



POLICY DOCUMENT

20.63.2

Policy Name	Withdrawal of Expiation Notice
Policy No	20.63.2
Reviewed By	Rosa Gagetti Executive Director Development & Environment
CEO Authorisation	Rob Donaldson CEO
Review Details	Date Adopted: 21 September 2015 Date Reviewed: 24 August 2015 Next Review Date: ELECTION 2018

1. PURPOSE

Section 16(1)(a) and (ab) of the Expiation of Offences Act 1996 (the Act) sets out the circumstances where the issuing Authority may withdraw an expiation notice with respect to all or any of the alleged offences to which the notice relates.

The objective of this Policy is to:

- establish criteria that provides for a consistent and transparent assessment of requests to withdraw an Expiation having regard to the requirements of the Act; and
- guide and assist the Council when assessing requests to withdraw an Expiation but will not prevent reasonable consideration being given to the merits of an application.

2. APPLICATION TO WITHDRAW EXPIATION

All requests to withdraw an Expiation under this policy must be submitted in written form. No verbal requests will be considered.

All requests for the withdrawal of an expiation notice and supporting information must be received *before the due date has expired* on the original expiation.

Following receipt of a written request, Council will notify the applicant within 7 business days, in writing, of the outcome of the request.

3. ASSESSMENT CRITERIA

The following criteria will be taken into consideration when assessing a request to withdraw an Expiation Notice.

3.1. **TRIFLING**

An alleged offence will, for the purposes of this Act, be regarded as trifling if, and only if, the circumstances surrounding the offence were such that the alleged offender ought to be excused from being given an expiation notice on the ground that:

- a) There were compelling humanitarian or safety reasons for the conduct that allegedly constituted the offence; or
- b) The alleged offender could not, in all the circumstances, reasonably have averted committing the offence; or
- c) The conduct allegedly constituting the offence was merely a technical, trivial or petty instance of a breach of the relevant enactment.

3.2. MEDICAL EMERGENCY

If the vehicle was parked as a result of having to attend a hospital or medical clinic due to a serious, medical emergency, Council will require official, dated documentation from the doctor to support the applicant's claim.

The person/s expiated will provide a statement outlining the chain of events resulting in the expiation notice being issued.

3.3. VEHICLE BREAKDOWN

The person/s expiated will need to provide statements from themselves and the RAA administration or other mechanical vehicle service provider which confirms the date, time of their call for assistance and attendance at the location of the vehicle, or dated, official receipts for towage / repairs from a recognised repairer if the customer is not a member of such a service provider.

3.4. NOT THE DRIVER AT THE TIME OF THE OFFENCE

The person/s expiated will need to provide a Statutory Declaration Form witnessed by a Justice of the Peace outlining the full name and address of the said driver at the time of the offence.

All information must be true and correct as a Statutory Declaration is a legal document.

3.5. DECISION MADE ON COMPASSIONATE GROUNDS

The person/s expiated will need to provide a statement outlining the chain of events resulting in the expiation notice being received. The statement must also provide the reasons why (in their opinion) the notice should be withdrawn.

4. OUTCOME OF REQUEST TO WITHDRAW EXPIATION

All decisions in respect of a request for a withdrawal of an expiation notice shall be made by the Executive Director Development and Environment, or a person acting in that capacity or the Chief Executive Officer. The applicant will be advised in writing of the outcome of the assessment of their request to withdraw the expiation notice.

Should there be any inconsistency between the Expiation of Offences Act 1996 and policy, the Expiation of Offences Act 1996 will prevail.

5. REVIEW

This policy shall be reviewed by the City of Port Lincoln within twelve months after the conclusion of each periodic election or on significant change to legislation or aspects included within this policy.

6. REFERENCES

Expiation of Offences Act 1996