

# THE BAROSSA COUNCIL DELEGATIONS REGISTER

## INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

### 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](http://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
DDES	Director, Development and Environmental Services
DWES	Director, Works and Engineering Services
EHO	Environmental Health Officer
GI	General Inspector
Grad EHO	Graduate Environmental Health Officer
MDS	Manager, Development Services
MHES	Manager, Health and Environmental Services
MO	Manager, Operations
MRS	Manager, Regulatory Services
SAO-B	Senior Assessment Officer, Building

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

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

Abbreviation	Position title
WMO	Waste Management Officer

#### LOCAL NUISANCE AND LITTER CONTROL ACT 2016

Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
s12(3)	1. Authorised Officers  1.1 The power pursuant to Section 12(3) of the Local Nuisance and Litter Control Act 2016 (the Act), to appoint:  1.1.1 specified officers or employees of the Council; or  1.1.2 a specified class of officers or employees of the Council,  to be authorised officers for the purposes of the Act.	This power remains with CEO - no further sub-delegation	
s12(4)	1. Authorised Officers  1.2 The power pursuant to Section 12(4) of the Act to make an appointment subject to conditions specified in the instrument of appointment.	This power remains with CEO - no further sub-delegation	

*The Barossa Council*

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
s12(06)	<p>1. Authorised Officers</p> <p>1.3 The power pursuant to Section 12(6) of the Act to, at any time, revoke an appointment, or vary or revoke a condition specified in the instrument of an appointment or impose a further such condition.</p>	This power remains with CEO - no further sub-delegation	
s13(2)	<p>2. Identity Cards</p> <p>2.1 The duty pursuant to Section 13(2) of the Act where the Minister has not designated a card issued by the Council to an authorised officer appointed by the Council as an identity card for the purposes of the Act, to issue an authorised officer appointed under the Act, with an identity card in a form approved by the Minister:</p> <p>2.1.1 containing the person's name and a recent photograph of the person; and</p> <p>2.1.2 stating that the person is an authorised officer for the purposes of the Act; and</p> <p>2.1.3 specifying the name of the Council.</p>	This power remains with CEO - no further sub-delegation	
s13(3)	<p>2. Identity Cards</p> <p>2.2 The duty pursuant to Section 13(3) of the Act to issue an identity card as soon as is reasonably practicable after the appointment is made.</p>	This power remains with CEO - no further sub-delegation	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
s15(a)	<p>3. Limit of Area of Authorised Officers Appointed by Councils</p> <p>3.1 The power pursuant to Section 15(a) of the Act to agree in writing to an authorised officer appointed by another council exercising powers under the Act in the Council's area.</p>	This power remains with CEO - no further sub-delegation	
s16(1)(a)	<p>4. Provisions Relating to Seizure</p> <p>4.1 The duty pursuant to Section 16(1)(a) of the Act if a substance, material or thing has been seized under Division 3 of the Act, to hold the substance, material or thing seized pending proceedings for an offence against the Act.</p>	DDES, DWES, GI, MDS, MHES, MO, MRS, SAO-B	
s16(1)(a)	<p>4. Provisions Relating to Seizure</p> <p>4.2 The power pursuant to Section 16(1)(a) of the Act, on application, authorise the release of the substance, material or thing seized to the person from whom it was seized, or to any person who had legal title to it at the time of its seizure, subject to such conditions as the delegate thinks fit.</p>	DDES, DWES, GI, MDS, MHES, MO, MRS, SAO-B	
s16(1)(e)	<p>4. Provisions Relating to Seizure</p> <p>4.3 The power pursuant to Section 16(1)(e) of the Act if a person is, under section 16 of the Act, entitled to recover any substance, material or thing, to request the person do so.</p>	DDES, DWES, GI, MDS, MHES, MO, MRS, SAO-B	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

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Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
s16(1)(f)	<p>4. Provisions Relating to Seizure</p> <p>4.4 The power pursuant to Section 16(1)(f) of the Act to direct that any substance, material or thing forfeited under Section 16 of the Act be disposed of.</p>	DDES, DWES, GI, MDS, MHES, MO, MRS, SAO-B	
s19(1)	<p>5. Exemptions from Application of Section 18</p> <p>5.1 The power pursuant to Section 19(1) of the Act to declare by notice in writing in accordance with Section 19 of the Act that a person is exempt from the application of Section 18 of the Act in respect of a specified activity to be carried on in the Council's area.</p>	DDES, GI, MDS, MHES, MRS, SAO-B	
s19(2)	<p>5. Exemptions from Application of Section 18</p> <p>5.2 The power pursuant to Section 19(2) of the Act to require an application for a declaration under Section 19 of the Act made to the Council to be accompanied by any other information in connection with the application that the delegate may require.</p>	DDES, GI, MDS, MHES, MRS, SAO-B	
s19(3)	<p>5. Exemptions from Application of Section 18</p> <p>5.3 The duty pursuant to Section 19(3) of the Act to not make a declaration under Section 19 of the Act unless the delegate is satisfied that:</p> <p>5.3.1 there are exceptional circumstances that justify the making of the declaration; and</p>	DDES, GI, MDS, MHES, MRS, SAO-B	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

