

INFRINGEMENT NOTICE PROCEDURE



1 Scope

This procedure applies to employees responsible for the administration of infringement notices.

2 Purpose

The purpose of this procedure is to establish a standardised and coordinated administrative process which:

- (a) Meets the requirements of the *State Penalties Enforcement Act 1999* and any guidelines issued under the *State Penalties Enforcement Act 1999*; and
- (b) Aligns with the local government principles under Section 4 of the *Local Government Act 2009* provides (in part) that:
 - (i) Transparent and effective processes, and decision-making in the public interest; and
 - (ii) Good governance of, and by, local government.

3 Related Documents

3.1 Primary

Infringement Notice Policy

3.2 Secondary

Biosecurity Act 2014

Justice Act 1886

Local Government Act 2009

State Penalties Enforcement Act 1999

State Penalties Enforcement Regulation 2014

Transport Operations (Road Use Management – Road Rules) Regulation 2009

Delegations Register – *State Penalties Enforcement Act 1999*

Enforcement Manual

Enforcement Strategy

Infringement Notice Instalment Plan Application Form

Infringement Notice Withdrawal Request Form

Legal Proceedings – Commencement, Cessation and Other Matters Policy

Rockhampton Regional Council Local Laws

Statutory Declaration

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4 Definitions

To assist in interpretation, the following definitions apply:

Alleged Offender	As defined in the SPEA, for an infringement notice, the person on whom the notice is served.
Authorised Person	A person appointed under the SPEA/ <i>State Penalties Enforcement Regulation 2014</i> to serve an infringement notice.
CITEC	Centre for Information Technology and Communications. Searches conducted for last known registered owners of vehicles.
Council	Rockhampton Regional Council
Delegated Officer	An employee appointed to a position with delegation under section 42(1) of the <i>Justices Act 1886</i> .
ECM	Enterprise Content Management. Council's electronic document and records management system.
Infringement Notice Offence	As defined in the <i>Local Government Act 2009</i> , an offence prescribed under the SPEA to be an infringement notice offence. The SPEA defines as an offence, other than an indictable offence or an offence against the person, prescribed under a regulation to be an offence to which this Act applies.
Infringement Notices	A notice under section 15 of the SPEA. An infringement notice is a ticket issued for offences such as parking illegally, and contains information about the fine amount and the alleged offence.
PDA	Personal Digital Assistant
Person	Includes an individual and corporation.
Public Interest Test	Determining whether, in light of the facts and the surrounding circumstances of the case, the public interest will be served in pursuing a prosecution.
QCAT	Queensland Civil Administrative Tribunal
Reasonable Belief	More than a mere suspicion. Forming a reasonable belief requires a deliberative process of consideration, and forming a belief on reasonable grounds that a person has committed an infringement notice offence.
Region	Rockhampton Regional Area defined by the Local Government Areas of Queensland.
Review Officer	An employee who is a SPEA delegated officer and is appointed to one of the following positions, Supervisor Local Laws, Coordinator Local Laws or to a more senior position than the employee appointed to the position which served the infringement notice.
SPEA	<i>State Penalties Enforcement Act 1999</i>
SPEA Delegated Officer	An employee appointed to a position with the relevant sub-delegation under the <i>State Penalties Enforcement Act 1999</i> .
SPER	State Penalties Enforcement Registry
Standard of Proof	Standard of proof for criminal matters is 'beyond a reasonable doubt'. This means that the prosecution must prove its case to the point that there can be no reasonable doubt in the mind of the justice or jury, as the case may be.

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Sufficiency of Evidence Test	<p>Considering all aspects of the evidence to be presented, including:</p> <ul style="list-style-type: none"> (a) Admissibility of evidence; (b) Reliability of evidence, including identification; (c) Possible defences; (d) The extent of any contradictory evidence; (e) Competency of witnesses; (f) Compellability of witnesses; (g) Credibility of witnesses; (h) Availability of witnesses; (i) Whether witnesses will be hostile, adverse, or cooperative; and (j) Being satisfied that there is sufficient admissible evidence to prove all elements of an offence against the alleged offender.
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5 Procedure

5.1 Section Responsibility

Relevant sections are responsible for ensuring infringement notice records are kept up to date.

