

***Instrument of Delegation by CEO for Bushfire Reconstruction
Applications under the Planning and Environment Act 1987***

Hepburn Shire Council

Instrument of Delegation

by

The Chief Executive Officer

In exercise of the powers conferred by s 47 of the *Local Government Act 2020* and s 188 of the *Planning and Environment Act 1987*, I, as Chief Executive Officer of **Hepburn** Council and responsible authority for considering and determining planning permit applications to which cl 52.10-2 of Hepburn Planning Scheme applies, 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

MSTRP means Manager Strategic Planning

MSPB means Manager Statutory Planning and Building

CSAP means Coordinator Statutory Planning

CSRП means Coordinator Strategic Planning

SAP Means Statutory Planner

PSP Means Principal Strategic Planner

SRP Means Strategic Planner

PAO Means Planning Administration Officer

DSEO Means Development Services Enforcement Officer

PLO Means Planning and Building Liaison Officer

SUO Means Subdivision Officer

3. declare that this Instrument of Delegation -

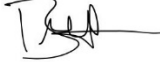

3.1 comes into force immediately upon its execution;

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 of the *Planning and Environment Act 1987* or otherwise.

This Instrument of Delegation is dated 19 September 2022 and is made by the Chief Executive Officer.

Signed by the Chief Executive Officer of Council	 Bradley Thomas
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
s 50(4)	Duty to amend application	MSTRP, MSPB; CSAP, CSRP; SAP	
s 50(5)	Power to refuse to amend application	MSTRP, MSPB, CSAP, CSRP, SAP	
s 50(6)	Duty to make note of amendment to application in register	MSTRP, MSPB; CSAP, CSRP; SAP; SUO; PLO; PAO	
s 50A(1)	Power to make amendment to application	MSTRP, MSPB; CSAP, CSRP; SAP	
s 50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given	MSTRP, MSPB; CSAP, CSRP; SAP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 50A(4)	Duty to note amendment to application in register	MSTRP, MSPB; CSAP, CSRP; SAP; SUO; PLO, PAO	
s 51	Duty to make a copy of every application and the prescribed information supplied in respect of the application available for inspection	MSTRP, MSPB; CSAP, CSRP; SAP; SUO; PLO, PAO	
s 52(1)(c)	Duty to give notice of the application to any person to whom the planning scheme requires it to give notice	MSTRP, MSPB; CSAP, CSRP; SAP; SUO; PLO, PAO	Note: Notice requirements under s 52(1)(a), (b) and (d) are exempt Other notice requirements apply
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	MSTRP, MSPB; CSAP, CSRP; SAP	Note: Notice requirements under s 52(1)(a), (b) 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	MSTRP, MSPB; CSAP, CSRP; SAP	Note: Notice requirements under s 52(1)(a), (b) 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
s 52(1AA)	Duty to give notice of an application to remove or vary a registered restrictive covenant	MSTRP, MSPB; CSAP, CSRP; SAP	Note: Notice requirements under s 52(1)(a), (b) and (d) are exempt Other notice requirements apply
s 52(1A)	Power to refuse an application	MSTRP, MSPB; CSAP, CSRP; SAP	
s 52(3)	Power to give any further notice of an application where appropriate	MSTRP, MSPB; CSAP, CSRP; SAP	
s 53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	MSTRP, MSPB; CSAP, CSRP; SAP	Note: Notice requirements under s 52(1)(a), (b) and (d) are exempt Other notice requirements apply
s 53(1A)	Power to require the applicant to give the notice under s 52(1AA)	MSTRP, MSPB; CSAP, CSRP; SAP	Note: Notice requirements under s 52(1)(a), (b) and (d) are exempt Other notice requirements apply
s 54(1)	Power to require the applicant to provide more information	MSTRP, MSPB; CSAP, CSRP; SAP	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			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 54(1A)	Duty to give notice in writing of information required under s 54(1)	MSTRP, MSPB; CSAP, CSRP; SAP	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(1B)	Duty to specify the lapse date for an application	MSTRP, MSPB; CSAP, CSRP; SAP	
