



## Policy PS1 – Applications for Review with State Administrative Tribunal

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### 1. Policy Intention

To provide guidelines for the conduct of matters before the State Administrative Tribunal.

### 2. Policy

- 2.1 Council supports the role of the State Administrative Tribunal (the Tribunal) as an independent appeal body and does not seek to discourage review of Council decisions in accordance with statutory rights.
- 2.2 Council supports the independence and flexibility of the Tribunal provided by the current legislation. Council does not seek to criticise or challenge decisions of the Tribunal unless it is of the opinion that the Tribunal has erred at law.
- 2.3 Council will endeavour to achieve a negotiated or mediated settlement of matters before the Tribunal, consistent with the Shire of Murray's (Shire) planning and development framework, in order to achieve timely and cost-effective resolution of matters.
- 2.4 Council will take all reasonable steps to ensure that appropriate delegations and procedures are in place to reduce time delays and costs in dealing with matters before the Tribunal.
- 2.5 Where the matter before the Tribunal arises from a decision made under delegated authority or where the Council decision is the same or the same in substance to the officer recommendation, then the responsible officer or any other officer nominated by the Director Planning and Sustainability is to represent the Shire during the conduct of the proceedings.
- 2.6 Where the matter before the Tribunal arises from a Council decision which differs in substance from the officer recommendation, then to ensure the professional integrity of officers and the independence of advice provided to the Tribunal, Council will engage suitable external parties to represent the Shire at the Tribunal. In this regard Council accepts and supports the ethical responsibility of its officers to state professional opinions.
- 2.7 Subject to no objection being raised by the Tribunal, Council may nominate a Council Members representative and, if considered desirable, a member or members of the community to participate in the mediation or to provide evidence to the Tribunal.
- 2.8 In the event of Shire officers being subpoenaed to provide evidence before the Tribunal, Council acknowledges that its officers will be required to give evidence in support of the officer's recommendation and professional opinion, acknowledging that evidence given may be contrary to the Council decision, the subject of the matter before the Tribunal.
- 2.9 In circumstances set out in paragraphs (2.6) and (2.7) above, and subject to avoidance of any conflict of interest, officers will continue to guide progress of the response to the Tribunal, to provide assistance to representatives engaged and

maintain administrative support but will not involve themselves in the giving or formulation of evidence.

- 2.10** Council will seek to be represented by a legal practitioner or other suitable specialist to assist in the review where suitable technical skills are not available internally and in circumstances where the application for review is likely to be determined by legal or other specialist interpretation or argument.
- 2.11** Council will accede to any lawful request by the Tribunal to provide information to the Tribunal or other parties in relation to a matter before the Tribunal.
- 2.12** Council will seek costs against any party where, in its opinion, Council's costs have been unreasonably increased by the actions of that party.

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Policy Detail		
<b>Responsible Directorate</b>	Planning and Sustainability	
<b>Responsible Department</b>	Planning and Environment Services	
<b>Responsible Officer</b>	Manager Planning and Environment Services	
<b>Next Policy Review / Schedule</b>	2026 (3-yearly)	
<b>Council Adoption</b>	<b>Date / Resolution</b>	24 February 2011 (OCM11/012)
<b>Amendment Record</b>	<b>Date / Resolution</b>	26 July 2012 (OCM12/149)
		26 June 2014 (OCM14/077)
		25 June 2015 (OCM15/155)
		23 June 2022 (OCM22/070)