



**Macedon
Ranges**
Shire Council

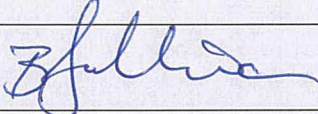
Policy Title:	Delegation Framework, Policy and Procedures	
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Purpose / Objectives:	Establish a framework in which Council considers it appropriate for Council Officers to exercise delegated powers and functions in accordance with the <i>Planning & Environment Act 1987</i> and <i>Subdivision Act 1988</i> . Ensure compliance with the <i>Local Government Act 2020</i> , that delegations are exercised with appropriate controls, efficiently and effectively and that the Chief Executive Officer has sufficient power and authority to generally manage, control and administer the statutory planning duties of Council on a day to day basis.	
Background / Reasons for Policy:	This policy has been developed to provide a clear policy framework that explains; 1. What is delegation and why it is needed. 2. The statutory basis of delegations. 3. How Council manages its delegation regime for statutory planning decisions. 4. How Officers must exercise their delegation generally and specifically when making planning decisions.	
Related Policies:	Councillor Code of Conduct, Staff Code of Conduct, Procurement Policy	
Related Legislation:	<i>Local Government Act 2020, Planning & Environment Act 1987, Subdivision Act 1988</i> and other relevant State and Commonwealth legislation	

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1. Introduction

The Macedon Ranges Shire Council believes that it is essential and in the interests of effective governance to encourage the delegation of statutory planning decision making to the appropriate level within the organisation. This will achieve the best use of the abilities of elected Councillors and officers, ensure cost effective use of resources, and promote the development of efficient and effective management.

Authority and responsibility are inseparable. Those with responsibility for a task or function should always have the authority to carry it out effectively. Those with authority should always be responsible for its wise and prudent use. Delegations cannot, however, remove from the Council and senior management the ultimate accountability for the affairs of Council's statutory planning function.

Those with delegated authority should willingly accept authority and responsibility for decision making in the certain knowledge that their decisions, if made in a full, fair and objective manner, will help achieve the strategic outcomes of the organisation as set out in both the *Local Government Act 2020* (the Act) and the *Planning and Environment Act 1987* (the P&E Act).

Section 8 of the Act sets out the 'Role of a Council' as follows;

- (1) *The role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.*
- (2) *A Council provides good governance if—*
 - (a) *it performs its role in accordance with section 9;*
 - (b) *the Councillors of the Council perform their roles in accordance with section 28.*
- (3) *In performing its role, a Council may—*
 - (a) *perform any duties or functions or exercise any powers conferred on a Council by or under this Act or any other Act; and*
 - (b) *perform any other functions that the Council determines are necessary to enable the Council to perform its role.*
- (4) *If it is necessary to do so for the purpose of performing its role, a Council may perform a function outside its municipal district.*

Section 9 of the Act sets out the 'Overarching governance principles and supporting principles' that Council must follow;

- (1) *A Council must in the performance of its role give effect to the overarching governance principles.*
- (2) *The following are the overarching governance principles—*
 - (a) *Council decisions are to be made and actions taken in accordance with the relevant law;*
 - (b) *priority is to be given to achieving the best outcomes for the municipal community, including future generations;*
 - (c) *the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;*
 - (d) *the municipal community is to be engaged in strategic planning and strategic decision making;*
 - (e) *innovation and continuous improvement is to be pursued;*

- (f) *collaboration with other Councils and Governments and statutory bodies is to be sought;*
 - (g) *the ongoing financial viability of the Council is to be ensured;*
 - (h) *regional, state and national plans and policies are to be taken into account in strategic planning and decision making;*
 - (i) *the transparency of Council decisions, actions and information is to be ensured.*
- (3) *In giving effect to the overarching governance principles, a Council must take into account the following supporting principles—*
- (a) *the community engagement principles;*
 - (b) *the public transparency principles;*
 - (c) *the strategic planning principles;*
 - (d) *the financial management principles;*
 - (e) *the service performance principles.*

Section 4 of the P&E Act sets out the objectives for land use planning in Victoria;

