



NCAT  
NSW Civil &  
Administrative Tribunal

# NCAT

## Annual Report

### 2014-2015



**NCAT**  
NSW Civil &  
Administrative Tribunal

The Hon Gabrielle Upton, MP  
Attorney General  
52 Martin Place  
SYDNEY NSW 2000

Dear Attorney

I am pleased to submit the 2014-2015 Annual Report for the NSW Civil and Administrative Tribunal.

The report summarises the Tribunal's performance and outcomes achieved during the period 1 July 2014 to 30 June 2015.

The report has been prepared in accordance with section 91 of the *Civil and Administrative Tribunal Act 2013*.

Following the tabling of the report in Parliament, it will be available for public access on the Tribunal's website at [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au).

Yours sincerely

*[signed]*

**The Hon Justice Robertson WRIGHT**  
President  
Civil and Administrative Tribunal of New South Wales

# Table of Contents

<b>President's Report</b> .....	4
<b>2014-2015 in Review</b> .....	7
<b>Independence</b> .....	8
Legislative framework.....	8
Member appointments and tenure .....	9
Staffing .....	9
Budget and funding sources .....	10
<b>Leadership and Effective Management</b> .....	11
Leadership group .....	11
Governance.....	12
NCAT Strategic Plan 2014-2018.....	13
<b>Fair Treatment</b> .....	15
Customer service charter and service enhancement projects.....	15
Procedures and processes .....	15
Internal appeals .....	15
NCAT procedural directions, guidelines and policies.....	16
Representation before the Tribunal.....	17
Interpreter services .....	18
Cultural and indigenous issues.....	18
Resources and assistance.....	18
<b>Accessibility</b> .....	20
Accessing NCAT services.....	20
NCAT registries .....	20
Hearing locations .....	20
Alternative access to hearings .....	21
Fees and charges.....	21
Legal assistance .....	21
Additional assistance .....	22
NCAT Communications Strategy 2015-2018 .....	22

<b>Professionalism and Integrity</b> .....	23
Competency framework and performance appraisal .....	23
Member qualifications .....	23
Code of Conduct .....	23
Professional development .....	23
<b>Accountability</b> .....	25
Hearings open to the public.....	25
Complaint handling mechanism .....	25
Stakeholder engagement.....	25
<b>Efficiency</b> .....	27
Performance standards and monitoring.....	27
Resolution processes .....	27
<b>Client needs and satisfaction</b> .....	29
NCAT website and social media.....	29
Feedback, surveys and e-newsletters.....	29
<b>Divisional Reports</b> .....	31
Administrative and Equal Opportunity Division Report.....	32
Consumer and Commercial Division Report.....	36
Guardianship Division Report.....	39
Occupational Division Report.....	44
<b>Appendices</b> .....	49
Appendix 1 - Legislation .....	50
Appendix 2 – Legislative change 2014-2015.....	52
Appendix 3 – Tribunal Members at 30 June 2015.....	53
Appendix 4 – NCAT Member Code of Conduct .....	73
Appendix 5 – Expenditure Report.....	77
Appendix 6 – NCAT Strategic Plan 2014-2018.....	78
Appendix 7 – Resolution Processes.....	81
Appendix 8 – Fees and charges as at 30 June 2015 .....	85
Appendix 9 – NCAT Liaison Group and Divisional Consultative Forum Membership.....	87

NOTE: Each section of this report commences with an extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

# President's Report

## The first full year of operations

---

At the end of NCAT's first full year of operations, it is appropriate to be reminded that the Tribunal was established to remedy the "complex and bewildering"<sup>1</sup> tribunal system in New South Wales and to provide a "simple, quick, and effective process for resolving disputes and reviewing administrative action"<sup>2</sup>.

In 2014-2015, the Tribunal has received over 71,400 applications and has finalised over 72,700 matters. Our website received more than 2.2 million page hits over this period. NCAT has provided one point of access for tribunal services for more than 100,000 people in New South Wales whether their matter related to a review of a decision, anti-discrimination, a consumer claim, a tenancy matter, home building, residential parks, strata or community schemes, motor vehicles, retirement villages, dividing fences, guardianship or financial management. For them, there was one Tribunal to go to, one telephone number to contact and one website to use. The tribunal system has been significantly simplified and is now less complex and bewildering. In this sense, NCAT is fulfilling the object included in s 3(a) of *Civil and Administrative Tribunal Act 2013* (NSW) of providing "a single point of access for most tribunal services in the State".

During this year, the Tribunal's forms and processes have been reviewed with a view to achieving simplicity while, at the same time, assisting parties in many types of matters to present their own cases without the need for legal representation. In addition, the Tribunal has introduced monthly reviews of, and reporting on, all matters that have not been finalised within 12 months. This has produced a significant improvement so that as at 30 June 2015, there were less than 225 matters in this category. Improvement in the quality of decision making and writing is being achieved. This is assisted by the vast majority of first instance decisions made in the Tribunal being internally appealable to the Tribunal's Appeal Panel. Scrutiny of the Tribunal's decisions is generally not only prompt and cost effective for parties but also salutary for the decision makers. In addition, induction and professional development training of Members is being introduced or co-ordinated on a Tribunal-wide basis. The Tribunal takes seriously the object of promoting "public confidence in tribunal decision making in the State and in the conduct of tribunal members" in s 3(g) of the Act and these initiatives are part of the Tribunal's response to that object and the other legislative objects.

In order to provide an informative and coherent approach to the material provided in the Annual Report, the Tribunal has organised this year's report by reference to the eight areas of tribunal performance, which the Council of Australasian Tribunals, in its publication *International Framework for Tribunal Excellence*, has identified as providing a guide for assessing a tribunal's functioning: Independence; Leadership and Effective Management; Fair treatment; Accessibility;

---

<sup>1</sup> New South Wales, Standing Committee on Law and Justice, *Opportunities to consolidate tribunals in NSW*, (March 2012).

<sup>2</sup> New South Wales, NSW Government, *Response to the Standing Committee on Law and Justice Inquiry into Opportunities to consolidate tribunals in NSW*, (October 2012) at 1.

Professionalism and Integrity; Accountability; Efficiency; and Client Needs and Satisfaction<sup>3</sup>. Each section of the report deals with one of those areas and is introduced with a quotation from the International Framework which explains the significance of that area of performance for a tribunal.

During the 2014–2015 year, a significant number of new Members have been appointed to each of the Divisions in addition to the existing Members who have been reappointed. These appointments and reappointments refreshed the membership of the Tribunal at the same time as retaining much accumulated experience and expertise.

On 31 December 2014, the term of appointment of the Honourable Wayne Haylen QC, Deputy President and Head of the Occupational Division, came to an end and he elected not to seek reappointment. May I express my personal thanks, and those of the Tribunal as a whole, to Wayne Haylen for his very significant contribution to NCAT, and its predecessor the Administrative Decisions Tribunal. To take his place, the Honourable Acting Judge Jennifer Boland AM was appointed Deputy President of the Tribunal and Head of the Occupational Division from 1 January 2015. Shortly after on 7 January 2015, Stuart Westgarth commenced his new term of appointment as Deputy President and Head of the Consumer and Commercial Division, following his reappointment to that position. There have been no other changes in the Deputy Presidents and Heads of Division this year.

The Members of the Tribunal continue to bring enormous experience, talent and dedication to their work and thereby make a substantial contribution to the welfare of the people of New South Wales.

---

<sup>3</sup> Council of Australasian Tribunals, *International Framework for Tribunal Excellence*, 2014 (<http://coat.gov.au/images/downloads/INTL%20COAT%20FRAMEWK%20TRIB%20April%202014.pdf> accessed 22 October 2015) at p 6.

All of the Deputy Presidents and the Principal, Senior and General Members deserve my specific appreciation for their support and hard work over the first full year of NCAT's operations.

The staff of the Tribunal have ensured that NCAT continues to assist people to resolve their issues and disputes promptly and efficiently. This year I have visited the staff in each of NCAT's Registries and have been most impressed by their hard work, co-operative attitude and desire to serve the public and those who come to the Tribunal. They have demonstrated a willingness to participate in the changes necessary to make NCAT's registry processes more effective and efficient. Their suggestions and observations have proved invaluable.

The talent and drive of the inaugural Principal Registrar of the Tribunal, Ms Sian Leathem, who contributed so much to the formation and implementation of NCAT, was recognised by others as well as by us. As a consequence, in March 2015 she was offered and accepted the position of Principal Registrar of the Administrative Appeals Tribunal, into which a number of Commonwealth tribunals were in the process of being merged. May I congratulate her on this well-deserved appointment and thank her for the enormous contribution she made to NCAT. She was responsible for guiding both Members and staff through the transition and into the new tribunal environment with good humour and efficiency. As at 30 June 2015, her replacement as Principal Registrar had not been determined. Ms Vikki Hardwick, Divisional Registrar of the Consumer and Commercial Division, and Ms Amanda Curtin, Divisional Registrar of the Guardianship Division, alternated in filling the role of Acting Principal Registrar. Both of them performed with enthusiasm and goodwill and the Tribunal was in good hands while a replacement was sought.

NCAT benefits from listening to those community groups, representative bodies and others who have a legitimate interest in the functioning of the

Tribunal through the NCAT-wide Liaison Group as well as the numerous Consultative Forums convened by each of the Divisions. These meetings allow the Tribunal to reach out to key stakeholders, to receive constructive feedback on its functioning and suggestions for improvement and to be responsive to the needs of all its users.

The Tribunal does not operate in a vacuum and we have benefitted from the support of two Attorneys General during 2014–2015, the Honourable Brad Hazzard MP and the Honourable Gabrielle Upton MP. Their support and encouragement has been of the greatest consequence. In addition, the Secretary of the Department of Justice, Mr Andrew Cappie-Wood, and the Deputy Secretary, Courts and Tribunal Services, Mr Michael Talbot, have ensured that resources have been made available for NCAT to implement its transformation from a collection of 22 different tribunals and bodies and to introduce an up to date case management system and digitally supported files and hearings. The Tribunal appreciates their commitment to NCAT's playing an integral role in the administration of civil justice in this State.

My essential responsibility as President is to seek to ensure that the Tribunal meets its objectives and serves the people of New South Wales by delivering prompt, accessible civil justice to those who come before it. It has been my privilege to do this with the Members and staff, supported by the Department and the Attorney General.

The coming year presents different tasks and challenges. The Tribunal will be implementing a new electronic case management system with digital filing of document and electronic files. Parties, Members and staff will be asked to work in a new and somewhat unfamiliar environment. Nonetheless, these changes are designed to enhance efficiency and accessibility. Indeed, accessibility, Member professional development and staff training and development will be priorities for the Tribunal in the next financial year. I also look forward to welcoming and working with a new Principal Registrar. The Tribunal is well positioned to enter the 2015–2016 financial year.

**The Hon Justice Robertson Wright**

President

NSW Civil and Administrative Tribunal

# 2014-2015 in Review

---

## 71,449 Applications lodged

- 55.3% of all applications lodged online
- 67.7% of applications in the Consumer and Commercial Division lodged online
- 608 internal appeals lodged from final, ancillary and interlocutory decisions of the Tribunal

## 85,110 Hearings held

- Hearings were held in over 70 venues across New South Wales, with 37% of hearings in regional areas

## 72,781 Applications finalised

- Achieved an overall clearance ratio of 101.9%

## 153 Community consultations, stakeholder group meetings, Tribunal Member and staff training

## 2.2+ million Website page views

- Top 10 terms searched on the NCAT website in June 2015: hearing notes, fees, forms, costs, appeal, hearing list, power of attorney, summons, person responsible, preparation of reports to the Tribunal.
- 236 likes on NCAT Facebook
- 202 followers on NCAT Twitter

## Applications 2014-2015

DIVISION	NUMBER	% OF TOTAL
Administrative and Equal Opportunity	779	1.1%
Consumer and Commercial	58,360	81.7%
Guardianship	11,457	16.0%
Occupational	245	0.3%
Internal Appeals	608	0.9%
<b>Total</b>	<b>71,449</b>	<b>100%</b>

Further statistical information is included in the Divisional Reports section of this Report.

# Independence

“Independence is about the degree of separation from the Executive. A tribunal’s degree of independence will influence public perception about the extent of the tribunal’s impartiality. This is particularly important in tribunals which deal with disputes involving the citizen and the State. Impartiality is essential for the delivery of predictable, just decisions and the acceptance of those decisions by the public.”<sup>4</sup>

## Legislative framework

The Civil and Administrative Tribunal of New South Wales (NCAT) is an independent statutory body established by the *Civil and Administrative Tribunal Act 2013* (NSW) (the Act). The Act contains provisions related to the establishment of the Tribunal, its jurisdiction, powers and procedures and the appointment and removal of Members.

The objects specified in s 3(a) and (g) of the Act include the establishment of NCAT as an independent Tribunal and the promotion of public confidence in Tribunal decision making and in the conduct of Tribunal Members. To fulfil its objectives, NCAT aims to deliver Tribunal services that are just, prompt, accessible, economical and effective and has in place processes to monitor and assess these aspects of its work. These objectives underlie the work of the Tribunal, its Members and staff, and inform the delivery of NCAT services across New South Wales.

The independent decision-making role of the Tribunal is confirmed by the more than 160 separate Acts and subordinate legislation that confer broad and diverse powers on the Tribunal. A list of the enabling legislation is provided at **Appendix 1**. These powers are exercised by the four Divisions and the Internal Appeal Panel of NCAT.

Legislative amendments which occurred in 2014-2015 included those under the *Courts and Crimes Legislation Amendment Act 2015* (NSW) (the Amendment Act), which commenced on 15 February 2015. As a result of those amendments, the Tribunal may now grant leave to a party to be represented by an Australian legal practitioner rather than requiring the leave to be given to a specified person. The amendments also simplify the name of the Health Practitioner List and permit Senior Members, as well as General Members, to sit on appeals in relation to Guardianship matters. In addition, the Amendment Act contained a number of amendments to the *Guardianship Act 1987* (NSW) with a view to enhancing the flexibility and efficiency of NCAT and to providing clarity concerning substitute enduring guardians. These changes have been incorporated into the Tribunal’s practice and procedures, Members and staff have received relevant training, and the NCAT website information and resources have been updated. Further information about the Amendment Act is provided at **Appendix 2**.

In addition, the remaining provision of the *Motor Dealers and Repairers Act 2013* (NSW) commenced on 1 December 2014. That Act replaced the *Motor Dealers Act 1974* and the *Motor Vehicle Repairs Act 1980*. The 2013 Act empowers NCAT’s Occupational Division to review decisions made by relevant government agency to refuse, suspend or cancel licences for motor dealers and motor vehicle repairers or to disqualify them.

<sup>4</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

## Member appointments and tenure

The Tribunal's membership is structurally separate from the legislature and executive branches of government. The Act (in Part 2 and in Schedule 2) establishes the requirements for appointment, qualifications, remuneration and other aspects of tenure applying to presidential and non presidential Members of the Tribunal.

The President who must be a Supreme Court Judge is appointed to the Tribunal by the Governor of New South Wales. The Governor also appoints the Deputy Presidents of the Tribunal. Principal Members, Senior Members and General Members are appointed by the Attorney General. Apart from the President who is full time, Members may be appointed on a full-time or a part-time basis. All appointments are for terms of up to five years and Members are eligible to apply or to be recommended for reappointment on the expiration of their terms. Apart from the President, Members may be removed from office by the Governor for incapacity, incompetence or misbehaviour. Members must be assigned by the President to a Division of the Tribunal and Members may be cross assigned by the President to one or more other Divisions.

At 30 June 2015, the Tribunal had 248 Members, including the President, Deputy Presidents, Principal Members, Senior Members and General Members, who bring a range of qualifications, experience and expertise to Tribunal decision making. They are located in the Sydney metropolitan, regional and country areas to provide flexibility and to ensure NCAT services are available and accessible.

Member recruitment activity completed during the year refreshed the Tribunal's membership, and resulted in a number of reappointments as well as new Members being appointed and assigned to Divisions. In the second half of the 2014-2015 year, a recruitment process was commenced for part time Senior Members (Legal and Professional) and part-

time General Members (Community) in the Guardianship Division and for part-time Senior Members (Legal) in the Consumer and Commercial Division.

During the year, Members were also given the opportunity to indicate their interest in being cross-assigned to other Divisions. A number of cross-assignments, depending principally on the needs of the Division in question, resulted from this process. These cross-assignments provide greater flexibility in allocating Members to hear matters, assist in developing the expertise of Members and ensures Members' skills and experience are available to other Divisions within NCAT.

A list of Tribunal Members is provided at **Appendix 3**, with brief biographies that highlight the depth of experience within the Tribunal's membership.

The *NCAT Member Code of Conduct*, at **Appendix 4**, applies to all Members of the Tribunal and provides guidance in the performance of their statutory functions. It also assists Members in identifying and resolving ethical issues if they arise. The Code is kept under review to ensure currency, and is published on the NCAT website at [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au).

## Staffing

Administrative support for the Tribunal and its Members is provided by staff who operate out of the eight NCAT Registries located in the Sydney CBD, metropolitan and regional areas. At 30 June 2015, NCAT had staff in 193 ongoing full-time roles and 6 ongoing part-time roles.

