

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

Hepburn Shire Council

Instrument of Delegation

by

The Chief Executive Officer

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 Hepburn Shire Council and the responsible authority for the administration and enforcement of the Hepburn Planning Scheme as set out in cl 72.01 of that scheme for the VicSmart Application and cl 53.24 for Future Homes Applications, 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

EMDCS means Executive Manager Development and Community Safety

MSTRP means Manager Strategic Planning

MPB means Manager Planning and Building

CPLAN means Coordinator Statutory Planning

SAP Means Statutory Planner

PSPSRP Means Strategic Planner

PAS Means Planning Administration Support

PSP Principal Strategic Planner

DSEO Means Development Services Enforcement Officer

3. declare that this Instrument of Delegation -

- 3.1 comes into force immediately upon its execution;

- 3.2 remains in force until varied or revoked; and

- 3.3 is subject to any conditions and limitations set out in paragraph 4, and in the Schedule;

4. 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 26 September 2024 and is made by the Chief Executive Officer.

Signed by the Chief Executive Officer of Council



Bradley Thomas
Chief Executive Officer
Hepburn Shire Council
Date: 26 September 2024

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SCHEDULE

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.50(4)	duty to amend application	EMDCS, CPLAN, PSP; SAP	
s.50(5)	power to refuse to amend application	EMDCS, MSTRP, MPB, CPLAN, PSP, SAP	
s.50(6)	duty to make note of amendment to application in register	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP;; PAS	
s.50A(1)	power to make amendment to application	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	

¹ All provisions are applicable for both VicSmart and Future Home applications, unless stated otherwise.

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.50A(3)	power to require applicant to notify owner and make a declaration that notice has been given	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.50A(4)	duty to note amendment to application in register	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP, , PAS	
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	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP;; PAS	
s 52(1)(a)	Duty to give notice of the application to owners/occupiers of adjoining allotments unless satisfied that the grant of permit would not cause material detriment to any person	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	Applicable for Future Homes Applications only Note: VicSmart Applications are exempt from the notice requirements under s 52(1)(a), (b), (c) and (d).

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 52(1)(b)	Duty to give notice of the application to other municipal council where appropriate	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	Applicable for Future Homes Applications only Note: VicSmart Applications are exempt from the notice requirements under s 52(1)(a), (b), (c) and (d).
s 52(1)(c)	Duty to give notice of the application to all persons required by the planning scheme	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	Applicable for Future Homes Applications only Note: VicSmart Applications are exempt from the notice requirements under s 52(1)(a), (b), (c) and (d).
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	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
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	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 52(1)(d)	Duty to give notice of the application to other persons who may be detrimentally effected	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	Applicable for Future Homes Applications only Note: VicSmart Applications are exempt from the notice requirements under s 52(1)(a), (b), (c) and (d).
s.52(3)	power to give any further notice of an application where appropriate	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.53(1)	power to require the applicant to give notice under section 52(1) to persons specified by it	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.53(1A)	power to require the applicant to give the notice under section 52(1AA)	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.54(1)	power to require the applicant to provide more information	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	Note: for VicSmart applications, delegates cannot require an applicant to provide more information than what is listed in Schedules to clause 59 of the planning scheme
s.54(1A)	duty to give notice in writing of information required under section 54(1)	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	Note: for VicSmart applications, delegates cannot require an applicant to provide more information than what is listed in Schedules to clause 59 of the planning scheme
s.54(1B)	duty to specify the lapse date for an application	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.54A(3)	power to decide to extend time or refuse to extend time to give required information	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.54A(4)	duty to give written notice of decision to extend or refuse to extend time under section 54A(3)	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s 55(1)	Duty to give copy application, together with the prescribed information, to every referral authority specified in the planning scheme	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.57(2A)	power to reject objections considered made primarily for commercial advantage for the objector	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.57(3)	function of receiving name and address of persons to whom notice of decision is to go	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.57(5)	duty to make a copy of every objection available in accordance with the public availability requirements	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; PAS	
s.57A(4)	duty to amend application in accordance with applicant's request, subject to section 57A(5)	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.57A(5)	power to refuse to amend application	EMDCS, MSTRP, MPB, CPLAN, PSP, SAP	
s.57A(6)	duty to note amendments to application in register	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; PAS, PAS	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.57B(1)	duty to determine whether and to whom notice should be given	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.57B(2)	duty to consider certain matters in determining whether notice should be given	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.57C(1)	duty to give copy of amended application to referral authority	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP, PAS	
s.58	duty to consider every application for a permit	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.58A	power to request advice from the Planning Application Committee	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s. 59(1)	Power to decide an application without delay	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s 60	Duty to consider certain matters	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	Note: VicSmart applications are exempt from the requirements of s 60(1)(b), (c), (e) and (f).
s.60(1)(a)	duty to consider the relevant planning scheme	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	Note: VicSmart applications are exempt from the requirements of s.60(1)(b), (c), (e) and (f).

