

SOS summary of proposed VCAT fee increases (from March 2013)

Ref: Regulatory Impact Statement, Victorian Department of Justice, Jan. 2013:

<http://www.vcat.vic.gov.au/news/regulatory-impact-statement-proposed-vcat-fee-regulations>

NB: Disclaimer – this summary should not be relied upon as legal advice. Please check the RIS, inquire at VCAT, or seek private legal advice regarding any action in relation to the issues in this document

MAKE A SUBMISSION AGAINST THESE UNDEMOCRATIC PROPOSED FEE RISES!!

The Baillieu Government proposes to recognise the benefits of VCAT activities, consistent with Victorian court fees, by setting cost recovery for VCAT at 45%, on average, of current expenditure in government appropriation funded Lists. Currently VCAT only recovers costs at an average of 14%. The increase in fees to an average of 45% cost recovery is proposed to be staged over three years to allow smoother implementation and adjustment for users and the legal profession.

Following this increase in the fee levels for various Lists, it is proposed that fees will be restructured so an appropriate fee level is applied to each VCAT jurisdiction. This is intended to increase cost recovery for matters that are of a more commercial nature and where higher fees are more appropriate to the type of claim.

This limited fee restructure involves a range of specific changes to the current fees, as follows:

1. A new "Level 3" fee of 8.2 fee units, subject to the general cost increase of 56%, in line with all other commencement fees, thus becoming 12.8 fee units. This would be charged for a range of matters that currently attract the "community fee" of 3.1 fee units but where the nature of the cases is believed to justify a higher fee. The main areas where this new 12.8 unit fee will apply are the Civil Claims List and the Owners' Corporation List.
2. Reallocation of a range of fees would be undertaken, particularly in the Planning and Environment, Land Valuation and Owners' Corporations Lists. **The standard fee for Planning and Environment List matters would be a commencement fee of 80.4 fee units, compared with 25.7 fee units at present. For a small proportion of matters relating to higher valued property, the fee would rise from 51.5 to 160.8 fee units**
3. **A widening of the application of hearing fees so that all matters that currently attract a commencement fee would be subject to a hearing fee on day 2 and subsequently.**
4. An increase in the size of hearing fees in most cases to be equivalent to 80% of County Court fees. As with Supreme and County Court hearing fees, these fees will increase for lengthy matters, with higher fees applying from day 5 and higher fees again from day 10.
5. VCAT would determine which cases should be allocated a new "complex cases" hearing fee which would be calculated to recover 45% of average hearing costs.

6. Removal of the \$5 million minimum development value threshold for non-residential projects to be eligible for transfer to the Major Cases List. Thus more users could choose this List, with more resources available for the standard Planning and Environment List.
7. Revision of Major Cases List fees, to reflect current experience with the cost of processing these cases while continuing to meet the objective of charging for full cost recovery.
8. **Establishment of mediation fees at 45% of the cost of this previously free service, which is estimated at \$757.09 for a half-day and \$1,361.38 for a full-day. This would mean a new fee of around \$340 - \$613 (presumably mediations that were much less than a full day but longer than 3 hours would be charged the full-day fee).**
9. Revision of current administrative fees on the basis of new activity based cost estimates, with fees set at a 45% cost recovery level.
10. Adoption of a 56% general fee increase for all other fees not covered above.

SOME COMMON PROPOSED FEES

from:

*Regulatory Impact Statement – VCAT (Fees) Regulations 2013
Table S2: Proposed fees regulations by list and enactment, p.8-14*

Enabling enactment (under P&E Act 1987)	Current fee (14% av)	2013 35%	2014 40%	2015 45%
s87, 89, 93, etc (cancel or amend permit, stop order)				
s114, 120, etc (enforce permit)				
s149, 149A, 149B (review or declaration).....	\$ 38.8	\$ 731.8	\$ 869.6	\$ 1,007.4
s78, 81, 82, 82B (incl. objector appeals)	\$ 322.0	\$ 731.8	\$ 869.6	\$ 1,007.4
s77, 78, 79, 80, 87A – developer appeals (against refusal, failure, conditions, to cancel or amend VCAT permit)				
- cost of proposal <\$1 million	\$ 322.0	\$ 731.8	\$ 869.6	\$ 1,007.4
- cost of proposal \$1 – 5 million	\$ 322.0	\$ 1,462.3	\$ 1,737.9	\$ 2,014.8
- cost of proposal >\$5 million	\$ 1,290.6	\$ 1,462.3	\$ 1,737.9	\$ 2,014.8