



25 November 2010

Paul McKnight
Executive Director
NSW Law Reform Commission
PO Box 5199
SYDNEY NSW 2001

Dear Mr McKnight,

Penalty Notices - Consultation paper Nos 10

Thank you for your letter of 20 September 2010 advising the Sydney Olympic Park Authority (SOPA) of the NSW Law Reform Commission's Consultation Paper 10 on Penalty Notices.

The paper is a substantial document that addresses a diversity of issues and raises numerous questions. As many of the issues in the discussion paper have no direct relevance to SOPA, the Authority is pleased to provide a selective commentary as follows:


1. while administrative procedures and conduct standards should be consistent across the State, any attempt at standardising implementation guidelines must be sufficiently flexible to allow for local circumstances and individual agency priorities - this is required to allow for targeting limited resources at higher risk matters and / or allowing for an occasional blitz action or focus on education rather than enforcement;
2. there should be scope for similar offences at different places and / or at different times to reflect risk and impact and hence be the subject of different set penalty amounts - this is required to reflect the fact that the same offence in (say) the CBD during a normal working day may be far more or less significant in the scheme of things than if it occurred during a major international sporting event at Sydney Olympic Park;
3. set penalty notice amounts should be set at levels that are lower than the minimum fine amount that would be issued by a Court if the offence was proven - this will discourage offenders taking the matter to Court unless they are very confident of their innocence etc;
4. any person (i.e contractor, staff or other agent) if lawfully authorised as an *authorised officer* by an appropriate agency delegate should be able to issue

infringement notices, however this ability should be attached to a strict requirements for officer training, a code of conduct, implementation compliance auditing, etc;

5. the presumption that if an offence has not been the subject of an infringement notice for some time, if ever, is evident that it is not required is possibly a flawed and narrow perspective. The reason being, as the identification of an offence and the threat of a penalty notice may in itself may have been an effective deterrent and hence no enforcement being required. In fact this situation may be an indicator of success more so than failure compared to the offence for which many infringement notices have been issued - is not the idea to minimise offences not relish their frequent occurrence;
6. the use of an 'official caution' as an alternative to issuing an 'infringement notice' ought to be a valid option when a low impact offence has occurred - this will allow for common sense and reason to prevail in circumstances where clearly the offence was a first offence, inadvertent, or the result of a matter beyond the offenders direct control, etc;
7. certain kinds of offences are better dealt with by way of a non-financial penalty (at least initially) which also allows for minors and serial offenders to be dealt with more appropriately - this suggests that confiscation of property where it is causing damage or nuisance, or banning a person from a place or facility where they cause damage or nuisance may have the best community outcome;
8. at a practical level it is unreasonable to suggest that any officer can or should decide whether or not to issues an infringement notice based on a persons apparent economic status, social disadvantage or other vulnerability - such vagary will only encourage further system abuse (*such as with 'disability parking permits*) and facilitate ongoing dispute over interpretation and status;

Please contact the Authority's General Manager, Operations & Sustainability Mr David Young on [REDACTED], should you require any further assistance or clarification of the above.

Yours sincerely,



Alan Marsh
Chief Executive Officer