

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL**

**ADMINISTRATIVE DIVISION**

**PLANNING AND ENVIRONMENT LIST**

VCAT REFERENCE NO. P805/2017

**APPLICANT** Brimbank City Council  
**RELEVANT AUTHORITY** Environment Protection Authority  
**RESPONDENT** Landfill Operations Pty Ltd  
**SUBJECT LAND** 1154-1198 Christies Road  
RAVENHALL and  
408-506 Hopkins Road  
TRUGANINA VIC 3029  
**WHERE HELD** Melbourne  
**BEFORE** Helen Gibson, Deputy President  
**HEARING TYPE** No hearing  
**DATE OF ORDER** 24 April 2017

**ORDER**

**Hearing details**

<b>Item</b>	<b>Hearings</b>	<b>Date/Detail</b>
<b>A</b>	Practice day hearing date	<b>26-May-2017</b>
	Commencement time	10:00 AM
	Duration	60 minutes
	Location	55 King St, Melbourne

- 1 This proceeding is listed for a practice day hearing in accordance with the details set out in **item A** above. Any changes to the hearing details will be notified by further order of the Tribunal.
- 2 VCAT will publish a detailed schedule of hearing times and room numbers on its website at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) at about 5pm the day before the hearing. As this hearing may be listed to a later time on the day, possibly in the afternoon, parties should consult the detailed schedule.
- 3 The purpose of the practice day will be to consider:

- The future conduct of the proceeding, including the dates, times and length reserved for a compulsory conference and hearing and any specific requirements for the hearing.
- The form and preparation of a Tribunal Book for use during this and associated proceedings.
- A process for pre-hearing conferences of expert witnesses.
- The need for and dates of future direction hearings.

#### Other key dates

4 The following dates are the dates referred to in these orders.

Item	Action	By no later than	Order number
<b>B</b>	Applicant to serve application and specified documents on the relevant authority	05-May-2017	6
<b>C</b>	Applicant to serve documents on respondent	05-May-2017	7
<b>D</b>	Applicant to file statement of service with VCAT	08-May-2017	8
<b>E</b>	Relevant authority to file PNPE2 material	15-May-2017	9
<b>F</b>	Closing date for respondents to lodge statement of grounds with VCAT and serve on applicant and relevant authority	22-May-2017	7 & 11

#### ACTIONS REQUIRED – APPLICANTS

##### Service of application

- 5 By no later than the date set out in **item B of order 4**, the applicant must serve on the relevant authority:
- a copy of the application and all attachments;
  - other material filed with the Tribunal; and
  - a copy of this order.
- 6 By no later than the date set out in **item C of order 4**, the applicant must serve the following documents on the respondent:
- the application, including all attachments and other material filed with VCAT;
  - a copy of this order;

- a blank copy of the attached statement of grounds form (Form A) with the date by which a statement of grounds must be lodged with VCAT, specified in **item F of order 4**, inserted in the form;
- a cover letter, which must:
  - explain that an application has been lodged and VCAT has directed service of the documents
  - specify the closing date, which is set out in **item F of order 5**, by which a statement of grounds must be received by VCAT and served on the responsible authority and applicant
  - specify the date and other details scheduled for the practice day hearing as set out in **item A of order 1**.

### Statement of service

- 7 By no later than the date set out in **item D of order 4**, the applicant must file with VCAT:
- a completed statement of service (Form B);
  - a list of names and addresses of all persons and authorities served; and
  - a sample of the cover letter sent with the documents served.

If a statement of service is not filed by the specified date, this application may be struck out without further notice. No reminder will be sent.

### ACTIONS REQUIRED –RELEVANT AUTHORITY

#### Practice Note 2 material

- 8 By no later than the date set out in **item E of order 4**, the relevant authority must file with VCAT information about the application as specified in the current version of **VCAT Practice Note PNPE2 – Information from Decision Makers**, unless this material has already been filed in another related proceeding.
- 9 The relevant authority must comply with **VCAT Practice Note PNPE2 – Information from Decision Makers** and serve a copy of the completed table (excluding attachments) on the applicant for review.

