

APPLICATION BY A PERMIT HOLDER TO CANCEL OR AMEND A PERMIT

VCAT reference number (Office use only): P

WHAT YOU CAN APPLY FOR

If you are a permit holder, owner or occupier of land, or someone entitled to use or develop land, you can apply to cancel or amend a permit under section 87 or 87A of the *Planning and Environment Act 1987*.

An application to amend a permit can only be made under section 87A if the permit, or a previously amended permit, was issued at VCAT's direction.

WHAT DO YOU WANT VCAT TO DO?

1. What do you want VCAT to do?

Amend a permit

2. Which section of the *Planning and Environment Act 1987* are you applying under?

Section 87A(2)(b) of the Planning and Environment Act 1987 - Application by any person entitled to use or develop the land concerned to cancel or amend a permit issued at the direction of the Tribunal

WHO IS MAKING THIS APPLICATION?

If there is more than one applicant, you can add joint applicant/s at the bottom of this page.

3. Who is making this application?

A company

4. Full name of the individual, body corporate, company or authority making this application.

Pace Development Co 24 Pty Ltd

5. Are you?

- Owner of the land
- Occupier of the land
- Person entitled to use or develop the land

6. Do you wish to be identified as a person of Aboriginal and/or Torres Strait Islander descent?

No

7. What is your address?

This will be the address VCAT uses to correspond with you. It must be an address in Victoria. If you have a representative, we will send all our notices to your representative's address instead.

Street address C/- MinterEllison, Level 20, 447 Collins Street

Suburb

Melbourne

State

VIC

Postcode

3000

Phone number

Email

8. Is this a joint application?

IS SOMEONE REPRESENTING YOU?

If you nominate a representative, we will send all our correspondences to your representative's address instead of your address. It must be an address in Victoria.

9. Is someone representing you? If No, skip to Question 11.

10. Details of your representative:

Organisation name (if applicable)

Full name of representative

Street address

Suburb State Postcode

Phone number

Email

ABOUT THE PERMIT TO BE AMENDED OR CANCELLED

11. Address of the land the permit relates to:

12. Permit number:

13. Date the permit was issued:

14. If relevant, date the permit was previously amended:

15. Name of responsible authority:

16. If relevant, the name of any referral authority that was required to be given a copy of the application for the permit or application to amend the permit:

17. Was the permit, or previously amended permit, issued at the direction of VCAT? If No, skip to Question 19.

Yes

18. If yes, what was the VCAT reference number and/or AUSTLII citation?

Fabcot Pty Ltd v Glen Eira CC [2022] VCAT 1025 (7 September 2022)

19. When does the permit expire?

13/09/2026

20. Do you want to cancel the permit as a condition in another permit?

No

21. What is the development's estimated cost (s87A applications only)?

The estimated cost determines the application fee you must pay. For more details, go to www.vcat.vic.gov.au/planningfees.

Enter the cost in dollars. Do not include commas (,), nor the dollar sign (\$).

\$90,000,000.00

22. If you are applying under section 87 of the *Planning and Environment Act 1987*, do you believe that you are adversely affected by any of the following?

- a material mis-statement or concealment of fact about the permit application
- any substantial failure to comply with conditions of the permit
- any material mistake in the grant of the permit
- any material change in circumstances
- any failure to give notice
- any failure to comply with section 55, 61(2) or 62(1) of the *Planning and Environment Act 1987*

23. Why do you want the permit cancelled or amended?

See attachments

24. Give the name and address of other persons who may have an interest in the outcome of this application.

If you need more space, attach another document. You can add any attachments at the bottom of this form.

Name	Email	Address	Phone number
Fabcot Pty Ltd		1 Woolworths Way Bella Vista NSW VIC 2153	1300 767 969

Name	Interest
Fabcot Pty Ltd	Landowner

HEARING ARRANGEMENTS

You can ask to have your case heard in the Major Cases List (section 87A only) and/or Short Cases List. You can also ask for a practice day hearing or preliminary hearing. We will decide if it is appropriate to grant your request.

Find out more about the [Major Cases List](#) and [Short Cases List](#).

25. Are you applying for any of the following? If you select Short Cases List, skip to Question 27.

- Major Cases List (section 87A only)
- Short Cases List (section 87A only)

26. Are you applying for a practice day hearing or preliminary hearing?

If you selected practice day hearing or preliminary hearing, explain why you want this below:

27. Tell us if there is anything else you want us to consider when we arrange a hearing.

For example, provide details of any related current VCAT cases or ask for the hearing to take place at a specific VCAT venue.

PRESENTING YOUR CASE

28. How much time will you need to present your entire case at a final hearing?

Estimate the time you need to present, including time needed by any expert witnesses you will call.

hours

 minutes

29. How many expert witnesses will you call?

30. List the areas of expertise for your expert witnesses.

HEARING ASSISTANCE

If you are concerned about being in the same room as someone who will attend the hearing, we can make special arrangements to ensure your safety.

