



Supreme Court of Victoria

Practice Note SC CL 8

Valuation, Compensation and Planning List

1 INTRODUCTION

- 1.1 The Chief Justice has authorised the issue of the following Practice Note.
- 1.2 The purpose of this Practice Note is to describe the procedures to be followed in the Valuation, Compensation and Planning List. The List is a case management list within the Common Law Division of the Court.

2 DEFINITIONS

- 2.1 In this Practice Note:

Judge means the Judge in Charge of the List;

Judicial Registrar means the judicial registrar assisting in the List;

List means the Valuation, Compensation and Planning List;

List directions day means the regular day on which the Court sits to give directions in the List as published on the List page on the Court's website;

Registry Lawyer means the Registry Lawyer who manages cases in the List;

VCAT means the Victorian Civil and Administrative Tribunal.

3 COMMENCEMENT

- 3.1 This Practice Note was issued and commenced on 1 October 2018, as revised, and will apply to all proceedings in the List whenever commenced.

4 PROCEEDINGS SUITABLE FOR INCLUSION IN THE LIST

- 4.1 The following types of proceedings should be initiated in the List:
 - a) Valuation of land under the *Valuation of Land Act 1960* (Vic);

- b) Compensation for resumption of land under the *Land Acquisition and Compensation Act 1986* (Vic);
- c) Appeals (including applications for leave to appeal) from an order of the Planning and Environment List of the Administrative Division of VCAT;
- d) Referrals on a question of law from the Planning and Environment List of the Administrative Division of VCAT;
- e) Proceedings relating to compensation payable pursuant to Part 5 of the *Planning and Environment Act 1987* (Vic); and
- f) Judicial review of ministerial and other decisions in respect of issues of land use and development;
- g) Proceedings involving challenges to government acting with respect to protection of the environment and/or endangered species;
- h) Nuisance claims involving allegations of damage to the environment such as land contamination; and
- i) Proceedings with respect to the management of public land.

4.2 If uncertain about whether a proceeding should be initiated in the List, practitioners are encouraged to make inquiry of the Registry Lawyer.

5 PROCEDURE FOR ENTRY INTO THE LIST

5.1 Proceedings of the nature set out in paragraph 4.1 should be initiated in the List by endorsing the heading of the originating process "Valuation, Compensation & Planning List". The heading of all subsequent documents filed in the proceeding should also be endorsed "Valuation, Compensation & Planning List".

5.2 If at any time after the initiation of a proceeding it appears to the Court that it is appropriate to have the proceeding managed in the List, the proceeding may be transferred into the List on the Court's own motion.

5.3 Conversely, a proceeding initiated in the List may be transferred out of the List on the Court's own motion if it appears to the Court that it is appropriate to have the proceeding managed in a different list.

5.4 No additional fees will be payable for the inclusion of a proceeding in the List.

6 DIRECTIONS HEARINGS

6.1 The Judicial Registrar will give directions for the management of a proceeding at a first directions hearing on a List directions day. Upon contacting the Registry Lawyer, parties will be allocated a specific date for the return of the

summons for directions. Written confirmation of that date must be included when filing the summons.

- 6.2 Where possible, any proposed orders should be drawn from the template orders published on the Valuation, Compensation and Planning List page of the Court website, adapted as appropriate. Practitioners should note, however, that orders for the filing and service of lists of documents (discovery) in proceedings brought under the *Land Acquisition and Compensation Act 1986* (Vic) will be made only in appropriate circumstances.
- 6.3 In addition to having considered whether orders should be made with respect to the matters set out in the relevant template orders, at the first directions hearing all parties are expected to be ready to explain, by brief oral outline, the nature of the dispute and the substantial questions in controversy.
- 6.4 The solicitors of the initiating party are encouraged to deliver proposed orders to all other parties in advance of all directions hearings, with a view to obtaining orders by consent without the need for an appearance. The parties should email minutes of consent in both Word and signed PDF format to the Registry Lawyer by 1.00pm two days prior to the directions hearing.
- 6.5 All parties are required to appear at scheduled directions hearings unless otherwise advised by the Registry Lawyer.

7 INTERLOCUTORY APPLICATIONS

- 7.1 All interlocutory applications are to be made by summons. This includes applications for leave to appeal on a question of law from an order of the Planning and Environment List of VCAT. Parties are to contact the Registry Lawyer to obtain a return date for the summons, and should provide a time estimate for the hearing of the application.
- 7.2 A scanned copy of any material parties intend to rely on (including a copy of any exhibits to affidavits and an outline of submissions) should be emailed to the Registry Lawyer by 1.00pm two days prior to the hearing.
- 7.3 Depending on the complexity and time estimate of the application, it may be adjourned for a special fixture.

