



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 47(2) of the *Local Government Act 2020* 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
 - DPSF means Director Planning & Sustainable Futures
 - EODC means Executive Officer Development Compliance & Prosecutions
 - EOPS means Executive Officer Planning Services
 - EOSP means Executive Officer Strategic Planning
 - MPB means Manager Planning and Building
 - MDP means Manager Design & Place
 - PO means all Planning Officers (business unit identified in brackets where relevant) and includes the Subdivisions Officer
 - PMSP means Project Manager Strategic Planning
 - (PB) means Planning and Building Department
 - (DP) means Design & Place 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 10 May 2023, and is made by the Chief Executive Officer.

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

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Sarah Candeland
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
s 50(4)	Duty to amend application	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s 50(5)	Power to refuse to amend application	MPB, MDP, EOPS, EOSP, PMSP	
s 50(6)	Duty to make note of amendment to application in register	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 50A(1)	Power to make amendment to application	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s 50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s 50A(4)	Duty to note amendment to application in register	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
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	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
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	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, 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	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	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(1AA)	Duty to give notice of an application to remove or vary a registered restrictive covenant	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, 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	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s 53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, 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)	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, 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	MPB, MDP, 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
s 54(1A)	Duty to give notice in writing of information required under s 54(1)	MPB, MDP, 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
s 54(1B)	Duty to specify the lapse date for an application	MPB, MDP, 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
s 54A(3)	Power to decide to extend time or refuse to extend time to give required information	MPB, MDP, EOPS, EOSP, 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 MPB, MDP, EOPS, EOSP 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 MPB, MDP, EOPS, EOSP or PMSP.</p>
s 54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3)	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s 57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector	MPB, MDP, EOPS, EOSP, PMSP	
s 57(3)	Function of receiving name and address of persons to whom notice of decision is to go	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 57(5)	Duty to make copy of every objection available in accordance with the public availability requirements	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s 57A(5)	Power to refuse to amend application	MPB, MDP, EOPS, EOSP, PMSP	

PLANNING AND ENVIRONMENT ACT 1987			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 57A(6)	Duty to note amendments to application in register	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 57B(1)	Duty to determine whether and to whom notice should be given	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	A decision to give notice must only be exercised by the MPB, MDP, EOPS, EOSP or PMSP.
s 57B(2)	Duty to consider certain matters in determining whether notice should be given	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	A decision to not give notice must only be exercised by the MPB, MDP, EOPS, EOSP or PMSP.
s 57C(1)	Duty to give copy of amended application to referral authority	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 58	Duty to consider every application for a permit	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s 58A	Power to request advice from the Planning Application Committee	DPSF, MPB, MDP	
s 59(1)	Power to decide an application without delay	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s 60(1)(a)	Duty to consider the relevant planning scheme	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	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	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, 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	MPB, MDP, EOPS, EOSP, 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
s 60(1B)	Duty to consider the number of objectors in considering whether use or development may have significant social effect	MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, 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	DPSF, MPB, MDP, EOPS, EOSP, 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 MPB, MDP, EOPS, EOSP or PMSP. Decision must be dual signed by PO & Delegate
s 61(2)	Duty to decide to refuse to grant a permit if a relevant determining referral authority objects to grant of permit	DPSF, MPB, MDP, EOPS, EOSP, PMSP	
s 61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	DPSF, MPB, MDP, EOPS, EOSP, PMSP	
s 61(3)(a)	Duty not to decide to grant a permit to use coastal Crown land without Minister's consent	DPSF, MPB, MDP, EOPS, EOSP, PMSP	
s 61(3)(b)	Duty to refuse to grant the permit without the Minister's consent	DPSF, MPB, MDP, EOPS, EOSP, PMSP	
s 61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	DPSF, MPB, MDP, EOPS, EOSP, PMSP	
s 62(1)	Duty to include certain conditions in deciding to grant a permit	DPSF, MPB, MDP, 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
s 62(2)	Power to include other conditions	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s 62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s 62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, 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	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s 62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
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)	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, 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)	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s 63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	DPSF, MPB, MDP, 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
s 64(5)	Duty to give each objector a copy of an exempt decision	DPSF, MPB, MDP, 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
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	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	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	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 66(1)	Duty to give notice under ss 64 or 65 and copy permit to relevant determining referral authorities	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
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	DPSF, MPB, MDP, 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
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)	DPSF, MPB, MDP, 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
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	DPSF, MPB, MDP, 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
s 69(1)	Function of receiving application for extension of time of permit	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 69(1A)	Function of receiving application for extension of time to complete development	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 69(2)	Power to extend time	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO	
s 70	Duty to make a copy of every permit that it issues available in accordance with the public availability requirements	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 71(1)	Power to correct certain mistakes	DPSF, MPB, MDP, EOPS, EOSP, PMSP	A mistake made by an individual officer must only be corrected by a different officer.
s 71(2)	Duty to note corrections in register	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 73	Power to decide to grant amendment subject to conditions	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO	

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	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
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	DPSF, MPB, MDP, 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
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)	DPSF, MPB, MDP, 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
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	DPSF, MPB, MDP, 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
s 76D	Duty to comply with direction of Minister to issue amended permit	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 83	Function of being respondent to an appeal	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	The DPSF, MPB or MDP may appoint a consultant or legal representative to represent Council at a proceeding
s 83B	Duty to give or publish notice of application for review	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO	
s 84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	DPSF, MPB, MDP, EOPS, EOSP, PMSP	
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	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, 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	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 84(6)	Duty to issue permit on receipt of advice	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 84AB	Power to agree to confining a review by the Tribunal	DPSF, MPB, MDP, 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
s 86	Duty to issue a permit at order of Tribunal	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	DPSF	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.
s 90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	DPSF, MPB, MDP, EODC, EOPS, EOSP, PMSP, BPCO, TLPO, SPO, PO	The DPSF, MPB or MDP may appoint a consultant or legal representative to represent Council at a proceeding.
s 91(2)	Duty to comply with the directions of VCAT	DPSF, MPB, MDP, EODC, EOPS, EOSP, PMSP, BPCO, TLPO, SPO, PO, BSO	
s 91(2A)	Duty to issue amended permit to owner if Tribunal so directs	DPSF, MPB, MDP, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90	DPSF, MPB, MDP, EODC, EOPS, EOSP, PMSP, TLPO, SPO, PO, BSO	
s 93(2)	Duty to give notice of VCAT order to stop development	MPB, MDP, 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
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	MPB, MDP, 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
r 20	Power to waive or rebate a fee other than a fee relating to an amendment to a planning scheme	DPSF, MPB, MDP, EOPS, EOSP	
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	DPSF, MPB, MDP, EOPS, EOSP	