

## **Taking on the Local Council: How to resolve a planning dispute at VCAT**

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The Planning & Environment List at VCAT provides an opportunity for developers affected by a Council's decision to grant or refuse a planning permit to apply for review of the Council's decision.

VCAT can review the following decisions by a local Council:

- To refuse a planning permit;
- Failure to decide on a planning permit application within time;
- Conditions placed on a granted planning permit; and
- Refusal to extend the time in which a development in a planning permit must be started or completed.

VCAT can also enforce a planning permit or planning scheme and amend or cancel a granted planning permit.

When VCAT hears an application to review the decision of a Council regarding a planning permit, its role is to reconsider the whole application afresh, essentially 'stepping into the shoes' of the Council.

If you are a permit applicant applying to VCAT for a review of a refusal to grant a permit or to challenge conditions placed on a granted permit, you must apply to VCAT within 60 days of receiving the notice of the decision from the Council.

One important aspect of the Planning List is that it is a 'non-cost award' jurisdiction – meaning that the successful party will not be awarded their legal costs and each party must bear their own costs. In rare cases the Tribunal may decide to make a costs order, however the matter in question must be demonstrably vexatious for the Tribunal to consider doing so. The fact that costs awards are not involved in matters in the Planning List is generally beneficial as it tends to 'take the tension' out of matters as parties are not deterred by potential costs orders against them.

The Planning List is generally more informal than other Lists in VCAT and hearings are usually briefer than in other Lists, rarely lasting more than a week. Disputes heard in this list are generally less likely to settle at mediation, due to there being no potential costs awards involved, and although the process time for disputes in the Planning List are generally faster than in other lists, the entire process still usually takes around 8 months or more from applying to VCAT to the Tribunal hearing the matter.

If you are planning to apply to VCAT in regard to the planning matter, it is advisable to seek advice from experienced planning lawyers, particularly when issuing proceedings against a

local Council, which will be both well-resourced and experienced in this kind of dispute at VCAT.

For more information about our specialised planning department, [click here](#).

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