5.2 Infringement Notices in Triplicate (PIN book)

Handwritten infringement notices are issued in either triplicate or duplicate to satisfy administrative requirements, the:

- (a) First copy is served to the alleged offender and includes relevant options under paragraph 5.7; and
- (b) Second copy is not served and is used to enter details into Pathway then archived; and
- (c) Where issued in triplicate, the third copy remains in the PIN book.

5.3 Electronic Infringement Notices

The use of PDA and other technology enables the issuing of infringement notices electronically on pre-printed roll paper or a standard office printer. Operation of the PDA and other technology, and management of related systems is in accordance with the relevant User Guide.

5.4 Lost, Stolen or Damaged PIN Books or PDA Device

An authorised person issued with a PIN book or PDA device capable of issuing infringements must take reasonable steps to keep the PIN book or PDA device and the information it contains secure.

If the PIN book or PDA device is lost, stolen or damaged, the authorised person must at the first available opportunity provide a written report to their supervisor outlining the circumstances under which the loss, theft or damage occurred for cancellation.

The supervisor, after due consideration of all the circumstances, may give approval to cancel the PIN book. In relation to PDA devices confer with the IT unit for options to limit use of the device.

Upon cancelling, the supervisor retains the report granting approval for cancellation of the PIN book in the relevant ECM file for inspection by the Auditor.

5.5 Issuing an Infringement Notice

In accordance with the Enforcement Strategy, where an authorised person reasonably believes a person has committed an infringement notice offence, they may serve an infringement notice ensuring:

- (a) Notices are issued in consecutive order;
- (b) A ball point pen is used;
- (c) All entries are legible on all copies;

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- (d) Full and correct names of persons inserted;
- (e) The alleged offender's correct residential address completed;
- (f) Details relating to the offence and date of the offence completed;
- (g) Offence title, code and penalty amount completed;
- (h) Infringement notices are signed and dated;
- (i) Infringement notices involving a vehicle is served to the vehicle;
- (j) Where multiple persons are responsible, multiple infringement notices are served;
- (k) For a company, the infringement notice must be issued to the correct company name (including the company's ABN or ACN) and registered address. A company search must be conducted to obtain this information; and
- (l) For a business, the infringement notice must be issued to the person carrying on the business. This is because a business is not a legal entity if it is merely a registered business name.

5.6 Service of Infringement Notice

Infringement notices are served on the alleged offender as soon as reasonably practicable after there is reasonable belief that an offence has been committed.

Service of an infringement notice (excluding vehicle related offences under the *Transport Operations (Road Use Management – Road Rules) Regulation 2009*) on an alleged offender in the first instance must be in person. Service in person includes attending the alleged offender's address and hand delivering the infringement notice to the alleged offender.

The following extenuating circumstances may prevent the service of an infringement notice directly to the person:

- (a) The alleged offender does not live in the Region; or
- (b) Attendance at the alleged offender's address with no result; or
- (c) When personal service is unsuccessful then:
 - (i) Service by leaving it at the place by attending the alleged offender's residence or business last known to the authorised person serving the infringement notice; or
 - (ii) If leaving at the place is impractical service by post may be used. Service by post deems the document is served at the time the letter would be delivered in the course of ordinary post.

Service of an infringement notice for a vehicle related offence under the *Transport Operations (Road Use Management – Road Rules) Regulation 2009* may be served to:

- (a) The owner of the vehicle in person; or
- (b) To the owner of the vehicle, by placing or attaching it to the vehicle in a conspicuous position; or
- (c) To the owner of the vehicle, by posting it to the address of the owner as identified by a CITEC search.

5.7 Options Available to Alleged Offender on Service of Infringement Notice

On issuing the infringement notice, the alleged offender is to undertake one of the actions detailed in the Infringement Notice Policy within 28 days of the date of the infringement notice.

5.7.1 Payment of Infringement Notice Fine in Full

An alleged offender may make payment of the infringement notice in full at a customer service centre, by phone, mail or online.

Once full payment of the fine is made the infringement notice is finalised and no further action is taken.

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5.7.2 Voluntary Instalment Plan

An alleged offender may apply to enter into a voluntary instalment plan when the infringement notice amount is at or above the threshold amount prescribed under the SPEA.

