



**Bayside Council**

Serving Our Community

# **Parking Enforcement Policy**

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Parking Enforcement Policy

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# 1 Introduction

## 1.1 Background - Purpose

This policy has been developed to provide a framework for the Bayside Councils regulation and enforcement of laws relating to the parking of motor vehicles.

## 1.2 Definitions

### ***Authorised Officer***

An officer authorised means a member of Council staff with delegations to carry out enforcement of laws relating to motor vehicles.

### ***Penalty Notice***

A penalty notice issued for contravention of the laws relating to motor vehicles.

## 1.3 Policy statement

This policy provides a framework for the Bayside Councils regulation and enforcement of laws relating to the parking of motor vehicles.

## 1.4 Scope of policy

This Policy applies to all Council Officials in accordance with the Code of Conduct definition of a Council Official.

## 1.5 Policy objectives

To provide a comprehensive and publicly available parking enforcement policy aimed at achieving an appropriate balance between public safety, traffic flow and equitable access to available parking within the Bayside Council area.

To detail the approach to be taken by Council's authorised officers in the carrying out of enforcement duties.

To outline the processes for the consideration of representations made concerning penalty notices issued for parking related offences.

# 2 Policy

## 2.1 Statutory obligations

Council has a regulatory obligation to enforce parking-related legislation to manage public safety and traffic flow.

Council will exercise their enforcement powers in a fair, transparent, consistent and accountable manner.

## 2.2 Community education

Council is committed to developing and implementing strategies to increase awareness among the community about parking related matters, particularly those involving public safety such as school zones.

## **2.3 Parking programs**

In addition to the regular patrols of on-street and off-street parking areas, Council undertakes to target specific illegal parking behaviour and the methods of monitoring compliance. These programs include:

### **Mobility Parking Scheme**

This program concerns the enforcement of the Mobility Parking Scheme (MPS), administered by the Roads and Maritime Services (RMS), to provide parking concessions for persons with a disability. This includes carrying out of patrols of parking spaces specifically designated for people with a disability to ensure legitimate use through the display of an appropriate permit.

MPS permits should be displayed on the front windscreen of the vehicle in order to substantiate an entitlement to park in a designated Disability Parking Bay. If the permit is not displayed, authorised officers are entitled to request to view the permit. If the driver is not the person to whom the permit has been issued, and the person to whom the permit has been issued is not in the immediate area in which the vehicle is parked, the officer may issue a penalty notice and complete and submit a report to the RMS fraud unit.

### **School Zones**

This program seeks to discourage illegal parking in and around school zones to ensure the safety of children.

Motorists who disregard parking regulations in School Zones can create a dangerous situation that may result in the injury or death of a child.

Council applies a zero tolerance approach to illegal parking offences in School Zones.

### **Resident Parking Scheme**

This program is aimed at improving residents' ability to park in their streets and seeks to discourage the parking of vehicles, without a resident parking sticker, in excess of the time period allowed.

A resident who has been issued with a MPS permit, and displays this permit on their vehicle, is exempt from the restrictions under this Scheme.

### **Complaint-Based Program**

This program seeks to address the investigation of parking related complaints.

Parking related complaints are generally received in relation to driveway and footpath obstructions by motor vehicles in addition to general parking issues in residential areas.

## **2.4 Parking enforcement practices**

### **General**

Efficient and effective parking regulation relies heavily on the systematic presence and visibility of authorised officers. Consistency in enforcement is a key component in effective service.

Subject to the provisions of this policy, authorised officers may use a number of methods to manage parking and apply the related legislation including taking action

in the form of education, warnings, cautions, issuing of penalty notices and the submission of reports to the RMS.

Where an authorised officer observes a motor vehicle parked in an illegal or dangerous position or both, they may issue a penalty notice and, if possible, find the driver and request them to move the motor vehicle immediately.

Motor vehicles parked illegally in a School Zone or in No Stopping, No Parking and Bus Zones will not be afforded any discretion as illegal parking in these high-risk areas may place a member of the public in danger and/or adversely affect the flow of traffic.

Authorised officers are NOT permitted to cancel a penalty notice if they have printed the notice.

The onus to comply with current parking rules and regulations lies solely with each driver of a motor vehicle in NSW.

### **Discretion**

The disregard of parking restrictions and regulations by motorists (particularly in problem areas) should attract a penalty notice so as to operate as a deterrent. However, in some circumstances, it may be prudent for an authorised officer to exercise discretion by issuing a printed caution or verbal caution and direct the driver to move on rather than issue a penalty notice.

