



LOCAL COUNCIL GUIDELINES FOR THE MANAGEMENT OF ABANDONED SHOPPING TROLLEYS January 2004

Introduction

These Guidelines have been prepared to assist councils to develop policies and processes to address abandoned shopping trolleys. The Associations have negotiated a code with the Australian Retailers Association (ARA) which was signed in January 2004. This code promotes a cooperative approach between councils and retailers to develop a responsible shopping trolley management system.

It is acknowledged however that while the majority of retailers take a responsible attitude to trolley management, councils face situations where some retailers are unable or unwilling to take an acceptable degree of responsibility for trolleys used by their customers.

These Guidelines are designed to assist councils in dealing with retailers and trolley users. The Guidelines provide advice regarding

- the development (in consultation with retailers) of a council policy on shopping trolleys,
- developing agreements / contracts with individual retailers consistent with that policy,
- regulatory options for councils to penalise those who illegally abandon trolleys.
- regulatory actions to deal with retailers who do not comply or cooperate with council policies

As a general principle, it is preferable that trolleys remain on the premises which own them. This should be the primary motivation for trolley management policies and programs. It is acknowledged however that whatever system is in place, trolley removal and abandonment will occur to varying degrees. Appendix A contains examples of trolley management systems which have been trialled and introduced to manage trolleys.

Retailers and Local Councils

Councils are encouraged to meet with retailers and their trolley collection contractors to discuss problems and solutions relating to abandoned trolleys or to consult on proposed council policies for trolley management. Council officers may wish to call such a meeting or, at the request of council staff, Trolley Services Australia (ph: (02) 4926 2755) will make the necessary arrangements to facilitate such a meeting.

Expectations on Retailers

In any negotiations with individual retailers or groups of retailers, Councils should expect the following:

Retailers should encourage their customers to minimise public inconvenience caused by trolleys left unattended in public places.

Retailers should minimise the unreasonable impacts of unattended trolleys in public places, through public education and the provision of appropriate collection services.

Retailers should ensure that adequate collection services are provided in each locality to ensure that unattended trolleys are collected on a regular basis, in a timely fashion, as agreed with local government authorities.

Retailers should agree to a process of ongoing liaison with representatives of local government authorities to ensure that the expectations of council regarding trolley recovery (consistent with council policy and individual retailer agreements) are met.

Specifically, **retailers** should:

- Provide to their local council a list of contacts for their store/ stores in the local government area (including phone and facsimile numbers), with additional company contacts at senior management level.
- Authorise the store manager or their delegate to be responsible for liaison with local government representatives about trolley management.
- Ensure that all trolleys are easily identifiable by council officers.
- Ensure that trolley collection services are sufficiently resourced to enable collection within agreed timeframes and at all times, including “after hours”.
- Ensure that trolleys reported as posing risk or nuisance are collected immediately on notification.
- Ensure that all other trolleys reported are collected within the time limit agreed with / set by council. This may require an “after hours” collection service.
- Retain a brief record of all trolleys so reported and collected or the time at which a trolley collector attended to collect a reported trolley if no trolley was found at that location.
- Inform customers (through clearly visible signage and other means) that trolleys should not be removed from premises or abandoned, and that penalties apply for the dumping of trolleys outside the retail outlet/ complex.
- Provide suitable, well signed trolley bays at exit points to retail outlets or complexes.
- Provide to council, on request, an up to date map showing usual trolley collection routes and schedules.

Expectations on local councils

In order to assist retailers in responsibly managing their trolleys, **councils** should:

- Nominate an officer/ officers to be responsible for liaison with stores regarding trolley management.
- Make available on request to all stores providing trolley services in the local government area (and adjoining local government areas if appropriate) a contact list of council officers responsible for trolley management.
- Encourage all Council personnel who become aware of unattended trolleys in risky or unusual locations to inform a designated council officer(s) of the ownership, time, date and location of the trolley as soon as possible; the designated council officer(s) will record the ownership, time, date and location of the trolley reported and take or authorise action as necessary.
- Develop, in consultation with retailers, a policy on time limits for retailer collection of trolleys abandoned in situations of high risk and situations of low risk.

Council Actions

As a general comment, it is preferable to reach an agreement with retailers regarding the collection of abandoned trolleys. Many councils find that retailers are willing to put in place systems to ensure

that their trolleys are either kept on the premises, returned to the premises by the user (through a deposit/ refund scheme or similar), or collected regularly and promptly when abandoned.

