

Practice Note 4

Review of decisions of the Tribunal under section 244 of the *Planning and Development Act 2005*

What is this document?

1. This document is a practice note issued by the Rules Committee of the Tribunal under section 33 of the State Administrative Tribunal Act 2004 (WA).
2. This document describes important aspects of the Tribunal's practice and procedure in proceedings involving review by a judicial member of decisions of the Tribunal under section 244 of the Planning and Development Act 2005 (WA).
3. If you need help in understanding this document please contact the Tribunal on (08) 9219 3111 or 1300 306 017 (STD callers) or email the Tribunal at info@sat.justice.wa.gov.au.

When can an application for review be made?

4. Section 244 of the Planning and Development Act permits a party to apply to a judicial member of the Tribunal for review of a decision of the Tribunal under that Act where:
 - (a) the decision was made by the Tribunal when constituted without a member who is a legally qualified member (as defined in section 3(1) of the State Administrative Tribunal Act); and
 - (b) the decision involves a question of law.
5. An application for review of a decision under section 244 of the Planning and Development Act must be made within one month after the decision is given to the party.

What documents must be filed with the Tribunal?

6. In this document the "applicant" is the party that applies for review of a decision under section 244 of the Planning and Development Act. The "respondent" is the other party to the proceedings.
7. Within the time period referred to in paragraph 5 the applicant must file with the Tribunal and on the same day give to the respondent the following documents:
 - (a) a statement of the grounds for review clearly identifying the question or questions of law said to be involved;

- (b) written submissions in support of its application for review; and
 - (c) any decided cases on which it relies
8. When it gives the respondent the documents referred to in paragraph 7 the applicant must give the respondent written notice of its obligation to file and give the documents referred to in paragraph 9.
 9. Within 7 days of being given the documents referred to in paragraph 7 the respondent must file with the Tribunal and give to the applicant the following documents:
 - (a) written submissions in relation to the application for review; and
 - (b) any decided cases on which it relies.
 10. Within 3 days of being given the documents referred to in paragraph 9 the applicant must file with the Tribunal and give to the respondent any submissions in reply to the respondent's written submissions.

How will the judicial member determine the application for review?

11. The President specifies which judicial member will determine the application for review.
12. Unless any party specifically requests an oral hearing in its written submissions, the judicial member will determine the application for review entirely on the documents, namely the Tribunal's reasons for decision, the written submissions and any exhibits admitted into evidence by the Tribunal and specifically referred to in the written submissions.
13. Under section 244(5)(b) of the Planning and Development Act the judicial member is required to review the decision no later than one month after the date on which the application for review was made.