

# Consent Order Guidelines

Planning and Environment matters- October 2025

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These guidelines have been created to assist parties in a common planning or environment Division proceedings in circumstances where parties have agreed to settle the proceeding.

# Definitions

Word	Definition
<b>The PE Act</b>	The <i>Planning and Environment Act 1987</i> (Vic)
<b>The VCAT Act</b>	The <i>Victorian Civil and Administrative Tribunal Act 1998</i> (Vic)
<b>VCAT</b>	Victorian Civil and Administrative Tribunal

These guidelines should be read in conjunction with the practices and procedures set out in the VCAT Act and the *Victorian Civil and Administrative Tribunal Rules 2018* (Vic).

In any proceeding, VCAT may at its discretion vary the practice and procedure set out in these guidelines.

## What are VCAT's power and procedures relating to consent orders?

### Practice Note – PNVCAT1 Common Procedures

Paragraphs 30 to 41 (inclusive) of [Practice Note PNVCAT1 Common Procedures](#) outlines the general procedure for parties that are seeking a consent order.

### Final or procedural orders

A consent order request may be for procedural orders or final orders in a proceeding.

These guidelines focus on [final orders](#) for common applications, including planning permit applications and enforcement order applications.

A party seeking [procedural orders](#) can use the [Request for practice day hearing or preliminary hearing form](#).

### Withdrawal of an application

Paragraphs 22 to 29 (inclusive) of PNVCAT1 outlines the procedure to withdraw a proceeding.

An applicant for review or applicant for an application made under sections 87, 87A and 114 of PE Act should request leave to withdraw the application and should not request a consent order, unless there is a need to make specific orders about costs or other relevant matters.

The [Guide to withdrawal of applications in the Planning and Environment Division](#) provides more information regarding the withdrawal of an application.

If a permit applicant under a section 82 of the PE Act proceeding no longer wishes to pursue the planning permit application, consent orders should be sought that will request the decision of the responsible authority to be set aside and for the application to be refused. See sample consent order 3 available on VCAT's website [Consent orders – planning disputes](#).

## VCAT's powers

Under section 93(1) of the VCAT Act may make the necessary orders to give effect to the settlement.

An agreement between all the parties to consent orders does not guarantee VCAT will make those orders.

Further information is provided below in the circumstance that VCAT refuses to make orders giving effect to the consent orders being sought.

# How to request a Consent Order for a planning or environment matter?

## Request in writing

Any party to a proceeding may file a consent order request in that proceeding.

The request must:

- be made in writing
- sent via email communication to [admin@courts.vic.gov.au](mailto:admin@courts.vic.gov.au)
- include reference to the P-number and date of the scheduled hearing and/or compulsory conference.

The request must also provide a copy of that email communication to all parties and advise VCAT that all parties have been served a copy of the email communication.

The request should explain why the orders are being sought and what are the intentions.

If a responsible authority or referral authority's consent is contrary to the original decision of the application, the responsible authority or referral authority must include:

- how the proposal achieves an acceptable planning outcome
- is appropriate having regard to the matters it is required to consider under section 60 of the PE Act, including the balanced application of the strategies and policies of the relevant Planning Scheme and is otherwise in conformity with the provisions of the planning scheme and the PE Act
- how the proposed orders will not result in any change to the proposal which would materially affect any person other than the parties to the proceeding.

## Signing a consent order

All the parties must sign a consent order request.

The parties should obtain from VCAT Registry an up to date party list from VCAT to ensure all parties have signed, including any referral authorities.

A party's representative may only sign for the party if the representative is nominated on a document previously filed with VCAT.

# What should the consent order contain?

## Exact terms and agreement

The consent order must outline the exact terms of the orders and all parties must agree to those terms. If the consent orders refer to other documents (eg plans), there must be evidence that all the parties agree to those documents.

If the parties have agreed to the grant of a planning permit subject to conditions, the preferred form of the order is to include the conditions in an appendix. If one of the conditions refers to specified amended plans or to specified changes to amended plans, it must be clear that the parties have agreed to the amended plans. If a condition refers to specified amended plans, those plans must be included in the request.

Sample consent orders are available on VCAT's website that provides more common requests for consent orders.

## Costs

The consent order finally disposing of a proceeding should not leave costs issues unresolved.

If the parties agree that the costs of one or more party must be paid by another party or parties, the consent order request must include orders relating to the payment of those costs. If the parties agree that parties are to bear their own costs, the consent order request must include orders that there is no order as to costs.

## Amended plans

A consent order request may include the grant of a planning permit based on amended plans.

If an applicant applies to amend a permit application by substituting plans before a compulsory conference or hearing, VCAT's practice note [PNPE9 \(Amendment of Plans and Applications\)](#) applies.