A good way to ensure that council / retailer cooperation is maximised is to develop a council policy on shopping trolleys, in consultation with retailers. Additionally, it may be advisable to draft contracts with individual retailers to remove uncertainty about council / retailer responsibilities and expectations, and to justify regulatory measures as a last resort, if and when recurring breaches of the contract occur

Councils can use their discretion in the application of the actions below, and particularly in the imposing of fees and penalties, based on the level of goodwill, cooperation and compliance with council policy that exists with particular retailers.

A possible flowchart for action is included as appendix B

- Where a council employee becomes aware of a trolley which is considered to be a risk to the public or to property, he/ she may, at his/ her discretion,
 - Move the trolley to a safe place and inform the store manager (either directly or through the council designated officer)
 - Instruct the retailer to organise the collection of the trolley as a matter of urgency
 - Impound such a trolley and charge an appropriate fee (see appendix C and G)
 - Return the trolley to the store, and charge an appropriate fee for its return (see appendix D and G)
- In performing the above function, a council officer should at no time take any action which will expose him/ herself to any occupational health and safety risk, nor should he/ she take any action which will expose him/ herself to any legal liability.
- Nominated council officers should notify the store manager or their delegate (either directly or through the relevant council contact) as soon as possible of the location of any unattended trolley away from usual collection routes
- If an abandoned trolley has not been collected within the time limit (as specified by council or agreed between the council and retailer in their agreement / contract) of its being reported to the store manager or their delegate, and any further approaches to the retailer concerned have not been successful, the council may proceed to collect the trolley and return it to the store or impound it (see appendix C and D). Fees may be charged for either of these services.
- An impoundment fee shall consist of fair and reasonable costs of recovery and return, plus a penalty provision consistent with the provisions of the Impounding Act 1993 and Regulations (see appendix C).
- Any fee for returning or impounding a trolley to the store must be in accordance with council's exhibited and endorsed management plan (see appendix D).
- Council should consider assisting retailers who wish to provide trolley bays near public transport points where these are adjacent to stores/ shopping complexes.
- Councils should enforce penalties on individuals who abandon trolleys in public places (see appendix D).

Public education program

Councils may wish to assist retailers in developing or implementing their education campaigns.

Such public education may include:

- Signage within stores and car parks
- Signage at entry and exit points of stores and car parks
- Signage on trolleys
- Pamphlets in stores explaining the Code of Practice and the need for customer co-operation
- Local newspaper publicity
- Direct mail information with council rates notices and other council mailouts

- Publicity through metropolitan media
- Publicity for *Trolley Tracker* 1800 641 497 telephone service
- Council exhortations for community-spirited, responsible use of trolleys
- Council information re penalties for people leaving trolleys unattended in public places
- In-store radio announcements
- Community service advertising.

The message to customers should be based on the following principles:

- Returning trolleys to the bays provided by stores or shopping centres
- Using trolleys only in the immediate vicinity of the store which has provided the trolley as a service. Trolleys should not be taken outside the store/ shopping centre carpark - so that trolley collectors are able to recover them quickly and return them to the store for use by other customers
- Carrying groceries to a car, public transport, home, or other destination without using a trolley, where that is possible
- Leaving trolleys in a position where they are not at risk of being damaged or causing damage to motor vehicles or other property
- Stressing that ultimately the cost of managing and replacing abandoned trolleys is borne by the customer
- A clear message to the public that it is an offence to abandon a trolley in a public place and may lead to a fine (see appendix D).

