
State Administrative Tribunal

Environmental Defender's Office WA
(Inc)

Background

- There are currently over 50 bodies that have power to review administrative decisions
 - Since 1982, various WA law reform reports have recommended all administrative decisions be reviewed by one body
 - The Commonwealth and all other States except Qld have consolidated administrative review systems
 - In May 2002 the 'Barker report' recommended WA establish a State Administrative Tribunal
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What is administrative review?

- Review of 'administrative' decisions, which are discretionary decisions made by the executive eg government departments or Ministers
 - Power to make administrative decisions must be given by statutes
 - Power to review administrative decisions must also be given by statutes
 - Review of the merits of the decision
 - Does not include review of legality of decision
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Currently reviews are done by:

- Courts (all levels) eg Supreme Court, Court of Petty Sessions
 - Administrative Appeal Tribunals eg Town Planning Appeals Tribunal
 - Ministers eg Minister for the Environment
 - Professional boards eg Legal Practice Board
 - Administrative Tribunals eg Assessor of Criminal Injuries Compensation
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Reviews can be requested about:

- Fisheries licences
 - Land valuations
 - Firearms licences
 - Town planning decisions
 - Heritage decisions
 - Environmental decisions
 - Dentists, finance brokers, lawyers
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Problems with existing system

- Too much variation between decisions on similar issues
 - Some decisions seen as political
 - Confusion about who can appeal to
 - No formal body of decisions to refer to for precedent value
 - Different procedures apply in different places
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State Administrative Tribunal

- Will be established by the *State Administrative Tribunal Bill 2003*
 - Will have jurisdiction conferred on it by the *State Administration Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2002*
 - Bills are currently before the Legislative Council committee on legislation
 - Expected to commence operating on 1 January 2004
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What will the SAT look like?

- Headed by Supreme Court Judge to be known as the President
 - Panels of members from a range of professions
 - All panels will include a lawyer and an appropriate expert
 - Not bound by formal rules of evidence
 - Guided by general principles of natural justice
 - Largely a “no costs” jurisdiction
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Objectives of the SAT

- The objectives of the SAT will be:
 - to achieve the resolution of questions, complaints or disputes, and make or review decisions, fairly and according to the substantial merits of the case
 - To act as speedily and with as little formality and technicality as is practicable, and minimise the costs to parties
 - to make appropriate use of the knowledge and experience of Tribunal members
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Who can apply for review?

- No general right to apply for review of administrative decisions in WA
 - Only those people who can currently appeal will be able to apply
 - Members of public will not be given automatic right to apply
 - Usually only proponents have right of apply for review (as given by statute)
 - However, others may be joined as a third party
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What reviews will the SAT hear?

■ SAT will hear:

- Appeals to Town Planning Appeals Tribunal about subdivision decisions, development decisions, and heritage decisions
 - Appeals to fisheries tribunals about fishing licences under *Fish Resources Management Act 1994*
 - Appeals to Local Court under *Aboriginal Heritage Act 1990* about use of land which will affect Aboriginal heritage
 - Appeals to Minister for Agriculture under *Soil and Land Conservation Act 1945* about soil conservation notices
 - Appeals to Minister for Fisheries about pearling licences
 - Appeals to water licensing tribunal established by the Minister for Environment about water licences
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What reviews won't the SAT hear?

- Appeals about environmental impact assessment (EPA's decisions or Minister for Environment's decisions)
 - Appeals about licences and works approvals issued by Department of Environmental Protection
 - Appeals about environmental protection notices
 - Objections about grant of mining tenements
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What remedies can the SAT grant?

- Uphold original administrative decision
 - Amend or reverse original administrative decision
 - Send original administrative decision back to be re-considered by original decision maker
 - Issue injunction
 - Can dismiss applications which are:
 - frivolous, vexatious, misconceived or lacking in substance;
 - being used for an improper purpose; or
 - otherwise an abuse of process.
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Benefits of the SAT

- Applicants will be able to request written reasons about why the original decision was made
 - SAT will prepare written reasons for its review decisions
 - People won't necessarily need lawyers to act for them
 - SAT can inform itself as well as hear evidence from parties
 - One stop shop for most administrative reviews
 - SAT can order compulsory mediation
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