VCAT Victorian Civil & Administrative Tribunal

PRACTICE NOTE – PNBP2

Property practice area (commercial and retail tenancy disputes): General Procedures

Application	Property practice area
Effective date	27 June 2026
Supersedes Practice Note	Previous version of PNBP2 issued on 1 February 2026
Special note	Please ensure that you are using an up-to-date version of this practice note. Other practice notes may also apply.
Further information	Many procedures common to the Property practice area and to other VCAT practice areas are described in PNVCAT1 – Common Procedures. A complete set of current practice notes are available on the VCAT website at www.vcat.vic.gov.au.

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Special Note

1. With effect from 1 February 2026, amendments to the *Victorian Civil and Administrative Tribunal Rules 2018* (Vic) come into operation
   a. to establish new divisions of the Tribunal (see rule 2.01); and
   b. to provide for the President to give directions about divisions and practice areas of the Tribunal as a matter of the business of the Tribunal (see rule 2.02).
2. From 1 February 2026 new VCAT practice areas published on the VCAT website replace the former lists.

Introduction

3. This practice note describes the usual practice and procedure in the Property practice area in relation to commercial and retail tenancies disputes as listed on the VCAT Website. This practice note does not apply to residential tenancy disputes.
4. This practice note does not cover all of the Tribunal's practices and procedures. This practice note should be read in conjunction with the practices and procedures set out in the *Victorian Civil and Administrative Tribunal Act 1998* (Vic) and the *Victorian Civil and Administrative Tribunal Rules 2018* (Vic), enabling legislation such as the *Retail Leases Act 2003* (Vic), and other practice notes that set out common procedures that apply across all practice areas at the Tribunal including, in particular, *PNVCAT1 Common Procedures*; *PNVCAT2 Expert Evidence* and *PNVCAT5 Directions Hearings and Urgent Hearings*.
5. In any proceeding, the Tribunal may, at its discretion, vary the operation of a practice note by direction or order.
6. This practice note has been issued by the Rules Committee pursuant to s 158 of the Act.

Definitions

Word	Definition
Act	*Victorian Civil and Administrative Tribunal Act 1998* (Vic)
Commercial tenancy dispute	A dispute under a lease which is not a retail lease under the *Retail Leases Act 2003* (Vic) or a residential tenancy under the *Residential Tenancies Act 1997* (Vic).

Regulations	*Victorian Civil and Administrative Tribunal (Fees) Regulations 2026* (Vic)
Rules	*Victorian Civil and Administrative Tribunal Rules 2018* (Vic)
Injunction application	An application where a party seeks an order requiring one party to do or refrain from doing a particular thing (e.g. an order preventing a landlord from re-entering rented premises or an order requiring a tenant to vacate rented premises).
Retail tenancy dispute	A retail tenancy dispute is defined under s 81 of the *Retail Leases Act 2003* (Vic)
Standard Orders	Orders made by the Tribunal following the lodging of an application without the parties attending the Tribunal.

7. A word or term used in this practice note has the same meaning as defined in the Act or in the *Interpretation of Legislation Act 1984* (Vic).

How do I commence a proceeding?

8. A party wishing to make an application to VCAT in relation to a commercial or retail tenancies dispute must lodge with the Tribunal an application in the form available on the Tribunal's website and pay the prescribed application fee. A party should also include a copy of the lease with any application.
9. Where the application concerns a retail tenancy dispute, and where the orders sought are other than in the form of an injunction, the application must be accompanied by a certificate issued by the Small Business Commissioner as required by s 87 of the *Retail Leases Act 2003* (Vic); otherwise the application may not be processed until the applicant provides the certificate.
10. A certificate from the Small Business Commissioner is not required for:
    a. an Injunction application; or
11. if the application concerns a commercial tenancy dispute.
12. The application should be accompanied by Points of Claim and a copy of the lease (if available). Any Counterclaim should be lodged promptly with the prescribed application fee.

