

***S14 Instrument of Delegation by CEO for VicSmart Applications under
the Planning and Environment Act 1987***

Whitehorse City Council

Instrument of Delegation

by

the Chief Executive Officer

Instrument of Delegation by CEO for VicSmart Applications under the *Planning and Environment Act 1987*

In exercise of the power conferred by section 47(2) of the *Local Government Act 2020* and section 188 of the *Planning and Environment Act 1987*, I, 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. record that a reference in the Schedule to:

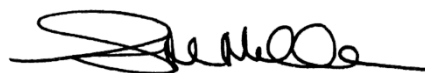
Abbreviation	means	Position Title
AMSTP		Assistant Manager Statutory Planning
CSTRP		Coordinator Strategic Planning
DP		Development Planner
DCD		Director City Development
MCP&D		Manager City Planning and Development
P&BAO		Planning and Building Administration Officer
PEO		Planning Enforcement Officer
POs		Planning Officers which includes STPTL, PP, DP, UP and SPO
PP		Principal Planner
STRP		Strategic Planner
SPO		Subdivision Planning Officer
SSTRP		Senior Strategic Planner
STPTL		Statutory Planning Team Leader
UP		Urban Planner

3. record that on the coming into force of this Instrument of Delegation the delegation under Instrument of Delegation dated 28 August 2020 and executed by Simon McMillan is revoked:
4. declare that this Instrument of Delegation -
 - 4.1 comes into force immediately upon its execution;
 - 4.2 remains in force until varied or revoked; and
 - 4.3 is subject to any conditions and limitations set out in paragraph 5, and in the Schedule;
5. 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 *Planning and Environment Act 1987* or otherwise.

This instrument of delegation is dated 17 May 2021 and is made by the Chief Executive Officer.

SIGNED by the Chief Executive Officer
of Whitehorse City Council

)
)
)



Simon McMillan

INDEX

PLANNING AND ENVIRONMENT ACT 1987.....	5
PLANNING AND ENVIRONMENT REGULATIONS 2015	20
PLANNING AND ENVIRONMENT (FEES) REGULATIONS 2016.....	20

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 50(4)	Duty to amend application.	DCD, MCP&D, AMSTP and POs.	
s 50(5)	Power to refuse to amend application.	DCD, MCP&D, AMSTP and POs.	
s 50(6)	Duty to make note of amendment to application in register.	DCD, MCP&D, AMSTP, POs and P&BAO.	
s 50A(1)	Power to make amendment to application.	DCD, MCP&D, AMSTP, POs and P&BAO.	
s 50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given.	DCD, MCP&D, AMSTP, POs and P&BAO.	
s 50A(4)	Duty to note amendment to application in register.	DCD, MCP&D, AMSTP, POs and P&BAO.	
s 51	Duty to make a copy of every application and the prescribed information supplied in respect of the application available for inspection.	DCD, MCP&D, AMSTP, POs and P&BAO.	
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.	DCD, MCP&D, AMSTP and POs.	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply.

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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.	DCD, MCP&D, AMSTP and POs.	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply.
s 52(1AA)	Duty to give notice of an application to remove or vary a registered restrictive covenant.	DCD, MCP&D, AMSTP and POs.	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply.
s 52(3)	Power to give any further notice of an application where appropriate.	DCD, MCP&D, AMSTP and POs.	
s 53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it.	DCD, MCP&D, AMSTP and POs.	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply.
s 53(1A)	Power to require the applicant to give the notice under s 52(1AA).	DCD, MCP&D AMSTP and POs.	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply.
s 54(1)	Power to require the applicant to provide more information.	DCD, MCP&D, AMSTP and POs.	Note: Delegates cannot require an applicant to provide more information than what is listed in schs 59 - 59.16 of the planning scheme.

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 54(1A)	Duty to give notice in writing of information required under s 54(1).	DCD, MCP&D, AMSTP and POs.	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.	DCD, MCP&D, AMSTP and POs.	
s 54A(3)	Power to decide to extend time or refuse to extend time to give required information.	DCD, MCP&D, AMSTP and POs.	
s 54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3).	DCD, MCP&D, AMSTP and POs.	
s 57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector.	DCD	
s 57(3)	Function of receiving name and address of persons to whom notice of decision is to go.	DCD, MCP&D, AMSTP, POs and P&BAO.	
s 57(5)	Duty to make available for inspection copy of all objections.	DCD, MCP&D, AMSTP, POs and P&BAO.	
s 57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5).	DCD, MCP&D, AMSTP, POs and P&BAO.	
s 57A(5)	Power to refuse to amend application.	DCD, MCP&D, AMSTP and POs.	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 57A(6)	Duty to note amendments to application in register.	DCD, MCP&D, AMSTP, POs and P&BAO.	
s 57B(1)	Duty to determine whether and to whom notice should be given.	DCD, MCP&D, AMSTP and POs.	
s 57B(2)	Duty to consider certain matters in determining whether notice should be given.	DCD, MCP&D, AMSTP and POs.	
s 57C(1)	Duty to give copy of amended application to referral authority.	DCD, MCP&D, AMSTP, POs and P&BAO.	
s 58	Duty to consider every application for a permit.	DCD, MCP&D, AMSTP and POs.	
s 58A	Power to request advice from the Planning Application Committee.	DCD	
s 59(1)	Power to decide an application without delay.	DCD, MCP&D, AMSTP and POs.	
s 60(1)(a)	Duty to consider the relevant planning scheme.	DCD, MCP&D, AMSTP and POs.	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.	DCD, MCP&D, AMSTP and POs.	Note: VicSmart applications are exempt from the requirements of s 60(1)(b), (c), (e) and (f).

