

# Sub-delegations under the Expiation of Offences Act 1996

1 October 2019

## **INSTRUMENT OF SUBDELEGATION**

On the 10<sup>th</sup> day of April 2018 the City of Holdfast Bay ("the Council") delegated certain powers and functions under the following Act:

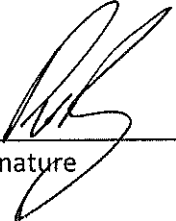
- *Expiation of Offences Act 1996*

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.

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; and
- 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

Roberto Bria  
**CHIEF EXECUTIVE OFFICER**

1 October 2019

# **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**

## **Delegation Sources**

- Expiation of Offences Act 1996

## **Titles**

- Administration Community Safety Officer/ Beach Patrol Community Safety Officer: Administration Community Safety Officer/ Beach Patrol Community Safety Officer - Cos Guglielmucci/ Danielle Giles/ Melissa Coonan
- Administrative Officer - Regulatory Services (Specialised): Administrative Officer - Regulatory Services (Specialised) - Kirsty Brown
- Chief Executive Officer: Chief Executive Officer - Roberto Bria
- Community Safety Officer: Community Safety Officer - Peter Kempe/ Alan Stanley/ Peter O'Hare/ Kelly Haniford
- Environmental Health Officer : Environmental Health Officer - Fontaine Papillo/Don McInnes/Julia Klovekorn/ Kirsty Brown
- General Manager City Assets and Services: General Manager City Assets and Services - Howard Lacy
- Manager Development Services: Manager Development Services - Anthony Marroncelli
- Manager Regulatory Services: Manager Regulatory Services - Adrian Hill
- Team Leader Environmental Health: Team Leader Environmental Health - Marissa Michail

## Instrument of Delegation under the Expiation of Offences Act 1996

Expiation of Offences Act 1996			
#	Item Delegated	Conditions and Limitations	Delegate
82010	<p>1. Certain Offences may be Expiated</p> <p>1.1 The power pursuant to Section 5(1) of the Expiation of Offences Act 1996 ("the Act") to issue an expiation notice under the Act to a person alleged to have committed an offence under an Act, regulation or by-law, and the alleged offence may accordingly be expiated in accordance with the Act.</p>		<p>Administration Community Safety Officer/ Beach Patrol Community Safety Officer, Community Safety Officer, Environmental Health Officer , General Manager City Assets and Services, Manager Development Services, Manager Regulatory Services, Team Leader Environmental Health</p>
82011	<p>2. Expiation Notices</p> <p>2.1 The power pursuant to Section 6(3)(b)(ii) of the Act to authorise a person in writing to give an expiation notice for an alleged offence.</p>		<p>Chief Executive Officer</p>
82012	<p>3. Review of Notices on Ground that Offence is Trifling</p> <p>3.1 The power pursuant to Section 8A(2) and (3) of the Act to require an alleged offender who is seeking a review of the notice on the ground that the offence is trifling:</p> <p>3.1.1 to provide further information; and</p> <p>3.1.2 to provide a statutory declaration verifying the information contained in, or supporting, an application for review.</p>		<p>Administration Community Safety Officer/ Beach Patrol Community Safety Officer, Administrative Officer - Regulatory Services (Specialised), Community Safety Officer, General Manager City Assets and Services, Manager Development</p>

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			Services, Manager Regulatory Services, Team Leader Environmental Health
82013	<p>3. Review of Notices on Ground that Offence is Trifling</p> <p>3.2 The power pursuant to Section 8A(4) of the Act to determine an application for review before providing the Chief Recovery Officer with relevant particulars under Section 22 of the Fines Enforcement and Debt Recovery Act 2017 in respect of the offence to which the application relates.</p>		Administration Community Safety Officer/ Beach Patrol Community Safety Officer, Administrative Officer - Regulatory Services (Specialised), Community Safety Officer, General Manager City Assets and Services, Manager Development Services, Manager Regulatory Services, Team Leader Environmental Health
82014	<p>3. Review of Notices on Ground that Offence is Trifling</p> <p>3.3 The duty pursuant and subject to Section 8A(5) and (6) of the Act upon being satisfied the offence is trifling to withdraw the expiation notice in respect of the offence by giving written notice to the alleged offender.</p>		Administration Community Safety Officer/ Beach Patrol Community Safety Officer, Administrative Officer - Regulatory Services (Specialised), Community Safety Officer, General Manager City Assets and Services, Manager Development Services, Manager Regulatory

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			Services, Team Leader Environmental Health
182977	<p>3. Review of Notices on Ground that Offence is Trifling</p> <p>3.4 The power pursuant to Section 8A(6a) of the Act, if an enforcement determination made under section 22 of the Fines and Enforcement Debt Recovery Act 2017 is revoked on the ground that the alleged offender had not had a reasonable opportunity to apply for review of the notice under Section 8A of the Act, and the alleged offender makes an application under Section 8A of the Act within 14 days of being notified of the revocation, to withdraw the expiation notice under Section 8A of the Act.</p>		Administration Community Safety Officer/ Beach Patrol Community Safety Officer, Administrative Officer - Regulatory Services (Specialised), Community Safety Officer, General Manager City Assets and Services, Manager Regulatory Services, Team Leader Environmental Health
82015	<p>4. Expiation Reminder Notices</p> <p>4.1 The duty pursuant to Section 11(1) of the Act where an alleged offender has neither paid the expiation fee nor entered into an arrangement under Section 20 of the Fines Enforcement and Debt Recovery Act 2017 and the Council has not received a statutory declaration or other document sent to the Council by the alleged offender in accordance with a notice required by law to accompany the expiation notice, by the end of the expiation period, and before the Delegate takes any action under this Act or the Fines Enforcement and Debt Recovery Act 2017 to enforce the expiation notice, to give an expiation reminder notice in the prescribed form to the alleged offender.</p>		Administration Community Safety Officer/ Beach Patrol Community Safety Officer, Administrative Officer - Regulatory Services (Specialised), Community Safety Officer, General Manager City Assets and Services, Manager Development Services, Manager Regulatory Services, Team Leader Environmental Health

