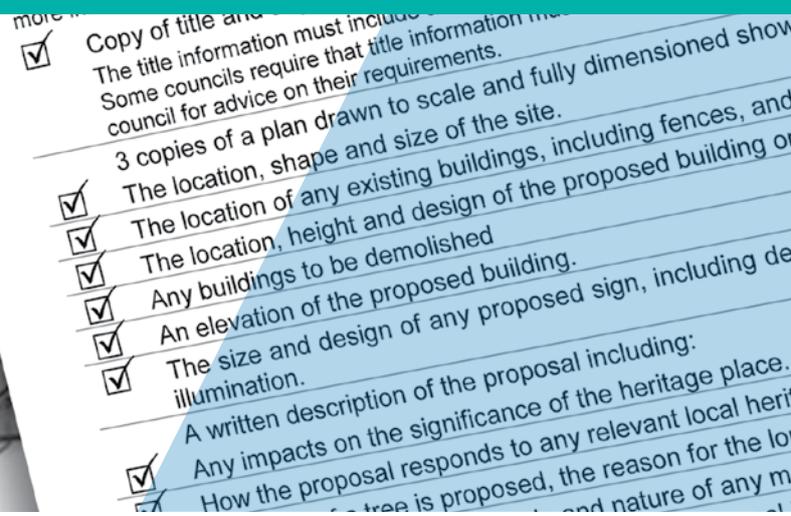


Fast decisions for simple planning applications



VCAT review process for VICSMART

A streamlined review process has been established at the Victorian Civil and Administrative Tribunal (VCAT).

This information sheet provides advice for a VicSmart applicant on:

- an applicant's review rights
- the VCAT review process for VicSmart applications
- the information required to lodge an application for review at VCAT and for VCAT to make a decision.

What are an applicant's review rights at VCAT?

Under VicSmart, an applicant can apply for a review of:

- a failure to grant a permit within the prescribed time
- a permit refusal
- conditions in a permit
- a refusal to extend the permit.

An applicant can also seek a declaration from VCAT regarding the interpretation of the planning scheme and anything done by a responsible authority under the *Planning and Environment Act 1987* (the Act).

The VicSmart permit process does not provide third parties with review rights. VicSmart applications are exempt from third party review rights under section 82(1) of the Act.

What timeframe applies to lodge a review at VCAT?

An application for review against a refusal to grant a permit or conditions on a permit must be made within 60 days of being given notice of the council's decision.

An applicant can apply for a review for failure to decide an application after 10 business days.

Review for failure to decide an application

Under the new VicSmart permit process, a decision is required to be made within 10 business days. After 10 business days, an applicant can apply to VCAT for a review of a failure to decide an application within the prescribed time. Before applying to VCAT for a failure to make a decision, please check when council is likely to

make a decision. In most cases a decision will be made within a reasonable timeframe making the need for a review unnecessary.

How is the 10 business days calculated?

The receipt of a completed application form triggers the 10 business days.

When calculating the elapsed days:

- The day of receipt is not included.
- Saturdays, Sundays and public holidays (including half days) are excluded.
- The end day is included in the period.

A streamlined VCAT process for VicSmart applications

VicSmart applications will be heard and determined by VCAT in the Short Cases List. This will enable hearings and decisions on VicSmart matters to be made within a short timeframe.

How to apply for a review at VCAT

To apply for a review at VCAT, you need to complete VCAT's VicSmart application form, send it to VCAT with all the required information and include the required fee or a fee waiver request form.

The fees are prescribed under the Victorian Civil and Administrative Tribunal (Fees) Regulations 2001 and are also on the VCAT website.

VCAT's VicSmart application form is available:

- from the VCAT website www.vcat.vic.gov.au
- from the Tribunal's premises at 55 King Street, Melbourne
- by calling (03) 9628 9777.

The application can be lodged:

- in person at the Tribunal's premises at 55 King Street, Melbourne
- by mail to GPO Box 5408 Melbourne 3001
- by email to VCAT-Admin-Division@justice.vic.gov.au
- by facsimile to (03) 9628 9789.

What information needs to be submitted?

VCAT's VicSmart application form must be submitted with the following information:

- a copy of the decision
- all application documents and plans
- if the land is affected by a registered restrictive covenant, a copy of the covenant
- where an application required referral under Clause 66 of the planning scheme, a copy of the written response from the referral authority
- a copy of the council officer's report which should include details of the zoning and planning controls
- where the review is for a failure to decide within the prescribed time, a calculation of elapsed days from when the permit application was lodged with the responsible authority.



The VicSmart review process

Once an application for review has been lodged with VCAT the applicant is required to provide a complete copy of the VCAT application and all the accompanying material to council.

VCAT will notify the council that a review has been lodged and will inform the applicant and the council of the date and expected time of the hearing.

VCAT will hear and determine a VicSmart case similar to the way in which it deals with hearings in the Short Cases List. The Tribunal will endeavour to provide a decision at the conclusion of the hearing. Oral reasons will be provided. A site inspection is unlikely to be undertaken, especially where the parties provide the Tribunal with sufficient material in the form of photos, plans, aerial photos and the like, to convey accurate information about the site, its surrounds and the proposal.

VCAT is only required to consider the issues arising from the council's decision and the decision guidelines set out in the VicSmart planning provisions. All the matters specified in section 84B of the *Planning and Environment Act 1987* do not apply.

When is a hearing likely to be scheduled?

An application for review in the Short Cases List will be heard approximately four to six weeks after an application for review is lodged.

How long is a hearing likely to take?

The hearing should generally not take more than one hour.

What material should be presented at the hearing?

The submission should be limited to the matters that require consideration under the VicSmart planning provisions for the specific class of VicSmart application.

It is recommended that you use the Guidelines for a Submission in the Short Case List template to prepare and present your submission at VCAT. This can be accessed through the VCAT website: www.vcat.vic.gov.au/disputes/planning-and-environment/short-cases-list

Written submissions or other material should be concise and relevant and able to be read and addressed by the VCAT member and other parties within the time allocated for the hearing.

Use of images, plans and electronic media to convey information about the site and its surrounds is encouraged.

Additional VCAT information is available on the VCAT website: www.vcat.vic.gov.au/disputes/planning-and-environment

© The State of Victoria Department of Environment, Land, Water & Planning 2017



This work is licensed under a Creative Commons Attribution 4.0 International licence. You are free to re-use the work under that licence, on the condition that you credit the State of Victoria as author. The licence does not apply to any images, photographs or branding, including the Victorian Coat of Arms, the Victorian Government logo and the Department of Environment, Land, Water and Planning (DELWP) logo. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/4.0/>

Published by
Department of Environment, Land, Water and Planning,
1 Spring Street Melbourne Victoria 3000 Australia
Telephone (03) 9208 3333

Published June 2014; updated March 2017

ISBN 978-1-922250-26-1

Accessibility

If you would like to receive this publication in an alternative format, please telephone the DELWP Customer Service Centre on 136186, email customer.service@delwp.vic.gov.au (or relevant address), or via the National Relay Service on 133 677 www.relayservice.com.au. This document is also available on the internet at www.planning.vic.gov.au

Disclaimer

This publication may be of assistance to you but the State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication.