

ENFORCEMENT OF PARKING RESTRICTIONS POLICY



Responsible Department: Development and Economic Growth
Responsible Section: Planning and Regulatory Services
Responsible Officer: Manager Planning and Regulatory Services

Objective

The objective of this policy is to ensure that the Council's function of enforcing restrictions which apply to street parking, Council free car parking areas, and other road related areas is conducted in a manner which is fair, consistent, impartial and transparent.

Introduction

In 2008, the Department of Local Government completed a review of parking enforcement by local Councils at the request of the then Minister for Local Government. The review identified a number of elements that are considered to be good practice. This policy addresses some of the issues identified by the DLG in its review. Council must enforce restrictions on parking within the Council area in a manner which is fair, impartial and transparent. In particular, no person, group, class or people or business or workplace shall be excluded from the enforcement of parking restriction requirements unless that exclusion is authorised by law or is in the public interest.

Policy

1. Definitions

For the purpose of this policy, the following definitions apply:

Term	Meaning
Council Officers	Staff member of the Council authorised under legislation and by internal delegations to carry out compliance action on behalf of the Council
Emergency Vehicle	Carries the same meaning as defined within NSW Road Rules.
Emergency Worker	Carries the same meaning as defined within the NSW Road Rules.
Heavy vehicle	Means a vehicle with a GVM of 4.5 tonnes or more.
Long vehicle	Means a vehicle that, together with any load or projection, is 7.5 metres long, or longer.
Parking Restrictions	Means any restriction which is lawfully imposed on a parking area within a Council or Private Free car park or any other lawfully imposed parking restriction which may apply to a public road or road related area as defined within the NSW Road Rules. This may include (but is not limited to) time limitations on the duration of stay within the park; restrictions which limit the use of parking spaces to

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	particular vehicles or purposes; or restrictions which limit the use of parking spaces to people with a disability.
Penalty Infringement Notices (PINS)	Means a notice issued by Council requiring the payment of an amount of money for breaching a lawful parking restriction. The power to issue a PIN and the amount of the penalty are both established by legislation
Review Panel	Means collectively the General Manager; Director responsible for enforcement of parking restrictions; Manager responsible for enforcement of parking restrictions; Ranger/Compliance Officer.

2. Monitoring of compliance with parking restrictions

Council does not have unlimited resources to monitor compliance with parking restrictions. Council Officers will monitor compliance with parking restrictions by:

- a) Periodically patrolling public roads and road related areas.
- b) Responding to complaints concerning illegally parked vehicles.
- c) Conducting targeted programs, such as school zones to address and heighten awareness of systemic non-compliance of parking restrictions in these areas.

Council Officers may prioritise the investigation of other unlawful activity before monitoring compliance with restricted parking requirements on the basis of risk of harm to health, welfare, safety, property or the environment or the public interest.

3. Responding to alleged breaches of parking restrictions

Council does not have unlimited resources to respond to alleged breaches of parking restrictions. Council Officers will have discretion to respond to identified breaches of parking restrictions in the following manner: -

- a) In the ordinary course, a penalty infringement notice will be issued in response to a breach of a lawful restricted parking requirement.
- b) Each instance of a breach of a restricted parking requirement shall be taken on a case by case basis and the Council Officer shall have discretion not to issue a penalty infringement notice when it is fair and appropriate in the circumstance.
- c) In determining whether a penalty infringement notice is to be issued or not, Council Officers must exercise their discretion impartially.
- d) A decision by a Council Officer to issue a penalty infringement notice may be reviewed at the request of the person responsible for paying the infringement notice, within 21 days of the date of issue.

Council Officers may prioritise the investigation of other unlawful activity before investigating alleged breaches of parking restrictions on the basis of risk of harm to health, welfare, safety, property or the environment or the public interest.

4. Heavy Vehicles

It is an offence under the Road Rules 2014 regulations to stand a heavy/long vehicle (with a Gross Vehicle Mass of 4.5 tonne or greater or longer than 7.5m) on a street in a built up area for longer than 1 hour.

Council does not have unlimited resources to regulate the standing of heavy vehicles on streets in a built up area and may prioritise the investigation of other unlawful activity before investigating alleged breaches by heavy vehicles on the basis of risk of harm to health, welfare, safety, property or the environment or the public interest.