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Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
s19(3)	<p>5. Exemptions from Application of Section 18</p> <p>5.3 The duty pursuant to Section 19(3) of the Act to not make a declaration under Section 19 of the Act unless the delegate is satisfied that:</p> <p>5.3.2 the applicant's nuisance management plan adequately sets out the measures that the person will take to prevent, minimise or address any anticipated adverse effects from the specified activity on the amenity value of the area concerned.</p>	DDES, GI, MDS, MHES, MRS, SAO-B	
s19(4)	<p>5. Exemptions from Application of Section 18</p> <p>5.4 The power pursuant to Section 19(4) of the Act to make a declaration unconditional or subject to conditions, including (but not limited to) conditions relating to:</p> <p>5.4.1 the permitted times or periods of time for carrying on the activity; or</p> <p>5.4.2 the manner of carrying on the activity.</p>	DDES, GI, MDS, MHES, MRS, SAO-B	
s19(5)	<p>5. Exemptions from Application of Section 18</p>	DDES, GI, MDS, MHES, MRS, SAO-B	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

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Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	5.5 The power pursuant to Section 19(5) of the Act to, by further notice in writing, vary or revoke a declaration under Section 19 of the Act.		
s19(7)	5.6 The:  5.6.1 power pursuant to Section 19(7) of the Act to determine the website for publishing a declaration made under Section 19 of the Act and any variations of the declaration; and	DDES, GI, MDS, MHES, MRS	
s19(7)	5.6 The:  5.6.2 duty pursuant to Section 19(7) of the Act to publish a declaration made under Section 19 of the Act and any variations of the declaration, on a website determined by the Council or the delegate.	DDES, GI, MDS, MHES, MRS	
s22(3)(a)(i)	6. Disposing of Litter  6.1 The power pursuant to Section 22(3)(a)(i) of the Act to provide a bin or other receptacle in the Council's area for the disposal of litter.	DDES, DWES, MHES, MO, WMO	
s22(3)(a)(ii)	6. Disposing of Litter  6.2 The power pursuant to Section 22(3)(a)(ii) of the Act to approve or authorise the manner of the disposal of litter in the Council's area.	DDES, DWES, MHES, MO, WMO	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

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Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
s26(3)	<p>7. Liability of Vehicle Owners</p> <p>7.1 The duty pursuant to Section 26(3) of the Act, to accompany an expiation notice or expiation reminder notice given under the Expiation of Offences Act 1996 to the owner of a vehicle for an alleged offence against Section 26 of the Act involving the vehicle with a notice inviting the owner, if he or she was not the alleged principal offender, to provide the Council or officer specified in the notice, within the period specified in the notice, with a statutory declaration:</p> <p>7.1.1 setting out the name and address of the person who the owner believes to have been the alleged principal offender; or</p> <p>7.1.2 if he or she had transferred ownership of the vehicle to another prior to the time of the alleged principal offence and has complied with the Motor Vehicles Act 1959 or the Harbors and Navigation Act 1993 (as the case may require) in respect of the transfer – setting out details of the transfer (including the name and address of the transferee).</p>	DDES, GI, MRS	
s26(4)	<p>7. Liability of Vehicle Owners</p> <p>7.2 The power pursuant to Section 26(4) of the Act, to bring a prosecution for an offence against Section 26 of the Act against one of the owners or against some or all of the owners jointly as co-defendants.</p>	DDES, MRS	
s26(5)	7. Liability of Vehicle Owners	DDES, GI, MRS	



## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

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Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	<p>7.3 The duty pursuant to Section 26(5) of the Act, before proceedings are commenced against the owner of a vehicle for an offence against Section 26 of the Act to send the owner a notice:</p> <p>7.3.1 setting out particulars of the alleged principal offence; and</p> <p>7.3.2 inviting the owner, if he or she was not the alleged principal offender or the owner of the vehicle at the time of the alleged principal offence, to provide the Council, within 21 days of the date of the notice, with a statutory declaration setting out any matters referred to in subsection 3(a)( and (b).</p>		
s26(9)	<p>7. Liability of Vehicle Owners</p> <p>7.4 The duty pursuant to Section 26(9) of the Act, if:</p> <p>7.4.1 an expiation notice is given to a person named as the alleged principal offender in a statutory declaration under Section 26, or</p> <p>7.4.2 proceedings are commenced against such a person,</p> <p>to accompany the notice or summons, as the case may be, with a notice setting out particulars of the statutory declaration that named the person as the alleged principal offender.</p>	DDES, GI, MRS	
s26(10)	<p>7. Liability of Vehicle Owners</p>	DDES, GI, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	7.5 The duty pursuant to Section 26(10) of the Act to not include in the particulars of the statutory declaration provided to the alleged principal offender the address of the person who provided the statutory declaration.		
s29	8. Notification of EPA of Serious or Material Environmental Harm  8.1 The duty pursuant to Section 29 of the Act, if the delegate has reason to believe that an offence committed under Sections 18 or 22 of the Act has, or may have, resulted in material environmental harm, or serious environmental harm, within the meaning of the Environment Protection Act 1993, to, as soon as practicable, notify the Environment Protection Authority of that belief.	DDES, EHO, GI, Grad EHO, MHES, MRS	
s30(1)(a)	9. Nuisance and Litter Abatement Notices  9.1 The power pursuant to Section 30(1)(a) of the Act to issue a nuisance abatement notice for or in connection with securing compliance with Part 4 Division 1 of the Act.	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	
s30(1)(b)	9. Nuisance and Litter Abatement Notices  9.2 The power pursuant to Section 30(1)(b) of the Act to issue a litter abatement notice for or in connection with securing compliance with Part 4 Division 2 of the Act.	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
s30(2)	<p>9. Nuisance and Litter Abatement Notices</p> <p>9.3 The</p> <p>9.3.1 duty pursuant to Section 30(2) of the Act in relation to a notice under Section 30 of the Act to ensure it:</p> <p>9.3.1.1 is in the form of a written notice served on the person to whom it is issued; and</p> <p>9.3.1.2 specifies the person to whom it is issued (by name or by a description sufficient to identify the person); and</p> <p>specifies the purpose for which it is issued; and</p> <p>9.3.1.3 specifies the purpose for which it is issued; and</p> <p>9.3.2 power pursuant to Section 30(2) of the Act, in relation to a notice under Section 30 of the Act, to:</p> <p>9.3.2.1 direct two or more persons to do something specified in the notice jointly; and</p> <p>9.3.2.2 impose a requirement that the person do one or more of the following:</p>	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	
s30(2)	<p>9. Nuisance and Litter Abatement Notices</p> <p>9.3.2.2 (a) discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice;</p>	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
s30(2)	9. Nuisance and Litter Abatement Notices 9.3.2.2 (b) not carry on a specified activity except at specified times or subject to specified conditions;	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	
s30(2)	9. Nuisance and Litter Abatement Notices 9.3.2.2 (c) take specified samples or conduct specified tests, examinations, monitoring or analyses at specified times or intervals or for a specified period or until further notice;	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	
s30(2)	9. Nuisance and Litter Abatement Notices 9.3.2.2 (d) furnish to the Council specified results or reports within a specified period;	DDES, EHO, GI, MDS, MHES, MRS	
s30(2)	9. Nuisance and Litter Abatement Notices 9.3.2.2 (e) clean up litter that the Council or delegate considers to have been caused by a contravention of this Act;	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	
s30(2)	9. Nuisance and Litter Abatement Notices 9.3.2.2 (f) make good any damage to property that the Council or delegate considers to have been caused by a contravention of this Act;	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

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Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
s30(2)	9. Nuisance and Litter Abatement Notices  9.3.2.2 (g) prepare, in accordance with specified requirements and to the satisfaction of the Council or delegate, a plan of action for the purposes of securing compliance with any requirement of the Act or preventing any future contravention of the Act;	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	
s30(2)	9. Nuisance and Litter Abatement Notices  9.3.2.2 (h) take such other specified action in a specified way, and within a specified period or at specified times or in specified circumstances; and	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	
s30(2)	9. Nuisance and Litter Abatement Notices  9.3.2.2 (i) in the case of a litter abatement notice, impose a requirement that the person prepare, in accordance with specified requirements and to the satisfaction of the Council or delegate, a plan of action for the purposes of:  A. preventing the escape of litter from business premises; or  B. keeping a specified area (not exceeding 100 metres) around business premises free from litter; and	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	
s30(2)	9. Nuisance and Litter Abatement Notices	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	9.3.2.2 (j) impose any other requirement prescribed by regulation; and		
s30(2)	9. Nuisance and Litter Abatement Notices 9.3.2.2 (k) ensure it states that the person may, within 14 days, appeal against the notice to the Environment Resources and Development Court.	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	
s30(3)	9. Nuisance and Litter Abatement Notices 9.4 The power pursuant to Section 30(3) of the Act to issue a notice under Section 30 of the Act jointly with one or more other councils to prevent the person contravening a provision of the Act in those council areas.	DDES, MDS, MHES, MRS	
s30(4)	9. Nuisance and Litter Abatement Notices 9.5 The power pursuant to Section 30(4) of the Act to issue a notice under Section 30 of the Act that relates to an activity or conditions on premises to: 9.5.1 the owner or occupier of the premises; or 9.5.2 a person who has the management or control of the premises; or	DDES, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	9.5.3 a person who is the trustee of a person referred to in paragraph (a) or (b) or Section 30(4) of the Act, or is managing the affairs of such a person on some other basis.		
s30(6)	9. Nuisance and Litter Abatement Notices  9.6 The duty pursuant to Section 30(6) of the Act, if an emergency notice issued orally, to advise forthwith the person to whom the notice is issued of the person's right to appeal against the notice to the Environment, Resources and Development court.	DDES, MDS, MHES, MRS	
s30(8)	9. Nuisance and Litter Abatement Notices  9.7 The power pursuant to Section 30(8) of the Act, to, by written notice served on a person to whom a notice under section 30 of the Act has been issued by the Council, vary or revoke the notice.	DDES, MDS, MHES, MRS	
s31	10. Action on Non-compliance with Notice  10.1 The power pursuant to Section 31 of the Act, if the requirements of a nuisance abatement notice or litter abatement notice issued by Council are not complied with, to take any action required by the notice.	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	
s31(2)	10. Action on Non-compliance with Notice	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	10.2 The power pursuant to Section 31(2) of the Act to authorise a person to take action under section 31(1) of the Act on behalf of the Council.		
s30(3)	10. Action on Non-compliance with Notice  10.3 The duty pursuant to Section 30(3) of the Act, if the delegate authorises a person to take action under section 31(2) of the Act to issue the person with an instrument of authority.	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	
s31(5)	10. Action on Non-compliance with Notice  10.4 The power pursuant to Section 31(5) of the Act to recover the reasonable costs and expenses incurred by the Council in taking action under Section 31 of the Act as a debt from the person who failed to comply with the requirements of the notice.	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	
s31(6)	10. Action on Non-compliance with Notice  10.5 The power pursuant to Section 31(6) of the Act, if an amount is recoverable from a person under Section 31 of the Act, to by notice in writing to the person, fix a period, being not less than 28 days from the date of the notice, within which the amount must be paid by the person, and, if the amount is not paid by the person within that period, the person is liable to pay interest charged at the prescribed rate per annum on the amount unpaid.	DDES, EHO, GI, Grad EHO, MDS, MHES, MRS	



## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

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Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
s33(1)(6)	<p>11. Civil Remedies</p> <p>11.1 The power pursuant to Sections 33(1) and (6) of the Act to apply to the Environment, Resources and Development court for one or more of the following orders:</p> <p>11.1.1 if a person has engaged, is engaging or is proposing to engage in conduct in contravention of the Act – an order restraining the person from engaging in the conduct and, if the court considers it appropriate to do so, requiring the person to take any specified action;</p> <p>11.1.2 if a person has refused or failed, is refusing or failing or is proposing to refuse or fail to take any action required by the Act – an order requiring the person to take that action;</p> <p>11.1.3 if a person has caused damage to property by a contravention of the Act – an order requiring the person to take specified action to make good the damage and, if appropriate, to take specified action to prevent or mitigate further damage;</p> <p>11.1.4 if the Council has incurred costs or expenses in taking action to prevent or mitigate damage caused by a contravention of the Act, or to make good resulting damage – an order against the person who committed the contravention for payment of the reasonable costs and expenses incurred in taking that action;</p> <p>11.1.5 if the Council has suffered injury or loss or damage to property as a result of a contravention of the Act, or incurred costs and expenses in taking action to prevent or mitigate such injury, loss or damage – an order against the person who committed the contravention for payment of</p>	DDES, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