We can also arrange to have an interpreter for anyone who needs to attend the hearing or assist people with disability (eg. hearing loops).

These special arrangements are free.

31. Does anyone attending the hearing need an interpreter?

No

If yes, tell us who needs an interpreter and in what language/dialect:

32. Does anyone attending the hearing require any other type of special assistance?

E.g. Hearing loop, wheelchair access, additional arrangements for personal safety.

No

If yes, tell us who needs any other type of special assistance and what they require:

ACKNOWLEDGEMENT

By completing this application, I understand and acknowledge that:

- To the best of my knowledge, all information provided in this application is true and correct.
- It is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act 1998* to knowingly give false or misleading information to VCAT.

Full name of person completing this form:

Jarryd Gray

Date of acknowledgement:

29/02/2024

ATTACH THESE DOCUMENTS TO YOUR APPLICATION

You must attach the following:

- Copy of the title to the land, of not more than 14 days old
- Copy of the permit and a tracked-changed version of amendments asked for, if relevant
- Copy of the current endorsed plans, if relevant
- Copy of the proposed amended plans highlighting changes proposed, if relevant
- Copy of the permit that contains a condition requiring the cancellation or amendment of the permit, if relevant
- Copy of the VicPlan Planning Property Report that details the planning controls that apply to the land (such as zoning and overlays) and whether the land is in an area of Aboriginal Cultural Heritage Sensitivity or is identified as being bushfire prone

- If a cultural heritage management plan (CHMP) under the *Aboriginal Heritage Act 2006* is required, attach the approved CHMP
- If a cultural heritage management plan (CHMP) under the *Aboriginal Heritage Act 2006* is not required, attach a certified preliminary Aboriginal heritage test or other statement of reasons about why a CHMP is not required. This may include a copy of a due diligence statement prepared by an Aboriginal heritage consultant
- Copy of the VCAT decision relating to the permit, if relevant.

In addition to the above, please attach any other documents in support of your application.

Keep a copy of these documents for your records.

Attachments to this application:

Title	File Name

Large files

For any file larger than 128MB a sharing link is required.

Please list (by line) the name of each file that is bigger than 128MB followed by the hyperlink.

1. Planning Assessment
2. Transport Assessment
3. Proposed Amended Plans
4. Proposed Amended Permit (Tracked Changes)
5. Vicplan Planning Property Report (10-16, Selwyn Street, Elsternwick)
6. Vicplan Planning Property Report (Lot 1 TP972071)
7. Certificates of Title
8. Planning Permit GE.DP-34187.2021.A (Amended 1 December 2023)
9. Endorsed Plans (1 December 2023)
10. Fabcot Pty Ltd v Glen Eira CC [2022] VCAT 1025 (7 September 2022)
11. Approved Cultural Heritage Management Plan

<https://share.minterellison.com/w/h1mFjg6GIBCQeA6lKmlI3qrtGqRh2w1wVHrFWRVofIVfL>

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. We do not accept Pensioner Concession Cards or Department of Veteran Affairs health cards.



To find out if you need to pay an application fee and how much it costs, go to www.vcat.vic.gov.au/fees.

Which fee category are you applying for?

Corporate

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. For more information about fee relief, go to www.vcat.vic.gov.au/feerelief.

If you are applying for fee relief, complete the [Fee Relief form](#) below. **If there is more than one applicant seeking a fee waiver or reduction, each applicant must fill out a separate form for your fee waiver application to be assessed.**

Are you applying for fee relief?

No

WHAT HAPPENS NEXT

If you have provided your email address, you will shortly receive an email from us with instructions about next steps including how to make payment (if applicable). If you have not provided an email address and payment is required, VCAT will contact you by telephone about making payment.

After we receive your application and open a VCAT case, we will send you and all other parties an order setting out what happens next, including dates to come to VCAT. The order will tell you the venue, time and date you must go to VCAT.

The order will also have your VCAT reference number. The number starts with 'P' and ends with the year the application was lodged (eg. P1/2020). Quote the reference number in all correspondences and documents about your case.

Contact us if you do not hear from us within two weeks of submitting your application.

NEED HELP WITH YOUR APPLICATION?

If you have any questions about completing this form, contact our Customer Service team:

- email admin@vcat.vic.gov.au
- call 1300 01 8228 (1300 01 VCAT) between 9 am and 4.30 pm Monday to Friday
- go to the Victorian Civil and Administrative Tribunal, Ground Floor, 55 King Street, Melbourne VIC 3000. We are open Monday to Friday from 8.30 am to 4.30 pm.

PRIVACY INFORMATION

For a copy of VCAT's privacy statement, go to www.vcat.vic.gov.au/privacy.