

ARARAT RURAL CITY COUNCIL



INSTRUMENT OF DELEGATION

S12 MUNICIPAL BUILDING SURVEYOR PACKAGE

28 JULY 2023

Delegation Sources

- Building Act 1993
- Building Regulations 2018

Positions

Abbreviation	Position	Name
CBI	Contract Building Inspector	Ben Spiteri
MDR	Manager Development & Regulation	Robert Fillisch
MBS	Municipal Building Surveyor	Craig Fletcher
N/A	Not Applicable	

Positions Groups

Positions Group	Position	Positions
PDOs	All Planning and Development Officers	PDO2, PDO1, PDO3

Building Act 1993

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 18D(2)	Duty to, within 14 days after receiving an application, give to the Secretary to the Department of Environment, Land, Water and Planning a notice of the application, a copy of the application and any documents that accompany the application	N/A	Where the municipal building surveyor is the relevant building surveyor
s.19	Duty to decide application for building permit by either issuing permit, issuing permit with conditions or refusing permit	N/A	Where the municipal building surveyor is the relevant building surveyor
s.21(1)	Duty to specify in building permit whether occupancy permit is required under s 21(2) for the whole or part of the building	N/A	Where the municipal building surveyor is the relevant building surveyor
s.21(2)	Duty to consider whether building work is minor or does not compromise the suitability of the building for occupation	CBI	Where the municipal building surveyor is the relevant building surveyor
s.23	Duty to notify the reporting authority of permit and give the reporting authority a copy of the permit, where issues a building permit which differs from or fails to implement the recommendations in the reporting authority's report under Schedule 2 on the application for the permit	CBI	Where the municipal building surveyor is the relevant building surveyor Does not apply to classes of buildings set out in r 281 of the Building Regulations 2018
s.24(1)	Power to issue building permit where satisfied of matters set out in s 24(1), subject to s 24A	N/A	Where the municipal building surveyor is the relevant building surveyor

Building Act 1993

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	an agreement has been entered for payment		
s 24(6)	Power to issue a building permit in relation to building work where satisfied by the applicant of the criteria set out in s 24(6)(a) and (b)	N/A	Where the municipal building surveyor is the 'relevant building surveyor' Subject to s 269 of the Building Regulations 2018
s 24(7)	Power to issue a building permit in relation to building work where satisfied by the applicant of the criteria set out in s 24(7)(a) and (b)	N/A	Where the municipal building surveyor is the 'relevant building surveyor' Subject to s 269 of the Building Regulations 2018
s 24A(1)	Power to issue permit where satisfied of the matters set out in s 24A(1)(a) – (d)	N/A	Where the municipal building surveyor is the relevant building surveyor
s.25	Duty to notify applicant for a permit in writing without delay of refusal of permit and reasons refusal	CBI	Where the municipal building surveyor is the relevant building surveyor
s 25AA(1)	Function of receiving notification that the person is the new owner of the land	CBI, MDR, PDOs	Where the municipal building surveyor is the relevant building surveyor

Building Act 1993

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	construction of a building in certain circumstances		surveyor is the relevant building surveyor
s.29(2)	Duty to not refuse to issue building permit on the sole ground that the owner may without notice to the Council dispose of the land to the Crown or a public statutory body	N/A	Where the municipal building surveyor is the relevant building surveyor
s.29B(1) and (3)	Function of receiving notice from the responsible authority	CBI	Where the municipal building surveyor is the relevant building surveyor
s.29B(2)	Duty to suspend consideration of application for building permit upon receipt of notice under s 29B(1)	CBI	Where the municipal building surveyor is the relevant building surveyor
s.29B(5)	Duty, in making decision under s 24, to consider the requirements of the relevant planning scheme as amended when given notice of amendment under s 29B(3)(c)	CBI	Where the municipal building surveyor is the relevant building surveyor
s.30(1)	Duty to give Council a copy of permit, plans and other documents lodged with permit application	CBI	Where the municipal building surveyor is the relevant building surveyor
s 30(1A)	Duty to give a copy of any other prescribed documents, relating to the application for the building permit or the permit, to the relevant council	CBI, MDR	Where the municipal building surveyor is the 'relevant building surveyor'
s.30B(a)	Duty to certify documents and lodgement fees	N/A	Where the municipal building