A range of staff learning and development activities are conducted at the Divisional level, including structured monthly briefing days and regular lunchtime sessions with presentations from internal and external speakers.

NCAT staff can also access a range of eLearning and face to face courses offered through the Department of Justice. This training complements

NCAT activities and on-the job training that reinforces and expands existing skill levels within registries.

## Budget and funding sources

Filing and other fees received by NCAT for its services are supplemented by funding from various sources, including recurrent and capital funding from the NSW Treasury. NCAT also receives funds from the Public Purpose Fund, statutory sources including the Rental Bond Board and Motor Vehicle Repair Industry Fund, as well as cost recovery funding from the Health Professionals Councils Authority, the Australian Health Professions Regulator (AHPRA), and the Department of Education.

NCAT's Expenditure Report for the 2014-2015 financial year is attached at **Appendix 5**.

# Leadership and Effective Management

“Strong leadership requires the creation of a highly professional management group, the anticipation of changes in society (which can lead to changes in demand within a tribunal), as well as a focus on innovation and continuous improvement ... Excellent tribunals also encourage and support non-member tribunal administrators and the tribunal members in leadership roles to take part in courses to improve their management skills.”<sup>5</sup>

## Leadership group

### President

The inaugural and current President of NCAT is The Hon Justice Robertson Wright, who was sworn in as a Supreme Court Judge on 25 October 2013.

The President’s functions include directing the business of the Tribunal, facilitating the adoption of good administrative practices for the conduct of the Tribunal’s business, managing Members and advising the Attorney General about appointments, re-appointment and removal of Members. During 2014 and 2015, the President has visited each of the Tribunal’s Divisions and all of the Tribunal’s Registries, in the Sydney CBD, Balmain, Liverpool, Penrith, Wollongong, Newcastle and Tamworth.

### Division Heads/Deputy Presidents

Each of NCAT’s four Divisions is headed by a Deputy President. The Division Head is responsible for the management of matters within that Division and exercises the statutory functions conferred by the Act as well as functions under delegation from the President.

On 31 December 2014, the term of appointment of the inaugural Head of the Occupational Division, the Hon Acting Judge Wayne Haylen QC, came to

an end. After an open, merit-based selection process, the Governor appointed The Hon Acting Judge Jennifer Boland AM to fill this vacancy.

In addition, the Governor has appointed Acting Judge Kevin O’Connor AM as a Deputy President of the Tribunal.

The five Deputy Presidents are:

- Magistrate Nancy Hennessy, Head of the Administrative and Equal Opportunity Division
- Mr Stuart Westgarth, Head of the Consumer and Commercial Division [reappointed from 7 January 2015]
- Mr Malcolm Schyvens, Head of the Guardianship Division
- The Hon Acting Judge Jennifer Boland AM, Head of the Occupational Division [from 1 January 2015]
- Acting Judge Kevin O’Connor AM, Deputy President, Appeals.

### Principal Registrar

The Principal Registrar assists the President in the leadership and management of NCAT and undertakes statutory and other functions conferred by the Act.

In March 2015, the inaugural Principal Registrar, Ms Sian Leathem, resigned to take up the position of Principal Registrar of the expanded Commonwealth Administrative Appeals Tribunal. During the

<sup>5</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

vacancy of the office Principal Registrar, Ms Vikki Hardwick (Divisional Registrar of the Consumer and Commercial Division) and Ms Amanda Curtin (Divisional Registrar of the Guardianship Division) acted in that role. Recruitment to fill the vacancy was commenced but an appointment had not been made before the end of June 2015.

## Deputy Registrar Operations

The Deputy Registrar, Operations, is responsible for managing a range of business and operational support functions for the Tribunal and assists the Principal Registrar. This position is held by Mr Garry Wilson.

## Divisional Registrars

The Divisional Registries are responsible for providing specialised administrative and case management support for all applications in each of NCAT's Division. The Divisional Registrar of each Division is responsible for management of Divisional registry staff and other functions as delegated by the Principal Registrar. The three Divisional Registrars are:

- Ms Pauline Green, Divisional Registrar for the Administrative and Equal Opportunity Division and the Occupational Division
- Ms Vikki Hardwick is the Divisional Registrar for the Consumer and Commercial Division
- Ms Amanda Curtin is the Divisional Registrar for the Guardianship Division.

## Governance

### The Rule Committee

The Rule Committee of the Tribunal is established by s 24 of the Act and comprises the President and the Division Heads. The Principal Registrar was appointed the Secretary of the Rule Committee. Its function is to make rules for the Tribunal and to ensure that the rules are as flexible and informal as possible.

## Governance and Management Meetings

The following meetings are held regularly to manage and guide the operations of NCAT to ensure it achieves its legislative objectives.

### Division Heads Meetings

Each of the Division Heads together with the President and the Principal Registrar meet formally on a monthly basis to review and make decisions concerning the operation and functioning of the Tribunal and the management of Members. Since the beginning of 2015, each quarterly meeting is combined with the Executive Group Meeting.

During the year this group endorsed the NCAT Communications Strategy 2015-2018 which was subsequently released in April 2015. The Principal Member responsible for Member Professional Development, the Manager Business and Communication Services and others responsible for specific projects or aspects of the Tribunal's work are invited to give presentations to the Division Heads Meetings, as required and appropriate.

### Executive Group Meetings

The Executive Group comprises the President, Principal Registrar, Deputy Registrar (Operations) and each of the Divisional Registrars.

The Group meets formally each month to discuss and determine matters relating to the management of the Tribunal and especially resourcing, performance, service delivery and the functioning of the registries. Since the beginning of 2015, each quarterly meeting is combined with the Division Heads Meeting.

### Additional Committees

In addition to the Division Head Meetings and the Executive Group, the President has established a number of committees to deal with specific aspects of the work of the Tribunal:

- The Practice and Procedure Committee
- The Member Reference Manual Committee

- The Accessibility Committee
- The Professional Development Committee

### Practice and Procedure Committee

The Practice and Procedure Committee was established to provide advice and make recommendations to the Rule Committee and Executive Group on the processes, legislation and practice and procedure relevant to the operation of NCAT. The Committee has reviewed existing Procedural Directions and Guidelines and discussed whether amendment is required. The Committee has also identified areas where new Procedural Directions and Guidelines would facilitate the Tribunal's processes. The Committee met seven times during the reporting period and recommended to the President amendments to two existing Procedural Directions (PD), NCAT PD1 *Service and Giving Notice*, and NCAT PD2 *Summonses*. The Committee did not finalise any new Procedural Directions and Guidelines during the year.

On 24 June 2015, The Hon Acting Judge Jennifer Boland, Head of the Occupational Division, replaced the inaugural chair of the Committee, Principal Member Michael Chesterman. The Practice and Procedure Committee also comprises Deputy Divisional Registrars and Tribunal Members from across the four Divisions.

### The Member Reference Manual Committee

The Member Reference Manual Committee was formed in early 2015 under the Chairmanship of Deputy President Stuart Westgarth, Head of the Consumer and Commercial Division. A working group, established to contribute to the work of the Committee, involves Division Heads, a Member of the Consumer and Commercial Division and its Divisional Registrar, and a representative from the Principal Registry. Results of a survey issued to all Tribunal Members during the year confirmed there is strong support for the Manual, with procedural

fairness and a number of practice and procedure topics identified as initial priorities.

### The Accessibility Committee

Terms of reference for the Accessibility Committee were approved by the President in May 2015 and by the end of June the Committee, under the Chairmanship of Deputy President Malcolm Schyvens, was in the process of being formed. More information about the work of this Committee is included at **Appendix 6** to this report.

### The Professional Development Committee

In May 2015 the President issued the Member Professional Development Direction 2015 which mandated the preparation of an NCAT Professional Development Plan for 2015–2017, a draft calendar of induction, training and appraisal activities, and draft terms of reference for a Professional Development Committee to co-ordinate professional development activities across the Tribunal. Work on the preparation of those plans and activities commenced in June 2015.

## NCAT Strategic Plan 2014-2018

The *NCAT Strategic Plan 2014-2018*, launched in June 2014, identifies four priority areas that provide the framework for NCAT's development over the next five years:

- **Integrate** - complete the effective integration of the 22 former tribunals that make up NCAT
- **Influence** - deliver quality decisions and efficient dispute resolution processes
- **Engage** - actively engage our people, stakeholders and the broader community to promote awareness about NCAT and its services
- **Innovate** - improve our services and processes to support a user-friendly environment.

The Plan, at **Appendix 6**, has been circulated to NCAT Members, staff and stakeholders, and is published on the NCAT website.

Business plan priorities were identified under each of the priority areas to ensure NCAT continues to deliver high quality, cost-effective and prompt dispute resolution and registry services. Examples of significant activities that progressed or were commenced during the reporting year include the NCAT Transformation Project, development of the *Members' Reference Manual*, the pilot of Online Dispute Resolution, and the Accessibility Project. Further information on each of these NCAT-wide activities is also included at **Appendix 6**.

# Fair Treatment

“The provision of a fair hearing is at the very heart of a tribunal's obligations to the parties who appear before it ... An important element of the obligation to provide a fair hearing is the duty to provide assistance to parties and, in particular, self-represented parties.”<sup>6</sup>

## Customer service charter and service enhancement projects

The *NCAT Service Charter* aims to give practical expression to the legislative object in s 3(e) of the Act of ensuring that the decisions and other resolution services provided by the Tribunal are timely, fair, consistent and of a high quality. The *NCAT Service Charter* is publicly available on the website [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au).

Outcomes from current initiatives mentioned elsewhere in this report, in particular the Transformation Project and the Accessibility Project, as well as the continuing work of the Principal Registry and the Divisions, will contribute to implementing NCAT's commitment to timely, fair, consistent and high quality services by:

- providing simple processes that can be understood and used by all, regardless of their education, language, experience in a legal environment or familiarity with court or Tribunal proceedings;
- being accessible to all, regardless of factors such as age, disability, cultural background, sex or geographical location;
- being attentive and responsive to the needs of all, including those from multicultural communities;
- communicating effectively with relevant people and organisations;

- responding promptly to suggestions about practice and procedures, and
- receiving and responding to feedback, including comments, complaints and concerns.

## Procedures and processes

NCAT embraces a culture that supports and encourages the use of innovative and effective dispute resolution techniques.

Where a matter is not appropriate for a negotiated outcome, NCAT assists parties to focus on identifying the 'real issues' in dispute to support an efficient hearing process and more timely resolution of the matter.

NCAT deploys a range of resolution processes depending upon the nature and volume of proceedings, the requirements of the enabling legislation and the differing roles of each Division.

Information about the resolution processes employed across NCAT's broad jurisdiction during this reporting year is set out in **Appendix 7**. Specific information concerning the pilot of Online Dispute Resolution is contained in **Appendix 6**.

## Internal appeals

One of the most significant and effective ways in which the Tribunal ensures the fairness, consistency and quality of its decisions is through the internal appeals process.

<sup>6</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

Under ss 32 and 80 of the Act, parties have a right to appeal to the internal Appeal Panel from:

- any decision made by the Tribunal in proceedings for a general decision or an administrative review decision;
- any decision made by a registrar of a kind that is internally appealable.

As a result, the vast majority of first instance decisions made by the Tribunal can be appealed to the Appeal Panel. Appeals can be made as of right on a question of law and, by leave of the Appeal Panel, on any other grounds. The questions of law that may be raised on appeal include not only errors in the identification and application of legal principles but also failure to accord procedural fairness, failure to provide adequate reasons for decision and failure to exercise the jurisdiction of the Tribunal.

The Appeal Panel, which hears an internal appeal, will in most cases be made up of two or three Members. Appeal Panel Members are drawn from across NCAT's membership but the presiding Member is usually presidential or principal Members or other senior legal practitioner Members. As at 30 June 2015, there were 63 Members from all NCAT Divisions who sit on the Appeal Panel.

The internal appeals process permits decisions at first instance to be scrutinised and, where necessary, corrected without the expense or time involved in bringing proceedings in the District Court or the Supreme Court. This scrutiny also improves the standard and quality of decision making and writing throughout the Tribunal. It provides Tribunal users with a cost-effective and efficient appeal mechanism. More information about the Internal Appeals process is included at **Appendix 7**.

Administration of the Internal Appeals List was successfully brought onto the Tribunal's electronic case management system during the year. Staffing of the Internal Appeals Unit was also increased to

deal with the workflow and to support the Members who hear internal appeals.

During 2014-2015, 608 appeals were lodged with the Tribunal, 1,132 appeal panel hearings had been held, and 522 appeals finalised.

## NCAT procedural directions, guidelines and policies

Section 26 of the Act makes provision for the President to give binding procedural directions and, in addition, the Tribunal issues guidelines and policies that provide further guidance to parties about how matters are to be dealt with at the Tribunal. Procedural directions, guidelines and policies may apply across NCAT or at the Divisional level and are prepared in consultation with the Practice and Procedure Committee.

The following procedural directions, guidelines, policies and other documents are current and available on the NCAT website.

### NCAT Procedural Directions

- NCAT Procedural Direction 1 - Service and Giving Notice
- NCAT Procedural Direction 2 - Summonses
- NCAT Procedural Direction 3 - Expert Witnesses
- NCAT Procedural Direction 4 - Registrars' Power Directions

### Divisional Procedural Directions

#### Consumer and Commercial Division

- Adjournments
- Acceptance of Building Claims
- Conciliation and Hearing by Same Member
- Home Building Disputes
- Online Lodgement
- Personal Identifiers
- Electronic Evidence

## Guardianship Division

- Costs
- Representation

## Occupational Division

- Interim Continuation of Administrative Decisions Tribunal's Practice Directions and Guidelines
- Audio-Visual Link (AVL) for hearing
- Health Professionals Registration Appeals
- Professional Discipline Matters

## NCAT Guideline

- NCAT Guideline 1 - Internal Appeals

## Divisional Guidelines

### Consumer and Commercial Division

- Representation of Parties
- Suspension of Operation of Termination Order
- Termination for Non-Payment of Rent

### NCAT Policies:

- NCAT Policy - Complaints Policy
- NCAT Policy - Availability and Provision of Statistical Data
- NCAT Policy - Publishing Reasons for Decisions.

## Representation before the Tribunal

Parties may wish to be represented in the Tribunal but, depending on the particular Division in which, or the legislation under which, the proceedings are brought, the leave of the Tribunal may be required for representation.

Leave to be represented is generally required in most matters in the Consumer and Commercial Division and the Guardianship Division. This is not the case in the Administrative and Equal Opportunity Division or the Occupational Division. Notwithstanding these differences, NCAT aims to conduct proceedings so that parties are able to represent themselves during all stages of the

Tribunal process including at hearing. The Tribunal is sensitive to the need to provide an accessible and efficient means of resolving disputes in an environment which is not inappropriately adversarial or confrontational. The Guardianship Division has a Procedural Direction dealing with representation and the Consumer and Commercial Division has a Guideline on this topic, both of which are referred to above.

As a consequence, a large proportion of the parties who appear before the Tribunal are self-represented. Many parties may only need to use NCAT's services once so it is essential that information on the nature and conduct of proceedings in the Tribunal is available to assist them in understanding their role and how to prepare their evidence.

By the end of 2014-2015, plans were underway to develop a series of educational videos that will offer a practical understanding, through non-written communications, of the way in which a range of matters are dealt with before the Tribunal. The videos, which will be available in English and four community languages, will supplement the online information already available to assist parties.

## Guardian ad Litem and separate representation

The Tribunal may appoint a Guardian ad Litem (GAL) or a separate representative to represent a person who is under the age of 18 or who is totally or partially incapable of representing himself or herself. Incapacity may result from an intellectual, psychological or physical disability, physical or mental illness or advanced age. A party may apply to the Tribunal for the appointment of a GAL or the Tribunal may appoint a GAL on its own initiative. GALs are most often appointed in matters before the Administrative and Equal Opportunity Division of NCAT. Separate representatives are most often appointed in the Guardianship Division to represent the interests of the person who is the subject of the application.

## Interpreter services

Interpreter services are provided for parties at NCAT hearings, upon request. Requests for interpreters can be made on the application form, in writing or by contacting the NCAT Registry as soon as practicable before the hearing date. During 2014-2015, approximately 3,000 parties, covering more than 50 languages, requested interpreter services for their hearings.

## Cultural and indigenous issues

NCAT takes part in events to help people from multicultural communities understand the role of the Tribunal and its services. In 2014-2015, NCAT participated in the SydWest Community Program for the Arabic Community and the Sabeen Mandaean (Iraq) Women's Group. Participation in the 2015 Law Week Expo at Auburn Town Hall also provided an opportunity for NCAT to deliver information to various non-English speaking groups via interpreters for languages such as Dari, Farsi, Mandarin and Arabic.

By the end of the financial year, planning was underway for the development of educational videos in community languages.

Providing opportunities for registry staff and Members to develop their knowledge and skills to improve their interactions with people from different cultures is a priority for NCAT. During the year, a series of Cultural Capability for Frontline Staff professional development sessions were attended by NCAT staff and Tribunal Members from all Divisions. A series of Aboriginal Kinship training sessions was also attended by staff and Members in metropolitan and regional locations.