### ACTIONS REQUIRED – RESPONDENT

#### Statement of grounds

- 10 If you are entitled to become a party to this proceeding and wish to contest this application, you must, within the time specified in **item F of order 4** (and also set out in the applicant's cover letter):
- serve a copy of the statement of grounds on which you intend to rely on the person making this application (the applicant);
  - serve a copy of the statement of grounds on the relevant authority;

- lodge a copy of the statement of grounds with VCAT, indicating that a copy was served on the applicant and the relevant authority and the date(s) this was done. You must ensure your statement of grounds is received by VCAT by the specified date.

## **ACTIONS REQUIRED – ALL PARTIES**

### **Communicating with VCAT**

- 11 All communications to VCAT about this proceeding must quote the VCAT reference number included in this order (see page 1, top right corner).
- 12 A party who communicates in writing with VCAT must serve a copy of that communication on all other parties at the same time and notify VCAT this has been done. The communication must state that a copy was sent to the other parties and list the parties it was sent to. This applies to communications sent by letter, fax or email.

Helen Gibson  
**Deputy President**

## APPENDIX A

### IMPORTANT INFORMATION FOR ALL PARTIES

#### **Non-compliance with orders and directions**

Please read the orders and following information carefully. Non-compliance with these orders may result in an application being struck out, or other sanctions under the *Victorian Civil and Administrative Tribunal 1998*, including an award of costs.

#### **Statement of grounds**

If you are a respondent, a person with an interest named in the application, or the owner or occupier of the subject land, you may be entitled to become a party to this proceeding if you file and serve a statement of grounds in accordance with this order, unless you indicate that you do not intend to participate in the hearing of the proceeding.

If you file a statement of grounds and indicate that you do not intend to participate in the hearing of the proceeding, you will not be a party to the proceeding but your statement of grounds will be considered at any hearing of the proceeding.

The attached statement of grounds form should provide sufficient information so that the issues you intend to raise can be clearly identified. Normally VCAT does not have copies of any objections or communications made to the responsible authority/relevant authority so do not assume that VCAT is aware of any statement you may have already made.

#### **Attendance at the practice day hearing**

If you do not appear or are not represented at the practice day hearing, the Tribunal may make orders, including final orders, that may affect your interests. In particular, the Tribunal may make any of the following orders under the *Victorian Civil and Administrative Act 1998*:

- If you are the applicant to VCAT, your application may be dismissed or struck out.
- If you are not the applicant, you may be struck out as a party to the proceeding. This means that you can take no further part in any compulsory conference or hearing.
- You may be ordered to pay costs in certain circumstances.

If you wish your interests to be taken into account or wish to make submissions:

- You must file with the Tribunal and serve on all other parties a submission in writing by close of business on the Wednesday prior to the date of the practice day hearing; and/or
- Appear at the practice day hearing. An applicant should normally attend or be represented at the hearing.

#### **Withdrawals**

If you are a respondent and wish to withdraw your objection at any time after you lodge your statement of grounds, you must inform VCAT, the applicant and the responsible authority in writing. You will then be withdrawn from VCAT's record and receive no further correspondence.

If you are the applicant, any application for withdrawal of the application must follow the procedures set out in **VCAT Practice Note PNVCAT1 – Common Procedures**.

#### **Adjournments**

Applications for adjournment of a hearing are not encouraged and you should not expect that an adjournment will be granted even if all parties consent.

VCAT may refuse an adjournment if it considers that the adjournment is:

- not in the public interest
- prejudicial to the interests of one or more parties or the expeditious determination of the proceeding
- contrary to efficient case management, or
- otherwise not justified.

If you wish to apply for an adjournment, choose the **Application for Consent to adjournment** form on the VCAT website or call us for a hard copy. Any application for adjournment must follow the procedures set out in **VCAT Practice Note PNVCAT1 – Common Procedures**. Refer to the VCAT website for more detail.

#### **Providing your email address**

VCAT will send copies of all orders, including the final decision, to a party's email address. VCAT will not send a hard copy in addition.

A party's email address will be available on VCAT's records for other parties to access. If you do not want other parties to have access to your email address, do not provide your email address. If VCAT does not have your email address, you will be sent a hard copy of any order, but you may receive it after other parties have received the order by email and after the order has been published.

VCAT does not accept any responsibility for emails not received due to changes in address, firewall or other security measures that may be attached to your email account.