Building Act 1993

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 35A(1)	Duty to ensure that a record of the inspection is made upon completion of an inspection under ss 34 or 35	CBI	Where the municipal building surveyor is the relevant building surveyor
s 35A(2)	Duty to give a copy of the record made under s 35A(1) upon written request	CBI	Where the municipal building surveyor is the relevant building surveyor
s 35A(2)(b)	Function to request and receive a copy of a record made under s 35A(1)	CBI	Where the MBS is the MBS for the municipal district in which the building work was inspected
s 35B	Duty not to cause a person to carry out an inspection under ss 34 or 35 unless the criteria in ss 35B(a) or 35B(b) is met	N/A	Where the municipal building surveyor is the relevant building surveyor
s.37A(2)	Duty to give a direction to fix building work to relevant person where reasonable belief that building work fails to comply with this Act, building regulations or building permit	CBI	Where the municipal building surveyor is the relevant building surveyor
s.37A(3)	Power to authorise building surveyor or relevant building inspector to give oral direction to fix building work to relevant person	CBI	Where the municipal building surveyor is the relevant building surveyor
s.37D(2)	Duty to give written direction to fix building work where not satisfied at the end of prescribed period following an oral direction that building work complies with this Act, building regulations or building permit	CBI	Where the municipal building surveyor is the relevant building surveyor
s.37G(1)	Function of receiving request to extend period	CBI	Where the municipal building

Building Act 1993

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	days of failure to comply		
s.38(1)	Duty to issue notice of final inspection following inspection of final mandatory notification stage, if occupancy permit not required and all directions complied with	CBI	Where the municipal building surveyor is the relevant building surveyor
s.41	Function of receiving application for occupancy permit	CBI, PDOs	Where the municipal building surveyor is the relevant building surveyor
s 41B(1)	Power to approve a draft building manual accompanying an application for an occupation permit if satisfied that the draft building manual meets all the requirements	MBS	Where the municipal building surveyor is the relevant building surveyor Provision commences on 1 February 2024, unless proclaimed earlier
s 41B(2)	Duty to record the approval of the draft building manual in the approved building manual	MBS	Where the municipal building surveyor is the relevant building surveyor Provision commences on 1 February 2024, unless proclaimed earlier
s 41B(3)	Duty to give a copy of the approved building manual to the applicant for the occupancy permit at the same time at which the relevant building surveyor issues the occupation permit to the applicant	MBS	Where the municipal building surveyor is the relevant building surveyor Provision commences on 1 February 2024, unless proclaimed earlier

Building Act 1993

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s.56	Duty to decide application for occupancy permit under Division 2 of Part 5 by either issuing permit, issuing permit with conditions or refusing permit	CBI	Where the municipal building surveyor is the relevant building surveyor
s.57(1)(a)	Power to approve the siting of a temporary structure	CBI	
s.59	Power to issue combined occupancy permit if requirements of Division 1 and Division 2 of Part 5 are satisfied	CBI	Where the municipal building surveyor is the relevant building surveyor
s.60	Duty to notify the reporting authority without delay and give copy of permit to the reporting authority, if issues occupancy permit which differs from or fails to implement recommendations in the reporting authority's report under Schedule 2	CBI	Where the municipal building surveyor is the relevant building surveyor
s.62	Duty to notify applicant of refusal of permit under Division 2 of Part 5 and reasons for refusal	CBI	Where the municipal building surveyor is the relevant building surveyor
s.63	Power to cause any place of public entertainment for which an occupancy permit has been issued under Division 2 of Part 5 to be inspected from time to time to determine whether or not the permit is being complied with	CBI	