- (1) *The objectives of planning in Victoria are—*
- (a) *to provide for the fair, orderly, economic and sustainable use, and development of land;*
 - (b) *to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
 - (c) *to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
 - (d) *to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
 - (e) *to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*
 - (f) *to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*
 - (fa) *to facilitate the provision of affordable housing in Victoria;*
 - (g) *to balance the present and future interests of all Victorians.*

The achievement of these overarching governance principles and objectives within the Act and the P&E Act respectively, is through the development of a close working relationship between Councillors and Officers. Councillors are responsible for the development and implementation of policy to lead and guide the good management of the Macedon Ranges Shire. Officers, in turn, implement and administer these policies, provide expert advice which contributes substantially to statutory decisions made under the established planning policy which create the built form, land uses and environmental outcomes the community expect.

Delegation focuses and sharpens this relationship and assists in the better achievement of the respective functions of elected Councillors and Officers.

2. Objectives of this framework

The objectives of the Delegation Framework Policy and Procedures document are to:

- Establish a framework that Council considers appropriate for Council Officers to exercise delegated powers and functions in accordance with the *Planning & Environment Act 1987 and the Subdivision Act 1988*.
- Ensure that the Macedon Ranges Shire Council complies with the requirements of the Act specifically Section 47 which defines which powers vested with the Council may be delegated.
- Ensure that Council Officers have the required delegated authorities to achieve the statutory time frames for planning permits to be determined within i.e. 60 statutory days.
- Ensure that Council Officers have the required delegated authorities to achieve strategic outcomes and outputs as identified in the Council Plan through statutory planning decision making.
- Ensure that the delegation regime to the Chief Executive Officer and other Council Officers are clearly defined and recorded within Council's Delegations Register.
- Ensure that the Chief Executive Officer and Council Officers exercise these delegations appropriately and within the terms of their Instruments of Delegation.
- Facilitate the effective and efficient operation of the Council by providing Officers with sufficient power and authority to generally manage, control and administer the affairs of the Council on a day-to-day basis.

3. What is a delegation?

Delegation means the assignment of a duty, power or function to another, together with the authority to carry out that duty or complete the action assigned with responsibility for the outcome.

In almost all situations the Council itself is a delegate in that its duties, powers and functions derive from the Victorian Parliament through empowering legislation (e.g. the *Planning and Environment Act 1987* and others). As such legislative, judicial and administrative authority is granted to the Council for specific purposes. In this environment, the Council has wide discretion to arrange its own administration in a way which ensures efficiency, flexibility and responsiveness to local needs. In doing so it must, however, comply with the special requirements imposed by law in given circumstances.

It is important to understand the following characteristics of delegation:

- It is implicit that a delegation may be revoked by formal decision of Council or delegator, and is immediately effective when communicated to the delegate;
- The delegate is acting in his or her own name on behalf of the Council when exercising delegated authority;
- To be effective and of legal standing, all delegations must be in writing (i.e. this policy, authorisations and the Delegations Register);
- All statutory planning delegations must operate within the parameters set by Council's Delegation Framework, Policy and Procedure.

4. Statutory basis of delegations

4.1 Delegation to Officers

Macedon Ranges Shire Council's delegations are derived from Section 11 and 47 of the Local Government Act 2020 which states:

Section 11

(1) *A Council may by instrument of delegation delegate to—*

- (a) *the members of a delegated committee; or*
- (b) *the Chief Executive Officer—*

any power, duty or function of a Council under this Act or any other Act other than a power, duty or function specified in subsection (2).

Section 47

(1) *The Chief Executive Officer may by instrument of delegation delegate any power, duty or function of the Council that has been delegated to the Chief Executive Officer by the Council to—*

- (a) *a member of Council staff; or*
- (b) *the members of a Community Asset Committee.*

(2) *The Chief Executive Officer may by instrument of delegation delegate any power, duty or function conferred by this Act or any other Act on the Chief Executive Officer, other than this power of delegation and the power of delegation under subsection (1), to a member of Council staff.*

(3) *A delegation under this section to a member of Council staff may be made to—*

- (a) *a person named in the delegation; or*
- (b) *the holder of an office or position specified in the delegation.*

4.2 Delegated Committees of Council

In addition to the power to delegate to a member of its staff, Council pursuant to Section 63 of the Local Government Act 2020 may delegate any of its functions, duties and powers to a delegated committee.