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 60(1A)(a)	Power to consider certain matters before deciding on application any significant social and economic effects of the use or development for which the application is made.	DCD, MCP&D, AMSTP and POs.	Note: VicSmart applications are exempt from the requirements of s 60(1A)(b) - (h) and (j).
s 60(1A)(i)	Power to consider any agreement made pursuant to s 173.	DCD, MCP&D, AMSTP and POs.	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.	DCD, MCP&D, AMSTP and POs.	
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.	DCD, MCP&D, AMSTP and STPTL.	The permit must not be inconsistent with a cultural heritage management plan under the <i>Aboriginal Heritage Act 2006</i> .
s 61(2)	Duty to decide to refuse to grant a permit if a relevant determining referral authority objects to grant of permit.	DCD, MCP&D, AMSTP, STPTL, PP and DP.	
s 61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit.	DCD, MCP&D, AMSTP, STPTL, PP and DP.	
s 61(3)(a)	Duty not to decide to grant a permit to use coastal Crown land without Minister's consent.	Not Applicable.	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 61(3)(b)	Duty to refuse to grant the permit without the Minister's consent.	Not Applicable.	
s 61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant.	DCD, MCP&D and AMSTP.	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 62(1)	Duty to include certain conditions in deciding to grant a permit.	DCD, MCP&D, AMSTP and POs.	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 62(2)	Power to include other conditions.	DCD, MCP&D, AMSTP and POs.	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 62(4)	Duty to ensure conditions are consistent with paragraphs (a), (b) and (c).	DCD, MCP&D, AMSTP and POs.	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan.	DCD, MCP&D, AMSTP and POs.	
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.	DCD, MCP&D, AMSTP and POs.	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant.	DCD, MCP&D, AMSTP and POs.	
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).	DCD, MCP&D, AMSTP and POs.	
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).	DCD, MCP&D, AMSTP and POs.	
s 63	Duty to issue the permit where made a decision in favour of the application (if no one has objected).	DCD, MCP&D, AMSTP and POs.	
s 64(5)	Duty to give each objector a copy of an exempt decision.	DCD, MCP&D, AMSTP and POs.	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.

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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.	DCD, MCP&D, AMSTP and POs.	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.	DCD, MCP&D, AMSTP and POs.	
s 66(1)	Duty to give notice under ss 64 or 65 and copy permit to relevant determining referral authorities.	DCD, MCP&D, AMSTP, POs and P&BAO.	
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.	DCD, MCP&D, AMSTP, POs and P&BAO.	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.
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).	DCD, MCP&D, AMSTP, POs and P&BAO.	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.

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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.	DCD, MCP&D, AMSTP, POs and P&BAO.	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.	DCD, MCP&D, AMSTP, STPTL, PP, POs and P&BAO.	
s 69(1A)	Function of receiving application for extension of time to complete development.	DCD, MCP&D, AMSTP, STPTL, PP, POs and P&BAO.	
s 69(2)	Power to extend time.	DCD, MCP&D, AMSTP, STPTL and PP. POs and P&BAO.	Subject to prior approval from the DP or more senior officer.
s 70	Duty to make copy permit available for inspection.	DCD, MCP&D, AMSTP, POs and P&BAO.	
s 71(1)	Power to correct certain mistakes.	DCD, MCP&D and AMSTP. POs.	Subject to prior approval of the AMSTP or STPTL.

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 71(2)	Duty to note corrections in register.	DCD, MCP&D, AMSTP and POs.	
s 73	Power to decide to grant amendment subject to conditions.	DCD, MCP&D, AMSTP and POs.	
s 74	Duty to issue amended permit to applicant if no objectors.	DCD, MCP&D, AMSTP and POs.	
s 76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit.	DCD, MCP&D, AMSTP and POs.	
s 76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice.	DCD, MCP&D, AMSTP and POs.	
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.	DCD, MCP&D, AMSTP and POs.	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.
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 section 76A(5).	DCD, MCP&D, AMSTP and POs.	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.

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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.	DCD, MCP&D, AMSTP and POs.	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.	DCD, MCP&D, AMSTP and POs.	
s 83	Function of being respondent to an appeal.	DCD, MCP&D, AMSTP and POs.	
s 83B	Duty to give or publish notice of application for review.	DCD, MCP&D, AMSTP and POs.	
s 84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit.	DCD, MCP&D, AMSTP and POs.	
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.	DCD, MCP&D, AMSTP and POs.	
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.	DCD, MCP&D, AMSTP and POs.	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 84(6)	Duty to issue permit on receipt of advice.	DCD, MCP&D, AMSTP and POs.	
s 84AB	Power to agree to confining a review by the Tribunal.	DCD, MCP&D and AMSTP.	
s 86	Duty to issue a permit at order of Tribunal.	DCD, MCP&D, AMSTP and POs.	
s 87(3)	Power to apply to VCAT for the cancellation or amendment of a permit.	DCD, MCP&D.	
s 90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit.	DCD, MCP&D, AMSTP and POs.	
s 91(2)	Duty to comply with the directions of VCAT.	DCD, MCP&D, AMSTP and POs.	
s 91(2A)	Duty to issue amended permit to owner if Tribunal so directs.	DCD, MCP&D, AMSTP and POs.	
s 92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90.	DCD, MCP&D, AMSTP and POs.	
s 93(2)	Duty to give notice of VCAT order to stop development.	DCD, MCP&D.	

PLANNING AND ENVIRONMENT REGULATIONS 2015			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS AND LIMITATIONS
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.	DCD, MCP&D, AMSTP and POs.	

PLANNING AND ENVIRONMENT (FEES) REGULATIONS 2016			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS AND LIMITATIONS
r 20	Power to waive or rebate a fee other than a fee relating to an amendment to a planning scheme.	DCD, MCP&D.	
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.	DCD, MCP&D.	