Building Act 1993

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s.73(1A)	Duty to give Council a copy of other prescribed documents relating to application	CBI	Where the municipal building surveyor is the relevant building surveyor
s.81(4)	Duty to not complete the first private building surveyor's functions in respect of the building work without the written consent of the VBA, where the appointment of a private building surveyor is terminated under s 81(3)	N/A	
s.82	Duty to comply with direction of the VBA where appointment of private building surveyor is terminated and the MBS is to complete the private building surveyor's functions	N/A	
s.83T(2)	Function of receiving information from manager appointed by the VBA under s 83B	N/A	
s.84(1)	Function of receiving notification of proposed building work where owner is required to undertake protection work in respect of an adjoining property before or during the carrying out of building work for which a building permit is required must	CBI	Where the municipal building surveyor is the relevant building surveyor
s.85(1)(b)	Function of receiving notice from adjoining building owner regarding proposed protection works	CBI	Where the municipal building surveyor is the relevant building surveyor
s.87(1)	Duty to examine the proposal for protection work and determine the appropriateness or otherwise of the work upon receipt of notice under s 85(1)(b)	CBI	Where the municipal building surveyor is the relevant building surveyor

Building Act 1993

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	proposed use of a building, land on which building work is carried out or a place of public entertainment		
s 103(2)	Power to permit any person to enter, use or occupy a building, land or a place of public entertainment	CBI	
s 104(5)	Function of receiving the results of the destructive testing of the building product or material from an owner or builder referred to in s 104(4)	CBI, PDOs	
s.105(2)	Duty to cause an emergency order to be served on the person to whom it is directed without delay after it is made	CBI	
s.105(3)	Duty to give a copy of an emergency order to any private building surveyor appointed to perform a function in relation to a building, land or place to which the order relates	CBI, PDOs	
s.105B	Power to cancel an emergency order in some circumstances, by giving a written notice to the person to whom the notice was directed	CBI	
s.106	Power to cause a building notice to be served on an owner of a building, land or place of public entertainment if believes that one of the circumstances specified in s 106(a) - (d) exists	CBI	s 118A: must only cause building notice to be served if direction to fix building work not complied with, or satisfied it is not possible or appropriate to give a direction to fix the building work
s.110	Power to cancel building notice after considering any representations made by	CBI	Where the municipal building surveyor is the relevant building

Building Act 1993

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	is believed that the work required to be carried out is of a minor nature		
s.114(2)	Duty to cause building order to be served on person to whom it is directed without delay	CBI	Where the municipal building surveyor is the relevant building surveyor
s.116(2)	Power to amend or cancel a building order or refuse to amend or cancel a building order after considering request under s 116(1)	CBI	Where the municipal building surveyor is the relevant building surveyor
s.116(4)	Duty to inform the owner in writing, without delay, of the relevant building surveyor's decision under s 116(2)	CBI	Where the municipal building surveyor is the relevant building surveyor
s 119	Power to direct a person to obtain a building permit, or to comply with the Regulations , when carrying out work in accordance with an emergency order or building order in force under Part 8 of the Act	CBI	Where the municipal building surveyor is the relevant building surveyor
s.120(2)	Duty to inspect work notified as completed under s 120(1) and either report to Council that emergency order or building order has been fully complied with or require that order be fully complied with	CBI	Where the municipal building surveyor is the relevant building surveyor
s.121	Power to cause work to be carried out if an owner fails to carry out work as required by an emergency order or building order	CBI	
s.122	Duty to take necessary action if required by Minister	CBI	

