
PLANNING AND INFRASTRUCTURE

PI301*

Town Planning and Development Act 1928

**Town Planning and Development (Appeal)
Regulations 2003**

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Town Planning and Development (Appeal) Regulations 2003*.

2. Commencement

These regulations come into operation on the day on which section 11 of the *Planning Appeals Amendment Act 2002* comes into operation.

3. Interpretation

In these regulations, unless the contrary intention appears —

“**Class 1 appeal**” means an appeal referred to in section 40(3) of the Act;

“**Class 2 appeal**” means an appeal that is not a Class 1 appeal.

4. Time in which to appeal

An appeal is to be commenced —

- (a) in the case of an appeal under section 26(5) of the *Strata Titles Act 1985*, within the time specified in section 26(8) of that Act;
- (b) in the case of an appeal under section 27(3) of the *Strata Titles Act 1985*, within the time specified in section 27(6) of that Act; and
- (c) in any other case, not more than 60 days after the date of the decision, determination or matter in respect of which the appeal is made.

5. Fees

- (1) The fees specified in Schedule 1 are to be charged in respect of the matters specified in the Schedule.
- (2) Each fee for the lodging or supply of a document or other item is payable at the time the document or item is lodged or supplied.
- (3) The Principal Registrar or Registrar must not accept a document for lodging, or supply a document or other item, unless the fee has been paid.
- (4) The Tribunal or Principal Registrar may, in a particular case for special reasons, direct that —
 - (a) a fee be waived or reduced;
 - (b) the whole or part of a fee be refunded; or
 - (c) that the payment of the whole or part of a fee be deferred until such time, and upon such conditions, if any, as the Tribunal or Principal Registrar thinks fit.

6. Hearing fees

- (1) In this regulation —
“**hearing fee**” means the fee set out in Schedule 1 item 5(b) or 6 (as applicable).
- (2) No fee is payable if the proceedings are of an interlocutory nature.
- (3) The hearing fee is payable by the appellant —
 - (a) if the Tribunal or the Principal Registrar directs a time within which the fee must be paid — within that time; or
 - (b) in any other case — at the time when a date is fixed for the hearing of the appeal.
- (4) The hearing fee is to be determined on the basis of the days or part of a day allocated at a directions hearing.
- (5) If a hearing date allocated is a half day or less, a hearing fee equal to half the daily prescribed amount is payable for that day.

- (6) If a hearing fee is unpaid —
- (a) the Tribunal may order that the appeal is not to be heard, except by leave of the Tribunal; or
 - (b) the Tribunal may vacate the date fixed for the hearing.
- (7) Upon written notice to the Principal Registrar, a person who has paid a hearing fee is entitled to a refund of the fee if —
- (a) notice that the appeal for which the fee was paid will not proceed is given to the Principal Registrar —
 - (i) if the hearing date was fixed less than 20 working days before that date — at least 2 working days before that date;
 - (ii) in any other case — at least 20 working days before the hearing date;

and
 - (b) the appeal does not proceed.

7. Publication of reasons

A copy of the written reasons for each determination of the Tribunal, and each determination of the Minister under section 71 of the Act, is to be kept at the office of the Registrar and available for public inspection during normal office hours.

8. *Town Planning and Development Act (Appeal) Regulations 1979 repealed*

The Town Planning and Development Act (Appeal) Regulations 1979 are repealed.

9. Transitional

A fee is not to be charged under Schedule 1 item 5 or 6 in respect of days allocated for a hearing if the appeal is referred to the Tribunal by the Minister under section 17(4) of the *Planning Appeals Amendment Act 2002*.

Schedule 1 — Fees

[r. 5]

Item	Matter	Fee \$
1.	Lodging of notice of Class 1 appeal	325.00
2.	Lodging of notice of Class 2 appeal	600.00
3.	Lodging of joinder application	325.00
4.	Lodging of notice of section 10AA appeal or application under section 10AA	325.00
5.	Hearing for Class 1 appeal —	
	(a) first day allocated;	No cost
	(b) each subsequent day allocated	250.00

Item	Matter	Fee \$
6.	Hearing for Class 2 appeal (for each day allocated)	400.00
7.	Retrieving a document or file from archival storage (per document or file)	23.00
8.	Making a copy of a document (per page) (minimum fee of \$10)	2.00
9.	Photographic copy of reasons for determination of the Tribunal under section 64 —	
	(a) for a single copy issued to a party to the appeal	No cost
	(b) for each copy in excess of one copy issued to a party to the appeal, and for each copy issued to a person not a party to the appeal	45.00
10.	Photographic copy of reasons for determination of the Minister under section 71 —	
	(a) for a single copy issued to a party to the appeal	No cost
	(b) for each copy in excess of one copy issued to a party to the appeal, and for each copy issued to a person not a party to the appeal	45.00
11.	Supplying a copy or electronic copy of the transcript of proceedings —	
	(a) where the matter being transcribed is under 3 months old (per page) (minimum fee of \$60.00)	7.10
	(b) where the matter being transcribed is 3 months old or older (per page) (minimum fee of \$70.00)	8.10
	(c) for each diskette or CD supplied (in addition to the fee under paragraph (a) or (b))	5.00
12.	Supplying a tape recording of sound recorded evidence (per cassette)	38.00
13.	Opening or keeping open the office of the Registrar between Monday to Friday (except public holidays) —	
	(a) before 8.00 a.m. or after 5.30 p.m.	454.00
	(b) between 8.00-8.30 a.m., or 5.00-5.30 p.m.	47.00
14.	To issue a subpoena —	
	(a) for production	51.00
	(b) for production and to give evidence	51.00
	(c) to give evidence	47.00

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.