

**Sample Written Notice of Pleading - pleading guilty**

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## **Written Notice of Pleading**

Criminal Procedure Act 1986 (section 182)

### **Important (please read this before filling in the form)**

Complete this form only if you want to lodge a plea in writing instead of attending Court on the day the proceeding(s) is listed.

If you complete this form it must be sent to the Court where the proceeding(s) is issued. The Court house location is on the Court Attendance Notice.

### **Filling in this form**

You should get legal advice about this form before you fill it in. Legal advice is important because you need to know if you can use this form and, if so, what effect it has.

**This form cannot be used if you have signed a bail agreement to appear at court.**

### **When the Court must get this form**

You must make sure that the Court receives this form before the date of the court hearing shown in the attendance notice.

## **Part 1 Details about your court case**

Please either attach to this form a copy of your attendance notice **or** fill in the details below using the information on the attendance notice:

Name of Defendant (your name): **James Kemp**

Offence: **Drive with low range PCA**

Place of Court Hearing (name and address of Court): **Wellington Local Court, Corner of Maughan and Arthur Streets WELLINGTON NSW 2820**

Date of Court Hearing: **22/10/20XX**

## **Part 2 Pleading not guilty**

About pleading **Not Guilty**:

Pleading not guilty means that you disagree with the facts alleged by the prosecution, saying that they did not occur or that the evidence of the alleged offence to be presented by the prosecution is insufficient to allow the allegation to be proved against you.

It is often the case that you merely wish to explain **WHY** the alleged events occurred and for the court to take those reasons into account. In this situation you may seek legal advice as to how to plead or consider pleading guilty and asking the court to take into account the explanation offered. (See "About pleading Guilty" below)

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If you elect to plead *Not Guilty*, the prosecution will be obliged to call their witnesses to give evidence to the alleged events at a trial, which will take place on a later date. You will be required to attend on that later date when you will have the opportunity to give your evidence, ask questions of the prosecution witnesses and any witnesses that you have elected to attend court, to evidence in your defence as to the events that lead to the alleged offence.

Should your defence be successful, the offence may be dismissed. Should your defence be unsuccessful the court may find the case proven against you, and in addition to any penalty that may be imposed you may also be exposed to pay the expenses of the prosecution witnesses.

Please complete this Part if you want to plead **not guilty** to the offence listed in the attendance notice:

My name is:

My address is:

**If you wish to be notified by email please tick the box below and provide your email address.**

My email address is:

I agree to the court notifying me of the result of this notice of pleading via email. I understand that if I do so, I will not receive notification by post.

I agree that I am the person named as the Defendant in the attendance notice that was served on me for this offence:

- a) I want to plead not guilty to that offence.
- b) I ask the court to list this matter for hearing on a later date.
- c) I will bring this number                      of witnesses to the Court Hearing on that later date.
- d) I cannot be at Court on these dates during the next three months:
- e) If the Court needs to speak to me, I may be contacted by telephone on this number:

(Only one of the next two statements applies to you. Please cross out the one that does not apply.)

- a) The name of the solicitor or barrister representing me at the court hearing is:
- b) I will not have a legal representative at the court hearing.

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## **Part 3 Pleading guilty**

### About Pleading **Guilty**

Pleading guilty to the offence means that you agree with the facts alleged by the prosecution. You may complete this section and elect to have this matter dealt with in your absence. Your plea of guilty may be rejected by the court if the explanation you have provided indicates that you disagree with the prosecution facts as presented. If the court rejects your plea of guilty, or does not wish to determine the case in your absence, the court may adjourn the case and you will be required to attend personally before the Court on the next occasion.

Please complete this Part if you want to plead **guilty** to the offence listed in the attendance notice:

My name is: **James Kemp**

My address is: **12 Pambula Street WELLINGTON NSW 2820**

**If you wish to be notified by email please tick the bow below and provide your email address.**

My email address is:

- I agree to the court notifying me of the result of this notice of pleading via email. I understand that if I do so, I will not receive notification by post.

I agree that I am the person named as the Defendant in the attendance notice that was served on me for this offence:

- a) I want to plead guilty to that offence.
- b) I do not want to go to Court to plead guilty. Instead, I ask the Court to decide this matter without me.
- c) If the Court needs to speak to me, I may be contacted by telephone on this number: **04XX XXX XXX**
- d) I ask the Court to take the following matters into account when deciding my punishment:

(You should explain how and why the offence happened and give some information about yourself, you financial situation, personal circumstances and general character)

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- **I was charged with low range PCA on Saturday 12 October 2013 after I was flagged down at an RBT on the Mitchell Highway.**
- **I was returning from a BBQ at my sister's house, where we were celebrating her 50th birthday.**
- **At the BBQ I drank one bottle of full strength beer and after that, three bottles of light beer.**
- **I had my first drink at about 5 pm and my last drink at about 8:30 pm, which was a period of about 3.5 hours.**
- **I switched to drinking light beer because I thought it would keep me under .05 but I was mistaken and I am sorry for this.**
- **I didn't feel affected by alcohol when I left to go home at about 9 pm. I now realise that I should have waited longer before driving home.**
- **When I drove home the highway was mostly clear of traffic and the weather was dry. I was stopped by police because an RBT had been set up on the side of the road. There was nothing about my driving which drew the attention of police.**
- **I grew up in Dubbo and moved to Wellington in 1985 when I married.**
- **I went to Dubbo High School and finished school in 1978.**
- **I got an apprenticeship as a mechanic and went to TAFE for two years but I didn't finish because the motor mechanics I worked for went out of business and I couldn't find another apprenticeship.**
- **After this I mostly worked as a driver for various companies in Dubbo, Orange and Wellington.**

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- **I am currently employed by McPherson Meatcart Products and I have worked there since early 2009.**
- **I hope to continue working for McPherson Meatcart Products but, as my employer states in his character reference, my future is now uncertain because of potentially losing my drivers licence.**
- **I married in 1985 and I have three children aged 23, 18 and 13. They all still live at home, although the eldest now works and mostly pays her own way.**
- **I currently earn about \$900 a week. Attached is a copy of my pay slip.**
- **My wife has casual work as a shop assistant in a chemist and earns between \$200 - \$300 a week.**
- **We have mortgage repayments of \$420 a week. Attached is a copy of my bank statement.**
- **We pay on average about \$300 a week on bills, including phone, electricity, gas, water and council.**
- **Our food bill is about \$320 a week.**
- **As this leaves only about \$60-\$160 a week, I have only a limited ability to pay a large fine.**
- **I was convicted in 2012 of Drive while suspended. My licence was suspended because I forgot to pay a speeding fine. I pleaded guilty and I received a \$400 fine.**
- **I have a conviction for damage to property back in 1980 when I was 19 years old. Apart from that I have had no other convictions.**

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- **I need my licence so that I can continue working as a driver for my employer. If I lose my licence, I am likely to lose my job, and this will have consequences for our ability to pay our mortgage and other expenses.**
- **I am involved in my community, especially with the high school where my youngest child attends. Three times a year I volunteer on a Saturday so that I can contribute to the school's working bee.**
- **I am sorry I drove after drinking and I wish I had paid more attention to how much I drank. I understand that drink-driving is a serious offence.**
- **I would like the Court to consider giving me a section 10 dismissal so that I can keep my licence.**
- **I attach a character reference written by my employer Jarod McPherson, dated 20 October 2013.**

(If you run out of space, please finish your answer on a separate piece of paper, sign it and attach it to this form)

**Part 4 Signing this form**

Defendant's signature (you sign here): **J Kemp** Date: **11 October 20XX**