Appendix A

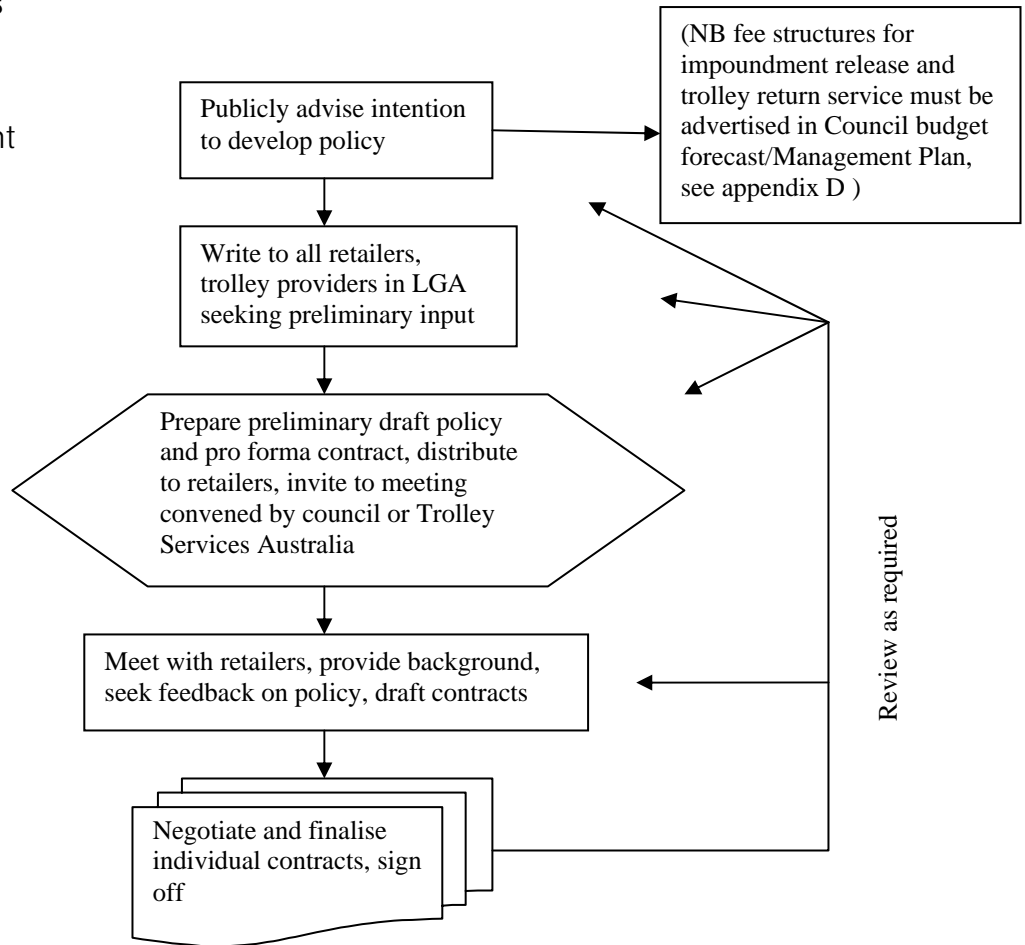
Ultimately the type of trolley return system is a choice for the retailer. The Local Government Association of NSW and the Shires Association of NSW strongly support the adoption of deposit/refund systems for trolleys

Examples of Trolley Management Systems:

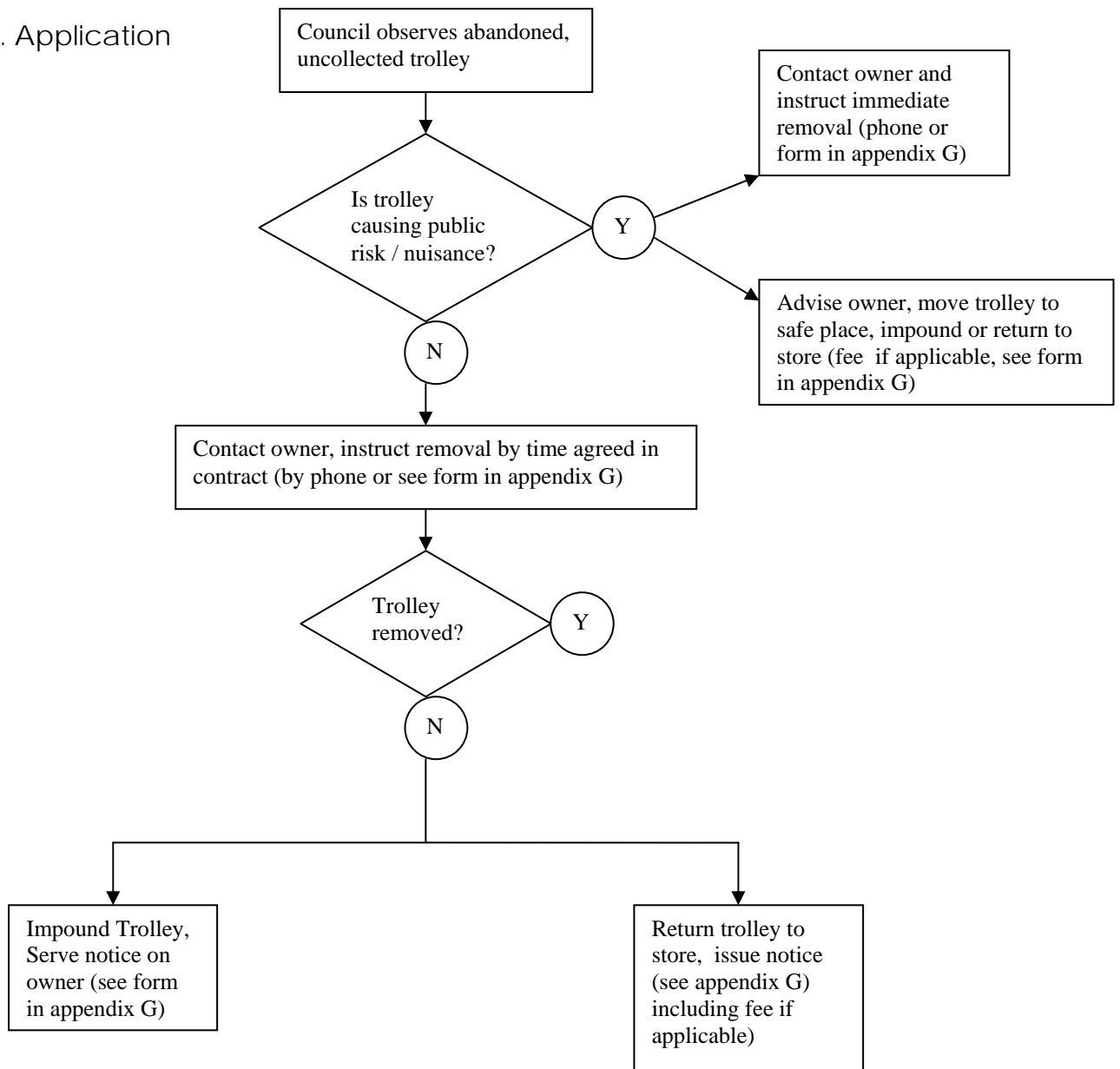
- **Trolley collection by individual retailers** (Collection encompasses car parks, shopping centres and streets surrounding store. Usually conducted by contracted, licensed, trolley collectors answerable to store managers).
- **Cooperative industry-wide trolley collection services** (eg Trolley Trackers, Trolley Services – see appendix E)
- **Trolley labelling and signage** (retailers branding is usually stamped in metal and displayed on handle)
- **Stationing of personnel** at shopping complex exit points to prevent trolley removal
- **Coin/ token-operated trolleys** where a refund is provided for the return of the trolley.
- **Trolleys with wheel-locks** activated by a radio signal or magnetic strip.
- **Cattle-grids** at carpark entrances and exits
- **Radio signal transmitters** on trolleys
- **Education** of the public (On trolleys, at retail outlets and leaflets distributed in council printed matter. Leaflets are available from Trolley Services Australia)

Appendix B
Possible Flow Chart for Development and Application of Council policy on Shopping Trolleys

1. Development



2. Application



Impounding Act 1993 (Excerpts)

15 Abandoned and unattended articles can be impounded

An impounding officer may impound an article found in the officer's area of operations if the officer believes on reasonable grounds that the article has been abandoned or left unattended. Section 16 affects this if the article is a motor vehicle. Note. The Local Government Act 1993 gives a council power to order the removal of an object or matter that is causing or likely to cause an obstruction.

20 - Impounding authority to notify owner

1. An impounding authority must make all reasonable inquiries in an effort to find out the name and address of the owner.
3. If the impounding authority knows or finds out the name and address of the owner, the authority must cause notice of the impounding to be given to the owner of an impounded item as soon as practicable after becoming aware of the name or address.
5. A notice under this section must be in writing addressed to the person to be given the notice. It must clearly indicate that the item has been impounded and will be sold or otherwise disposed of if not claimed within a stated period (not less than 7 days in the case of an animal and not less than 28 days in the case of an article).