## Resources and assistance

A variety of online resources, including fact sheets and forms, are available on the NCAT website. The following new fact sheets were added to the website during the year:

- *Getting Help* fact sheet - designed to assist people in contacting organisations for help with legal questions that might relate to a matter they wish to bring to NCAT, the fact sheet lists a wide range of services in NSW that provide free or low-cost legal information, advice or assistance
- *Preparing for Hearing* fact sheet - helpful tips on how to prepare for a hearing in NCAT's Consumer and Commercial Division
- *How we can and cannot assist* fact sheet – explains the information and assistance available from NCAT Registry staff.

In addition, various fact sheets and application forms were updated following legislative change or to improve and clarify the information and guidance they contain. For example:

- updates of a number of Guardianship Division forms and fact sheets following the changes contained in the *Courts and Crimes Legislation Amendment Act 2015*
- improvements to the NCAT fee waiver and summons forms
- the Consumer and Commercial Division's Home Building form was updated to clarify time limits that apply to certain home building applications, and
- the Internal Appeals Guideline was also updated to provide more information to appellants seeking a stay of the original NCAT decision and to include an appeal process diagram to illustrate how internal appeals are managed at NCAT.

NCAT operates two subscription services that deliver regular alerts and an e-newsletter to subscribers by email. *What's New* provides regular updates about publications and Tribunal operations. People can also subscribe to the *NCAT Legal Bulletin* e-newsletter which highlights interesting case law from NCAT's jurisdiction, and other useful information and updates that are of significance to the Tribunal's work. During 2014-2015, fifteen

*What's New* alerts were issued to 750 subscribers, and five issues of the *NCAT Legal Bulletin* were distributed to 780 subscribers.

# Accessibility

"Access to justice is a fundamental human right. Tribunals have an obligation to provide the community they serve with access to a fair hearing ... Tribunal fees, forms and processes have an important impact on access to justice as does the extent of information and assistance provided to parties... The place and time at which a tribunal sits to hear disputes also directly impacts on access to justice. Those living in regional and remote locations should have the same level of access to the tribunal as those who live in metropolitan areas."<sup>7</sup>

## Accessing NCAT services

NCAT offers a wide range of services for parties with differing needs. These services have been designed so people can readily access the Tribunal and conduct a significant proportion of cases without legal representation. The Tribunal is increasing its online services to allow more people to transact their business over the internet. Information about our services is also available from Service NSW centres and the NCAT website [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au). Applications can be lodged in person at NCAT Registries and Service NSW centres, by post, or via NCAT Online in the case of applications to the Consumer and Commercial Division.

A number of activities were undertaken or commenced during the reporting year to enhance access to NCAT and its services. They included a pilot of an Online Dispute Resolution service in the Consumer and Commercial Division, the Accessibility Project, and the NCAT Transformation Project. Information about these activities is included in the Leadership and Effective Management section of this report.

## NCAT registries

The Principal Registry is located in the Sydney CBD and provides support services for all Divisions of the Tribunal.

There are seven other registries located in the Sydney CBD, metropolitan and regional areas. These registries are open during business hours. The Guardianship Division provides an after hours service where urgent hearings are required.

## Hearing locations

Tribunal hearings are conducted in hearing rooms co-located with NCAT Registries and in a range of court houses and other venues in more than 70 locations in metropolitan and regional areas. During the year, NCAT's Consumer and Commercial Division commenced sitting in a number of local courts around the State to provide a more efficient service to the people of NSW and to increase the use of purpose-built venues. Regular hearings of Consumer and Commercial Division matters are now conducted at Local Courts in Wagga Wagga (from October 2014); Kogarah and Sutherland (from November 2014); Singleton, Dubbo and the Parramatta Family Law Courts (from February 2015), and Queanbeyan (from 30 April 2015). In some cases, the venue changes also resulted in additional regular hearing days.

In 2014-2015, there were more than 85,110 hearings held across NCAT and 37% of these hearings took place in regional locations.

<sup>7</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

## Alternative access to hearings

### Telephone

Tribunal hearings by telephone are available for parties who are unable to travel, or who because of their location would need to travel a significant distance to the closest hearing venue and would incur substantial travel costs.

### Video Conferencing

In certain circumstances, NCAT provides video conferencing to facilitate participation in the hearing process for individuals in locations who otherwise would not have been able to attend in person. Video conferencing is a free service that increases access and allows participation of people who may otherwise be unable to participate due to location, disability or illness. The Tribunal is seeking ways to make participation in hearings by video more readily available.

## Fees and charges

NCAT's schedule of fees and charges for the filing of applications, appeals and other services as at 30 June 2015 is included at **Appendix 8**. The payment options available include cash, cheque, credit card and EFTPOS.

The ability to pay by credit card was extended to all NCAT applications and other service requests in the first half of the reporting year. A *Credit Card Payment Authority Form* to facilitate credit card payments by post was prepared, uploaded to the NCAT website and promoted via a *What's New* announcement.

Pensioners or students receiving an allowance or people receiving a grant of legal aid or assistance from a community legal centre may be eligible to pay a concession fee or a reduced fee. From 1 July 2014, reduced fees for certain internal appeals, set aside or vary decision applications were introduced following a determination made by the Principal Registrar under clause 6(4) of the *Civil and*

*Administrative Tribunal Regulation 2013*. A further determination regarding reduced fees for certain general applications, external appeals or administrative review applications took effect from 28 July 2014. Copies of these determinations are published on the NCAT website.

In special circumstances NCAT will consider requests for the fee payment for applications to be waived wholly or in part. Fee waiver requests are considered under clause 6 of the *Civil and Administrative Tribunal Regulation 2013* (or clause 17 *Strata Schemes Management Regulation 2010* and clause 21 *Community Land Management Regulation 2007* for strata and community schemes matters). Information about how to apply for a fee waiver is available on the NCAT website.

## Legal assistance

A variety of support services across New South Wales can assist people in bringing their disputes to the Tribunal. The NCAT website offers information about a number of services and organisations that offer free or low-cost legal information, advice and assistance, including those that operate referral services to lawyers who may provide pro bono legal services.

The NCAT website also provides details about various aged-care and disability services that provide information and help to parties involved in guardianship matters. Many of these organisations and services are also listed on the NCAT *Getting Help* fact sheet available for download from the website.

Legal Aid provides a duty lawyer scheme for NCAT parties who bring discrimination disputes under the *Anti-Discrimination Act 1977* in the Administrative and Equal Opportunity Division.

During 2014-2015, NCAT trialled a Legal Aid Advocacy Service in its Liverpool Registry to assist people with consumer claims in the Consumer and Commercial Division. An independent review of this

trial has resulted in an agreement between NCAT and Legal Aid to expand this service to other metropolitan NCAT Registries. This is planned for early in 2015-2016.

## Additional assistance

NCAT aims to ensure that parties and others involved in the Tribunal's processes receive any reasonably necessary assistance such as:

- making documents available in different formats to meet the needs of the client
- providing flexible hearing rooms with varying degrees of formality appropriate to the jurisdiction
- accessing hearing loops in Tribunal hearing venues
- using the National Relay Service (NRS) for parties with hearing or speech impairments
- providing interpreters for people from non English speaking backgrounds, and
- ensuring that Tribunal premises and hearing rooms and facilities are accessible to all users.

## NCAT Communications Strategy 2015-2018

The *NCAT Communications Strategy 2015-2018*, launched in April 2015, provides a framework to guide internal and external communications activities over the next three years. Its objectives are:

- to raise awareness and understanding about NCAT and to promote and maintain confidence in its role in the NSW civil justice system
- to equip one-time users and frequent users with information that empowers them to participate effectively in the Tribunal's processes, and
- to facilitate the consistent and timely delivery of information to NCAT Members and staff, and external stakeholders.

The Strategy is available on the NCAT website and is promoted on NCAT social media.

The NCAT website [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au) is the primary source of online information for the public and users of the Tribunal's services. It reaches a broad audience and in the twelve months to 30 June 2015, the website received more than 2.2 million visits.

Other ways in which NCAT delivers information includes social media, e-newsletters, articles in stakeholder publications, and presentations at conferences and information sessions.

For more information about NCAT's communication activities see the "Client needs and satisfaction" section of this report.

# Professionalism and Integrity

“Tribunal members and staff are central to achieving tribunal excellence. The expectations of all members and staff must be clearly communicated and understood.”<sup>8</sup>

---

## Competency framework and performance appraisal

The Tribunal has developed a statement of key competencies together with performance indicators for the guidance and appraisal of Members. This work was completed in 2014-2015 and takes the form of the *NCAT Member Competency Framework* that identifies the critical competencies, abilities and qualities required to be an effective Tribunal Member. The Framework was circulated to Members in August 2014. The Member Competency Framework provides the basis for Member appraisals to be conducted in all Divisions of the Tribunal to assist Members to understand and improve their performance. It forms part of the assessment and recommendation of candidates for appointment and reappointment.

## Member qualifications

Members bring legal expertise or other specialist knowledge to Tribunal decision making. The required qualifications for Members in each of the different categories are specified in s 13 of the Act. A list of Tribunal Members as at 30 June 2015, along with brief biographical information with qualifications and relevant experience, is provided at **Appendix 3**.

---

<sup>8</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

## Code of Conduct

The *Member Code of Conduct*, approved by the President, applies to all Members of the Tribunal. The Code provides guidance to Members in the performance of their statutory functions and assists Members in identifying and resolving ethical issues should they arise. Members, before they are appointed, are required to agree to abide by the Code of Conduct.

The *Member Code of Conduct* is kept under review to ensure currency. The latest version, prepared in August 2014, is published on the NCAT website at [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au).

## Professional development

A number of activities are in place across NCAT Divisions to promote professional development, including Member network groups, briefing sessions, seminars and conferences. Mentoring is also available for Members. All Members participate in regular performance appraisal processes.

All new Members receive an Induction Manual and participate in an Induction Program which involves attendance at training and information sessions and observing hearings. New Members may be partnered initially with an experienced Member who provides insights into the conduct of hearings in the Tribunal and related matters.

During 2014-2015, there were more than 60 professional development sessions for Members and staff on a range of topics relevant to the work of the Tribunal.

By the end of the reporting year action was underway to establish a Member Professional Development Committee which will co-ordinate professional development activities across the Tribunal.

# Accountability

“Tribunals serve the public through the provision of accessible, fair and efficient dispute resolution services. In delivering that service they are accountable to the public. An effective complaints mechanism is an important means of ensuring that the public’s expectations of members and staff are being met. Regular stakeholder/community engagement and reporting tribunal performance are also part of ensuring that the tribunal is accountable to the public.”<sup>9</sup>

## Hearings open to the public

The Tribunal sits and hears most cases in public. Hearing lists for a number of the Tribunal’s Divisions are published on the NCAT website.

Notwithstanding this, the nature of, and circumstances relevant to, applications in, for example, the Guardianship and Administrative and Equal Opportunity Divisions sometimes involve sensitive and confidential information about the person the subject of the application or related persons. In any proceedings in which sensitive or other legitimately confidential matters may be disclosed, the Tribunal may determine that proceedings should be conducted wholly or partly in the absence of the public under s 49 of the Act.

## Complaint handling mechanism

NCAT’s integrated complaint and feedback processes provide a consistent and co-ordinated approach to responding to complaints and gathering and using feedback to inform and improve processes and service delivery. Online forms are available on the website to assist people in providing this feedback.

The *NCAT Complaint Policy* explains the approach taken when responding to a user’s dissatisfaction with the delivery of a service provided by NCAT or the conduct of NCAT staff, a conciliator/mediator or Member. This Policy is also available on the website.

In the 2014-2015 reporting year, 318 complaints were received by NCAT. This equates to a complaint in 0.45% of all matters lodged with the Tribunal. The top two categories of complaints received during the year were in relation to policy and procedure, and decision dissatisfaction. Responses to complaints include clarification about NCAT policies and procedures, providing information about avenues of appeal and contact details for support services such as Law Access.

## Stakeholder engagement

NCAT recognises that to be accountable and responsive to the needs of those who use its services, it must maintain an external orientation that is open and receptive and allows the needs and concerns of the public, parties, their representatives and relevant professional or industry bodies to be freely communicated.

There are two levels of formal stakeholder engagement across NCAT. The NCAT Liaison Group, chaired by the President, is the overarching consultation mechanism involving key stakeholders. The role of the Group is to provide feedback and suggestions on operational and policy issues relating to service provision across NCAT. This

<sup>9</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

Group meets every six months. Two meetings were held during the year and minutes were distributed regarding the issues raised and the Tribunal's response.

Divisional Consultative Forums focus on issues concerning practice and procedure in each Division. Stakeholder engagement increased during the 2014-2015 reporting period. Consumer and Commercial Division Consultative Forums met on six occasions. New Consultative Forums were established for stakeholders interested in the functioning of the Administrative and Equal Opportunity Division, the Guardianship Division and the Occupational Division. Each of these new Forums met on two occasions during the year. In addition, a new Professional Discipline Group Consultative Forum was established by the Occupational Division for stakeholders in the health and legal professions and its first meeting was held in March 2015.

See **Appendix 9** for a list of organisations represented on the NCAT Liaison Group and the Divisional Consultative Forums.

# Efficiency

“Tribunals should provide an efficient dispute resolution service in the sense that the tribunal is affordable and resolves disputes in an appropriate and timely way.”<sup>10</sup>

## Performance standards and monitoring

NCAT has measures in place to monitor its efficiency in dealing with its workload. The Tribunal’s efficiency and effectiveness is measured in part by the number of matters lodged and the Tribunal’s case clearance ratio which indicates the capacity of the Tribunal to manage its workload within its current resources and systems. Table 1 below includes clearance rates for each Division during the year.

The Tribunal’s leadership group actively monitors lodgement volumes and trends, finalisations and the timeliness of hearings so that resources can be adjusted to maintain service delivery standards.

The Tribunal has implemented a number of strategies to identify and address matters which were delayed in progressing to hearing or

finalisation. One initiative that was commenced in August 2014 in the Consumer and Commercial Division had, by 30 June 2015, resulted in a 41% reduction in matters older than 12 months.

All applications in the Guardianship Division are reviewed on receipt to determine whether the application identifies the immediacy or severity of any risk to the person who is the subject of the application. The time taken for an application to be heard depends on a range of factors including the risk to the person and the time required to gather the necessary evidence to prepare the application for hearing.

## Resolution processes

A variety of resolution processes are used by the Tribunal to enhance the efficiency of its operations and to provide services that meet the needs of its users. These processes assist parties to resolve or narrow the issues in dispute so matters proceed more efficiently at hearing, or to reach an agreement meaning that a hearing is not required.

<sup>10</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

**Table 1 - Number of applications received and finalised by Division 2014-2015**

DIVISION	NUMBER RECEIVED	NUMBER FINALISED	CLEARANCE RATIO%
Administrative and Equal Opportunity	779	819	105.1%
Consumer and Commercial	58,360	59,418	101.8%
Guardianship	11,457	11,725	102.3%
Occupational	245	297	121.2%
Internal Appeals	608	522	85.9%
<b>TOTAL</b>	<b>71,449</b>	<b>72,781</b>	<b>101.9%</b>

If applications can be managed in this way, it reduces the number of hearings required and their attendant costs while at the same time achieving outcomes in which the parties to the proceedings have been included in identifying and to which they have consented.

During the year, a pilot of an online process was conducted allowing parties to have a structured negotiation with a view to reaching an agreed resolution. This Online Dispute Resolution (ODR) pilot was conducted for selected matters in the Consumer and Commercial Division. The results of the pilot suggested that ODR should be considered further as a means of enhancing the services provided by NCAT and improving the efficiency of the Tribunal's operations. This will be further explored in 2015-2016.

For information about NCAT resolution processes see **Appendix 7**.

# Client needs and satisfaction

“Public trust and confidence in a tribunal is central to its effectiveness. In addition to measuring the results of various actions to improve tribunal performances, user satisfaction should be measured.”<sup>11</sup>

Information concerning Tribunal users, their needs and their satisfaction can be gained in a number of ways:

- These are reflected in the usage of, and interaction with, NCAT’s website and social media activities.
- NCAT’s feedback process, surveys and e-newsletters also provide useful information in this regard.
- NCAT’s Liaison Group and Consultative Forum provide key stakeholders with information and seek feedback on particular aspects of the Tribunal’s practice and procedures. Similarly, the Tribunal’s external engagement through conferences and meetings also offers the opportunity for such interaction. More information about the Tribunal’s activities in this area is included in the “Accountability” section of this report.
- Information concerning internal appeals to the Appeal Panel, which is referred to in the Fair Treatment section of this report, also provides insights into the level of dissatisfaction with the Tribunal’s first instance decisions. The outcomes of those appeals also indicate the extent to which any dissatisfaction might be justified.
- Similarly, the data on complaints provides relevant information as to the effectiveness and performance of the Tribunal.

## NCAT website and social media

The NCAT website [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au) underwent a significant change during the year with a fresh new look and navigation. Content was reorganised to provide users with improved information and online service delivery. The new website is mobile device friendly, and people who use assistive technologies now find it easier to access online information. An ongoing program of website maintenance ensures the accuracy of information and identifies where improvements might be needed. NCAT uses feedback from a website feedback form and popular search terms by website visitors for continuous improvement purposes. During the year, the website received more than 2.2 million visits.

