

[1757]



Government Gazette

OF

WESTERN AUSTRALIA

(Published by Authority at 3.30 p.m.)

No. 40]

PERTH : MONDAY, 25th JUNE

[1979

Town Planning and Development Act Amendment Act, 1976.

PROCLAMATION

WESTERN AUSTRALIA, } By His Excellency Air Chief Marshal Sir Wallace
To Wit: } Kyle, Knight Grand Cross of the Most Honourable
WALLACE KYLE, } Order of the Bath, Knight Commander of the
Governor. } Royal Victorian Order, Commander of the Most
[L.S.] } Excellent Order of the British Empire, Companion
} of the Distinguished Service Order, Distinguished
} Flying Cross, Knight of Grace of the Most
} Venerable Order of the Hospital of St. John of
} Jerusalem, Governor in and over the State of
} Western Australia and its dependencies in the
} Commonwealth of Australia.

WHEREAS it is enacted by section 2 of the Town Planning and Development Act Amendment Act, 1976 that that Act shall come into operation on a date to be fixed by proclamation: Now therefore, I the Governor acting with the advice and consent of the Executive Council, do hereby fix the 25th June, 1979 as the date on which the Town Planning and Development Act Amendment Act, 1976 shall come into operation.

Given under my hand and the Public Seal of the said State, at Perth, this 13th day of June, Nineteen hundred and seventy-nine.

By His Excellency's Command,

JUNE CRAIG,
Minister for Urban Development
and Town Planning.

GOD SAVE THE QUEEN ! ! !

TOWN PLANNING AND DEVELOPMENT ACT, 1928-1978.

Town Planning Department,
Perth, 25th June, 1979.

HIS Excellency the Governor in Executive Council, acting under the Town Planning and Development Act, 1928-1978 and section 11 of the Interpretation Act, 1918-1975, has been pleased to make the regulations set out in the schedule hereunder.

I. D. CARR,
Town Planning Commissioner.

Schedule.

TOWN PLANNING AND DEVELOPMENT ACT, (APPEAL) REGULATIONS 1979.

- | | |
|---|--|
| Citation and commencement. | 1. (1) These regulations may be cited as the Town Planning and Development Act (Appeal) Regulations, 1979.
(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. |
| Revocation. | 2. The Town Planning and Development Act (Appeal) Regulations, 1971 published in the <i>Government Gazette</i> on the 12th February, 1971 and thereafter amended by notices so published on the 21st July, 1972 and the 7th November, 1975, are revoked. |
| Interpretation. | 3. 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. |
| Notice of Appeal. | 4. (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. |
| Particulars to be stated on Notice of Appeal. | 5. 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. |
| Time for lodging and service of copies of appeal. | 6. (1) Subject to subsection (6) of section 28A of the Act a notice of appeal shall be lodged with the secretary to the Minister within sixty 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 Town Planning Board;
- (c) subparagraph (iii) of that paragraph—to the council of the municipality against whose demand the appeal is instituted;
- (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; and
- (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.

Withdrawal of appeal.

7. 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.

Service.

8. (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.

See s.31 (4) Act No. 30 of 1918.

See s.31 (3) Act No. 30 of 1918.

- (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

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.

Town Planning and Development Act, 1928-1978.

Town Planning Appeal Tribunal,
Perth, 25th June, 1979.

THE Town Planning Appeal Tribunal constituted under section 42 of the Town Planning and Development Act, 1928-1978 and section 11 of the Interpretation Act, 1918-1975, acting under the Town Planning and Development Act, 1928-1978, has been pleased to make the rules set out in the schedule hereunder.

D. K. MALCOLM,
Chairman.

Schedule.

TOWN PLANNING APPEAL TRIBUNAL RULES, 1979.

