



POLICY

TITLE:	STATE ADMINISTRATIVE TRIBUNAL APPLICATIONS FOR REVIEW	CODE:	DO.01
PURPOSE or OBJECTIVE:	1. To ensure affected land owners and/or occupiers are notified and have an opportunity to respond to applications for review by the State Administrative Tribunal (SAT). 2. To avoid a conflict of interest and ensure impartial representation at SAT where a building permit or development approval is the subject of a review by SAT.		
REFERENCE DOCUMENTS:	Planning and Development Act 2005 State Administrative Tribunal Act 2004 City of Canning Town Planning Scheme No.40		

POLICY STATEMENT

When a person lodges an application for review to the State Administrative Tribunal (SAT) about a decision on a building or development application, relevant affected land owners and occupiers will be notified and afforded an opportunity to be involved in the review response process.

The City will engage external representation for the defence of applications for review to SAT where the Council decision to approve or refuse a building or development application under Town Planning Scheme No.40 differs in substance –in its entirety or in part– to the original recommendation of the responsible officer.

1. Scope

This Policy applies to building and development approval decisions made by the City under City of Canning Town Planning Scheme No.40 that become the subject of an application for review by SAT.

2. Definitions

- Council decision* means a decision made by the elected members at an ordinary or special council meeting.
- Council* means the body of elected members meeting as an ordinary or special council meeting, or as a committee of Council.
- clerical support* means typing, forwarding messages, mail and documents.
- decision* means a decision made by the elected members (Council) at an ordinary or special council meeting or a decision properly made by an authorised employee under delegated authority.
- elected member* means a person elected and holding valid office under the *Local Government Act 1995* as a member of the council of the City of Canning.
- external representation* means, where permitted by SAT, an external legal practitioner and/or other qualified persons, and/or one(1) or more elected members appointed by the City.
- land owners and occupiers* relevant affected ratepayers and residents contacted by the City as part of the public consultation procedures associated with the original application.
- other interested party* Persons who lodged a submission in relation to the original application, but who were not contacted by the City as part of the public consultation procedures associated with the original application.
- responsible officer* means the City employee responsible for submitting the report and recommendation on a building or development application that has become the subject of an application for review by SAT.

3. Submissions from Land Owners and Occupiers

- (1) Where the City receives an application for a review by SAT the responsible officer is to:
 - (a) Notify all affected land owners and occupiers (as defined) or other interested party (as defined) and invite them to submit comments on the application for review.
 - (b) Where appropriate, incorporate details of any submissions received in the City's response to SAT.
 - (c) Notify all affected land owners and occupiers of the outcome of the application for review.

4. Procedure When Council Determines a Matter Contrary to Officer's Recommendation

- (1) The following sub-clauses 4(2) and 4(3) of this Policy apply when:
 - (a) a responsible officer makes a recommendation to Council for a matter that Council has the statutory authority to determine; and
 - (b) Council determines a matter contrary to the recommendation of the responsible officer; and
 - (c) The applicant or land owner of the subject property affected by that determination makes an application for review to have the Council's decision reconsidered by SAT.
- (2) When an event described in sub-clause 4(1) applies and Council decides to respond and be represented at SAT by elected members, Council will be responsible for :
 - (a) appropriating funds to meet all expenses connected to responding to the review and any further legal costs that the City may incur; including compensation;
 - (b) appointing elected members to attend any SAT mediation sessions or hearings.
- (3) Where Council decides to be represented at SAT by elected members, Council acknowledges that it may:
 - (a) request no more than clerical support from the City's officers, inclusive of administrative tasks such as notifying land owners and occupiers as per Clause 3, engaging and instructing external solicitors and expert witnesses, and collating and preparing supporting documentation;
 - (b) apply for such support by submitting that request to the CEO.

GOVERNANCE REFERENCES

Statutory Compliance	Planning & Development Act 2005 City of Canning Town Planning Scheme No.40
Process Links	N/A

POLICY ADMINISTRATION

Directorate		Officer Title	Authority to Approve
Planning & Regulation		Director Planning & Regulation	Council
Version	Decision Reference	Synopsis	Delegation No:
1	February 2015	New draft revised Policies SRS222 and SRS225 (combined)	
1	OCM 14/7/2015 (PR-038-15)	Adopted	