

Western Australia

Town Planning Appeal Tribunal Rules 1979

As at 27 Sep 2001

Version 00-m0-02

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Town Planning Appeal Tribunal Rules 1979

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Western Australia

TOWN PLANNING AND DEVELOPMENT ACT 1928

Town Planning Appeal Tribunal Rules 1979

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* and section 11 of the *Interpretation Act 1918*, acting under the *Town Planning and Development Act 1928*, has been pleased to make the rules set out in the schedule hereunder.

D. K. MALCOLM,
Chairman.

1. Citation and Commencement

- (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.

2. Interpretation

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;

“Authority” means the Metropolitan Region Planning Authority constituted under the *Metropolitan Region Town Planning Scheme Act 1959*.

“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.

*[Rule 2 amended by Gazette 4 January 1985 p.112;
24 October 1986 p.3970.]*

3. Notice of appeal

- (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.

4. 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.

5. Lodging notice of appeal

- (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 \$265 shall be paid to the Registrar in respect thereof.

[Rule 5 amended by Gazette 4 January 1985 p.112; 24 October 1986 p.3970; 19 August 1988 p.2939; 27 September 1994 p.4930; 16 June 1995 p.2337; 14 June 1996 p.2580; 13 June 1997 p.2751; 1 May 1998 p.2281; 18 June 1999 p.2646; 25 September 2001 p.5296.]

6. Service of copies

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) subparagraphs (i) and (ia) of paragraph (a) of the interpretation of “appeal” in section 37 of the Act — to the Minister and to such responsible authority as is referred to therein;
- (b) subparagraphs (ii) and (iv) of that paragraph — to the Minister and to the council of the municipality against whose decision or demand the appeal is instituted;
- (c) subparagraph (iii) of that paragraph — to the Minister and to the Board;
- (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;
- (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; and

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- (f) paragraph (d) of that interpretation — to the Minister and to the Authority.

*[Rule 6 amended by Gazette 31 December 1982 p.5018;
4 January 1985 p.112.]*

7. Form of register

The register of appeal and determinations kept by the Registrar under section 43 of the Act shall be in Form 2 in the schedule to these rules.

8. Statement by respondent

- (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.

9. Notice of first sitting of appeal

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.

10. Submissions by Minister

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.

11. Withdrawal of appeal

An appeal may be withdrawn if —

- (a) the appellant, by notice in writing in Form 6 in the schedule to these rules gives notice that he wishes to withdraw the appeal; or
- (b) the appellant, either in person or by his counsel, solicitor or agent, intimates to the Appeal Tribunal that the appellant wishes to withdraw the appeal; and
- (c) in either case the Appeal Tribunal grants leave to withdraw, which it may do on such terms as it thinks fit.

[Rule 11 inserted by Gazette 19 June 1981 p.2181; amended by Gazette 31 December 1982 p.5018.]

12. Notice of authorities

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.

13. Pictorial evidence

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.

14. Service of notices

- (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;

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- (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.
- (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.

15. Further and better particulars

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.

16. Publication of reasons

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.

17. Copies of reasons to be available for sale

Any person may obtain a copy of the reasons of the Appeal Tribunal for its determination of any appeal upon payment of a fee of fifty cents per page.”

[Rule 17 inserted by Gazette 19 June 1981 p.2181.]

Sch.

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

Dated thisday 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

Sch.

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.....

BETWEEN:

.....

Appellant

— 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.

Sch.

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.

[Appendix amended by Gazette 27 September 1994 p.4931.]

Notes

- ^{1.} This is a compilation of the *Town Planning Appeal Tribunal Rules 1979* and includes the amendments referred to in the following Table.

Compilation table

Citation	Gazettal	Commencement
<i>Town Planning Appeal Tribunal Rules 1979</i>	25 Jun 1979 pp.1761-66	25 Jun 1979
	19 Jun 1981 p.2181	19 Jun 1981
	31 Dec 1982 p.5018	31 Dec 1982
	4 Jan 1985 p.112	4 Jan 1985
	24 Oct 1986 p.3970	24 Oct 1986
	19 Aug 1988 p.2939	19 Aug 1988
	27 Sep 1994 pp.4930-1	4 Oct 1994
<i>Town Planning Appeal Tribunal Amendment Rules 1994</i>	16 Jun 1995 p.2337	1 Jul 1995
<i>Town Planning Appeal Tribunal Amendment Rules 1995</i>	14 Jun 1996 p.2580	1 Jul 1996 (see rule 2)
<i>Town Planning Appeal Tribunal Amendment Rules 1996</i>	13 Jun 1997 pp.2750-51	1 Jul 1997 (see rule 2)
<i>Town Planning Appeal Tribunal Amendment Rules 1997</i>	1 May 1998 p.2281	1 Jul 1998 (see rule 2)
<i>Town Planning Appeal Tribunal Amendment Rules 1998</i>	18 Jun 1999 p.2646	1 Jul 1999 (see rule 2)
<i>Town Planning Appeal Tribunal Amendment Rules 1999</i>	25 Sep 2001 p.5295-6	27 Sep 2001 (see rule 2)