****

**INFORMATION SHEET 10 - Costs**

**1.1** At the end of any proceedings, the Tribunal will make an order for costs that each party bear their own costs of the proceedings, unless an application for costs is made within a specific timeframe (usually 21 days). In most proceedings, (Schedule 2, Part 8, Clause 12 of the *Tasmanian Civil and Administrative Tribunal Act 2020*)will regulate the making of and determination of any application for costs. However, some proceedings have separate cost provisions with different considerations (such as Section 64(12) of the *Land Use Planning and Approvals Act 1993* and Section 48(5A) of *Environmental Management and Pollution Control Act 1994*.) Parties are encouraged to take their own private legal advice in relation to the relevant provisions which govern an order for costs before initiating proceedings with the Tribunal. The Tribunal’s staff cannot give advice in relation to the likelihood of a costs order being made against a party.

**1.2** Costs refer to the financial outlay incurred by a party in defending or pursuing proceedings before the Tribunal. Costs may include the retaining of a solicitor/barrister to act for a party, retaining an expert witness to give evidence or retaining a planning consultant to assist a party in an appeal. It may also include disbursements such as photocopying and faxing. Before making an application for costs, a party may wish to take advice as to whether the costs claimed are ones which are capable of reimbursement by order of the Tribunal.

**1.3** Any party to proceedings before the Tribunal may make an application for costs excluding witnesses or persons who were not formally joined as a party to proceedings. At the conclusion of the proceedings, the Tribunal will issue an order allowing persons to make any applications for costs within 21 days of a nominated date. If no applications are made within that timeframe, the Tribunal will issue a self-executing order that each party bear their own costs of the proceedings. Care and attention must be exercised to ensure that the application is made within the timeframe nominated by the Tribunal.

**1.4** An application for costs must:

(a) Be in writing,

(b) Specify the parties against whom the application for costs is sought,

(c) Include submissions in support of the application for costs.

Regard should be had to the relevant provisions under legislation which regulate applications for costs. Any tests or factors which are set out in that legislation should be addressed in the making of the written submissions. (see Schedule 2, Part 8, Clause 12(3) of the *Tasmanian Civil and Administrative Tribunal Act 2020*).

**1.5** A costs application is forwarded to the parties against whom an order is sought. Those parties are afforded a right of reply, which is ordinarily 10 days from receipt of the costs application. All parties may request a costs hearing. Ordinarily, a costs hearing will only occur where a factual dispute has arisen in the written material forwarded to the Tribunal by the respective parties. If no such factual dispute arises, a costs application will ordinarily be dealt with by written submissions. The party who made an application for a costs order is given a final right of response to any submissions which are made by the Respondent to the costs application. That is ordinarily a period of seven days.

Please note, costs decisions are not subject to the 90 day timeframe pursuant to Schedule 2, Part 8, Clause 9(1) of the TASCAT Act 2020. The Tribunal must give priority to appeal decisions which fall under the 90 day timeframe. As such, cost decisions will be determined at the earliest convenience of the Tribunal and within date order of their filing.

**1.6** If the Tribunal is satisfied that an order for costs should issue, it will issue the terms of that order in writing. The order will include a timeframe within which the order for costs is to be complied with. The order will also contain a dispute resolution clause whereby parties who may dispute the quantum charged by the Applicant for costs may come before an assessing officer of the Tribunal to hear and determine that dispute (see Information Sheet 11*).* Once an assessing officer has heard and determined any dispute as to the quantum of costs, a Certificate of Costs Assessment will issue which may then be used in enforcement proceedings of the order of the Tribunal.