To apply to enter into a voluntary instalment plan, the alleged offender must:

- (a) Complete the Infringement Notice Instalment Plan Application Form, or
- (b) Complete the relevant section on the reverse of the infringement notice; and
- (c) Submit to Council with the prescribed first instalment.

The SPEA delegated officer must review the documentation and where all information and the first instalment have been received, the debt is registered with SPER and the alleged offender is provided written advice (SPER VIP) upon lodgement with SPER.

5.7.3 Declarations for Vehicle Related Offences

Infringement notices served to the owner of a vehicle for vehicle related offences under the *Transport Operations (Road Use Management – Road Rules) Regulation 2009* or local law may make an application as follows:

- (a) Complete an Infringement Notice Withdrawal Request Form together with a Statutory Declaration nominating the person in charge of the vehicle and provide documentation supporting the application.
- (b) Applications outlining that the vehicle was used unlawfully must be accompanied by a police report.

The SPEA delegated officer must review the application and documentation to determine if the declaration is valid. If the application is valid, a review must be conducted as outlined in paragraph 5.10.3.

5.7.4 Election of Court Hearing

Where an alleged offender elects to have the matter decided in the Magistrates Court they must complete the relevant part on the reverse of the infringement notice or make a written request and provide Council with any information or documentation for the process.

5.7.4.1 Application for Court Election

Where an application for court election is received the following occurs:

- (a) Council must accept any application made within 28 days after the date of infringement notice.
- (b) An acknowledgement letter is issued and a review of the infringement notice must be conducted as outlined in paragraph 5.10.3.
- (c) Upon review of the court election and infringement, a review officer may wish to seek further information from the applicant. A review officer is to seek internal legal advice before contacting the applicant.
- (d) Legal and Governance may review the brief of evidence or instruct an external solicitor to undertake this review depending upon the circumstances of the case.
- (e) If the infringement notice is upheld, the relevant section must prepare a brief of evidence ensuring all admissible and relevant information, including information which may be considered advantageous to the defence case and provide to the relevant manager for full disclosure.
- (f) The relevant section must prepare a report to Council for resolution to proceed with the prosecution.

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- (g) On Council resolution the relevant section refers to the Legal Proceedings – Commencement, Cessation and Other Matters Policy and drafts a complaint and summons for the alleged offence for a delegated officer under the *Justices Act 1886* to sign. The relevant section issues and files the complaint and summons in the Magistrates Court.
- (h) The relevant section must enter the time and date of the alleged offender's appearance in the Legal Matters Report and under the infringement notice being disputed.
- (i) If the alleged offender does not appear on the date set for the court hearing, the matter may be heard in their absence. If found guilty of the offence the alleged offender may have a conviction recorded against them, be fined and required to pay additional costs.

5.8 No Action Taken

If no action is taken by the alleged offender a reminder notice must be issued before referring the infringement notice to SPER.

5.8.1 Reminder Notices

Reminder notices are issued for unpaid infringement notices where a court election, an application for payment by instalments or a declaration for vehicle related offence has not been submitted to Council within 28 days of the date of the infringement notice.

Where the infringement notice relates to a vehicle offence and was served on the actual vehicle a vehicle registration/ownership search in the Queensland Motor Vehicle Register using CITEC is undertaken to establish the name and address of the vehicle owner.

Infringement notices must only be served on individuals or corporations, for example a proprietary limited (Pty Ltd) company. Where the owner of a vehicle is a company, a company search should be performed using CITEC to obtain the owner's service details.

Where a search is necessary, the responsible officer shall complete the CITEC search request form as well as justification for the search request. The latter is to satisfy strict privacy provisions and audit requirements, associated with Council's agreement with CITEC for performing searches.

For vehicle related offences, a reminder notice is posted to the owner of the vehicle.

Reminder notices state the alleged offender has 14 days to pay, the total infringement amount due and that additional fees will be required to be paid should the infringement be lodged with SPER.

Note: Searches of the Queensland Motor Vehicle Register are only authorised for abandoned vehicles, regulated parking, heavy vehicle parking and littering from a vehicle.

5.9 Infringement Recovery

5.9.1 Referral to SPER

If the infringement notice is not paid, not withdrawn, a court hearing election requested or application for payment by an instalment plan is not lodged within 14 days of the reminder notice, Council registers a default certificate with SPER through their electronic lodgement system, Fines Online.

