



Maddocks

Maddocks Delegations and Authorisations

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

Southern Grampians Shire 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 s 98(2) of the *Local Government Act 1989* and s 188 of the *Planning and Environment Act 1987*, I, as Chief Executive Officer of Southern Grampians Shire Council and the responsible authority for the administration and enforcement of the Southern Grampians 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

MPRS means Manager Planning and Regulatory Services

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 25 March 2019 and is made by the Chief Executive Officer.

Signed by the Chief Executive Officer of Council
in the presence of:



.....
Witness

SCHEDULE

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PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s49(1)	Duty to keep a register of all applications for permits and determinations relating to permits	MPRS	
s49(2)	Duty to make register available for inspection	MPRS	
s50(4)	Duty to amend application	MPRS	
s50(5)	Power to refuse to amend application	MPRS	
s50(6)	Duty to make note of amendment to application in register	MPRS	
s50A(1)	Power to make amendment to application	MPRS	
s50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given	MPRS	
s50A(4)	Duty to note amendment to application in register	MPRS	
s51	Duty to make a copy of every application and the prescribed information supplied in respect of the application available for inspection	MPRS	
s52(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	MPRS	Notice requirements under s52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply
s52(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	MPRS	Notice requirements under s52(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
s52(1AA)	Duty to give notice of an application to remove or vary a registered restrictive covenant	MPRS	Notice requirements under s52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply
s52(3)	Power to give any further notice of an application where appropriate	MPRS	
s53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	MPRS	Notice requirements under s52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply
s53(1A)	Power to require the applicant to give the notice under s 52(1AA)	MPRS	Notice requirements under s52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply
s54(1)	Power to require the applicant to provide more information	MPRS	Note: delegates cannot require an applicant to provide more information than what is listed in schs 59 – 59.16 of the planning scheme
s54(1A)	Duty to give notice in writing of information required under s 54(1)	MPRS	Note: delegates cannot require an applicant to provide more information than what is listed in schs 59 – 59.16 of the planning scheme
s54(1B)	Duty to specify the lapse date for an application	MPRS	
s54A(3)	Power to decide to extend time or refuse to extend time to give required information	MPRS	
s54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3)	MPRS	
s57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector	MPRS	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s57(3)	Function of receiving name and address of persons to whom notice of decision is to go	MPRS	
s57(5)	Duty to make available for inspection copy of all objections	MPRS	
s57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	MPRS	
s57A(5)	Power to refuse to amend application	MPRS	
s57A(6)	Duty to note amendments to application in register	MPRS	
s57B(1)	Duty to determine whether and to whom notice should be given	MPRS	
s57B(2)	Duty to consider certain matters in determining whether notice should be given	MPRS	
s57C(1)	Duty to give copy of amended application to referral authority	MPRS	
s58	Duty to consider every application for a permit	MPRS	
s58A	Power to request advice from the Planning Application Committee	MPRS	
s 59(1)	Power to decide an application without delay	MPRS	
s60(1)(a)	Duty to consider the relevant planning scheme	MPRS	Note: VicSmart applications are exempt from the requirements of s60(1)(b), (c), (e) and (f).
s60(1)(d)	Duty to consider any decision and comments of a referral authority which has been received	MPRS	Note: VicSmart applications are exempt from the requirements of s60(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	MPRS	Note: VicSmart applications are exempt from the requirements of s60(1A)(b) – (h) and (j).
s 60(1A)(i)	Power to consider any agreement made pursuant to s 173	MPRS	Note: VicSmart applications are exempt from the requirements of s60(1A)(b) – (h) and (j).
s60(1B)	Duty to consider the number of objectors in considering whether use or development may have significant social effect	MPRS	
s61(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	MPRS	The permit must not be inconsistent with a cultural heritage management plan under the <i>Aboriginal Heritage Act 2006</i>
s61(2)	Duty to decide to refuse to grant a permit if a relevant determining referral authority objects to grant of permit	MPRS	
s61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	MPRS	
s61(3)(a)	Duty not to decide to grant a permit to use coastal Crown land without Minister's consent	MPRS	
s61(3)(b)	Duty to refuse to grant the permit without the Minister's consent	MPRS	
s61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	MPRS	
s62(1)	Duty to include certain conditions in deciding to grant a permit	MPRS	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s62(2)	Power to include other conditions	MPRS	
s62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	MPRS	
s62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	MPRS	
s62(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	MPRS	
s62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	MPRS	
s62(6)(a)	Duty not to include a permit condition requiring a person to pay an amount for or provide works except in accordance with s46N(1), 46GV(7) or 62(5)	MPRS	
s62(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)	MPRS	
s63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	MPRS	
s64(5)	Duty to give each objector a copy of an exempt decision	MPRS	Note: VicSmart applications are exempt from requirements of s64(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	
s64A	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	MPRS	This provision applies also to a decision to grant an amendment to a permit - see s 75A	
s65(1)	Duty to give notice of refusal to grant permit to applicant and person who objected under s 57	MPRS		
s66(1)	Duty to give notice under ss 64 or 65 and copy permit to relevant determining referral authorities	MPRS		
s66(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	MPRS	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	
s66(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)	MPRS	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
s66(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	MPRS	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
s69(1)	Function of receiving application for extension of time of permit	MPRS	
s69(1A)	Function of receiving application for extension of time to complete development	MPRS	
s69(2)	Power to extend time	MPRS	
s70	Duty to make copy permit available for inspection	MPRS	
s71(1)	Power to correct certain mistakes	MPRS	
s71(2)	Duty to note corrections in register	MPRS	
s73	Power to decide to grant amendment subject to conditions	MPRS	
s74	Duty to issue amended permit to applicant if no objectors	MPRS	
s76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	MPRS	
s76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	MPRS	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s76A(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	MPRS	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
s76A(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)	MPRS	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
s76A(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	MPRS	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
s76D	Duty to comply with direction of Minister to issue amended permit	MPRS	
s83	Function of being respondent to an appeal	MPRS	
s83B	Duty to give or publish notice of application for review	MPRS	
s84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	MPRS	
s84(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	MPRS	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s84(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	MPRS	
s84(6)	Duty to issue permit on receipt of advice	MPRS	
s 84AB	Power to agree to confining a review by the Tribunal	MPRS	
s86	Duty to issue a permit at order of Tribunal	MPRS	
s87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	MPRS	
s90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	MPRS	
s91(2)	Duty to comply with the directions of VCAT	MPRS	
s91(2A)	Duty to issue amended permit to owner if Tribunal so directs	MPRS	
s92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90	MPRS	
s93(2)	Duty to give notice of VCAT order to stop development	MPRS	

PLANNING AND ENVIRONMENT REGULATIONS 2015			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS AND LIMITATIONS
r21	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	MPRS	

PLANNING AND ENVIRONMENT (FEES) REGULATIONS 2016			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS AND LIMITATIONS
r20	Power to waive or rebate a fee other than a fee relating to an amendment to a planning scheme	MPRS	
r21	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	MPRS	