- | | |
|---|--|
| Citation and commencement. | 1. (1) These rules may be cited as the Town Planning Appeal Tribunal Rules, 1979.
(2) These rules shall take effect on and from the date on which the Town Planning and Development Act Amendment Act, 1976 comes into operation. |
| Interpretation. | 2. In these rules 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 Appeal Tribunal, and “appellant” has a corresponding meaning;
“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. |
| Notice of appeal. | 3. (1) Every appeal shall be instituted by notice in writing in Form 1 in the schedule to these rules.
(2) A notice of appeal shall be signed by the appellant personally or by his counsel, solicitor or agent. |
| Particulars to be stated on notice of appeal. | 4. 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. |
| Lodging notice of appeal. | 5. (1) A notice of appeal shall be lodged with the Registrar within sixty days of the date of the decision, determination, or matter in respect of which the appeal is made.
(2) Upon lodging a notice of appeal a fee of twenty-four dollars shall be paid to the Registrar in respect thereof. |
| Service of copies. | 6. A copy of the notice of appeal shall be given as soon as practicable after it is 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 the Minister and to such responsible authority as is therein referred to;
(b) subparagraph (ii) of that paragraph—to the Minister and to the Town Planning Board;
(c) subparagraph (iii) of that paragraph—to the Minister and to the council of the municipality against whose demand the appeal is instituted;
(d) paragraph (b) of that interpretation—to the Minister and to the responsible authority specified in the town planning scheme in respect of which the question the subject of the appeal arose; and |

- (e) paragraph (c) of that interpretation—to the Minister and to the Authority or the local authority, as the case may be, against whose decision or determination the appeal is instituted.
- Form of register. 7. The register of appeal and detetrminations kept by the Registrar under section 43 of the Act shall be in Form 2 in the schedule to these rules.
- Statement by respondent. 8. (1) A party who desires to contest an appeal and lodges with the Registrar a statement such as is referred to in section 45 of the Act shall be called a respondent, and the statement shall be in Form 3 in the schedule to these rules.
(2) A statement referred to in subrule (1) of this rule shall—
(a) be signed by the respondent personally or by his counsel, solicitor or agent; and
(b) set out 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 respondent.
- Notice of first sitting of appeal. 9. Where a notice of the time and place of the first sitting of an appeal is required by section 46 of the Act to be given, that notice shall be in Form 4 in the schedule to these rules.
- Submissions by Minister. 10. Where, pursuant to section 54 of the Act, the Appeal Tribunal invites the Minister to make a submission, it shall do so in Form 5 in the schedule to these rules not less than fourteen days before determining the appeal.
- Withdrawal of appeal. 11. An appeal shall be withdrawn if—
(a) the appellant, by notice in writing in Form 6 in the schedule to these rules, withdraws the appeal; or
(b) the appellant, either in person or by his counsel, solicitor, or agent, intimates to the Appeal Tribunal that the appellant withdraws the appeal.
- Notice of authorities. 12. A party to an appeal who wishes to refer at any hearing of the appeal to any law report, Act, subordinate legislation, document or writing of any kind shall, unless the Appeal Tribunal otherwise directs, at least two days before the hearing, lodge with the Registrar notice in writing giving details thereof, and serve a copy of the notice on each other party to the appeal.
- Pictorial evidence. 13. A party to an appeal intending to tender in evidence, at any hearing of the appeal, any map, plan, photograph, drawing or sketch shall, unless the Appeal Tribunal otherwise directs, at least two days before the hearing, lodge with the Registrar three copies thereof, and serve on every other party to the appeal one copy thereof.
- Service of notices. 14. (1) Any document or copy thereof required to be served in pursuance of these rules 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 of 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 required, 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.
- See s.31 (4) Act No. 30 of 1918. (2) Where a document or copy thereof is served pursuant to this rule 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.
- See s.31 (3) Act No. 30 of 1918.

Further and better particulars.

15. In addition to any powers conferred on the Appeal Tribunal by or under the Act, the Appeal Tribunal is empowered, of its own motion or at the request of any party to an appeal, to direct the appellant or the party against whose decision, determination or matter the appeal is instituted, as the case required, within such time and in such numbers of copies as the Appeal Tribunal directs, to deliver to it and to all other parties to the appeal—

(a) such further or better particulars of the grounds of appeal, in the case of a direction to the appellant; and

(b) such further or better particulars of the reasons for the decision, determination or matter appealed against, in the case of a direction to the party against whose decision, determination or matter the appeal is instituted,

and the party to whom such direction is given shall comply therewith.

of reasons.

