

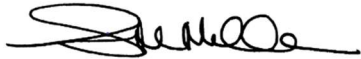


# Whitehorse City Council

Vicsmart Applications under the  
*Planning and Environment Act 1987*

In the exercise of power conferred by section 47(2) of the *Local Government Act 2020* and section 188 of the *Planning and Environment Act 1987*, I, Simon McMillan as Chief Executive Officer of Whitehorse City Council and the responsible authority for the administration and enforcement of the Whitehorse Planning Scheme as set out in clause 72.01 of that scheme, by this Instrument of Delegation:

1. delegate each duty and/or function and/or power respectively described in column 1 of the Schedule (and summarised in column 2 of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position respectively described in column 3 of the Schedule;
2. declare that this Instrument of Delegation -
  - 2.1 comes into force immediately upon its execution;
  - 2.2 remains in force until varied or revoked; and
  - 2.3 is subject to any conditions and limitations set out in paragraph 4, and in the Schedule;
3. declare that the delegate must not determine the issue, take the action or do the act or thing if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation, whether on account of section 188 of the *Planning and Environment Act 1987* or otherwise.



---

**SIMON MCMILLAN**

**Chief Executive Officer  
Whitehorse City Council**

**Date** 02/08/2023

In the presence of



Witness Selina Fotia

## Delegation Sources

- *Planning and Environment Act 1987*
- *Planning and Environment Regulations 2015*
- *Planning and Environment (Fees) Regulations 2016*

## Position Groups

Group	Positions
Planning Officers Group	Development Planner, Team Leader Statutory Planning, Principal Planner, Urban Planner

## Schedule

<i>Planning and Environment Act 1987</i>			
Provision	Item Delegated	Delegate	Conditions & Limitations
s 50(4)	Duty to amend application	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 50(5)	Power to refuse to amend application	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 50(6)	Duty to make note of amendment to application in register	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Manager City Planning & Development, Director City Development, Planning Officers Group	

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
s 50A(1)	Power to make amendment to application	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 50A(4)	Duty to note amendment to application in register	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 51	Duty to make a copy of every application and the prescribed information supplied in respect of the application available in accordance with the public availability requirements	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Planning Officer, Manager City Planning & Development, Director City Development	
s 52(1)(ca)	Duty to give notice of the application to owners and occupiers of land benefited by a registered restrictive covenant if may result in breach of covenant	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt
s 52(1)(cb)	Duty to give notice of the application to owners and occupiers of land benefited by a registered restrictive covenant if application is to remove or vary the covenant	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt.

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
s 52(1AA)	Duty to give notice of an application to remove or vary a registered restrictive covenant	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt.
s 52(3)	Power to give any further notice of an application where appropriate	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt.
s 53(1A)	Power to require the applicant to give the notice under s 52(1AA)	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt.
s 54(1)	Power to require the applicant to provide more information	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	Note: delegates cannot require an applicant to provide more information than what is listed in schs 59 - 59.16 of the planning scheme
s 54(1A)	Duty to give notice in writing of information required under s 54(1)	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	Note: delegates cannot require an applicant to provide more information than what is listed in schs 59 - 59.16 of the planning scheme
s 54(1B)	Duty to specify the lapse date for an application	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 54A(3)	Power to decide to extend time or refuse to extend time to give required information	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
s 54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3)	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector	Director City Development	
s 57(3)	Function of receiving name and address of persons to whom notice of decision is to go	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 57(5)	Duty to make a copy of every objection available in accordance with the public availability requirements	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Planning Officer, Manager City Planning & Development, Director City Development	
s 57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 57A(5)	Power to refuse to amend application	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 57A(6)	Duty to note amendments to application in register	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Manager City Planning & Development, Director City Development	

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
s 57B(1)	Duty to determine whether and to whom notice should be given	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 57B(2)	Duty to consider certain matters in determining whether notice should be given	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 57C(1)	Duty to give copy of amended application to referral authority	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 58	Duty to consider every application for a permit	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 58A	Power to request advice from the Planning Application Committee	Director City Development	
s 59(1)	Power to decide an application without delay	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 60(1)(a)	Duty to consider the relevant planning scheme	Assistant Manager Statutory Planning, Planning Officer, Manager City Planning & Development, Director City Development	Note: VicSmart applications are exempt from the requirements of s 60(1)(b), (c), (e) and (f).
s 60(1)(d)	Duty to consider any decision and comments of a referral authority which has been received	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	Note: VicSmart applications are exempt from the requirements of s 60(1)(b), (c), (e) and (f).

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
s 60(1A)(i)	Power to consider any agreement made pursuant to s 173	Assistant Manager Statutory Planning, Planning Officer, Manager City Planning & Development, Director City Development	Note: VicSmart applications are exempt from the requirements of s 60(1A)(b) - (h) and (j).
s 60(1B)	Duty to consider the number of objectors in considering whether use or development may have significant social effect	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 61(1)	Power to determine permit application, either to decide to grant a permit, to decide to grant a permit with conditions or to refuse a permit application	Assistant Manager Statutory Planning, Team Leader Statutory Planning, Manager City Planning & Development, Director City Development	The permit must not be inconsistent with a cultural heritage management plan under the Aboriginal Heritage Act 2006
s 61(2)	Duty to decide to refuse to grant a permit if a relevant determining referral authority objects to grant of permit	Assistant Manager Statutory Planning, Development Planner, Team Leader Statutory Planning, Principal Planner, Manager City Planning & Development, Director City Development	
s 61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	Assistant Manager Statutory Planning, Development Planner, Team Leader Statutory Planning, Principal Planner, Manager City Planning & Development, Director City Development	
s 61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development	
s 62(1)	Duty to include certain conditions in deciding to grant a permit	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	



