Roadmap to Consent Appeals Process: Class 1 - Land & Environment Court

Application

Complete and file Application.

Application to be served within 7 days of filing.

Applications are given a First Directions Hearing date approximately 4 weeks from the date of filing.

Plans of any development accompanying the appeal are to satisfy certain requirements.

Respondent consent authority is to file in Court and serve on the Applicant a statement of facts and contentions by 4 pm on the third last working day before the first directions hearing unless an

Applicant or Objector may file a statement of facts and contentions in reply. This may be done prior to the first directions hearing or at a later date as agreed at the first directions hearing.

Directions Hearing

At first directions hearing, parties should agree and hand to the Court Short Minutes setting timetable.

Matter will be listed for a Preliminary Conference under Section 34 conciliation unless there is a reason matter should not be fixed.

Note: Section 34AA conciliation conference and hearing date is 14 days from the date of the first directions hearing. Court has a target to finalize 95% of all Class 1 Applications within 3 months of filling

Expert Report

After first directions hearing or within 7 days after preliminary conference, parties, if appropriate, appoint their respective experts or a party's single expert who would usually prepare a joint report on the issues raised in the statement of facts and contentions.

Joint report is to be filed and served by the parties before the hearing in accordance with Short Minutes.

Documents for Hearing

Consent authority is to file and serve documents by 14 days before the hearing.

The Consent authority is to give notice at least 7 days (usually) prior to the hearing with respect to:

a) Objectors who will give evidence; and
b) Draft conditions of consent.

The Applicant is to file and serve an outline of submissions by 5 working days before the hearing.

The Respondent is to file and serve an outline of submissions by 2 days before the hearing.

Section 34AA Conciliation Conference

During the Section 34AA conciliation conference, the parties attempt to resolve and come to an agreement on the development application.

If the parties do not agree, a second directions hearing will be set with the balance of Short Minutes agreed upon leading up to Hearing (usually within 12 weeks of the first directions hearing).

Hearing

At the hearing:

a) The Applicant gives opening statement and puts on evidence;
b) The Respondent gives opening statement and puts on evidence;
c) Experts are put in witness box and cross examined by the Applicant and the Respondent (hot boxing).
d) The Applicant gives closing statement;
e) The Respondent gives closing statement; and
f) The Applicant has opportunity to make a final closing statement.

Judgment

Judgments can be made as quickly as on the last day of the hearing. All judgments are usually made within 3 weeks from the completion of the hearing.

You have 60 days to appeal your decision.

Disclaimer

- Typical steps only – varied steps may be required
- Timeframes can be much shorter or much longer
- Timeframes can be substantially increased due to procedural disputes, delay tactics etc.

TOTAL OF ALL OF THESE STEPS IS USUALLY DONE WITHIN 3 MONTHS

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