Examples of where the exercising discretion by an authorised officer may be considered reasonable and proper are:

- a driver returns to their motor vehicle as an authorised officer is about to issue a penalty notice for overstaying the sign posted time limit. The authorised officer **may** use their discretion to issue a caution and instruct the person to move the motor vehicle.
- an authorised officer observes a motor vehicle double-parked not in a dangerous position or not obstructing traffic. The authorised officer may use their discretion to issue a caution and instruct the driver to move on.
- a driver returns to their motor vehicle before the authorised officer has issued a penalty notice for parking on a path/strip. The authorised officer may issue a caution and instruct the person to move the motor vehicle.

**The application of discretion requires the authorised officer to exercise and demonstrate good judgement in regard to educating the community about parking regulations.**

### **Conflict of Interest**

Council and the community have a right to expect that Council officers will exercise their enforcement powers in a fair, transparent, consistent and accountable manner.

Any real or perceived conflicts of interest shall be managed in accordance with the Council's Code of Conduct.

### **After-Hours Parking Complaints**

Whilst on street parking enforcement was transferred from the NSW Police Force to Local Government in 2002, NSW Police Officers remain authorised to issue penalty notices for contravention of the laws relating to parking of motor vehicles. Accordingly, complaints about motor vehicle parking enforcement outside of

Council's hours of operation may be referred to the Police Local Area Command for investigation/action.

### **NSW Police**

Council officers may seek the assistance of the NSW Police in respect of the following matters:

- general parking offences
- the removal of vehicles parked in a manner that creates a safety concern
- drivers suspected to be under the influence of alcohol or drugs
- abandoned vehicles
- individuals who breach the standard of behaviour of members of the public.

## **2.5 Operational types**

Authorised officers undertake surveillance to ensure compliance with the laws relating to motor vehicle parking. This surveillance may take the following forms:

### **High Visibility Surveillance**

This kind of surveillance involves activities where authorised officers are clearly visible in full uniform for all motorists and members of the public to observe.

### **Low Visibility Surveillance**

This kind of surveillance involves activities where authorised officers may not be clearly visible and this includes use of a Council Motor vehicle that bears Council identification.

## **2.6 Standard operating procedures**

Authorised officers are to observe the following in the performance of their duties:

- be appropriately attired in full uniform when conducting parking patrols wearing appropriate personal protective equipment (PPE);
- penalty notices should be placed on the vehicle if the circumstances permit, otherwise the penalty notice should be posted
- chalk/crayon markings should be made on the tread of a tyre only not on the wall of the tyre, with the time marked
- penalty notices are not issued unless all signs are clear and visible and all motor vehicles tyres are inflated
- a period of ten minutes may be allowed as a courtesy in circumstances where the relevant parking time restriction is greater than 15 minutes
- a period of five minutes may be allowed as a courtesy in circumstances where the relevant parking time restriction is greater than five minutes but not greater than 15 minutes
- private property should not be entered to issue a penalty notice where a vehicle is parked with its rear/front end blocking the footpath. The penalty notice should be posted in this instance
- a penalty notice may be issued when a vehicle is partially in a restricted parking zone. (The benchmark for cars in this situation will be that an overhang is allowed to the centre of the wheel hub/axle perpendicular to the sign post - see Figure A below). If a vehicle is parked any further into a restricted zone a penalty notice will be issued. The authorised officer may use discretion in relation to shape and size of vehicles, sight lines, if in a school zone, if the

vehicle poses a danger to pedestrians or drivers and sight distance for overhang of signpost.

- **Council vehicles must always be parked legally and in accordance with the Road Rules Legislation;**

