

Whitehorse City 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, Simon McMillan as Chief Executive Officer of Whitehorse City Council and the responsible authority for the administration and enforcement of the Whitehorse Planning 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:
 - "AMSTP" means Assistant Manager Statutory Planning
 - "CSTRP" Coordinator Statutory Planning
 - "DP" means Development Planner
 - "DCD" means Director City Development
 - "MCP&D" means Manager City Planning and Development
 - "P&BAO" means Planning and Building Administration Officer
 - "PEO" means Planning Enforcement Officer
 - "POs" means Planning Officers which includes STPTL, PP, DP, UP and SPO
 - "PP" means Principal Planner
 - "STRP" means Strategic Planner
 - "SPO" means Subdivision Planning Officer
 - "SSTRP" means Senior Strategic Planner
 - "STPTL" means Statutory Planning Team Leader
 - "UP" means Urban 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 4 April 2022 and is made by the Chief Executive Officer.

Signed by the Chief Executive Officer)
of Whitehorse City Council)



in the presence of

Witness



Delegation Sources

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

Positions

Abbreviation	Position
AMSTP	Assistant Manager Statutory Planning
DP	Development Planner
DCD	Director City Development
MCP&D	Manager City Planning & Development
P&BAO	Planning & Building Administration Officer
POs	Planning Officers
PP	Principal Planner
TLSTP	Team Leader Statutory Planning

Positions Groups

Positions Group	Position	Positions
PO Group	Planning Officers	DP, TLSTP, UP, PP

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	AMSTP, POs, MCP&D, DCD	
s 50(5)	Power to refuse to amend application	AMSTP, POs, MCP&D, DCD	
s 50(6)	Duty to make note of amendment to application in register	AMSTP, P&BAO, POs, MCP&D, DCD	
s 50A(1)	Power to make amendment to application	AMSTP, P&BAO, POs, MCP&D, DCD	

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	AMSTP, P&BAO, POs, MCP&D, DCD	
s 50A(4)	Duty to note amendment to application in register	AMSTP, P&BAO, POs, MCP&D, DCD	
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	AMSTP, P&BAO, POs, MCP&D, DCD	
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	AMSTP, POs, MCP&D, DCD	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply
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	AMSTP, POs, MCP&D, DCD	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 52(1AA)	Duty to give notice of an application to remove or vary a registered restrictive covenant	AMSTP, POs, MCP&D, DCD	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	AMSTP, POs, MCP&D, DCD	
s 53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	AMSTP, POs, MCP&D, DCD	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)	AMSTP, POs, MCP&D, DCD	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	AMSTP, POs, MCP&D, DCD	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)	AMSTP, POs, MCP&D, DCD	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

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 54(1B)	Duty to specify the lapse date for an application	AMSTP, POs, MCP&D, DCD	
s 54A(3)	Power to decide to extend time or refuse to extend time to give required information	AMSTP, POs, MCP&D, DCD	
s 54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3)	AMSTP, POs, MCP&D, DCD	
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	AMSTP, P&BAO, POs, MCP&D, DCD	
s 57(5)	Duty to make a copy of every objection available in accordance with the public availability requirements	AMSTP, P&BAO, POs, MCP&D, DCD	

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	AMSTP, P&BAO, POs, MCP&D, DCD	
s 57A(5)	Power to refuse to amend application	AMSTP, POs, MCP&D, DCD	
s 57A(6)	Duty to note amendments to application in register	AMSTP, P&BAO, POs, MCP&D, DCD	
s 57B(1)	Duty to determine whether and to whom notice should be given	AMSTP, POs, MCP&D, DCD	
s 57B(2)	Duty to consider certain matters in determining whether notice should be given	AMSTP, POs, MCP&D, DCD	
s 57C(1)	Duty to give copy of amended application to referral authority	AMSTP, P&BAO, POs, MCP&D, DCD	

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 58	Duty to consider every application for a permit	AMSTP, POs, MCP&D, DCD	
s 58A	Power to request advice from the Planning Application Committee	DCD	
s 59(1)	Power to decide an application without delay	AMSTP, POs, MCP&D, DCD	
s 60(1)(a)	Duty to consider the relevant planning scheme	AMSTP, POs, MCP&D, DCD	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	AMSTP, POs, MCP&D, DCD	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 s 173	AMSTP, POs, MCP&D, DCD	Note: VicSmart applications are exempt from the requirements of s 60(1A)(b) - (h) and (j).

