

Info Sheet 3

Class 1 planning applications

Class 1 planning applications involve:

- development with a value of less than \$250,000;
- single house on a single lot with a value of less than \$500,000; and
- subdivision of a lot into not more than three lots.

How do I make an application for review?

- Application forms can be created on the State Administrative Tribunal (SAT) website www.sat.justice.wa.gov.au by using the 'SAT Wizard'.
- An application must be lodged within 28 days of the date on which the original decision-maker gives notice of their decision.
- The application must be accompanied by a copy of the application to the original decision-maker and a copy of the decision to be reviewed, (where relevant).
- A copy of the application must be given to the decision-maker within seven days.
- The applicant may elect, at the time the application is made, that no party be represented by a lawyer.

What happens if my application is outside the 28 day time limit?

SAT has the power to extend the time for bringing an application even if the time limit has expired.

If the application is out of time you need to ask for an extension of time in the application and explain why an extension should be

granted. SAT will consider whether or not to extend time at the first directions hearing.

What happens after an application for review is lodged?

- SAT will set a time, date and place for a first directions hearing and send notice to the parties.
- There is not usually a requirement for either party to provide any further information until the first directions hearing.
- Parties may attend a directions hearing by telephone if they live outside Perth or have difficulty in attending in person. If you need to attend by telephone, please contact SAT as soon as possible after receiving notice of the directions hearing by phoning (08) 9219 3111 or 1300 306 017 (regional callers) or by emailing at sat@justice.wa.gov.au.

What happens in a class 1 directions hearing?

- The first directions hearing is held about three weeks after the application is lodged.
- Class 1 directions hearings are usually held on Wednesdays, for an hour.
- A SAT member will be listed to deal with the matter.
- The setting is generally relaxed and usually involves:
 - explanation of the process;
 - identification of the issues; and
 - mediation of issues and consideration of alternative solutions.

- Directional orders may be given by SAT to progress the matter.
- If an agreed outcome is not possible, then the matter is listed for final hearing and orders will be made for the production of necessary documents. An alternative is to have the matter determined entirely on the documents under s 60(2) of the State Administrative Tribunal Act 2004.

What is mediation?

In a class 1 directions hearing the member may proceed to deal with the matter as if it were a mediation or refer the matter to a separate mediation.

The purpose of mediation is to resolve a dispute by settlement between the parties. Mediation is a co-operative problem-solving process designed to help the parties find constructive solutions to their problems. Mediation can also be useful in narrowing the issues in dispute.

If mediation does not result in settlement the member who conducted the mediation cannot take any further part in the proceedings unless all the parties agree.

What documents will be required by SAT?

It is necessary to lodge with SAT the application to the original decision-maker and the decision to be reviewed. No other documents are generally required unless and until a matter is listed for final hearing. The types of documents that SAT may require the parties to produce include:

- respondent's Statement of Issues, Facts and Contentions;
- applicant's responding Statement of Issues, Facts and Contentions;
- respondent's s 24 bundle of documents;
- applicant's bundle of documents;
- witness statements; and
- where expert evidence is to be given, a joint statement from expert witnesses.

What happens in a final hearing?

- Final hearings usually take place about six weeks after the date is set.
- The matter will be heard by one member.
- The hearing is de novo (heard afresh) and is not confined to matters that were before the original decision-maker.
- The parties may be represented by an agent (such as professional, an employee, a family member or a friend).
- The respondent will usually be called on first to explain and support the decision under review followed by the applicant to explain why the decision should be altered.
- The witness statements which were filed and provided to the other party in accordance with the Tribunal's orders usually become the evidence of the witness. The other party is entitled to cross-examine a witness and the Tribunal often asks questions of the witnesses.
- Experts in the same field will usually be required to give evidence together, will be asked questions by the Tribunal, and may ask each other questions.

What happens after the final hearing?

SAT may give an oral decision at the end of the hearing. If it does not give an oral decision, the Tribunal's decision must be given in writing usually within 90 days. The decision will be sent to the parties.

What happens if the matter is settled between the parties?

Where consent orders are sought to give effect to a settlement, a document recording the consent orders must be prepared by the parties and filed with SAT in hard copy - signed by

each of the parties or their representatives -
and in electronic form.

If plans, photographs or maps are to be
attached to the consent orders, sufficient
copies of these documents must be filed.

SAT will only make a consent order if it is
satisfied that it has power and that it is
appropriate to do so.

When does the decision take effect?

Unless specified otherwise, SAT's decision has
effect from the time when the original
decision-maker's decision had effect.

Can an application for review be withdrawn?

Section 46 of the State Administrative Tribunal
Act 2004 allows SAT to permit an application to
be withdrawn. This could be used where the
decision-maker changes its decision under
section 31 and the applicant is happy with that
decision, or, where the applicant does not wish
to proceed with the review. If the applicant
wants SAT to permit withdrawal of the
application, it will be necessary for the
applicant to obtain agreement from the
respondent.