Section 63 of the Local Government Act 2020 states

63 Delegated committees

(1) A delegated committee established by a Council—

- (a) must include at least 2 Councillors; and
 - (b) may include any other persons appointed to the delegated committee by the Council who are entitled to vote.
- (2) A meeting of a delegated committee established by a Council must be chaired by—
- (a) a Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee; or
 - (b) if the Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee is not present at the meeting, a Councillor who is present at the meeting and is appointed by the members of the delegated committee who are present at the meeting.
- (3) Section 61 applies to a meeting of a delegated committee as if the members were Councillors.

The Macedon Ranges Shire Council has established a Section 63 Delegated Committee.

Name of Delegated Committee	Date established	Membership	Purpose of Delegated Committee
Planning Delegated Committee	July 2021	All Councillors	To exercise Council's functions and powers to make decisions for all planning matters, and to perform Council's duties to hear from: <ul style="list-style-type: none"> • Persons who have made an objection or submission to a planning matter in accordance with the <i>Planning and Environment Act 1987 (Vic)</i>; and • Planning permit applicants and/or land owners in relation to a planning matter submitted in accordance with the <i>Planning and Environment Act 1987 (Vic)</i>.

5. Delegation hierarchy

The Macedon Ranges Shire Council has a delegation hierarchy to ensure the appropriate processes and accountabilities exist for the implementation of its delegations. This hierarchy notes that the authority to delegate functions and responsibilities flows directly from the Act through to the Council as the 'body politic' for the organisation.

Delegations of authority from the Council are in general made;

- a) **Directly from Council to the Chief Executive Officer** who in turn may **sub-delegate** these authorities to nominated members of staff as he/she considers appropriate for the effective and efficient operation of the organisation and the delivery of functions and services to allow the council to fulfil its lawful obligations, or

- b) **Directly from Council to Officers of Council.** Council can delegate some of its powers, duties and functions directly to staff without the need for them to be sub-delegated by the Chief Executive Officer.
- c) **Directly from Council to a Section 63 Delegated Committee of Council**
Council has established a Planning Delegated Committee under this section of the Act to consider and determine relevant land use planning matters.

Council manages and documents its delegations through the subscription to a 'Delegation & Authorisation Service' that is updated bi-annually and which documents all 'powers, duties and functions' conferred on local Councils in all relevant Victorian and Commonwealth legislation.

This service also satisfies the legislative requirement for Council to maintain a register of all delegations which is to be available for public inspection. Council maintains this register on its website www.mrsc.vic.gov.au

The Instrument of Delegation templates that document all Council delegations are:

- **Instrument of Delegation from Council to the CEO (S5)**
This delegates all of Council's powers, duties and functions which are capable of delegation, subject to some exceptions and limitations, to the CEO.
- **Instrument of Delegation from Council to members of Council Staff (S6)**
This delegates certain powers directly from Council to Council staff due to the legislation referred to containing specific powers of delegation
- **Instrument of Sub Delegation from CEO to members of Council Staff (S7)**
This sub-delegates Council powers, duties or functions contained in Acts or Regulations which do not include a specific power of delegation. (See Note 1)
- **Instrument of Delegation from CEO to members of Council Staff (S13)**
This instrument allows the CEO to delegate his or her powers, duties and functions existing under all Victorian legislation. This differs to the S7 Instrument in that it does not relate to *Council* powers, duties and functions, but those vested in the CEO personally.
- **Instrument of Delegation from CEO to members of Council Staff (S14) (VicSmart Applications)**
This provides for the CEO to delegate his or her powers as a responsible authority under the *Planning and Environment Act 1987* in relation to VicSmart planning applications.
- **Instrument of Delegation to Delegate Committees - Planning Delegated Committee (C4)**
This provides for the Planning Delegated Committee to exercise the powers, duties and functions of Council make decisions for all types of planning matters pursuant to the *Planning and Environment Act 1987*, to hear from persons who have made an objection or submission to a planning matter in accordance with the *Planning and Environment 1987* and to hear from applicants and/or land owners in relation to a planning matter submitted in accordance with the *Planning and Environment 1987*.