Points of Claim, Points of Counterclaim and Points of Defence

13. Although the Tribunal is not a court of pleadings, Points of Claim or Points of Counterclaim should include:
    a. details of the lease including the full names of the parties as set out in the lease;
    b. the address of the rented premises;
    c. details of the claim and the grounds and basis of the claim;
    d. where the claim is for payment of rent arrears or outgoings, details of the rent and outgoings payable under the lease and the period in which rent or outgoings have not been paid; and
    e. where the claim is for repairs to the rented premises, details of the repair work said to be required should be provided, together with an estimate of the likely cost of carrying out that work.
14. Points of Defence should:
    a. not contain bare denials or refusals to admit;
    b. set out the material facts relied upon, properly particularised;
    c. include any set-off claimed.
15. In the interest of avoiding requests for further particulars, all necessary particulars should be provided in the Points of Claim, the Points of Counterclaim or the Points of Defence.
16. A request for further particulars may be made at any time without leave of the Tribunal. A copy of any request should be filed with the Tribunal when it is served. However, if a request is contested and subsequently disallowed, costs may be ordered. A request:
    a. must not contain a request for 'the usual particulars' or 'the usual details' – the particulars sought must be clearly specified;
    b. must not be in the form of interrogatories.
17. Particulars should be provided within 14 days of any request or as otherwise ordered by the Tribunal.

Dealing with injunction applications

18. The following must be filed with an injunction application:
    a. An affidavit in support of the injunction application, setting out:
        i. the orders sought; and
        ii. the grounds upon which the orders are sought (see examples below).

b. A copy of the s 146 notice (or other notice the subject of the dispute).

c. A copy of the lease (if available).

d. Payment of the relevant injunction application fee.

Example 1: Where a tenant files an injunction application seeking an order either that the landlord be prevented from re-entering the rented premises or that the landlord return possession of the rented premises to the tenant, the supporting affidavit should set out:

(a) the history of the tenancy;

(b) any relevant notices or correspondence concerning the re-entry or threatened re-entry;

(c) the basis upon which the tenant claims that the landlord is not entitled to re-enter the rented premises and/or terminate the lease or the grounds upon which the tenant seeks relief against forfeiture if the landlord was entitled to determine the lease; and

(d) any losses the tenant claims they will suffer if the injunction is not granted.

Example 2: Where a landlord files an injunction application seeking an order for possession, the supporting affidavit should set out the matters set out in subparagraphs (a), (b) and (d) in Example 1 and the damage the landlord says it will suffer if the injunction is not granted.

19. When the Tribunal receives an injunction application, the Tribunal will give the applicant:

    a. a Notice of Hearing addressed to the respondent (setting out the date time and place of the injunction hearing); and

    b. a Statement of Service form.

20. Other than where the injunction application is listed for a hearing in less than 48 hours the applicant must, **no later than 48 hours** prior to the time listed for the hearing of the injunction application:

    a. send to the respondent a copy of:

        i. the injunction application and;

        ii. supporting documents; and

        iii. the Notice of Hearing; and

    b. file with the Tribunal the completed Statement of Service form.

21. **Injunction applications** will usually be listed for hearing within 14 days from the date of filing the application.
22. **Urgent injunction** applications may be heard sooner if the circumstances justify that course. It is recommended that all urgent injunction applications be filed electronically, and that the email filing the application:
    a. include in the subject line the word injunction and
    b. that the body of the email note that the application is urgent and the reason why the application is urgent.

Dealing with all other applications

23. Where an application is made in relation to a commercial or retail tenancy dispute, other than where the application is for an injunction, the Tribunal will either:
    a. list the proceeding for final hearing;
    b. make standard orders in chambers (without either party having to attend the Tribunal) setting out a timetable of the steps to be undertaken by the parties leading up to a mediation, compulsory conference or final hearing; and/or
    c. list the proceeding for mediation or compulsory conference; or
    d. list the proceeding for a directions hearing.

What to bring to the hearing

24. Where a proceeding is listed for hearing, and unless otherwise ordered by the Tribunal, parties should send copies of all documents on which they will rely at the hearing including any expert reports, quotations and/or invoices, to the other parties within 28 days of receiving the Notice of Hearing.
25. Parties should bring to the hearing all evidence and documents on which they rely which may include:
    a. original quotations and/or invoices;
    b. expert reports;
    c. witnesses (including experts in person).
26. Unless all parties agree, legal representation will only be permitted by order of the Tribunal under s 62 of the Act (see also PNVCAT1 – Common Procedures) .

