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**RPS PRACTICE DIRECTION 2 – General Directions for Applications**

These Practice Directions are made pursuant to Section 93 of the *Tasmanian Civil and Administrative Tribunal Act 2020.*

Frequently parties communicate with the Tribunal to seek directions, variations to orders or extensions of time. Sometimes letters include submissions about the adequacy of grounds of appeal or requests are made to strike out appeals. This direction is intended to streamline procedures relating to all such matters.

1. Every request to the Tribunal is to be made by an application to the Tribunal.
   1. An application must include the following:

2.1.1 The details of the application which is made, including references to any relevant sections of legislation;

2.1.2 The basis for the application (e.g., that a witness is not available, the stated grounds do not invoke a relevant consideration etc.);

2.1.3 Submissions in support of the application;

2.1.4 The orders the applicant is seeking from the Tribunal.

2.1.5 Whether or not the application is made with the consent of the other party/ies to the proceedings, and what steps were taken to obtain their consent or otherwise;

2.2 Any application made must be served on each other party to the proceedings. The application must certify that the application has been served upon each other party.

2.3 Any party served with an application, who has not advised of their consent pursuant to Practice Direction 2 at 2.1.5, must advise the Tribunal within 48 hours whether they consent, make no submissions or oppose the application. They may request an additional 5 days to file any submissions which will automatically be granted except in exceptional circumstances or if a specific timeframe has been set.

2.4 A party that requires longer than the timeframe contained in Practice Direction 2 at 2.3 should specify the time required and submissions as to why the time is required.

**SPECIFIC APPLICATION TYPE - DIRECTIONS**

**Applications for adjournments, variations or listing of hearings.**

2.5 Any application should comply with Practice Direction 2 at 2.1 to 2.3 above. Submissions need to address the prejudice that would arise if an adjournment or variation was not granted.

**Application to join as a party to proceedings, Schedule 2, Part 8, Clause 7(3) of the Tasmanian Civil and Administrative Tribunal Act 2020. (previously Section 14 of the RMPAT Act 1993)**

2.6 Any application to join proceedings must be made by completing the application to join form located under the FORMS tab of the RPS web page.

2.7 The required fee or an application for waiver/reduction must accompany the form.

2.8 Submissions must be included in the application that support the application and that address the relevant tests contained in the provisions related to applications to join.

**Application to Enlarge Issues**

*This direction only applies to appeal proceedings related to refusal of planning permits (See Section 61(4) of the LUPA Act 1993). A person who is joined as a party to an appeal pursuant to Section 61(4) of the LUPA Act 1993, may make an application to enlarge the issues in dispute once the Planning Authority has confirmed the grounds of refusal that it will rely upon in the appeal.*

2.9 The application must be made in writing and served upon each other party at the time of filing it with the Registry.

2.10 The issues must be drafted in the same format as required by Practice Direction 1 at 1.9 to 1.11.

**Application to amend or abandon grounds of appeal**

2.11 The application must be made in writing and served upon each other party at the time of filing it with the Registry.

2.12 The revised grounds must be drafted in the same format as required by Practice Direction 1 at 1.9 to 1.11.

2.13 The application must include submissions that set out the facts and reasons why an amendment to grounds of appeal should be granted.

2.14 In the event any party abandons anything contained in its Statement of Issues, or Reasons for Refusal or obtains permission to amend either document the party must submit to the Tribunal and serve upon each other party, the complete and amended document in its final approved form. This must be done within 3 days of any ruling or abandonment of issues.

**Application to raise a jurisdictional issue:**

2.15 Any application to raise a jurisdictional issue must be made in compliance with Practice Direction 2 at 2.1 to 2.3 of this Practice Direction.

2.16 An application to raise a jurisdictional issue must also include:

2.16.1 A list of all facts relied upon;

2.16.2 A statement at the bottom of the document that identifies agreed facts;

2.16.3 A list of disputed facts;

2.16.4 the signatures of all parties confirming the statement.

2.17 If the applicant seeks to have a jurisdictional issue determined prior to a full merits based hearing, detailed submissions must be included as to why a determination prior to a full hearing should occur.

NOTE: Any factual dispute that is not minor or capable of swift hearing and determination may result in the application for the jurisdictional issue being deferred to a full merits hearing.

The Tribunal cannot disregard a jurisdictional issue once raised. The Tribunal must be satisfied it has power to issue any subsequent orders or directions and accordingly, must determine a jurisdictional issue if, *prima facie,* it may affect the Tribunal’s jurisdiction.