Note 1—The S7 Instrument of Delegation also contains a miscellaneous section which covers powers, duties and functions of Council that are not specifically provided for in legislation, but which are part of the general powers of Councils that are delegated to the Chief Executive Officer, and which, if it is appropriate the Chief Executive Officer will sub delegate. These include human resources issues, finance issues (noting the specific procurement/expenditure delegations are incorporated in the Procurement Policy) and miscellaneous matters.

6. Limitations of delegations

Delegation to the Chief Executive Officer is limited in three ways. **Firstly**, Section 11(2) of the *Local Government Act 2020* expressly prohibits the delegation of the following matters:

- (a) the power of delegation; and
- (b) the power to elect a Mayor or Deputy Mayor; and
- (c) the power to grant a reasonable request for leave under section 35; and
- (d) subject to subsection (3), the power to appoint the Chief Executive Officer, whether on a permanent or acting basis; and
- (e) the power to make any decision in relation to the employment, dismissal or removal of the Chief Executive Officer; and
- (f) the power to approve or amend the Council Plan; and
- (g) the power to adopt or amend any policy that the Council is required to adopt under this Act; and
- (h) the power to adopt or change the Governance Rules;
 - i. the power to appoint the chair of the members to a delegated committee; and
- (i) the power to make, amend or revoke a local law; and
- (j) the power to approve the budget or revised budget; and
- (k) the power to borrow money; and
- (l) subject to section 181H(1)(b) of the *Local Government Act 1989*, the power to declare general rates, municipal charges, service rates and charges and special rates and charges; and
- (m) any power, duty or function prescribed by the regulations for the purposes of this subsection.

Secondly, the Instrument of Delegation that is used documents the delegation from the Council to the Chief Executive Officer i.e. (S5) has a further suite of conditions and limitations specifically:

Extract from Instrument of Delegation S5

The Chief Executive Officer is delegated the power to

1. *determine any issue;*
2. *take any action; or*
3. *do any act or thing*

arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.

Conditions and Limitations

The delegate must not determine the issue, take the action or do the act or thing

3. if the issue, action, act or thing is an issue, action, act or thing which involves
 - 3.1 *awarding a contract exceeding the limitations as set out in the Procurement Policy, currently value of \$1,000,000;*
 - 3.2 *making any expenditure that exceeds \$1,000,000 (unless it is expenditure made under a contract already entered into; or is expenditure that has been approved by a resolution of Council; or is expenditure which Council is, by or under legislation, required to make);*
 - 3.3 *appoint an Acting Chief Executive Officer for a period exceeding 28 days;*
 - 3.4 *election of a Mayor or Deputy Mayor;*
 - 3.5 *granting a request for leave under s35 of the Act;*
 - 3.6 *making any decision in relation to the employment, dismissal or removal of the Chief Executive Officer;*
 - 3.7 *approval or amendment to the Council Plan;*
 - 3.8 *adoption or amendment of any policy that Council is required to adopt under the Act;*
 - 3.9 *adoption or amendment to the Governance Rules;*
 - 3.10 *appointment of the chair or the members to a delegated committee;*
 - 3.11 *making, amending or revoking a local law;*
 - 3.12 *approval of the Budget or Revised Budget;*
 - 3.13 *approving the borrowing of money; or*
 - 3.14 *subject to section 181H(1)(b) of the Local Government Act 1989, the power to declare general rates, municipal charges, service rates and charges and special rates and charges;*
4. *if the issue, action, act or thing is an issue, action, act or thing which is required by law to be done by Council resolution;*
5. *if the issue, action, act or thing is an issue, action or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;*
6. *if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a*
 - 6.1 *policy; or*
 - 6.2 *strategy*

adopted by Council; or

7. *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 11(2)(a)-(n) (inclusive) of the Act or otherwise; or*
8. *the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff.*

Thirdly, the Instruments of Delegation from the Council to Council Officers and from the Chief Executive to Council Officers additionally have further limitations and conditions documented in relation to the specific matter delegated where appropriate.

