



16 MARCH 2015

LATE ITEMS

**Ordinary Meeting of Council Meeting No. 5/15
TUESDAY, 24 MARCH 2015**

**Council Chambers, Level 6, Civic Centre,
1 Devlin Street, Ryde - 7.30pm**

Meeting Date: Tuesday 24 March 2015
Location: Council Chambers, Level 6, Civic Centre, 1 Devlin Street, Ryde
Time: 7.30pm

Council Meetings will be recorded on audio tape for minute-taking purposes as authorised by the Local Government Act 1993. Council Meetings will also be webcast.

NOTICE OF BUSINESS

Item	Page
-------------	-------------

LATE ITEMS

13	RESPONSE TO MATTER OF URGENCY REGARDING PENALTY INFRINGEMENT NOTICE ISSUED BY CITY OF RYDE RANGERS.....	1
----	--	---

LATE ITEMS**13 RESPONSE TO MATTER OF URGENCY REGARDING PENALTY
INFRINGEMENT NOTICE ISSUED BY CITY OF RYDE RANGERS**

Report prepared by: Manager - Ranger and Parking Services
File No.: RSU/10/4/9/2 - BP15/305

REPORT SUMMARY

At its meeting of 10 February 2015, Council resolved as a matter of urgency, for the General Manager to investigate the infringement of a vehicle parked in a signposted Taxi Zone in Church Street, Ryde on Sunday, 28 December 2014. This investigation has been undertaken and the findings are detailed in this report.

RECOMMENDATION:

- (a) That the report be received and noted.
- (b) That the taxi zone in question be referred to the Traffic Committee with a view to providing some parking opportunity at that location on Sundays.

ATTACHMENTS

- 1 Report to Council - PIN 3117692261 - Photos

Report Prepared By:

Leon Marskell
Manager - Ranger and Parking Services

Report Approved By:

Dominic Johnson
Group Manager - Environment and Planning

ITEM 13 (continued)**Background**

On Sunday, 28 December 2014 at about 9.46am, a Council Ranger, while on patrol observed two (2) vehicles parked in the Taxi Zone located in Church Street, Ryde. Both vehicles were unattended and both vehicles were parked contrary to the displayed parking restrictions of '1P 8.30am-6pm Mon to Fri, 8.30am-12.30pm Sat, Taxi Zone All Other Times'.

A photo taken at the time of the offence has been attached for information purposes.

Road Rule 182 states that 'A driver must not stop in a taxi zone, unless the driver is driving a taxi.'

While Council's Enforcement of Parking Policy has provision for the issuing of a caution in certain circumstances, including where an individual has a special infirmity or is in poor health, as the vehicles were unattended and no grounds for the issuing of a caution could be established Penalty Infringement Notices (PINs) were issued to both vehicles.

This investigation pertains to the issuing of one of these PINs (PIN3117692261), which was later identified as being the PIN referred to at the Council meeting of 10 February 2015.

On 10 January 2015 the resident wrote the following to Cr Pickering:

"RE: INFRINGEMENT NO. 3117692261: TIME OF OFFENCE: 9.46AM
BETWEEN TIMES: 9.46AM TO 9.46AM

I am writing with regard to the penalty notice above issued on Sunday 28th October 2015 in Church St, Ryde. My husband and I have resided and paid rates on time in Ryde for 54 years and we are very upset at receiving this penalty notice.

I volunteer at the Deaf & Blind Lantern shop in Church Street each Monday (for years) and I was there on that Sunday to feed the cats. As my left foot was recently operated on and I wear an orthopaedic boot my husband of 84 years old came from the car park and picked me up opposite the shop. As the infringement notice shows we were there less than a minute. As all the shops were closed there was virtually no traffic or people around and certainly no taxis whilst we were there.

As we are pensioners and also have a disabled sticker on our car we would like you to consider rescinding the infringement notice. I am begging for leniency as I have never had any fine in my life let alone a parking fine.

Thanking you in anticipation.

<Name Removed>"

ITEM 13 (continued)

On 13 January 2015 Councillor Request #7762 was received from Cr Pickering requesting a review of the PIN. Due to inaccuracies with respect to the date provided by the resident in the correspondence, the Team Leader Business Administration Ranger & Parking Services contacted the resident to clarify the date of the offence and vehicle registration.

On 15 January 2015 the resident was advised in writing of the process for the review of infringements as per Council's Enforcement of Parking Policy. A response to Helpdesk Request #7762 was sent to Cr Pickering confirming this action.

In this correspondence the resident was advised that in the first instance, a request for a review of the PIN must be made to the State Debt Recovery Office (address details were provided). Further information was provided guiding the resident as to the basic requirements of the SDRO for the purposes of their review - the representation should be made by the registered owner / driver of the vehicle and should include the Penalty Infringement Notice number and the vehicle registration number.

