

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

Glen Eira City Council

Instrument of Delegation

by

The Chief Executive Officer

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

In exercise of the power conferred by section 47(2) of the *Local Government Act 1989* and s 188 of the *Planning and Environment Act 1987*, I, as Chief Executive Officer of Glen Eira Council and the responsible authority for the administration and enforcement of the Glen Eira as set out in clause 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 to

Reference	Meaning
CCSPP	Coordinator City Strategy and Place Planning
CPBC	Coordinator Planning and Building Compliance
CUP	Coordinator Urban Planning
DPPS	Director Planning, Place and Sustainability
MCF	Manager City Futures;
MCSC	Manager Community Safety and Compliance
MUP	Manager Urban Planning
PCESO	Planning Customer Experience and Support Officer and Coordinator Planning Customer Experience and Support
PStratP	Principle Strategic Planner
PUP	Principle Urban Planner
PUPS	Principle Urban Planner (Subdivisions)
SO	Subdivision Officer
SPCEO	Senior Planning Customer Experience Officer
Specific Planning Officers	CCSPP, CUP, DPPS, MCF, MCSC, MUP, CPBC, PStratP, PUP, PUPS, SO, SUP, StratP, SPCEO, SStratP and UP
StratP	Strategic Planner
SStratP	Senior Strategic Planner
SUP	Senior Urban Planner
UP	Urban 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 section 188 *Planning and Environment Act 1987* or otherwise.

This Instrument of Delegation is dated 26 August 2020 and is made by the Chief Executive Officer.

Electronically signed by the Chief Executive Officer of Council

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25 August 2020
Date

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.49(1)	duty to keep a register of all applications for permits and determinations relating to permits	PCESO Specific Planning Officers	
s.49(2)	duty to make register available for inspection	PCESO Specific Planning Officers	
s.50(4)	duty to amend application	Specific Planning Officers	
s.50(5)	power to refuse to amend application	Specific Planning Officers	
s.50(6)	duty to make note of amendment to application in register	PCESO Specific Planning Officers	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.50A(1)	power to make amendment to application	PCESO Specific Planning Officers	
s.50A(3)	power to require applicant to notify owner and make a declaration that notice has been given	PCESO Specific Planning Officers	
s.50A(4)	duty to note amendment to application in register	PCESO Specific Planning Officers	
s.51	duty to make a copy of every application and the prescribed information supplied in respect of the application available for inspection	PCESO Specific Planning Officers	
s.52(1)(ca)	duly 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	Specific Planning Officers	Notice requirements under s.52(1)(a), (b), (c) 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	Specific Planning Officers	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	Specific Planning Officers	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	Specific Planning Officers	
s.53(1)	power to require the applicant to give notice under section 52(1) to persons specified by it	Specific Planning Officers	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 section 52(1AA)	Specific Planning Officers	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	Specific Planning Officers	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 section 54(1)	Specific Planning Officers	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(18)	duty to specify the lapse date for an application	Specific Planning Officers	
s.54A(3)	power to decide to extend time or refuse to extend time to give required information	Specific Planning Officers	
s.54A(4)	duty to give written notice of decision to extend or refuse to extend time und section 54A(3)	Specific Planning Officers	
s.57(2A)	power to reject objections considered made primarily for commercial advantage for the objector	DPPS MUP MCF	
s.57(3)	function of receiving name and address of persons to whom notice of decision is to go	Specific Planning Officers	

PLANNING AND ENVIRONMENT ACT 1987

Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.57(5)	duty to make available for inspection copy of all objections	Specific Planning Officers	
s.57A(4)	duty to amend application in accordance with applicant's request, subject to section 57A(5)	Specific Planning Officers	
s.57A(5)	power to refuse to amend application	Specific Planning Officers	
s.57A(6)	duty to note amendments to application in register	PCESO Specific Planning Officers	
s.57B(1)	duty to determine whether and to whom notice should be given	Specific Planning Officers	
s.57B(2)	duty to consider certain matters in determining whether notice should be given	Specific Planning Officers	