These conditions and limitations on the Chief Executive Officer (and delegates) are considered both appropriate and reasonable.

7. Operation of delegations

Staff members who have received delegations are required to exercise these delegations appropriately and only within the terms of the Instrument of Delegation and this Framework Policy and Procedures. Any misuse of delegations will be deemed a breach of the Staff Code of Conduct and may result in disciplinary action.

In particular the Act and the Staff Code of Conduct require Council staff, in the course of their employment to:

- (a) act impartially;
- (b) act with integrity including avoiding conflicts of interest;
- (c) accept accountability for results;
- (d) provide responsive service.

In addition to the controls and limitations outlined above, the following 'General Controls and Processes' and 'Planning and Development Controls and Processes' must also be complied with in the exercise of officer delegations.

7.1 General controls and processes to be observed when exercising delegations

A delegate shall refer any proposal whether for development and works, or for use of land to Council without prior decision by the delegate wherever and whenever:

- the proposal raises an issue of significant public interest, concern or controversy, or is likely to do so
- the proposal raises an issue of policy or process not covered by existing policy or practice
- the proposal has given rise to substantial public objection or appears likely to do so
- the delegate recommends approval of the proposal, but such approval would be, or could reasonably appear to be, inconsistent with a previous decision or decisions by or on behalf of the Council
- implementation of the proposal would require expenditure of Council funds, and such funds have not been specifically provided for in the budget

- the delegate is not satisfied that the proposal has been the subject of appropriate consultation with those likely to be interested in or affected by it
- the delegate believes that it is more appropriate that the proposal or any issue arising in connection with it should be determined by the Council rather than the administration
- a major issue arises or any difficulty repeatedly arises in relation to the exercise of delegated authority for a particular matter.

When exercising delegated authority, the delegate shall use his or her best judgement to ensure compliance with each and all of these clauses.

7.2 Controls and processes to be observed when exercising Planning and Development delegations

These controls and processes are to be read in conjunction with the specific delegations from the *Planning and Environment Act 1987* and any associated regulations (as amended from time to time) in the relevant Instruments of Delegation from Council to Council staff as attached to this Delegation Framework Policy and Procedures document.

Delegated decisions can only be made in accordance with these Instruments of Delegation when clearly supported by these provisions.

Criteria for Exercising Delegation

The purpose and intent of these provisions is

- To ensure that land use activities are managed in accordance with Council's planning scheme.
To undertake our statutory planning responsibilities and decision making in an informed, transparent and efficient fashion.
- To provide transparency and certainty in land use planning decision making for all stakeholders applying a consistent approach and justification according to agreed and stated criteria

Management of the Statutory Planning Application List

The following matters to be determined under delegation will be included in the Planning Application list to be circulated to Councillors:

- Any application which is the subject of an objection from either an interested party or referral authority.
- Any application for which a recommendation for refusal is proposed
- Any application seeking a car parking waiver of more than 20 spaces for an existing building or waiver of any number of car parking spaces for a new building.
- An application seeking an extension of time to an approved planning permit.
- Any application seeking an amendment to an approved permit determined by full council at its Planning Delegated Committee meeting or Scheduled Council meeting.
- All applications for buildings greater than 2 storeys.
- All applications that have previously had a Victorian Civil and Administrative Tribunal (VCAT) determination on the same site.
- Any amendment to a Development Plan.

The Planning Application list will include as a minimum the following information:

- Permit Application Number

- Applicant/land owner details
- Site Address and land area
- Zoning and Overlay details
- Brief description of proposal
- Number of submissions received, name of submitter, and a summary of the issues raised
- Timing of the next appropriate planning delegated committee (or other meeting) that the application would be scheduled for should the application be called in.

The list is to be circulated to Councillors at least on a fortnightly basis, being sent out on a Friday. A Councillor has the capacity to call in an application, in writing, to a briefing if seconded by another Councillor by 5pm the following Tuesday.

