



Rural City of
Wangaratta

RURAL CITY OF WANGARATTA

INSTRUMENT OF DELEGATION

S14 INSTRUMENT OF DELEGATION BY CEO FOR VICSMART APPLICATIONS UNDER THE PLANNING AND ENVIRONMENT ACT 1987

05 SEPTEMBER 2023

Preamble

In exercise of the power conferred by s 47(2) of the Local Government Act 1989 and s 188 of the Planning and Environment Act 1987, I, as Chief Executive Officer of Wangaratta Rural City Council and the responsible authority for the administration and enforcement of the Wangaratta Planning Scheme as set out in cl 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	Position
CP	Cadet Planner
DS&C	Director Sustainability and Culture
MBP&C	Manager Building, Planning & Compliance
MEDE&C	Manager Economic Development Environment & Compliance
MSS	Manager Statutory Services
Not applicable	Not Applicable
P	Planner
PCO	Planning Compliance Officer
PCBPC	Planning Coordinator
SPBPC	Senior Planner

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 s 188 Planning and Environment Act 1987 or otherwise.

This Instrument of Delegation is dated 6 September 2023 and is made by the Chief Executive Officer.

Signed by the Chief Executive Officer of Council)

in the presence of)



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Witness

Delegation Sources

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

Positions

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

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 50(4)	Duty to amend application	CP, MBP&C, DS&C, MEDE&C, P, PCBPC, SPBPC	
s 50(5)	Power to refuse to amend application	MBP&C, DS&C, PCBPC	
s 50(6)	Duty to make note of amendment to application in register	CP, DS&C, MSS, P, PCBPC, SPBPC	
s 50A(1)	Power to make amendment to application	MBP&C, DS&C, P, PCBPC, SPBPC	

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given	DS&C, MSS, P, PCBPC, SPBPC	
s 50A(4)	Duty to note amendment to application in register	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
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	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
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	CP, MBP&C, DS&C, P, PCBPC, SPBPC	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	CP, MBP&C, DS&C, P, PCBPC, SPBPC	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt.
s 52(1AA)	Duty to give notice of an application to remove or vary a registered	CP, MBP&C,	Notice requirements under s 52(1)(a), (b), (c) and (d) are

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	restrictive covenant	DS&C, P, PCBPC, SPBPC	exempt.
s 52(3)	Power to give any further notice of an application where appropriate	MBP&C, DS&C, P, PCBPC, SPBPC	
s 53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	DS&C, MSS, P, PCBPC, SPBPC	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)	MBP&C, DS&C, P, PCBPC, SPBPC	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	MBP&C, DS&C, P, PCBPC, SPBPC	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)	CP, MBP&C, DS&C, P,	Note: delegates cannot require an applicant to provide more information than what is listed in schs 59 - 59.16 of the

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		PCBPC, SPBPC	planning scheme
s 54(1B)	Duty to specify the lapse date for an application	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 54A(3)	Power to decide to extend time or refuse to extend time to give required information	MBP&C, DS&C, PCBPC, SPBPC	
s 54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3)	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector	MBP&C, DS&C, PCBPC	
s 57(3)	Function of receiving name and address of persons to whom notice of decision is to go	MBP&C, DS&C, PCBPC, SPBPC	
s 57(5)	Duty to make a copy of every objection available in accordance	CP, MBP&C,	

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	with the public availability requirements	DS&C, P, PCBPC, SPBPC	
s 57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 57A(5)	Power to refuse to amend application	DS&C, MSS, PCBPC, SPBPC	
s 57A(6)	Duty to note amendments to application in register	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 57B(1)	Duty to determine whether and to whom notice should be given	MBP&C, DS&C, PCBPC, SPBPC	
s 57B(2)	Duty to consider certain matters in determining whether notice should be given	MBP&C, DS&C, PCBPC, SPBPC	

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 57C(1)	Duty to give copy of amended application to referral authority	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 58	Duty to consider every application for a permit	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 58A	Power to request advice from the Planning Application Committee	MBP&C, DS&C	
s 59(1)	Power to decide an application without delay	MBP&C, DS&C, P, PCBPC, SPBPC	
s 60(1)(a)	Duty to consider the relevant planning scheme	CP, MBP&C, DS&C, P, PCBPC, SPBPC	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	CP, MBP&C, DS&C, P,	Note: VicSmart applications are exempt from the

