

THE BAROSSA COUNCIL DELEGATIONS REGISTER

INSTRUMENT OF DELEGATION UNDER THE EXPIATION OF OFFENCES ACT 1996

Preamble

1. To identify when these delegations were made, reviewed or amended, refer to the relevant Council resolution in the Schedule of Amended Delegations on Council's website at www.barossa.sa.gov.au.
2. To identify when the sub-delegations were made, reviewed or amended, refer to the Instrument of Sub-delegation for the individual officer's position in Council's Electronic Document Records Management System.
3. Sub-delegates by Title:

Abbreviation	Position title
AO-B	Assessment Officer, Building
AO-P	Assessment Officer, Planning
BS	Building Surveyor
CO-BP	Compliance Officer, Building and Planning
DDES	Director, Development and Environmental Services
EHO	Environmental Health Officer
GI	General Inspector
Grad EHO	Graduate Environmental Health Officer
MDS	Manager, Development Services
MHES	Manager, Health and Environmental Services
MRS	Manager, Regulatory Services
PP	Principal Planner

Head delegations reviewed by Council at its Annual Review on 21 May 2019
Sub-delegations amended by the Chief Executive Officer on 6 July 2020

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Abbreviation	Position title
SAO-B	Senior Assessment Officer, Building
SAO-P	Senior Assessment Officer, Planning

EXPIATION OF OFFENCES ACT 1996			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
s5(1)	<p>1. Certain Offences may be Expiated</p> <p>1.1 The power pursuant to Section 5(1) of the Expiation of Offences Act 1996 ("the Act") to issue an expiation notice under the Act to a person alleged to have committed an offence under an Act, regulation or by-law, and the alleged offence may accordingly be expiated in accordance with the Act.</p>	AO-B, AO-P, BS, CO-BP, DDES, EHO, GI, Grad EHO, MDS, MHES, MRS, PP, SAO-B, SAO-P	
s6(3)(b)(ii)	<p>2. Expiation Notices</p> <p>2.1 The power pursuant to Section 6(3)(b)(ii) of the Act to authorise a person in writing to give an expiation notice for an alleged offence.</p>	AO-B, AO-P, BS, CO-BP, DDES, EHO, GI, Grad EHO, MDS, MHES, MRS, PP, SAO-B, SAO-P	
s8A(2) and (3)	<p>3. Review of Notices on Ground that Offence is Trifling</p> <p>3.1 The power pursuant to Section 8A(2) and (3) of the Act to require an alleged offender who is seeking a review of the notice on the ground that the offence is trifling:</p>	AO-B, AO-P, BS, CO-BP, DDES, EHO, GI, Grad EHO, MDS, MHES, MRS, PP, SAO-B, SAO-P	

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	<p>3.1.1 to provide further information; and</p> <p>3.1.2 to provide a statutory declaration verifying the information contained in, or supporting, an application for review.</p>		
s8A(4)	<p>3. Review of Notices on Ground that Offence is Trifling</p> <p>3.2 The power pursuant to Section 8A(4) of the Act to determine an application for review before providing the Chief Recovery Officer with relevant particulars under Section 22 of the Fines Enforcement and Debt Recovery Act 2017 in respect of the offence to which the application relates.</p>	AO-B, AO-P, BS, CO-BP, DDES, EHO, GI, Grad EHO, MDS, MHES, MRS, PP, SAO-B, SAO-P	
s8A(5) and (6)	<p>3. Review of Notices on Ground that Offence is Trifling</p> <p>3.3 The duty pursuant and subject to Section 8A(5) and (6) of the Act upon being satisfied the offence is trifling to withdraw the expiation notice in respect of the offence by giving written notice to the alleged offender.</p>	AO-B, AO-P, BS, CO-BP, DDES, EHO, GI, Grad EHO, MDS, MHES, MRS, PP, SAO-B, SAO-P	
8A(6)a	<p>3. Review of Notices on Ground that Offence is Trifling</p> <p>3.4 The power pursuant to Section 8A(6a) of the Act, if an enforcement determination made under section 22 of the Fines and Enforcement Debt Recovery Act 2017 is revoked on the ground that the alleged offender had not had a reasonable opportunity to apply for review of the notice under Section 8A of the Act, and the alleged offender makes an application under Section 8A of</p>	AO-B, AO-P, BS, CO-BP, DDES, EHO, GI, Grad EHO, MDS, MHES, MRS, PP, SAO-B, SAO-P	

