

**ACCESS TO ENVIRONMENTAL
JUSTICE
EDO CONFERENCE
20 February 2004**



Environmental
Defender's
Office
Western Australia (Inc)

Using the SAT and TPAT

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SAT

■ What is the State Administrative Tribunal?

□ The central administrative appeals tribunal of the State

- To be set up by June 2004
 - Arising from the lack of coordination in existing appellate functions in the administrative law area, and as one means of pursuing recommendations as to open government and accountability contained in the 1992 “Royal Commission report into the Commercial Activities of Government and other matters”.
 - Comprising a President who is a Judge of the Supreme Court and two Deputy Presidents
 - Functions will include the present appellate functions of the Town Planning Appeals Tribunal (“TPAT”)
 - Jurisdiction of SAT comes from the enabling legislation and from the SAT Bill, in particular s 44(3) and (4)
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TPAT now ...

- Present appeal rights for third parties
 - There are presently no third party rights of appeal in the TPAT under the *Town Planning and Development Act 1928*
 - Until April 2003 there were limited joinder rights for those who have a special interest such as a neighbour affected by the proposal: s 50(3)
 - From April 2003, Section 62 allows a submitter with a sufficient interest to be heard but by way of submission only, rather than calling evidence and cross-examining so as to flesh out a different case from the respondent on the appeal
 - City of Albany district scheme still allows third party rights of appeal to the TPAT for non-applicants
 - *Oon v Town of Claremont* [2003] WATPAT 97
 - *C Harding and H Read v Shire of Chittering and Ors* [2003] WATPAT 147
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TPAT after the SAT

- Section 62 remains unchanged under the SAT legislation
 - Clause 38 of the SAT bill allows third parties to be joined to existing proceedings
 - Still have to show one's interests are affected by the proceedings, or that one ought to be bound by or have the benefit of the proceeding (and there is a general discretion to allow joinder of a party)
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Intervenor actions

- Attorney-General has rights as intervenor e.g. in relation to public interest matters.
 - Under the SAT Bill anyone can apply to intervene in proceedings in the discretion of and subject to the conditions of the SAT
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EDO submission on the SAT Bill

- The EDO made a submission to the SAT Bill that clause 38 needed to be extended to allow public interest environmental groups to have standing to join proceedings as a third party
 - The EDO has made submissions in the past seeking to create a true third party right of appeal in the TPAT
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