Upon receipt and registration of the default certificate, SPER issues an enforcement order to the person in accordance with section 38 of the SPEA.

Late payments and application (with the minimum payment) for infringement notice payment by instalments plans are not accepted by Council where the infringement notice has already been forwarded to SPER for collection of the outstanding amount.

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5.9.2 SPER Withdrawals

An infringement notice can only be withdrawn from SPER by a SPEA delegated officer before the fine is paid in full.

Refer to the Delegations Register – SPEA for details of sub-delegated officers and limitations on their authority and paragraph 5.10.3.2.1 for the criteria for withdrawal of infringement notices.

As soon as practicable after a decision to withdraw an infringement notice, advice of the withdrawal using the withdrawal template on the infringement module must be provided to the applicant and a copy sent to SPER.

5.9.3 Court Election via SPER

The SPEA allows an alleged offender a second opportunity to seek a court election if they do not pay the infringement notice or take any other option within 28 days after the date of the infringement notice.

Under section 51 of the SPEA, the alleged offender may, within 28 days of being served with an enforcement order by SPER, elect to have the matter of the offence heard in a Magistrates Court.

SPER must notify Council if the offender elects to have the offence heard in a Magistrates Court.

5.9.4 Cancellation of Enforcement Orders by SPER

Section 56 (applications for cancellation of enforcement orders) of the SPEA, states the enforcement debtor may apply in writing to SPER for the cancellation of an enforcement order for any of the following reasons:

- (a) The person did not receive:
 - (i) The infringement notice; or
 - (ii) Any reminder notice the relevant administering authority sent to the person about the infringement notice; or
 - (iii) The enforcement order;
- (b) The person received a notice or order mentioned in paragraph (a) after the time allowed for taking action stated in the notice or order;
- (c) The person was prevented by accident or illness or for another similar reason from taking action in relation to the infringement notice or enforcement order;
- (d) The person is electing to have the matter of the offence to which the relevant enforcement order relates decided in a Magistrates Court.

If the SPER Registrar cancels an enforcement order, Council may:

- (a) Start a proceeding against the applicant for the offence; or
- (b) Accept payment of the fine in full as stated in the infringement notice for the offence; or
- (c) Issue a fresh infringement notice for the offence.

5.10 Infringement Notice Withdrawal Request

5.10.1 Grounds for Request

An alleged offender may request to have an infringement notice withdrawn if there is a legal defence, exemption from the law, error on the infringement notice or mitigating circumstances.

Council must consider withdrawing an infringement notice if the grounds for request satisfy any of the following criteria:

- (a) The alleged offender demonstrates that the elements of the offence were not met;

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- (b) A person is incorrectly named as the alleged offender (for example, the infringement notice was served on the owner of a vehicle or land and another person was responsible for the offence); or
- (c) The alleged offender was unable to comply with the relevant provisions of the law due to a circumstance outside of their control.

5.10.2 Making a Request

To ensure all request details are given full consideration, the alleged offender must submit a completed Infringement Notice Withdrawal Request Form with any supporting documentation within 28 days of the infringement notice date.

5.10.3 Review Process

The request is referred to a review officer for review.

The authorised person who served the infringement notice may be consulted as part of the review process however is not to conduct or decide the outcome of the review.

5.10.3.1 Review of Evidence and Circumstances

Reviews of infringement notices must consider the following:

- (a) The level of investigation must be, consistent with the seriousness of the alleged offence and the complexity of the grounds on which the review is sought. If the request does not include sufficient information to undertake the review, a request is made to provide additional information and/or documentation;
- (b) Legislative requirements;
- (c) The circumstances surrounding the issuing of the infringement notice;
- (d) Any precedent or case law applicable to the matter;
- (e) Ensuring the investigation satisfies the sufficiency of evidence test and the public interest test;
- (f) Ensuring the evidence proves the elements of the offence to the standard of proof; and
- (g) Determining if any mitigating circumstances exist giving reason to consider alternative means of achieving compliance.

The decision chart in paragraph 5.14 must be referred to when making a determination.

5.10.3.2 Decide the Matter

The review officer must document the review in the notes of the relevant customer request and determine one of the following actions to be taken.

