

POL	RESPONSE TO APPEALS	SC58*
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POLICY CODE:	SC58
DIRECTORATE:	Planning & Development
BUSINESS UNIT:	Planning Services
SERVICE UNIT:	Statutory Planning Services
RESPONSIBLE OFFICER:	Manager, Statutory Planning
FILE NO.:	182/002
DATE FIRST ADOPTED:	11 October 2012
DATE LAST REVIEWED:	8 June 2017
ATTACHMENTS:	N/A
VERSION NO.	5

Dates of Amendments / Reviews:		
DAPPS Meeting:	27 September 2012	26 November 2015
	22 August 2013	18 May 2017
	26 February 2015	
OCM:	11 October 2012	12 March 2015
	12 September 2013	10 December 2015

*[Previously PSPD25]

BACKGROUND:

Council decisions are at times subject of applications for Review to the State Administrative Tribunal. Such applications can be made where the Council has made a decision that was consistent with or contrary to the recommendation of a City Officer.

Where Council makes a decision that is contrary to the Officer's recommendation, the Local Government (Administration) Regulations 1996 regulation 11(da) states as follows:

"11 The content of minutes of a meeting of a council or a committee is to include -

(da) written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee...."

In either of these circumstances guidance is required for Council and City Officers in dealing with SAT review proceedings.

PURPOSE:

The purpose of this Policy is to clarify the role, responsibility and accountability of the Council and City Officers in respect to decisions it makes which are the subject of an application for review to the SAT. The Council believes that the following position is necessary and is in the best interests of both the Council and City Officers.

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POLICY:

(1) Council decision consistent with Officer's recommendation

Where a Council decision is the same or essentially the same as an Officer's recommendation, or corrects or improves the content of an Officer's recommendation, then the responsible Officer or another Officer nominated by a Director or the CEO, shall provide a written response to an application for review on behalf of the Council or attend a mediation or tribunal hearing as required in order to represent the Council's position.

Elected Members shall be progressively advised of all outcomes of any mediation relating to a decision made at a Council meeting conducted as part of an application for review.

(2) Council decision contrary to the Officer's recommendation

Where a decision of the Council is the subject of an application for review to the SAT and that decision was contrary to the Officer's recommendation then, in the interests of the Council and the Officer:-

1. The two Elected Members who moved and seconded the alternative recommendation shall be responsible for attending SAT mediations and full hearings. If those particular Elected Members are not available to attend, then they will arrange for another an Elected Member who voted in favour of the alternative recommendation to attend and represent Council in their place. Other Elected Members may be invited to attend by the SAT.
2. Council Officers shall attend SAT Direction Hearings on Council's behalf and shall attend mediations and full hearings to assist Elected Members throughout the process. Council Officers shall also ensure that all Elected Members are progressively advised of all outcomes of any mediation or hearing.
3. The CEO or a Director may engage a legal representative, consultant or advocate to represent Council in defending an application for review at the SAT. This shall be in addition to (2) and (1) above.
4. Council officers shall provide all necessary public information to the nominated Elected Members, consultant or advocate to assist in attendance at mediation and the compilation of a response or a witness statement.
5. Council officers, if required, or subpoenaed can give evidence at a tribunal hearing in support of the officer's recommendation despite the fact that the evidence given may be contrary to the Council decision, the subject of the appeal.