Social media is also used by NCAT to extend its reach to online audiences. Social media posts and comments about new and updated resources and forms, service news, and topical Divisional information feature on NCAT Facebook and Twitter accounts. As at 30 June 2015, NCAT Facebook had 343 likes and the Twitter account had 339 followers.

## Feedback, surveys and e-newsletters

Online feedback forms are available on the NCAT website to enable people who use the Tribunal’s services to provide comments and suggestions for improvement. NCAT also utilises targeted surveys for external and internal audiences. For example, during the year feedback about the usability of the new NCAT website gathered using an online survey led to enhanced navigation and information on the

<sup>11</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

site. Surveys are also used to seek comments from NCAT Members and staff, and to promote professional development opportunities.

Subscription services for the *What's New* email alert and a *Legal Bulletin* are available to keep people updated on the latest news from NCAT. Members and staff also receive a regular e-newsletter, *NCAT News*, and other regular email communications throughout the year.

Feedback obtained through the Transformation Project, mentioned in the Leadership and Effective Management section of this report, will also assist in identifying user needs and in gauging satisfaction with the Tribunal's systems. This information will inform improvements to systems and, ultimately, the delivery of Tribunal services across all NCAT Divisions.

# Divisional Reports

**Administrative and Equal Opportunity Division**

**Consumer and Commercial Division**

**Guardianship Division**

**Occupational Division**

# Administrative and Equal Opportunity Division Report

---

The 'administrative' part of this Division's name reflects the fact that we review decisions made by government administrators that affect the rights and interests of the people of New South Wales. Two statutory aims of external review of government decisions are to enhance the delivery of government services and programs and to promote compliance by administrators with legislation enacted by parliament. Close to 100 statutes give this Division power to review decisions made by government agencies. Examples include decisions about firearms licences, access to government documents and breaches of privacy. For a full list of the legislation which confers power on the Division see **Appendix 1**.

The term 'equal opportunity' is used to describe the other major function of this Division which is to resolve discrimination complaints made under the *Anti-Discrimination Act 1977*. That Act seeks to promote equality of opportunity and give a remedy to people who have been discriminated against, harassed, vilified or victimised on certain grounds. We continue to assist parties to resolve those complaints without a hearing wherever that is appropriate.

Prior to 2014, both the 'administrative' and the 'equal opportunity' functions of the Division were housed in the former Administrative Decisions Tribunal. The transition to NCAT has been a smooth one thanks to the collaborative efforts and dedication of the President the Hon Justice Wright, and the former Principal Registrar, Sian Leathem.

## What the Division does

The Division reviews government decisions affecting individuals and resolves complaints under the *Anti-Discrimination Act 1977*. Because of the diversity of the matters, we organise our workload into four lists, three dealing with administrative review decisions and one dealing with anti-discrimination matters.

The biggest list is the Administrative Review List. That list comprises decisions made by administrators in areas other than occupational and professional licences. Decisions about those matters come under the Occupational Division. Examples include licences to drive a taxi or be a security guard.

The second list is the Community Services List. It covers decisions about whether a person charged with or convicted of certain crimes can work with children and whether an authorised carer should lose their accreditation.

Decisions about State taxes, such as land tax and payroll tax are part of the Revenue List.

Complaints referred by the President of the Anti-Discrimination Board under the *Anti-Discrimination Act 1977* are in the Equal Opportunity List. Those complaints include complaints of discrimination, harassment, victimisation and vilification on several grounds such as race, sex, transgender status, age, disability, homosexuality and carer's responsibilities.

The legislation gives this Division the flexibility to assign one or more Members to hear matters. That flexibility helps ensure that community perspectives are reflected in the decision making process and

specialist expertise is brought to bear where necessary.

## Workload

The Division received 779 applications this year and finalised 819 giving a clearance ratio across the whole Division of 105.1%. Four hundred and forty one matters were pending at the end of the 2014-2015 financial year.

**Table 2 - Number of applications received and clearance ratio for 2014-2015**

LIST	NUMBER OF APPLICATIONS	CLEARANCE RATIO
Administrative Review	366 (47%)	129.0%
Community Services	170 (21.8%)	74.7%
Revenue	104 (13.4%)	87.5%
Equal Opportunity	139 (17.8%)	92.8%
<b>Total*</b>	<b>779</b>	<b>105.1%</b>

\*Does not include interlocutory applications

Because of legislative amendments, the number of applications from people convicted of a disqualifying offence or seeking a review of a decision of the Children's Guardian under the *Child Protection (Working with Children) Act 2012* has increased markedly. This financial year there were 142 applications whereas in the previous year there had only been 53 applications.

Another category of business which attracts a high number of applications is those under the *Government Information (Public Access) Act 2009*. In total there were 154 applications made for the review of a decision about access to government information.

Significant achievements during the year include the finalisation of all but 3 of the remaining 115 transitional appeals from the former Victims Compensation Tribunal. These appeals were from determinations by assessors under repealed legislation as to whether a victim of crime was eligible for compensation.

The Division conducts hearings in regional New South Wales whenever that is the most convenient location for the parties.

## Members, mediators and staff

The Division comprises Principal Members, Senior Members and General Members all of whom work part-time. Principal and Senior Members are lawyers. General Members have specialist skills in areas such as child protection, Aboriginal culture, disability and finance. All the mediators on the President's list of mediators conduct mediations in the Division. Registry staff are attached to the combined Administrative and Equal Opportunity Division and Occupational Division Registry.

Following a merit selection process in the first half of 2014, previous Members of the Administrative Decisions Tribunal as well as new Members were recruited. They include lawyers, academics, senior bureaucrats and community leaders. Since then, Members with specialist skills from other Divisions of NCAT have been cross-assigned to the Administrative and Equal Opportunity Division. Induction and ongoing education and training have equipped all Members to carry out their functions efficiently and competently. The performance of Members is regularly appraised. I am extremely proud of the expertise and dedication of all the Members and their support for one another.

The Tribunal may use dispute resolution processes other than hearings to resolve matters. The Division has a dedicated group of six mediators who assist parties to resolve disputes. Mediations are conducted in discrimination and privacy matters. Approximately two-thirds of matters which go to mediation are resolved prior to hearing.

Registry staff, under the able leadership of Pauline Green and Christine Skinner, have worked extremely hard to support the Members of the Division. They have adapted the practices and procedures used in the Administrative Decisions Tribunal to the new NCAT environment. That has been, and continues to be, a challenging task and I am very grateful to

them and to all the Registry staff, for their hard work and good humour.

## Consultation with stakeholders

To ensure that our practices and procedures remain relevant and responsive to the needs of Tribunal users, we conducted two consultative forums for external stakeholders this year. These bi-annual forums give people an opportunity to raise issues and provide feedback to the Head of the Division and the Divisional Registrar. They also allow the Division to update stakeholders on current projects and changes to practice and procedure.

## Significant decisions

Police sometimes rely on confidential criminal intelligence material to revoke a person's security industry or tattoo parlour licence. In such cases, the Tribunal must determine what use it can make of that material given the restrictions on disclosure in the relevant legislation. AVS Group Australia Pty Ltd and Peter and Tony Sleiman have challenged the scope of the legislation in relation to confidential criminal intelligence in interlocutory proceedings in the Tribunal and by way of a number of appellate or review proceedings in the Supreme Court or the Court of Appeal (for example, *Commissioner of Police v Sleiman & AVS Group of Companies Pty Ltd* [2011] NSWCA 21). Following a substantive decision being made by the Tribunal which affirmed the decision to revoke various security industry licences, the applicants appealed. In *AVS Group Australia Pty Ltd v Commissioner of Police (No 2)* [2014] NSWCATAP 53 the Appeal Panel upheld the decision of the Commissioner of Police to revoke the security industry licences.

This year the Appeal Panel of NCAT and the Supreme Court have given decisions interpreting various terms in the *Anti-Discrimination Act 1977*. In *Wright v Commissioner of Police* [2014] NSWCATAP 67 the Appeal Panel considered the

meaning of 'responsibilities as a carer' and the identification of the groups when determining how people with carer responsibilities were treated compared with people who do not have those responsibilities.

A person who refuses to provide another person with goods or services will be in breach of the *Anti-Discrimination Act 1977* if that refusal is on the ground of the person's race. In *State of NSW v Whiteoak* [2014] NSWCATAP 99, the Appeal Panel decided that the Department of Corrective Services was not providing Mr Whiteoak with a service when it classified him into one of 7 security classifications.

Notable administrative review decisions dealt with issues including whether an administrator could make a different decision after the application for review had been filed (*Commissioner of Police, NSW Police Force v Barrett* [2015] NSWCATAP 68); the proper respondents when the reviewable decision is made by one government body but referred to another for implementation (*Commissioner of Police, New South Wales Police Force v Fine* [2014] NSWCA 327) and the relevance of 'spent convictions' in determining whether an applicant is a fit and proper person to be issued with a licence (*Kocic v Commissioner of Police, NSW Police Force* [2014] NSWCA 368).

## Looking ahead

Parliament has enacted legislation which will remove NCAT's power to review some kinds of decisions while expanding its power to review others. Three significant amendments which will come into effect in the next financial year are changes to the Victims Support Scheme, reviews of bans on working with children and reviews of liquor and gaming decisions.

From 1 September 2015 victims who were in the transition between the old Victims Compensation Scheme and the Victims Support Scheme can have their claim reassessed. While those reassessments

can be internally reviewed by the Commissioner of Victims Rights, they are not reviewable by NCAT.

Under amended legislation relating to Working with Children Checks, people convicted and imprisoned for murder, the indecent or sexual assault of a child, child pornography, or incest with a child victim will not be able to apply to NCAT for a review of that decision. If the person is on a good behaviour bond or intensive correction order, they will not be able to apply for a review of their Working with Children Check ban while that order is in place. For decisions which NCAT does have power to review, the new test for determining whether a person should be permitted to work with children are both a 'reasonable person' test and 'public interest' test.

Finally, certain licencing decisions made by the Independent Liquor and Gaming Authority will be subject to review by NCAT. These include restrictions on poker machine entitlements and the rejection of licence applications.

**Magistrate Nancy Hennessy**

Deputy President and Division Head

Administrative and Equal Opportunity Division

# Consumer and Commercial Division Report

NCAT's Consumer and Commercial Division resolves a wide range of everyday disputes such as tenancy and other issues relating to residential property, and disputes about the supply of goods and services.

## Workload

The number of new applications in the Consumer and Commercial Division fell during 2014-2015. The number of new applications during that year was 58,360 compared with 65,546 the year before. The Division was able to maintain its service standards during the year and the number of unfinalised matters decreased.

During the year there were 552 appeals from Division decisions. In other words, less than 1% of Division decisions were the subject of an appeal to the NCAT Appeal Panel.

The number of applications in each list compared with the year before is listed in the following table.

**Table 3 – Application lodgements**

LIST	2013-2014	2014-2015
Tenancy	31,647	29,180
Social Housing	17,662	15,713
General	6,634	5,255
Home Building	3,543	3,105
Residential Parks	2,227	1,458
Strata and Community Schemes	1,534	1,352
Motor Vehicles	1,697	1,487
Commercial	506	756
Retirement Villages	96	54
<b>Total</b>	<b>65,546</b>	<b>58,360</b>

## Hearing locations

The Division conducts cases throughout New South Wales and in the 2014-2015 year heard proceedings in the following locations.

Albury | Armidale | Balranald | Batemans Bay | Bathurst | Bega | Bourke | Brewarrina | Broken Hill | Campbelltown | Cobar | Coffs Harbour | Condobolin | Cooma | Coonabarabran | Coonamble | Cootamundra | Cowra | Deniliquin | Dubbo | Forbes | Glen Innes | Gosford | Goulburn | Grafton | Griffith | Gunnedah | Hurstville | Inverell | Katoomba | Kempsey | Katoomba | Kempsey | Kogarah | Leeton | Lismore | Lithgow | Liverpool | Maitland | Moree | Moss Vale | Mudgee | Muswellbrook | Narrabri | Newcastle | Nowra | Nyngan | Orange | Parkes | Parramatta | Penrith | Port Macquarie | Queanbeyan | Singleton | Sutherland | Sydney | Tamworth | Taree | Tenterfield | Tumut | Tweed Heads | Wagga Wagga | Walgett | Wareen | West Wyalong | Wollongong | Yass | Young

The management of the Division caseload is conducted in the following Registries.

- Hurstville\*
- Liverpool
- Newcastle
- Penrith
- Sydney
- Tamworth
- Wollongong

\*This Registry closed at the end of November 2014 following the opening of a ServiceNSW office in Hurstville. NCAT applications can be lodged at, and information obtained from, ServiceNSW offices.

The percentage of the total workload which each Registry managed in the past twelve months is depicted in Table 4 below.

## Members

During the year a number of new Members were appointed to the Consumer and Commercial Division or assigned to that Division from other Divisions of the Tribunal. There were also a number of retirements. The number of new Members appointed to the Division during the year was 12 and the number of Members who retired was 17.

Approximately 15 Members of the Division regularly sit on Appeal Panels.

## Legislation

Changes to legislation affecting the work of the Division during the year consisted of the following:

- Shortly before 1 July 2014 the jurisdiction of the Tribunal in respect of Consumer Claims increased to \$40,000.
- Changes were made during the year to the *Home Building Act 1989*. These included a change which lifted the threshold from \$1000 to \$5000 for

contracts regulated under the *Home Building Act* (other than specialist building work). Other changes affected the time by which proceedings may be brought in respect of a home building dispute, and the statutory warranty provisions.

For a full list of the legislation which confers power on the Division see **Appendix 1**.

## Consultation with stakeholders

During the year the following meetings took place with stakeholder representatives:

- Home Building Consultative Forum 4 May 2015 (new home building changes)
- Tenancy, Social Housing and Aboriginal Consultative Forum 5 May 2014
- General and Commercial Consultative Forum 12 May 2015
- Home Building Consultative Forum 19 May 2015
- Strata and Community Schemes Consultative Forum 26 May 2015
- Retirement Villages Consultative Forum 2 June 2015
- Residential Parks Consultative Forum 9 June 2015
- Dubbo Regional Consultative Forum 18 June 2015

**Table 4 – Percentage of total workload by Registry 2014-2015**

LIST	HURSTVILLE	LIVERPOOL	NEWCASTLE	PENRITH	SYDNEY	TAMWORTH	WOLLONGONG	TOTAL
Commercial	20	46	97	80	394	55	64	<b>756</b>
General	147	492	672	1,062	2,086	316	480	<b>5,255</b>
Home Building	99	258	459	604	1,128	227	330	<b>3,105</b>
Motor Vehicles	42	253	159	329	438	115	151	<b>1,487</b>
Residential Parks	4	5	595	48	4	648	154	<b>1,458</b>
Retirement Villages	0	0	9	8	23	2	12	<b>54</b>
Social Housing	324	1,530	3,215	3,781	2,499	2,001	2,363	<b>157</b>
Strata & Community Schemes	43	68	126	87	871	83	74	<b>1,352</b>
Tenancy	806	3,892	4,843	6,469	7,967	2,373	2,830	<b>29,180</b>
<b>GRAND TOTAL</b>	<b>1,485</b>	<b>6,544</b>	<b>10,175</b>	<b>12,468</b>	<b>15,410</b>	<b>5,820</b>	<b>6,458</b>	<b>58,360</b>

These meetings are a valuable method by which the Tribunal conveys to stakeholders interested in the work of the Tribunal, procedural developments which are being considered or have been made. They are also a very valuable method by which stakeholders convey to the Tribunal issues or concerns which their constituent Members have experienced with the Tribunal.

Tribunal Members have also delivered presentations to shareholder groups and to various professional bodies. Examples of these are listed below:

- Real Estate Institute Committee Meeting
- NSW Community Housing Conference
- Continuing Legal Education (CLE)
- CLE Southern Tablelands Solicitors Association
- Eastern Suburbs Law Society CLE Dinner
- Master Builders Association
- Australian Competition and Consumer Commission – National Consumer Congress

## Home Building Project

During the year a decision was taken to alter the way home building cases are managed. A number of procedural changes have been introduced essentially for the purposes of ensuring that, at a very early stage, the parties identify the issues in dispute and obtain the necessary supporting evidence. The Tribunal makes directions for the parties to engage in conciliation or, in some cases, mediation. Where necessary the Tribunal will also arrange for experts to meet in conclave under the supervision of a Tribunal Member. The project has so far produced some very encouraging outcomes in that the percentage of cases resolved during the Tribunal supervised conciliations has been very high. In the cases involving smaller sums of money (less than \$30,000) the percentage of cases settled before hearing has been in excess of 70%. In cases involving larger sums, the percentage has varied

since the project began. It has been as high as 80% but is on average 27%. The Tribunal will be continuing with this project for the time being and will later assess whether to continue with it in its current form.

## Looking ahead

A considerable number of legislative changes are currently being made or considered and these will all affect the work of the Tribunal. For example, the legislation concerning consumer claims has been moved to the *Fair Trading Act 1987* and the *Residential (Land Lease) Communities Act 2013* will replace the *Residential Parks Act 1998*. Changes are foreshadowed to the *Residential Tenancies Act 2010*. There are also changes likely to occur with respect to the *Strata Schemes Management Act*. The Tribunal is abreast of these changes and the Members are well equipped to deal with them as they arise.

