

***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

DDC means **Director Development and Community**

MSTRP means **Manager Strategic Planning**

MPB means **Manager Planning and Building**

CPLAN means **Coordinator Statutory Planning**

SAP Means **Statutory Planner**

PSP Means **Principal Strategic Planner**

SRP Means **Strategic Planner**

PAS Means **Planning Administration Support**

PCO Means **Planning Compliance Officer**

BAS **Building Administration Support**

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 7 May 2025 and is made by the Chief Executive Officer.

<p>Signed by Bradley Thomas Chief Executive Officer</p> 	
<p>in the presence of:</p>  <p>Catherine Nurse Governance Advisor</p>	

SCHEDULE

INDEX

PLANNING AND ENVIRONMENT ACT 1987	1
PLANNING AND ENVIRONMENT REGULATIONS 2015	13
PLANNING AND ENVIRONMENT (FEES) REGULATIONS 2016.....	14

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	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 50(5)	Power to refuse to amend application	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 50(6)	Duty to make note of amendment to application in register	DDC, MSTRP, MPB; CSAP, PSP; SAP; BAS, , PAS	
s 50A(1)	Power to make amendment to application	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given	DDC, MSTRP, MPB; CSAP, PSP; 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	DDC, MSTRP, MPB; CSAP, PSP; SAP; BAS, , PAS	
s 51	Duty to make a copy of every application and the prescribed information supplied in respect of the application available for inspection	DDC, MSTRP, MPB; CSAP, PSP; SAP;; BAS, , PAS	
s 52(1)(c)	Duty to give notice of the application to any person to whom the planning scheme requires it to give notice	DDC, MSTRP, MPB; CSAP, PSP; SAP;; BAS, , PAS	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	DDC, MSTRP, MPB; CSAP, PSP; 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(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	DDC, MSTRP, MPB; CSAP, PSP; SAP	Note: Notice requirements under s 52(1)(a), (b) and (d) are exempt Other notice requirements apply
s 52(1AA)	Duty to give notice of an application to remove or vary a registered restrictive covenant	DDC, MSTRP, MPB; CSAP, PSP; 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	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 52(3)	Power to give any further notice of an application where appropriate	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	DDC, MSTRP, MPB; CSAP, PSP; 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 53(1A)	Power to require the applicant to give the notice under s 52(1AA)	DDC, MSTRP, MPB; CSAP, PSP; 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	DDC, MSTRP, MPB; CSAP, PSP; SAP	<i>“Note: For VicSmart Application, clause 71.06 of the planning scheme provides that delegates cannot require an applicant to provide more information than what is listed in clauses 59.01 – 59.16 of the planning scheme, which ever clause is relevant to the application.”</i>
s 54(1A)	Duty to give notice in writing of information required under s 54(1)	DDC, MSTRP, MPB; CSAP, PSP; SAP	<i>“Note: For VicSmart Application, clause 71.06 of the planning scheme provides that delegates cannot require an applicant to provide more information than what is listed in clauses 59.01 – 59.16 of the planning scheme, which ever clause is relevant to the application.”</i>
s 54(1B)	Duty to specify the lapse date for an application	DDC, MSTRP, MPB; CSAP, PSP; SAP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 54A(3)	Power to decide to extend time or refuse to extend time to give required information	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3)	DDC, MSTRP, MPB; CSAP, PSP; 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	DDC, MSTRP, MPB; CSAP, PSP; SAP, PAS	
s 57(2)	Function to receive an objection	DDC, MSTRP, MPB; CSAP, PSP; SAP, PAS	
s 57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector	DDC, MSTRP, MPB; CSAP, PSP; SAP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 57(3)	Function of receiving name and address of persons to whom notice of decision is to go	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 57(5)	Duty to make available for inspection copy of all objections	DDC, MSTRP, MPB; CSAP, PSP; SAP; BAS,; PAS	
s 57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 57A(5)	Power to refuse to amend application	DDC, MSTRP, MPB; CSAP, PSP; SAP; BAS,; PAS,	
s 57A(6)	Duty to note amendments to application in register	DDC, MSTRP, MPB; CSAP, PSP; SAP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 57B(1)	Duty to determine whether and to whom notice should be given	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 57B(2)	Duty to consider certain matters in determining whether notice should be given	DDC, MSTRP, MPB; CSAP, PSP; SAP, PAS	
s 57C(1)	Duty to give copy of amended application to referral authority	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 58	Duty to consider every application for a permit	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 58A	Power to request advice from the Planning Application Committee	DDC, MSTRP, MPB; CSAP, PSP; 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	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 59(2)	Power to decide an application as soon as it gets the last of the replies from referral authorities	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 60(1)(a)	Duty to consider the relevant planning scheme	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 60(1)(b)	Duty to consider the objectives of planning in Victoria	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 60(1)(d)	Duty to consider any decision and comments of a referral authority which has been received	DDC, MSTRP, MPB, CSAP, PSP, SAP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 60(1)(f)	Duty to consider any significant social effects and economic effects which it considers the use or development may have	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 60(1A)	Power to consider relevant matters	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 60(1B)	Duty to consider the number of objectors in considering whether use or development may have significant social effect	DDC, MSTRP, MPB, CSAP, PSP, 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	DDC, MSTRP, MPB, CSAP, PSP, SAP	The permit must not be inconsistent with a cultural heritage management plan under the <i>Aboriginal Heritage Act 2006</i>

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 61(2)	Duty to decide to refuse to grant a permit if a relevant determining referral authority objects to grant of permit	DDC, MSTRP, MPB, CSAP, PSP, 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	DDC, MSTRP, MPB, CSAP, PSP, SAP	
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	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	DDC, MSTRP, MPB, CSAP, PSP, SAP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 61A	Duty to delegate a power, duty or function to another council officer if there is a conflict of interest	DDC, MSTRP, MPB; CSAP, PSP; SAP; BAS;, PAS,	
s 62(1)	Duty to include certain conditions in deciding to grant a permit	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 62(2)	Power to include other conditions	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	DDC, MSTRP, MPB, CSAP, PSP, SAP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	DDC, MSTRP, MPB, CSAP, PSP, 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)	DDC, MSTRP, MPB	
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)	DDC, MSTRP, MPB	
s 63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 64(5)	Duty to give each objector a copy of an exempt decision	DDC, MSTRP, MPB, CSAP, PSP, SAP	Note: Bushire 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

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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	DDC, MSTRP, MPB, CSAP, PSP, 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	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 66(1)	Duty to give notice under ss 64 or 65 and copy permit to relevant determining referral authorities	DDC, MSTRP, MPB, CSAP, PSP, SAP, PAS	
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	DDC, MSTRP, MPB, CSAP, PSP, SAP, PAS	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			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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)	DDC, MSTRP, MPB, CSAP, PSP, SAP, PAS	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	DDC, MSTRP, MPB, CSAP, PSP, SAP, PAS	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	DDC, MSTRP, MPB, CSAP, PSP, SAP, BAS, , PAS	
s 69(1A)	Function of receiving application for extension of time to complete development	DDC, MSTRP, MPB, CSAP, PSP, SAP, BAS, , PAS	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 69(2)	Power to extend time	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 70	Duty to make copy permit available for inspection	DDC, MSTRP, MPB, CSAP, PSP, SAP, BAS, , PAS	
s 71(1)	Power to correct certain mistakes	DDC, MSTRP, MPB, CSAP, PSP	
s 71(2)	Duty to note corrections in register	DDC, MSTRP, MPB, CSAP, PSP, SAP, BAS, ,PAS	
s 73	Power to decide to grant amendment subject to conditions	DDC, MSTRP, MPB, CSAP, PSP, SAP	

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	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	DDC, MSTRP, MPB, CSAP, PSP, SAP	
s 76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	DDC, MSTRP, MPB, CSAP, PSP, SAP, PAS	
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	DDC, MSTRP, MPB, CSAP, PSP, SAP, PAS	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)	DDC, MSTRP, MPB, CSAP, PSP, SAP, PAS	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	DDC, MSTRP, MPB, CSAP, PSP, SAP, PAS	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	DDC, MSTRP, MPB; CSAP, PSP; SAP;; BAS,	
s 83	Function of being respondent to an appeal	DDC, MSTRP, MPB; CSAP, PSP; SAP; PCO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 83B	Duty to give or publish notice of application for review	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	DDC, MSTRP, MPB; CSAP, PSP; 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	DDC, MSTRP, MPB; CSAP, PSP; 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	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 84(6)	Duty to issue permit on receipt of advice from presidential member of the Tribunal	DDC, MSTRP, MPB; CSAP, PSP; SAP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 84AB	Power to agree to confining a review by the Tribunal	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 86	Duty to issue a permit at order of Tribunal	DDC, MSTRP, MPB; CSAP, PSP; SAP, , PAS	
s 87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	DDC, MSTRP, MPB, CSAP, PSP	
s 90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	DDC, MSTRP, MPB; CSAP, PSP; SAP; PCO	
s 91(2)	Duty to comply with the directions of VCAT	DDC, MSTRP, MPB; CSAP, PSP; SAP; PCO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 91(2A)	Duty to issue amended permit to owner if Tribunal so directs	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90	DDC, MSTRP, MPB; CSAP, PSP; SAP	
s 93(2)	Duty to give notice of VCAT order to stop development	DDC, MSTRP, MPB; CSAP, PSP; SAP; PCO	

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	DDC, MSTRP, MPB; CSAP, PSP; SAP;, BAS;	

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	DDC, MSTRP, MPB; CSAP, PSP	