Directions

Note: The Tribunal may issue directions on its own initiative in the Property practice area without a directions hearing. A directions hearing may be listed for a procedural timetable to be set, to determine any interlocutory application, to resolve a preliminary or procedural issue or if the Tribunal considers it desirable to do so to facilitate the fair and efficient conduct of the proceeding.

27. Any application by a party for a proceeding to be listed for a directions hearing should be made in accordance with PNVCAT5 – Directions Hearings and Urgent Hearings

28. An application for consent directions to be made without the parties appearing before the Tribunal should be made in accordance with PNVCAT1 – Common Procedures.

Compliance with Directions

29. Where a party anticipates they will not be able to comply with the timetable set by the Tribunal they should advise the other parties and the Tribunal immediately in writing.

30. Where a party fails to comply with directions, a directions hearing may be requested by a party or a compliance hearing may be convened by the principal registrar at which time the Tribunal may:

    a. amend the timetable;

    b. dismiss or strike out the proceeding if the non-complying party is the applicant, or otherwise determine the proceeding as against the non-attending party under s 78 of the Act;

    c. subject to s 92 of the Retails Leases Act 2003 (Vic), where the proceeding concerns a retail tenancy dispute, order the party in default, or its representative, to pay costs under s 109(3) or s 109(4) of the Act;

    d. require any costs order to be satisfied before continuing with the proceeding; or

    e. make any other order that is just.

Amendment to Timetable

31. Any party wishing to amend the timetable must first seek the consent of all other parties.

32. Where the parties consent in writing to an amended timetable, Minutes of Consent Orders signed by all parties should be filed by the person seeking the amendment to the timetable. Such Minutes of Consent Orders should provide for the extension of dates for compliance.

Examples:

(i) The date by which the applicant must *file and serve* Points of Claim is extend to [new date].

(ii) The date by which the parties must *serve* their Lists of Documents is extended to [new date].

33. Should the Tribunal decline to approve the Minutes of Consent Orders, any directions hearing already listed will proceed or the proceeding will be listed for a directions hearing as soon as practicable.

34. Should the agreed amendments to the timetable result in an adjournment of the next listing (whether a hearing, compulsory conference or mediation), the Tribunal may require the parties to attend a directions hearing where the timetable will be reviewed and directions made for the further conduct of the proceeding.

Note: Where a compliance hearing has been listed, parties should expect that it will proceed, even if Minutes of Consent Orders have been filed, unless advised by the Tribunal that it has been vacated.

Variation of Standard Orders

35. Any request by a party to vary or set aside standard orders should be made within 14 days of the party receiving the standard orders. A copy of the request must be sent to all other parties.

36. Upon receipt of a request to vary or set aside the standard orders, the Tribunal may vary the standard orders or list the proceeding for a directions hearing.

Joinder of other parties

37. An order of the Tribunal is required for joinder of parties. Parties should take all reasonable steps to identify potential parties to a proceeding as soon as practicable and make applications for joinder in a timely manner and in accordance with this practice note and any directions that may be made.

38. Any application for joinder of a party, whether as respondent or joined party, should be made using the Application for Directions Hearing or Orders form. The application for joinder must be accompanied by affidavit material in support and draft Points of Claim as against the proposed party.

39. The applicant for joinder must serve a copy of the joinder application and the supporting material on the proposed party and must advise them of the date and time when it will be heard.

40. An application for joinder will be listed for a directions hearing at which time the parties should expect the application to be heard and determined and directions made for the further conduct of the proceeding.

Filing and service of documents

41. Orders will generally be made for the *filing and service* of pleadings, expert reports and witness statements. Orders will generally be made for the service only of lists of documents.
42. Where orders are made for the *filing and service* of documents, only one copy should be filed.
43. Where orders are made for the *service only* of documents, written confirmation that the documents have been served must be filed with the Tribunal by the date for service specified in the orders. Where written confirmation that documents have been served is not filed, the proceeding may be listed for a compliance hearing.
44. Where an Application for Directions Hearing or Orders is made, copies of all relevant documents must be exhibited to any affidavit filed in support of the application.

