



Western Australia

Town Planning and Development Act 1928

## **Town Planning and Development Act (Appeal) Regulations 1979**

These regulations were repealed by the *Town Planning and Development (Appeal) Regulations 2003* r. 8 as at 18 Apr 2003 (see r 2 and *Gazette* 17 Apr 2003 p. 1249).

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Western Australia

# **Town Planning and Development Act (Appeal) Regulations 1979**

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## **Town Planning and Development Act (Appeal) Regulations 1979**

### **1. Citation and commencement**

- (1) These regulations may be cited as the *Town Planning and Development Act (Appeal) Regulations 1979*<sup>1</sup>.
- (2) These regulations shall take effect on and from the date on which the *Town Planning and Development Act Amendment Act 1976* comes into operation<sup>2</sup>.

### **2. Revocation**

*[Omitted under the Reprints Act 1984 s.7(4)(f).]*

### **3. Interpretation**

In these regulations, unless the contrary intention appears —

“**Act**” means the *Town Planning and Development Act 1928* as amended from time to time;

“**appeal**” means appeal to the Minister to which Part V of the Act applies;

“**appellant**” means a person instituting an appeal;

“**matter**” includes a refusal, demand, condition or question;

“**Minister**” means the Minister of the Crown to whom the administration of the Act is for the time being committed by the Governor, and includes any Minister of the Crown for the time being discharging the duties of the office of the Minister.

**4. Notice of appeal**

- (1) Every appeal shall be instituted by notice in writing in Form 1 in the appendix to these regulations.
- (2) A notice of appeal shall be executed by the appellant personally or by his counsel, solicitor, or agent.
- (3) A notice of appeal shall be lodged at the office of the Minister and shall be accompanied by a fee of \$265.

*[Regulation 4 amended in Gazette 1 February 1985 p.436; 28 November 1986 p.4407; 2 September 1988 p.3435; 27 September 1994 p.4931; 16 June 1995 p.2337; 14 June 1996 p.2581; 13 June 1997 p.2751; 1 May 1998 p.2281; 18 June 1999 p.2645; 25 September 2001 p.5297.]*

**5. Particulars to be stated on notice of appeal**

Every notice instituting an appeal shall set out —

- (a) the substance of the decision, determination or matter appealed from;
- (b) the date of such decision, determination or matter;
- (c) the grounds on which the appeal is brought and particulars of any land, building or work affected;
- (d) an address for service within the State where notices, plans, drawings and all other documents of whatever kind relating to the appeal may be delivered to or served on the appellant.

**6. Time for lodging and service of copies of appeal**

- (1) A notice of appeal shall be lodged within 60 days of the date of the decision, determination or matter in respect of which the appeal is made.
- (2) A copy of the notice of appeal shall be given as soon as practicable after it is so lodged, where the appeal is an appeal of such a kind as is referred to in —

- (a) subparagraph (i) of paragraph (a) of the interpretation “appeal” in section 37 of the Act — to such responsible authority as is therein referred to;
- (b) subparagraph (ii) of that paragraph — to the council of the municipality against whose decision or demand the appeal is instituted;
- (c) subparagraph (iii) of that paragraph — to the Board;
- (d) paragraph (b) of that interpretation — to the responsible authority specified in the town planning scheme in respect of which the question the subject of the appeal arose;
- (e) paragraph (c) of that interpretation — to the Authority or the local authority, as the case may be, against whose decision or determination the appeal is instituted; and
- (f) paragraph (d) of that interpretation — to the Authority.

*[Regulation 6 amended in Gazette 25 February 1983 p.677;  
1 February 1985 p.436.]*

**7. Withdrawal of appeal**

An appeal shall be withdrawn if —

- (a) the appellant, by notice in writing in Form 2 in the appendix to these regulations, served on the Minister, withdraws the appeal; or
- (b) the appellant, either in person or by his counsel, solicitor or agent, intimates to the Minister that the appellant withdraws the appeal.

**8. Service**

- (1) Any document or copy thereof required to be served in pursuance of these regulations may be served —
  - (a) by delivering it personally to the person so required to be served or to his agent;

- (b) by registered post addressed to the usual or last known place of abode or business or such person; or
  - (c) in the case of a document or copy thereof required to be served on a local authority or any body corporate, by delivering it to the Town or Shire Clerk, as the case requires, or to the secretary of the body corporate, or by leaving it at the office of such clerk or secretary with some person apparently employed there, or by sending it by registered post addressed to such clerk or secretary at his office.
- (2) Where a document or copy thereof is served pursuant to this regulation by post, the service thereof shall be presumed, unless the contrary is shown, to have been effected at the time when, by ordinary course of post, it would be delivered.



