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**INFORMATION SHEET 2 - Lodgement**

* 1. The Tribunal has issued approved forms for filing any appeals or applications. Those forms are provided in the [forms](https://www.tascat.tas.gov.au/resource-and-planning/forms) section of the TASCAT Website. Those forms set out all the information needed by the Tribunal to effectively commence and manage your proceedings. The Tribunal has also issued Practice Directions regarding filing proceedings at Practice Direction 1 that you must comply with.

**REQUIREMENTS FOR LODGMENT:**

* 1. **Timeframes:** all appeal rights usually have a mandatory timeframe for a person to lodge an appeal. You will usually be told the timeframe when you are notified that you have a right of appeal. Many appeals need to be lodged within 14 days, but some may be longer (28 days for example). You must make sure you check the timeframe and ensure your proceedings are lodged in the time required. The Tribunal may have the power, in some appeals, to extend the timeframe but it cannot grant an extension before the time runs out. An extension of time is not automatically granted and other parties have the right to object to an extension. See PD for extension of time applications.
  2. **Fees:** many appeal rights require that a person pay a mandatory fee in order to lodge the appeal. The Tribunal website has a list of all [fees](https://www.tascat.tas.gov.au/resource-and-planning/fees). The Tribunal cannot lawfully receive an appeal without the required fee. Payment of fees can be made by cash, cheque or EFTPOS. The Tribunal does have power to waive or reduce a fee but you must ensure you make your application for a waiver or reduction well in advance (see Practice Direction 1 at 1.4 – 1.8).
  3. **Standing:** you must be a person who has the right to bring an appeal or make an originating application. Not all legislation allows anyone to bring an appeal or make an originating application. Many Acts set out the requirements that a person must meet in order to be eligible to file an appeal/originating application. Most people are notified in writing they have the right to appeal, but if you are unsure you should take your own private legal advice.
  4. **In writing:** all proceedings are required by legislation to be filed in writing. It is preferable you use the forms provided by the Tribunal. You may email your appeal or application to the Tribunal as the following email address. The Tribunal consents to receiving any and all documents, notices and proceedings by electronic means. If you file any proceedings by electronic means or provide an email address, you are giving consent to the Tribunal sending all documents and notifications by electronic means see *section 125(3) Tascat Act 2020*

Please note that for Strata Title proceedings, they must be lodged with the Office of the Recorder of Titles, not the Tribunal Registry. (Website for Recorder of Titles: <http://dpipwe.tas.gov.au/land-tasmania/land-titles-office>)

* 1. **Grounds of Appeal or Orders sought**: you must ensure that your grounds of appeal, or orders you are seeking in an application are relevant and clear. They must be detailed enough to enable the Tribunal and all other parties the case you are seeking to bring so the parties can prepare. You also need to raise all the matters you wish to present to the Tribunal as early as possible. The late addition of other matters may be unfair to the other parties. This may give rise to a refusal to allow the new matters, adjournments of proceedings and even orders for costs.

You may require some additional time to take advice about your grounds or orders and the Tribunal will hear any requests for time and issue directions. However, if you fail to comply with directions to provide relevant, clear and sufficiently detailed grounds, issues or orders, then your appeal or status as a party make be revoked.

The Tribunal has provided a Guide to drafting grounds of appeal which are appended to this information sheet Annexure A.

1.7 **Single Document only required:** Please do not send multiple copies of the same document to the Tribunal. It is not necessary to fax, post and email the same document to the Tribunal. If you want to make sure a document has been received simply request confirmation by return email. The only exception to this requirement relates to evidence and see PD 4 for details.

**AFTER LODGEMENT:**

1.8 You will be sent a letter if there are any issues with the appeal or application you wish to lodge. Otherwise, you will receive formal notification that the proceedings have been received and the date of the first preliminary conference and any directions you need to comply with for that conference.

**Your matter will be allocated a reference number.** **Please ensure you include that reference number in any correspondence to the Tribunal.**

**Appendix A**

**GUIDELINES TO DRAFTING GROUNDS OF APPEAL AND ORDERS**

A ground of appeal or issue must disclose a matter which the Tribunal is empowered to hear and determine. Parties cannot raise any issue they wish. The Tribunal is restricted, as a matter of law, to consider only those matters which are made relevant by legislation. Most commonly, these will be contained in legislation which confers jurisdiction on the Tribunal including council Planning Schemes. If you are in doubt as to whether a matter is relevant, you should take your own private advice from a suitably qualified practitioner. A ground of appeal or issue must clearly state the dispute that has arisen, with reference to relevant provisions of legislation (or planning schemes) and the nature of that dispute.

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| **EXAMPLE OF AN ISSUE ARISING FROM A PLANNING SCHEME OR OTHER RELEVANT INSTRUMENT** | **ADEQUATE GROUND OF APPEAL** | **INADEQUATE GROUND OF APPEAL** |
| The proposed development does not have the setback required by the planning scheme. | The proposed development having a setback of 1 metre from the eastern boundary does not satisfy the requirement of clause 12.1 of the planning scheme, which requires a minimum of 2 metres setback. The effect of the non-compliance is ……. | **The proposed development is contrary to clause 12.1 of the planning scheme**. **(***This is inadequate because it does not say how it is contrary to the requirements.)*  **The proposed development has an inadequate setback.** (*Because it does not refer to the relevant provision of the planning scheme.)* |
| The proposed development is inconsistent with the desired future character for the zone, and contrary to the planning scheme requirements regarding a bulk and scale consistent and compatible with surrounding development. | The proposed development is inconsistent with the desired future character for the residential zone contrary to the requirement of clause 25.2 of the planning scheme in that its bulk and height are twice as great as, and completely out of scale with, the surrounding development. | **The proposed development does not comply with clause 25.2 of the planning scheme*.*** *(Because it does not say in what respect it does not comply).*  **The proposed development is out of scale with surrounding development.**  *(Because it does not say in what respect, or identify what provision of the planning scheme is not complied with.)* |
| A condition limiting the use of a transport depot to three days a week is not justified by the provisions of the planning scheme which require residential amenity to be maintained. | Condition 3 of the permit limiting use as a transport depot to three days a week is not justified by clause 26 of the planning scheme requiring residential amenity to be maintained, because the nearest residences are at least 500 metres away. | Condition 3 of the permit is too restrictive and is not justified by the planning scheme*. (Because it does not say in what respect, or identify what provision of the planning scheme)* |
| Overshadowing of a residence by the proposed development. | My house will be unacceptably overshadowed by the proposed development contrary to clause . . . of the planning scheme. | “The councillors did not give proper weight to their planning officer’s advice”; or “The councillors were biased” *(Irrelevant because the Tribunal is not concerned with the way in which Council reached its decision, in these respects.)*. |
| The height of the development above ground level exceeds that allowed by the planning scheme. | The development is higher than allowed by clause . . . . of the planning scheme. | **“There are too many units in the area”.**  *(Because the relevant provision in the scheme controls height rather than development density.)* |