23 - Owner can obtain release of impounded item

1. Application may be made to an impounding authority for the release of an impounded item held by it or impounded by one of its impounding officers. The application may be made at any time before the item is sold or disposed of.
2. The impounding authority must release the item to the applicant if:
 - a. the authority is satisfied on reasonable grounds that the applicant is the owner of the item, is authorised to claim the item on the owner's behalf or is otherwise entitled to lawful possession of the item, and
 - b. all fees and charges payable in respect of the impounding, holding and disposing of the item are paid to the impounding authority, and
 - c. the authority is satisfied that all penalties imposed in connection with the event that gave rise to the impounding have been paid, and
 - d. the applicant signs a receipt for the release of the item.

26 - Impounding fees and charges

1. An impounding authority may fix the fees and charges that are to be paid in respect of the impounding, holding and disposing of an item by the authority and its impounding officers.
2. The fees and charges that may be fixed are as follows:
 - a fee for conveying an impounded article to a pound,
 - a fee for storing an impounded article at the pound,
 - a fee to cover the cost of serving a notice notifying the owner of an impounded item that the item may be or has been impounded.
3. Fees and charges may be fixed so as to differ according to the kinds of animals or articles impounded.
4. A fee or charge must not exceed the corresponding maximum fee or charge (if any) prescribed by the regulations, and any amount that is fixed so as to exceed the maximum is reduced to the maximum.

32 - Offence of abandoning article, or leaving animal unattended, in a public place

1. A person who abandons an article in a public place is guilty of an offence. Maximum penalty: 5 penalty units (\$ 550).

Appendix D

Other Legislative and Regulatory Provisions relating to abandoned shopping trolleys

Impounding Act 1993

32 - Offence of abandoning article, or leaving animal unattended, in a public place

1. A person who abandons an article in a public place is guilty of an offence. Maximum penalty \$550.

Protection of the Environment Operations Act 1997

120 - Prohibition of pollution of waters

1. A person who pollutes any waters is guilty of an offence.
2. In this section:

pollute waters includes cause or permit any waters to be polluted.

Penalty: \$750 individual, \$1,500 Corporation

Note: The dumping of a shopping trolley in a watercourse would amount to "pollution".

145 - Littering generally

1. Offence of littering: A person who deposits litter in or on a public place or an open private place is guilty of an offence. Maximum penalty: 10 penalty units.

Penalty: \$200 individual, \$400 Corporation

Local Government Act 1993

124 - Orders

Council can order a person:

27. To remove an object or matter from a public place or prevent any object or matter being deposited there (where):

The object or matter:

- a) is causing or is likely to cause an obstruction or encroachment of or on the public place and the obstruction or encroachment is not authorised by or under any Act, or
- b) is causing or is likely to cause danger, annoyance or inconvenience to the public

Penalty: (Failure to obey order): \$220

608 - Council fees for services

1. A council may charge and recover an approved fee for any service it provides, other than a service provided, or proposed to be provided, on an annual basis for which it is authorised or required to make an annual charge under section 496 or 501.

609 - How does a council determine the amount of a fee for a service?

1. A council, if it determines the amount of an approved fee for a service, must take into consideration the following factors:
 - the cost to the council of providing the service
 - the price suggested for that service by any relevant industry body or in any schedule of charges published, from time to time, by the Department
 - the importance of the service to the community

- any factors specified in the regulations.
2. The cost to the council of providing a service in connection with the exercise of a regulatory function need not be the only basis for determining the approved fee for that service.

612 - Public notice of approved fees

1. A council must not determine the amount of an approved fee until it has given public notice of the fee in accordance with this section and has considered any submissions duly made to it during the period of public notice.
2. Public notice of the amount of a proposed fee must be given (in accordance with section 405) in the draft management plan for the year in which the fee is to be made.

Appendix E

Trolley Tracker

Trolley Tracker provides a freecall 1800 number that can be used by anyone wishing to report a wayward shopping trolley. The number, 1800 641 497, is common to Woolworths, Coles, Franklins, Big W, Target and Kmart. The information reported to the number is transmitted to the appropriate trolley collector via sms text to their mobile phone or by fax/email to the store. The collector then retrieves trolleys as quickly as possible. Trolley Tracker is operated by Trolley Services Australia Pty Ltd, Ph: (02) 49262755, email: info@trolleytracker.com.au

Appendix F: Sample Contract between retailer and Council

This contract is made on (date) betweenCouncil and
..... (retailer of(address)

It remains in force unless repealed by either party, by written advice to the other party. This contract does not rule out other legal rights and responsibilities of the signatories.

