



Yarra Ranges Shire Council

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

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 s 98(2) of the *Local Government Act 1989* and s 188 of the *Planning and Environment Act 1987*, I, as Chief Executive Officer of Yarra Ranges Shire Council and the responsible authority for the administration and enforcement of the Yarra Ranges 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 to

BPCO	means Building & Planning Compliance Officer
BSO	means Business Support Officer
DSED	means Director Social & Economic Development
EODC	means Executive Officer Development Compliance & Prosecutions
EOPS	means Executive Officer Planning Services
EOSP	means Executive Officer Strategic Planning
MDS	means Manager Development Services
MSP	means Manager Strategic Planning
PO	means all Planning Officers (business unit identified in brackets where relevant) and includes the Subdivisions Officer
PMSP	means Project Manager Strategic Planning
(PS)	means Planning Services Department
(SP)	means Strategic Planning Department
SPO	means Senior Planning Officer and Senior Subdivisions Officer and also includes all Band 6 and Band 7 Officers (includes Principal Planning Officer and Special Projects Officer) in the Planning Unit
TLPO	means Team Leader Planning and also includes all Band 7 Officers in the Planning Unit

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 *Planning and Environment Act 1987* or otherwise.

This Instrument of Delegation is dated 14 June 2019 and is made by the Chief Executive Officer.

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




.....
Witness

SCHEDULE

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PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s49(1)	Duty to keep a register of all applications for permits and determinations relating to permits	MDS, MSP, EOPS, TLPO, SPO, PO(PS), BSO(PS)	
s49(2)	Duty to make register available for inspection	MDS, MSP, EOPS, TLPO, SPO, PO(PS), BSO(PS)	
s50(4)	Duty to amend application	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	
s50(5)	Power to refuse to amend application	MDS, MSP, EOPS, EOESP, PMSP	
s50(6)	Duty to make note of amendment to application in register	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO, BSO	
s50A(1)	Power to make amendment to application	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	
s50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	
s50A(4)	Duty to note amendment to application in register	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO, BSO	
s51	Duty to make a copy of every application and the prescribed information supplied in respect of the application available for inspection	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO, BSO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s52(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, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	Notice requirements under s52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply.
s52(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, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	Notice requirements under s52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply.
s52(1AA)	Duty to give notice of an application to remove or vary a registered restrictive covenant	MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	Notice requirements under s52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply.
s52(3)	Power to give any further notice of an application where appropriate	MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	Notice requirements under s52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply.
s53(1A)	Power to require the applicant to give the notice under s 52(1AA)	MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	Notice requirements under s52(1)(a), (b), (c) and (d) are exempt. Other notice requirements apply.
s54(1)	Power to require the applicant to provide more information	MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	Note: delegates cannot require an applicant to provide more information than what is listed in schs 59 – 59.16 of the planning scheme.
s54(1A)	Duty to give notice in writing of information required under s 54(1)	MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	Note: delegates cannot require an applicant to provide more information than what is listed in schs 59 – 59.16 of the planning scheme.
s54(1B)	Duty to specify the lapse date for an application	MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s54A(3)	Power to decide to extend time or refuse to extend time to give required information	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	<p>A decision to extend time in response to a first request pursuant to s 54A(1) may be exercised by all delegated officers.</p> <p>A decision to extend time in response to a second request pursuant to s 54A(1) must only be exercised by the MDS, MSP, EOPS, EOESP or PMSP.</p> <p>A decision to refuse to extend time in response to any request pursuant to s 54A(1) must only be exercised by the MDS, MSP, EOPS, EOESP or PMSP.</p>
s54A(4)	Duty to give written notice of decision to extend or refuse to extend time und s 54A(3)	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	
s57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector	MDS, MSP, EOPS, EOESP, PMSP	
s57(3)	Function of receiving name and address of persons to whom notice of decision is to go	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO, BSO	
s57(5)	Duty to make available for inspection copy of all objections	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO, BSO	
s57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	
s57A(5)	Power to refuse to amend application	MDS, MSP, EOPS, EOESP, PMSP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s57A(6)	Duty to note amendments to application in register	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO, BSO	
s57B(1)	Duty to determine whether and to whom notice should be given	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	A decision to give notice must only be exercised by the MDS, MSP, EOPS, EOESP or PMSP.
s57B(2)	Duty to consider certain matters in determining whether notice should be given	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	A decision to not give notice must only be exercised by the MDS, MSP, EOPS, EOESP or PMSP.
s57C(1)	Duty to give copy of amended application to referral authority	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO, BSO	
s58	Duty to consider every application for a permit	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	
s58A	Power to request advice from the Planning Application Committee	DSED, MDS, MSP	
s59(1)	Power to decide an application without delay	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	
s60(1)(a)	Duty to consider the relevant planning scheme	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	Note: VicSmart applications are exempt from the requirements of s 60(1)(b), (c), (e) and (f).
s60(1)(d)	Duty to consider any decision and comments of a referral authority which has been received	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	Note: VicSmart applications are exempt from the requirements of s 60(1)(b), (c), (e) and (f).
s60(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	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	Note: VicSmart applications are exempt from the requirements of s 60(1A)(b) – (h) and (j).