Building Act 1993

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	variations specified in the application		
s.160A	Power to make application to the Building Appeals Board for a determination that a particular design of a building or an element of a building complies with this Act, the building regulations or any document applied, adopted or incorporated in the building regulations	CBI	Where the municipal building surveyor is the relevant building surveyor
s 162(1)(a)(iii) and (c)	Function of being consulted by Building Appeals Board	CBI	
s 176A(g)	Power to request that a registered building practitioner or, in the case of a registered body corporate, the nominee director of the registered building practitioner, produce their certificate of registration for inspection	CBI	
s 187O	Power to request a licensed building employee to produce their licence certificate for inspection	CBI	
s 188AA(3)	Duty to comply with any relevant direction issued under s 188AA(1) in carrying out a function under the Building Act 1993 and Building Regulations 2018	CBI	
s 205HA	Duty to refuse building permit application if the circumstances described in s 205HA(a) and (b) apply	CBI	Where the municipal building surveyor is the relevant building surveyor
s.205I(1)	Duty to estimate the cost of the building work and without delay give the VBA and applicant	CBI	Where the municipal building surveyor is the relevant building

Building Act 1993

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	where appointed for land outside the municipal district		
s.216C(1)(c)	Function of issuing occupancy permits and temporary approvals under part 5 where appointed for land outside the municipal district	N/A	
s.216(3)	Power to use the title of municipal building surveyor in carrying out functions under s 216 of the Act	N/A	Power of a MBS appointed under s216C(1) of the Act in respect of land outside the municipal district
s.216C(2) & (4)	Power to carry out outside the municipal district any function, other than those specified in s 216C(1), conferred on a private building surveyor by this Act or the regulations	N/A	Power of a MBS appointed under s216C(1) of the Act in respect of land outside the municipal district
s.225(d)	Duty to assist the Minister and obey all directions given by the Minister in the exercise of any of the powers of the Minister under s 224	CBI, MDR	
s.227E(1)	Power to inspect, either separately or jointly with chief officer, any safety or emergency installations, equipment or services or any records or reports relating to the operation and maintenance of any safety or emergency installations, equipment or services	CBI	
s.227E(2)	Function of receiving from chief officer a report of an inspection by the chief officer under s 227E(1)	CBI, PDOs	
s.227E(3)	Duty to ensure that owner of building or place of public entertainment that has been inspected under s 227E(1) is provided with	CBI	

Building Act 1993

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	amend application before dealing with or dealing further with application		surveyor
sch 2, cl 3(1)	Power to refuse application if additional information or document or amended application is not supplied within the time specified	CBI	Where the municipal building surveyor is the relevant building surveyor
sch 2, cl 3(2)	Duty to give applicant 30 days notice in writing of intention to refuse application	CBI	Where the municipal building surveyor is the relevant building surveyor
sch2, cl 4(1)	Duty to not decide an application that is required by this Act or regulations to be reported on or consented to, without obtaining report or consent from the reporting authority	CBI	Where the municipal building surveyor is the relevant building surveyor
sch 2, cl 4(2)	Duty to give copy of application to each reporting authority within prescribed time	CBI	Where the municipal building surveyor is the relevant building surveyor
sch 2, cl 4(3)	Duty to forward to a reporting authority with the copy of an application, any fees paid to the building surveyor under clause 1(e)	CBI	Where the municipal building surveyor is the relevant building surveyor
sch 2, cl 5(3)	Power not to obtain a report or consent from a reporting authority if the applicant notifies that they have applied for or intends to apply for that report or consent, or supplies a copy of the report made in the last 12 months or of the consent	CBI	Where the municipal building surveyor is the relevant building surveyor
sch 2, cl 6(1)	Power to proceed to decide an application without a report being obtained if a copy of the report is not supplied by the reporting authority (other than a Council or an officer of	CBI	Where the municipal building surveyor is the relevant building surveyor