The only exceptions to this circulation are:

1. During the Election Period. During this period, the List must not be circulated and may only commence being re-circulated at an appropriate time following the swearing in of the new Council. Applications eligible for the list may not be decided during this period.
2. Over the Christmas/New Year period where it may not be practical for the list to be circulated within a fortnight of the last list/s.

Following Councillors being briefed on an application called-in to a Councillor Briefing, Councillors have until 5pm on the Thursday of the week that the Briefing occurred to call the application in to a Planning Delegated Committee meeting or a Scheduled Council meeting to be decided. This written call-in for a decision must be seconded in writing by another Councillor. Any two Councilors can call an application into a Council meeting regardless of who made the initial call in to a briefing.

The officer recommendation will be implemented within a month following the date stated on the Planning Application list unless the application is 'called in' for Councillor Briefing and/or determination at a Planning Delegated Committee meeting or a Scheduled Council meeting in accordance with this policy.

7.2.1 Determination of planning applications, where the delegate is satisfied that:

- the proposal is one which is allowed in the zone and which complies with any relevant overlay or provision of the planning scheme for the use or development sought in the application; and
- the proposal meets objectives and policy requirements of any relevant local planning policy contained in the planning scheme; or
- The proposal is one which does not comply with the objectives of the zone or any relevant policy or provision of the Planning Scheme for the use or development sought in the application; or
- The proposal is for a use only in a Commercial Zone and does not require a car parking waiver of more than 20 spaces for an existing building; and
- the proposal has not attracted any submissions opposing the proposal.
- the authority for the decision on the proposal is provided for in the Instrument of Delegation and is consistent with these provisions.

7.2.2 Determination of planning applications within a declared area

When making a decision under delegation officers must consider all the relevant clauses and policies within the Macedon Ranges Planning Scheme. In addition to the scheme, a declared area must adhere to Section 7 or the Local Government Act 2020.

Section 7

- (1) *When performing a function or duty or exercising a power under this Act in relation to a declared area, a Council that is a responsible public entity for the purposes of Part 3AAB of the Planning and Environment Act 1987 —*
 - (a) *must not act inconsistently with any part of a Statement of Planning Policy that is expressed to be binding on the Council; and*
 - (b) *must have regard to those parts of the Statement of Planning Policy not expressed to be binding on the Council; and*
 - (c) *must have regard to the principles set out in section 46AZL of the Planning and Environment Act 1987 .*
- (2) *Subsection (1) does not apply to the performance of a function or the exercise of a power by a Council in relation to a declared project within the meaning of the Major Transport Projects Facilitation Act 2009.*

7.2.3. Extensions of time to act on a permit or permit condition, where the delegate is satisfied that:

- the time originally allocated was in all circumstances reasonable and adequate, taking into account the steps that would be necessary before the use or construction could actually commence (or be completed); and
- the intervening circumstances have rendered it unreasonable that the applicant should be held to the time originally fixed; and
- since the issue of the original permit, there have not been any significant and relevant changes in the planning scheme, or there is any other matter which is referred to in Section 60 (1)(b)(ii) of the Planning & Environment Act 1987 which is relevant.

Note: Extension of time relates to both permits issued previously under delegation and those issued by non-delegated authority (i.e. Council).

7.2.4. Amended/additional plans and variations to permits or permit conditions

Plans may be amended/approved under delegated authority where the revised plans are consistent with the permit to which they apply, with the planning scheme (as it exists at the time the amended plans are considered) and the Planning and Environment Act 1987 and the delegate is satisfied that the amended plans will not cause an increase in detriment to any person.

Delegated decisions on applications to amend a planning permit or condition of a permit, may only occur in accord with Section 73 of the Planning and Environment Act 1987 where the delegate is satisfied that the amendment:

- does not change the effect of any condition required by the Tribunal; and

- does not change the effect of any condition required by a referral authority unless this is acceptable to the relevant referral authority; and
- does not adversely affect the interests of a relevant referral authority, or is acceptable to the relevant referral authority; and
- does not change the use for which the permit was issued other than a minor change to the description of the use.

