

Legal Appeal Key Requirements

The following information is provided to give council planners, legal representatives and administration staff an overview of requirements and timeframes for legal appeals relating to regionally significant development.

Formal Notification

When should council notify the Panel?

Notification to the Department's Planning Panels team must be made no more than 7 days after council receives notice of an appeal in relation to a development application determined by or to be determined by a planning panel.

What is required in the notification?

The following information should be provided to the Planning Panel team when notifying of an appeal:

- Land and Environment Court application form (for Class 1 or Class 4 proceedings)
- Planning Panel case number (this is the PPS)
- Name and contact details of the relevant council planner
- Name and contact details of council's legal representative

Who should be notified?

Notification of an appeal should be sent to the Planning Panels team inbox at enquiry@planningpanels.nsw.gov.au.

Please note: Council staff and legal representatives are not to directly notify the Department of Planning and Environment legal team or individual legal officers.

What happens after the Planning Panels team is notified?

The Planning Panel team will notify the Department's legal team.

Once assigned, the Department's legal officer is the principal point of contact for council's legal representative throughout the duration of the appeal process.

Life of the legal appeal

The Panel will determine its level of involvement in an appeal, and what directions (if any) it wishes to issue to the council, on a case-by-case basis, through the assigned DPE legal officer.

An appeal may involve some or all of the following key stages.

- **Draft Statement of Facts and Contentions (SOFAC)**

Provide the Panel with the council's draft SOFAC at least 7 days before it is to be filed with the Land and Environment Court (the Court). The draft SOFAC should identify the steps taken by council to notify the Panel of the appeal and any response from the Panel.

- **Directions, orders or judgments**

Provide within 7 days any directions, orders or judgments issued by the Court as part of the appeal proceedings.

- **Change in position**

Advise of any change in position from that outlined in the filed SOFAC and provide any draft Amended SOFAC to the Panel at least 7 days before filing with the Court.

- **Expert Evidence**

Provide details of any expert witnesses proposed to be engaged to give evidence in the appeal and the reason for their engagement, prior to formal engagement.

- **In principle Agreement**

Provide within 7 days a copy of any proposed in principle agreement to settle the appeal made between the parties, including following a conciliation conference, prior to any written agreement being executed.

Please note: these requirements may change on a case-by-case basis. Your assigned DPE legal officer will advise accordingly.