



WITHDRAWAL OF INFRINGEMENT NOTICE POLICY

DOCUMENT NO:
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1.1 Objectives: The objective of this policy is to provide the criteria for consideration of withdrawing an infringement notice.

1.2 Regulatory Authority:

- *State Penalties Enforcement Act 1999*
- *State Penalties Enforcement Regulation 2000*

1.3 Policy Statement: Council will provide logical, reasonable and transparent decisions in the withdrawal of infringement notices based upon written applications that observe relevant criteria.

1.4 Scope: The core matters addressed by the policy include the criteria for consideration in any application for an infringement withdrawal, as well as the requirements for written applications.

1.5 Roles and responsibilities:

The Chief Executive Officer or the delegated officer (the position delegated to review the decision) recognises that at the time a penalty infringement notice is issued, not all of the facts and circumstances surrounding the offence are known to the issuing officer. These facts and circumstances may be sufficient for an infringement to be withdrawn provided the certain criteria exists.

Applications for withdrawal of infringement notices shall be in writing, including all details, circumstances and information necessary to allow a logical, reasonable and transparent decision to be made.

If the named alleged offender was not responsible for committing the offence then a Statutory Declaration is required detailing the circumstances and providing the full name and address of the person responsible.

If insufficient or unclear information is provided, Council may request clarification, further information or the application to be provided on a Statutory Declaration. For Council to make a fully informed decision, it may be necessary in order to assess an application to contact any named witnesses contained within the application.

Criteria for consideration in any application shall include, but not be limited to, the following:

1. For vehicle offences where the owner was not the person in control of the vehicle at that time, a Statutory Declaration must be submitted providing the name and the address of the nominated driver within 28 days. The original infringement shall be withdrawn and a new infringement will be issued to the nominated driver.

2. A notice has been issued containing incorrect or incomplete information (e.g. vehicle registration number, incorrect name of offender or incorrect offence code) and this has caused the infringement notice to be invalid, or the information recorded on the infringement notice is so unclear that it cannot be read.
3. Medical certification: A medical certificate or other acceptable supporting documentation, including statements from witnesses, can be produced confirming that the medical condition at the time of the offence caused, or substantially contributed to, the offence occurring. In this case, the infringement notice should be withdrawn.
4. Motor vehicle breakdown (regulated parking offences): Evidence can be produced to prove a vehicle had a mechanical problem at the time of the parking offence and that the circumstances caused the driver to park illegally.
5. People with a disability (regulated parking offences): A valid disabled persons parking permit can be produced where the vehicle would not have been issued with an infringement notice had the permit been affixed to the vehicle.
6. Charity Workers (Regulated Parking Offences): The person to whom the infringement notice was, at the time of the alleged offence, undertaking a bona-fide temporary duty on behalf of a charitable organisation and the offence does not involve traffic/pedestrian obstruction or safety-related offences. Withdrawal of an infringement notice under this criterion will only be applied to a first offence.
7. Extraordinary Circumstances (See Procedure 08/18): In a case where an application is not addressed by the above-mentioned circumstances, the decision maker may determine that the circumstances are sufficient to warrant the withdrawal of the infringement notice.

1.6 Definitions: For the purpose of this policy, the definitions are as follows:

Charitable Organisations means an organisation or not-for-profit entity performing charitable works within the local government area.

Decision Maker means the Chief Operating Officer (Health, Security and Regulatory Services) or Delegated Officer.

1.7 Policy Author: Chief Operating Officer - Health, Security and Regulatory Services

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Committee Reference and Date: Policy and Administration Advisory Committee No. 2018(01) of 13 February 2018

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