s 54A(3)	Power to decide to extend time or refuse to extend time to give required information	MSTRP, MSPB; CSAP, CSRP; SAP	
s 54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3)	MSTRP, MSPB; CSAP, CSRP; SAP	The new lapse date must be included in the written notice of decision under subsections (5) and (6)
s 55(1)	Duty to give a copy of an application to referral authority	MSTRP, MSPB; CSAP, CSRP; SAP, PAO	
s 57(2)	Function to receive an objection	MSTRP, MSPB; CSAP, CSRP; SAP, PAO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector	MSTRP, MSPB; CSAP, CSRP; SAP	
s 57(3)	Function of receiving name and address of persons to whom notice of decision is to go	MSTRP, MSPB; CSAP, CSRP; SAP	
s 57(5)	Duty to make available for inspection copy of all objections	MSTRP, MSPB; CSAP, CSRP; SAP; PLO; PAO	
s 57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	MSTRP, MSPB, CSAP, CSRP, SAP	
s 57A(5)	Power to refuse to amend application	MSTRP, MSPB; CSAP, CSRP; SAP; PLO; PAO, PAO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 57A(6)	Duty to note amendments to application in register	MSTRP, MSPB; CSAP, CSRP; SAP	
s 57B(1)	Duty to determine whether and to whom notice should be given	MSTRP, MSPB; CSAP, CSRP; SAP	
s 57B(2)	Duty to consider certain matters in determining whether notice should be given	MSTRP, MSPB; CSAP, CSRP; SAP, PAO	
s 57C(1)	Duty to give copy of amended application to referral authority	MSTRP, MSPB; CSAP, CSRP; SAP	
s 58	Duty to consider every application for a permit	MSTRP, MSPB; CSAP, CSRP; SAP	
s 58A	Power to request advice from the Planning Application Committee	MSTRP, MSPB; CSAP, CSRP; SAP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 59(1)	Power to decide an application without delay	MSTRP, MSPB, CSAP, CSRP, SAP	
s 59(2)	Power to decide an application as soon as it gets the last of the replies from referral authorities	MSTRP, MSPB, CSAP, CSRP, SAP	
s 60(1)(a)	Duty to consider the relevant planning scheme	MSTRP, MSPB, CSAP, CSRP, SAP	
s 60(1)(b)	Duty to consider the objectives of planning in Victoria	MSTRP, MSPB, CSAP, CSRP, SAP	
s 60(1)(d)	Duty to consider any decision and comments of a referral authority which has been received	MSTRP, MSPB, CSAP, CSRP, SAP	
s 60(1)(e)	Duty to consider any significant effects which it considers the use or development may have on the environment or which it considers the environment may have on the use or development	MSTRP, MSPB, CSAP, CSRP, SAP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 60(1)(f)	Duty to consider any significant social effects and economic effects which it considers the use or development may have	MSTRP, MSPB, CSAP, CSRP, SAP	
s 60(1A)	Power to consider relevant matters	MSTRP, MSPB, CSAP, CSRP, SAP	
s 60(1B)	Duty to consider the number of objectors in considering whether use or development may have significant social effect	MSTRP, MSPB, CSAP, CSRP, SAP	
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	MSTRP, MSPB, CSAP, CSRP, SAP	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	MSTRP, MSPB, CSAP, CSRP, SAP	
s 61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	MSTRP, MSPB, CSAP, CSRP, SAP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 61(3)(a)	Duty not to decide to grant a permit to use or develop marine and coastal Crown land without Minister's consent	Not Applicable	
s 61(3)(b)	Duty to refuse to grant the permit without the Minister's consent	MSTRP, MSPB, CSAP, CSRP, SAP	
s 61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	MSTRP, MSPB, CSAP, CSRP, SAP	
s 61A	Duty to delegate a power, duty or function to another council officer if there is a conflict of interest	MSTRP, MSPB; CSAP, CSRP; SAP; PLO; PAO, PAO	
s 62(1)	Duty to include certain conditions in deciding to grant a permit	MSTRP, MSPB, CSAP, CSRP, SAP	
s 62(2)	Power to include other conditions	MSTRP, MSPB, CSAP, CSRP, SAP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	MSTRP, MSPB, CSAP, CSRP, SAP	
s 62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	MSTRP, MSPB, CSAP, CSRP, SAP	