#### **Inspecting VCAT's file**

Any party to the proceeding may inspect the VCAT file relating to the proceeding without a fee. Anyone else can inspect the file, but they must pay a fee. There is a charge for photocopying. To arrange an inspection time, complete the **File and Document Access Request Form** available on the VCAT website.

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#### **Victorian Civil and Administrative Tribunal (VCAT)**

55 King Street Melbourne VIC 3000

Website [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

Telephone (03) 9628 9777

GPO Box 5408 Melbourne VIC 3001

Email [vcat-admin@vcat.vic.gov.au](mailto:vcat-admin@vcat.vic.gov.au)

Facsimile (03) 9628 9789

Ausdoc DX 210576 Melbourne

**STATEMENT OF GROUNDS**

Use this form to set out your reasons for contesting a planning and environment case at VCAT. These written reasons are called your statement of grounds.

<b>DATE STATEMENT OF GROUNDS MUST BE RECEIVED BY VCAT</b> This is on the notice you received or the sign on the site	
<b>Subject Land</b>	1154-1198 Christies Road RAVENHALL and 408-506 Hopkins Road TRUGANINA VIC 3029
<b>VCAT Ref:</b> P805/2017	

**Name**

*PLEASE PRINT CLEARLY*

**Address for service**

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**Email address**

If you do not give us an email, printed orders may arrive after the decision is published and after other parties get it by email.

**Telephone/Mobile**

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**PARTICIPATION IN HEARING**

Please tick appropriate box

<input type="checkbox"/>	I intend to appear and present a submission at the hearing. <b>Fees apply</b>
<input type="checkbox"/>	I do not intend to participate in the hearing, but want VCAT to consider my statement of grounds. <b>No fee</b> If you choose this, <b>you will not be a party</b> to the proceeding. VCAT considers your statement of grounds in any contested hearing but will not send you further correspondence.

**FEES**

Fees apply if you intend to appear or present a submission at the hearing. If you do not pay the fee at the time of lodging this form, you will not be a party and will not be entitled to take part, even if you indicated that you wanted to participate. For fee information, visit [vcat.vic.gov.au](http://vcat.vic.gov.au). You do not have to pay a fee if you are a permit applicant or holder, the determining or recommending referral authority, a person responding to an enforcement order application, or an applicant for a works authority or licence.

**PRESENTING AT THE HEARING**

If you intend to appear at the hearing, please provide the following information

Time required to present my complete case at the hearing (submissions plus witnesses)	
Number of expert witnesses I intend to call (if any)	
Witness area(s) of expertise	

*For information about witnesses and evidence, visit [vcat.vic.gov.au](http://vcat.vic.gov.au) and see Practice Note PNVCAT2 – Expert Evidence.*

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**THIS STATEMENT OF GROUNDS IS LODGED BY OR ON BEHALF OF**

**OBJECTOR/S**

- A person who objected to the original application to the council
- A person who did not object to the original application to the council but now wants to object
- A person responding to an application to amend plans or make other changes to an existing application
- A person responding to a notice by a permit holder to amend a permit

**PERMIT APPLICANT OR PERMIT HOLDER**

- A permit applicant responding to an objector's application for review
- A permit holder responding to a non-permit holder's application to amend or cancel a permit

**REFERRAL AUTHORITY**

- Determining referral authority
- Recommending referral authority

**ENFORCEMENT ORDERS**

- A person responding to an application for an enforcement order

**ENVIRONMENT APPLICATIONS**

- Objector/s to a works approval application made to the Environment Protection Authority
- A works approval applicant
- An objector to an application made for a licence to take or use water or for works under the Water Act 1989
- An applicant for a licence to take and use water
- An applicant for a works licence or licence for underground disposal using a bore

**OTHER**

- Specify \_\_\_\_\_

**JOINT STATEMENT OF GROUNDS**

Complete this section if you are a spokesperson for people lodging a joint statement of grounds.

- Attach a list of the names and addresses of all the people you represent, showing whether you have their individual consent.
- Be aware you may be asked to provide VCAT with a copy of their written consent.

I certify that I have consent to act as spokesperson for the attached list of people where this is a joint statement of grounds:

- Yes       No

We will only communicate with the nominated representative for a joint statement of grounds.