PLANNING AND ENVIRONMENT ACT 1987

Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.57C(1)	duty to give copy of amended application to referral authority	PCESO Specific Planning Officers	
s.58	duty to consider every application for a permit	Specific Planning Officers	
s.58A	power to request advice from the Planning Application Committee	OPP MCF MUP	
s. 59(1)	power to decide an application without delay	Specific Planning Officers	
s.60(1)(a)	duty to consider the relevant planning scheme	Specific Planning Officers	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	Specific Planning Officers	Note: VicSmart applications are exempt from the requirements of s.60(1)(b), (c), (e) and (f).

PLANNING AND ENVIRONMENT ACT 1987

Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s. 60(1A)(a)	power to consider certain matters before deciding on application any significant social and economic effects of the use or development for which the application is made	Specific Planning Officers	Note: VicSmart applications are exempt from the requirements of s.60(1A)(b) - (h) and U).
s. 60(1A)(i)	power to consider any agreement made pursuant to section 173	Specific Planning Officers	Note: VicSmart applications are exempt from the requirements of s.60(1A)(b) - (h) and U)-
s.60(1B)	duty to consider the number of objectors in considering whether use or development may have significant social effect	Specific Planning Officers	

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	Specific Planning Officers	<p>The exercise of this power is limited to the following circumstances:</p> <ul style="list-style-type: none"> i) there have been no more than five objections lodged; and ii) the application is generally in compliance with existing policy or guidelines; and iii) the application has not been referred to the Council or the Delegated Planning Forum for determination; and iv) the application has not been called-in by a Councillor for determination at a Council meeting. <p>The power cannot be exercised where:</p> <ul style="list-style-type: none"> i) an application is for use of land for a brothel; or ii) an application is for use of land for gaming machines. <p>The permit must not be inconsistent with a Cultural Heritage Management Plan under the <i>Aboriginal Heritage Act 2006</i>.</p> <p>The power to refuse a permit can only be exercised where the delegate considers that:</p> <ul style="list-style-type: none"> i) the application is contrary to law; or ii) the application is inconsistent with policy; or iii) a referral authority has directed refusal; or iv) the applicant has failed to carry out a direction pursuant to the <i>Planning and Environment Act 1987</i> or Planning Scheme.
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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	DPPS MUP CUP	<p>The exercise of this power is limited to the following circumstances:</p> <ul style="list-style-type: none"> i) the delegation may only be exercised where there have been more than 5 objections but no more than 15 objections lodged; and ii) the delegation must be exercised at a Delegated Planning Forum (including a Delegated Planning Forum conducted virtually); and iii) the application has not been called-in by a Councillor for determination at a Council meeting. <p>The power cannot be exercised where:</p> <ul style="list-style-type: none"> i) an application is for use of land for a brothel; or ii) an application is for use of land for gaming machines. <p>The permit must not be inconsistent with a Cultural Heritage Management Plan under the <i>Aboriginal Heritage Act 2006</i>.</p> <p>The power to refuse a permit can only be exercised where the delegate considers that:</p> <ul style="list-style-type: none"> i) the application is contrary to law; or ii) the application is inconsistent with policy; or iii) a referral authority has directed refusal; or iv) the applicant has failed to carry out a direction pursuant to the <i>Planning and Environment Act 1987</i> or Planning Scheme.
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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	Specific Planning Officers	
s.61(2A)	power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	Specific Planning Officers	
s.61(3)(a)	duty not to decide to grant a permit to use coastal Crown land without Minister's consent	Specific Planning Officers	
s.61(3)(b)	duty to refuse to grant the permit without the Minister's consent	Specific Planning Officers	
s.61(4)	duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	Specific Planning Officers	
s.62(1)	duty to include certain conditions in deciding to grant a permit	Specific Planning Officers	