**Applications under Schedule 2, Part 8, Clause 9(7) of the Tasmanian Civil and Administrative Tribunal 2020 (previously Section 22(3) of the RMPAT Act 1993)**

2.18 Any application under this section must comply with Practice Direction 2 at 2.1 to 2.3 of this Practice Direction.

2.19 In addition to those requirements an application under this section must include:

2.19.1 Written detailed particulars of the modifications and amendments sought;

2.19.2 Plans confirming to Appendix B of Practice Direction 4 showing the amendments, unless the changes are so minor as to be unnecessary to show them in plan form.

**Applications under Section 62(2) of the Land Use and Planning Approvals Act 1993:**

*An application under this section is to be made where a person seeks permission from the Tribunal to lodge a new Application for Use or Development within two years of a determination of the Tribunal, and where the development or use is substantially the same as has already been decided by the Tribunal.*

2.20 An application must be made in writing clearly stating the application is pursuant to Section 62(2) of the *Land Use Planning and Approvals Act*.

2.21 The application must include a copy of the original decision of the Tribunal related to the Application for Use or Development, or cite the judgment number of the decision.

2.22 The application must enclose a copy of the Application for Use or Development that the proponent seeks to lodge.

2.23 The application must include detailed submissions in support of why the Tribunal should grant the application.

NOTE: An approval under this section is ONLY to lodge a fresh Application for Use or Development to be lodged with the planning authority. It is NOT approval for the development itself.

Parties to the original appeal will be notified of the application pursuant to Section 62(2) of the LUPA Act 1993 and afforded an opportunity to be heard, in accordance with the Tribunal’s obligations to accord Natural Justice pursuant to (refer to section). The applicant will be allowed a final right of reply to any submissions.

**Applications to amend a decision of the Tribunal under Schedule 2, Part 8, Clause 10(3) (previously Section 23(6) of the RMPAT Act 1993).**

2.24 An application must include:

2.24.1 Detailed submissions that identify the changes applied for.

2.24.2 A copy of the original decision and plans or documents that the applicant wishes to have altered.

2.24.3 A copy of any new plans, materials or documents that are proposed to be included in the changes applied for. These plans must demonstrate the extent of any change if they relate to changes to the built form of an approval.

2.24.4 A list of persons whose interests may be affected, including original parties to the proceedings before the Tribunal, and the addresses of adjoining land holders to the subject property.

Note: The Tribunal will notify all original parties to the proceedings, the planning authority and adjoining land holders of this application. Each of those persons will be afforded an opportunity to respond to the submissions. The Tribunal will determine if a hearing is required and if so, all parties will be notified. The process will follow the normal processes for resolving an application as set out in Information Sheet 1.

**Application for the issuance of a summons:**

2.25 An application for a summons for the production of documents:

2.25.1 Must be made in writing;

2.25.2 Must specify the documents applied for (by name, date, author or such other details which identify the documents clearly) or alternatively, the class of documents required.

2.25.3 Must include detailed submissions demonstrating the documents are relevant to the proceedings before the Tribunal.

2.25.4 Must identify the person or organisation that possesses or has custody of the documents and the address of that person or organisation.

2.26 An application for a summons for attendance of a witness to give evidence in relation to a document they authored:

2.26.1 Must be made in writing;

2.26.2 Must give the full name and address of the person to be served with the summons;

2.26.3 Must attach the document that the witness has produced;

2.26.4 Must include detailed submissions demonstrating why the document is relevant to the proceedings and why the attendance of the witness is necessary.

2.27 An application for a summons for a witness to attend to give evidence about information within their knowledge:

2.27.1 Must be made in writing;

2.27.2 Must give the full name and address of the person to be served with the summons;

2.27.3 Must provide written submissions detailing the information that the applicant says is within their knowledge;

2.27.4 Must provide detailed submissions demonstrating why the information is relevant to the proceedings.

2.28 An applicant who is successful in seeking a summons is required to serve the summons upon the respondent/s as quickly as practicable in accordance with the requirements of Statutory Rule 20 of the *Tasmanian Civil and Administrative Tribunal Rules 2021*.

**GENERAL PROCEDURAL DIRECTIONS:**

2.29 Once the Tribunal has allocated a file number to an appeal you must include the Tribunal’s reference number on all documents (including emails) sent to the Tribunal. You must ensure the correct number is shown.

2.30 Any document sent to the Tribunal must be copied and sent to each other party to the proceedings. You must note at the bottom of any document the names of the persons you have sent a copy of the documents, to satisfy the Tribunal it has been done.