Under the terms of this contract, the retailer agrees to:

-
- Ensure that all trolleys are easily identifiable by council officers.
 - Ensure that trolleys reported as posing risk or nuisance are collected immediately on notification (and have been removed within 1 hour).
 - Ensure that all other trolleys reported are collected within the time limit set by council, specifically or as advised by council notice.
 - Inform customers (through clearly visible signage and other means) that trolleys should not be removed from premises or abandoned, and that penalties apply for the dumping of trolleys outside the retail outlet/complex.
 - Provide suitable, well signed trolley bays at exit points to retail outlets or complexes.
 - Provide to council, on request, an up to date map showing usual trolley collection routes and schedules.
 - Provide contact details for an employee responsible for arranging trolley collection, including an after hours number, specificallyph fax email

Under the terms of this contract the council agrees to:

-
- Nominate an officer/ officers to be responsible for liaison with stores regarding trolley management, specifically: phfax email
 - Encourage all Council personnel who become aware of unattended trolleys in risky or unusual locations to inform a designated council officer(s) of the ownership, time, date and location of the trolley as soon as possible; the designated council officer(s) will record the ownership, time, date and location of the trolley reported and take or authorise action as necessary.
 - Make a reasonable attempt(s) to contact the retailer representative prior to taking action such as impounding or return for fee.
 - Following notification to the retailer representative, provide the retailer with an opportunity to collect their trolley, within the timeframes specified in this contract.
 - Assist the retailer in the delivery of education campaigns alerting the public regarding the need to avoid trolley abandonment and penalties which may apply.

Signed (for retailer)

Signed (for council)

Appendix G

Please note that this sample notice is provided to council for consideration, adaptation and amendment as required. Councils are advised to seek their own legal advice prior to adoption of any policies or notices relating to abandoned shopping trolleys.)

(Sample) Abandoned Shopping Trolley Notice This Notice Requires your action/ response Failure to Act may result in a fee being imposed

Served on.....(Name of retailer)

This day(Date)am/pm (time)

A Shopping Trolley owned by your Company has been abandoned at the following location:

.....

.....(precise location)

The trolley is (tick one) :

- Still in the location where abandoned
- Still in the location where abandoned and is considered to be a risk to public safety and/or property
- Has been moved by council staff as it was considered to be a risk to public safety and/or property. It is now located at:
.....
.....(precise location)
- Has been impounded by council and can be collected from Council's Impoundment Centre at between the hours of 8.30 am and 6.00 pm. A fee applies for retrieval of impounded goods. Note that unclaimed goods will be sold or disposed of after 28 days (see reverse)
- Has been returned to your premises.
- A fee notice will be sent to your business within seven days (see reverse)

In accordance with your agreement / contract, you are required to do the Following:

- Recover the Trolley as a matter of urgency, befoream/pm on(date)
- Recover the trolley before the next working day ie byam/pm on.....(date)

Please contact Council's Enforcement Division ph if you wish to discuss this matter

By Order General Manager

Council Fees

Impounding

In accordance with section 26 of the Impounding Act 1993 and section 608, 609 and 612 of the Local Government Act 1993, Council charges a fee for recovery of impounded shopping trolleys. This fee is determined as follows:

- \$... fee for conveying an impounded article to a pound,
- \$... fee per day for storing an impounded article at the pound,
- \$ fee to cover the cost of serving a notice notifying the owner of an impounded item that the item may be or has been impounded.

Your total fee will be calculated at council's impoundment centre on presentation of this notice. The shopping trolley will be released on payment of the total amount.

In accordance with section 20 of the Impounding Act 1993, the trolley will be sold or otherwise disposed of if not claimed within 28 days of the date of issue on this notice.

Returning Trolley to Owner

A Council officer may, at his/ her discretion, return an abandoned shopping trolley to a store if:

- He/ she considers that the abandoned trolley, due to its location, presents a risk to the safety or access of the community or may cause environmental harm
- OR
- The trolley has not been recovered by the owner within a reasonable time, in accordance with the contract / agreement signed by the retailer and council or as required by this notice

Council has, in accordance with sections 608, 609 and 612 of the Local Government Act 1993, set this fee at \$..... If this fee is imposed, an invoice will be sent to you within 7 days, payable within 21 days.

Note that any unpaid fees will be referred to the Infringement Processing Bureau