5.10.3.2.1 Withdraw an Infringement Notice

Withdraw an infringement notice by establishing if an infringement notice meets one of the following criteria:

- (a) Incorrect name, address or date of birth of the alleged offender;
- (b) No time of offence;
- (c) No date of offence;
- (d) No location of offence;
- (e) No penalty recorded;
- (f) No offence title or code;
- (g) Incorrect infringement notice fine amount;

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- (h) Incorrect offence title or code;
- (i) Incorrect location;
- (j) Incorrect date of offence in respect of allegation section only. An incorrect date of issue on the infringement notice on the same line as the issuing officer's particulars does not invalidate the infringement notice;
- (k) Expiration of limitation of proceedings;
- (l) More than one offence inserted;
- (m) Parking offences where the vehicle is registered to a business or company and such business or company has been de-registered or is in liquidation;
- (n) Where infringement notices for parking offences Queensland Police has issued a similar notice regarding a similar offence as indicated on the infringement notice;
- (o) Continuing the prosecution is not in the public interest;
- (p) Mitigating circumstances acceptable to Council which meant the alleged offender could not reasonably have avoided committing the offence.

The grounds for withdrawal at paragraph 5.12 outlines specific circumstances that may satisfy the above withdrawal criteria.

5.10.3.2 Uphold an Infringement Notice

Where the withdrawal criteria outlined in paragraph 5.10.3.2.1 cannot be satisfied, the issuing of an infringement notice is upheld.

The reasons not satisfying withdrawal criteria at paragraph 5.13 outlines a range of circumstances that typically do not fall into any of the withdrawal criteria in paragraph 5.10.3.2.1. It should be noted that this list is not exhaustive. The review officer's discretion applies.

5.10.3.3 Take Another Action

Take another action, including any of the following as appropriate:

- (a) Withdraw and reissue an infringement notice:
 - (i) For the same offence;
 - (ii) For a different offence; or
 - (iii) To another alleged offender;
- (b) Withdraw the infringement notice and pursue another alternative method of compliance; and
- (c) Recommend the issuing officer for additional training and counselling.

5.10.3.3 Notification

The review officer must issue correspondence detailing the decision and reasons for the decision in relation to the request and external review options should the alleged offender remain dissatisfied.

If an infringement notice is withdrawn, a withdrawal notice (using infringement module) must be provided to the alleged offender by a SPEA delegated officer (SPEA, s28).

If it is decided to not withdraw the infringement notice, an information notice (using infringement module) is provided to the alleged offender.

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The relevant section must update the infringement notice record of the review outcome.

5.11 Other Avenues of Appeal

Alleged offenders are advised of external review options such as the Queensland Ombudsman's Office, QCAT or the Magistrate's Court.

Council's review process does not limit an alleged offender's ability to make a complaint directly to the Queensland Ombudsman or through any other external complaints review process such as a judicial review or through QCAT.

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5.12 Grounds for Withdrawal

Infringement Type	Circumstance	Category	Sub-Category	Conditions/Exceptions	Supporting Documentation to be Provided
All	Someone misused name or other particulars.	Offence did not occur	Mistaken fact		Statutory declaration.
All	Elements of the offence were not met beyond reasonable doubt.	Offence did not occur	Mistaken fact	Only where the officer's evidence is not compelling	
Parking	Serious medical circumstance (accident and emergency attendance, family death, giving birth, palliative care)	Other	Medical emergency	Yellow line offences only withdrawn if driver taken from vehicle in ambulance. MUST be of a serious/urgent nature and have directly impacted on the offender's ability to comply with the parking restriction (medical appointments are NOT a serious medical circumstance).	Letter from doctor/hospital detailing time and date corresponding to time of offence.
Parking	Vehicle broken down and all reasonable attempts were made to ensure the vehicle was stopped in a safe location and moved as soon as possible from the restricted area.	Other	Mechanical breakdown		Tow truck or RACQ receipt or mechanical report.
Parking	Parking machine was not working.	Other	Other	Claim to be verified by machine report.	
Parking	Holder of disabled parking permit not having it displayed when parking in a disabled parking bay.	Other	Other	First offence only	Copy of valid permit.
Parking	Infringement notice issued stating incorrect details (incorrect alleged offender, incorrect vehicle registration, incorrect location address, incorrect offence code, incorrect time or other detail recorded on the infringement notice).	Offence did not occur	Administrative error	Infringement may be reissued correctly if appropriate.	As relevant.
Parking	Sign missing/damaged/faded.	Offence did not occur	Mistaken fact		Photograph/s.