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	which has been received	PCBPC, SPBPC	requirements of s 60(1)(b), (c), (e) and (f).
s 60(1A)(i)	Power to consider any agreement made pursuant to s 173	MBP&C, DS&C, P, PCBPC, SPBPC	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	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
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	MBP&C, DS&C, P, PCBPC, SPBPC	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	MBP&C, DS&C, PCBPC	
s 61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	DS&C, MSS, PCBPC	

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 61(3)(a)	Duty not to decide to grant a permit to use coastal Crown land without Minister's consent	Not applicable, DS&C	
s 61(3)(b)	Duty to refuse to grant the permit without the Minister's consent	Not applicable, DS&C	
s 61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	MBP&C, DS&C, PCBPC	
s 62(1)	Duty to include certain conditions in deciding to grant a permit	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 62(2)	Power to include other conditions	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	CP, MBP&C, DS&C, P, PCBPC, SPBPC	

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	MBP&C, DS&C, P, PCBPC, SPBPC	
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	MBP&C, DS&C, P, PCBPC, SPBPC	
s 62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	MBP&C, DS&C, P, PCBPC, SPBPC	
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)	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
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)	CP, MBP&C, DS&C, P, PCBPC, SPBPC	

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	CP, DS&C, MSS, P, PCBPC, SPBPC	
s 64(5)	Duty to give each objector a copy of an exempt decision	MBP&C, DS&C, PCBPC	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	CP, DS&C, MSS, P, PCBPC, SPBPC	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	CP, DS&C, MSS, P, PCBPC, SPBPC	

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 66(1)	Duty to give notice under ss 64 or 65 and copy permit to relevant determining referral authorities	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
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	CP, MBP&C, DS&C, P, PCBPC, SPBPC	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)	CP, MBP&C, DS&C, P, PCBPC, SPBPC	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	CP, MBP&C, DS&C, P, PCBPC, SPBPC	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	CP, MBP&C, DS&C, P,	

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		PCBPC, SPBPC	
s 69(1A)	Function of receiving application for extension of time to complete development	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 69(2)	Power to extend time	MBP&C, DS&C, PCBPC, SPBPC	
s 70	Duty to make a copy of every permit that it issues available in accordance with the public availability requirements	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 71(1)	Power to correct certain mistakes	MBP&C, DS&C, P, PCBPC, SPBPC	
s 71(2)	Duty to note corrections in register	CP, MBP&C, DS&C, P, PCBPC, SPBPC	

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 73	Power to decide to grant amendment subject to conditions	MBP&C, DS&C, PCBPC, SPBPC	
s 74	Duty to issue amended permit to applicant if no objectors	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	CP, DS&C, MSS, P, PCBPC, SPBPC	
s 76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
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	CP, MBP&C, DS&C, P, PCBPC, SPBPC	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

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
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)	CP, MBP&C, DS&C, P, PCBPC, SPBPC	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	CP, MBP&C, DS&C, P, PCBPC, SPBPC	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	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 83	Function of being respondent to an appeal	MBP&C, DS&C, PCBPC	
s 83B	Duty to give or publish notice of application for review	MBP&C, DS&C, PCBPC	

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	MBP&C, DS&C	
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	CP, DS&C, MSS, P, PCBPC, SPBPC	
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	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 84(6)	Duty to issue permit on receipt of advice	CP, MBP&C, DS&C, P, PCBPC, SPBPC	
s 84AB	Power to agree to confining a review by the Tribunal	DS&C, MSS	
s 86	Duty to issue a permit at order of Tribunal	CP, MBP&C, DS&C, P, PCBPC, SPBPC	

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	MBP&C, DS&C	
s 90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	MBP&C, DS&C, PCBPC	
s 91(2)	Duty to comply with the directions of VCAT	MBP&C, DS&C, PCBPC	
s 91(2A)	Duty to issue amended permit to owner if Tribunal so directs	MBP&C, DS&C, PCBPC	
s 92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90	MBP&C, DS&C, PCBPC	
s 93(2)	Duty to give notice of VCAT order to stop development	PCO, MBP&C, DS&C, PCBPC	

Planning and Environment Regulations 2015

Provision	Power and Functions 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	MBP&C, DS&C, PCBPC	

Planning and Environment (Fees) Regulations 2016

Provision	Power and Functions 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	DS&C, MSS	
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	MBP&C, DS&C, PCBPC	