

S14

Instrument of Delegation

by

the Chief Executive Officer

to staff

for VicSmart Applications and Future Homes Applications

under the Planning and Environment Act 1987

September 16, 2024

Instrument of Delegation by CEO for VicSmart Applications and Future Homes 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 Wodonga City Council (the Council) and the responsible authority for the administration and enforcement of the Wodonga 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 to the abbreviated title in the schedule means the title shown below:

Abbreviated title	Title
DIG	Director Infrastructure and Growth
MSS	Manager Statutory Services
TLSP	Team Leader Strategic Planning
TLStatP	Team Leader Statutory Planning
PTO	Planning Technical Officer
SP	Strategic Planner
SSP	Senior Strategic Planner
SStatP	Senior Statutory Planner
StatP	Statutory 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 section 188 *Planning and Environment Act 1987* or otherwise.

This Instrument of Delegation is dated September 16, 2024 and is made by the Chief Executive Officer.

Signed by the Chief Executive Officer of Wodonga Council in the presence of:))))) Date:
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 Witness

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 Date

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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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	
s.50(5)	Power to refuse to amend application.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	The responsible authority may refuse to amend the application if it considers that the amendment is so substantial that a new application for a permit should be made.
s.50(6)	Duty to make note of amendment to application in register.	DIG, MSS, TLSP, TLStatP	
s.50A(1)	Power to make amendment to application.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.50A(4)	Duty to note amendment to application in register.	DIG, MSS, TLSP, TLStatP, SSP, SP, StatP	
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.	DIG, MSS, TLSP, TLStatP	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
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.	DIG, MSS, TLStatP, SStatP, StatP	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)(b)	Duty to give notice of the application to other municipal council where appropriate.	DIG, MSS, TLStatP, SStatP, StatP	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.	DIG, MSS, TLStatP, SStatP, StatP	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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	

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Planning and Environment Act 1987			
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.	DIG, MSS, TLStatP, SStatP, StatP	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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.53(1)	Power to require the applicant to give notice under section 52(1) to persons specified by it.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.53(1A)	Power to require the applicant to give the notice under section 52(1AA).	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.54(1)	Power to require the applicant to provide more information.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	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).	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	Note: for VicSmart applications, delegates cannot require an applicant to provide more information than what

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
			is listed in schedules to clause 59 of the planning scheme.
s.54(1B)	Duty to specify the lapse date for an application.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.54A(3)	Power to decide to extend time or refuse to extend time to give required information.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.54A(4)	Duty to give written notice of decision to extend or refuse to extend time und section 54A(3).	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	
s 55(1)	Duty to give copy application, together with the prescribed information, to every referral authority specified in the planning scheme.	DIG, MSS, TLStatP, SStatP, StatP	
s.57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector.	DIG, MSS, TLSP, TLStatP	
s.57(3)	Function of receiving name and address of persons to whom notice of decision is to go.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.57(5)	Duty to make copy of every objection available in accordance with the public availability requirements.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	
s.57A(4)	Duty to amend application in accordance with applicant's request, subject to section 57A(5).	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.57A(5)	Power to refuse to amend application.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.57A(6)	Duty to note amendments to application in register.	DIG, MSS, TLSP, TLStatP	
s.57B(1)	Duty to determine whether and to whom notice should be given.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.57B(2)	Duty to consider certain matters in determining whether notice should be given.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.57C(1)	Duty to give copy of amended application to referral authority.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.58	Duty to consider every application for a permit.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.58A	Power to request advice from the Planning Application Committee.	DIG, MSS	
s. 59(1)	Power to decide an application without delay.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s 60	Duty to consider certain matters.	DIG, MSS, TLStatP, SStatP, StatP	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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	Note: VicSmart applications are exempt from the requirements of s.60(1A)(b) – (h) and (j).

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Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.60(1B)	Duty to consider the number of objectors in considering whether use or development may have significant social effect.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.61(3)(a)	Duty not to decide to grant a permit to use coastal Crown land without Minister's consent.	DIG, MSS, TLSP, TLStatP	
s.61(3)(b)	Duty to refuse to grant the permit without the Minister's consent.	DIG, MSS, TLSP, TLStatP	
s.61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	

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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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.62(2)	Power to include other conditions.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c).	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
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).	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & 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 section 62(1)(a).	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.63	Duty to issue the permit where made a decision in favour of the application (if no one has objected).	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.64(5)	Duty to give each objector a copy of an exempt decision.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.66(1)	Duty to give notice under section 64 or section 65 and copy permit to relevant determining referral authorities.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	
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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	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).	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	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 section 64 or 65.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	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.

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.69(1)	Function of receiving application for extension of time of permit.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	
s.69(1A)	Function of receiving application for extension of time to complete development.	DIG, MSS, TLSP	
s.69(2)	Power to extend time.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.70	Duty to make a copy of every permit that it issues available in accordance with the public availability requirements.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	
s.71(1)	Power to correct certain mistakes.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.71(2)	Duty to note corrections in register.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	
s.73	Power to decide to grant amendment subject to conditions.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.74	Duty to issue amended permit to applicant if no objectors.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	
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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	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).	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	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	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	If the recommending referral authority did not object to the amendment of the permit or the recommending referral

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
	to grant and a copy of any notice given under section 64 or 76.		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.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.83	Function of being respondent to an appeal.	DIG, MSS, TLSP, TLStatP, SSP, SP, StatP	
s.83B	Duty to give or publish notice of application for review.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit.	DIG, MSS, TLSP, TLStatP	
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.	DIG, MSS, TLSP, TLStatP	
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.	DIG, MSS, TLSP, TLStatP	

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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.	DIG, MSS, TLSP, TLStatP	
s. 84AB	Power to agree to confining a review by the Tribunal.	DIG, MSS	
s.86	Duty to issue a permit at order of Tribunal.	DIG, MSS, TLSP, TLStatP	
s.87(3)	Power to apply to VCAT for the cancellation or amendment of a permit.	DIG, MSS, TLSP, TLStatP	
s.90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	
s.91(2)	Duty to comply with the directions of VCAT.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, PTO, StatP	
s.91(2A)	Duty to issue amended permit to owner if Tribunal so directs.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP	
s.92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under section 90.	DIG, MSS, TLSP, TLStatP, SSP, SP, SStatP, StatP	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.93(2)	Duty to give notice of VCAT order to stop development.	DIG, MSS, TLSP, TLStatP, TLC	

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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.	DIG, MSS, TLSP, TLStatP, SSP, SP	
r 25(a)	Duty to make copy of matter considered under s 60(1A)(g) in accordance with the public availability requirements.	DIG, MSS, TLStatP, SStatP, StatP	Applicable for Future Homes Applications only.

Instrument of Delegation for VicSmart and Future Homes applications (S14)

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.	DIG	
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.	DIG, MSS, TLSP, TLStatP	