

Practice Note 5

Proceedings under the *Strata Titles Act 1985*

What is this document?

1. This document is a practice note issued by the Rules Committee of the Tribunal under section 33 of the *State Administrative Tribunal Act 2004* (WA).
2. This document describes important aspects of the Tribunal's practice and procedure in most proceedings under the *Strata Titles Act 1985* (WA). It does not apply to proceedings commenced under sections 26(4), 26(5) or 27(3) of that Act (see [Practice Note 2 – Review Proceedings](#)).
3. If you need help in understanding this document please contact the Tribunal on (08) 9219 3111 or 1300 306 017 (STD callers) or email the Tribunal at info@sat.justice.wa.gov.au.

Making an application

How to apply

4. Application forms may be obtained:
 - (a) from the Tribunal's website at www.sat.justice.wa.gov.au by using the SAT Wizard;
 - (b) by telephoning the Tribunal on (08) 9219 3111 or 1300 306 017 (STD callers); or
 - (c) by emailing the Tribunal at info@sat.justice.wa.gov.au.

What documents should be included with the application?

5. The applicant should include copies of all documents to which the application refers or which will otherwise assist the Tribunal in understanding the subject matter.
6. In all cases, the following documents must be filed with the application:
 - (a) a recent copy (search) (not older than 10 days) of the whole of the relevant strata plan or survey-strata plan, which is obtainable from the Western Australian Land Information Authority (Landgate) at Midland; and

- (b) (i) a recent copy (search) (not older than 10 days) of the whole of the relevant Certificate of Title for the Lot in the strata scheme or survey-strata scheme of which the applicant is a registered proprietor, which is obtainable from Landgate; or
- (ii) if the applicant is the strata company - evidence that the application to the SAT was authorised at a meeting of the council of the strata company, or
- (iii) at a general meeting of the members of the strata company; and
- (c) a copy (search) of each "notification" that is registered on the strata plan or survey-strata plan, which is obtainable from Landgate.

Giving notice of the application to the other party

- 7. The applicant must give a copy of the application (including supporting documents) to the respondent(s) as soon as possible and in any event not more than 7 days after filing it. If the applicant is the strata company, it must also give notice of the application to the persons referred to in section 79(2) of the Strata Titles Act.
- 8. If the strata company is a respondent, the strata company must, within 7 days of being given the application and supporting documents, give notice of the application to the persons referred to in section 79(2) of the Strata Titles Act.

Interim applications

- 9. Where an interim order, which would operate until the principal application is determined, is sought by reason of urgent circumstances, the applicant shall complete and file an interim application at the same time as the principal application. The interim application must set out why the matter is urgent.
- 10. At the time of filing an interim application, the applicant should file copies of all documents which will be necessary to enable the Tribunal to deal with it at the first hearing. Failure to do so may result in the hearing being adjourned.
- 11. The applicant must give a copy of any interim application (including supporting documents) to the respondent(s) at the time of giving the principal application.

Initial directions hearing

- 12. When an application is filed, it will be listed for an initial directions hearing before a member of the Tribunal in approximately two to three weeks. The Tribunal will give written notice to the parties of the time, date and place of the directions hearing.

13. Parties may attend the initial directions hearing and at any other directions hearing by telephone if they live outside the Perth metropolitan region or have difficulty in attending in person. In order to arrange for attendance at a directions hearing by telephone, parties should contact the Tribunal on the telephone number or email address set out at paragraph 3 as soon as possible after receiving notice of the directions hearing.
14. At any directions hearing, the presiding member will make directions for the speedy and fair conduct of the proceedings.
15. At any directions hearing, each party or its representative must have sufficient familiarity with the matter and, in the case of a representative, sufficient instructions from the party to be able to tell the Tribunal the party's position as to each of the matters set out in paragraphs 16 and 17.

What will the Tribunal consider at directions hearings?

16. At a directions hearing, the Tribunal will consider:
 - (a) whether the proceedings should be referred to mediation (see paragraphs 21 – 23);
 - (b) whether the proceedings should be referred to a compulsory conference (see paragraphs 24 – 26);
 - (c) whether the proceedings should be subject to special case management;
 - (d) whether any question of law, mixed question of law and fact, or question of fact, should be decided as a preliminary question;
 - (e) whether the proceedings should be listed for a final hearing; and
 - (f) whether the proceedings should be determined entirely on the documents.
17. If the Tribunal considers that the proceedings should be listed for a final hearing, the parties or their representatives must advise the Tribunal as to:
 - (a) the number, nature and expertise (where relevant) of the witnesses whose evidence will be relied on at the hearing;
 - (b) the likely length of the hearing;
 - (c) any dates which are unavailable to any party or witness;
 - (d) whether telephone, video link or any other system or method of communication will be required at the hearing;

- (e) whether an interpreter will be required at the hearing;
- (f) whether a view or inspection by the Tribunal of the land or thing in question will be required; and
- (g) where the hearing should most conveniently take place.

What orders will the Tribunal usually make at directions hearings?

- 18. The orders that the Tribunal will usually make are in the SAT Standard Orders Made at Directions Hearings in Strata Titles Matters document which is available on the SAT website (www.sat.justice.wa.gov.au) and in the directions hearing room.

What happens at a final hearing?

- 19. Any witness statement which is filed with the Tribunal and given to the other party in accordance with the Tribunal's order will usually be admitted into evidence by the Tribunal as the evidence of the witness. The presiding member may permit the witness to give any additional evidence. The other party is permitted to cross-examine the witness.
- 20. Any experts' joint statement filed in accordance with an order of the Tribunal will be admitted into evidence by the Tribunal at the hearing and expert evidence inconsistent with any agreement in the joint statement will be allowed only if the Tribunal permits.

What is mediation?

- 21. Mediation is a structured negotiation between parties facilitated by a trained mediator. Its purpose is to achieve a mutually acceptable settlement of a dispute or to narrow the issues in dispute. Mediation often allows for a creative solution.
- 22. All mediations in the Tribunal are conducted by a member who is also a mediator. If the mediation does not result in settlement the member who conducted the mediation cannot take any further part in the proceedings, unless all of the parties agree.
- 23. The Tribunal may order the parties to attend a mediation without their consent.

What is a compulsory conference?

- 24. The purpose of a compulsory conference is to identify and clarify the issues and to promote resolution by settlement.

25. If the compulsory conference does not result in settlement the member who conducted the conference cannot take any further part in the proceedings.
26. Attendance at a compulsory conference is compulsory.

Who attends a mediation or compulsory conference?

27. The parties must attend the mediation or compulsory conference in person. Where a party is a corporation, a senior officer must attend. A lawyer or other person permitted by the State Administrative Tribunal Act, Regulations or Rules to represent a party may also attend. If a party wishes to bring along another person, it must advise the presiding member and the other party at the directions hearing at which the matter is referred to mediation.
28. An officer who attends on behalf of a party must be able to identify, clarify and narrow the issues and must have authority to settle the proceedings.

What happens if a matter is settled between the parties?

29. Where proceedings are resolved between the parties a minute of the consent orders sought must be filed in hard copy, signed by each of the parties or their representatives, and in electronic form if possible. If plans, photographs or maps are attached or annexed to the minute of consent orders, sufficient copies of these documents, namely one plus the number of parties, must be filed.
30. The Tribunal will make an order by consent only if it is satisfied that it has power to do so.
31. The applicant requires the leave of the Tribunal to withdraw the proceedings.