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Infringement Type	Circumstance	Category	Sub-Category	Conditions/Exceptions	Supporting Documentation to be Provided
Parking	Was not in breach of stated law.	Offence did not occur	Mistaken fact	Only where the officer's evidence does not prove the offence.	Photograph/s.
Parking	Vehicle not in control of registered owner (stolen, sold or being driven with permission).	Wrong offender		Infringement notice may be reissued to the person nominated on the statutory declaration.	Statutory declaration nominating driver, or copy of police report for stolen vehicle.
Animal Control (registration offences)	Genuine error/oversight due to mitigating circumstance.	Other	Other	First offence only and fee paid immediately on receipt of infringement notice. Only where there is a mitigating circumstance which has caused the oversight.	As relevant.
Animal Control (registration offences)	Multiple infringement notices issued for the same offence (more than one animal).	Other	Other	Where it is a first offence and fee is paid immediately on receipt of infringement notice, one infringement notice to be upheld and all others for same offence can be withdrawn.	
Animal Control (registration offences)	Animal deceased prior to end of renewal period.	Offence did not occur	Mistaken fact		As relevant.
Animal Control (registration offences)	Dog relocated to another address.	Offence did not occur	Mistaken fact	Infringement notice to be reissued at correct address if animal is not registered.	As relevant.
Animal Control (registration offences)	Infringement notice issued as a result of a system/computer error, no offence committed.	Offence did not occur	Administrative error		Receipt or other proof of payment.
Animal Control (other offences)	Premises broken into and animal escaped as a result.	Other	Other		Copy of police report.
Animal Control (other offences)	Infringement notice issued stating incorrect details (incorrect alleged offender, incorrect location address, incorrect offence code, incorrect time or other detail recorded on infringement notice).	Offence did not occur	Administrative error	Infringement notice may be reissued correctly if appropriate.	As relevant.

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Infringement Type	Circumstance	Category	Sub-Category	Conditions/Exceptions	Supporting Documentation to be Provided
Animal Control (other offences)	Serious medical circumstance (accident and emergency attendance, family death, giving birth, palliative care) meant that offender could not have reasonably been expected to comply.	Other	Medical emergency		Letter from doctor/hospital detailing time and date corresponding to time of offence.
Local Laws	Serious medical circumstance (accident, emergency attendance, family death, giving birth, palliative care) meant that alleged offender could not have reasonably been expected to comply.	Other	Medical emergency	Seriousness and urgency of medical circumstance to be considered against the type of offence.	Letter from doctor/hospital detailing time and date corresponding to time of offence.
Local Laws	Sign missing/damaged/ faded.	Offence did not occur	Mistaken fact		Photos/verification.
Local Laws	Was not in breach of stated law.	Offence did not occur	Mistaken fact	Only where the officer's evidence is not compelling.	Photos/verification.
Local Laws	Infringement notice issued stating incorrect details (incorrect alleged offender, incorrect vehicle registration, incorrect location address, incorrect offence code, incorrect time or other detail recorded on the infringement notice).	Offence did not occur	Administrative error	Infringement notice may be reissued correctly if appropriate.	As relevant.
Local Laws	Vehicle not in control of registered owner (stolen or being driven with permission).	Wrong offender		Infringement notice may be reissued to the person nominated on the statutory declaration.	Statutory declaration nominating driver, or copy of police report for stolen vehicle.
Local Laws	Vehicle broken down and all reasonable attempts were made to ensure the vehicle was stopped in a safe location and moved as soon as possible from the restricted area.	Other	Mechanical breakdown		Mechanical documentation, RACQ receipt.

