Bylaw 1990, to each of the persons named in recommendation 1. (severally) its powers under Clauses 14(a) and 14(b) of that Bylaw for the purpose of enforcing the Christchurch City Trade Wastes Bylaw 2000 and the Christchurch City Water Related Services Bylaw 2001.