Witness statements

45. Where witness statements are ordered, each statement must consist of a narrative of the evidence to be given by each witness. Documents exhibited to a party's primary witness statement may be cross-referenced in other witness statements filed by such party. Witness statements are not required for those experts whose expert reports comply with PNVCAT2 Expert Evidence and which have been filed and served.
46. Leave of the Tribunal is required to call evidence of material facts that is not included in a witness statement. If leave is granted and this causes a delay to the hearing, costs may be ordered against the party seeking to call the additional evidence.
47. All parties must arrange for their witnesses to attend the hearing for the purposes of cross-examination unless advised by the other parties at least seven (7) days before the hearing date that they do not wish to cross-examine another party's witnesses.

Tribunal Books & transcript

48. It is desirable that Tribunal Books be prepared for all hearings (other than where matters are listed for hearing without an order of the Tribunal) and they will be

ordered in appropriate cases including where orders have been made for the service only of witness statements.

49. Unless otherwise ordered by the Tribunal, the Tribunal Book must include the common documents, prepared in consultation with the other parties and in accordance with the relevant sections of Practice Note PNBP1. One copy of the Tribunal Book should be filed in hard copy together with a consolidated electronic copy in editable PDF format with a hyperlinked index (all pages must be numbered consecutively with the first page of the index being page 1).
50. Where the hearing is to be conducted wholly or partly by video conference, the parties must ensure their witnesses have access to the Tribunal Book.
51. The Tribunal Book should be filed and served at least 21 days prior to the final hearing.
52. Unless otherwise ordered, the applicant will generally be responsible for preparing the Tribunal Book in consultation with the other parties with the costs of preparation of the Tribunal Book being costs in the proceeding.
53. A Tribunal Book must not simply include copies of all discovered documents.
54. Documents should be grouped where convenient, with each grouping clearly divided and all pages indexed and numbered sequentially.
55. A Tribunal Book should contain:
    a. an index of its contents;
    b. copies of all pleadings between the parties;
    c. copies of all witness statements including exhibits; and
    d. copies of all relevant documents i.e. those on which a party will seek to rely in evidence in chief, or which they reasonably expect will be referred to in cross-examination.
56. Whilst it is expected that copies of all relevant documents will be included in the Tribunal Book, leave may be sought to tender further documents during the course of the hearing, which, subject to the direction of the Tribunal, may be included in the Tribunal Book. Unless a party seeks to remove a particular document/s and such removal is not opposed by another party, all documents included in a Tribunal Book will, unless the Tribunal decides otherwise, be received into evidence.
57. Tribunal Books should not contain duplicate or multiple copies of the same document - any unnecessary duplication of documents may be taken into account in the exercise of the Tribunal's discretion under s 109 of the Act in relation to costs.

58. Where objection is taken by one party to the admissibility of any document it must not be included in the Tribunal Book.

59. Orders will generally be made for the provision of a transcript of the hearing of all complex cases, and in other cases, may be ordered at the discretion of the Tribunal. Unless otherwise directed, the cost of providing the transcript will be shared equally by the parties in the first instance subject to any order for costs which may be made by the Tribunal.

Final Hearings

60. A proceeding that is expected to have a hearing time of greater than 1 hearing day will not be listed for final hearing until the parties have confirmed that all interlocutory steps in the proceeding have been completed and the parties are ready to proceed to a final hearing. This confirmation is done by way of response to an administrative mention as ordered by the Tribunal.

61. All multi day hearings will be conducted in person unless the Tribunal orders otherwise.

62. Parties will be expected to provide a person to operate the electronic Tribunal book for the benefit of the witnesses and the Tribunal, during the hearing.

Forms

63. All forms referred to in this practice note are available on the Tribunal's website at www.vcat.vic.gov.au.

- END OF PRACTICE NOTE -