I particularly thank the Principal Member and List Manager, Mark Harrowell for ensuring that case management practices and procedures are responsive to the responsibility of the Tribunal to deal with disputes justly, cheaply and quickly.

It is an honour to lead such a busy Division with such a diverse range of cases. It is also a pleasure to be involved with a Division which consists of highly committed and well trained Members and Registry staff. The results of their endeavours are seen in the considerable volume of work which the Division disposes of each year and the low number of appeals.

### Stuart Westgarth

Deputy President and Division Head  
Consumer and Commercial Division

# Guardianship Division Report

For successive years the number of applications lodged with the Guardianship Division, and its predecessor the Guardianship Tribunal, has continued to increase. Much of this workload growth can be attributed to the simple fact that our society is ageing. This has meant that there are an increasing number of people who, due to cognitive disability affecting their capacity to make financial, lifestyle and medical decisions, require the appointment of a substitute decision maker.

The establishment of the first NSW trial sites for the National Disability Insurance Scheme (NDIS) has resulted in a number of applications being made to the Division particularly for the appointment of a guardian in relation to potential changes in accommodation options and service delivery for people in the areas captured by the trial sites. Pleasingly there appears within the community to be a growing awareness of both the need to consider options for planning ahead in the event of future loss of capacity, and that the Division can provide an accessible mechanism to facilitate substitute decision making for people when that is required.

Whatever the drivers of our workload, the Division must continue to strive to ensure that Tribunal users are provided with a service that accords with the guiding principle of the *Civil and Administrative Tribunal Act 2013*, to facilitate the just, quick and economical resolution of proceedings. The Division must also ensure that its service is appropriately responsive to, and focused upon, the needs of people with disabilities, their families, friends and carers. I am both grateful to, and proud of, the Members and staff of the Division. Over a year of significant change and workload growth our people have not only maintained this focus, but have done so whilst undertaking more work and improving the efficiency and quality of the service provided.

## What the Division does

The Guardianship Division exercises the Tribunal's protective jurisdiction and promotes the rights of people living with a decision making disability. It facilitates substitute decision making by hearing and determining applications for the appointment of guardians and financial managers for people living with a decision making disability. While most of its work involves decisions about guardianship and financial management, the Tribunal also has jurisdiction to:

- Review the guardianship and financial management orders it makes
- Provide consent for medical and dental treatment
- Review enduring powers of attorney and enduring guardianship appointments, and
- Approve a clinical trial so that people with decision making disabilities may participate

Proceedings in the Guardianship Division are about a person's right to make his or her own decisions. Section 4 of the *Guardianship Act 1987* sets out principles which must be observed by Tribunal Members and staff of the Division and which guide case management practice and procedure in the Division. The principles make clear the duty of any person exercising functions under the Act to:

- Give the person's welfare and interests paramount consideration
- Restrict the person's freedom of decision and freedom of action as little as possible
- Encourage the person, as far as possible, to live a normal life in the community
- Take the person's views into consideration
- Recognise the importance of preserving family relationships and cultural and linguistic environments

- Encourage the person, as far as possible, to be self-reliant in matters relating to their personal, domestic and financial affairs
- Protect the person from abuse, neglect and exploitation, and
- Encourage the community to apply and promote these principles.

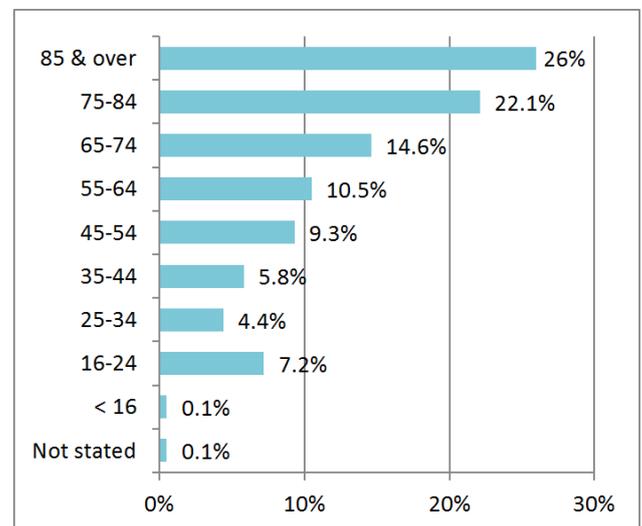
## Workload

In 2014-2015 the Division continued to experience a growth in its workload. This is consistent with an established pattern of demand which has seen the application rate grow by approximately 23% over the five years from 2010-2011. Over this period there has been a 26% increase in end of term or order review hearings, a 31% increase in matters finalised and a 31% increase in hearings conducted. The Division hears a range of matters, including straightforward applications where there is little dispute, urgent applications where significant risk has been identified, and complex or highly conflicted matters involving multiple parties. The Division endeavours, where possible, to conduct hearings at locations and venues which will promote the participation of the person the subject of the application. As a result,

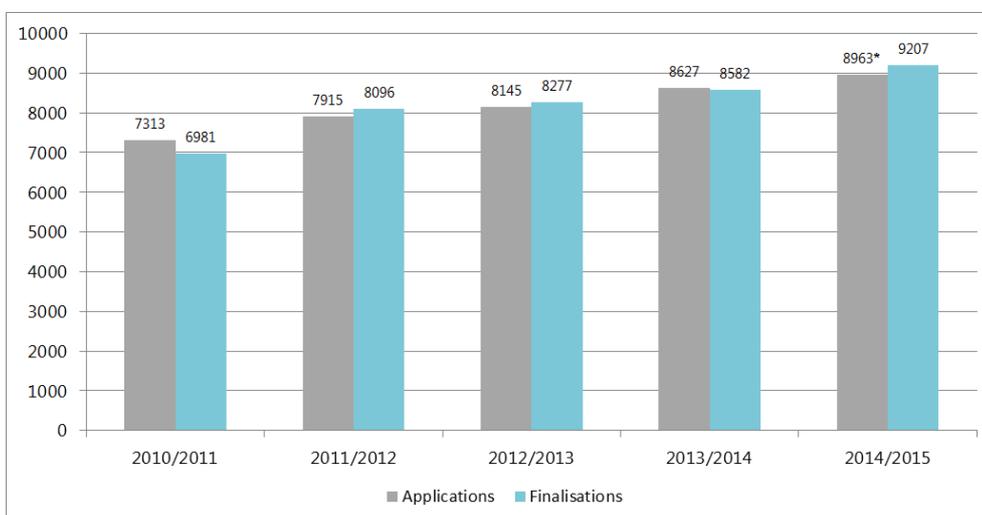
approximately one third of the Division's hearings are conducted in regional centres across NSW. Where appropriate, the Division will sometimes conduct proceedings in aged care facilities and hospitals.

The workload of the Division is directly impacted by the ageing of the population. In 2014-2015 26% of applications were for people over the age of 85 years and approximately 63% of applications were made concerning people over the age of 65 years.

**Graph 2 – Age demographic of the people the subject of applications in 2014-2015**



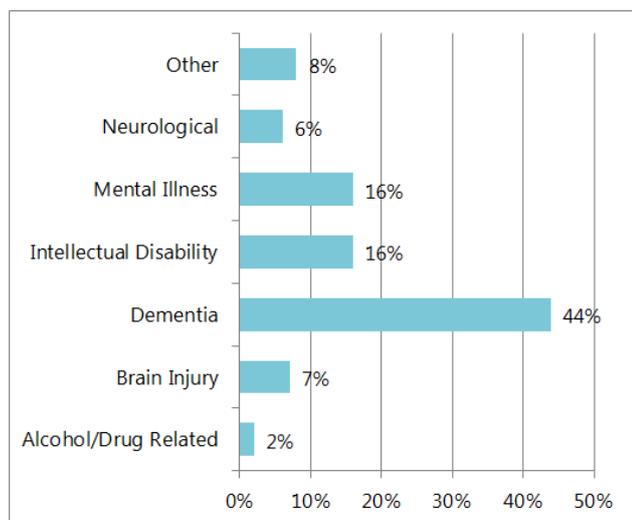
**Graph 1 – Five year comparison - new applications received and finalised from 2010-2011 to 2014-2015**



\* excludes statutory review matters

Consistent with this demographic influence approximately 44% of applications made concerned people with dementia. Approximately 16% of applications were made for people with mental illness, 16% for people with intellectual disability and 13% for people with brain injury or neurological conditions affecting their decision making.

**Graph 3 - Disability identified in the applications received in 2014-2015**



## Members

Members of the Division are appointed on the basis of their significant professional and personal experience with people who have disabilities or their legal skills and experience. In most cases a panel of three Tribunal Members including a Senior (Legal) Member, a Senior (Professional) Member and a General (Community) Member will hear an application. The Legal Member is a lawyer of at least 7 years standing. The Professional Member is a person such as a doctor, psychologist or social worker who has experience in the assessment or treatment of adults with disabilities. The Community Member has experience, often as a disability advocate or as family member of a person with a disability. The expertise of this multi-disciplinary panel ensures that while focussed on determining the legal issues presented in the application, the Tribunal brings a wealth of specialist knowledge, expertise and experience to enable it to also focus

on the physical, psychological, social and emotional needs of the person the hearing is about.

Division Members participate in NCAT-wide Member professional development events. The Division delivers a Member professional development program of seminars, workshops and discussions which provide legislative and case law updates and information on clinical and disability issues relevant to the Tribunal's protective jurisdiction. During the period Members participated in seminars and workshops on topics such as improving communication techniques when engaging with people with intellectual disabilities and understanding indigenous kinship.

## Staff

In addition to undertaking a range of Tribunal administrative functions, staff in this Division undertake specialist case management functions to prepare applications for hearing. Many people with decision making disabilities are supported to make their own decisions or, where this is not possible, may have a range of decisions made on their behalf by their family members and friends. Staff provide a specialist enquiry service to assist people to identify informal solutions to address a person's decision making needs and which may mean that an application to the Tribunal is not required. In 2014-2015 the Division responded to 13,907 enquiries.

Staff in the Guardianship Division access a range of learning and development opportunities coordinated by the Department and the NCAT Principal Registry. In addition, the Division supports the training and professional development of staff through a Divisional staff seminar program involving internal and external presenters. Staff of the Division have regular communication with people with disability who are the subject of applications, their family members and service providers. Staff seminars provide practical training in communication skills and disability awareness and ensure staff are aware of developments in the health and disability

sectors relevant to their roles and which assist in the efficient preparation of applications for hearing.

Applications to the Guardianship Division are assessed against the Tribunal's Risk Triage Scale based on the immediacy and severity of possible risk to the person the subject of the application. This risk assessment informs the timeframe to hearing and the application preparation process. The triage framework is responsive to changes in the person's circumstances which may result in an increase or a decrease in the assigned risk category. In preparing applications for hearing, Tribunal staff have as a primary focus the person who is the subject of the application. They assist the person to understand the Tribunal's role and procedures and identify how they may best participate in proceedings. Where necessary staff seek information about the capacity and decision making needs of the person, and where appropriate, assist with the informal resolution of matters which may result in an application being withdrawn with the consent of the Tribunal before hearing.

## Consultation with stakeholders

In October 2014 the inaugural meeting of the Division's Consultative Forum was held with the participation of 25 representatives from organisations which are important stakeholders of the Division (see **Appendix 9**). A further meeting was held in February 2015. This forum has proved an excellent means for the Division to obtain objective and direct feedback from important user groups to assess the quality of the service that is provided and has resulted in tangible and practical suggestions for improvement.

## Projects and developments

The Division has continued to develop strategies, build on its effective triage framework and refine its case management processes to respond to its sustained workload growth. It has maintained a focus on effective and efficient service delivery while at the same time, has retained a clear commitment

to those specialised features of its practice and procedure which reflect its paramount focus on the interest of the person with a disability, the principles of the Guardianship Act, and obligations under Articles 12 and 13 of the UN Convention on the Rights of Persons with Disabilities.

In October 2014 the Division established a Practice and Procedure Committee made up of Member and staff representatives. The establishment of this Committee recognises the continuum of case management practice and procedure involving Division Members and staff. It has proven to be a valuable framework for reviewing practice and procedure, providing strategic guidance to case management projects and ensuring appropriate processes for evaluation and feedback are established.

The Committee oversaw the further development of a tailored case management pathway for applications made by a person with a disability about themselves (self-applicants) to facilitate a more timely and effective resolution of these applications. This involved reviewing and improving the Self-Applicant Support Kit to provide guidance in completing an application and legal and advocacy resources should they be required, the early listing of directions hearings and developing tailored notices of hearing and precedent orders to better assist a self-applicant in progressing their application. Evaluation revealed that the majority of these applications progressed to hearing within three months where previously many applications were finalised by dismissal for want of prosecution. Feedback from Members indicated that the majority of self-applicants were more satisfied and engaged with the process, and the opportunity to engage with the Tribunal in the less formal setting of a directions hearing, resulted in the consensual resolution of a number of applications.

The Committee also provided strategic guidance to a pilot project which commenced in January 2015 to establish a new case management pathway for identified applications involving early notification of

the application to parties, early contact with the person the subject of the application, provision of written standard directions to parties and a requirement that parties cross serve their evidence. The Division will continue to develop this project and anticipates expanding the pilot to include more complex applications.

While there are strict confidentiality protections in place governing proceedings, the Division regularly publishes decisions which are carefully anonymised. This is to provide members of the community and users of the Division an understanding of the work undertaken by the Division and to illustrate the principles that are applied when Members exercise decision-making functions. The decisions that are published include matters that are notable because they involve novel or complex applications or because they deal with frequently arising issues. In addition to this initiative, the Division has commenced regularly publishing an 'e bulletin' which is provided to the members of the Consultative Forum. The bulletin provides news about recent developments and useful summaries of the published decisions of the Division.

## Looking ahead

The year ahead will undoubtedly prove to be a period of significant change and development for the Division as NCAT continues to integrate and improve its systems and processes. It is likely that 2016 will see the operations of the Division relocated to new accommodation and co-located with other Divisions of the Tribunal. This will enhance the ongoing establishment of 'One NCAT'. It is anticipated that in mid-2016 the Division will transfer onto a single Tribunal-wide case management system and will be the recipient of further technological advancements as a result. The Division is looking forward to these changes which will assist the development of new and improved ways of responding to the needs of people who engage with the Division and to manage workload growth.

As our society continues to provide greater acceptance of, and give greater recognition to, the rights of people with disabilities, there are many calling for a change in focus within the jurisdiction exercised by the Division. Dialogue has intensified over the period on whether increasing recognition should be given to supporting a person with a disability, where this is possible, to make their own decisions rather than seeking the appointment of substitute decision-makers. The Tribunal acknowledges the significance of these discussions in advancing the rights, independence and empowerment of people with disabilities and will draw on its stakeholder network to implement any resulting legislative reform.

I take this opportunity to thank the President of NCAT, the Hon Justice R Wright, and the former Principal Registrar, Sian Leathem, for their support of the Division and for their leadership. Similarly, I express my gratitude to Principal Member Christine Fougere, Principal Member Jan Redfern, Divisional Registrar Amanda Curtin and Acting Divisional Deputy Registrar Linda Sengstock for their hard work and professionalism. Finally, thank you to all the Members and staff of the Division whose dedication, expertise and goodwill in performing their roles have made our achievements over the year possible. I continue to be extremely fortunate to have such a skilled and committed group of people in the Division.

### **Malcolm Schyvens**

Deputy President and Division Head  
Guardianship Division

# Occupational Division Report

On the establishment of NCAT, the Occupational Division assumed responsibility for professional discipline and other matters associated with various professions, including the fourteen former health professional Tribunals, legal services (barristers and solicitors), architects, veterinarians, surveyors and certifiers and local government councillors.

The Division also assumed responsibility for review of certain administrative decisions in respect of refusal of registration of persons in specified occupations including taxi-drivers and security agents formerly determined in the Administrative Decisions Tribunal prior to its abolition.

This Division was the only Division of NCAT which brought together a large number of small, disparate Tribunals and may be contrasted in this respect with the other three Divisions each of which continued, on the establishment of NCAT, the work previously in one Tribunal such as the former Guardianship Tribunal of NSW (which became the Guardianship Division). Thus, the establishment of the Occupational Division necessarily involved the need to harmonise many different regimes for the conduct of hearings, adopting, where appropriate and possible, uniform practice and procedures, and Member terms and conditions. It involved, in many cases, significant cultural change for Members, and required staff in the Division to adapt to, and become familiar with, legislation and practises not previously encountered by them.

I am pleased and proud to report that the integration of the various professional Tribunals into NCAT has occurred without undue difficulty and the Division has achieved the significant cultural change required to facilitate the objects of the *Civil and Administrative Tribunal Act 2013* (NSW). This has occurred because of the cooperation of the

Members including the judges, legal and professional and community members and the hard work of the Divisional Registrar and staff.

Importantly, the Division has heard and determined all matters transferred to NCAT on its establishment from the former Medical Tribunal of NSW and previously heard in the District Court of NSW, and has achieved an overall clearance ratio of cases of 121.2%. The Division received 245 applications this year and finalised 297 matters. At 30 June 2015 there were 140 matters pending.

