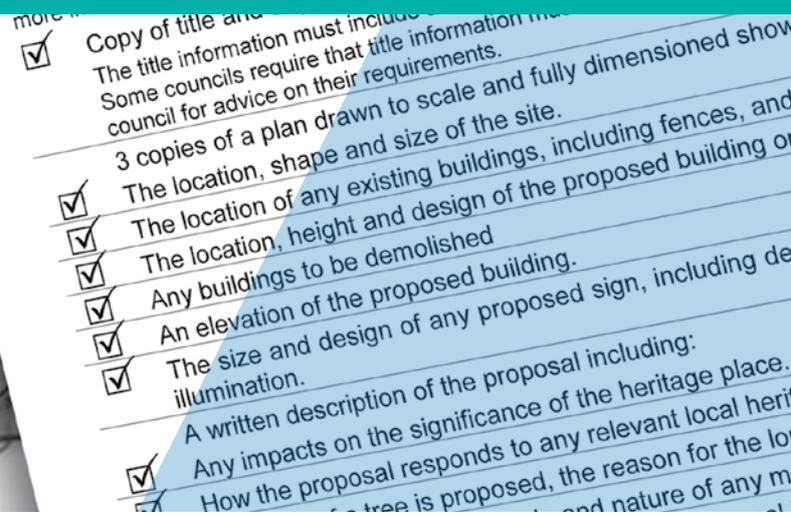


Fast decisions for simple planning applications



Chief Executive Officer Model Delegation instrument for VicSmart applications

The *Planning and Environment (VicSmart Planning Assessment) Act 2012* amended the *Planning and Environment Act 1987* to enable planning schemes to set out different procedures for different classes of application. Planning schemes now provide for VicSmart permit applications in addition to the normal process for applications.

In mid September 2014, VC 114 amended the *Victoria Planning Provisions* and all planning schemes to introduce the VicSmart planning assessment provisions.

Under the VicSmart planning provisions:

- A decision will be expected to be made within 10 business days
- Classes of VicSmart applications will be specified in the planning scheme
- VicSmart applications will be exempt from notice or third party review right
- Clause 61 nominates the Chief Executive Officer (CEO) of the council as the responsible authority for considering and deciding VicSmart applications.

Under section 98(2) of the *Local Government Act 1989* and section 188 of the *Planning and Environment Act 1987*, the CEO is able to delegate the responsible authority powers, discretions and functions to an officer of the council.

The responsible authority for the purpose of enforcement of a VicSmart permit will continue to be the municipal council (or its delegate).

The attached model delegation instrument has been prepared to assist the CEO.

Local Government Act 1989

Section 98(2)

Planning and Environment Act 1987

Section 188

**INSTRUMENT OF DELEGATION OF RESPONSIBLE AUTHORITY
POWERS, DISCRETIONS AND FUNCTIONS**

I, [first name, surname], Chief Executive Officer of the [name of municipality] and the responsible authority for the administration and enforcement of the [name of planning scheme] as set out in clause 61.01 of that scheme, under section 98(2) of the *Local Government Act 1989* and section 188 of the *Planning and Environment Act 1987*:

1. delegate to those persons specified in Column 3 of Schedule 1 (and anyone acting in those roles from time to time), the powers, discretions and functions as a responsible authority under those provisions of the *Planning and Environment Act 1987* specified in Column 1 of Schedule 1 (as described in Column 2 of Schedule 1), to the extent and subject to any special conditions specified in Column 4 of Schedule 1; and
2. provide that the persons referenced in Column 3 of Schedule 1 are defined in Schedule 2.

First Name, Surname
Chief Executive Officer

Date:

Schedule 1

POWERS, DISCRETIONS AND FUNCTIONS

Column 1	Column 2	Column 3	Column 4
Section	Description of the powers, discretions and functions delegated	Delegate	Conditions and limitations
50	amend an application in accordance with a request from the applicant under section 50(1), or refuse to amend an application if it is considered that the amendment is so substantial that a new application for a permit should be made		
50A(1)	with the agreement of the applicant and after giving notice to the owner, make any amendments to an application that it thinks necessary		
50A(3)	require the applicant to notify the owner of an amendment to an application made under section 50A(1), and to make a declaration that notice has been given		
51	make a copy of every application and the prescribed information supplied in respect of the application available for inspection		
52(1)(cb)	give notice of an application to remove or vary a restrictive covenant to owners and occupiers of land benefitted by the covenant		

