

### Policy P677 State Administrative Tribunal

<b>Responsible Business Unit/s</b>	<b>Governance</b>
<b>Responsible Officer</b>	<b>Manager Governance, Chief Executive Officer</b>
<b>Affected Business Unit/s</b>	<b>Governance</b>

#### Policy Objectives

On occasions, there will be instances where the Council makes a decision that is inconsistent or contrary to an Officer recommendation. This policy provides guidance for ensuring that such Council decisions are appropriately defended in the event of an application for review being lodged with the State Administrative Tribunal.

#### Policy Scope

This policy is relevant to the officers responsible for appointments of external consultants and lawyers to represent the City at the State Administrative Tribunal. The policy is also relevant to those officers and Elected Members attending matters.

#### Policy Statement

This policy provides guidance in responding to applications for the review of a decision made by the Council that are lodged with the State Administrative Tribunal.

##### **Appointment of Consultant / Lawyer**

Where an application is made for the review of a decision that is inconsistent or contrary to a recommendation made by an Officer, an independent consultant / lawyer will be engaged to represent the Council's best interests. The consultant / lawyer shall be selected and engaged by the City administration to represent the resolution of Council and its best interests. Council will be advised on a monthly basis of all associated consultant / legal expenses in the Councillor Bulletin publication.

##### **Elected Member attendance**

The Elected Members that moved and seconded the Council decision may be requested to attend meetings with the engaged consultant / lawyer as well as attend mediation sessions and hearings as far as practicable, to defend the Council's decision. Elected Members are not able to lawfully give instructions to the engaged consultant / lawyer on behalf of the City.

##### **Officer attendance**

The City will ensure an Officer is present at any meeting, mediation or hearing involving Elected Members, the engaged consultant / lawyer and the State Administration Tribunal. Officers may also wish to voluntarily attend to represent the City, as far as practicable. Officers are able to issue instructions on behalf of the City to the engaged consultant / lawyer at any meeting, mediation or hearing, which may take into consideration Councillors input.

##### **Officer Subpoena**

There may be instances where an Officer receives a subpoena requiring them to appear as a witness at the State Administrative Tribunal. The Council acknowledges that in these circumstances, an Officer's evidence to the State Administrative Tribunal may be contrary to Council's decision with respect to the decision that is the subject of review.

### **Mediation**

Where a matter is referred to mediation, the Elected Member, Officer and engaged consultant/lawyer shall participate constructively in the mediation to attempt to reach a compromised solution. Any compromise solution at the mediation shall not be agreed to beyond the scope of the Officer's delegated power. Any compromise solution arising out of mediation shall be referred back to the Council for decision.

### **State Administrative Tribunal**

The State Administrative Tribunal may refer a matter to the Council inviting the Council to reconsider a decision. In this instance, the Officer shall assess the proposal and refer it to Council to affirm the decision, vary the decision or set aside the decision and substitute a new decision.

### **Appeals**

The City will not generally appeal a State Administrative Tribunal decision unless, the Council following legal advice, considers that the Tribunal has made an error of law and / or the issue has significant implications for the City and / or local government.

## **Legislation/ Local Law Requirements**

Not Applicable

## **Other Relevant Policies/Key Documents**

City of South Perth Strategic Community Plan 2017-2027