



# Sub-delegations under the Local Nuisance and Litter Control Act 2016

25 January 2017

## **INSTRUMENT OF SUBDELEGATION**

On the 24th day of January 2017 the City of Holdfast Bay (“the Council”) delegated certain powers and functions under the Local Nuisance and Litter Control Act 2016 to the person holding the position of Chief Executive Officer (the “Head Delegation”) subject to the terms and conditions specified in the relevant resolution(s) or in the Schedule of Conditions (if any) in the Head Delegation.

The powers and functions so delegated are set out in the Attachments to Report No: 13/17

In exercise of the powers under Section 101 of the Local Government Act 1999 I, as Chief Executive Officer hereby:

- revoke all previous sub-delegations to the positions indicated below;
- sub-delegate such of those powers and functions identified in the Head Delegation as are specified below to the person holding the positions specified below, on the terms and conditions specified below.

The sub-delegated powers and functions may be exercised individually by each sub-delegate in respect of any particular matter where the sub-delegate is required or proposing to act in the course of their duties.

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Signature

Justin Lynch  
**CHIEF EXECUTIVE OFFICER**

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Date

**CONDITIONS OF SUBDELEGATIONS MADE BY THE CHIEF  
EXECUTIVE OFFICER**

**Conditions applying to all sub delegations**

Nil

**Other Conditions**

Nil

## **POWERS AND FUNCTIONS SUBDELEGATED IN THIS INSTRUMENT**

- **Instruments**
- INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016
  
- **Delegation Sources**
- Local Nuisance and Litter Control Act 2016
  
- **Titles**
- Chief Executive Officer: Chief Executive Officer - Justin Lynch
- Community Safety Officer: Community Safety Officer -
- Community Safety Officer (1): Community Safety Officer (1) -
- Environmental Health Officer : Environmental Health Officer -
- General Manager City Assets and Services: General Manager City Assets and Services - Steve Hodge
- Manager Regulatory Services: Manager Regulatory Services - Ken O'Neill
- Not Sub Delegated by CEO

- INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016

Local Nuisance and Litter Control Act 2016			
#	Item Delegated	Conditions and Limitations	Delegate
126146	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: specified officers or employees of the Council; or a specified class of officers or employees of the Council, to be authorised officers for the purposes of the Act.		Not Sub Delegated by CEO
126147	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.		Chief Executive Officer
126148	1. Authorised Officers 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126149	2. Identity Cards 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: containing the person's name and a recent photograph of the person; and stating that the person is an authorised officer for the purposes of the Act; and specifying the name of the Council.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126150	2. Identity Cards 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126151	3. Limit of Area of Authorised Officers Appointed by Councils 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services

**Local Nuisance and Litter Control Act 2016**

126152	<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>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126153	<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>		Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126154	<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>		Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126155	<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>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)

**Local Nuisance and Litter Control Act 2016**

126156	5. Exemptions from Application of Section 18 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.		Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126157	5. Exemptions from Application of Section 18 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126158	5. Exemptions from Application of Section 18 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: there are exceptional circumstances that justify the making of the declaration; and 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126159	5. Exemptions from Application of Section 18 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: the permitted times or periods of time for carrying on the activity; or the manner of carrying on the activity.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126160	5. Exemptions from Application of Section 18 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126161	5. Exemptions from Application of Section 18 5.6 The 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 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services

**Local Nuisance and Litter Control Act 2016**

126162	<p>6. Disposing of Litter</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126163	<p>6. Disposing of Litter</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126164	<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>setting out the name and address of the person who the owner believes to have been the alleged principal offender; or 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>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126165	<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>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services



**Local Nuisance and Litter Control Act 2016**

126166	<p>7. Liability of Vehicle Owners</p> <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>setting out particulars of the alleged principal offence; and</p> <p>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>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126167	<p>7. Liability of Vehicle Owners</p> <p>7.4 The duty pursuant to Section 26(9) of the Act, if:</p> <p>an expiation notice is given to a person named as the alleged principal offender in a statutory declaration under Section 26, or</p> <p>proceedings are commenced against such a person, 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>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126168	<p>7. Liability of Vehicle Owners</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126169	<p>8. Notification of EPA of Serious or Material Environmental Harm</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126170	<p>9. Nuisance and Litter Abatement Notices</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)

**Local Nuisance and Litter Control Act 2016**

126171	<p>9. Nuisance and Litter Abatement Notices</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126172	<p>9. Nuisance and Litter Abatement Notices</p> <p>9.3 The duty pursuant to Section 30(2) of the Act in relation to a notice under Section 30 of the Act to ensure it: is in the form of a written notice served on the person to whom it is issued; and specifies the person to whom it is issued (by name or by a description sufficient to identify the person); and specifies the purpose for which it is issued; and power pursuant to Section 30(2) of the Act, in relation to a notice under Section 30 of the Act, to: direct two or more persons to do something specified in the notice jointly; and impose a requirement that the person do one or more of the following:</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126208	<p>9. Nuisance and Litter Abatement Notices</p> <p>9.3 The duty pursuant to Section 30(2) of the Act in relation to a notice under Section 30 of the Act to ensure it: (a) discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice;</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126209	<p>9. Nuisance and Litter Abatement Notices</p> <p>9.3 The duty pursuant to Section 30(2) of the Act in relation to a notice under Section 30 of the Act to ensure it: (b) not carry on a specified activity except at specified times or subject to specified conditions;</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)