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 60(1B)	Duty to consider the number of objectors in considering whether use or development may have significant social effect	AMSTP, POs, MCP&D, DCD	
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	AMSTP, TLSTP, MCP&D, DCD	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	AMSTP, DP, TLSTP, PP, MCP&D, DCD	
s 61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	AMSTP, DP, TLSTP, PP, MCP&D, DCD	
s 61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	AMSTP, MCP&D, DCD	
s 62(1)	Duty to include certain conditions in deciding to grant a permit	AMSTP, POs, MCP&D, DCD	

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 62(2)	Power to include other conditions	AMSTP, POs, MCP&D, DCD	
s 62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	AMSTP, POs, MCP&D, DCD	
s 62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	AMSTP, POs, MCP&D, DCD	
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	AMSTP, POs, MCP&D, DCD	
s 62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	AMSTP, POs, MCP&D, DCD	
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)	AMSTP, POs, MCP&D, DCD	

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
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)	AMSTP, POs, MCP&D, DCD	
s 63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	AMSTP, POs, MCP&D, DCD	
s 64(5)	Duty to give each objector a copy of an exempt decision	AMSTP, POs, MCP&D, DCD	<p>Note: VicSmart applications are exempt from requirements of s 64(1), (2) and (3)</p> <p>This provision applies also to a decision to grant an amendment to a permit - see s 75</p>
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	AMSTP, POs, MCP&D, DCD	This provision applies also to a decision to grant an amendment to a permit - see s 75A

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 65(1)	Duty to give notice of refusal to grant permit to applicant and person who objected under s 57	AMSTP, POs, MCP&D, DCD	
s 66(1)	Duty to give notice under ss 64 or 65 and copy permit to relevant determining referral authorities	AMSTP, P&BAO, POs, MCP&D, DCD	
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	AMSTP, P&BAO, POs, MCP&D, DCD	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)	AMSTP, P&BAO, POs, MCP&D, DCD	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	AMSTP, P&BAO, POs, MCP&D, DCD	If the recommending referral authority did not object to the grant of the permit or the recommending referral authority

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 69(1)	Function of receiving application for extension of time of permit	AMSTP, P&BAO, POs, TLSTP, PP, MCP&D, DCD	did not recommend that a condition be included on the permit
s 69(1A)	Function of receiving application for extension of time to complete development	AMSTP, P&BAO, POs, TLSTP, PP, MCP&D, DCD	
s 69(2)	Power to extend time	AMSTP, TLSTP, PP, MCP&D, DCD	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	AMSTP, P&BAO, POs, MCP&D, DCD	

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 71(1)	Power to correct certain mistakes	AMSTP, MCP&D, DCD	POs subject to prior approval of the AMSTP or TLSTP.
s 71(2)	Duty to note corrections in register	AMSTP, POs, MCP&D, DCD	
s 73	Power to decide to grant amendment subject to conditions	AMSTP, POs, MCP&D, DCD	
s 74	Duty to issue amended permit to applicant if no objectors	AMSTP, POs, MCP&D, DCD	
s 76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	AMSTP, POs, MCP&D, DCD	
s 76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	AMSTP, POs, MCP&D, DCD	

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
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	AMSTP, POs, MCP&D, DCD	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 s 76A(5)	AMSTP, POs, MCP&D, DCD	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	AMSTP, POs, MCP&D, DCD	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	AMSTP, POs, MCP&D, DCD	
s 83	Function of being respondent to an appeal	AMSTP, POs, MCP&D, DCD	

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 83B	Duty to give or publish notice of application for review	AMSTP, POs, MCP&D, DCD	
s 84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	AMSTP, POs, MCP&D, DCD	
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	AMSTP, POs, MCP&D, DCD	
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	AMSTP, POs, MCP&D, DCD	
s 84(6)	Duty to issue permit on receipt of advice	AMSTP, POs, MCP&D, DCD	
s 84AB	Power to agree to confining a review by the Tribunal	AMSTP, MCP&D, DCD	

Planning and Environment Act 1987

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 86	Duty to issue a permit at order of Tribunal	AMSTP, POs, MCP&D, DCD	
s 87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	MCP&D, DCD	
s 90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	AMSTP, POs, MCP&D, DCD	
s 91(2)	Duty to comply with the directions of VCAT	AMSTP, POs, MCP&D, DCD	
s 91(2A)	Duty to issue amended permit to owner if Tribunal so directs	AMSTP, POs, MCP&D, DCD	
s 92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90	AMSTP, POs, MCP&D, DCD	
s 93(2)	Duty to give notice of VCAT order to stop development	MCP&D, DCD	

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	AMSTP, POs, MCP&D, DCD	

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	MCP&D, DCD	
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	MCP&D, DCD	