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s60(1A)(i)	Power to consider any agreement made pursuant to s 173	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	Note: VicSmart applications are exempt from the requirements of s 60(1A)(b) – (h) and (j).
s60(1B)	Duty to consider the number of objectors in considering whether use or development may have significant social effect	MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	
s61(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	DSED, MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO	The permit must not be inconsistent with a cultural heritage management plan under the <i>Aboriginal Heritage Act 2006</i> . A decision to refuse to issue a permit must only be exercised by the MDS, MSP, EOPS, EOESP or PMSP. Decision must be dual signed by PO & Delegate
s61(2)	duty to decide to refuse to grant a permit if a relevant determining referral authority objects to grant of permit	DSED, MDS, MSP, EOPS, EOESP, PMSP	
s61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	DSED, MDS, MSP, EOPS, EOESP, PMSP	
s61(3)(a)	Duty not to decide to grant a permit to use coastal Crown land without Minister's consent	DSED, MDS, MSP, EOPS, EOESP, PMSP	
s61(3)(b)	Duty to refuse to grant the permit without the Minister's consent	DSED, MDS, MSP, EOPS, EOESP, PMSP	
s61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	DSED, MDS, MSP, EOPS, EOESP, PMSP	
s62(1)	Duty to include certain conditions in deciding to grant a permit	DSED, MDS, MSP, EOPS, EOESP, PMSP, TLPO, SPO, PO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s62(2)	Power to include other conditions	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s62(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	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s62(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)	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s62(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)	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s64(5)	Duty to give each objector a copy of an exempt decision	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	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.
s64A	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	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	This provision applies also to a decision to grant an amendment to a permit - see s 75A.
s65(1)	Duty to give notice of refusal to grant permit to applicant and person who objected under s 57	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s66(1)	Duty to give notice under s 64 or s 65 and copy permit to relevant determining referral authorities	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s66(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	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	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
s66(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)	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	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

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s66(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	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	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
s69(1)	Function of receiving application for extension of time of permit	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s69(1A)	Function of receiving application for extension of time to complete development	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s69(2)	Power to extend time	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO	
s70	Duty to make copy permit available for inspection	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s71(1)	Power to correct certain mistakes	DSED, MDS, MSP, EOPS, EOSP, PMSP	A mistake made by an individual officer must only be corrected by a different officer.
s71(2)	Duty to note corrections in register	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s73	Power to decide to grant amendment subject to conditions	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s74	Duty to issue amended permit to applicant if no objectors	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s76A(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	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	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
s76A(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)	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	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
s76A(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	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	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

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s76D	Duty to comply with direction of Minister to issue amended permit	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s83	Function of being respondent to an appeal	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	The DSED or MDS, MSP may appoint a consultant or legal representative to represent Council at a proceeding.
s83B	Duty to give or publish notice of application for review	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	DSED, MDS, MSP, EOPS, EOSP, PMSP	Must only be exercised in a manner consistent with the delegations applicable to Section 61 decisions.
s84(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	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s84(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	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s84(6)	Duty to issue permit on receipt of advice	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s84AB	Power to agree to confining a review by the Tribunal	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s86	Duty to issue a permit at order of Tribunal	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	DSED	Must only be exercised where Council has previously indicated its intention to apply for cancellation or amendment, or where an extraordinary situation exists that requires action to be taken prior to reporting the matter to Council.
s90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	DSED, MDS, MSP, EODC, EOPS, EOSP, PMSP, BPCO, TLPO, SPO, PO	The DSED or MDS, MSP may appoint a consultant or legal representative to represent Council at a proceeding.
s91(2)	Duty to comply with the directions of VCAT	DSED, MDS, MSP, EODC, EOPS, EOSP, PMSP, BPCO, TLPO, SPO, PO, BSO	
s91(2A)	Duty to issue amended permit to owner if Tribunal so directs	DSED, MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90	DSED, MDS, MSP, EODC, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s93(2)	Duty to give notice of VCAT order to stop development	MDS, MSP, EODC, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	

PLANNING AND ENVIRONMENT REGULATIONS 2015			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS AND LIMITATIONS
r21	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	MDS, MSP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	

PLANNING AND ENVIRONMENT (FEES) REGULATIONS 2016			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS AND LIMITATIONS
r20	Power to waive or rebate a fee other than a fee relating to an amendment to a planning scheme	DSED, MDS, MSP, EOPS	
r21	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	DSED, MDS, MSP, EOPS	