



## Tribunals and Courts

*Disclaimer: This factsheet is a guide only and is designed to give readers a plain English overview of the law. It does not replace the need for professional legal advice in individual cases. To request free initial legal advice please visit our [website](#).*

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Sometimes legal action is the most appropriate first step to prevent environmental harm. In other situations, it might be a necessary last resort.

Taking legal action can be an intimidating experience, but it doesn't need to be. This factsheet outlines how the legal system works, including information about:

- court procedures
- costs that may be incurred
- when and how to get legal assistance

### The Judicial System

Environmental disputes in Tasmania are heard in a number of tribunals and courts, depending on the issues and laws under which the relevant decisions have been made.

#### Resource Management and Planning Appeal Tribunal

The most significant institution in Tasmania for environmental matters is the [Resource Management and Planning Appeal Tribunal \(RMPAT\)](#). RMPAT hears appeals against many decisions made under the suite of RPMS legislation, as well as civil enforcement actions in planning and environmental disputes (see below).

RMPAT now also has responsibility for the resolution of disputes under the new [Neighbourhood Disputes About Plants Act 2017](#) regarding overhanging vegetation, interrupted views or access to sunlight.

#### Magistrates Court

The [Magistrates Court](#) comprises a number of divisions in which hearings take place. Depending on the scale and severity, offences under planning, heritage and environmental laws may be prosecuted in the Magistrates Court.

Environmental and planning prosecutions are normally initiated by government agencies, including local councils. Prosecutions relating to trespass or property damage arising from protest actions are generally initiated by the Tasmania Police.

The Mining Tribunal is also a division of the Magistrates Court.

### **Forest Practices Tribunal**

The [Forest Practices Tribunal](#) hears appeals in relation to Forest Practices Plans and offences under the [Forest Practices Act 1985](#).

The registry of the Forest Practices Tribunal is combined with the RMPAT registry.

### **Tasmanian Planning Commission**

The [Tasmanian Planning Commission](#) reviews decisions in relation to amendments to Planning Schemes, management plans for parks and reserves, Water Management Plans, State Policies and Projects of State Significance. While not a judicial body, the Commission makes decisions that can have a significant influence on environmental and planning outcomes in Tasmania.

The Commission is not bound by the rules of evidence and generally adopts a less formal approach than RMPAT.

### **Supreme Court**

The [Supreme Court of Tasmania](#) hears appeals from the Tribunal and other courts on questions of law.

If you take legal action based on common law or apply for judicial review (see below), proceedings will be commenced in the Supreme Court (although, if all parties consent, some actions may be started in the Magistrates Court).

Cases before the Supreme Court are heard at first instance by a single judge. The judge's decision may be appealed on questions of law to the Full Court of the Supreme Court, which comprises a panel of three judges (not including the judge who made the decision you are appealing against).

### **Administrative Appeals Tribunal**

The [Administrative Appeals Tribunal \(AAT\)](#) hears a range of applications for review of decisions made under Commonwealth laws, including the *Freedom of Information Act 1982* and the *Fisheries Management Act 1992*.

### **Federal Court**

The Federal Court of Australia hears applications for review of decisions made under Commonwealth laws that are not commenced in the AAT, as well as appeals from decisions made by the AAT.

Applications for review of decisions regarding controlled actions under the *Environment Protection and Biodiversity Conservation Act 1999* are made to the Federal Court. Applications are heard by a single judge in the first instance. The judge's decision can be appealed to the Full Court of the Federal Court (usually comprising 3 judges).

### **High Court of Australia**

The High Court can hear appeals from the Full Court of the Supreme Court of Tasmania or the Full Court of the Federal Court. Applications are made for leave (i.e permission) to appeal, and the High Court determines whether or not to accept the application. If the High Court refuses leave to appeal, there is no further avenue for appeal.