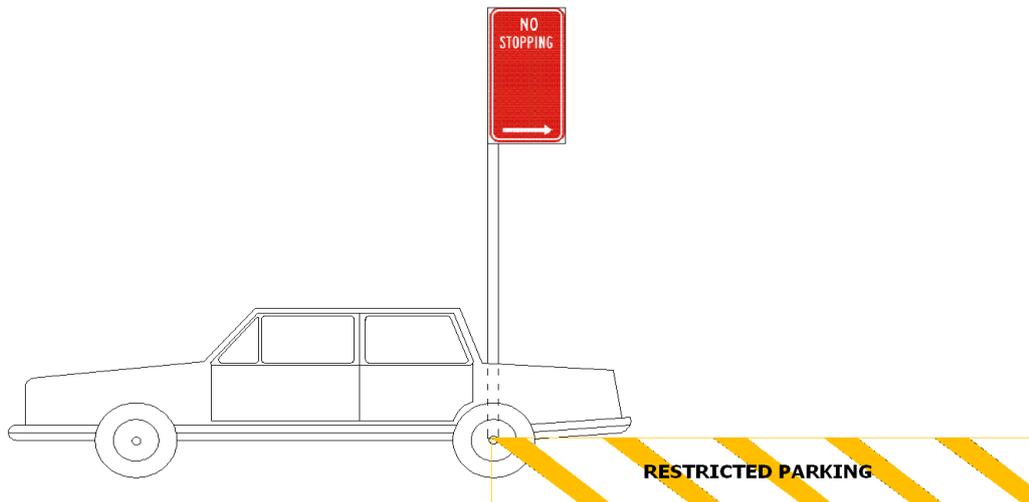


Figure A – A vehicle will be permitted to overhang to the centre of the wheel/hub/axle perpendicular to the signpost.

## 2.7 Photographs

To ensure that appropriate evidence is collected, authorised officers are permitted to take photographs of vehicles where they intend to issue a penalty notice.

Photographs should be taken prior to the details of the offence and vehicle being recorded to issue the Penalty Notice.

The person to whom the penalty notice is issued, may obtain copies of photographs on line via the Revenue NSW website free of charge.

Where possible, the authorised officer should attempt to issue the penalty by placing the notice on the motor vehicle or handing the penalty notice to the person who the authorised officer reasonably considers to be the owner or driver of the motor vehicle. The penalty notice may be sent via the post to the motor vehicle owner when the authorised officer:

- observes a motor vehicle stop and illegally park in a school zone, No Stopping, or Bus Zone and then drives away
- cannot stop and park legally to issue the penalty notice
- forms the opinion that it would be unsafe to issue the penalty notice in the normal manner
- forms the opinion that it would be inappropriate to issue the penalty notice in the normal manner because of the prevailing weather conditions.

## **2.8 Behaviour standards of authorised officers**

Council has an expectation that all authorised officers will:

- be courteous, polite and demonstrate behaviour above reproach at all times
- carry out their duties in a diligent, fair and consistent manner
- be open, honest and efficient when undertaking all duties
- apply the “benefit of the doubt” principle. This involves not issuing a penalty notice if there is any doubt as to whether an offence has been committed
- observe and obey the Road Rules at all times; except in the case of an emergency or where noncompliance was necessary in the interests of public safety
- recognise that people may become upset when issued with a penalty notice for an illegal parking offence. Authorised officers must not verbally abuse, threaten or assault any member of the public
- report to their supervisor (and if they consider appropriate the Police) all verbal abuse directed at them, threats they receive or assault they suffer
- retreat from any confrontational situations (including to the vehicle if necessary) and advise the Senior Parking Patrol Officer or Senior Ranger as soon as practical and make a report of the incident.

## **2.9 Behaviour standards of the public**

Council has an expectation that members of the public will:

- treat authorised officers with courtesy and respect
- comply with a lawful instruction issued by an authorised officer
- observe and obey the road rules and parking regulations.

Council may take action against any person who verbally abuses, threatens or intimidates an authorised officer. This action may include:

- a written caution on Council letterhead indicating that the type of behaviour displayed is unacceptable
- referral to the NSW Police Force for action against the individual
- legal proceedings including the issuing of a Court Attendance Notice and/or the seeking of a Personal Violence Order.

## **2.10 Options available to persons in receipt of a penalty notice**

The following options are available to persons who receive a penalty notice:-

- pay the penalty notice
- if the person who receives the penalty notice was not the person responsible for the vehicle at that time the notice was issued, they should complete the form nominating the responsible person
- request a review, seeking leniency based on special circumstances that may have contributed to the offence, or if they believe an error was made in issuing the penalty notice
- elect to have the matter determined by a Court.

Representations and enquiries in respect of the options available must be directed to the Revenue NSW Office (SDRO) within 21 days of the date of the penalty notice.

## **2.11 Penalty review process**

Write/email the Revenue NSW Office.

Representations in regards to Penalty Notices issued by Council Officers must be directed to the Revenue NSW, which is the NSW Government agency that undertakes debt recovery activities on behalf of Government (State and Local) in NSW. The postal address for Revenue NSW is:

Revenue New South Wales  
PO Box 786  
Strawberry Hills NSW 2012

Revenue NSW has a procedure that governs the consideration of representations made in respect of debts that the Revenue NSW is pursuing.