PLANNING AND ENVIRONMENT ACT 1987

Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s.62(2)	power to include other conditions	Specific Planning Officers	
s.62(4)	duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	Specific Planning Officers	
s.62(5)(a)	power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	Specific Planning Officers	
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 section 173 agreement	Specific Planning Officers	
s.62(5)(c)	power to include a permit condition that specified works be provided or paid for by the applicant	Specific Planning Officers	
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)	Specific Planning Officers	

PLANNING AND ENVIRONMENT ACT 1987

Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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 section 62(1)(a)	Specific Planning Officers	
s.63	duty to issue the permit where made a decision in favour of the application (if no one has objected)	Specific Planning Officers	
s.64(5)	duty to give each objector a copy of an exempt decision	Specific Planning Officers	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	Specific Planning Officers	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 section 57	Specific Planning Officers	
s.66(1)	duty to give notice under section 64 or section 65 and copy permit to relevant determining referral authorities	Specific Planning Officers	

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	Specific Planning Officers	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 section 66(5)	Specific Planning Officers	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 section 64 or 65	Specific Planning Officers	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	Specific Planning Officers	
s.69(1A)	function of receiving application for extension of time to complete development	Specific Planning Officers	

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	Specific Planning Officers	
s.70	duty to make copy permit available for inspection	PCESO Specific Planning Officers	
s.71(1)	power to correct certain mistakes	Specific Planning Officers	
s.71(2)	duty to note corrections in register	PCESO Specific Planning Officers	

s.73	power to decide to grant amendment subject to conditions	Specific Planning Officers	<p>The exercise of this power is limited to the following circumstances:</p> <ul style="list-style-type: none"> i) there have been no more than five objections lodged; and ii) the application/amending plan is generally in compliance with existing policy or guidelines; and iii) the application/amending plan has not been referred to the Council or the Delegated Planning Forum for determination; and iv) the application has not been called-in by a Councillor for determination at a council meeting. <p>The power cannot be exercised where:</p> <ul style="list-style-type: none"> i) an application/amending plan is for use of land for a brothel; or ii) an application/amending plan is for use of land for gaming machines. <p>The amended permit must not be inconsistent with a Cultural Heritage Management Plan under the <i>Aboriginal Heritage Act 2006</i>.</p> <p>The power to refuse a permit can only be exercised where the delegate considers that:</p> <ul style="list-style-type: none"> i) the application is contrary to law; or ii) the application is inconsistent with policy; or iii) a referral authority has directed refusal; or iv) the applicant has failed to carry out a direction pursuant to the <i>Planning and Environment Act 1987</i> or Planning Scheme.
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s.73	power to decide to grant amendment subject to conditions	DPPS MUP CUP	<p>The exercise of this power is limited to the following circumstances:</p> <ul style="list-style-type: none"> i) the delegation may only be exercised where there have been more than 5 objections but no more than 15 objections lodged; and ii) the delegation must be exercised at a Delegated Planning Forum (including a Delegated Planning Forum conducted virtually); and iii) the application has not been called-in by a Councillor for determination at a Council meeting. <p>The power cannot be exercised where:</p> <ul style="list-style-type: none"> i) an application is for use of land for a brothel; or ii) an application is for use of land for gaming machines. <p>The permit must not be inconsistent with a Cultural Heritage Management Plan under the <i>Aboriginal Heritage Act 2006</i>.</p> <p>The power to refuse a permit can only be exercised where the delegate considers that:</p> <ul style="list-style-type: none"> i) the application is contrary to law; or ii) the application is inconsistent with policy; or iii) a referral authority has directed refusal; or iv) the applicant has failed to carry out a direction pursuant to the <i>Planning and Environment Act 1987</i> or Planning Scheme.
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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	Specific Planning Officers	
s.76	duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	Specific Planning Officers	
s.76A(1)	duty to give relevant determining referral authorities copy of amended permit and copy of notice	PCESO Specific Planning Officers	
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	Specific Planning Officers	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 section 76A(5)	Specific Planning Officers	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			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
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 section 64 or 76	Specific Planning Officers	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	Specific Planning Officers	
s.83	function of being respondent to an appeal	Specific Planning Officers	
s.83B	duty to give or publish notice of application for review	Specific Planning Officers	