8 APPEALS FROM VCAT

- 8.1 At the first directions hearing, any application for leave to appeal, for an extension of time or for summary determination of the proceeding may be adjourned to be heard at a later date either alone or together with the substantive proceeding.
- 8.2 Persons who are named as respondents in an appeal from an order of the Planning and Environment List of VCAT who do not wish to participate in the appeal should send an email to the Registry Lawyer, stating that they do not

intend to participate in the appeal and that they will abide by any order of the Court. They will be identified as non-participating parties.

- 8.3 In such circumstances, the non-participating parties will be excused from attendance at the hearing of the appeal and orders may be made relieving the participating parties of any obligation to serve documents on the non-participating parties. As a result of their non-participation, non-participating parties will not usually be the subject of any costs orders made at the conclusion of the appeal.
- 8.4 Where proposed consent orders would set aside or vary a decision under appeal or would involve the remittal of any matter or would otherwise affect the conduct or the result of a proceeding or matter before VCAT, judicial power is engaged and the Court may need to consider for itself whether the orders should be made. Where orders of such a kind are sought “on the papers”, a joint memorandum explaining the legal justification for the proposed orders must be provided to the Court. The Court may nevertheless require the attendance of practitioners. Even if satisfied that the proposed consent orders are appropriate, the Court may consider it necessary to publish reasons for the making of the orders or at least to direct that a copy of the joint memorandum be served on VCAT together with a copy of the orders made.
- 8.5 If a respondent to an application for leave to appeal or an appeal does not seek to have the subject decision set aside or varied but proposes to contend that it should be affirmed on a ground of law which was not decided or was erroneously decided, it should notify the other parties and the Court as soon as is practicable of this contention and the grounds upon which it will be put.

9 PROCEEDINGS BROUGHT UNDER the *Land Acquisition and Compensation Act 1986 (Vic)*

- 9.1 Where the parties seek to rely upon expert evidence, orders for joint conferences of experts and for the production of joint expert reports will be made unless the Court is persuaded that such a course is unnecessary or undesirable in a particular proceeding.
- 9.2 In the normal course, the production of joint reports should be completed before mediation in order to ensure that the areas of dispute are clearly identified prior to mediation.
- 9.3 Parties wishing to depart from this course are encouraged to make submissions to the Judicial Registrar at the first directions hearing.
- 9.4 The order of presentation in a particular proceeding will be determined at the final directions hearing.

10 LABELLING OF DOCUMENTS

- 10.1 Before production to the Court in any case in the List:
- a) Any document more than one page in length must have page numbers added legibly;
 - b) Any photograph must be endorsed with a numbered or lettered code, and must be accompanied by a brief description enabling it to be distinguished from other photographs in the proceeding;
 - c) Any plan on which land is said to be defined by reference to colour must be appropriately coloured; and
 - d) Any map or plan must display:
 - i. A north line; and
 - ii. Either a scale, or an indication that the map or plan is not to scale.

11 TRANSCRIPT

- 11.1 Practice Note SC Gen 7 is applicable to the requirements for transcript in relation to proceedings in the List.
- 11.2 To ensure the efficient management of cases in the List, a 'running' transcript is required for trials and interlocutory applications, unless the presiding judicial officer directs otherwise.
- 11.3 Subject to any contrary direction by the presiding judicial officer, deferred transcript (2-3 days) is required for directions hearings.

12 USE OF TECHNOLOGY

- 12.1 The provisions of Practice Note SC Gen 5 "Guidelines for the Use of Technology" apply to proceedings in the List.
- 12.2 For the purposes of para 9.11 of that Practice Note, documentary evidence in excess of 1500 pages is to be considered a large amount of documentary evidence.

13 COMMUNICATIONS WITH THE COURT

- 13.1 At all stages of the proceeding, communications with the Court should be by email with a copy to all other parties, and should be confined to uncontroversial matters. Enquiries relating to the List should be directed to the Registry Lawyer at vcplis@supcourt.vic.gov.au.
- 13.2 Parties are reminded that pursuant to rule 27.03(11)(b) of the *Supreme Court (General Civil Procedure) Rules 2015*, all court documents must include the name and email address of an individual to whom reference can be made in respect of the proceeding.

14 FURTHER INFORMATION

14.1 The Court's website (www.supremecourt.vic.gov.au) includes a [page dedicated to the List](#) with up to date information about the operation of the List including:

- a) Judicial officers managing the List;
- b) this Practice Note in Word and PDF formats;
- c) template orders for the most common types of proceedings in the List;
- d) dates for List directions days.

AMENDMENT HISTORY

30 January 2017: This Practice Note was issued on 30 January 2017 and replaced Practice Note No 8 of 2015.

1 October 2018: First revision; amendments to paras 1, 2, 3, 5, 6, 7, 8, 11, 13, 14.

1 October 2018

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