

**SD301\***

**STATE ADMINISTRATIVE TRIBUNAL ACT 2004**

**STATE ADMINISTRATIVE TRIBUNAL RULES (AMENDMENT NO.1) 2006**

Pursuant to s 170 of the *State Administrative Tribunal Act 2004* (WA) we have this day made the Rules set out in the Schedule.

Dated this 20th day of March 2006.

Hon. Justice M. L. BARKER, President.  
Judge J. A. CHANEY, SC, Deputy President.  
Judge J. E. ECKERT, Deputy President.  
M. J. ALLEN, Senior Member.  
D. R. PARRY Senior Member.  
T. J. CAREY, Member.  
J. MANSVELD, Member.  
M. J. HARDY.  
M. SCOTT.

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**Explanatory note**

The objects of this Rule Amendment are to—

- (a) require documents which contain protected matter to be included in Part A of a party's bundle of documents with the protected matter excised;

- (b) require a party wishing the Tribunal to exercise its initiative to issue a summons for production of any document or other material to state briefly on the approved form the reasons why it considers that the Tribunal should do so;
- (c) provide that a summons will usually be made returnable only at a final hearing;
- (d) make provision in relation to applications to set aside a summons, to discharge an order for production under the Act section 35(1) and to limit access to any document or other material produced in answer to a summons or in accordance with an order under the Act section 35(1);
- (e) permit a person named in a summons or in an order for production of any document or other material to the Tribunal to produce the document or material to the executive officer before the date specified in the summons;
- (f) provide that a settlement offer under rule 41 must remain open for acceptance until the commencement of a hearing, rather than until immediately before the decision of the Tribunal; and
- (g) delete rule 63 in consequence of the repeal of the *Town Planning and Development Act 1928* (WA) and insert in its place an equivalent rule in relation to a review by the Tribunal under the *Planning and Development Act 2005* (WA). The amendment removes the requirement for the Tribunal to release a draft report for comment to the parties after drafting a report to the Minister but before making any recommendation to the Minister.

## SCHEDULE

### 1. Name of Rules

These Rules may be cited as the *State Administrative Tribunal Rules (Amendment No.1) 2006*.

### 2. Commencement

These Rules commence on 9 April 2006.

### 3. Amendment of Principal Rules

The *State Administrative Tribunal Rules 2004* are amended as follows—

- (i) in subrule 13(2)(a)(ii) by deleting the words “its substance” and by inserting in their place the words “the protected matter”;
- (ii) in subrule 13(2)(a)(iii) by deleting the words “document that contains or comprises”;
- (iii) in subrule 13(2)(b)(i) by deleting the words “which do not contain or comprise” and by inserting in their place the word “excluding”;
- (iv) in subrule 13(2)(b)(i) by adding a second sentence as follows: “Where any document contains protected matter and non-protected matter, the protected matter must be excised from the document included in Part A.”;
- (v) by repealing rule 24 and by inserting the following rule in its place—

#### **“24. Request for and return of summons to witness and production of documents and other material by third parties**

- (1) A request for the issue of a summons under the Act section 66(1) must be made in an approved form.
- (2) Where a party wishes the Tribunal to exercise its initiative to require the production of any document or other material under the Act section 66(1)(b), the party must state briefly on the approved form the reasons why it considers that the Tribunal should do so.
- (3) A summons will usually be made returnable by the Tribunal at a final hearing. Where a party wishes to have any document or other material produced by a third party prior to a final hearing, the party should make an application under the Act section 35(1).
- (4) Any application to set aside a summons or to discharge an order made under the Act section 35(1) in whole or in part or to limit access to any document or other material produced in answer to a summons or in compliance with an order may be made at the hearing at which the summons is returnable or at which the order requires production or at another time prior to the date on which the production of the document or material is required by the summons or order.
- (5) A person who is required by a summons or an order made under the Act section 35(1) to produce any document or other material may, unless the person intends to apply to set aside the summons or to discharge the order or to limit access to any document or material, produce the document or material to the executive officer before the date specified in the summons or order and is not then required to attend the hearing on the date specified in the summons or the order, unless the Tribunal orders otherwise or unless the person is also required by the summons to give evidence.

- (6) Where a document or material is produced to the executive officer in accordance with subrule (5), each party may inspect and photocopy the document or material within the Tribunal's office for the purpose of the proceedings unless the Tribunal orders otherwise.”;
- (vi) by deleting subrule 41(1) and by inserting the following subrule in its place—
- “(1) An offer may be open for acceptance for any period. However, an offer must be open for acceptance until the commencement of the hearing or until the expiry of a specified period after the offer is made, whichever is the shorter period.”; and
- (vii) by deleting rule 63 and by inserting the following rule in its place—
- “63. *Planning and Development Act 2005***
- (1) This rule applies to a review by the Tribunal under the *Planning and Development Act 2005* Part 14.
- (2) Under the Act section 39(1)(f) a party is authorised to be represented by an agent.
- (3) As soon as practicable after the Minister makes a referral under the *Planning and Development Act 2005* section 211(2), the Tribunal is to notify the person who made the representation and the relevant local government that the representation has been referred to the Tribunal.”
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