I take this opportunity to express my thanks to the Members and staff who have facilitated the integration of the various professional and occupational Tribunals into NCAT and to acknowledge my appreciation of the cooperation I have received from them, and the parties before the Tribunal including relevant disciplinary bodies, in my role as head of the Division since January 2015.

## What the Division does

The Division's principal work involves the hearing and determination of professional discipline matters brought against a professional including medical and health practitioners, lawyers, veterinarians, architects, surveyors and registered certifiers, in which it is alleged the professional is guilty of unsatisfactory professional conduct and/or professional misconduct. If established, the Tribunal may order that a practitioner's registration be cancelled, that the practitioner be suspended from practice for a defined period, reprimanded, fined, or their registration or right to practice be subject to conditions.

The Tribunal may also determine if a local government councillor has breached the pecuniary interest provisions, or the relevant Code of Conduct,

in force under the provisions of the *Local Government Act 1993* (NSW). If the relevant breach is established the Tribunal may impose a reprimand, disqualify the councillor from holding office for up to five years, suspend or fine the councillor, or suspend the right to receive fees or remuneration to which the councillor is entitled.

The Division also exercises an appellate role in determining external appeals. Such appeals may be an appeal by a medical or other health professional against refusal of registration or a class of registration under the *Health Practitioner Regulation National Law* (the National Law) or against conditions imposed on the practitioner's registration by a health professional council, or an appeal against a decision of the Architects Board, the Building Professionals Board, the Veterinary Board, or the Director-General, Department of Local Government, who has made disciplinary orders against the practitioner.

A number of statutes provide that decisions made by administrative bodies in respect of discipline and licensing of persons may be the subject of administrative review under the provisions of the *Administrative Decisions Review Act 1977* (NSW).

To facilitate the orderly conduct of the Division's workload, matters are streamed into the Health Practitioner List, the Legal Services List, and the Administrative Review List. The latter list is serviced by Members who sit regularly in the Administrative Decisions and Equal Opportunity Division and who have expertise in the review of administrative decisions.

## Workload

Because of the bringing together of a number of small Tribunals it is impossible to provide a meaningful comparison of workload with prior years. It is also important to stress that, while the Division has a numerically low number of applications, the majority of the matters heard involve complex

factual and legal matters, and hearings are often lengthy.

The Division's decisions are important to ensure that the health and safety of the public are protected by ensuring only those health practitioners who are competent to practice do so, that only lawyers who uphold the highest ethical standards engage in the practice of law, and that the public can repose trust in its architects, veterinarians, local government councillors, surveyors, and registered certifiers. Further, its decisions ensure that as far as practicable, the public can be satisfied about the safety and integrity of taxi-drivers, truck operators and security agents in the services they provide for the public.

The medical and health matters heard by the Division are the most numerically significant matters with claims against, and appeals by, medical practitioners forming approximately 50% of the Health Practitioner List. Approximately twice as many matters are heard in the health list as those heard in the Legal Services List.

**Table 5 – Medical and Health Lists - applications filed 2014-2015**

MATTER TYPE	APPLICATIONS
Aboriginal and Torres Strait Islander health practice	0
Chinese medicine	1
Chiropractic	3
Dental (including professions of dentist, dental therapist and dental hygienist)	5
Medical Radiation practice	0
Medical	37
Nursing and Midwifery	16
Occupational Therapy	0
Optometry	0
Osteopathy	4
Pharmacy	9
Physiotherapy	1
Podiatry	0
Psychology	6

The second largest area of work of the Division involves the regulation of the legal profession.

Disciplinary matters involving other professionals and local councillors are infrequent.

**Table 6 – Disciplinary matters – other professionals and local councillors - applications filed 2014-2015**

MATTER TYPE	APPLICATIONS
Legal Profession Act 2004	38
Local Government Act 1993	5
Building Professional Act 2005	2
Veterinary Practice Act 2003	1

Administrative review of occupations remained relatively constant with previous years when these matters were heard and determined in the former Administrative Decisions Tribunal.

## Members

The Divisions' Members include Judges, Principal and Senior Members, Professional Members who are appointed as Occasional Members of the Tribunal for a particular matter because of their professional expertise, and General or Community Members. The Members are highly qualified and experienced, and the Professional Members' expertise is recognised by appellate courts as a significant feature of the Tribunal's decision making capacity (*Qasim v Health Care Complaints Commission* [2015] NSWCA 282).

In medical and health matters the Tribunal consists of a four Member panel, a judge (in a case involving a medical practitioner), or a Principal or Senior Legal Members (in the case of other health matters) two professionals from the same profession as the practitioner, and a Community Member. The Professional and Community Members are recommended by the relevant health practitioner council and appointed by the President, or his delegate, as Occasional Members. A Judge, who is not a Member of NCAT, is appointed by the President, or his delegate, on the basis of need and

with the concurrence of the head of that Judge's court under s 15(2) of the *Civil and Administrative Tribunal Act*. Currently, in addition to the President, there are five Acting District Court Judges who are Members of NCAT and two Acting District Court Judges who may be appointed in the case of need.

In legal services matters the Tribunal is constituted by a three Member panel comprising a senior judicial officer, or a Legal Member (barrister or solicitor depending on the discipline of the practitioner) another Legal Member and a Community Member. Composition of the panel to hear other professional disciplinary matters is fixed by the governing legislation, but in all cases includes a professional from the appropriate discipline.

Disciplinary proceedings against local government councillors may be heard, by consent of the parties, on the papers, or by way of an oral hearing. The matters are generally heard with a single Legal Member presiding.

Administrative review matters involving taxi drivers, truck operations and security agents are heard by a single Legal Member.

During 2014-2015 Members participated in various continuing professional development seminars. Some Members have participated in the annual and state conferences organised by COAT. An appraisal process to review and enhance Members' skills has been developed and implemented.

## Staff

Services are provided to the public, the parties and Members by the Occupational Division Registrar and her staff. They also provide administrative assistance to the Administrative and Equal Opportunity Division and are co-located with that Division at Level 10, John Maddison Tower, 86-90 Goulburn Street, Sydney (JMT).

The Division's Registrar, Ms Pauline Green, Deputy Registrar Christine Skinner, and the staff have

provided dedicated support to the Division to ensure its smooth and efficient operation.

## Venues for hearings, case conferences and modes of hearing

The Division's matters are currently heard either at John Maddison Tower (JMT) (generally on level 10) and occasionally in a court made available by the Chief Judge of the District Court. Health matters are also heard at the Health Professional Authority's Hearing rooms at Level 6, 477 Pitt Street Sydney.

The Division's directions lists are heard at JMT and frequently parties appear by telephone, generally if they are located outside the Sydney metropolitan area. Health and legal services lists are conducted each four weeks or more frequently if required.

2015 saw the institution of case conferences in selected professional disciplinary matters. The use of a case conference has, in the majority of matters in which such a conference has been conducted, resulted in narrowing of issues in dispute, agreements about expert and lay evidence (frequently with agreement for experts' evidence to be heard concurrently) and reduced estimated hearing time resulting in savings to the parties, the Tribunal and the public.

It is relevant to note that mediation or other resolution tools are generally not able to be fully utilised in the professional disciplinary matters as the governing legislation prevents the parties reaching a settlement leading to the making of consent orders, with a limited exception in legal services matters. But even these matters require the Tribunal's independent consideration of the agreement reached to ensure it is appropriate in the circumstances.

The Division is embracing to the full extent possible the use of technology from the provision of documents to Members on USB devices, and use of Skype, telephone or AVL for taking of witnesses'

evidence where it is the only practical means of receiving the evidence.

## Appellate review

No appeal lies to the Appeal Panel of NCAT in respect of the professional discipline matters heard in the Division. An appeal from a decision of the Division is, in the case of a medical practitioner, to the NSW Court of Appeal, and in other matters, generally to a single judge of the Supreme Court of NSW or the Land and Environment Court.

A number of the Tribunal's decisions have been upheld in whole or part in the NSW Court of Appeal or the Supreme Court including *Quach v HCCC* [2015] NSWCA 187. Appeals have been allowed in some matters (*Veterinary Practitioners Board of NSW v Gallagher* [2015] NSWSC 1233, *Donaghy v The Council of the Law Society of NSW* [2015] NSWCA 223).

## Consultation with stakeholders

The Division has participated in the NCAT Liaison Group attended by representatives of the professional bodies who regularly appear in the Tribunal as well as consultative forums for regular Tribunal users in the professional discipline lists.

In March 2015, the Division convened the first meeting of its Professional Discipline Group Consultative Forum for stakeholders in the health and legal professions.

## Projects and developments

The Division Head and the Registrar participate in stakeholder consultations and the Tribunal's user consultative forums that are held bi-annually. Members of the Division participate in the Tribunal's Practice and Procedure Committee and the Professional Development Committee and the Accessibility Committee.

A structured plan of continuing professional development and Member appraisal will be

conducted in 2015-2016 to maintain and enhance Members' skills and expertise.

The case conference model, implemented initially in the health list, will be extended to other appropriate professional matters with a view to achieving economies.

In conclusion I record my thanks to the President, the Hon Justice R Wright, and the former Principal Registrar Ms Sian Leathem, for their unfailing assistance and support to the efficient and harmonious operation of the Division and NCAT generally.

**The Hon A/Judge Jennifer Boland AM**

Deputy President and Division Head

Occupational Division

# Appendices

---

- 1**     **Legislation**
- 2**     **Legislative change 2014-2015**
- 3**     **Tribunal Members at 30 June 2015**
- 4**     **NCAT Member Code of Conduct**
- 5**     **NCAT Expenditure Report**
- 6**     **NCAT Strategic Plan 2014-2018**
- 7**     **Resolution Processes**
- 8**     **Fees and charges as at 30 June 2015**
- 9**     **NCAT Liaison Group and Divisional Consultative Forum Membership**

# Appendix 1

## Legislation

---

The *Civil and Administrative Tribunal Act 2013* sets out provisions related to establishing the Tribunal, how proceedings are commenced, procedures and powers of the Tribunal, and the appointment of Members.

The following Acts and subordinate legislation confer jurisdiction on the Tribunal as at 30 June 2015.

### Administrative and Equal Opportunity Division

- Administrative Decisions Review Act 1997
- Adoption Act 2000
- Agricultural Industry Services Act 1998
- Agricultural Livestock (Disease Control Funding) Act 1998
- Agricultural Tenancies Act 1990
- Air Transport Act 1964
- Animal Research Act 1985
- Anti-Discrimination Act 1977
- Apiaries Act 1985
- Apprenticeship and Traineeship Act 2001
- Associations Incorporation Act 2009
- Australian Oil Refining Agreements Act 1954
- Betting Tax Act 2001
- Births, Deaths and Marriages Registration Act 1995
- Boarding Houses Act 2012
- Building and Construction Industry Security of Payment Act 1999
- Charitable Fundraising Act 1991
- Child Protection (International Measures) Act 2006
- Child Protection (Offenders Registration) Act 2000
- Child Protection (Working with Children) Act 2012
- Child Protection (Working with Children) Regulation 2013
- Children (Education and Care Services National Law Application) Act 2010
- Children and Young Persons (Care and Protection) Act 1998
- Children and Young Persons (Care and Protection) Regulation 2012
- Coal Industry Act 2001
- Combat Sports Act 2013
- Commons Management Act 1989
- Community Justice Centres Act 1983
- Community Services (Complaints, Reviews and Monitoring) Act 1993
- Community Services (Complaints, Reviews and Monitoring) Regulation 2004
- Co-operative Housing and Starr-Bowkett Societies Act 1998
- Crown Lands Act 1989
- Crown Lands (Continued Tenures) Act 1989
- Deer Act 2006
- Disability Inclusion Act 2014
- Dormant Funds Act 1942
- Duties Act 1997
- Education Act 1990
- Electricity (Consumer Safety) Act 2004
- Electricity Supply Act 1995
- Exhibited Animals Protection Act 1986
- Explosives Act 2003
- Firearms Act 1996
- Firearms Regulation 2006
- First Home Owner Grant (New Homes) Act 2000
- Fisheries Management Act 1994
- Food Act 2003
- Food Regulation 2010
- Forestry Act 2012
- Game and Feral Animal Control Act 2002
- Gaming Machine Tax Act 2001
- Gas Supply Act 1996
- Government Information (Public Access) Act 2009
- Guardianship Act 1987
- Hay Irrigation Act 1902
- Health Insurance Levies Act 1982
- Health Records and Information Privacy Act 2002
- Hemp Industry Act 2008
- Higher Education Act 2001
- Housing Act 2001
- Hunter Water Act 1991
- Impounding Act 1993
- Insurance Protection Tax Act 2001
- Land Tax Act 1956
- Land Tax Management Act 1956
- Licensing and Registration (Uniform Procedures) Act 2002
- Liquor Act 2007
- Local Land Services Act 2013
- Lotteries and Art Unions Act 1901
- Marine Safety Act 1998

- Motor Accidents Compensation Act 1999
- Motor Vehicle Sports (Public Safety) Act 1985
- Mount Panorama Motor Racing Act 1989
- Native Title (New South Wales) Act 1994
- Non-Indigenous Animals Act 1987
- NSW Trustee and Guardian Act 2009
- Ombudsman Act 1974
- Parking Space Levy Act 2009
- Payroll Tax Act 2007
- Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011
- Pesticides Act 1999
- Photo Card Act 2005
- Plant Diseases Act 1924
- Police Act 1990
- Port Kembla Inner Harbour Construction and Agreement Ratification Act 1955
- Privacy and Personal Information Protection Act 1998
- Private Health Facilities Act 2007
- Public Health Act 2010
- Public Lotteries Act 1996
- Regional Relocation Grants Act 2011
- Registered Clubs Act 1976
- Retail Trading Act 2008
- Rice Marketing Act 1983
- Sydney Water Act 1994
- Tattoo Parlours Act 2012
- Taxation Administration Act 1996
- Teacher Accreditation Act 2004
- Thoroughbred Racing Act 1996
- Victims Rights and Support Act 2013
- Water Act 1912
- Water NSW Act 2014
- Weapons Prohibition Act 1998
- Wentworth Irrigation Act 1890
- Western Lands Act 1901
- Work Health and Safety Regulation 2011
- Workplace Injury Management and Workers Compensation Act 1998

## Consumer and Commercial Division

- Agricultural Tenancies Act 1990
- Australian Consumer Law (NSW)
- Boarding Houses Act 2012
- Community Land Development Act 1989
- Community Land Management Act 1989
- Consumer Claims Act 1998
- Contracts Review Act 1980
- Conveyancers Licensing Act 2003 (but only in relation to Division 3 of Part 4 of that Act)
- Credit (Commonwealth Powers) Act 2010
- Dividing Fences Act 1991

- Fair Trading Act 1987
- Holiday Parks (Long-term Casual Occupation) Act 2002
- Home Building Act 1989
- Motor Dealers and Repairers Act 2013
- Pawnbrokers and Second-hand Dealers Act 1996
- Property, Stock and Business Agents Act 2002
- Residential Parks Act 1998
- Residential Tenancies Act 2010
- Retail Leases Act 1994
- Retirement Villages Act 1999
- Strata Schemes Management Act 1996
- Sydney Water Act 1994

## Guardianship Division

- Children and Young Persons (Care and Protection) Act 1998
- Guardianship Act 1987
- NSW Trustee and Guardian Act 2009
- Powers of Attorney Act 2003

## Occupational Division

- Aboriginal Land Rights Act 1983
- Architects Act 2003
- Building Professionals Act 2005
- Commercial Agents and Private Inquiry Agents Act 2004
- Conveyancers Licensing Act 2003
- Fair Trading Act 1987
- Health Care Complaints Act 1993
- Health Practitioner Regulation National Law (NSW)
- Home Building Act 1989
- Local Government Act 1993
- Motor Dealers and Repairers Act 2013
- Occupational Licensing National Law (NSW)
- Passenger Transport Act 1990
- Pawnbrokers and Second-hand Dealers Act 1996
- Property, Stock and Business Agents Act 2002
- Public Notaries Act 1997
- Security Industry Act 1997
- Surveying and Spatial Information Act 2002
- Tow Truck Industry Act 1998
- Valuers Act 2003
- Veterinary Practice Act 2003
- Wool, Hide and Skin Dealers Act 2004
- Workplace Injury Management and Workers Compensation Act 1998

# Appendix 2

## Legislative change 2014-2015

---

### Home Building Amendment Act 2014

The *Home Building Amendment Bill 2014* was passed by the NSW Parliament on 28 May 2014 and proclaimed on 10 December 2014. The Amendment Act made major amendments to the Home Building Act 1989. The amendments commenced on 15 January 2015 and 1 March 2015 and included the following, which are relevant to NCAT:

- A wider NCAT jurisdiction in relation to specialist work to include specialist commercial work.
- That the rectification of the defective work by the responsible party is the preferred outcome
- That an order can be made even if it is not the order the applicant asked for.
- Lifting the threshold from \$1000 to \$5000 for regulated contracts (other than specialist building work).
- Renaming structural and non-structural defects to major defects (claims may be made within 6 years) and minor defects (claims may be made within 2 years).
- Changes to warranty definitions from work to be done in a proper and workmanlike manner to 'done with due care and skill'.
- Capping maximum progress payments at \$20,000.

