

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



Mansfield Shire

**Instrument of Delegation
by
the Chief Executive Officer**

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

In exercise of the power conferred by s 47(2) of the *Local Government Act 2020* and s 188 of the *Planning and Environment Act 1987*, I, as Chief Executive Officer of Mansfield Shire Council and the responsible authority for the administration and enforcement of the Mansfield Planning Scheme as set out in cl 72.01 of that scheme, by this Instrument of Delegation –

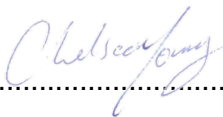
1. Delegate each duty and/or function and/or power respectively described in column 2 of the Schedule (and summarised in column 3 of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position described opposite each such duty and/or function and/or power in column 4 of the Schedule;
2. record that references in the Schedule are as follows:

Abbreviation	Position
CC	Co-ordinator Compliance
FCO	Financial Controller
GMIP	General Manager Investment and Planning
PAA	Planning Administration Assistant
SCP	Senior Co-ordinator Planning
SP	Statutory Planner
SSP	Senior 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; and
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 subject to lawful delegation, whether on account of s 188 of the *Planning and Environment Act 1987* or otherwise

This Instrument of Delegation is dated 18 November 2024 and is made by the Chief Executive Officer.

Signed by the Chief Executive Officer ()
of Mansfield Shire Council)
in the presence of)



.....
Witness

18/11/2024
.....

Date

Delegation Sources

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

Delegation Source	Provision	Item Delegated	Delegate	Conditions & Limitations
Planning and Environment Act 1987	s 50(4)	Duty to amend application	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 50(5)	Power to refuse to amend application	GMIP, SCP	
Planning and Environment Act 1987	s 50(6)	Duty to make note of amendment to application in register	GMIP, PAA, SCP, SP, SSP	
Planning and Environment Act 1987	s 50A(1)	Power to make amendment to application	GMIP, SCP	
Planning and Environment Act 1987	s 50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given	GMIP, SCP	
Planning and Environment Act 1987	s 50A(4)	Duty to note amendment to application in register	GMIP, PAA, SCP, SP, SSP	
Planning and Environment Act 1987	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	GMIP, PAA, SCP, SP, SSP	
Planning and Environment Act 1987	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	GMIP, SCP, SP, SSP	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 1987	s 52(1)(b)	Duty to give notice of the application to other municipal council where appropriate	GMIP, SCP, SP, SSP	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 1987	s 52(1)(c)	Duty to give notice of the application to all persons required by the planning scheme	GMIP, SCP, SP, SSP	Applicable for Future Homes Applications only Note: VicSmart Applications are exempt from the notice requirements under s 52(1)(a), (b), (c) and (d).

Delegation Source	Provision	Item Delegated	Delegate	Conditions & Limitations
Planning and Environment Act 1987	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	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	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	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 52(1)(d)	Duty to give notice of the application to other persons who may be detrimentally effected	GMIP, SCP, SP, SSP	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 1987	s 52(3)	Power to give any further notice of an application where appropriate	GMIP, SCP	
Planning and Environment Act 1987	s 53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	GMIP, SCP	
Planning and Environment Act 1987	s 53(1A)	Power to require the applicant to give the notice under s 52(1AA)	GMIP, SCP	
Planning and Environment Act 1987	s 54(1)	Power to require the applicant to provide more information	GMIP, SCP	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
Planning and Environment Act 1987	s 54(1A)	Duty to give notice in writing of information required under s 54(1)	GMIP, SCP, SP, SSP	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
Planning and Environment Act 1987	s 54(1B)	Duty to specify the lapse date for an application	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 54A(3)	Power to decide to extend time or refuse to extend time to give required information	GMIP, SCP	

Delegation Source	Provision	Item Delegated	Delegate	Conditions & Limitations
Planning and Environment Act 1987	s 54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3)	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 55(1)	Duty to give copy application, together with the prescribed information, to every referral authority specified in the planning scheme	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector	GMIP, SCP	
Planning and Environment Act 1987	s 57(3)	Function of receiving name and address of persons to whom notice of decision is to go	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 57(5)	Duty to make a copy of every objection available in accordance with the public availability requirements	GMIP, PAA, SCP, SP, SSP	
Planning and Environment Act 1987	s 57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 57A(5)	Power to refuse to amend application	GMIP, SCP	
Planning and Environment Act 1987	s 57A(6)	Duty to note amendments to application in register	GMIP, PAA, SCP, SP, SSP	
Planning and Environment Act 1987	s 57B(1)	Duty to determine whether and to whom notice should be given	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 57B(2)	Duty to consider certain matters in determining whether notice should be given	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 57C(1)	Duty to give copy of amended application to referral authority	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 58	Duty to consider every application for a permit	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 58A	Power to request advice from the Planning Application Committee	GMIP, SCP	
Planning and Environment Act 1987	s 59(1)	Power to decide an application without delay	GMIP, SCP	

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Delegation Source	Provision	Item Delegated	Delegate	Conditions & Limitations
Planning and Environment Act 1987	s 60	Duty to consider certain matters	GMIP, SCP, SP, SSP	Note: VicSmart applications are exempt from the requirements of s 60(1)(b), (c), (e) and (f).
Planning and Environment Act 1987	s 60(1)(d)	Duty to consider any decision and comments of a referral authority which has been received	GMIP, SCP, SP, SSP	Note: VicSmart applications are exempt from the requirements of s 60(1)(b), (c), (e) and (f).
Planning and Environment Act 1987	s 60(1A)(i)	Power to consider any agreement made pursuant to s 173	GMIP, SCP	Note: VicSmart applications are exempt from the requirements of s 60(1A)(b) - (h) and (j).
Planning and Environment Act 1987	s 60(1B)	Duty to consider the number of objectors in considering whether use or development may have significant social effect	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	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	GMIP, SCP	The permit must not be inconsistent with a cultural heritage management plan under the Aboriginal Heritage Act 2006 Decisions to refuse a permit must be in accordance with Council Policy.
Planning and Environment Act 1987	s 61(2)	Duty to decide to refuse to grant a permit if a relevant determining referral authority objects to grant of permit	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	GMIP, SCP	
Planning and Environment Act 1987	s 61(3)(b)	Duty to refuse to grant the permit without the Minister's consent	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 62(1)	Duty to include certain conditions in deciding to grant a permit	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 62(2)	Power to include other conditions	GMIP, SCP	

Delegation Source	Provision	Item Delegated	Delegate	Conditions & Limitations
Planning and Environment Act 1987	s 62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	GMIP, SCP	
Planning and Environment Act 1987	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	GMIP, SCP	
Planning and Environment Act 1987	s 62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	GMIP, SCP	
Planning and Environment Act 1987	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)	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	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)	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 64(5)	Duty to give each objector a copy of an exempt decision	GMIP, SCP, SP, SSP	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 s 75

Delegation Source	Provision	Item Delegated	Delegate	Conditions & Limitations
Planning and Environment Act 1987	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	GMIP, SCP, SP, SSP	This provision applies also to a decision to grant an amendment to a permit - see s 75A
Planning and Environment Act 1987	s 65(1)	Duty to give notice of refusal to grant permit to applicant and person who objected under s 57	GMIP, SCP, SP	
Planning and Environment Act 1987	s 66(1)	Duty to give notice under ss 64 or 65 and copy permit to relevant determining referral authorities	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	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	GMIP, SCP, SP, SSP	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
Planning and Environment Act 1987	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)	GMIP, SCP, SP, SSP	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	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	GMIP, SCP, SP, SSP	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
Planning and Environment Act 1987	s 69(1)	Function of receiving application for extension of time of permit	GMIP, PAA, SCP, SP, SSP	
Planning and Environment Act 1987	s 69(1A)	Function of receiving application for extension of time to complete development	GMIP, PAA, SCP, SP, SSP	

Delegation Source	Provision	Item Delegated	Delegate	Conditions & Limitations
Planning and Environment Act 1987	s 69(2)	Power to extend time	GMIP, SCP	
Planning and Environment Act 1987	s 70	Duty to make a copy of every permit that it issues available in accordance with the public availability requirements	GMIP, PAA, SCP, SP, SSP	
Planning and Environment Act 1987	s 71(1)	Power to correct certain mistakes	GMIP, PAA, SCP	
Planning and Environment Act 1987	s 71(2)	Duty to note corrections in register	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 73	Power to decide to grant amendment subject to conditions	GMIP, SCP	
Planning and Environment Act 1987	s 74	Duty to issue amended permit to applicant if no objectors	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	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	GMIP, SCP, SP, SSP	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	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)	GMIP, SCP, SP, SSP	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
Planning and Environment Act 1987	s 76A(6)	Duty to give a recommending referral authority a copy of any amended permit which Council	GMIP, SCP, SP, SSP	If the recommending referral authority did not object to the amendment of the permit or the recommending referral authority did

Delegation Source	Provision	Item Delegated	Delegate	Conditions & Limitations
		decides to grant and a copy of any notice given under ss 64 or 76		not recommend a condition be included on the amended permit
Planning and Environment Act 1987	s 76D	Duty to comply with direction of Minister to issue amended permit	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 83	Function of being respondent to an appeal	CC, GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 83B	Duty to give or publish notice of application for review	CC, GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	GMIP, SCP	
Planning and Environment Act 1987	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	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	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	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 84(6)	Duty to issue permit on receipt of advice	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 84AB	Power to agree to confining a review by the Tribunal	GMIP, SCP	
Planning and Environment Act 1987	s 86	Duty to issue a permit at order of Tribunal	GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	GMIP, CC, SCP	
Planning and Environment Act 1987	s 90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	CC, GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 91(2)	Duty to comply with the directions of VCAT	CC, GMIP, SCP, SP, SSP	

Delegation Source	Provision	Item Delegated	Delegate	Conditions & Limitations
Planning and Environment Act 1987	s 91(2A)	Duty to issue amended permit to owner if Tribunal so directs	CC, GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90	CC, GMIP, SCP, SP, SSP	
Planning and Environment Act 1987	s 93(2)	Duty to give notice of VCAT order to stop development	CC, GMIP, SCP, SP, SSP	
Planning and Environment Regulations 2015	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	GMIP, GMIP, SCP	
Planning and Environment Regulations 2015	r 25(a)	Duty to make copy of matter considered under s 60(1A)(g) in accordance with the public availability requirements	GMIP, SCP, SP, SSP	Applicable for Future Homes Applications only
Planning and Environment (Fees) Regulations 2016	r 20	Power to waive or rebate a fee other than a fee relating to an amendment to a planning scheme	GMIP, FCO	
Planning and Environment (Fees) Regulations 2016	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	GMIP, FCO, SCP, SP, SSP	