

# Case Note: Western Australian Shalom Group Inc and City of Swan

## Land use definition and development assessment

In *West Australian Shalom Group Inc. and City of Swan* [2018] WASAT 36 (S) Judge Parry considered an application by Shalom made under s 31(1) of the SAT Act inviting the City to reconsider its decision to refuse development approval. The development had been operating for nearly three years without approval. The City's planning staff originally recommended that conditional approval of the development application be granted. However Council refused the development application based on its own determination that the development was improperly classified as Community Purpose.

In the Tribunal's findings, Judge Parry pointed to earlier Tribunal decisions which found that the development's land use classification is properly classified and capable of approval under the local planning scheme. Judge Parry went on to note that "there is a real possibility that the Council only considered the application on misunderstanding as to its proper land use classification." Subsequently the Judge found Shalom's application for an order inviting the City to reconsider its decision should be granted "because the Tribunal is not satisfied that the respondent has in fact turned its mind to and properly considered the merits of the development application."