Building Regulations 2018

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 26(2)	Power to reasonably require additional copies of documents set out in r 26(1)	CBI	Where the municipal building surveyor is the relevant building surveyor
r 27	Power to exempt an application for a building permit in respect of building work from any requirement under rr 25 or 26	CBI	Where the municipal building surveyor is the relevant building surveyor
r 29	Power to request additional information to accompany application for permit	CBI	Where the municipal building surveyor is the relevant building surveyor
r 36A	Power to examine an extract of the major domestic building contract and a copy of the certificate of insurance	CBI	Where the municipal building surveyor is the relevant building surveyor
r 37(3)	Duty to include the things specified in rr 37(3)(a) and 37(3)(b) on the building permit	CBI	Where the municipal building surveyor is the relevant building surveyor
r 38	Duty to document determination of performance solution	CBI	Where the municipal building surveyor is the relevant building surveyor
r 39	Duty to provide copy of building permit	CBI	Where the municipal building surveyor is the relevant building surveyor
r 42	Function of being notified of changes by the owner of a building or land to which a building permit relates	CBI, PDOs	Where the municipal building surveyor is the relevant building surveyor
r 43	Function of being notified of any change in the name or address of the building practitioner specified in the permit	CBI, PDOs	Where the municipal building surveyor is the relevant building surveyor
r 47	Duty to provide information to the VBA in the approved form within 7 days after the end of	CBI	Where the municipal building surveyor is the relevant building surveyor

Building Regulations 2018

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 64(1)	Power to determine or refuse to determine that a combined allotment can be treated as one allotment for the purposes of the Building Act 1993 and the Regulations	CBI	On receiving an application under r 60(1)
r 64(4)	Duty to give a copy of the determination to the applicant	CBI	
r 64(5)	Duty to notify the applicant of refusal to make a determination	CBI	
r 66(1)	Power to revoke a determination	CBI	
r 66(2)	Duty to give each owner of land in the combined allotment written notice of the revocation	CBI	
r 111(1)	Power to determine if protection work is required	CBI	Where the municipal building surveyor is the relevant building surveyor
r 111(2)	Duty to determine whether protection work is required when deciding an application for a building permit in relation to proposed building work	CBI	Where the municipal building surveyor is the relevant building surveyor
r 111(3)	Power to, at any time, determine that protection work is required	CBI	Where the municipal building surveyor is the relevant building surveyor
r 111(5)	Duty to provide a copy of the determination within 7 days after making a determination under r 111	CBI	Where the municipal building surveyor is the relevant building surveyor
r 112	Duty to have regard to the items in rr 112(a) – 112(i) when determining if protection work is	CBI	Where the municipal building surveyor is the relevant building surveyor

Building Regulations 2018

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	work		
r 120(2)	Power to, as a result of the tests, prohibit the use of any material which meets the criteria in rr 120(2)(a) and 120(2)(b)	CBI	Where the municipal building surveyor is the relevant building surveyor
r 121	Duty not to determine that a performance solution complies with a fire performance requirement of the BCA unless the municipal building surveyor meets the criteria in rr 121(a) – 121(h)	CBI	Where the municipal building surveyor is the relevant building surveyor
r 124(2)	Function of receiving a copy of the record prepared under r 124(1) from a registered building practitioner	CBI, PDOs	Where the municipal building surveyor is the relevant building surveyor
r 127(b)	Function of inspecting the records of all pile-driving operations	CBI	Where the municipal building surveyor is the relevant building surveyor
r 127(c)	Function of receiving the complete records of the pile-driving operations	CBI	Where the municipal building surveyor is the relevant building surveyor
r 128(2)(d)	Power to determine if used timber is suitable to be used for structural purposes	CBI	Where the municipal building surveyor is the relevant building surveyor
r 129(3)	Duty to forward details of the installation of fire sprinklers to the chief officer when a building permit is issued which involves the installation of fire sprinklers and the installation does not meet the deemed-to-satisfy provisions of the BCA	CBI	Where the municipal building surveyor is the relevant building surveyor
r 131	Power to require a report from the relevant electricity supply authority as to whether an electricity sub-station is necessary on the	CBI, MDR	Where the municipal building surveyor is the relevant building surveyor