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Action will be taken by Council Officers where there is a demonstrated impact by the heavy vehicle on the amenity and scenic quality of residential areas. Council Officers will have discretion to respond in the following manner: -

- a) leave a warning notice on the truck or at the property outside of which the truck is parked and where possible discuss the matter with the driver;
- b) issue expiation notices if further offences are detected;
- c) refer the matter to Council to consider legal action if repeated offences occur.

In certain circumstances heavy vehicles may be parked in residential areas with minimal impact, the following table has been developed as a guide for the maximum number of heavy vehicles able to be parked on an allotment.

Zoning and site area	Maximum number of heavy and/ or long vehicles
R1,RU5, R5	1
RU5, R5 for a site with an area greater than 1 hectare and less than 5 hectares	1
RU5, R5 For a site with an area greater than 5 hectares	2

5. Parking Around School Areas

All schools in the Council area will be patrolled on a regular basis.

During the first week of the new school term, all drivers committing offences under the NSW Road Rules will be advised of their responsibilities, be given a warning and be advised that the safety of all children is paramount.

Following the completion of the first week of each school term, drivers of any vehicles detected as being in breach of the NSW Road Rules will be issued a penalty infringement notice.

6. Administration and Collection of Penalty Infringement Notices once they are issued

Council has contracted the administration of penalty infringement notices, including their collection, to the State Debt Recovery Office. Pursuant to this contract, the State Debt Recovery Office is responsible for collecting the payment of amounts required by penalty infringement notice and also for determining any requests for the cancellation of a penalty infringement notice by the recipient.

7. Requests made to Council for the cancellation of a Penalty Infringement Notice

A person who receives a penalty infringement notice may make representations directly to Council requesting that the penalty infringement notice be cancelled.

Once a penalty infringement notice has been issued, the notice must not be cancelled by the issuing officer.

Council may only authorise the cancellation of a penalty infringement notice after it has been issued if at least two members of the Review Panel unanimously authorise the cancellation of the infringement notice.

In the event that a unanimous decision cannot be reached, then the request to review the penalty infringement notice is to be referred to the State Debt Recovery Office for determination at its discretion.

If the cancellation of a penalty infringement notice is authorised by Council, a full and complete record must be made which identifies, as a minimum, the following details:

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- a) The registration details of the vehicle which was parked in breach of the parking restrictions and, when known, the identity of the person responsible for the breach.
- b) Who made the request for cancellation, which must be in writing signed by the applicant.
- c) The reasons which support the cancellation being authorised.
- d) The names of the review panel members who determined the request for the PIN to be cancelled.

Council will not consider a request to cancel a penalty infringement notice unless that request is made in writing and is received within a period of no more than 40 days from the date of the infringement notice.

The State Debt Recovery Office may determine requests for cancellation of a penalty infringement notice without reference to Council. In some circumstances the State Debt Recovery Office may request Council's input in relation to representations seeking cancellation of a penalty notice. When such a request is made, Council's response must be authorised by at least two members of the Review Panel and a detailed record of Council's response should be retained.

Nothing in this policy prevents the Review Panel considering and authorising the cancellation of a penalty infringement notice at the instigation of Council officers and in the absence of a request from a member of the public. If a penalty infringement notice is cancelled at the instigation of Council, then a written record of that cancellation must be made which includes the details noted earlier in this policy.

8. Delegations

Council staff delegations for taking action under this policy are included in council's Delegation Register.

9. Approval

The Council approved this policy on DATE.

10. Review

The Manager Planning and Regulatory Services will review this policy every 3 years or as circumstances warrant (for example, where a particular judicial decision may have an impact on the procedures outlined in this policy).

References

- In writing this policy Council have referred to the policies and other materials of numerous councils and other bodies. We acknowledge the materials and assistance in writing this policy from the following:
 - Coffs Harbour Enforcement of Parking Restrictions Policy (POL-012) August 2013
 - Campbelltown (Sustainable City) Development Control Plan 2015
 - NSW Ombudsman Model Compliance and Enforcement Model Policy December 2015
 - Tamworth Regional Council Enforcement of Parking Restrictions Policy

History

MINUTE NUMBER:	MEETING DATE:	DESCRIPTION OF CHANGE: