

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

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 50(4)	Duty to amend application	MDS, PO	
s 50(5)	Power to refuse to amend application	MDS, PO	
s 50(6)	Duty to make note of amendment to application in register	MDS, PO	
s 50A(1)	Power to make amendment to application	MDS, PO	
s 50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given	MDS, PO	
s 50A(4)	Duty to note amendment to application in register	MDS, PO	
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	MDS, PO	
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	MDS, PO	Notice requirements under s 52(1)(a), (b), (c) 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	MDS, PO	Notice requirements under s 52(1)(a), (b), (c) 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	MDS, PO	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply
s 52(3)	Power to give any further notice of an application where appropriate	MDS, PO	
s 53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	MDS, PO	Notice requirements under s 52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply
s 53(1A)	Power to require the applicant to give the notice under s 52(1AA)	MDS, PO	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	MDS, PO	Note: delegates cannot require an applicant to provide more information

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			than what is listed in schs 59 - 59.16 of the planning scheme
s 54(1A)	Duty to give notice in writing of information required under s 54(1)	MDS, PO	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	MDS, PO	
s 54A(3)	Power to decide to extend time or refuse to extend time to give required information	MDS, PO	
s 54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3)	MDS, PO	
s 57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector	MDS, PO	
s 57(3)	Function of receiving name and address of persons to whom notice of decision is to go	MDS, PO	
s 57(5)	Duty to make a copy of every objection available in accordance with the public availability requirements	MDS, PO	
s 57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	MDS, PO	
s 57A(5)	Power to refuse to amend application	MDS, PO	
s 57A(6)	Duty to note amendments to application in register	MDS, PO	
s 57B(1)	Duty to determine whether and to whom notice should be given	MDS, PO	
s 57B(2)	Duty to consider certain matters in determining whether notice should be given	MDS, PO	
s 57C(1)	Duty to give copy of amended application to referral authority	MDS, PO	
s 58	Duty to consider every application for a permit	MDS, PO	
s 58A	Power to request advice from the Planning Application Committee	MDS, PO	Refer to Council
s 59(1)	Power to decide an application without delay	MDS, PO	
s 60(1)(a)	Duty to consider the relevant planning scheme	MDS, PO	Note: VicSmart applications are exempt from the requirements of s 60(1)(b), (c), (e) and (f).

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s 60(1)(d)	Duty to consider any decision and comments of a referral authority which has been received	MDS, PO	Note: VicSmart applications are exempt from the requirements of s 60(1)(b), (c), (e) and (f).
s 60(1A)(i)	Power to consider any agreement made pursuant to s 173	DWTS, MDS, PO	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	MDS, PO	
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	MDS, PO	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	MDS, PO	
s 61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	MDS, PO	
s 61(3)(a)	Duty not to decide to grant a permit to use coastal Crown land without Minister's consent	MDS, PO	
s 61(3)(b)	Duty to refuse to grant the permit without the Minister's consent	MDS, PO	
s 61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	MDS, PO	
s 62(1)	Duty to include certain conditions in deciding to grant a permit	MDS, PO	
s 62(2)	Power to include other conditions	MDS, PO	
s 62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	MDS, PO	
s 62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	DWTS, MDS, PO	
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	DWTS, MDS, PO	
s 62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	DWTS, MDS, PO	

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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)	DWTS, MDS, PO	
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)	DWTS, MDS, PO	
s 63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	MDS, PO	
s 64(5)	Duty to give each objector a copy of an exempt decision	MDS, PO	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	DWTS, MDS, PO	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	MDS, PO	
s 66(1)	Duty to give notice under ss 64 or 65 and copy permit to relevant determining referral authorities	DWTS, MDS, PO	
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	DWTS, MDS, PO	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)	DWTS, MDS, PO	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

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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	DWTS, MDS, PO	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	MDS, PO	
s 69(1A)	Function of receiving application for extension of time to complete development	MDS, PO	
s 69(2)	Power to extend time	MDS, PO	
s 70	Duty to make a copy of every permit that it issues available in accordance with the public availability requirements	MDS, PO	
s 71(1)	Power to correct certain mistakes	MDS, PO	
s 71(2)	Duty to note corrections in register	MDS, PO	
s 73	Power to decide to grant amendment subject to conditions	DWTS, MDS, PO	
s 74	Duty to issue amended permit to applicant if no objectors	MDS, PO	
s 76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	MDS, PO	
s 76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	MDS, PO	
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	DWTS, MDS, PO	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
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)	DWTS, MDS, PO	If the recommending referral authority objected to the amendment of the permit or the recommending referral authority recommended

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			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	DWTS, MDS, PO	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	DWTS, MDS, PO	
s 83	Function of being respondent to an appeal	CEO, DWTS, MDS, PO	
s 83B	Duty to give or publish notice of application for review	MDS, PO	
s 84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	DWTS, MDS, PO	
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	DWTS, MDS, PO	
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	DWTS, MDS, PO	
s 84(6)	Duty to issue permit on receipt of advice	DWTS, MDS, PO	
s 84AB	Power to agree to confining a review by the Tribunal	DWTS, MDS, PO	
s 86	Duty to issue a permit at order of Tribunal	DWTS, MDS, PO	
s 87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	DWTS, MDS, PO	
s 90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	DWTS, MDS, PO	
s 91(2)	Duty to comply with the directions of VCAT	DWTS, MDS, PO	
s 91(2A)	Duty to issue amended permit to owner if Tribunal so directs	DWTS, MDS, PO	

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Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90	DWTS, MDS, PO	
s 93(2)	Duty to give notice of VCAT order to stop development	DWTS, MDS, PO	

Planning and Environment Regulations 2015

Provision	Powers and Functions 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	DWTS, MDS, PO	

Planning and Environment (Fees) Regulations 2016

Provision	Powers and Functions 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	DWTS, MDS, PO	
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	DWTS, MDS, PO	