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	<p>compensation for the injury, loss or damage, or for payment of the reasonable costs and expenses incurred in taking that action;</p> <p>11.1.6 if the court considers it appropriate to do so, an order against a person who has contravened the Act for payment to the Council.</p>		
s33(6)	<p>11. Civil Remedies</p> <p>11.2 The power pursuant to Section 33(6) of the Act to make an application under Section 33 of the Act.</p>	DDES, MDS, MHES, MRS	
s33(8)	<p>11. Civil Remedies</p> <p>11.3 The power pursuant to Section 33(8) of the Act to serve a copy of the application on the Minister within three days after filing the application with the court.</p>	This power remains with CEO - no further sub-delegation	
s33(9)	<p>11. Civil Remedies</p> <p>11.4 The power pursuant to Section 33(9) of the Act to apply to the court for the Council to be joined as a party to the proceedings.</p>	DDES, MDS, MHES, MRS	
s33(10)	<p>11. Civil Remedies</p>	DDES, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	11.5 The power pursuant to Section 33(10) of the Act to make an application under Section 33 of the Act in a representative capacity (provided the consent of all persons on whose behalf the application is made is obtained).		
s33(11)	11. Civil Remedies 11.6 The power pursuant to Section 33(11) of the Act to make an application without notice to any person.	DDES, MDS, MHES, MRS	
s33(14)	11. Civil Remedies 11.7 The power pursuant to Section 33(14) of the Act to apply for an interim order without notice to any person.	DDES, MDS, MHES, MRS	
s33(19)	11. Civil Remedies 11.8 The power pursuant to Section 33(19) of the Act to apply to the court to vary or revoke an order previously made under Section 33 of the Act.	DDES, MDS, MHES, MRS	
s34(1)	12. Minister or Council May Recover Civil Penalty in Respect of Contravention 12.1 The power pursuant to Section 34(1) of the Act, subject to Section 34 of the Act, if the delegate is satisfied that a person has committed an offence by contravening a provision of the Act, to, as an	DDES, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	alternative to criminal proceedings, recover, by negotiation or by application to the Environment, Resources and Development court an amount as a civil penalty in respect of the contravention.		
s34(2)	<p>12. Minister or Council May Recover Civil Penalty in Respect of Contravention</p> <p>12.2 The duty pursuant to Section 34(2) of the Act to not recover an amount under Section 34 of the Act, in respect of a contravention if the relevant offence requires proof of intention or some other state of mind, and to, in respect of any other contravention, determine whether to initiate proceedings for an offence or take action under Section 34 of the Act, having regard to the seriousness of the contravention, the previous record of the offender and any other relevant factors.</p>	DDES, MDS, MHES, MRS	
s34(3)	<p>12. Minister or Council May Recover Civil Penalty in Respect of Contravention</p> <p>12.3 The duty pursuant to Section 34(3) of the Act to not make an application to the court under Section 34 of the Act to recover an amount from a person as a civil penalty in respect of a contravention:</p> <p>12.3.1 unless the Council or the delegate has served on the person a notice in the prescribed form advising the person that the person may, by written notice to the Council, elect to be prosecuted for the contravention and the person has been allowed not less than 21 days after service of the notice to make such an election; or</p>	DDES, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	12.3.2 if the person serves written notice on the Council, before the making of such an application, that the person elects to be prosecuted for the contravention.		
s34(4)	12. Minister or Council May Recover Civil Penalty in Respect of Contravention  12.4 The power pursuant to Section 34(4) of the Act to recover by negotiation as a civil penalty in respect of a contravention a maximum amount being the sum of the amount specified by the Act as the criminal penalty in relation to that contravention and the amount of any economic benefit acquired by the person, or accrued or accruing to the person, as a result of the contravention.	DDES, MDS, MHES, MRS	
s34(5)	12. Minister or Council May Recover Civil Penalty in Respect of Contravention  12.5 The power pursuant to Section 34(5) of the Act to apply to the Environment, Resources and Development court for an order the person pay to the Council an amount as a civil penalty (but not exceeding the sum of the amount specified by the Act as the criminal penalty in relation to that contravention and the amount of any economic benefit acquired by the person, or accrued or accruing to the person, as a result of the contravention).	DDES, MDS, MHES, MRS	
s34(8)	12. Minister or Council May Recover Civil Penalty in Respect of Contravention  12.6 The power pursuant to Section 34(8) of the Act, if conduct of a person constitutes a contravention of two or more provisions of the Act, to recover an amount from the person under Section 34 of the Act	DDES, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	in relation to the contravention of one or more of those provisions (provided that the person is not liable to pay more than one amount as a civil penalty in respect of the same conduct).		
s34(13)	<p>12. Minister or Council May Recover Civil Penalty in Respect of Contravention</p> <p>12.7 The power pursuant to Section 34(13) of the Act to apply to the Attorney General for authorisation to commence proceedings for an order under Section 34 of the Act more than three years and within 10 years after the date of the alleged contravention.</p>	DDES, MDS, MHES, MRS	
s40	<p>13. Statutory Declaration</p> <p>13.1 The power pursuant to Section 40 of the Act if a person is required by or under the Act to provide information to the Council, to require that the information be verified by statutory declaration and, in that event, the person will not be taken to have provided the information as required unless it has been so verified.</p>	DDES, MDS, MHES, MRS	
s45(1)	<p>14. Orders in Respect of Contraventions</p> <p>14.1 The power pursuant to Section 45(1) of the Act, if, in proceedings under the Act, the court finds that the defendant contravened the Act and the contravention has resulted in injury to the Council or loss or damage to property, to apply to the court, in addition to any penalty it may impose, one or more of the following:</p>	DDES, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	<p>14.1.1 an order the person to take specified action to make good any damage and, if appropriate, to take specified action to prevent or mitigate further damage;</p> <p>14.1.2 an order the person to take specified action to publicise the contravention and its consequences and any other orders made against the person;</p> <p>14.1.3 an order the person pay to the Council if the Council has incurred costs or expenses in taking action to prevent or mitigate or make good any damage (including, in the case of litter, taking action to remove or clean up, and lawfully dispose of the litter);</p> <p>the reasonable costs and expenses so incurred, or compensation for the injury, loss or damage so suffered, as the case may be, in such a manner as is determined by the Court.</p>		
s45(2)	<p>14. Orders in Respect of Contraventions</p> <p>14.2 The power pursuant to Section 45(2) of the Act if a person is found by a court to have contravened the Act, to apply to the court, for, in addition to any penalty it may impose, an order the person to pay to the Council an amount not exceeding the court's estimation of the amount of the economic benefit acquired by the person, or accrued or accruing to the person, as a result of the contravention.</p>	DDES, MDS, MHES, MRS	
s45(5)	14. Orders in Respect of Contraventions	DDES, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	14.3 The power pursuant to Section 45(5) of the Act to apply to the court for an order under Section 45 of the Act, fixing a period for compliance and imposing any other requirements the court considers necessary or expedient for enforcement of the order.		
s48(1)	<p>15. Recovery of Administrative and Technical Costs Associated with Contraventions</p> <p>15.1 The power pursuant to Section 48(1) of the Act, if a person has contravened this Act and the Council:</p> <p>15.1.1 has taken action to</p> <p>15.1.1.1 investigate the contravention; or</p> <p>15.1.1.2 issue a nuisance abatement notice or litter abatement notice in respect of the contravention; or</p> <p>15.1.1.3 ensure that the person has complied with requirements imposed in relation to the contravention by a nuisance abatement notice or litter abatement notice or by an order of a court under the Act; or</p> <p>15.1.2 has, in taking such action, incurred costs and expenses in taking samples or in conducting tests, examinations, monitoring or analyses,</p> <p>to, by notice in writing served on the person, require the person to pay to the Council the reasonable costs and expenses incurred by the Council in taking such action.</p>	DDES, MDS, MHES, MRS	



## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
s48(2)	<p>15. Recovery of Administrative and Technical Costs Associated with Contraventions</p> <p>15.2 The power pursuant to Section 48(2) of the Act to specify in the notice the period within which an amount payable to the Council in accordance with a notice under Section 48 of the Act must be paid.</p>	DDES, MDS, MHES, MRS	
s48(3)	<p>15. Recovery of Administrative and Technical Costs Associated with Contraventions</p> <p>15.3 The power pursuant to Section 48(3) of the Act, on application by a person who has been served a notice under Section 48 of the Act to, by notice in writing:</p> <p>15.3.1 extend the time for payment of an amount payable in accordance with the notice; or</p>	DDES, MDS, MHES, MRS	
s48(3)	<p>15. Recovery of Administrative and Technical Costs Associated with Contraventions</p> <p>15.3 The power pursuant to Section 48(3) of the Act, on application by a person who has been served a notice under Section 48 of the Act to, by notice in writing:</p> <p>15.3.2 waive payment of such an amount or reduce the amount payable.</p>	DDES, MDS, MHES, MRS	
s48(6)	<p>15. Recovery of Administrative and Technical Costs Associated with Contraventions</p> <p>15.4 The power pursuant to Section 48(6) of the Act, if an amount payable to the Council is not paid in accordance with Section 48 of the Act to recover the amount as a debt.</p>	DDES, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
s49	<p>16. Assessment of Reasonable Costs and Expenses</p> <p>16.1 The duty pursuant to Section 49 of the Act, to for the purposes of the Act, assess the reasonable costs and expenses that have been or would be incurred by the Council or some other person or body in taking any action by reference to the reasonable costs and expenses that would have been or would be incurred in having the action taken by independent contractors engaged for that purpose.</p>	This power remains with CEO - no further sub-delegation	
s50(4)	<p>17. Evidentiary Provisions</p> <p>17.1 The power pursuant to Section 50(4) of the Act to execute a certificate certifying as to the matter relating to:</p> <p>17.1.1 the appointment or non-appointment of a person as an authorised officer under the Act; or</p> <p>17.1.2 a delegation or authority under the Act; or</p> <p>17.1.3 a notice, requirement or direction of the Council or an authorised officer under the Act; or</p> <p>17.1.4 the receipt or non-receipt by the Council or an authorised officer of a notification, report or information given or required to be given or furnished to the Council or authorised officer under the Act.</p>	This power remains with CEO - no further sub-delegation	
s50(5)	<p>17. Evidentiary Provisions</p>	This power remains with CEO - no further sub-delegation	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL ACT 2016			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	17.2 The power pursuant to Section 50(5) of the act to execute a certificate detailing the costs and expenses incurred by the Council and the purpose for which they were incurred.		

LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
Regulation 5	<p>18. Annual Reports by Councils</p> <p>18.1 The duty pursuant to Regulation 5 of the Local Nuisance and Litter Control Regulations 2017 (the Regulations), to, for the purposes of Section 8 of the Act, include in the Council's annual report details of:</p> <p>18.1.1 the number of complaints of local nuisance or littering received by the Council; and</p> <p>18.1.2 the number and nature of:</p> <p>18.1.2.1 offences under the Act that were expiated; and</p> <p>18.1.2.2 offences under the Act that were prosecuted; and</p> <p>18.1.2.3 nuisance abatement notices or litter abatement notices issued; and</p>	DDES, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	<p>18.1.2.4 civil penalties negotiated under Section 34 of the Act; and</p> <p>18.1.2.5 applications by the Council to the Court for orders for civil penalties under Section 34 of the Act and the number of orders made by the Court on those applications; and</p> <p>18.1.3 any other functions performed by the Council under the Act.</p>		
Regulation 6(1)(a)(ii)	<p>19. Exemptions from Application of Section 18</p> <p>19.1 The power pursuant to Regulation 6(1)(a)(ii) of the Regulations:</p> <p>19.1.1 to fix a lodgement period for an application in relation to an activity that is to take place over a period not exceeding 24 hours; and</p> <p>19.1.2 to fix a lodgement period for an application in relation to an activity that is to take place over a period of 24 hours or longer.</p>	DDES, MDS, MHES, MRS	
Regulation 6(2)	<p>19. Exemptions from Application of Section 18</p> <p>19.2 The power pursuant to Regulation 6(2) of the Regulations, if an application for a declaration in relation to an activity is not lodged with the Council as required by Regulation 6(1)(a)(ii) of the Act, to refuse to consider the application.</p>	DDES, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
Regulation 6(3)	<p>19. Exemptions from Application of Section 18</p> <p>19.3 The power pursuant to Regulation 6(3) of the Regulations to require the following prescribed details to be contained in a site nuisance management plan to the extent relevant to the activity:</p> <p>19.3.1 an assessment of the potential for local nuisance and the number of residential and commercial premises occupied by persons likely to be affected by the local nuisance (potentially affected persons);</p>	DDES, MDS, MHES, MRS	
Regulation 6(3)	<p>19. Exemptions from Application of Section 18</p> <p>19.3.2 a map showing:</p> <p>19.3.2.1 the proposed location of the activity and the likely fixed sources of local nuisance (for example, in the case of a concert, the location and orientation of stages and speakers); and</p> <p>19.3.2.2 the location of premises occupied by potentially affected persons and the distance of the premises from those sources;</p>	DDES, MDS, MHES, MRS	
Regulation 6(3)	<p>19. Exemptions from Application of Section 18</p> <p>19.3.3 the name and contact details of the responsible person in relation to the activity;</p>	DDES, MDS, MHES, MRS	

*The Barossa Council*

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
Regulation 6(3)	<p>19. Exemptions from Application of Section 18</p> <p>19.3.4 the proposed strategy for minimising, managing and monitoring the effects of the local nuisance on potentially affected persons;</p>	DDES, MDS, MHES, MRS	
Regulation 6(3)	<p>19. Exemptions from Application of Section 18</p> <p>19.3.5 a copy of the notice (forming part of the communication strategy) proposed to be given to those persons to notify them of the activity, which must include the following details:</p> <p>19.3.5.1 the nature of the proposed activity;</p> <p>19.3.5.2 the start and finish dates for the activity;</p> <p>19.3.5.3 the daily start and finish times for the activity;</p> <p>19.3.5.4 the anticipated sources of local nuisance generated by the activity;</p> <p>19.3.5.5 the proposed measures to be implemented to minimise the local nuisance;</p> <p>19.3.5.6 the name and contact details of the person who may be contacted by potentially affected persons regarding concerns or complaints in relation to the activity;</p> <p>19.3.5.7 such other details as the delegate may require;</p>	DDES, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
Regulation 6(3)	19. Exemptions from Application of Section 18  19.3.6 the proposed communication strategy with the Council, including reporting by the exempt person on progress of the activity and the site nuisance management plan and any unforeseen incidents;	DDES, MDS, MHES, MRS	
Regulation 6(3)	19. Exemptions from Application of Section 18  19.3.7 the proposed process for recording details about complaints, including:  19.3.7.1 contact details for each complainant; and  19.3.7.2 the date and time of the complaint; and  19.3.7.3 a description of the complaint; and  19.3.7.4 the nature of the activity giving rise to the complaint; and  19.3.7.5 any action taken to address the complaint.	DDES, MDS, MHES, MRS	
Regulation 12	20. Notification to EPA of Serious or Material Environmental Harm  20.1 The duty pursuant to Regulation 12 of the Regulations, to, for the purposes of Section 29 of the Act, include in notifications to the Environment Protection Authority:  20.1.1 as many of the following details as may be in the possession of the Council:	DDES, MDS, MHES, MRS	

