

Case Note: Robertson and City of Albany

Orders to disclose statutory planning committee recommendations

In *Robertson and City of Albany* [2018] WASAT 138 (available [here](#)), the Tribunal made an order requiring the WAPC to produce to the Tribunal the minutes of a Statutory Planning Committee (SPC) recommendation made to the Minister for Planning concerning a draft amendment to the local planning scheme. The amendment, if approved by the Minister and gazetted, would prohibit a development proposed by the applicant.

The Tribunal ordered that, under s 61(2) of the SAT Act, the recommendation made by the SPC to the Minister “be provided and disclosed to the parties’ legal representatives and town planning expert witnesses” to afford procedural fairness to the parties and enable them to present evidence and make submission in relation to the matter at hand. In making the order, the Tribunal noted that “it is generally contrary to the public interest for a recommendation by the Commission to the Minister in relation to a draft local planning scheme amendment to be publicly disclosed, both because it is confidential and because it may affect planning and development processes and decisions and land values in the area to which it applies” (at 28).

The Tribunal also noted that it “has, in the past, made confidentiality orders in relation to draft planning policies of the Commission and draft State planning policies requiring such documents to only be disclosed to the parties’ legal representatives and expert planning witnesses. In my view, that is the appropriate course in this case” at (at 33)