<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
s 62(2)	Power to include other conditions	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 62(5)(b)	Power to include a permit condition that specified works be provided on or to the land or paid for in accordance with s 173 agreement	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 62(6)(a)	Duty not to include a permit condition requiring a person to pay an amount for or provide works except in accordance with s 46N(1), 46GV(7) or 62(5)	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 62(6)(b)	Duty not to include a permit condition requiring a person to pay an amount for or provide works except a condition that a planning scheme requires to be included as referred to in s 62(1)(a)	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
s 63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 64(5)	Duty to give each objector a copy of an exempt decision	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	Note: VicSmart applications are exempt from requirements of s 64(1), (2) and (3)  This provision applies also to a decision to grant an amendment to a permit - see s 75
s 64A	Duty not to issue permit until the end of a period when an application for review may be lodged with VCAT or until VCAT has determined the application, if a relevant recommending referral authority has objected to the grant of a permit	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	This provision applies also to a decision to grant an amendment to a permit - see s 75A
s 65(1)	Duty to give notice of refusal to grant permit to applicant and person who objected under s 57	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 66(1)	Duty to give notice under ss 64 or 65 and copy permit to relevant determining referral authorities	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 66(2) & (3)	Duty to give a recommending referral authority notice of its decision to grant a permit in the specified circumstances, and include any conditions to which the permit will be subject	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Manager City Planning & Development, Director City Development, Planning Officers Group	If the recommending referral authority objected to the grant of the permit or the responsible authority decided not to include a condition on the permit recommended by the recommending referral authority

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
s 66(4) & (5)	Duty to give a recommending referral authority notice of its decision to refuse to grant a permit in the circumstances specified, and include the information required under s 66(5)	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Manager City Planning & Development, Director City Development, Planning Officers Group	If the recommending referral authority objected to the grant of the permit or the recommending referral authority recommended that a permit condition be included on the permit
s 66(6)	Duty to give a recommending referral authority a copy of any permit which Council decides to grant and a copy of any notice given under ss 64 or 65	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Manager City Planning & Development, Director City Development, Planning Officers Group	If the recommending referral authority did not object to the grant of the permit or the recommending referral authority did not recommend that a condition be included on the permit
s 69(1)	Function of receiving application for extension of time of permit	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Team Leader Statutory Planning, Principal Planner, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 69(1A)	Function of receiving application for extension of time to complete development	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Team Leader Statutory Planning, Principal Planner, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 69(2)	Power to extend time	Assistant Manager Statutory Planning, Team Leader Statutory Planning, Principal Planner, Manager City Planning & Development, Director City Development, Planning Officers Group	POs and P&BAO subject to prior approval from the DP or more senior officer.
s 70	Duty to make a copy of every permit that it issues available in accordance with the public availability requirements	Assistant Manager Statutory Planning, Planning & Building Administration Officer, Planning Officer, Manager City Planning & Development, Director City Development	

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
s 71(1)	Power to correct certain mistakes	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	Planning Officers Group subject to prior approval of the Assistant Manager Statutory Planning or Team Leader Statutory Planning
s 71(2)	Duty to note corrections in register	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 73	Power to decide to grant amendment subject to conditions	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 74	Duty to issue amended permit to applicant if no objectors	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 76A(2) & (3)	Duty to give a recommending referral authority notice of its decision to grant an amendment to a permit in the circumstances specified, and include any conditions to which the permit will be subject	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	If the recommending referral authority objected to the amendment of the permit or the responsible authority decided not to include a condition on the amended permit recommended by the recommending referral authority

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
s 76A(4) & (5)	Duty to give a recommending referral authority notice of its decision to refuse to grant an amendment to a permit in the circumstances specified, and include the information required under s 76A(5)	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	If the recommending referral authority objected to the amendment of the permit or the recommending referral authority recommended that a permit condition be included on the amended permit
s 76A(6)	Duty to give a recommending referral authority a copy of any amended permit which Council decides to grant and a copy of any notice given under ss 64 or 76	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	If the recommending referral authority did not object to the amendment of the permit or the recommending referral authority did not recommend a condition be included on the amended permit
s 76D	Duty to comply with direction of Minister to issue amended permit	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 83	Function of being respondent to an appeal	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 83B	Duty to give or publish notice of application for review	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 84(2)	Duty not to issue a permit or notice of decision or refusal after an application is made for review of a failure to grant a permit	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
s 84(3)	Duty to tell principal registrar if decide to grant a permit after an application is made for review of its failure to grant a permit	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 84(6)	Duty to issue permit on receipt of advice	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 84AB	Power to agree to confining a review by the Tribunal	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development	
s 86	Duty to issue a permit at order of Tribunal	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	Manager City Planning & Development, Director City Development	
s 90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 91(2)	Duty to comply with the directions of VCAT	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 91(2A)	Duty to issue amended permit to owner if Tribunal so directs	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	

***Planning and Environment Act 1987***

<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
s 92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	
s 93(2)	Duty to give notice of VCAT order to stop development	Manager City Planning & Development, Director City Development	

***Planning and Environment Regulations 2015***

<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
r 21	Power of responsible authority to require a permit applicant to verify information in an application for a permit or to amend a permit or any information provided under s 54 of the Act	Assistant Manager Statutory Planning, Manager City Planning & Development, Director City Development, Planning Officers Group	

***Planning and Environment (Fees) Regulations 2016***

<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions &amp; Limitations</b>
r 20	Power to waive or rebate a fee other than a fee relating to an amendment to a planning scheme	Manager City Planning & Development, Director City Development	
r 21	Duty to record matters taken into account and which formed the basis of a decision to waive or rebate a fee under rr 19 or 20	Manager City Planning & Development, Director City Development	