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82016	<p>5. Expiation Enforcement Warning Notices</p> <p>5.1 The duty pursuant to Section 11A(1) of the Act where the Council has received a statutory declaration or other document sent to the Council by the alleged offender in accordance with a notice required by law to accompany the expiation notice or expiation reminder notice, and before the Delegate takes action under this Act or the Fines Enforcement and Debt Recovery Act 2017 to enforce the expiation notice, to give an expiation enforcement warning notice, in the prescribed form, to the alleged offender.</p>		<p>Administration Community Safety Officer/ Beach Patrol Community Safety Officer, Administrative Officer - Regulatory Services (Specialised), Community Safety Officer, General Manager City Assets and Services, Manager Development Services, Manager Regulatory Services, Team Leader Environmental Health</p>
82017	<p>6. Late Payment</p> <p>6.1 The power pursuant to Section 12 of the Act to accept late payment of the amount due under an expiation notice at any time before an enforcement determination is made under Section 22 of the Fines Enforcement and Debt Recovery Act 2017.</p>		<p>Administration Community Safety Officer/ Beach Patrol Community Safety Officer, Administrative Officer - Regulatory Services (Specialised), Community Safety Officer, General Manager City Assets and Services, Manager Development Services, Manager Regulatory Services, Team Leader Environmental Health</p>
82019	8. Withdrawal of Expiation Notices		<p>Administration Community Safety</p>

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	<p>8.1 The power pursuant to Section 16(1) of the Act, to withdraw an expiation notice with respect to all or any of the alleged offences to which an expiation notice relates where:</p> <p>8.1.1 in the opinion of the Delegate the alleged offender did not commit the offence or offences, or that the notice should not have been given with respect to the offence or offences;</p> <p>8.1.2 the Council as issuing authority receives a statutory declaration or other document sent to the Council by the alleged offender in accordance with a notice required by law to accompany the expiation notice or expiation reminder notice; or</p> <p>8.1.3 the notice is defective; or</p> <p>8.1.3A in the opinion of the Delegate the alleged offender is suffering from a cognitive impairment that excuses the alleged offending; or</p> <p>8.1.4 the Delegate decides that the alleged offender should be prosecuted for the offence or offences.</p>	<p>Officer/ Beach Patrol Community Safety Officer, Administrative Officer - Regulatory Services (Specialised), Community Safety Officer, General Manager City Assets and Services, Manager Development Services, Manager Regulatory Services</p>
82020	<p>8. Withdrawal of Expiation Notices</p> <p>8.2 The power pursuant to Section 16(5) of the Act, where an expiation notice is withdrawn under subsection (1), to commence prosecution for an offence to which the notice related.</p>	<p>General Manager City Assets and Services, Manager Development Services, Manager Regulatory Services</p>
82021	<p>8. Withdrawal of Expiation Notices</p> <p>8.3 The duty pursuant to Section 16(6) of the Act, subject to Section 16(7) of the Act, to withdraw an expiation notice if it becomes apparent that the alleged offender did not receive the notice until after the expiation period, or has never received it, as a result of error on the part of the Council as issuing authority or failure of the postal system or failure in the transmission of an email.</p>	<p>Administration Community Safety Officer/ Beach Patrol Community Safety Officer, Administrative Officer - Regulatory Services (Specialised), Community Safety Officer, General Manager City Assets and Services, Manager Development Services, Manager Regulatory Services</p>
82022	<p>8. Withdrawal of Expiation Notices</p>	<p>Administration Community Safety</p>



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	<p>8.4 The duty pursuant to Section 16(11) of the Act, where an expiation notice is withdrawn under Section 16 of the Act and the notice of withdrawal does not specify that the notice is withdrawn for the purposes of prosecuting the alleged offender, and if an enforcement determination has been made under Section 22 of the Fines Enforcement and Debt Recovery Act 2017, to inform the Chief Recovery Officer of the withdrawal of the notice.</p>		<p>Officer/ Beach Patrol Community Safety Officer, Administrative Officer - Regulatory Services (Specialised), Community Safety Officer, General Manager City Assets and Services, Manager Development Services, Manager Regulatory Services</p>
82023	<p>9. Provision of Information</p> <p>9.1 The power pursuant to Section 18 of the Act to enter into an agreement with the Chief Recovery Officer in relation to:</p> <p>9.1.1 the manner in which the Chief Recovery Officer is to provide information to the Council in relation to action taken by the Chief Recovery Officer under the Act in respect of an expiation notice issued by the Council; and</p>		<p>Administration Community Safety Officer/ Beach Patrol Community Safety Officer, Administrative Officer - Regulatory Services (Specialised), Community Safety Officer, General Manager City Assets and Services, Manager Development Services, Manager Regulatory Services</p>
82027	<p>9. Provision of Information</p> <p>9.1 The power pursuant to Section 18 of the Act to enter into an agreement with the Chief Recovery Officer in relation to:</p> <p>9.1.2 the manner in which the Council is to provide information to the Chief Recovery Officer in relation to the issuing of an expiation notice by the Council or any other action taken by the Council in respect of an expiation notice so issued.</p>		<p>Administration Community Safety Officer/ Beach Patrol Community Safety Officer, Administrative Officer - Regulatory Services (Specialised), Community Safety</p>

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			Officer, General Manager City Assets and Services, Manager Development Services, Manager Regulatory Services
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