

INSTRUMENT OF DELEGATION UNDER THE EXPIATION OF OFFENCES ACT 1996

Preamble

NOTES

1. Conditions or Limitations: conditions or limitations may apply to the delegations contained in this instrument. Refer to the Schedule of Conditions at the back of this document.
2. Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

Delegation Sources

- Expiation of Offences Act 1996

Titles

- Any Person acting in the capacity of Planning Officer including Consultant Planner:
- Building Surveyor
- Chief Executive Officer
- Compliance Officer
- Director Corporate & Community Services
- Director Infrastructure & Environmental Services
- Environmental Health Officer
- General Inspector
- Planning Office

IINSTRUMENT OF DELEGATION UNDER THE EXPIATION OF OFFENCES ACT 1996

#	Section	Delegation Source	Item Delegated / Authorisation	Conditions and Limitations	Delegate / Authorised Officer
168151	s5(1)	Expiation of Offences Act 1996	<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>		Chief Executive Officer, Planning Officer, Building Surveyor, Director Corporate & Community Services, Director Infrastructure & Environmental Services, General Inspector, Compliance Officer, Environmental Health Officer, Any Person acting in the capacity of Planning Officer including Consultant Planner
168152	s6(3)(b)(ii)	Expiation of Offences Act 1996	<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>		Director Infrastructure & Environmental Services
168153	s8A(2) and (3)	Expiation of Offences Act 1996	<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>		Chief Executive Officer, Planning Officer, Building Surveyor, Director Corporate & Community Services, Director Infrastructure & Environmental Services, General Inspector, Compliance Officer, Environmental Health Officer, Any Person acting in the capacity of Planning Officer including Consultant Planner
168154	s8A(4)	Expiation of Offences Act 1996	<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>		Director Infrastructure & Environmental Services
168155	s8A(5) and (6)	Expiation of Offences Act 1996	<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</p>		Director Infrastructure & Environmental Services

			expiation notice in respect of the offence by giving written notice to the alleged offender.		
182991	8A(6)a	Expiation of Offences Act 1996	<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>		Director Infrastructure & Environmental Services
168156	s 11(1)	Expiation of Offences Act 1996	<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>		Chief Executive Officer, Planning Officer, Building Surveyor, Director Corporate & Community Services, Director Infrastructure & Environmental Services, General Inspector, Compliance Officer, Environmental Health Officer, Any Person acting in the capacity of Planning Officer including Consultant Planner
168157	11A(1)	Expiation of Offences Act 1996	<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>		Chief Executive Officer, Planning Officer, Building Surveyor, Director Corporate & Community Services, Director Infrastructure & Environmental Services, General Inspector, Compliance Officer, Environmental Health Officer, Any Person acting in the capacity of Planning Officer including Consultant Planner

168158	s12	Expiation of Offences Act 1996	<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>		Chief Executive Officer, Planning Officer, Building Surveyor, Director Corporate & Community Services, Director Infrastructure & Environmental Services, General Inspector, Compliance Officer, Environmental Health Officer, Any Person acting in the capacity of Planning Officer including Consultant Planner
168160	s16(1)	Expiation of Offences Act 1996	<p>8. Withdrawal of Expiation Notices</p> <p>8.1 The power pursuant to Section 16(1) of the Act, to withdraw an expiation notice with respect to all or any of the alleged offences to which an expiation notice relates where:</p> <p>8.1.1 in the opinion of the Delegate the alleged offender did not commit the offence or offences, or that the notice should not have been given with respect to the offence or offences;</p> <p>8.1.2 the Council as issuing authority receives a statutory declaration or other document sent to the Council by the alleged offender in accordance with a notice required by law to accompany the expiation notice or expiation reminder notice; or</p> <p>8.1.3 the notice is defective; or</p> <p>8.1.3A in the opinion of the Delegate the alleged offender is suffering from a cognitive impairment that excuses the alleged offending; or</p> <p>8.1.4 the Delegate decides that the alleged offender should be prosecuted for the offence or offences.</p>		Chief Executive Officer, Director Corporate & Community Services, Director Infrastructure & Environmental Services
168161	s16(5)	Expiation of Offences Act 1996	<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>		Chief Executive Officer, Planning Officer, Building Surveyor, Director Corporate & Community Services, Director Infrastructure & Environmental Services, General Inspector, Compliance Officer, Environmental Health Officer
168162	s 16(6)	Expiation of	8. Withdrawal of Expiation Notices		Chief Executive Officer, Director Corporate & Community

		Offences Act 1996	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.		Services, Director Infrastructure & Environmental Services
168163	s16(11)	Expiation of Offences Act 1996	8. Withdrawal of Expiation Notices 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.		Chief Executive Officer, Director Corporate & Community Services, Director Infrastructure & Environmental Services
168164	s18	Expiation of Offences Act 1996	9. Provision of Information 9.1 The power pursuant to Section 18 of the Act to enter into an agreement with the Fines Enforcement and Recovery Officer in relation to: 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		Chief Executive Officer, Planning Officer, Building Surveyor, Director Corporate & Community Services, Director Infrastructure & Environmental Services, General Inspector, Compliance Officer, Environmental Health Officer, Any Person acting in the capacity of Planning Officer including Consultant Planner
168168	s18	Expiation of Offences Act 1996	9. Provision of Information 9.1 The power pursuant to Section 18 of the Act to enter into an agreement with the Fines Enforcement and Recovery Officer in relation to: 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		Chief Executive Officer, Director Infrastructure & Environmental Services

		respect of an expiation notice so issued.		
--	--	---	--	--

Document history and version control

Date	Council/Chief Executive Officer	Comment
27/6/2017	Full annual review adopted at the Council meeting of 27 June 2017	
24/4/2018	Variation adopted at the Council meeting of 24 April 2018	