

PLANNING INFRINGEMENT NOTICES

Planning Infringement Notices

Planning Infringement Notices (PINs) are issued by local governments in Western Australia. Local Government Officers can be appointed as designated officers with authority to issue PINs for breaches against a Local Planning Scheme. Planning Compliance Officers must be appointed by the Chief Executive Officer as specified under section 234 of the *Planning and Development Act 2005* to issue a PIN upon any party believed to have committed an offence.

PINs carry an initial penalty of \$500.00 for any offence against a Local Planning Scheme. A PIN is used in straightforward matters as an effective means of addressing an offence and to achieve early compliance, as per the Western Australian Planning Commission's (WAPC) Planning Bulletin 98. PINs are preferred to commencing legal action through the Court system, where additional costs and fines are usually sought and imposed.

The WAPC's Planning Bulletin 98 identified common examples of the circumstances where it would be appropriate to issue a PIN, for offences under sections 214, 218, 220 and 221 of the *Planning and Development Act 2005*, including (but not limited to):

- a) Unauthorised erection of signs;
- b) unauthorised parking of motor vehicles (for example parking of commercial vehicles in residential areas);
- c) operating a business or conducting an activity outside of the approved operating hours of such business or activity;
- d) failure to provide adequate car parking facilities;
- e) failure to provide appropriate access;
- f) failure to undertake and maintain landscaping (where this is a condition of approval);
- g) unauthorised or non-conforming retaining walls;
- h) unauthorised storage of materials;
- i) unauthorised clearing of vegetation; and
- j) unauthorised minor works (e.g. patios, swimming pools, carports, outbuildings, fencing)

PIN's differ from Retrospective Planning Application Fees. Retrospective Application fees are also penalties which are imposed for commencing development prior to approval. A development that has commenced and has been penalised by a Retrospective Planning Fee is not necessarily exempt from receiving a PIN and/or legal action for the same offence.

What are my options if I have received a Planning Infringement Notice?

There are number of options that you have if you have received a PIN. Some of these options include:

Option 1:

Pay the PIN within the specified 28 day time period and cease the offence **immediately** – refer to the 'How do I pay a Planning Infringement Notice?' and the 'Continuing Offences' sections of this information sheet.

Option 2:

Submit a letter to the City within the specified 28 day time period and request to have the PIN withdrawn if you feel you have fair and reasonable grounds to make such a request. All letters requesting the withdrawal of a PIN must be addressed to the City's Chief Executive Officer. For further information refer to the section 'Withdrawal of a Planning Infringement Notice' below.

Option 3:

Submit a letter to the City within the specified 28 day time period to advise that you would like the PIN matter to be determined in a Court. Please note that having the matter heard in Court may remove the original penalty of \$500.00, and the Court is likely to impose higher penalties and costs if you are unsuccessful.

If you elect to have the matter determined by a Court, the City will organise the prosecution procedure and you will receive a summons to attend Court. Please understand if you are not successful in court, the City will also seek to recover the costs involved with a prosecution; these costs can be significant.

If you take no action the City could forward your details to the Fines Enforcement Registry. Refer to the section 'Fines Enforcement Registry' for further information. Alternatively the City could withdraw the PIN and commence prosecution proceedings through the Court system, which could result in a higher penalty and costs being imposed by the Court. The City would normally seek higher penalty and costs.

How do I pay a Planning Infringement Notice?

Payment can be made at the City of Nedlands administration office at 71 Stirling Highway, Nedlands, or via post:
PO Box 9 NEDLANDS WA 6909

Payment must be made within the time period specified on the PIN. The Infringement Number from the PIN must be included with your payment. The following payment methods are accepted:

- o Cash;
- o Cheque; or
- o Credit Card

Request for Extension of Time to Pay a Planning Infringement Notice.

You may request the City to consider extending the time given to pay your infringement notice. Your letter must;

Be marked to the attention of the Chief Executive – City of Nedlands, and:

- a) Include the Infringement Number from the PIN;
- b) Include your reasons for requesting an extension of time for your payment; and
- c) Propose a time period that you commit to paying the PIN within.

The City will provide advice of its decision in writing.

Withdrawal of a Planning Infringement Notice.

A submission to request consideration to withdraw an issued infringement notice must be made in writing to the City (marked attention to the Chief Executive Officer) with supporting documentation giving evidence as to why the infringement should be considered for withdrawal.

The Chief Executive Officer will consider and determine whether a PIN will be withdrawn or not. The City will provide advice of its decision in writing.

Fines Enforcement Registry

If the PIN is not paid within the prescribed or statutory period, the City can refer the matter to the Fines Enforcement Registry (FER). Failure to pay a PIN with FER can result in the loss of a driver's or vehicle licence. Further fees are applicable once you have been registered with FER for not paying a PIN.

Once matters are lodged at FER, the Registry is largely responsible for their enforcement.

Fines Enforcement Registry
GPO Box X2293
PERTH WA 6847

Phone: 1300 650 235 or Eastern States Callers: (08) 9235 0235
Fax: (08) 9425 7070

Continuing Offences

Should the offence continue, regardless of whether a Planning Infringement Notice has been issued or not for that particular offence, the City may issue another PIN and/or commence a prosecution without further notice. Penalties are substantially higher.



Further Information

If you have any queries with regard to the information provided in this information sheet please contact the City's Statutory Planning Department.

Tel.: 9273 3500

Email: council@nedlands.wa.gov.au