

The role of responsible authorities in planning disputes

Planning and Environment Division FACT SHEET

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This fact sheet contains general information and should not be considered as legal advice. Seek professional advice if you are unsure about your rights, and be aware that the law may change.

What is a responsible authority?

A responsible authority is the organisation that manages and enforces the planning laws for an area. It is usually the local council. It also decides whether a planning permit application is approved or refused.

A responsible authority plays an important role in most planning disputes at VCAT. This fact sheet deals specifically with applications to VCAT involving the review of a responsible authority's decision about a planning permit application.

The responsible authority is automatically a party in these types of cases, and there are certain steps that a responsible authority must take, including providing information to VCAT and other parties.

Checking for applications made by objectors

VCAT records when an application for review is made by an objector under sections 82 or 82B of the *Planning and Environment Act 1987*. A list of these applications is available on VCAT's website and is updated daily.

This information allows a responsible authority to check if VCAT has received an application for review prior to issuing a planning permit.

A responsible authority is required to provide to VCAT the Notice of Decision to Grant a Permit form which is available on VCAT's website.

Applications made by permit applicants

When VCAT receives an application for review made by a permit applicant, VCAT will issue an initiating order directing that the application be given to the responsible authority and others, if relevant.

What information must a responsible authority provide to VCAT?

VCAT's initiating order will set out what a responsible authority must do.

In an application where notice of the permit application has not been given by the responsible authority, this will include asking the responsible authority to provide a list of persons to be notified.

In applications where notice of the permit application has been given, the responsible authority will be directed to file with VCAT and send to the applicant a list of any objectors and referral authorities within a specified time.

Responsible authorities must also provide information to VCAT in accordance with Planning Practice Note PNPE2 '*Information from Decision-Makers and Authorities*'. A copy of the practice note is available on VCAT's website, and contains different information requirements for different types of applications. The PNPE2 information provided by a responsible authority is important and assists VCAT with its case management of the application, including whether a practice day hearing, preliminary hearing or compulsory conference is required.

What information must responsible authorities make available to other parties?

A responsible authority must comply with any reasonable request by a party in a case who

seeks to obtain a copy of any document relevant to the decision under review. This includes:

- the permit application and any documents made available for public inspection under section 51 of the *Planning and Environment Act 1987*.
- the plans that the responsible authority considered when it made its decision.
- any officer report prepared in respect of the permit application, and all attachments to that report.
- the response of any relevant referral authority or statutory authority.
- the response to any internal referral at the responsible authority (for example, urban design, traffic, car parking or heritage).
- any objections received.
- where required to give notice in relation to the review proceeding, a copy of the names and contact details of the permit applicant, any relevant referral authority and all objectors.

In the case of architects' drawings or plans that form part of the permit application, the responsible authority may provide copies of those drawings or plans to a party on the basis that they are to be used only for the purpose of the review proceeding.

A party may apply to VCAT for a practice day hearing if the responsible authority fails or refuses to provide relevant documents in a timely manner.

Draft permit conditions

In a compulsory conference or hearing for a review proceeding brought under section 77 or 79, the responsible authority will be directed to provide draft 'without prejudice' permit conditions to VCAT and all parties no

later than one week before the conference or hearing, or by the date specified in the order.

In a review proceeding brought under section 80 or 82, the responsible authority must provide a copy of the notice of decision or permit by no later than one week before the hearing or compulsory conference.

Responsible authority's role at hearing

The submission of a responsible authority in a planning case serves two important purposes:

- it provides VCAT with a detailed background of the application and its planning context (**context submission**).
- it provides submissions that explain the responsible authority's decision.

The context submission is important to VCAT as it contributes to informed and expeditious decision-making, especially if the responsible authority's submission is the only professionally informed submission before VCAT.

The extent of the context submission provided in a particular application will depend upon the circumstances of the case, but may include:

- a description of the review site and locality
- details of the proposal.
- an overview of the permit application process.
- the relevant planning scheme provisions, including the specific provisions under which the permit is required, and any relevant policies and guidelines.

The submissions of the responsible authority provide reasons as to why it reached the decision that it made in respect of the permit application.

A VCAT order may require that this information be provided before the hearing.

Further information

Further details about submissions and how VCAT makes decisions can be found on VCAT's website.