### Courts and Crimes Legislation Amendment Act 2015

The *Courts and Crimes Legislation Amendment Act 2015* was passed by the NSW Parliament and received assent on 15 February 2015. The amendments to the *Civil and Administrative Tribunal Act 2013*, the *Guardianship Act 1987* and other legislation relevant to the Tribunal commenced upon assent.

The Act amended the following legislation relevant to NCAT:

- *Children and Young Persons (Care and Protection) Act 1998* to allow only risk of harm reports to be admitted into evidence in certain NCAT proceedings (Guardianship and Victims Compensation). This remedies a drafting omission during NCAT's establishment.
- *Civil and Administrative Tribunal Act 2013* to allow leave to be granted for a person to be represented by an Australian legal practitioner without a particular practitioner being identified; to clarify that NCAT may revoke certain orders that it has made regarding the representation of a party or person; to replace references to the 'Health Practitioner Division List' with 'Health Practitioner List'; and permit Senior (Professional) Members of the Guardianship Division to sit on appeals from the Guardianship Division.
- *Water Act 1912* to reflect that NCAT is the relevant responsible Tribunal.
- *Guardianship Act 1987* to make a number of amendments to enhance the flexibility and efficiency of NCAT and to provide clarity to the public about substitute enduring guardians.
- *District Court Act 1973* to allow retired judges of the Family Court of Australia to be appointed as acting judges of the District Court after they reach the statutory age of retirement and other amendments relating to acting judges.

# Appendix 3

## Tribunal Members at 30 June 2015

---

### President

#### **The Hon Justice Robertson Wright BA LLB(Syd) LLB(Cantab)**

The Hon Justice Robertson Wright is a Judge of the Supreme Court of New South Wales, having been appointed on 25 October 2013.

Prior to his appointment, Justice Wright practiced as a barrister for 30 years and was a Judicial Member of the Administrative Decisions Tribunal from 2007.

### Deputy Presidents

#### **The Hon A/Judge Jennifer Boland AM**

Deputy President and Division Head (Occupational Division)

Jennifer Boland was appointed as a Judge of the Family Court of Australia in October 1999. In July 2004 she was assigned as a Judge of the Appeal Division of the Court.

Jennifer is presently an Acting Judge of the District Court of NSW, Deputy President and head of the Occupational Division of the NSW Civil and Administrative Tribunal. Before her judicial appointment to the Family Court, Jennifer was a litigation partner in the firm Corrs Chambers Westgarth, and practised in the diverse areas of product liability and family law.

She is a former member and Chairperson of several not for profit organisations and a current Foundation Chair of two charitable foundations. In 2012 Jennifer was admitted as a Member of the Order of Australia.

#### **Magistrate Nancy Hennessy**

Deputy President and Division Head (Administrative and Equal Opportunity Division)

Nancy Hennessy was appointed as a New South Wales Magistrate in 2002 and is currently a Deputy President and Head of the Administrative and Equal Opportunity Division of the NSW Civil and Administrative Tribunal.

Prior to her appointment to NCAT, Magistrate Hennessy was the Deputy President of the former Administrative Decisions Tribunal and President of the former Community Services Appeals

Tribunal. Her areas of expertise include administrative law, human rights and protective jurisdictions involving children and people with disabilities.

#### **Mr Malcolm Schyvens**

Deputy President and Division Head (Guardianship Division)

Malcolm Schyvens was admitted as a solicitor in 1997. Malcolm holds degrees in Law and Commerce from the University of Tasmania.

Malcolm is a past President of the Law Society of Tasmania, having previously been in private practice in Hobart as managing partner of Ogilvie Jennings. He was also a part-time member of the Guardianship and Administration Board (Tas), the Forensic Tribunal (Tas) and a Director of the Centre for Legal Studies in Hobart. He also held the position of President of the Board of Cosmos Inc., Tasmania's largest provider of day services for people with an intellectual disability.

Malcolm was appointed as the Deputy President of the Guardianship Tribunal of New South Wales in October 2008 and was subsequently appointed as President of that Tribunal in September 2011. Upon the establishment of the NSW Civil and Administrative Tribunal he was appointed as a Deputy President and the Division Head for Guardianship.

#### **Mr Stuart Westgarth BA LLB**

Deputy President and Division Head (Consumer and Commercial Division)

Stuart Westgarth graduated in Arts and Law from the University of Sydney and has been in practice as a Solicitor since 1975. He is a Fellow of the Australian Institute of Company Directors. He is a Director of Legal Super Pty Ltd. He was a partner in Corrs Chambers Westgarth from 1980 to 2007, and Managing Partner (Sydney) from 1995 to 1999. He was a partner at HWL Ebsworth from 2008 to 2012 and President of the Law Society of NSW in 2011. His main area of practice has been in commercial litigation, particularly banking, maritime and product liability litigation.

## Members

### Alexander, Peter

Country veterinarian with over thirty years' experience in both small and large animal medicine and surgery. An enthusiastic advocate for the NSW Animal Welfare League.

### Anderson, Jane Elizabeth LLB(Hons), LLM

Solicitor for 15 years with extensive experience in criminal and administrative law. Formerly a deputy president of the Guardianship Board of SA and a senior lawyer with the Commonwealth Director of Public Prosecutions. Previously a board member of a mental health advocacy and support NGO.

### Anderson, Mark BA LLB

Awarded Bachelor of Arts and Bachelor of Laws degrees from the University of New South Wales. In practice at the NSW Bar since 1990, over 25 years. Admitted to practice as a solicitor on 20 December 1985. Member of Frederick Jordan Chambers in Sydney during a career at the Bar. Lived and experienced schools in the ACT, Queensland, and New South Wales. Appeared at an appellate level in the High Court, Appellate Division of the Family Court, and New South Wales Court of Appeal. Appears regularly in the Family Court, Federal Circuit Court, Supreme Court of New South Wales, District Court, Children's Court of New South Wales, and the Local Court of New South Wales. Appeared also in the Land and Environment Court, Administrative Decisions Tribunal (NSW) (as it then was), Social Security Appeals Tribunal (as it then was), and other Tribunals.

### Antonios, Zita Rose B.Soc.Stud (Hons 1)

Ms Antonios is a consultant mediator and inquirer who specialises in conflict resolution in the workplace. Her last full time statutory appointment was as the federal Race Discrimination Commissioner at the Australian Human Rights Commission. Over the past fifteen years, in addition to managing her consultancy, she has held statutory appointments as a member of the Veterans Review Board and as a Ministerial advisor reviewing failed asylum seeker applications.

### Bailey, Robyn Louise BA, LLB, LLM.

Solicitor and Nationally Accredited Mediator. She is the Director of Exploresolutions Pty Ltd, national ADR consultants and a Facilitator with the Defence Abuse Response Taskforce (DART). An Accredited specialist in personal injury law (NSW Law Society) She has over 20 years' experience acting for people with acquired psychological and/or brain injury, including victims of professional negligence. Ms Bailey is a Mediator with the NSW Workers Compensation Commission, and a member of the NSW Law Society's panel of mediators. Former Deputy Chair of the Board of Directors of the Brown Nurses, a charity serving primarily those with mental illness.

### Barker, David

Mr Barker is a social worker, with post grad counselling qualifications. He is a Member of the Tasmanian Mental Health Tribunal, a past Member of the Social Security Appeals Tribunal and was appointed to the Migration and Refugee Division of the Administrative Appeals Tribunal in 2015.

### Barnetson, Diane

I have a B.Leg S from Macquarie University and a Masters in Industrial Relations from Wollongong University. I have worked in the Consumer Claims Tribunal and its subsequent Tribunals since 1982. I have also worked as an Industrial Advocate, as a member of the Mental Health Review Tribunal, the Social Security Appeals Tribunal, the Migration and Refugee Review Tribunal and as a conciliator at HREOC. I have taught legal studies at TAFE and at Wollongong University.

### Beale, Dr Ivan Leslie MSc PhD

Visiting Senior Research Fellow, School of Psychology, UNSW. Extensive experience in behaviour and health research, intervention and assessment in learning disabilities. Member, NSW Mental Health Review Tribunal. Member, Board of Directors, Aftercare.

### Beckett, Angela Therese

Solicitor and clinical psychologist. Extensive background in service provision to persons with a disability. Qualifications and experience in alternative dispute resolution. Member of the Administrative Appeals Tribunal. Formerly Member of the Consumer Trader and Tenancy Tribunal and Mental Health Review Tribunal.

### Bliim, Steven Dip Law (SAB)

First admitted as a solicitor in November 1984 and later as a barrister in 1991. Have served a period as Solicitor General of the Republic of Nauru. Currently working as the Principal Solicitor of a Community Legal Center.

### Bluth, Dennis Raymond BA LLB (Syd)

I am a partner of HWL Ebsworth Lawyers in the Sydney office and have a wide property based practice. I am also a member of the Property Law Committee and chair of the Legal Practice Section of the Law Council of Australia.

### Bolt, Mary Elizabeth

Mary Bolt has a longstanding interest in administrative law review and has worked on a number of statutory tribunals and multi member panels. She has a special interest in the welfare of children and people with disabilities.

**Booby, Rhonda Helen BA, LLB (Hons 1), MA, EMPA, Dip Ed, Dip Leg Prac**

Solicitor with extensive public service experience, including as a psychologist and administrator responsible for offender rehabilitation. Established restorative justice program in NSW Corrections. Also a member of the Mental Health Review Tribunal and a recent part time NSW Law Reform Commissioner

**Boxall, Andrew Ross BA LLB (Sydney) DSU (Paris)**

Solicitor with over 30 years' Australian and international experience in corporate, commercial, financial and insolvency law.

**Boyce, Philip Leslie DipLaw (SAB), LLM**

Solicitor since 1977. Private legal practice with extensive experience in real and personal property, consumer and administrative law; dispute resolution practitioner. Non presidential judicial member of former Administrative Decisions Tribunal, Senior Chairperson of former Local Land Boards.

**Bradford, Christopher Paul**

Solicitor and former Barrister and Supreme Court Common Law Registrar with over 30 years experience in a wide range of civil litigation in various courts. Extensive practice in private legal profession as well as experience as a mediator in the Supreme Court.

**Briggs, Phillip B Arch (Hons1) PhD MDR FRAIA MIAMA**

Consulting Architect, Arbitrator, Mediator, Court Referee. Former director of Architectural, Structural and Civil Engineering practice. Chair Senior Counsellors NSW Chapter RAIIA, Examiner in Architectural practice, co author of bi annual practice examination papers Involvement in home building disputes since appointed to the Board of the Builders Licensing Board, served on BSC, Consumer Claims Tribunal Building, Disputes Tribunal, Fair Trading Tribunal, CTTT and NCAT.

**Britton, Anne BA LLB**

A principal member of NCAT, Anne has extensive tribunal experience including as a Senior Member of the Commonwealth AAT and a Deputy President of the Administrative Decisions Tribunal. Anne has significant experience in governance roles including as a former director of the NSW Legal Aid Commission and the Communication Law Centre. Anne is the Convenor of the Council of Australasian Tribunals

**Brophy, Moira Dip Law Graduate Diploma of Legal Practice**

Previously a member of the Fair Trading Tribunal, the CTTT, the Social Security Appeals Tribunal and the Veterans' Review Board. Experienced in alternative dispute resolution and a trained mediator. Admitted to practice as a solicitor in NSW.

**Bryant, Kenneth Garry BA (ANU) LLB (ANU) Prof Cert Arbitration (Adel) Grad. Cert. Business Management (SCU)**

Solicitor for over 30 years. Initially general practice but ultimately an accredited specialist in family law. Appointed as an Independent Children's Lawyer. A Local Court arbitrator for 17 years and acted as a mediator for 19 years. Member of group which established the Albury Legal Referral Centre.

**Burke, Mary Ellen**

Mary Ellen Burke is a clinical psychologist with over 30 years experience in the provision of clinical services to support individuals, systems and agencies to effectively address the needs of people with complex and challenging behaviours. After a long career in the public service she moved to independent consulting in 2000. Her focus has been working with young people in Out of Home Care, people with intellectual disabilities and dual disabilities. Improving outcomes for individuals and their families through service improvement and accountability is a passion.

**Burns, Susan Jane BA (Qld) LLB (Syd)**

Solicitor with over 30 years of experience in civil litigation as a partner and special counsel. Former lecturer at the College of Law. Currently undertaking training to become an accredited mediator Strong interest in advocating for the rights of persons with a disability

**Butler, Rex**

Barrister, Commercial Disputes Mediator, Criminology Tribunal Member and Conciliator NSW Consumer, Trader and Tenancy Tribunal; Victim's Compensation Tribunal. Magistrate NSW Local Court including Civil Claims, Residential Tenancies. Instructing Solicitor/Acting Crown Prosecutor – Parramatta District Court Moot Court Magistrate – College of Law Local Government Conciliator – Pittwater Council NSW.

**Callaghan SC, Peter Raymond LLM (University of Sydney)**

Took Silk 1994. Practices principally in construction law and general commercial law. Has sat as an acting District Court Judge and regularly adjudicates as an arbitrator or Court referee, and mediates, particularly in construction industry cases. On a part time basis, formerly, a Naval Judge Advocate and Deputy President of NSW Administrative Decisions Tribunal and currently

Principal Member of NSW Civil and Administrative Tribunal.  
Chairman of NSW Chapter of Institute of Arbitrators and Mediators Australia 2003-2011.

### **Campbell, Cathy**

Cathy Therese Campbell, General Member (Part Time) since February 2010. Educated Monte Saint Angelo, North Sydney and Law Extension Committee, University of Sydney. Awarded Dip. Law (LPAB) After a successful career on the production side of commercial television, Member Campbell obtained employment with well-known insurance litigation law firm Max Connery & Co while studying law part-time. After graduation she practised as a solicitor with a varied practice in civil work generally, with a particular emphasis on legal professional negligence. She was called to the NSW Bar in 1998, practising from Wardell Chambers. Her practice extended to a wide range of civil work with particular expertise in insurance and personal injury litigation in the higher NSW Courts including the NSW Court of Appeal. Since her appointment Member Campbell has concentrated on her work on NCAT, and previously CTTT. She has a wide range of interests outside of work including, cooking, reading, craft and golf. Member Campbell has been involved with the young persons' charity Stepping Stone House, Sydney since its foundation 25 years ago, and has served on its Board.

### **Carter, Dr Tanya Lorraine BVSc MANZCVS (Animal Welfare)**

Veterinary practitioner for many years with experience in research and particular interest and qualifications in animal welfare and professional ethics. Member of three animal ethics committees, former member of the NSW VSB and ADT.

### **Charles, David Graham BA LLM (University of Sydney)**

Legal practitioner with over 30 years' experience in commercial law and equity. Engaged in private practice; initially as a solicitor and later as a member of the Sydney Bar. Member of the former Consumer Trader and Tenancy Tribunal.

### **Chesterman, Emeritus Professor Michael Rainsford**

Academic lawyer since 1966. Professor of Law at UNSW for 21 years, including 5 years as Dean, and Emeritus Professor since 2001. Former positions as Commissioner of the ALRC and NSWLRC, as Acting Judge of the District Court and as Deputy President of the Administrative Decisions Tribunal.

### **Churchill, Dr Robert**

Rural Veterinary Practitioner in NSW for over 40 years. Experience in health and welfare of animals of many species including dogs, cats, sheep, cattle, horses and alpaca. Practice Principal for over

35 years. Continuing involvement in training of undergraduate veterinary students from several universities.

### **Clifford, Roxanne Maree**

Solicitor and holds qualifications in nursing. Legal member of the Queensland Civil and Administrative Tribunal since 2009. She was also a Legal member of the Queensland Guardianship and Administrative Tribunal from 2006-2009. Former adjudicator of the Appeal Services of the Queensland Public Service Commission.

### **Cohen, Mark James**

Mark J Cohen is an Australian Lawyer, with 20 years practice at the NSW private Bar, and before that in investment banking. His area of expertise in practice was in corporations matters, and in equity practice, appearing regularly in the Supreme Court of NSW. He has been a Senior Member of the Consumer and Commercial Division of the Tribunal since August 2014.

### **Coleman SC, Andrew Philip**

Senior Counsel at NSW Bar with over 28 years experience as a solicitor and counsel in commercial and general litigation and dispute resolution.

### **Conley, Jennifer**

Solicitor with experience in civil and administrative law with Legal Aid and community legal centres. Prior to the commencement of NCAT was appointed to the Guardianship Tribunal and the Administrative Decisions Tribunal. Currently also appointed to the Mental Health Review Tribunal.

### **Connelly, Janice BA LLB LLM**

Solicitor with 25 years experience. Experienced arbitrator, conciliator and mediator. Expertise in civil, disability and mental health law. Currently a member of MHRT, Assessor for the Local Court and a mediator with WCC.

### **Connor, Elaine McNair BA(Hons) MPsych; LLB(Hons)**

Lawyer and clinical psychologist with extensive experience in the guardianship jurisdiction in Victoria and New South Wales. Prior experience advocating for people with disabilities and in a variety of legal roles.

### **Cootes, Janene**

Janene Cootes is a social worker by training and has worked with people with disabilities for over 35 years, mostly in advocacy. Ms Cootes is currently the Executive Officer of the Intellectual Disability Rights Service, a specialist legal advocacy service. Janene is a Board Member of Disability Advocacy Network of Australia.