s.84(1)	power to decide on an application at any time after an appeal is lodged against failure to grant a permit	DPPS MUP MCF CUP	<p>The exercise of this power is limited to the following circumstances:</p> <ul style="list-style-type: none"> i) there have been no more than five objections lodged; and ii) the application is generally in compliance with existing policy or guidelines; and iii) the application has not been referred to the Council or the Delegated Planning Forum for determination; and iv) the application has not been called-in by a Councillor for determination at a Council meeting. <p>The power cannot be exercised where:</p> <ul style="list-style-type: none"> i) an application is for use of land for a brothel; or ii) an application is for use of land for gaming machines. <p>The permit must not be inconsistent with a Cultural Heritage Management Plan under the <i>Aboriginal Heritage Act 2006</i>.</p> <p>The power to refuse a permit can only be exercised where the delegate considers that:</p> <ul style="list-style-type: none"> i) the application is contrary to law; or ii) the application is inconsistent with policy; or iii) a referral authority has directed refusal; or iv) the applicant has failed to carry out a direction pursuant to the <i>Planning and Environment Act 1987</i> or Planning Scheme.
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s.84(1)	power to decide on an application at any time after an appeal is lodged against failure to grant a permit	DPPS MCF MUP CUP	<p>The exercise of this power is limited to the following circumstances:</p> <ul style="list-style-type: none"> i. the delegation may only be exercised where there have been more than 5 objections but ii. no more than 15 objections lodged; and iii. the delegation must be exercised a Delegated Planning Forum (including a Delegated Planning Forum conducted virtually); and iv. the application has not been called-in by a Councillor for determination at a Council meeting. <p>The power cannot be exercised where:</p> <ul style="list-style-type: none"> i) an application is for use of land for a brothel; or ii) an application is for use of land for gaming machines. <p>The permit must not be inconsistent with a Cultural Heritage Management Plan under the <i>Aboriginal Heritage Act 2006</i>.</p> <p>The power to refuse a permit can only be exercised where the delegate considers that:</p> <ul style="list-style-type: none"> i) the application is contrary to law; or ii) the application is inconsistent with policy; or iii) a referral authority has directed refusal; or iv) the applicant has failed to carry out a direction pursuant to the <i>Planning and Environment Act 1987</i> or Planning Scheme.
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PLANNING AND ENVIRONMENT ACT 1987

Column 1	Column 2	Column 3	Column 4
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	Specific Planning Officers	
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	Specific Planning Officers	
s.84(6)	duty to issue permit on receipt of advice	Specific Planning Officers	
s. 84AB	power to agree to confining a review by the Tribunal	DPPS MUP CUP	
s.86	duty to issue a permit at order of Tribunal	Specific Planning Officers	

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	DPPS MUP MCF MCSC CPBC CCSPP CUP	
s.90(1)	function of being heard at hearing of request for cancellation or amendment of a permit	Specific Planning Officers	
s.91(2)	duty to comply with the directions of VCAT	Specific Planning Officers	
s.91(2A)	duty to issue amended permit to owner if Tribunal so directs	Specific Planning Officers	
s.92	duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under section 90	Specific Planning Officers	

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	Specific Planning Officers	

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 section 54 of the Act	Specific Planning Officers	

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	DPPS MUP MCF CUP CCSPP	
r 21	Duty to record matters taken into account and which formed the basis of a decision to waive or rebate a fee under r. 19 or 20	DPPS MUP MCF CUP CCSPP	