

> Right of Appeal

Fact Sheet

If a Council decides to refuse your application for a planning permit, or imposes conditions you're not happy about, you have the right to appeal the decision.

HOW DO I DO THIS?

To appeal a decision as an applicant, you must lodge an application for review within 60 days of the Council's decision.

This application is lodged to the Victorian Civil and Administrative Tribunal (VCAT).

VCAT conducts public hearings and considers submissions from all parties involved. They assess the proposal's planning merits, decide whether a permit should be granted or refused, and what conditions are appropriate.

VCAT uses a different process for VicSmart applications. More information is available on the VCAT website.

VCAT may also conduct a 'compulsory conference' in an attempt to resolve issues between parties. A successful resolution of all issues may avoid the need

WHAT HAPPENS IF SOMEONE OBJECTS TO MY APPLICATION?

When there has been an objection to an application for a planning permit but Council is in favour of the application, it will issue a Notice of Decision to grant a permit (NOD).

An objector has 28 days to appeal the NOD at VCAT.

If there are no appeals lodged by an objector within that time, Council will issue the planning permit. There are no further appeal rights for the objectors once a permit is issued.



WHAT'S INVOLVED IN THE VCAT PROCESS?

If an objector or an applicant appeals a decision, VCAT will send out instructions known as 'orders' advising you of the dates for any hearings or mediations. Usually, an application will be heard several months after the decision is appealed.

Hearings are conducted in a structured, formal way. Although parties may be represented by a lawyer or planner, this is not essential and many permit applicants and objectors present their own submissions.

However, with complex applications it may be appropriate to engage an advocate, like a lawyer or planner. In more complex and controversial applications, it may also be appropriate to engage an expert witness, such as an acoustic engineer.

Most Tribunal decisions are made in writing and delivered a few weeks or months after the hearing, depending on the complexity of the case. Some decisions may be made on the spot and given orally.

There is no right of appeal following a Tribunal decision other than on legal grounds. Legal appeals are considered by the Supreme Court.

For more information, visit vcat.vic.gov.au

EXAMPLE OF A TYPICAL VCAT CASE

