Providing Access to Justice: Taking Tribunals to the Community

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Functioning of SAT

- Based in Perth with no regional offices
- Magistrates are ex officio members (not used)
- Regular attendance on site in regional towns and cities
- Volume does not justify a ‘circuit’ or regular road trip
- Most frequent on-site: building; strata; planning but limited visits also for guardian and administration
- Extensive video and teleconference, but limited benefit when mediate
On-site mediation: tips

- Change of power relationship from office to their territory (from member to mate)
- Practical issues of weather — rain, heat, terrain
- Place to meet — sit; stand; write
- Risk of break away meetings (member alone with party)
- Write-up of outcome; copies for parties
- Security and safety
View as part of hearing: principles

- View before, during or at conclusion of hearing
- Typical cases: building, strata, valuation, planning
- Parties present
- Experts may also be present
- No evidence taken
- Demonstration, but parties should agree on what, how and when
- Role of expert sessional member
- Notes of observations read or typed on transcript

Useful quote in reasons: I wish to emphasise that the view did not involve my taking further evidence. I have refrained from reaching any conclusion, or even an impression, as a result of the view. My findings and conclusions are based entirely on the evidence adduced at trial. Templeman J in *Willshee v Westcourt Ltd* [2008] WASC 18 at par 8.
On-site hearing: tips

• Typical jurisdictions: building, strata, planning, guardian and administration
• Ensure good reason to do so
• Recording equipment; witnesses and experts
• Exchange of documents; physical proximity; informality
• Venue for hearing
• Safety
• Professionalism maintained
Simplified processes

- **Early Neutral Assessment (ENE)**
  - Neutral expert assesses at request of Tribunal
  - Provides non-binding opinion to parties

- **Tribunal Initiated Proposal (TIP)**
  - German experience
  - Presiding officer may at any stage of proceeding submit a proposed outcome to parties
  - No submissions or exchange
  - If not accepted hearing continues by same presiding officer