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.60(1)(d)	duty to consider any decision and comments of a referral authority which has been received	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	Note: VicSmart applications are exempt from the requirements of s.60(1)(b), (c), (e) and (f).
s. 60(1A)(i)	power to consider any agreement made pursuant to section 173	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	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	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
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	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	the permit must not be inconsistent with a cultural heritage management plan under the <i>Aboriginal Heritage Act 2006</i>

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.61(2)	duty to decide to refuse to grant a permit if a relevant determining referral authority objects to grant of permit	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.61(2A)	power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.61(3)(a)	duty not to decide to grant a permit to use coastal Crown land without Minister's consent	Not applicable	
s.61(3)(b)	duty to refuse to grant the permit without the Minister's consent	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.61(4)	duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	

PLANNING AND ENVIRONMENT ACT 1987¹			
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	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.62(2)	power to include other conditions	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.62(4)	duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.62(5)(a)	power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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 section 173 agreement	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.62(5)(c)	power to include a permit condition that specified works be provided or paid for by the applicant	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
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)	EMDCS, MSTRP, MPB	
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 section 62(1)(a)	EMDCS, MSTRP, MPB	
s.63	duty to issue the permit where made a decision in favour of the application (if no one has objected)	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.64(5)	duty to give each objector a copy of an exempt decision	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	Note: VicSmart and Future Home 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 section 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	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	This provision applies also to a decision to grant an amendment to a permit – see section 75A.
s.65(1)	duty to give notice of refusal to grant permit to applicant and person who objected under section 57	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.66(1)	duty to give notice under section 64 or section 65 and copy permit to relevant determining referral authorities	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP, PAS	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP, PAS	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 section 66(5)	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP, PAS	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 sections 64 or 65	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP, PAS	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	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; PAS	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.69(1A)	function of receiving application for extension of time to complete development	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; PAS	
s.69(2)	power to extend time	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.70	duty to make a copy of every permit that it issues available in accordance with the public availability requirements	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP;; PAS	
s.71(1)	power to correct certain mistakes	EMDCS, MSTRP, MPB; CPLAN, PSP	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.71(2)	duty to note corrections in register	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; PAS	
s.73	power to decide to grant amendment subject to conditions	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.74	duty to issue amended permit to applicant if no objectors	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.76	duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.76A(1)	duty to give relevant determining referral authorities copy of amended permit and copy of notice	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; PAS	
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	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; PAS	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)	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; PAS	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 section 64 or 76	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; PAS	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

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.76D	duty to comply with direction of Minister to issue amended permit	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP;	
s.83	function of being respondent to an appeal	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; DSEO	
s.83B	duty to give or publish notice of application for review	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.84(1)	power to decide on an application at any time after an appeal is lodged against failure to grant a permit	EMDCS, MSTRP, MPB, CPLAN, PSP, SAP	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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	EMDCS, MSTRP, MPB, CPLAN, PSP, SAP	
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	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.84(6)	duty to issue permit on receipt of advice	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; PAS	
s. 84AB	Power to agree to confining a review by the Tribunal	EMDCS, MSTRP, MPB, CPLAN, PSP, SAP	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.86	duty to issue a permit at order of Tribunal	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP;, PAS	
s.87(3)	power to apply to VCAT for the cancellation or amendment of a permit	EMDCS, MSTRP, MPB, CPLAN, PSP	
s.90(1)	function of being heard at hearing of request for cancellation or amendment of a permit	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; DSEO	
s.91(2)	duty to comply with the directions of VCAT	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; DSEO	

PLANNING AND ENVIRONMENT ACT 1987¹			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.91(2A)	duty to issue amended permit to owner if Tribunal so directs	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.92	duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under section 90	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP	
s.93(2)	duty to give notice of VCAT order to stop development	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP; DSEO	

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 section 54 of the Act	EMDCS, MSTRP, MPB; CPLAN, PSP; SAP;	
r 25(a)	Duty to make copy of matter considered under s 60(1A)(g) in accordance with the public availability requirements	EMDCS, MSTRP, MPB; CPLAN, PSP	Applicable for Future Homes Applications only

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	Not delegated	
r.21	duty to record matters taken into account and which formed the basis of a decision to waive or rebate a fee under r.19 or r.20	EMDCS, MSTRP, MPB; CPLAN, PSP	