

Availability of planning documents

The purpose of this practice note is to provide guidance on making planning documents available under the *Planning and Environment Act 1987* (PE Act).

- The PE Act requires certain planning documents to be made available to the public. Public access to these documents promotes a transparent and accountable planning system that encourages informed public participation.
- Public access to planning documents requires councils to balance the following principles:
 - Planning decisions must be transparent.
 - Access to information allows an understanding of legal rights or obligations, formation of opinions and active participation in the planning process.
 - Access to information must be balanced with rights that are protected by other legislation.

Documents that must be made public under the PE Act

Table 1 below lists sections of the PE Act that require documents to be made publicly available through the planning permit and planning scheme amendment process. Planning and responsible authorities must make these documents available at their office for inspection. For the purposes of this practice note 'council' means a planning and/or responsible authority or the Minister for Planning as applicable.

Section of the Act	<i>Planning and Environment Act 1987</i>	Planning and Environment Regulations 2015
Section 18 Availability of Planning Scheme Amendment	A planning scheme amendment, the explanatory report, any document applied, adopted or incorporated in the amendment and any accompanying agreement must be made available at the relevant public offices during office hours for any person to inspect free of charge until the amendment is approved or lapses.	Regulation 7
Section 21(2) Submissions to Amendments	Submissions to a proposed amendment must be made available at the relevant offices for any person to inspect during office hours free of charge for two months from when the amendment comes into operation or lapses.	
Section 41 Copies of Approved Amendments	A copy of an approved amendment and any documents lodged with the amendment must be made available at the relevant public offices for any person to inspect free of charge for two months after the amendment comes into operation. After that time, the amendment must be made available on request and the payment of the prescribed fee. This requirement also applies to approved <i>Victoria Planning Provisions</i> amendments under section 4H.	Regulation 12
Section 49 Planning Registers	Council must make a register available during office hours for any person to inspect free of charge. The register must contain the prescribed information about all applications for permits and all decisions and determinations relating to permits.	Regulation 15
Section 51 Copies of Permit Applications	A copy of every planning permit application and the prescribed information lodged with the application must be made available at the council office for any person to inspect during office hours free of charge. The application must be made available until the end of the period during which an application for review can be made to the Victorian Civil and Administrative Tribunal, or an application for review is determined or withdrawn. Section 47 of the Act specifies the prescribed information. This section is also relevant to a notice of an amendment to a planning permit under section 72 of the Act.	Regulation 13 Specifies the prescribed information Regulation 14 Specifies the prescribed information for amendment applications.

Section of the Act	<i>Planning and Environment Act 1987</i>	Planning and Environment Regulations 2015
Section 57(5) Objection to Permit Application	Objections to a permit application must be made available at the council office for any person to inspect during office hours free of charge. Objections must be made available until the end of the period during which an application for review can be made to the Victorian Civil and Administrative Tribunal, or an application for review is determined or withdrawn.	
Section 70 Availability of Permits	Council must make a copy of every permit (including endorsed documents under the permit) that it issues available at the council office for inspection by any person during office hours free of charge.	

Planning documents and other legislation

The availability of information under the PE Act must be balanced with rights that are protected by other legislation such as the *Privacy and Data Protection Act 2014*, *Freedom of Information Act 1982*, *Health Records Act 2001* and the *Copyright Act 1968*.

Privacy and Data Protection Act 2014

A council is required to comply with the Privacy and Data Protection Act (PDP Act) when collecting, using, disclosing, securing and disposing of personal information. However, if any provision of the PDP Act is inconsistent with a provision of the PE Act, then the provision made under the PE Act prevails to the extent of any inconsistency (section 6 of the PDP Act).

Planning applications, submissions and objections contain personal information. This information may at times be sensitive for commercial, health or other reasons.

Copyright Act 1968

The Copyright Act prevents the unlawful reproduction of documents without the permission of the owner. In general, an author of a document (such as a builder or architect) owns the copyright in that document. In circumstances where plans are reproduced to obtain professional advice or as part of a legal process (for example, a VCAT appeal), specific exemptions under the Copyright Act may apply to enable the plans to be reproduced in those limited circumstances.

Council should take reasonable steps to ensure that:

- the person providing the information has authority to use the relevant documents and understands how the information will be used (and reproduced), and
- any person given a copy of documents is aware that the documents may only be used for the limited purpose prescribed by the PE Act.

Freedom of Information Act 1982

The Freedom of Information Act gives members of the public rights of access in relation to documents about their personal affairs. Anyone is entitled to lodge a freedom of information request.

Personal information in planning documents

Four principles should be followed when managing personal information contained in planning documents, these are:

- Collect only such personal information that is necessary under the PE Act.
- Ensure the provider of the information is aware of why the information is needed and how it will be used and disclosed.
- Use and disclose the information only for the purpose for which it is collected.
- Secure the information against misuse or unauthorised access.

1. Collection of personal information

The PE Act requires planning permit applications (s 47) and objections (s 57) to include specific information.

A council should ensure that any form requesting personal details should only collect such personal information as is necessary to perform the planning process required under the PE Act.

When a council collects personal information from an individual, it must take reasonable steps to ensure the person is aware of the following:

- the identity of the organisation collecting the information
- that the person can access the information collected about them
- the purposes for which the information is being collected
- to whom the information may usually be disclosed
- any law that requires that particular information to be collected
- what the consequences are (if any) of not providing all or part of the information.

Planning Permit Application – Recommended Privacy Collection Notice

Your [application / submission / objection] and the personal information on this form is collected by [council / authority name] for the purposes of the planning process as set out in the Planning and Environment Act 1987 (PE Act).

If you do not provide your name and address, [council / authority] will not be able to consider your [application / submission / objection].

Your [application / submission / objection] will be available at the [council / authority] office for any person to inspect and copies may be made available on request to any person for the relevant period set out in the PE Act.

You must not submit any personal information or copyright material of third parties without their informed consent. By submitting the material, you agree that the use of the material as detailed above does not breach any third party's right to privacy and copyright.

You can request access to your personal information by contacting [the area of the Council that holds the information].

2. Use and disclosure of personal information

A council should only allow applications, submissions and objections to be available for inspection at its offices as required under the PE Act (refer to Table 1).

When a council makes personal information publicly available, it must take reasonable steps to ensure the following:

- Any contact information should be limited to the person's name and address. Any other contact information such as telephone numbers or email addresses should not be disclosed without consent.
- Any person requesting information is aware, and agrees, that all information is provided for the purposes of the PE Act and may only be used for those purposes.
- Information must not be published online without the consent of the applicant/submitter/objector.

Availability of Planning Information – Recommended Copyright Notice

This document has been copied and made available for the purpose of the planning process as set out in the Planning and Environment Act 1987. The information must not be used for any other purpose. By taking a copy of this document you acknowledge and agree that you will only use the document for the purpose specified above and that any dissemination, distribution or copying of this document is strictly prohibited. If you have any questions, please contact [insert contact details].

Availability of Planning Information – Recommended Online Notice

An online Planning Register should seek express agreement from the user that the use of the register is limited to the purposes under the PE Act. Council should not list the name and address or any personal information of the applicant/owner.

Users could be asked to click their agreement to the following condition before they are able to access the information in the planning registry:

The information contained in the online Register is provided for the purpose of the planning process as set out in the Planning and Environment Act 1987. The information must not be used for any other purpose. By entering this website you acknowledge and agree that you will only use the document for the purpose specified above and that any dissemination or distribution of this information is strictly prohibited.

If you have any questions, please contact [insert contact details].

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