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## STATEMENT OF GROUNDS

A short summary of my reasons for contesting the VCAT application is

<input type="checkbox"/>	In the box below
<input type="checkbox"/>	attached

### SERVE A COPY

You must serve a copy of your statement of grounds on both the responsible or relevant authority and the applicant by the date that appears in the notice you received and on the sign at the site – the same date on the front of this form. If not, we may not be able to hear your views or consider your objections.

You must certify that you have done so and complete the acknowledgement on this form.

### CERTIFICATION

I certify that I have served a copy of this Statement of Grounds:

*Please tick appropriate box and insert relevant date*

<input type="checkbox"/>	on	/	/	(insert date)	on the applicant
<input type="checkbox"/>	on	/	/	(insert date)	on the respondents (responsible/relevant authority)

### ACKNOWLEDGEMENT

I understand and acknowledge that:

- To the best of my knowledge, all information provided in this form is true and correct
- It is an offence under section 136 of the *Victorian civil and Administrative Tribunal Act 1998*

Full name of person completing this statement  
of grounds form: \_\_\_\_\_

Date: \_\_\_\_\_

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**ABOUT VCAT FEES**

VCAT fees are charged according to three levels:

- **corporate fees** for businesses and companies with a turnover of more than \$200,000 in the previous financial year, corporate entities and government agencies
- **standard fees** for individuals, not-for-profit organisations, and small businesses and companies with a turnover of less than \$200,000 in the previous financial year. Companies must provide a statutory declaration to support this claim
- **concession fees** for people who hold the Australian Government Health Care Card. You must provide a copy of your card with your application.

To find out if you need to pay an application fee and how much it costs, visit the fees page at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

**FEE RELIEF**

We can reduce or not charge (waive) a VCAT fee in certain circumstances.

Some people are automatically entitled to a full fee waiver. You can also apply for fee relief if paying the fee would cause you financial hardship.

Visit [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) for more information about fee relief.

Are you applying for fee relief?

- No- complete **fee payment** section
- Yes- complete **fee relief form** and attach it to this application form

**FEE PAYMENT**

Complete this section unless you are applying for fee relief or no fee is payable.

Choose the fee level:

- Corporate     Standard     Concession

Amount Charged \_\_\_\_\_

**CARD DETAILS**

Cards Accepted     VISA                       MASTERCARD

Cardholder Name \_\_\_\_\_

Card Number \_\_\_\_\_

Card Expiry    \_\_\_\_\_

Signed \_\_\_\_\_

Date                                      /    /

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**PLANNING AND ENVIRONMENT LIST**

**FORM B – STATEMENT OF SERVICE**

To be completed by or for the Applicant

<b>Subject Land</b>	<b>1154-1198 Christies Road RAVENHALL and 408-506 Hopkins Road TRUGANINA VIC 3029</b>	<b>VCAT Ref: P805/2017</b>
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I, .....(Print full name)  
of .....(Print name of firm, if relevant)  
.....(Print address)  
.....

**STATE** to the Victorian Civil and Administrative Tribunal (VCAT) that:

1. I \*am/\*act for the Applicant in the application to VCAT with the above reference number  
*(\*delete whichever does not apply)*

1. On ..... *(date of service)* I served a copy of the application and all attachments and other material filed with the Tribunal and a copy of the initiating order on the responsible authority/relevant authority.

2. On ..... *(date of service)* I served the following documents on each of the persons specified below by post\*/in person\*. *(\*delete whichever does not apply)*

**Documents served:**

- a copy of the application, including all attachments and other material filed with VCAT, and cover letter required to be served by VCAT's initiating order;
- a copy of the VCAT initiating order;
- a copy of a blank Statement of Grounds.

**Persons served: *(tick as appropriate)***

- all respondents named in the application
- other persons with an interest named in the application
- owner of the land, if not the applicant or respondent
- occupier of the land, if not the applicant or respondent
- any other person or authority

3. I attach copies of the following documents.

**Documents attached: *(tick as appropriate)***

- list of names and addresses of all persons or authorities served
- copy of sample cover letter sent with documents served

I understand that knowingly giving false or misleading information to VCAT may result in imprisonment or fine (section 136 of the *Victorian Civil and Administrative Tribunal Act 1998*).

Signature .....Date.....

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