

Council Policy – Procedures before the State Administrative Tribunal

Responsible Directorate	Office of the Chief Executive Officer
Responsible Business Unit/s	Office of the Chief Executive Officer
Responsible Officer	Chief Executive Officer
Affected Business Unit/s	All

Objective


To prescribe procedures for the Shire’s administration in relation to dealing with matters before the State Administrative Tribunal (SAT).

Scope

Applies to all matters affecting the Shire, under consideration by SAT.

Policy Statement

1. Subject to the proceeding clauses, the CEO is authorised to determine the most appropriate manner to deal with matters relating to the SAT.
2. In the first instance, the Shire’s employees (in conjunction with a qualified consultant and/or legal advisor) will defend Council/Shire decisions in the SAT.
3. The decision to engage or not engage a consultant(s) and/or legal advisor as described in clause 2 of this policy, shall be made by the CEO.
4. Where a matter is referred to mediation, the consultant or officer with conduct of the matter shall:
 - a. participate constructively in the mediation with a view to reaching a satisfactory compromise solution;
 - b. not agree to any compromise solution at the mediation beyond the scope of their delegated power, or as otherwise authorised by the Shire’s responsible delegate; and
 - c. refer any potential solutions arising out of the mediation back of the decision maker in the original application.
5. In relation to 4(b) of this policy, where the matter was originally considered by Council, any proposed compromise solution arising from the mediation shall be presented to Council for further consideration in accordance with the procedures for section 31 of the *State Administrative Tribunal Act 2004* reconsiderations set out in clause 7 of this policy.

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6. Where practical and as determined by the CEO, officers will:
 - a. provide regular updates to elected members on proceedings before the SAT, including the programming of proceedings, timeframes, and likely cost implications; and
 - b. inform submitters of the SAT application if it relates to a matter they previously provided comment on.
 7. If, under Section 31 of the *State Administrative Tribunal Act 2004*, the SAT invites the Shire to reconsider a decision which is the subject of an application for review, then the consultant or officer with conduct of the matter shall refer that invitation to the original decision maker along with their report and recommendation on whether it should:
 - a. affirm the original decision; or
 - b. vary the original decision; or
 - c. set aside the original decision and substitute it with a new decision.
 8. The confidentiality (or not) of the report and recommendation referred to in clause 7 of this policy will be governed by sections 54 – 56 of the *State Administrative Tribunal Act 2004* and sections 5.23, 5.94 and 5.95 of the *Local Government Act 1995*.

Definitions

Definitions are taken as those detailed in the *Local Government Act 1995* and associated legislation.

Relevant policies/documents

Nil

Relevant legislation/local laws

Local Government Act 1995

State Administrative Tribunal Act 2004

Shire of Ashburton Town Planning Scheme No 7

Planning and Development Act 2005

Planning and Development (Scheme) Regulations 2015

Building Act 2011

Building Regulations 2012

Food Act 2008

Caravan Parks and Camping Ground Act 1996

Caravan Parks and Camping Ground Regulations 1997

Public Health Act 2016

Health (Miscellaneous Provisions) Act 1911

Health (Aquatic Facilities) Regulations 2007
Health (Asbestos) Regulations 1992
Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste)
Regulations 1974

Office use only			
Relevant delegations			
Council adoption	Date	14 February 2023	Resolution # 019/2023
Reviewed/modified	Date		Resolution #
Next review due	Date		Resolution #