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
	<p>20.1.1.1 any investigation statements from authorised officers, witnesses or suspects;</p> <p>20.1.1.2 copies of relevant evidence (for example, images, photographs, video or audio recordings or transcripts, maps, reports of analyses, tests or samples, file notes, exhibit management records and any certificates under Section 50 of the Act or other relevant documents, orders, notes or information); and</p> <p>20.1.2 details as to any limitation of time for prosecution or expiation of offences under the Act; and</p> <p>20.1.3 details of the application of any relevant prescribed period within the meaning of Section 16 of the Act in relation to a substance, material or thing seized under Part 3 Division 3 of the Act.</p>		
Regulation 13(2)(a)	<p>21. Action on Non-compliance with Notice</p> <p>21.1 The power pursuant to Regulation 13(2)(a) of the Regulations, to:</p> <p>21.1.1 for the purposes of creating the charge on land, give the Registrar General a notice, in a form determined by the delegate or the Council on the recommendation or with the approval of the Registrar-General,</p> <p>21.1.1.1 setting out the amount recoverable under Section 31 of the Act; and</p> <p>21.1.1.2 setting out the land in relation to which the relevant action was taken; and</p> <p>21.1.1.3 requesting the Registrar-General to make a notation under Regulation 13(2) of the Regulations in relation to the relevant land.</p>	DDES, MDS, MHES, MRS	



## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017			
Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
Regulation 13(2)(f)	<p>21. Action on Non-compliance with Notice</p> <p>21.2 The power pursuant to Regulation 13(2)(f) of the Regulations to, in a case where Regulation 13(2)(d)(i)(B) of the Regulations applies, recover the amount as if it were a rate constituting a charge on land under Section 144(2) of the Act.</p>	DDES, MDS, MHES, MRS	
Regulation 13(2)(g)	<p>21. Action on Non-compliance with Notice</p> <p>21.3 The duty pursuant to Regulation 13(2)(g) of the Regulations, if the amount to which the charge relates is paid, to, by further notice to the Registrar-General (being a notice in a form determined by the Minister on the recommendation or with the approval of the Registrar-General), cancel the charge.</p>	DDES, MDS, MHES, MRS	
Regulation 13(3)	<p>21. Action on Non-compliance with Notice</p> <p>21.4 The power pursuant to Regulation 13(3) of the Regulations to recover any costs or expenses incurred by the Council in relation to creating a charge over land or cancelling such a charge under Regulation 13 of the Regulations from the owner of the land in accordance with Section 144 of the Local Government Act 1999.</p>	DDES, MDS, MHES, MRS	
Regulation 15(1)	<p>22. Payment of Fees by Instalments</p> <p>22.1 The power pursuant to Regulation 15(1) of the Regulations to, in allowing the payment of a fee under the Act or the Regulations by instalments, add to each amount payable as an instalment a charge by way of interest, or an administrative fee, determined by the delegate or the Council (as the case may be).</p>	DDES, MDS, MHES, MRS	

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

## THE BAROSSA COUNCIL DELEGATIONS REGISTER

### INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016 AND LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

#### LOCAL NUISANCE AND LITTER CONTROL REGULATIONS 2017

Provision	Powers and Functions Delegated by Council to the Chief Executive Officer	Sub-Delegate	Conditions and Limitations
Regulation 16	<p>23. Waiver or Refund of Fees</p> <p>23.1 The power pursuant to Regulation 16 of the Regulations to waive or refund a fee or other amount (or part of a fee or other amount) payable under the Act or the Regulations if the delegate is satisfied that it is appropriate to do so in a particular case.</p>	DDES, MDS, MHES, MRS	
Regulation 17	<p>24. Recovery of Fees</p> <p>24.1 The power pursuant to Regulation 17 of the Regulations to recover a fee or other amount payable by a person under the Act or Regulations as a debt by action in a court of competent jurisdiction.</p>	DDES, MDS, MHES, MRS	



*The Barossa Council*