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	MSTRP, MSPB, CSAP, CSRP, SAP	
s 62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	MSTRP, MSPB, CSAP, CSRP, SAP	
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)	MSTRP, MSPB	
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)	MSTRP, MSPB	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	MSTRP, MSPB, CSAP, CSRP, SAP	
s 64(5)	Duty to give each objector a copy of an exempt decision	MSTRP, MSPB, CSAP, CSRP, SAP	Note: Bushfire reconstructions 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	MSTRP, MSPB, CSAP, CSRP, SAP	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	MSTRP, MSPB, CSAP, CSRP, SAP	
s 66(1)	Duty to give notice under ss 64 or 65 and copy permit to relevant determining referral authorities	MSTRP, MSPB, CSAP, CSRP, SAP, PAO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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	MSTRP, MSPB, CSAP, CSRП, SAP, PAO	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)	MSTRP, MSPB, CSAP, CSRП, SAP, PAO	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	MSTRP, MSPB, CSAP, CSRП, SAP, PAO	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	MSTRP, MSPB, CSAP, CSRП, SAP, PLO, PAO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 69(1A)	Function of receiving application for extension of time to complete development	MSTRP, MSPB, CSAP, CSRP, SAP, PLO, PAO	
s 69(2)	Power to extend time	MSTRP, MSPB, CSAP, CSRP, SAP	
s 70	Duty to make copy permit available for inspection	MSTRP, MSPB, CSAP, CSRP, SAP, PLO, PAO	
s 71(1)	Power to correct certain mistakes	MSTRP, MSPB, CSAP, CSRP	
s 71(2)	Duty to note corrections in register	MSTRP, MSPB, CSAP, CSRP, SAP, PLO, PAO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 73	Power to decide to grant amendment subject to conditions	MSTRP, MSPB, CSAP, CSRP, SAP	
s 74	Duty to issue amended permit to applicant if no objectors	MSTRP, MSPB, CSAP, CSRP, SAP	
s 76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	MSTRP, MSPB, CSAP, CSRP, SAP	
s 76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	MSTRP, MSPB, CSAP, CSRP, SAP, PAO	
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	MSTRP, MSPB, CSAP, CSRP, SAP, PAO	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			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & 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)	MSTRP, MSPB, CSAP, CSRP, SAP, PAO	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	MSTRP, MSPB, CSAP, CSRP, SAP, PAO	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	MSTRP, MSPB; CSAP, CSRP; SAP; SUO; PLO	
s 83	Function of being respondent to an appeal	MSTRP, MSPB; CSAP, CSRP; SAP; DSEO	
s 83B	Duty to give or publish notice of application for review	MSTRP, MSPB; CSAP, CSRP; SAP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	MSTRP, MSPB; CSAP, CSRP; SAP	
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	MSTRP, MSPB; CSAP, CSRP; SAP	
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	MSTRP, MSPB; CSAP, CSRP; SAP	
s 84(6)	Duty to issue permit on receipt of advice from presidential member of the Tribunal	MSTRP, MSPB; CSAP, CSRP; SAP	
s 84AB	Power to agree to confining a review by the Tribunal	MSTRP, MSPB; CSAP, CSRP; SAP	
s 86	Duty to issue a permit at order of Tribunal	MSTRP, MSPB; CSAP, CSRP; SAP, SUO, PAO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	MSTRP, MSPB, CSAP, CSRP	
s 90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	MSTRP, MSPB; CSAP, CSRP; SAP; DSEO	
s 91(2)	Duty to comply with the directions of VCAT	MSTRP, MSPB; CSAP, CSRP; SAP; DSEO	
s 91(2A)	Duty to issue amended permit to owner if Tribunal so directs	MSTRP, MSPB; CSAP, CSRP; SAP	
s 92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90	MSTRP, MSPB; CSAP, CSRP; SAP	

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	MSTRP, MSPB; CSAP, CSRP; SAP; DSEO	

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 s 54 of the Act	MSTRP, MSPB; CSAP, CSRP; SAP; PLO; SUO	

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	Not Delegated	
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	MSTRP, MSPB; CSAP, CSR	