

INSTRUMENT OF SUB-DELEGATION

**Chief Executive Officer to Members of Staff for
VicSmart Applications under the Planning and
Environment Act 1987**



Campaspe
Shire Council

Instrument of Sub-Delegation – Chief Executive Officer to Members of Staff

1. Instrument of Sub-Delegation

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 Campaspe Shire Council and the responsible authority for the administration and enforcement of the Campaspe 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 are as follows:


GMDEV	General Manager Development
MPB	Manager Planning & Building
PA	Planning Assistant
PL	Planner
PTL	Planning Team Leader
SP	Senior 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 s 188 of the *Planning and Environment Act 1987* or otherwise.

This Instrument of Delegation is dated 1 December 2021 and is made by the Chief Executive Officer.

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



.....
Witness 

Date: 1/12/2021

Instrument of Sub-Delegation – Chief Executive Officer to Members of Staff

2. Schedule

Index

1. Instrument of Sub-Delegation	i
2. Schedule	ii
PLANNING AND ENVIRONMENT ACT 1987	4
PLANNING AND ENVIRONMENT REGULATIONS 2015	30
PLANNING AND ENVIRONMENT (FEES) REGULATIONS 2016	30

Instrument of Delegation – Council to Members of Staff

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS

Instrument of Delegation – Council to Members of Staff

s 52(3)	Power to give any further notice of an application where appropriate	GMDEV MPB PTL SP PL	
s 53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	GMDEV	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
		MPB PTL SP PL PA	Other notice requirements apply

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 53(1A)	Power to require the applicant to give the notice under s 52(1AA)	GMDEV MPB PTL SP PL PA	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt Other notice requirements apply
s 54(1)	Power to require the applicant to provide more information	GMDEV MPB PTL SP PL PA	Note: delegates cannot require an applicant to provide more information than what is listed in schs 59 – 59.16 of the planning scheme

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 54(1A)	Duty to give notice in writing of information required under s 54(1)	GMDEV MPB PTL SP PL PA	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	GMDEV MPB PTL SP PL PA	
s 54A(3)	Power to decide to extend time or refuse to extend time to give required information	GMDEV MPB PTL SP PL	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3)	GMDEV MPB PTL SP PL	
s 57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector	GMDEV MPB PTL SP	
s 57(3)	Function of receiving name and address of persons to whom notice of decision is to go	GMDEV MPB PTL SP PL	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987				
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS	
s 57(5)	Duty to make a copy of every objection available in accordance with the public availability requirements	GMDEV MPB PTL SP PL PA		
s 57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	GMDEV MPB PTL SP PL		
s 57A(5)	Power to refuse to amend application	GMDEV MPB PTL SP PL		

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 57A(6)	Duty to note amendments to application in register	GMDEV MPB PTL SP PL PA	
s 57B(1)	Duty to determine whether and to whom notice should be given	GMDEV MPB PTL SP PL PA	
s 57B(2)	Duty to consider certain matters in determining whether notice should be given	GMDEV MPB PTL SP PL PA	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 57C(1)	Duty to give copy of amended application to referral authority	GMDEV MPB PTL SP PL PA	
s 58	Duty to consider every application for a permit	GMDEV MPB PTL SP PL	
s 58A	Power to request advice from the Planning Application Committee	GMDEV MPB PTL SP PL	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 59(1)	Power to decide an application without delay	GMDEV MPB PTL SP PL	
s 60(1)(a)	Duty to consider the relevant planning scheme	GMDEV MPB PTL SP PL	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	GMDEV MPB PTL SP PL	Note: VicSmart applications are exempt from the requirements of s 60(1)(b), (c), (e) and (f).

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 60(1A)(i)	Power to consider any agreement made pursuant to s 173	GMDEV MPB PTL SP PL	Note: VicSmart applications are exempt from the requirements of s 60(1A)(b) – (h) and (j).
s 60(1B)	Duty to consider the number of objectors in considering whether use or development may have significant social effect	GMDEV MPB PTL	
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	GMDEV MPB PTL SP PL	The permit must not be inconsistent with a cultural heritage management plan under the Aboriginal Heritage Act 2006
s 61(2)	Duty to decide to refuse to grant a permit if a relevant determining referral authority objects to grant of permit	GMDEV MPB PTL SP PL	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	GMDEV MPB PTL SP PL	
s 61(3)(a)	Duty not to decide to grant a permit to use coastal Crown land without Minister's consent		Not delegated
s 61(3)(b)	Duty to refuse to grant the permit without the Minister's consent	GMDEV MPB PTL SP	
s 61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	GMDEV MPB PTL SP PL	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987				
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS	
s 62(1)	Duty to include certain conditions in deciding to grant a permit	GMDEV MPB PTL SP PL		
s 62(2)	Power to include other conditions	GMDEV MPB PTL SP PL		
s 62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	GMDEV MPB PTL SP PL		

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	GMDEV MPB PTL SP PL	
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	GMDEV MPB PTL SP PL	
s 62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	GMDEV MPB PTL SP PL	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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)	GMDEV MPB PTL SP PL	
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)	GMDEV MPB PTL SP PL	
s 63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	GMDEV MPB PTL SP PL	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 64(5)	Duty to give each objector a copy of an exempt decision	GMDEV MPB PTL SP PL PA	Note: VicSmart 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	GMDEV MPB PTL SP PL	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	GMDEV MPB PTL SP PL	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 66(1)	Duty to give notice under ss 64 or 65 and copy permit to relevant determining referral authorities	GMDEV MPB PTL SP PL PA	
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	GMDEV MPB PTL SP PL PA	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)	GMDEV MPB PTL SP PL PA	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

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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	GMDEV MPB PTL SP PL PA	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	GMDEV MPB PTL SP PL PA	
s 69(1A)	Function of receiving application for extension of time to complete development	GMDEV MPB PTL SP PL PA	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 69(2)	Power to extend time	GMDEV MPB PTL SP PL	
s 70	Duty to make a copy of every permit that it issues available in accordance with the public availability requirements	GMDEV MPB PTL SP PL PA	
s 71(1)	Power to correct certain mistakes	GMDEV MPB PTL SP PL	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 71(2)	Duty to note corrections in register	GMDEV MPB PTL SP PL PA	
s 73	Power to decide to grant amendment subject to conditions	GMDEV MPB PTL SP PL	
s 74	Duty to issue amended permit to applicant if no objectors	GMDEV MPB PTL SP PL	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	GMDEV MPB PTL SP PL	
s 76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	GMDEV MPB PTL SP PL PA	
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	GMDEV MPB PTL SP PL PA	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

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
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)	GMDEV MPB PTL SP PL PA	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	GMDEV MPB PTL SP PL PA	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	GMDEV MPB PTL SP PL	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 83	Function of being respondent to an appeal	GMDEV MPB PTL SP PL	
s 83B	Duty to give or publish notice of application for review	GMDEV MPB PTL SP PL	
s 84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	GMDEV MPB PTL SP PL	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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	GMDEV MPB PTL SP PL	
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	GMDEV MPB PTL SP PL PA	
s 84(6)	Duty to issue permit on receipt of advice	GMDEV MPB PTL SP PL PA	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 84AB	Power to agree to confining a review by the Tribunal	GMDEV MPB PTL SP	
s 86	Duty to issue a permit at order of Tribunal	GMDEV MPB PTL SP PL	
s 87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	GMDEV MPB PTL SP	
s 90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	GMDEV MPB PTL SP	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 91(2)	Duty to comply with the directions of VCAT	GMDEV MPB PTL SP PL PA	
s 91(2A)	Duty to issue amended permit to owner if Tribunal so directs	GMDEV MPB PTL SP PL	
s 92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90	GMDEV MPB PTL SP PL	

Instrument of Delegation – Council to Members of Staff

PLANNING AND ENVIRONMENT ACT 1987			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 93(2)	Duty to give notice of VCAT order to stop development	GMDEV MPB PTL SP PL	

PLANNING AND ENVIRONMENT REGULATIONS 2015			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & 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	GMDEV MPB PTL SP PL	

PLANNING AND ENVIRONMENT (FEES) REGULATIONS 2016			
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
r 20	Power to waive or rebate a fee other than a fee relating to an amendment to a planning scheme	GMDEV	

Instrument of Delegation – Council to Members of Staff

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	GMDEV	
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