



SAT

State
Administrative
Tribunal

Western Australia

**STATE ADMINISTRATIVE TRIBUNAL –
OVERVIEW OF OPERATIONS AND FUNCTIONS**

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Topics

- Introduction – “A cohesive new jurisdiction”
- Jurisdiction
- Procedures
- Expert evidence
- Facilitative dispute resolution (FDR)
- Costs
- Appeals of decisions
- Summary



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Introduction – “A cohesive new jurisdiction”

- Established on 1 January 2005 as super-tribunal
- Wide jurisdiction – more than 150 Acts, Regulations, and planning schemes
- Replaced approximately 50 adjudicators, including courts, tribunals, boards and ministers
- Rationale: speedy and affordable resolution; self-representation; improved access; informal procedures (s9)
- Rules of evidence do not apply, but bound by rules of natural justice (s32)
- Tribunal may use knowledge and inform itself
- Obligation to assist parties to understand the nature of the dispute and assertions made
- B De Villiers (2013) "Burden of proof and standard of proof in the WA State Administrative Tribunal – a case of horses for courses" *University of Queensland Law Journal* 32(1)187-201.



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Jurisdiction

- **reviews** (i.e. hears administrative appeals – *de novo*), eg planning, taxi, firearm.
- **original** (civil) jurisdiction in specialist statutory areas, such as strata titles, building disputes; guardianship and administration, building, equal opportunity, land compensation, commercial tenancy, construction
- **disciplinary** proceedings in relation to approximately 40 professions, trades and other vocations licensed under State law, eg lawyers, medical practitioners, builders



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Procedures

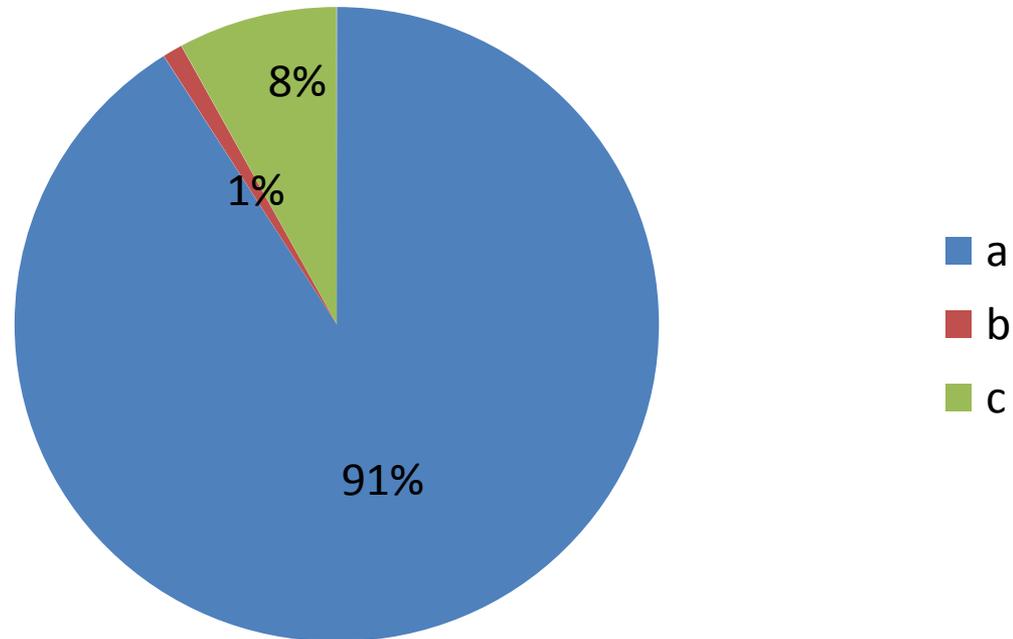
- File application as in courts (“wizzard”)
- Directions hearing within 14 days
- Refer for mediation or hearing
- Memo for mediation or *Statement of issues, Fact and Contentions (SIFC)*
- Decisions no later than 90 days after hearing
- Stand when enter but not bow; no special dress-code; sit at parties table
- Self-representation (90+%)
- Practice Notes and decisions on SAT website
- B De Villiers (2014) "The State Administrative Tribunal of Western Australia – time to end the inquisitorial/accusatorial conundrum about Australia's super-tribunals? *University of Western Australia Law Review* 37(2) 182-214.



