# PLANNING AND ENVIRONMENT DIVISION GUIDELINES submissions BY responsible authorities

## INTRODUCTION

The submission of a responsible authority in a planning proceeding serves two important purposes:

* It provides the Tribunal with a detailed background of the application and its planning context (the background information); and
* It provides argument in support of the responsible authority’s decision.

The background information is of particular importance to the Tribunal as it contributes to informed and expeditious decision-making, especially in cases were the submission made on behalf of the responsible authority may be the only professionally informed submission before the Tribunal.

The purpose of this guideline is to assist responsible authorities in the preparation of their submissions.

This guideline is for guidance only and is not intended to be either prescriptive or exhaustive. Each party in a proceeding, including a responsible authority, is ultimately responsible for preparing its own submissions.

## STRUCTURE OF SUBMISSIONS

### Background information

The extent of the background information provided in a particular application will depend upon the circumstances of the proceeding itself, however, in most applications each of the six information topics referred to below should be addressed.

### The Subject Site

The location, dimensions, area, topography, vegetation, use and development of the subject site should be described to the extent that it is relevant to the proposal before the Tribunal.

Elements of this description may include:

* address
* title description/certificate of title
* dimensioned site plan (this could be the application plan/site context plan)
* survey plan

### The Locality

The characteristics of the locality and/or environment of the subject site should be described, remembering the Tribunal may have to find the site on inspection.

Elements of this description may include:

* locality plan (including cadastral information)
* land use plan
* photographs and aerial photographs (dated and labelled)
* location of relevant facilities, infrastructure, public transport etc.

### The Proposal

The proposal should be described clearly and succinctly, and should include associated characteristics such as car parking and access arrangements. (Elements of the proposal irrelevant to the decision may be omitted.

Elements of this description may include:

* plans of the proposal[[1]](#footnote-1)
* expert reports and other supporting material accompanying the application

### Permit Application Process

A brief history of the permit application process should be given, and in particular the various statutory steps, i.e. lodgement (and any amendment), advertisement and referral should be described. If relevant, the history of previous permit applications, Tribunal decisions, and/or the previous use of the land should be described.

Elements of this description may include:

* responses from referral authorities and internal referrals
* a summary of objections
* copies of Tribunal decisions

### The Planning Scheme - Zones Overlays and Particular Provisions

The zones and overlays affecting the land and surrounding land, the relevant planning scheme provisions should be described. Each provision that requires planning permission should be identified. The classification of the use should also be described.

Elements of the description may include:

* zoning and overlay maps
* planning scheme extracts
* permit triggers

### The Planning Scheme - Policies and Guidelines

It is the planning policy context which must inform decision-making. The planning policy framework, other policy considerations and guidelines, relevant to the decision and relied on by the responsible authority in its decision should be described.[[2]](#footnote-2)

Elements of the description may include:

* planning scheme extracts
* copies of incorporated or reference documents
* copies of policies outside the planning scheme
* tabulated assessment of compliance with objectives, standards, decision guidelines, performance measures etc

### Main Submissions

Many of the elements of background information referred to above will be relevant to the responsible authority’s main submissions which primarily include argument in support of the responsible authority’s decision. The structure of argument and the way in which it is presented will vary on a case by case basis.

Parties are not limited to the issues canvassed in the reasons for refusal or in their statement of grounds.[[3]](#footnote-3) However, any intention to change the grounds relied on must be conveyed to the other parties in the proceeding so that other parties (or their witnesses) have time to respond to any new issue raised.

## SUBMISSION STYLE

The following style suggestions and advice are intended to assist in the preparation and presentation of better submissions.

1. The State and Local planning policy framework is usually lengthy and repetitive. Readable submissions will refer only to those policies which are directly relevant to the decision and seek to succinctly paraphrase the policy framework. However responsible authorities must refer to all relevant policies not only those most influential in the decision the responsible authority made.
2. The issues which should be addressed in argument can arise from reasons for refusal, statements of grounds, amendments of applications, witness statements etc. It is useful to group issues into a logical sequence and to identify those issues which are the most significant to the outcome of the application. It is useful to briefly list the issues you will deal with in your main submissions as a way of making the structure of your submission clear to the Tribunal. This will result in a structure for argument in submissions which avoids unnecessary repetition.[[4]](#footnote-4)
3. Tabling suitable extracts from the planning scheme at the hearing is helpful, in particular extracts of the planning policy framework. Extracts are not necessary in the case of more universally applicable provisions.
4. Submissions should be clearly and logically structured with appropriate headings and subheadings. Paragraphs and pages should be numbered. A clear numbering system greatly assists referral during the hearing.
5. Quotations from legislation, planning schemes, the decisions of a court or the Tribunal should be properly cited. Medium neutral citations for the decisions of courts and tribunals can usually be obtained from AustLII[[5]](#footnote-5).
6. Draft permit conditions will have been circulated to the parties prior to the hearing. Be prepared to discuss these conditions at the end of hearing, and where appropriate to suggest additions or amendments in response to issues raised during the hearing.
7. Submissions and appendices should be separately stapled, so that cross-referral during the hearing is facilitated.
8. Tendered maps/photographs should, where possible, be on A4 sheets or readily folded into an A4 size. However, the effective presentation of information to the Tribunal should not be compromised to fit into an A4 format.
9. Where practicable, written submissions and other written material submitted should be two-hole punched so as to be capable of placement in a standard two ring binder or arch file.

1. For example, “each dwelling includes a laundry, bathroom and ensuite bathroom”. [↑](#footnote-ref-1)
2. All relevant policy should be described whether or not the particular policy supports the decision of the responsible authority. [↑](#footnote-ref-2)
3. *Planning and Environment Act 1987* section 84A. [↑](#footnote-ref-3)
4. For example, avoid addressing the reasons for refusal then separately addressing the applicant’s statement of grounds; this is usually very repetitive. [↑](#footnote-ref-4)
5. AustLII – [www.austlii.edu.au](http://www.austlii.edu.au) Decisions may be printed in a more readable form by clicking the “Download” button on the toolbar at the top of the decision as displayed on screen, then choosing Rich Text Format (RTF) [↑](#footnote-ref-5)