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Infringement Type	Circumstance	Category	Sub-Category	Conditions/Exceptions	Supporting Documentation to be Provided
Environment (litter, nuisance and water contamination)	Serious medical circumstance (accident and emergency attendance, family death, giving birth, palliative care) made committing the offence unavoidable.	Other	Medical emergency		Letter from doctor/hospital detailing time and date corresponding to time of offence.
Environment (litter, nuisance and water contamination)	Mechanical/equipment failure resulting in contaminant release.	Other	Mechanical breakdown	Where it is obvious that lack of proper maintenance was the cause of the failure then it is not considered to be a mitigating circumstance. If the person continues to use and park a vehicle where it can cause water contamination after becoming aware of the mechanical issue is not considered to be a mitigating circumstance.	Repair receipts.
Environment (litter, nuisance and water contamination)	Was not a prescribed contaminant.	Offence did not occur	Mistaken fact		Details of the nature of the material that was released [Material safety data sheet or testing results].
Environment (litter, nuisance and water contamination)	Vehicle not in control of registered owner (stolen or being driven with permission).	Wrong offender		Infringement notice may be reissued to the person nominated on the statutory declaration.	Statutory declaration nominating driver, or copy of police report for stolen vehicle.
Environment (litter, nuisance and water contamination)	Infringement notice issued stating incorrect details (incorrect alleged offender, incorrect vehicle registration, incorrect location address, incorrect offence code, incorrect time or other detail recorded on the infringement notice).	Offence did not occur	Mistaken fact	Infringement notice may be reissued correctly if appropriate.	As relevant.
All (Health and Environment)	Infringement notice issued stating incorrect details (alleged offender, vehicle registration, location address, offence code, time or other detail recorded on the infringement notice).	Offence did not occur	Administrative Error	Infringements may be reissued correctly if appropriate	As relevant

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Infringement Type	Circumstance	Category	Sub-Category	Conditions/Exceptions	Supporting Documentation to be Provided
All (Health and Environment)	Serious medical circumstance	Other	Medical Emergency	Must be of a serious, urgent nature and have directly impacted on the person's ability to comply with the requirements.	Letter from doctor/ hospital detailing time and date of illness that corresponds to the time of the infringement.
All (Health and Environment)	Extreme financial hardship	Other	Other	Penalty detriment to the mental or physical health of the person	Evidence of hardship must be provided.
All (Health and Environment)	Extreme weather make it impossible to complete requirements for example cyclone or drought (<i>Biosecurity Act 2014</i>)	Other	Other		
<i>Public Health Act 2005</i>	Offender incarcerated and physically unable to meet requirements	Other	Other		
<i>Public Health Act 2005</i>	Person deemed not responsible for the public health risk.	Offence did not occur	Mistaken Fact		Evidence on who is responsible for Public Health Risk is provided to Council
<i>Public Health Act 2005</i>	Responsible person deemed incapable to undertaking steps in a public health order.	Other	Medical		Person provides medical advice that they are mentally or physically incapable of undertaking the required actions
<i>Public Health Act 2005</i>	Tampering with mosquito or rat and mice screening by a person other than the responsible person	Other	Other		Evidence of tampering provided to Council.
<i>Environmental Protection Act 1994</i>	Offender incarcerated and physically unable to meet requirements	Other	Other		
<i>Biosecurity Act 2014 and Local Law 3 (declared local pests only)</i>	Responsible person deemed incapable to undertake work due to mental or physical capacity.	Other	Other	Other avenues to obtain compliance may be undertaken	Person provides medical advice that they are mentally or physically incapable of undertaking the required actions

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Infringement Type	Circumstance	Category	Sub-Category	Conditions/Exceptions	Supporting Documentation to be Provided
<i>Biosecurity Act 2014</i> and Local Law 3 (declared local pests only) (declared local pests only)	Differing cultural traditions (for example feeding dingos)	Other	Other	Other avenues to obtain compliance may be undertaken	As relevant
<i>Biosecurity Act 2014</i> and Local Law 3 (declared local pests only)	Distribution of invasive species during natural events where it cannot be controlled for example flooding, storm damage	Other	Other	Other avenues to obtain compliance may be undertaken	As relevant
Development compliance	Serious medical circumstance (accident and emergency attendance, family death, giving birth, palliative care) meant that offender could not have reasonably been expected to comply.	Other	Medical emergency	Seriousness and urgency of medical circumstance to be considered against the type of offence.	Letter from doctor/hospital detailing time and date corresponding to time of offence.
Development compliance	Offender away for entire notice period	Other	Other	Alleged offence occurred. Notice issued to a person to comply by a certain date. Person away for the entire period.	Travel documentation.
Development compliance	Infringement notice issued stating incorrect details (incorrect alleged offender, incorrect location address, incorrect offence code, incorrect time or other detail recorded on the infringement notice).	Offence did not occur	Administrative error	Infringement notice may be reissued correctly if appropriate.	As relevant.
Development compliance	Not custodian of the land at time of offence.	Wrong offender		Infringement notice may be reissued to the person nominated on the statutory declaration.	Statutory declaration.
Development compliance	Mitigating circumstances acceptable to Council. i.e. alleged offender could not reasonably have avoided committing the offence.	Other			