The consent order request must be accompanied by a statement of change in accordance with practice note PNPE9. If VCAT considers additional notice must be given because of the nature and scope of the changes in the amended plans, VCAT may refuse to make the consent orders and may require the permit applicant to first apply to amend the plans in accordance with practice note PNPE9.

## When should a consent order be requested?

A request should be made as soon as practicable before the hearing or compulsory conference. It should be submitted **no later than 12 noon two business days** before the scheduled compulsory conference or hearing.

In most cases, this will give VCAT enough time to decide whether to make the orders without a hearing or to decide to refuse to make the orders or to decide that the consent orders need to be discussed and clarified at the compulsory conference or hearing before they are determined.

Parties may reach agreement less than two business days before a compulsory conference or hearing. The request may still be submitted but there may be insufficient time for VCAT to consider the request and it more likely that the parties will need to attend the compulsory conference or hearing.

## What happens after a consent order has been requested?

### Will a hearing be required?

The orders may be made without a hearing. If VCAT decides to make the orders and the compulsory conference or final hearing is still some time away, the parties will receive the order in the usual way.

However, if the compulsory conference or final hearing is imminent, VCAT's Registry will contact the party requesting the orders as soon as a member has decided the orders should be made. That party may be required to notify the other parties that the compulsory conference or final hearing has been vacated.

However, if VCAT considers the terms of the consent orders are unclear or there is insufficient time to consider the request before the compulsory conference or hearing, VCAT's Registry may contact the parties to inform them their attendance at the compulsory conference or final hearing is required so that they can explain the request to the Tribunal member and answer any questions the Tribunal member may have.

If the parties do not receive a response from VCAT to the consent order request before the compulsory conference or final hearing, the parties must attend the compulsory conference or final hearing.

## Can VCAT make the requested orders with modifications?

It is not uncommon for a consent order request to contain typographical, grammatical or spelling errors. Orders may otherwise be poorly expressed.

VCAT has prepared sample orders to assist parties in making appropriate orders.

If a consent order request requires correction or amendment, VCAT may make those changes before making the orders. It may do so without first informing the parties. It will only do so if it is satisfied that the changes do not disturb the substance of the parties' agreement.

If VCAT considers it necessary or desirable to consult the parties about changes to the orders that VCAT considers should be made, VCAT will seek the views of the parties about the changes before the consent order request is determined.

## Cancelling a compulsory conference or hearing

Do not assume that the filing of a consent order request will result in the compulsory conference or hearing being cancelled or vacated. A compulsory conference or hearing is only cancelled or vacated by VCAT's direction or order.

# Why might a consent order request be refused?

## Lack of clarity

A request may be refused if it is unclear what the parties have agreed. This may include:

- terms that are vague or inconsistent
- obvious gaps and words missing. VCAT will not assume important words that may be missing
- contradictions or disparities between agreed conditions
- If the parties agree to the grant of a permit based on amended plans but the references to the plans in the permit may not match the plan specifications (eg in dates or revision numbers).

## Missing documents

A request may be refused if the parties have agreed to the grant of a permit based on amended plans but the plans have not been submitted with the consent order request. Similarly, a request may be refused if the parties have agreed to the making of an enforcement order that requires the land to be restored in accordance with plan or document but that plan or document has not been filed with the consent order request.

## Legal Error

A request may be refused if the consent orders include a legal error including, but not limited to:

- In circumstances where an application is heard under section 82 of the PE Act and some of the permissions sought in the permit application are exempt from notice and review, VCAT cannot direct the responsible authority to issue a permit with any permissions exempted from review.
- The consent orders grant a planning permit for a use or development of land that is prohibited under the relevant planning scheme.
- The consent orders include a permit condition that allows or requires additional works and is something that requires primary permissions and has neither been sought or granted.
- The grant of permit in a consent order fails to include a condition that the planning scheme states must be included or the permit includes a condition in conflict with a condition that the planning scheme states must be included.
- A consent order in relation to a conditions review modifies conditions that are not subject of the conditions review.
- The consent order is not in accordance with the Planning and Environment Act Regulations.
- The consent orders make an enforcement order in respect of an erroneous contravention, such as failure to obtain permission to demolish a building when no permission was, in fact, required to demolish the building.

## All the parties have not agreed

A request will be refused if all the parties have not agreed to the consent orders. This includes:

- If a party is a group of persons represented by a lead person, the lead person must agree to a consent order
- If there are multiple section 82 proceedings against the same decision of the responsible authority, all applicant for reviews must agree
- If a referral authority is a party, it must agree
- If a party is listed as two or three persons (typically spouses or partners), each person must agree.

## Additional notice required

A request may be refused if the nature and effect of the consent order may affect other persons who are not parties to the proceeding and to whom notice should be given.