16. The manner in which the Appeal Tribunal shall, in accordance with paragraph (b) of section 54E of the Act, publish its written reasons for its determinations on appeals shall be by maintaining for public reference during normal office hours of the office of the Registrar and at that office, a complete set of those reasons arranged in chronological order.

Schedule.

Form 1.

Rule 3

Town Planning and Development Act, 1928 (as amended).

IN THE TOWN PLANNING APPEAL TRIBUNAL OF WESTERN AUSTRALIA

Appeal No. of 19.....

BETWEEN:

Appellant

—and—

Respondent

NOTICE OF APPEAL.

To the Registrar, Town Planning Appeal Tribunal, (insert address), PERTH.

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 of 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

Dated this day of 19.....

Appellant.

Form 2.

Rule 7.

Town Planning and Development Act, 1928
(as amended).

THE TOWN PLANNING APPEAL TRIBUNAL REGISTER OF APPEALS
REGISTER OF TOWN PLANNING APPEALS

Appeal Number	Date Lodged	File Number	Name of Appellant	Name of Applicant	Land Description	Municipality	Responsible Authority or Other Respondent	Proposed Use or Development	Type of Appeal	Date of Hearing	Determination	Remarks

Form 3.

Rule 8

Town Planning and Development Act, 1928
(as amended).

IN THE TOWN PLANNING
APPEAL TRIBUNAL
OF WESTERN AUSTRALIA

Appeal No. of 19.....

BETWEEN:

.....
Appellant

— and —

.....
Respondent

STATEMENT BY A RESPONDENT.

To the Registrar,
Town Planning Appeal Tribunal,
(Insert address),
PERTH.

Pursuant to Section 45 of the abovementioned Act, I,
..... of
desire to contest this appeal and at the hearing thereof I shall rely on the
following grounds

(here set out clearly and concisely the grounds upon which the Respondent
relies in contesting the appeal)

My address for service is

Dated this day of 19.....

.....
Respondent.

Form 4.

Rule 9

Town Planning and Development Act, 1928
(as amended).

IN THE TOWN PLANNING
APPEAL TRIBUNAL
OF WESTERN AUSTRALIA

Appeal No. of 19 .

.....
Appellant

BETWEEN:

— and —

.....
Respondent

NOTICE OF FIRST SITTING OF APPEAL.

To: Each Party Concerned.

TAKE notice that the first sitting of the Appeal Tribunal on this appeal shall be on _____ day the _____ day of _____ 19 _____ at _____ o'clock in the forenoon or so soon thereafter as the course of business shall permit at Perth.

And further take notice that if you fail to appear at the time and place appointed the Appeal Tribunal may proceed to hear and determine the appeal in your absence.

Dated this _____ day of _____ 19 _____ Registrar.

Form 5.

Rule 10

Town Planning and Development Act, 1928 (as amended).

IN THE TOWN PLANNING APPEAL TRIBUNAL OF WESTERN AUSTRALIA

Appeal No. _____ of 19 _____

BETWEEN:

..... Appellant

— and —

..... Respondent

INVITATION TO MINISTER.

To the Minister.

TAKE notice that it appears to the Appeal Tribunal that the within appeal may be determined in a way which will have a substantial effect on the future planning of the area in which the land the subject of the appeal is situated in that

(here set out the effect referred to)

Now therefore the Appeal Tribunal, acting under subsection (1) of section 54 of the above Act, hereby invites the Minister to make a submission as to the matters which he considers to be relevant to the issues before the Tribunal.

And further take notice that after the expiration of 14 days from the date hereof the Appeal Tribunal may proceed to a determination of the appeal.

Dated this _____ day of _____ 19 _____ Registrar.

Form 6.

Rule 11

Town Planning and Development Act, 1928 (as amended).

IN THE TOWN PLANNING APPEAL TRIBUNAL OF WESTERN AUSTRALIA

Appeal No. _____ of 19 _____

BETWEEN:

..... Appellant

— and —

..... Respondent

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
Town Planning Appeal Tribunal against
(here set out substance of decision,
determination or matter appealed
from)

hereby give notice that I wish to withdraw the appeal.

Dated this _____ day of _____ 19 _____
Appellant.



