



Report to General Manager

Attachments:
Nil

SUBJECT: Response to Notice of Motion - Parking Infringement Review Committee with Community Representation

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ENDORSED BY: Joseph Hill, Director City Strategy

EXECUTIVE SUMMARY:

At its meeting of 26 June 2017, Council considered Notice of Motion No. 21/17 regarding Parking Infringement Review Committee and resolved:

THAT a report be prepared and provided to the next Council meeting in relation to Council establishing a Parking Infringement Review Committee and that the report includes consideration of community representatives on such a Committee.

This report outlines the research undertaken into Council establishing a Parking Infringement Review Panel. It also seeks to respond to and address the issues expressed in the document tabled at the meeting when the matter was being considered.

Council is currently a *premium client* of the State Debt Recovery Office (SDRO) and the services provided as a holder of that status will be removed if a Panel is established. Council would then become a *basic client* and required to bear the costs of providing and delivering those services. There are significant implications for such a change and they are outlined in this report.

Notably, the New South Wales Ombudsman has recommended that there should be one avenue of review for the Council issued fines and there should be a consistent approach to all considerations across the entire state. The establishment of a local level infringement review panel is not consistent with the NSW Ombudsman recommendations.

FINANCIAL IMPLICATIONS:

An additional cost to Council is in the order of between \$890,000 to \$1,040,000 per annum would be incurred should an Infringement Review Panel be implemented.

RECOMMENDATION:

1. THAT Council not proceed with the establishment of a Parking Infringement Review Panel on the basis that:

- a) Such a panel is contrary to the position expressed by the NSW Ombudsman as it would lead to inconsistent decisions across various jurisdictions;
- b) the additional costs arising from administering the infringements as a *basic client* are significant if not prohibitive;
- c) the apprehended bias perceived or otherwise would be unavoidable;
- d) the risk of reputational damage to North Sydney Council by decisions with the potential to be perceived to be corrupt;
- e) the existing situation, with the State Debt Recovery Office providing the independent and consistent decision making, is an efficient and impartial way of dealing with infringement representations.

LINK TO DELIVERY PROGRAM

The relationship with the Delivery Program is as follows:

Direction: 5. Our Civic Leadership

Outcome: 5.3 Council is ethical, open, accountable and transparent in its decision making

BACKGROUND

At the Council meeting of 26 June 2017, Council resolved that a report be prepared and provided to the next Council meeting in relation to Council establishing a Parking Infringement Review Committee.

CONSULTATION REQUIREMENTS

Community engagement is not required.

SUSTAINABILITY STATEMENT

The sustainability implications are of a minor nature and did not warrant a detailed assessment.

DETAIL

On 8 October 2012, the NSW Ombudsman wrote to all Councils recommending changes to the manner in which representations regarding penalty notices are managed so that there would be a consistent approach to all considerations across the entire state rather than in isolation at a local government level. These recommendations were further supported by Office of State Revenue and are stated in their contractual arrangement with North Sydney Council.

The policy of North Sydney Council prior to the notification from the NSW Ombudsman was to convene a Penalty Notice Review Panel, delegated by the General Manager, to consider representations made concerning penalty notices issued by Council staff.

The July 2013 agreement featured provisions stating that where North Sydney Council implements a Review Panel it will no longer be a *Premium Client* and will revert to *Basic Client* level. This Notice of Motion therefore invites Council to consider the impacts of reverting to a *Basic Client* as detailed below.

A Basic Client must manage, address and respond to all representations regarding penalty notices without the assistance of State Debt Recovery Office (SDRO) and must prosecute all court elections without the assistance of the Police Prosecution Service. The SDRO has stated that they redirect every inquiry received relating to Basic Level clients to that organisation for their consideration. It should be noted that as a *Premium Client*, Council currently pays the SDRO an administrative fee per infringement notice. This fee rises as a *Basic Client*.

The key statistics to be considered in relation to the implementation of a local Infringement Review Panel are shown below. This data has been provided by the State Debt Recovery Office. In the 2015 / 2016 financial year:

1. North Sydney Council issued 55,079 parking infringements.
2. If a Review Panel were to be convened, the processing fee for those 55,079 infringements would increase by \$122,275.38 as a basic client.
3. When a request for review is received by SDRO, it must be registered into their permanent record system. As a *basic client*, North Sydney Council would be required to record and store these requests and an increase of 4,985 records would result in an estimated extra cost of between \$85,000 and \$100,000.
4. The SDRO by way of the Police Prosecution Service have represented Council at court on parking matters 116 times. As a basic client North Sydney Council would be required to provide its own prosecutor for each of those matters at an estimated cost of between \$200,000 and \$250,000.
5. The SDRO received 4,985 representations and had investigated and responded to each representation and managed the progression of the infringement. As a basic level client, North Sydney Council would be required to receive, register and then investigate and manage replies all of these representations without the assistance of SDRO at an estimated cost of between \$400,000 and \$450,000.
6. The SDRO call centre received 19,856 phone inquiries on matters relating to infringements issued by North Sydney Council. As a basic client, all of these phone calls would be redirected from SDRO to North Sydney Council's Call Centre at an estimated cost of between \$90,000 and \$110,000.