The correspondence also advised that should the SDRO determine that the penalty still applies, then the matter may be referred to Council for a review by General Counsel.

It is noted that this is in accordance with Council's current Enforcement of Parking Policy and the referral of the review of PINs to the SDRO is required under our contract with the SDRO for the processing of infringements.

On 10 February 2015 the matter was raised in Council from Cr Salvestro-Martin - Council resolved 'That the General Manager investigate the issue of an elderly couple being fined in late 2014 by City of Ryde Rangers while conducting volunteer work on a Sunday morning and provide a report back to Council.'

Investigations to identify the PIN in question commenced and shortly thereafter it was ascertained that PIN in question was that issued to the resident in December 2014. It is noted that at the time of this matter being raised at Council it was still subject to the review of the SDRO.

On 19 February 2015 Council received a request from local media regarding the matter. A response to this request indicating that the investigation requested by Council had commenced was emailed on 20 February 2015.

On 26 February 2015 the resident contacted the Team Leader, Business Administration, Ranger & Parking Services advising that she had received correspondence from the SDRO (correspondence dated 21/02/2015) regarding her request for review of PIN 3117692261. The recommendation from the SDRO was for the 'Penalty To Stand'. The resident also stated that she would like to have the matter referred Council's General Council.

ITEM 13 (continued)

It was confirmed with the resident that the matter could now be reviewed by Council's General Counsel, and the resident was requested to provide a copy of the SDRO's correspondence to Council for the purposes of that review.

After providing the resident with this information a Councillor Request #7951 was received from Cr Salvestro-Martin requesting the resident be contacted as she had received correspondence from the SDRO regarding the fine.

On 3 March 2015 a copy of the SDRO's correspondence was received from the resident. All documentation relating to PIN 3117692261 was collated and referred to Council's General Counsel for adjudication.

Council's General Counsel has completed adjudication in relation to the infringement and has found that it is appropriate in the circumstances to withdraw the Penalty Infringement Notice and issue a caution for the following reasons:

- a) The appellant's offending behaviour did not involve a risk to public safety, damage to property or financial loss or have a significant impact on other members of the public,
- b) The offending behaviour is at the lower end of the seriousness scale for that offence,
- c) There are reasonable grounds that verify the appellant suffers from a special infirmity, and
- d) The appellant admits the offending behaviour and has shown remorse.

The resident has been notified of the adjudication outcome.

Investigation Findings

- Both penalty infringement notices were issued in accordance with the Australian Road Rules 2014 and Council's Enforcement of Parking Policy.

The resident was contacted during the investigation process and was unable to confirm whether a disability sticker was displayed on the vehicle at the time the fine was issued. The resident was also unable to confirm that the vehicle was attended at all times.

The investigation found no failure in the Ranger's application of the Enforcement of Parking Policy, particularly those provisions relating to the issuing of cautions, as the vehicle was unattended at the time the ticket was issued.

ITEM 13 (continued)

- The correct procedure for the initial review and adjudication processes was provided to the resident and was in progress prior to the matter being raised in Council.

Council's correspondence provided to the resident in response to her initial request for a review was in accordance with Council's Enforcement Policy, which in turn is in accordance with our responsibilities under the Fines Act and Council's contract with the SDRO. This correspondence was also issued in a timely manner (2 business days after Council staff first receiving notice of the resident's request for her fine to be reviewed and 4 business days from the time she emailed Cllr Pickering).

Council received a copy of the SDRO's determination for the purposes of adjudication on 3 March 2015 and the resident was advised of the outcome of that review within 4 business days.

- No changes to the Enforcement of Parking Policy are proposed.

The Enforcement of Parking Policy provides clear guidelines for the issuing of PINs and cautions and also provides a clear procedure for the review of PINs. This example clearly demonstrates the capacity for appropriate discretion to be exercised by Council staff in the enforcement of parking restrictions. The policy recognizes circumstances such as special infirmity and provides an avenue for such circumstances to be considered should they not be apparent at the time a PIN is issued.

- Review of the taxi zone.

The signage is clearly visible and complies with Australian Standards and reflects the conditions of the road rules at that location.

However, the location's status as a taxi zone may be reviewed by Council's Traffic Committee should Council feel that the need identified by the resident's circumstances warrants further review. The location already provides some parking options Mon-Sat and the Traffic Committee may consider extending this to include Sunday.

ITEM 13 (continued)

ATTACHMENT 1

**REPORT: RESPONSE TO MATTER OF URGENCY REGARDING PENALTY
INFRINGEMENT NOTICE ISSUED BY CITY OF RYDE RANGERS.**

Photos - PIN 3117692261