Earlier in these guidelines there is reference to consent orders for the grant of a permit in relation to amended plans and to the possible need to give notice of the amended plans in accordance with practice note PNPE9.

If the Tribunal requires the permit applicant to give notice of amended plans, notice must be given before the request is considered further.

## Changes to use or development that results in new requirements

A request may be refused if a permit agreed to be granted by the parties allows a modified use or development if the modifications raise questions about new requirements. This includes:

- if the modified use or development in consent orders would require a cultural heritage management plan
- If the modified use or development in a permit granted under consent orders would result in a breach of a registered restrictive covenant.

# Sample consent orders

Sample consent orders have been prepared for the more common applications for which VCAT receives consent order requests for final orders.

Section	Outcome	Sample consent order #
<b>Section 77</b>	Issue Permit	1
<b>Section 79</b>	Issue Permit	1
<b>Section 82</b>	Issue Permit	2
<b>Section 82</b>	No permit granted/ withdrawal by permit applicant	3
<b>Section 77 or 79 (Amended Permit)</b>	Issue amended permit	4
<b>Section 87 or 87A</b>	Issue amended permit	5
<b>Section 80</b>	Modify conditions	6
<b>Section 149</b>	Approval of plan or document	7
<b>Section 114</b>	Allow enforcement order	8
<b>Section 81(1)</b>	Allow extension of time	9

# Checklist for consent orders

## Is there agreement?



Do all the parties agree about the way in which it is proposed to settle the application?



Have all the parties signed a document confirming their agreement to the exact wording of a proposed consent order?



Are the terms of the consent order and matters agreed to lawful and appropriate to the nature of the proceeding before VCAT and the relevant planning scheme and/or sections of the PE Act?

## What must be submitted to VCAT?



Reference to the P-number and date of the scheduled hearing and/or compulsory conference.



The planning permit application number or permit number (if relevant).



Electronic (Microsoft Word) copy of the consent order. If the consent order provides for the grant of a planning permit subject to conditions, the conditions should be formatted in accordance with VCAT's requirements.



A copy of any amended plan(s) being referred to in the consent order, including a statement of changes they contain (If relevant).



Written evidence that all parties accept the exact terms of the consent order. Ideally, one finalised consent order with the signatures of all parties, but alternatively, a separate and identical copy of the consent orders signed by each party should be submitted by each party.



Any other document relevant to the case.

## What must the consent order request contain?











Statement that in application [P- number reference] that parties have reached agreement and request VCAT to grant the requested order.



For applications for review- An order advising how the proceeding ought to be determined under section 51(2) of the VCAT Act to:

Affirm the decision under review  
 Vary the decision under review  
 Set aside the decision under review and make another decision in substitution for it  
 Set aside the decision under review and remit the matter for reconsideration by the decision maker.

\*\*\*If amended plans are being substituted, this is a variation to the decision under review

	For applications under section 87 or 87A that the application is allowed.
	<p>If amended plans are a part of the agreed outcome under an application for review, include an order to substitute the plans.</p> <p>Pursuant to clause 64 of Schedule 1 of the <i>Victorian Civil and Administrative Tribunal Act 1998</i> (Vic), the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:</p> <ul style="list-style-type: none"> <li>• Prepared by: [insert designer's details]</li> <li>• Drawing numbers: [insert plan references]</li> <li>• Dated: [insert date]</li> </ul>
	<p>Statement that a planning permit/ amended planning permit is to issue and specifies the matter(s) for which the permit has been granted with reference to the relevant planning scheme clauses.</p> <p>*** For section 82 of the PE Act, VCAT can not issue a permit/ amended permit for any matters that are exempt from notice and appeal rights.</p>
	If section 80 of the PE Act- no changes to conditions other than those subject to the application and review and a clear statement that the permit must contain or must not contain the specific conditions being agreed to.
	If section 149 of the PE Act- A statement that the specific plan and/or document is to the satisfaction of the responsible authority and direction that the responsible authority is directed to endorse the specific plans or document.
	If section 114 of the PE Act- A statement that the enforcement order is allowed with a copy of the enforcement order attached and a requirement for the applicant to serve a copy of the enforcement order on the owners and occupiers of the land and any other person against whom the order is made.
	If section 81(1) of the PE Act- the date that the time is extended for the use described in the permit, the commencement of development, the completion of development or certification of a plan under the Subdivision Act 1988 (Vic) as relevant.
	Outcome of costs.



Any scheduled compulsory conference or hearing to be vacated.



All parties print name, sign and date consent order request document.



Appendix A- All conditions that the planning permit/ amended planning permit is subject to. The conditions must be lawful, precise, enforceable and relevant to the permit triggers relevant to what VCAT is issuing a permit/ amended permit.