It should be noted that the statistics for the 2016/2017 financial year up until May 2017 are trending in a similar manner to those shown above for the 2015/2016.

The costs associated with points 3, 4, 5 and 6 above reflect the direct additional staffing levels across four departments within Council. These costs do not reflect indirect costs such as office equipment. The departments concerned are Document Management Services, Ranger and Parking Services, Customer Services Call Centre and Legal Services.

Increases in staff resources would be required to replicate the current SDRO Premium Client service and maintain existing work programs and service levels. Alternatively, if the costs were internalised then significant decisions would need to be made as to what services and programs require a commensurate cut.

The expressed desire of the Ombudsman New South Wales is that:

“representations regarding penalty notices are managed so that there would be a consistent approach to all considerations across the entire state rather than in isolation at a local government level.”

Only the SDRO has access to the systems and information that provide an individual driver's history and prior offences to be able to provide that consistency in the consideration of matters raised in representations. Such knowledge can often work in favour of drivers who have a good record and that is information that Council is not able to access.

If a community review panel were to be implemented, the process followed would be that an appellant could appeal to the panel and if they did not like the decision of the panel they can then "court-elect". This is exactly the process currently in place with SDRO reviewing representations.

Unlike a review conducted by SDRO, a community review panel is considering matters related to imposing sanctions potentially on their neighbours. The perception of favouritism or nepotism in this decision making process by the community cannot be ignored. Such a Panel would leave itself open to claims of corruption when making decisions. Parking infringements are an emotive subject. This reason alone validates the use of the SDRO as an independent body and arbiter of representations.

A final matter to raise when considering the implementation of a Parking Infringement Review Panel is that of apprehended bias. Any voluntary independent member of a panel is not subject to sanctions or discipline for displaying bias. The likelihood that they will one day be making an assessment of a matter raised by a neighbour is real and any conflict or bias may not be apparent to other members yet the ability to influence is always present. In the event of such an occurrence, Council is likely to be faced with an increase in GIPA applications from respondents who received a negative outcome so that they can see how members of the Panel voted. This could expose those members' decisions to inappropriate scrutiny.

The perception of corruption, whether realised or not, is just as corrosive to the community's confidence in Council and indeed, Council's reputation, as is real corruption.

While researching other Councils' operations as a result of this Notice of Motion, and the document tabled, those Councils which had an internal review process accessible to the public, namely Parramatta City and Georges River Council (formerly Hurstville Council) have already closed the panels down and have reverted to SDRO as the single point of consideration as the panels have failed to deliver the outcomes to the community that were sought.

Relevant commentary on the document tabled at the 26 June 2017 meeting

Issue: Losing the right of appeal by having to go to SDRO.

Response: SDRO is the right of appeal.

Issue: SDRO representations are limited to 700 words via the website.

Response: Appellants can submit as much information as they need via mail or email. The use of SDRO's website to lodge an appeal is not mandatory.

Issue: Infringements are issued freely and in in error

Response: Council Rangers and Parking Services Supervisors inspect every infringement issued as a matter of process to ensure correctness of offence, evidence and data captured. This task is also repeated for every infringement by SDRO's data

integrity unit. The checks made to ensure there are no errors in the infringements issued are significant.

Issue: Anecdotal comments and perceptions

Response: For 2015/2016, there were 55,079 infringements issued. The SDRO received 19,856 phone calls for a range of reasons. A total of 4,985 representations were then made.

A total of 116 representations then elected to have the matter heard at court, of which only 6 progressed to hearing. No matters or infringements were withdrawn at mention validating the accuracy of the issuing procedures.

It is acknowledged that no person likes being infringed for parking illegally and that dislike can lead to claims of unfairness and lack of transparency should the reviewed decision be that the infringement is correct. That, however, does not legitimately suggest that the process is flawed.

The absolute independence of the State Debt Recovery Office in reviewing representations made regarding North Sydney Council issued infringements, using guidelines that have been developed with the NSW Ombudsman, provides the fairest process for all people who wish to appeal a penalty notice and should be proceeded with.