

TASMANIA

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**RESOURCE MANAGEMENT AND  
PLANNING APPEAL TRIBUNAL  
AMENDMENT BILL 2004**

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**RESOURCE MANAGEMENT AND  
PLANNING APPEAL TRIBUNAL  
AMENDMENT BILL 2004**

*(Brought in by the Minister for Environment and  
Planning, the Honourable Judith Louise Jackson)*

**A BILL FOR**

**An Act to amend the *Resource Management and  
Planning Appeal Tribunal Act 1993***

Be it enacted by His Excellency the Governor of Tasmania,  
by and with the advice and consent of the Legislative  
Council and House of Assembly, in Parliament assembled,  
as follows:

**Short title**

**1.** This Act may be cited as the *Resource Management and  
Planning Appeal Tribunal Amendment Act 2004*.

**Commencement**

**2.** This Act commences on the day on which this Act  
receives the Royal Assent.

**Principal Act**

3. In this Act, the *Resource Management and Planning Appeal Tribunal Act 1993*\* is referred to as the Principal Act.

**Section 22A inserted**

4. After section 22 of the Principal Act, the following section is inserted in Part 5:

**Power of Appeal Tribunal to dismiss if appeal frivolous or vexatious**

**22A.** The Appeal Tribunal is to dismiss an appeal if it is satisfied that the appeal is frivolous or vexatious.

**Section 28 substituted**

5. Section 28 of the Principal Act is repealed and the following section is substituted:

**Costs**

**28. (1)** Each party to an appeal is to pay its own costs.

**(2)** However, the Appeal Tribunal may order a party to an appeal to pay all or part of the costs of another party to the appeal if the Appeal Tribunal is satisfied that it is fair and reasonable to do so.

**(3)** For the purposes of subsection (2), the Appeal Tribunal may take into account any of the following matters:

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\*No. 66 of 1993

- (a) whether the appeal appears to the Appeal Tribunal to have been instituted merely to delay or obstruct;
- (b) whether in the Appeal Tribunal's opinion a party has raised frivolous or vexatious issues;
- (c) the relative merits of the claims made by each of the parties;
- (d) whether in the Appeal Tribunal's opinion a party has unnecessarily or unreasonably prolonged the appeal or increased the costs of it;
- (e) whether a party has failed to comply with a direction or order of the Appeal Tribunal without reasonable excuse;
- (f) whether a party has failed to comply with any relevant law or planning scheme;
- (g) the nature, complexity and outcome of the appeal;
- (h) any other matter the Appeal Tribunal considers relevant.

**(4)** If the Appeal Tribunal makes an order for costs under subsection (2), it –

- (a) is to specify the time within which those costs are to be paid; and
- (b) may, by a further order, extend the time if it considers it reasonable in the circumstances.

(5) If the Appeal Tribunal makes an order for costs before the end of any proceedings, it may require that the order be complied with before it continues with the proceedings.

(6) An order for costs under this section may be registered in a court having jurisdiction for the recovery of debts of the amount ordered to be paid by or under the order.

(7) Proceedings for the enforcement of an order for costs under this section may be taken as if the order were a judgment of the court in which the order is registered.

### **Validation and doubts avoidance**

#### **6. (1) In this section –**

**“Appeal Tribunal”** means the Resource Management and Planning Appeal Tribunal established under the Principal Act.

#### **(2) For the avoidance of doubt –**

- (a) any order for costs made by the Appeal Tribunal before the commencement of this Act is taken to have been validly made; and
- (b) the Appeal Tribunal’s power under section 28 of the Principal Act is exercisable in respect of an appeal even if the appeal was instituted before the commencement of this Act.