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5.13 Reasons Not Satisfying Withdrawal Criteria

Infringement Type	Circumstance	Note
All	No specific grounds but unable to pay fine for financial reasons.	Refer to payment plan option. An exception to this may be considered under compassionate grounds where multiple tickets have been issued for the same offence.
Parking	Delayed medical appointment/parking in disabled parking bay due to temporary medical condition/urgent need to use toilet.	
Parking	Didn't know/there should be signs or more signs or didn't see sign/should have been warned/didn't cause any harm/was only there momentarily.	
Parking	User error when making payment at parking machine for example not completing transaction, entering incorrect bay number.	
Parking	Holder of valid parking permit not having it displayed when parking in the permit area (all second and subsequent offences).	
Animal Control - registration	Animal deceased shortly after registration expired.	An exception to this may be considered where there is proof that the animal had been ill and was not expected to survive.
Animal Control - registration	Claims payment made but without sufficient proof (Cheque butt or photocopy of cheque is insufficient proof).	
Animal Control - registration	Did not know dog/cat had to be registered, or that a permit was required	An exception to this may be considered under compassionate grounds where multiple tickets have been issued for the same offence.
Animal Control (non-registration offences)	Have since complied with requirements.	An exception to this may be considered under compassionate grounds where multiple tickets have been issued for the same offence.
Animal Control (non-registration offences)	Animal was under effective control despite not being on lead, or, animal was in the water.	
Animal Control (non-registration offences)	Did not know it was an offence.	
Environment (litter, nuisance and water contamination)	Ignorance/no warnings/didn't cause any harm/was only there momentarily.	

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Infringement Type	Circumstance	Note
Environment (litter, nuisance and water contamination)	Believes material that biodegrades (apple core, banana skin) is not 'litter'.	
Development Compliance	Did not know it was an offence.	
Development Compliance	Have remedied the non-complying work.	
Development Compliance	Have since obtained a permit.	
Development Compliance	Didn't know a development permit was required.	

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5.14 Decision Chart

- (a) Does paragraph 5.12 Grounds for Withdrawal or paragraph 5.13 Reasons Not Satisfying Withdrawal Criteria address the particular circumstance outlined in the request?
- Yes – Grounds for Withdrawal – Go to (g)
- Yes – Go to (f)
- No – Go to (b)
- (b) Which category is the request being made under?
- Elements of the offence – Go to (e)
- Incorrectly named offender – Go to (g)
- Other reason – Go to (c)
- (c) Could the offence have reasonably been avoided in the circumstances outlined?
- Yes – Go to (f)
- No – Go to (d)
- (d) Was consideration given to ensure safety risks were minimised (appropriate to circumstance)?
- Yes – Go to (g)
- No – Uphold infringement notice and go to (h)
- (e) Would the infringement notice be likely to be upheld in court based on the evidence?
- Yes – Go to (f)
- No – Go to (g)
- (f) Is upholding the infringement notice contrary to the public interest and/or is there a more appropriate means of promoting compliance in this instance?
- Yes – Go to (g)
- No – Uphold infringement notice and go to (h)
- (g) Has appropriate documentation been provided supporting the claim made (statutory declaration/photographs/medical documentation/copies of permits etc.)?
- Yes – Withdraw infringement notice and go to (h)
- No – Request documentation, if not provided, uphold infringement notice and go to (h)
- (h) Consider whether it is appropriate to take any other actions (see paragraph 5.10.3.2).

6 Review Timelines

This procedure is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by the General Manager Community Services.

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7 Document Management

Sponsor	Chief Executive Officer
Business Owner	General Manager Community Services
Procedure Owner	Manager Planning and Regulatory Services
Procedure Quality Control	Legal and Governance



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