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	the Act within 14 days of being notified of the revocation, to withdraw the expiation notice under Section 8A of the Act.		
s 11(1)	<p>4. Expiation Reminder Notices</p> <p>4.1 The duty pursuant to Section 11(1) of the Act where an alleged offender has neither paid the expiation fee nor entered into an arrangement under Section 20 of the Fines Enforcement and Debt Recovery Act 2017 and the Council has not received a statutory declaration or other document sent to the Council by the alleged offender in accordance with a notice required by law to accompany the expiation notice, by the end of the expiation period, and before the Delegate takes any action under this Act or the Fines Enforcement and Debt Recovery Act 2017 to enforce the expiation notice, to give an expiation reminder notice in the prescribed form to the alleged offender.</p>	AO-B, AO-P, BS, CO-BP, DDES, EHO, GI, Grad EHO, MDS, MHES, MRS, PP, SAO-B, SAO-P	
11A(1)	<p>5. Expiation Enforcement Warning Notices</p> <p>5.1 The duty pursuant to Section 11A(1) of the Act where the Council has received a statutory declaration or other document sent to the Council by the alleged offender in accordance with a notice required by law to accompany the expiation notice or expiation reminder notice, and before the Delegate takes action under this Act or the Fines Enforcement and Debt Recovery Act 2017 to enforce the expiation notice, to give an expiation enforcement warning notice, in the prescribed form, to the alleged offender.</p>	AO-B, AO-P, BS, CO-BP, DDES, EHO, GI, Grad EHO, MDS, MHES, MRS, PP, SAO-P	

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s12	<p>6. Late Payment</p> <p>6.1 The power pursuant to Section 12 of the Act to accept late payment of the amount due under an expiation notice at any time before an enforcement determination is made under Section 22 of the Fines Enforcement and Debt Recovery Act 2017.</p>	DDES, GI, MDS, MHES, MRS	
s16(1)	<p>8. Withdrawal of Expiation Notices</p> <p>8.1 The power pursuant to Section 16(1) of the Act, to withdraw an expiation notice with respect to all or any of the alleged offences to which an expiation notice relates where:</p> <p>8.1.1 in the opinion of the Delegate the alleged offender did not commit the offence or offences, or that the notice should not have been given with respect to the offence or offences;</p> <p>8.1.2 the Council as issuing authority receives a statutory declaration or other document sent to the Council by the alleged offender in accordance with a notice required by law to accompany the expiation notice or expiation reminder notice; or</p> <p>8.1.3 the notice is defective; or</p> <p>8.1.3A in the opinion of the Delegate the alleged offender is suffering from a cognitive impairment that excuses the alleged offending; or</p> <p>8.1.4 the Delegate decides that the alleged offender should be prosecuted for the offence or offences.</p>	DDES, MDS, MHES, MRS	

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s16(5)	<p>8. Withdrawal of Expiation Notices</p> <p>8.2 The power pursuant to Section 16(5) of the Act, where an expiation notice is withdrawn under subsection (1), to commence prosecution for an offence to which the notice related.</p>	DDES, MDS, MHES, MRS	
s 16(6)	<p>8. Withdrawal of Expiation Notices</p> <p>8.3 The duty pursuant to Section 16(6) of the Act, subject to Section 16(7) of the Act, to withdraw an expiation notice if it becomes apparent that the alleged offender did not receive the notice until after the expiation period, or has never received it, as a result of error on the part of the Council as issuing authority or failure of the postal system or failure in the transmission of an email.</p>	DDES, MDS, MHES, MRS	
s16(11)	<p>8. Withdrawal of Expiation Notices</p> <p>8.4 The duty pursuant to Section 16(11) of the Act, where an expiation notice is withdrawn under Section 16 of the Act and the notice of withdrawal does not specify that the notice is withdrawn for the purposes of prosecuting the alleged offender, and if an enforcement determination has been made under Section 22 of the Fines Enforcement and Debt Recovery Act 2017, to inform the Chief Recovery Officer of the withdrawal of the notice.</p>	DDES, MDS, MHES, MRS	
s18	<p>9. Provision of Information</p> <p>9.1 The power pursuant to Section 18 of the Act to enter into an agreement with the Chief Recovery Officer in relation to:</p>	AO-B, AO-P, BS, CO-BP, DDES, EHO, GI, Grad EHO, MDS, MHES, MRS, PP, SAO-B, SAO-P	

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	9.1.1 the manner in which the Chief Recovery Officer is to provide information to the Council in relation to action taken by the Chief Recovery Officer under the Act in respect of an expiation notice issued by the Council; and		
s18	<p>9. Provision of Information</p> <p>9.1 The power pursuant to Section 18 of the Act to enter into an agreement with the Chief Recovery Officer in relation to:</p> <p>9.1.2 the manner in which the Council is to provide information to the Chief Recovery Officer in relation to the issuing of an expiation notice by the Council or any other action taken by the Council in respect of an expiation notice so issued.</p>	AO-B, AO-P, BS, CO-BP, DDES, EHO, GI, Grad EHO, MDS, MHES, MRS, PP, SAO-B, SAO-P	

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