Column 1 Section	Column 2 Description of the powers, discretions and functions delegated	Column 3 Delegate	Column 4 Conditions and limitations
54	require the applicant to provide more information before dealing with the application		
54A(3)	extend the time to give required information or to refuse to extend that time		
54(4)	give the applicant written notice of a decision under section 54(3)		
57A	amend an application in accordance with a request from the applicant under section 57A(1), or refuse to amend an application if it is considered that the amendment is so substantial that a new application for a permit should be made		
58	consider each application for a permit		
59(1)	decide an application without delay		
60(1)(a) and (d)	consider the relevant matters before deciding on an application		
60(2)	if satisfied that the owner of land benefitted by the restriction will be unlikely to suffer financial loss, loss of amenity, loss arising from change to the character of the neighbourhood or any other material detriment as a consequence of the removal or variation of the restriction, grant a permit which allows such removal or variation		

Column 1 Section	Column 2 Description of the powers, discretions and functions delegated	Column 3 Delegate	Column 4 Conditions and limitations
61(1)	decide to— <ul style="list-style-type: none"> • grant a permit; or • grant a permit subject to conditions; or • refuse to grant a permit on any ground 		
61(2A)	decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of a permit		
61A(3)	delegate a power, duty or function as responsible authority to another council officer if under section 80B of the <i>Local Government Act 1989</i> the officer to whom the power, duty or function was originally delegated is prohibited from exercising the power due to a conflict of interest		
62	in deciding to grant a permit include any condition on a permit required to be included and any other condition that is thought fit		
63	issue the permit to the applicant once it has decided in favour of the application		
65	give the applicant notice of its decision to refuse to grant a permit		
66(1)	give each relevant determining referral authority a copy of any permit which it decides to grant or a copy		

Column 1 Section	Column 2 Description of the powers, discretions and functions delegated	Column 3 Delegate	Column 4 Conditions and limitations
	of any notice given under section 65		
66(2) and (3)	give a recommending referral authority notice of decision to grant a permit in the specified circumstances, and include any conditions to which the permit will be subject		
66(4) and (5)	give a recommending referral authority notice of decision to refuse to grant a permit in the circumstances specified, and include the information required under section 66(5)		
66(6)	give a recommending referral authority a copy of any permit and notice given under section 65 in the circumstances specified		
69(2)	extend the time within which the use or development or any stage of it is to be started or any stage of it is to be completed or within which a plan under the <i>Subdivision Act 1988</i> is to be certified		
70	make copies of every permit available at the office for inspection		
71	correct a permit issued by the responsible authority and note it on the register		
73	consider an application made under section 72 to amend a permit		

Column 1 Section	Column 2 Description of the powers, discretions and functions delegated	Column 3 Delegate	Column 4 Conditions and limitations
74	issue an amended permit to the applicant once the responsible authority has decided in favour of the application		
76	give the applicant and each objector notice of its decision to refuse to grant an amendment to a permit		
76A(1)	give a determining referral authority a copy of the amended permit and a notice given under section 76, if it decided to grant an amendment to the permit		
76A(2) and (3)	give a recommending referral authority notice of decision to grant an amendment to a permit in the circumstances specified, and include any conditions to which the permit will be subject		
76A(4) and (5)	give a recommending referral authority notice of decision to refuse to grant an amendment to a permit in the circumstances specified, and include the information required under section 76A(5)		
76A(6)	give a recommending referral authority a copy of any amended permit and notice given under section 64 or 76 in the circumstances specified		
84(1)	decide on an application for a permit after application has been made for review of the failure to grant a permit		

Column 1 Section	Column 2 Description of the powers, discretions and functions delegated	Column 3 Delegate	Column 4 Conditions and limitations
84(3)	inform the principal registrar if the responsible authority decides to grant a permit after an application is made		
84(6)	issue the permit if directed to do so by the presidential member of the Tribunal		
84AB	agree to confining a review by the Tribunal		
86	issue the permit if an order made by the Tribunal requires the responsible authority to issue that permit		
87(3)	request the Tribunal to cancel or amend a permit		
91(2)	comply with a direction of the Tribunal to cancel or amend a permit		
91(2A)	comply with a direction of the Tribunal to issue an amended permit		
92	give notice of the cancellation or amendment of a permit		
93(2)	give notice of an order to stop development without delay where directed to do so by the Tribunal		