**Appendix**

**Form 1**

[Reg. 4]

*Town Planning and Development Act 1928*  
(as amended)

**NOTICE OF APPEAL**

To the Minister.

In accordance with Part V of the abovementioned Act, I, .....  
..... of .....

hereby appeal against the following decision, determination or matter namely  
(here set out substance or decision, determination or matter appealed from  
and the date thereof)

on the following grounds

(here set out clearly and concisely the grounds on which the appeal is  
brought and particulars of any land, building or work affected by the  
decision, determination or matter (such as Location No., Lot No.,  
Plan/Diagram No., Certificate of Title No. )).

My address for service is .....

and I can be contacted on Telephone No. ....

Facsimile No. ....

Dated this ..... day of ..... 19 .....

.....  
Appellant

**Form 2**

[Reg. 7]

*Town Planning and Development Act 1928*  
(as amended)

**NOTICE OF WITHDRAWAL OF APPEAL**

I, ..... of .....  
being the appellant referred to in a Notice of Appeal dated the .....  
day of ..... 19 ..... instituting an appeal to the  
Minister against .....

(here set out substance of decision, determination or matter appealed from  
and the date thereof)

hereby give notice that I wish to withdraw the appeal.

Dated this ..... day of ..... 19 .....

.....  
Appellant

*[Appendix amended in Gazette 27 September 1994 p.4931.]*

**Notes**

- <sup>1</sup> This is a compilation of the *Town Planning and Development Act (Appeal) Regulations 1979* and includes the amendments referred to in the following Table.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Town Planning and Development Act (Appeal) Regulations 1979</i>	25 Jun 1979 pp.1758-66	25 Jun 1979 (see regulation 1(2))
<i>Town Planning and Development Act (Appeal) Amendment Regulations 1982</i>	25 Feb 1983 p.677	25 Feb 1983
<i>Town Planning and Development Act (Appeal) Amendment Regulations 1985</i>	1 Feb 1985 p.436	1 Feb 1985
<i>Town Planning and Development Act (Appeal) Amendment Regulations 1986</i>	28 Nov 1986 p.4407	1 Dec 1986 (see regulation 2)
<i>Town Planning and Development Act (Appeal) Amendment Regulations 1988</i>	2 Sep 1988 p.3435	2 Sep 1988
<i>Town Planning and Development Act (Appeal) Amendment Regulations 1994</i>	27 Sep 1994 p.4931	4 Oct 1994 (see regulation 3)
<i>Town Planning and Development Act (Appeal) Amendment Regulations 1995</i>	16 Jun 1995 pp.2336-7	1 Jul 1995 (see regulation 2)
<i>Town Planning and Development Act (Appeal) Amendment Regulations 1996</i>	14 Jun 1996 p.2581	1 Jul 1996 (see regulation 2)
<i>Town Planning and Development Act (Appeal) Amendment Regulations 1997</i>	13 Jun 1997 p.2751	1 Jul 1997 (see regulation 2)
<i>Town Planning and Development Act (Appeal) Amendment Regulations 1998</i>	1 May 1998 p.2281	1 Jul 1998 (see regulation 2)
<i>Town Planning and Development Act (Appeal) Amendment Regulations 1999</i>	18 Jun 1999 p.2645	1 Jul 1999 (see regulation 2)

**Town Planning and Development Act (Appeal) Regulations 1979**

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<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Town Planning and Development Act (Appeal) Amendment Regulations 2001</i>	25 Sep 2001 p.5296-7	27 Sep 2001 (see regulation 2)

**These regulations were repealed by the *Town Planning and Development (Appeal) Regulations 2003 r. 8* as at **18 Apr 2003** (see **r 2** and *Gazette 17 Apr 2003 p. 1249*)**

<sup>2</sup> The *Town Planning and Development Act Amendment Act 1976* (No. 103 of 1976) was proclaimed on 25 June 1979 (see *Gazette 25 June 1979 p.1757*).

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
Act .....	3
appeal.....	3
appellant.....	3
matter .....	3
Minister.....	3