**Local Nuisance and Litter Control Act 2016**

126210	9. Nuisance and Litter Abatement Notices 9.3 The duty pursuant to Section 30(2) of the Act in relation to a notice under Section 30 of the Act to ensure it: (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;		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126211	9. Nuisance and Litter Abatement Notices 9.3 The duty pursuant to Section 30(2) of the Act in relation to a notice under Section 30 of the Act to ensure it: (d) furnish to the Council specified results or reports within a specified period;		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126212	9. Nuisance and Litter Abatement Notices 9.3 The duty pursuant to Section 30(2) of the Act in relation to a notice under Section 30 of the Act to ensure it: (e) clean up litter that the Council or delegate considers to have been caused by a contravention of this Act;		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126213	9. Nuisance and Litter Abatement Notices 9.3 The duty pursuant to Section 30(2) of the Act in relation to a notice under Section 30 of the Act to ensure it: (f) make good any damage to property that the Council or delegate considers to have been caused by a contravention of this Act;		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)

**Local Nuisance and Litter Control Act 2016**

126214	9. Nuisance and Litter Abatement Notices 9.3 The duty pursuant to Section 30(2) of the Act in relation to a notice under Section 30 of the Act to ensure it: (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;		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126215	9. Nuisance and Litter Abatement Notices 9.3 The duty pursuant to Section 30(2) of the Act in relation to a notice under Section 30 of the Act to ensure it: (h) take such other specified action in a specified way, and within a specified period or at specified times or in specified circumstances; and		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126216	9. Nuisance and Litter Abatement Notices 9.3 The duty pursuant to Section 30(2) of the Act in relation to a notice under Section 30 of the Act to ensure it: (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		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126217	9. Nuisance and Litter Abatement Notices 9.3 The duty pursuant to Section 30(2) of the Act in relation to a notice under Section 30 of the Act to ensure it: (j) impose any other requirement prescribed by regulation; and		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)

**Local Nuisance and Litter Control Act 2016**

126218	<p>9. Nuisance and Litter Abatement Notices</p> <p>9.3 The 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>(k) ensure it states that the person may, within 14 days, appeal against the notice to the Environment Resources and Development Court.</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126173	<p>9. Nuisance and Litter Abatement Notices</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126174	<p>9. Nuisance and Litter Abatement Notices</p> <p>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:</p> <p>the owner or occupier of the premises; or</p> <p>a person who has the management or control of the premises; or</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126175	<p>9. Nuisance and Litter Abatement Notices</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)

**Local Nuisance and Litter Control Act 2016**

126176	<p>9. Nuisance and Litter Abatement Notices</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126177	<p>10. Action on Non-compliance with Notice</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126178	<p>10. Action on Non-compliance with Notice</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126179	<p>10. Action on Non-compliance with Notice</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)

**Local Nuisance and Litter Control Act 2016**

126180	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.		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)
126181	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.		Chief Executive Officer, Manager Regulatory Services, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Community Safety Officer (1)

**Local Nuisance and Litter Control Act 2016**

126182	<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>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>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>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>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>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 compensation for the injury, loss or damage, or for payment of the reasonable costs and expenses incurred in taking that action;</p> <p>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>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126183	<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>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126184	<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>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services



**Local Nuisance and Litter Control Act 2016**

126185	11. Civil Remedies 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126186	11. Civil Remedies 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).		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126187	11. Civil Remedies 11.6 The power pursuant to Section 33(11) of the Act to make an application without notice to any person.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126188	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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126189	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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126190	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 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126191	12. Minister or Council May Recover Civil Penalty in Respect of Contravention 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services

**Local Nuisance and Litter Control Act 2016**

126192	<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: 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 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.</p>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126193	<p>12. Minister or Council May Recover Civil Penalty in Respect of Contravention</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126194	<p>12. Minister or Council May Recover Civil Penalty in Respect of Contravention</p> <p>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).</p>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126195	<p>12. Minister or Council May Recover Civil Penalty in Respect of Contravention</p> <p>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 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).</p>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126196	<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>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126197	<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>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services

**Local Nuisance and Litter Control Act 2016**

126198	<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> <ul style="list-style-type: none"><li>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;</li><li>an order the person to take specified action to publicise the contravention and its consequences and any other orders made against the person;</li><li>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);</li><li>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.</li></ul>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126199	<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>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126200	<p>14. Orders in Respect of Contraventions</p> <p>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.</p>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126201	<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> <ul style="list-style-type: none"><li>has taken action to investigate the contravention; or</li><li>issue a nuisance abatement notice or litter abatement notice in respect of the contravention; or</li><li>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</li><li>has, in taking such action, incurred costs and expenses in taking samples or in conducting tests, examinations, monitoring or analyses, 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.</li></ul>		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services

**Local Nuisance and Litter Control Act 2016**

126202	15. Recovery of Administrative and Technical Costs Associated with Contraventions 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126203	15. Recovery of Administrative and Technical Costs Associated with Contraventions 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: extend the time for payment of an amount payable in accordance with the notice; or waive payment of such an amount or reduce the amount payable.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126204	15. Recovery of Administrative and Technical Costs Associated with Contraventions 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126205	16. Assessment of Reasonable Costs and Expenses 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126206	17. Evidentiary Provisions 17.1 The power pursuant to Section 50(4) of the Act to execute a certificate certifying as to the matter relating to: the appointment or non-appointment of a person as an authorised officer under the Act; or a delegation or authority under the Act; or a notice, requirement or direction of the Council or an authorised officer under the Act; or 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services
126207	17. Evidentiary Provisions 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.		Chief Executive Officer, Manager Regulatory Services, General Manager City Assets and Services