Expert evidence

- Experts in areas such as planning, building, valuation, vocational
- Traditional approach to expert evidence: adversarial
- New approach to expert evidence: investigative / collegiate
- Joint report: agree, disagree, reasons for disagree
- Conferral of experts – experts meet on their own and produce joint report
- Concurrent expert evidence – evidence together, comment, ask questions
- Research: high support for process
- See http://www.sat.justice.wa.gov.au/files/Expert_Evidence_Brochure.pdf
- B De Villiers (2015) “From advocacy to collegiality – the view of experts of ‘concurrent evidence’ and ‘expert conferral’ in the State Administrative Tribunal” *Journal of Judicial Administration* 25: 11-27

Overall, in your view, do the techniques of expert conferral and concurrent expert evidence (a) reduce time required for a hearing, (b) add to time required for a hearing or (c) make no difference in time required for a hearing?





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Facilitative dispute resolution (FDR)

- Facilitative directions hearings
- Mediation
- Compulsory conferences
- Neutral Assessment
- Consent orders
- 60-70% applications settle as result of FDR
- SAT benefits:
 - Trained mediators
 - Subject experts (eg planning, strata, building, valuation)
 - Also sit in hearings
 - Active reality testing
 - Reference to relevant material and decisions

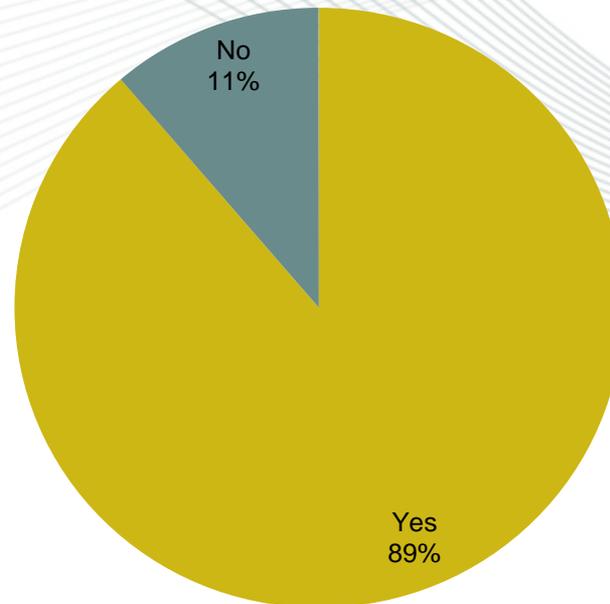


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In light of your experience, was it the right decision to represent yourself in a strata title dispute? B De Villiers (2014) "Self-represented litigants and strata title disputes in the State Administrative Tribunal - an experiment in accessible justice"





Costs

- SAT is a generally “no costs” or “costs neutral” jurisdiction – s 87
- Broad discretion to award costs, costs will only be awarded in special circumstances
- Review matters – usually no cost
- Commercial matters – more frequently cost award, but subject to general principles
- Vocational proceedings – more frequently cost for vocational body
- *Pearce and Anor and Germain* [2007] WASAT 291



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Appeals

- Internal reviews – eg planning, building and guardian/administration
- Appeal to Supreme Court – leave, question of law, not fact
- Tribunal not bound by own decisions
 - REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD -v- CAREY [2010] WASCA 109



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Summary

- SAT is major development in WA judicial process
- Super-tribunals now part of Australian landscape
- Most likely contact with civil judicial process
- Positive public response – parliamentary review
- Expanding jurisdiction – residential tenancies next?
- Strange character (review and original) but it works
- Ideal to experiment, eg experts, informal, self-represent, on-line, FDR