Revenue NSW publishes guidelines outlining the manner in which they will undertake the consideration of representations and review of request received in respect of any debt that the Revenue NSW are pursuing.

In general terms, Revenue NSW procedure involves:

- an assessment as to whether the relevant penalty notice was lawfully issued
- notification to the person making the request of its determination
- if Revenue NSW determines that the relevant penalty notice was not lawfully issued, it recommends to the issuing authority that the penalty notice be withdrawn and notifies the person making the request of its determination
- if Revenue NSW determines that the relevant penalty infringement notice was lawfully issued, it notifies the person making the determination and that person may elect to either pay the penalty infringement notice or challenge the issue of the penalty infringement notice before court.

The Revenue NSW guidelines can be viewed on line at [www.revenue.nsw.gov.au](http://www.revenue.nsw.gov.au)

## **2.12 Complaints about authorised officers**

Complaints made in relation to the conduct of an authorised officer will be dealt with in accordance with the Council's Complaints Management Policy.

Complaints of this nature may be made via the following:

- Telephone on 1300 581 299
- Writing to the General Manager, Bayside Council, 444-446 Princes Highway, Rockdale NSW, 2216
- Email at [council@bayside.nsw.gov.au](mailto:council@bayside.nsw.gov.au)

## **2.13 Access to, and disclosure of, information**

Council is committed to the principles of:

- open and transparent government
- consideration of matters where there is an overriding public interest in relation to access and disclosure
- the proactive release and dissemination of public information
- respect of the rights and privacy of individuals
- respect of the commercial value of information and copyright provisions.

Council will take all reasonable measures to protect an individual's personal information i.e. information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

Notwithstanding this, Council may be required to disclose this information in a variety of circumstances including the following:

- compliance with the Government Information (Public Access) Act 2009
- legal proceedings are commenced and the information is disclosed in evidence presented
- if the nature of the allegation otherwise makes it a necessity.

Further information regarding the access and disclosure of information may be obtained by contacting Council's Right to Information Officer or Public Officer.

## **2.14 RMS drives database**

Access and security in respect of the RMS DRIVES database shall be in accordance with the Terms of Access Agreement between the RMS and the Council.

The Coordinator Regulations is responsible for developing and maintaining adequate procedures and protocols to ensure that Council complies with all obligations under this Agreement.

# **3 Policy implementation**

## **3.1 Policy responsibilities**

All persons have a responsibility to:

- a comply with Council policies and procedures and legislative requirements
- b report any suspicion of fraudulent or corrupt behaviour or breaches of this policy in accordance with Council's Internal Reporting Policy
- c the General Manager will ensure that adequate training is provided to relevant staff to ensure that they are aware of their obligations under this policy.

## **3.2 Procedures**

Procedures that support this policy, may be approved to assist in administration of the policy.

### 3.3 Breaches – Compliance with Policy

- a Sanctions for a breach of this policy will be determined in accordance with the provisions applied under the Council’s Code of Conduct.
- b Staff members in breach of this policy will be subject to disciplinary procedures as provided under the Local Government (State) Award.

## 4 Document control

### 4.1 Review

The Coordinator, Regulations is responsible for the review and issue of this policy every two years or when relevant legislation changes.

The General Manager, or their delegate, i.e, Director is authorised to approve variations to this policy in order to comply with legislative requirements.

The Manager Governance & Risk may approve non-significant and/or minor editorial amendments that do not change the policy substance.

### 4.2 Related documents

Local Government Act 1993  
Australian Road Rules  
Road Rules 2014  
Road Transport (General) Act 2005  
Road Transport (General) Regulation 2005  
Road Transport (Safety and Traffic Management) Act 1999  
Transport Administration Act 1988  
Fines Act 1996  
Crimes Act 1914  
Government Information (Public Access) Act 2009  
Personal and Privacy Protection Act 1998  
State Records Act 1998  
State Record Regulation 2015  
Work, Health and Safety Act 2011  
Code of Conduct  
Electronic Communications Policy  
Complaints Management Policy  
Records Management Policy  
Customer and Service Standards Policy  
Work Health & Safety Policy

### 4.3 Version history

This policy is based on a former City of Botany Bay policy dated July 2012.

Version	Release Date	Author	Reason for Change
1.0	10/01/2020	Coordinator Regulations	New harmonised policy.