Building Regulations 2018

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	of the land on which the swimming pool or spa is located		
r 156	Duty to accept the bushfire attack level in the planning scheme or site assessment for planning permit	CBI	Where the municipal building surveyor is the relevant building surveyor
r 157	Duty to accept bushfire attack level of 12.5	CBI	Where the municipal building surveyor is the relevant building surveyor
r 166E	Power to inspect an emergency accommodation building	CBI	
r 166G(2)(a)	Power to notify the owner of the building that building does not comply with a requirement under r 166F(1)(a)	CBI	
r 166G(3)	Duty to give written notice to the owner of the building containing the matters set out in r 166G(3)(a) – (c)	CBI	
r 166G(4)	Function of receiving request to extend period of time	CBI	
r 166G(5)	Duty to notify owner of building of extended period of time	CBI	
r 165	Duty not to determine that a performance solution complies with performance requirement P2.7.6 of the BCA Volume Two unless the relevant building surveyor relies on one of the items set out in rr 165(a) – 165(d)	CBI	Where the municipal building surveyor is the relevant building surveyor
r 170	Power to omit a mandatory notification stage set out in r 167 for building work if that stage	CBI	Where the municipal building surveyor

Building Regulations 2018

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	that each essential safety measure must achieve to fulfil its purpose		is the relevant building surveyor
r 194(2)	Duty to specify the provision of the Regulations with which the installation and operation of the essential safety measure must comply, which sets out the frequency and type of inspection, testing and maintenance required for the essential safety measure	CBI	Where the municipal building surveyor is the relevant building surveyor
r 198(1)	duty to ensure that a location approved within a building for the purposes of r 197 is in a prominent position and is accessible to the occupants of the building	CBI	Where the municipal building surveyor is the relevant building surveyor Subject to r 198(3)
r 198(2)	Duty to ensure that a location approved within a place of public entertainment for the purposes of r 197 is in a prominent position and is accessible to the public	CBI	Where the municipal building surveyor is the relevant building surveyor
r 199(2)	Power to request a copy of any current occupancy permit	CBI	
r 201(1)	Duty to notify the chief officer within 10 days after issuing the certificate of the items set out in rr 201(1)(a) and 201(1)(b)	CBI	Where the municipal building surveyor is the relevant building surveyor
r 201(2)	Duty to notify the chief officer of the issue of the certificate within 10 days after issuing the certificate	CBI	Where the municipal building surveyor is the relevant building surveyor
r 205	Duty to supply information to Council	CBI	Where the municipal building surveyor is the relevant building surveyor

Building Regulations 2018

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 225	Power to request documents relating to essential safety measures	CBI	
r 229(2)	Power to exempt a building or place of public entertainment from compliance with any of these Regulations applicable to the new use	N/A	
r 229(3)	Duty, when deciding whether to grant an exemption under r 229(2), to take into account the criteria set out in rr 229(3)(a) and 229(3)(b)	CBI	
r 231(2)	Power to exempt a building from all or any of the requirements of r 231(2)	CBI	
r 231(3)	Duty, when deciding whether to grant an exemption under r 231(2), to take into account the criteria set out in rr 231(3)(a) and 231(3)(b)	CBI	
r 233(3)	Power to consent to partial compliance of building work or an existing building with rr 233(1) or 233(2)	CBI	Where the municipal building surveyor is the relevant building surveyor Subject to r 233(6)
r 233(6)	Power to only consent to partial compliance in respect of the extension if the floor area of the extension is not greater than the lesser of those in rr 233(6)(a) and 233(6)(b)	CBI	Where the municipal building surveyor is the relevant building surveyor
r 234(2)	Power to consent to partial compliance of a building with r 234(1)	CBI	Where the municipal building surveyor is the relevant building surveyor