Any amendment to a permit or permit conditions must be noted in the planning applications register.

7.2.5. Development Plans

- All proposals for new Development Plans must be referred to Council for determination i.e. there is no delegated authority to approve or refuse a new Development Plan.
- Development Plans may be amended under delegated authority where the delegate is satisfied that the amended plans are consistent with the objectives and provisions of the overlay, with the planning scheme (as it exists at the time the amended plans are considered) and the *Planning and Environment Act 1987* and the delegate is satisfied that the amended plans will not cause an increase in detriment to any person.

7.2.6 Council to determine on a Planning Matter

A matter must not be determined under delegation if any Councillor, with support in writing from at least one other Councillor, has requested that the matter be determined by Council. The application will then be placed on the next appropriate Planning Delegated Committee (or other Council Meeting) to be heard and decided.

An officer may refer an application to Council for decision, where:

- The Officer considers that the application and any determination is outside of the authority provided for in the Instrument of Delegation or the Policy requirements; or
- The Officer considers the decision is more appropriate for the Council to make rather than the delegate.

7.2.7 Reversal of a call-in

Prior to the notification of submitters or the publication of the agenda, the call-in of an application to a Councillor Briefing, Planning Delegated Committee or Council Meeting may be reversed by the same two Councillors who called the application in, advising in writing that they no longer require the application to come to a Councillor Briefing, Planning Delegated Committee or Council Meeting.

8. Management of the delegations process

The Macedon Ranges Shire Council has established processes for the issuing and management of applicable delegations to staff through its new staff induction process, the annual staff development review processes and the staff position description review process.

Council Officers with delegated responsibilities are expected to be aware of the delegations that their position has and be familiar with all associated policy and guidelines in particular this document.

9. Administrative responsibilities of delegates

The use of delegated authority by a Council Officer is as stated earlier in this document 'the delegate acting in his or her own name on behalf of the Council. 'Accordingly the administrative record of the use of this delegation must be appropriately documented.

Delegates will keep appropriate records of all actions undertaken under delegation. The level of record keeping will be in keeping with the nature of the delegation and any associated risks to the Council.

For example, the routine issuing of a permit would be recorded in a permits register, detailing relevant issues. In the event of a more complex matter, delegates need to record sufficient information to explain the reason for the decision that would otherwise be available to the Council if the delegation did not exist.

10. Review of delegations

Pursuant to Section 11(7) of the *Local Government Act 2020* this policy and its incorporated Instruments of Delegation to Officers and Delegated Committees will be reviewed within 12 months of a General Election.

In accordance with the policy the Instruments of Delegation will be reviewed by Officers bi-annually to address any amended and new legislation and as and when required to address organisational restructures and changed in position titles.

11. Attachments

The following Instruments of Delegation document all Council delegations:

Attachment 1 - Instrument of Delegation from Council to the CEO (S5).

This delegates all of Council's powers, duties and functions which are capable of delegation, subject to some exceptions and limitations, to the CEO.

Attachment 2 - Instrument of Delegation from Council to members of Council Staff (S6)

This delegates certain powers directly from Council to Council staff due to the legislation referred to containing specific powers of delegation

Attachment 3 - Instrument of Sub Delegation from CEO to members of Council Staff (S7)

This sub-delegates Council powers, duties or functions contained in Acts or Regulations which do not include a specific power of delegation.

Attachment 4 - Instrument of Delegation from CEO to members of Council Staff (S13)

This instrument allows the CEO to delegate his or her powers, duties and functions existing under all Victorian legislation. (This differs to the S7 Instrument in that it does not relate to *Council* powers, duties and functions, but those vested in the CEO personally.)

Attachment 5 - Instrument of Delegation from CEO to members of Council Staff (S14) (VicSmart Applications)

This provides for the CEO to delegate his or her powers as a responsible authority under the *Planning and Environment Act 1987* in relation to VicSmart planning applications.

Instrument of Delegation to Delegated Committee

Attachment 6 - Planning Delegated Committee (C4)