**Corley, Susan LLB, LLM, BSc, PhD**

Solicitor with over 25 years experience in commercial and consumer law. Broad experience in private practice, as in-house counsel for a major corporation and as a Member of NSW consumer tribunals over the past two decades. A doctorate in science equips me to understand matters of a technical, scientific and medical nature.

**Cowdroy OAM AC, The Hon Dennis Antill**

Former Judge of the Federal Court of Australia, and former Presidential Member of the Administrative Appeal Tribunal and member of the Defence Force Discipline Appeal Tribunal; former judge of the Land and Environment Court of New South Wales. Currently holding commissions as Acting Justice of the Supreme Court of the ACT; Judge Advocate of the Australian Defence Force; Appellate member of New South Wales Civil and Administrative Tribunal; Acting District Court Judge; Chairman of the Australian Electoral Commission. Nationally accredited mediator.

**Crawford, Dr Julia Rosemary**

I am a small animal veterinarian with 33 years experience based in a four person general practice. I am a past President of the NSW Division of the Australian Veterinary Association, the Chair of the Vet Nursing Group NIAG and a Director of the AVA.

**Creasey AM, Dr Helen**

Geriatrician background training in neurology with particular interest in geriatric neurology especially dementia research, clinical care and service development, including working with carer organisations such as Alzheimer's NSW. Also involved in geriatric medicine training and practice within formal geriatric consultant practice and to broader range of involved health professionals.

**Crowley, Brett**

Solicitor with practice focused on public companies, capital raising and commercial litigation. Chartered Accountant (Partner) with Ernst & Young and KPMG Australia and Hong Kong, specialising in taxation law. Chairman and non-executive of a number of ASX companies.

**Crowley, Debbie**

Debbie has twenty years' experience with community based organisations that provide service or funding to address the rights and improve the welfare of people with disabilities. She continues to work as a director on not for profit boards. She is a foster carer and has experience working with vulnerable people living in boarding houses.

**Curran, Roslyn Mary B.S.W. (Hons) MAASW(acc).**

Roslyn Curran holds an honours degree in Social Work and is an accredited member of the Australian Association of Social Workers. She has spent most of her career in the field of Health. She has particular interest and expertise in Dementia, Advanced Old Age, Huntington Disease and Carer Issues.

**Currie, John Sydney BA, LLB (Sydney), LLM (London)**

Solicitor, Adjunct Professor and writer. 30 years' experience in financial markets law, guardianship and powers of attorney. Former Member of Administrative Decisions Tribunal. Author of major legal text and published papers. Former Councillor Law Society NSW. Active on committees concerned with disabilities.

**D'Arcy, Jennifer**

Solicitor with experience in private legal practice, particularly in family law and community legal centres. Extensive Tribunal experience. Currently also a member of the Social Services and Child Support Division of the AAT, the Mental Health Review Tribunal and a senior member of the Veterans' Review Board.

**Daly, Sonja BA LLB**

In private practice for 21 years as a solicitor involved in commercial dispute matters

**Davidson, Patricia**

Experience working with people with Disabilities for over 40 years both as an educator and in the community. Previously worked for the Public Guardian as a guardian and Assistant Director over the last 14 years.

**Dawson, Rodney Raymond LLB Sydney University**

Solicitor- admitted 1970; Councillor of Law Society NSW (3 terms); Past Chairman of Professional Conduct and Ethics Committees; former member of Board of Governors of College of Law; former accredited specialist Local Government and Planning Law; former President of Central Coast Law Society; former consultant on LawCover Risk Management Program; 45 years of practice- now as part time consultant.

**De Jersey, Sancia**

Sancia de Jersey has an Arts-Law degree (Tas) and a Masters in Business Administration (AGSM, UNSW). She also holds a mediation qualification from the Institute of Australian Mediators and Arbitrators. Her principal area in private practice of about 20 years was commercial litigation. She was appointed a member of the Consumer Trader and Tenancy Tribunal in 2012, and then appointed to NCAT.

**Deutsch, Professor Robert Leslie B Ec LLB Hons (Sydney) LLM Hons (Cambridge)**

Robert Deutsch is currently serving as Deputy President with the Administrative Appeals Tribunal; Senior Member with NCAT and Professor, School of Taxation and Business Law Faculty of Business UNSW. He has extensive experience both as an academic and in practice in the fields of taxation, business law and accounting and has written widely in these and related areas. He is a member of the Tax Institute and has spoken often at their conferences.

**Djoneski, Vanco**

Advocate for people from non-English speaking backgrounds with all types of disability. Personal experience of accessing the human and disability service system. 12 years of experience in assessing needs for people with disability and networking with relevant services for solutions to their issues. Member of the Board of Directors of Macarthur Disability Services.

**Drake, Peta Suzanne LLM**

Graduated with a Masters in Law from the University of Sydney in 1984. After some years of practice with one of Sydney's pre-eminent law firms and as an in-house counsel in the oil and gas industry Peta relocated to London where she worked for the Australian Government in its foreign capital investment attraction program and then Singapore where she developed a range of home textiles. On returning to Sydney Peta built a successful business as an independent retailer. Her experience as a retail tenant lead to her appointment as a non-judicial member in the retail leasing division of the ADT. Peta was appointed as a general member of NCAT in 2014.

**Druett OAM, Faye Ainsworth**

30+ years experience in working with people with disabilities in advocacy, management, policy development & implementation, service delivery. In government & non government. Legal guardian for a woman with a dual diagnosis for 20 years.

**Duffy, Francis BSW (Hons), MSW**

Social worker practitioner for 10 years in healthcare across a range of clinical areas and with extensive experience in Aged Care. Published research articles on ageing in journal of Social Work and Healthcare. Board director (non-remunerated) with not-for-profit residential aged care facility for 8 years. Lecturer in Social Work and Policy Studies at the University of Sydney.

**Durack SC, Philip**

Barrister with over 30 years in legal practice, including 24 years as a barrister, in a diverse range of areas.

**Eftimiou, Maritsa**

Maritsa Eftimiou has a legal career that spans 30 years in which she has represented clients in criminal, civil and administrative law matters as both a solicitor and a barrister. Ms Eftimiou has a long history of working with and advocating on behalf of people from a culturally diverse background Ms Eftimiou was a former member of the Refugee Resettlement Council of Australia. Over the past 15 years Ms Eftimiou has developed expertise as a decision maker, with previous appointments to the Migration Review Tribunal, Refugee Review Tribunal, Consumer Trader and Tenancy Tribunal and the NSW State Parole Authority.

**Epstein-Frisch AM, Belinda Ruth**

Social worker with 30 years experience in disability advocacy, policy and management including State & National Ministerial Councils on disability reform and education. Currently adviser to the Independent Advisory Council of the NDIS and mentor to NGOs in contemporary capacity building.

**Esdaile, Lynden BSW, MSC Public Policy**

Social welfare professional with long experience in social policy, public and community housing and homelessness. Formerly Executive Chairperson of the NSW Housing Appeals Committee.

**Fairlie, David Graham**

Solicitor with 40 year's experience, principally in civil litigation in private practice and currently as corporate counsel. Former President of the NSW Law Society. Accredited mediator. Former Member of the Administrative Decisions Tribunal.

**Fenwick, Susan**

Housing professional with over 30 years experience in tenancy, property management, home building and social housing in both the UK and Australia. Current member of the NSW Housing Appeals Committee.

**Ferreira, Ingrid**

A working mother raising a child with an intellectual disability now 23 years of age, and with over thirty years' experience in business administration, customer service and middle management, has since early 2013 worked concurrently for the Intellectual Disabilities Rights Service and the Community Justice and Support Network. These latter positions put her in regular contact with people with intellectual disabilities, many of whom are incapable of making essential life decisions. Long involvement with the Down Syndrome Association and Special Olympics has delivered valuable insights in effectively dealing with individuals with disabilities, their parents and carers. Volunteers as a sports swimming coordinator with Special Olympics and has done so since 2004. Ingrid Ferreira has the intelligence, empathy and emotional capacity to act in a person's best interests who appears before the Guardianship Tribunal with related disabilities.

### **Field, Dr Barbara Ruth**

Barbara Field is a physician working with physically and intellectually disabled adults and children. Her long term interests are Philosophy, Ethics and Human Rights which are outlined in her research thesis "Intellectual Disability and Society."

### **Fitzgerald AM, Emeritus Professor Ross Andrew Edward**

Ross Fitzgerald AM is Emeritus Professor of History & Politics at Griffith University. Professor Fitzgerald is a regular columnist at The Weekend Australian and is the author of 38 books, including his memoir MY NAME IS ROSS: AN ALCOHOLIC'S JOURNEY.

### **Flanagan, Sharon**

Clinical Neuropsychologist: 25+ years' experience in assessment, rehabilitation and research of neurological disorders (including stroke, dementia and traumatic brain injury). Assisting individuals and families to deal with the effects of disability due to cognitive impairment.

### **Fogg, Sarah**

Has worked for over 30 years with older people's advocacy organisations, service providers supporting older people to live as independently as possible and for government. Currently works for The Benevolent Society and is a board member of the Council of Social Service of NSW (NCOSS).

### **Foldi, Matthew Keith B.Ec & MBA Macquarie Uni & MGSM**

Over 30 years experience as business principal & Director of service related SME's (small to medium sized organisations) with specific expertise in Lease & Tenancy disputes & resolution.

### **Foreman AM, Emeritus Professor Philip Jack**

Emeritus Professor of Education, University of Newcastle. Dean of Education, University of Newcastle, 2001-7. Life Member of the Royal Institute for Deaf & Blind Children and of the Australian College of Educators; Fellow of the Australian Psychological Society. Member of ADT, 2007-13; NCAT from 2014. Extensively involved in service provision and research in disability. Appointed Member of the Order of Australia 2013.

### **Fougere, Christine Peta**

Principal Member of Guardianship Division. Previously Deputy President of the former Guardianship Tribunal and legal member since 2006. Solicitor with over 21 years' experience in administrative, discrimination and human rights law. Also member of Mental Health Review Tribunal.

### **French, Philip**

Solicitor with extensive experience in the provision of community legal services, particularly to persons with disability and mental illness.

### **Frost, Stephen Edward**

Lawyer with over 35 years experience in Commonwealth and State taxation. Member of the former Administrative Decisions Tribunal from 2010 and member of the Commonwealth Administrative Appeals Tribunal since 2006. Nationally accredited mediator.

### **Gardner, Michelle LLB, Grad Dip Legal Practice**

Solicitor. Previously worked in human rights law and Aboriginal community legal services. Extensive experience in Aboriginal policy and programs. Accredited mediator. Former Member, Social Security Appeals Tribunal. Current Member of the Mental Health Review Tribunal.

### **Gerloff, Catherine**

Mother and carer of an adult daughter with Downs Syndrome, community activist, foundation member Downs Syndrome Association NSW, past president and long-serving Board member Macarthur District Services; 25 years experience in NSW Public Service in a range of senior management positions.

### **Gilson, Mark B.Com, B.Leg.S.**

Experience in excess of 35 years in consumer and civil law as a public servant and a legal tribunal member. Been a member of various civil law tribunals since 1988. Extensive experience in conciliation and has been a licensed builder for 27 years.

### **Giurissevich, Anthony Thomas**

Solicitor with over 30 years experience in civil litigation. Continuing to represent and advocate for disadvantaged people. Member of various statutory tribunals since 1991. Current member of MHRT. From NESB. Fluent in Italian and conversant in French.

### **Given, Fiona Nicole**

Fiona Given was appointed to the Guardianship Division in 2012. She was cross appointed to the Administrative and Equal Opportunity Division in 2015. Fiona serves on the boards of the Independent Living Centre of NSW, Side by Side Advocacy and AAC Voice.

### **Goldstein, David**

David has specialized in construction and engineering law since 1983. He first gained experience in this field in London. On his return to Australia he continued working in this area with major Sydney law firms. David was a partner at an Australian international firm. He spent 6.5 years in Hong Kong leading a team acting for an international client constructing major

integrated resorts in Macau SAR. David has substantial experience in drafting construction/engineering contracts and in all aspects of dispute resolution.

**Goodman-Delahunty, Professor Jane PhD (Washington); JD (Seattle U School of Law)**

An experimental psychologist and lawyer, Jane Goodman-Delahunty is a Research Professor at Charles Sturt University. She was editor of *Psychology, Public Policy and Law*, and is a Fellow of the American Psychological Association. Her research promotes evidence-based policies to enhance justice.

**Grant, Yvonne BA/LLB, LLM**

Ms Yvonne Grant, who is a Member of the Mental Health Review Tribunal and has been a Local Court Magistrate, a Judicial Member of the Administrative Decisions Tribunal, a Member of the Fair Trading Tribunal and various health professional committees as well as having been Legal Counsel for Comalco and holding a number of other commercial and professional advisor positions.

**Green, Dr Jennifer McLeod BEd, MA, PhD, MAICD**

Academic at the University of Technology Sydney Business School in the not-for-profit sector and social enterprises. Extensive professional experience in not-for-profit community services particularly in the area of disability. Member of the former Administrative Decisions Tribunal

**Gurr, Robin**

Solicitor, arbitrator and mediator. Past President of the NSW Community Services Appeals Tribunal. Presiding Member of the then Guardianship Tribunal since 2002 and Deputy President from 2007 to 2008. Has been Chair of the Boards of the NSW Council of Social Services and Women's Legal Services Ltd.

**Hale, Sandra Neryl**

Sandra has been in practice since 1985 both as a sole practitioner and as a partner of a medium size firm. Her various appointments have included costs assessor, member of costs assessor's rules committee, district court arbitrator and panel mediator for Law Society NSW, she holds specialist accreditation in the areas of family law and mediation. She is a past president of St George/Sutherland Law Society and a board member of an area health service. She holds two community service awards.

**Halstead, Nathan Dale**

Managing Director of AED Group, a leading Sydney Building Regulations company in NSW. Building Surveyor, Accredited Certifier & Fire Engineer with more than 18 years experience in both Public and Private Sector work. Member of Australian Institute of Building Surveyors.

**Hanstein, Sharon BA/LLB (comb), LLM**

Solicitor since 1994, including in private practice with a top tier firm and for government. Member of former Consumer, Trader and Tenancy Tribunal since 2012. Extensive experience and skills in dispute resolution including commercial and consumer protection litigation.

**Harris, Philip Peter**

Philip Harris is originally from Brewarrina in Western NSW. He is the principal of a private legal practice in Tamworth. He holds a Masters degree in commercial law from UNSW. He is a Colonel in the Army Reserve and a farmer with his wife Elena at Dungowan where they live with their 4 children.

**Harris, Ronald Graham**

Member Harris was first admitted as a solicitor over 40 years ago and has extensive experience having practised in Sydney for many years before moving to the north coast where he has practised for over 30 years. Member Harris has a law degree from Sydney University and Mediation qualifications from Bond University and has been a nationally accredited mediator for many years.

**Harrowell, Mark Alfred Killen**

Principal Member and List Manager of the Consumer and Commercial Division- NCAT. 2012- part time Senior Member- CTTT. 2013- Deputy Chairperson (Determinations) - CTTT. Formerly a lawyer in private practice and a partner and managing partner at a large Sydney law firm. Admitted to practice in 1982. Main area of practice- commercial litigation. Degrees in Law and Commerce.

**Harvey, Danae BA (Hons), AccreditationLLB**

Obtained a Bachelor of Arts (Hons) at the University of Toronto, Canada and a Bachelor of Laws at the University of NSW in 1992. Worked in community legal centres in the Hunter and Illawarra regions of NSW from 1993 to 2003. In 1999 obtained accreditation as a mediator through Lawyers Engaged in Alternative Dispute Resolution (LEADR). Appointed to the Consumer, Trader and Tenancy Tribunal between 2002 and 2013. Appointed to the Mental Health Review Tribunal from 2005 to 2008. Currently appointed as Assessor in the Small Claims Division of the Local Court since 2003 and to the Consumer and Commercial Division of the NSW Civil and Administrative Tribunal since 2014.

**Hayes, Elayne**

I have a social welfare background; mediation qualifications and have worked as a Director of Human Resources and HR Consultant for 20 years. I am a part-time Member of the Veterans' Review Board. I also do voluntary work with the Western Sydney University assisting disadvantaged students.

### **Hayes, Simon Robert**

Management consultant. Previously Non-Judicial Member, NSW Administrative Decisions Tribunal; previously Lay Member, NSW Bar Association Professional Conduct Committee. Current Member, Sydney Region Council, UnitingCare.

### **Hennings, Simon Brockwell**

Admitted as a solicitor in 1989. General practitioner with experience across a broad range legal matters. Appointed Full Time Member in current role since 2006. Extensive experience in retail business and farming enterprise. 20 year committee member of Local Show Society. Member of the local AGL Community Consultative Committee.

### **Hiffernan, Noel Arthur**

Noel has worked for the union movement and the community sector and has been involved in the disability rights movement for the last 34 years. Over this time he has served on numerous state and federal government boards and committees that have dealt with a range of topics such as access to the built environment, employment, health care, advocacy and employment. He is Chair of Mountains Youth Services Team, vice-president of SydWest Multicultural Services Blacktown, board member of Connect Child & Family Services, Director and founder of The Greystanes Foundation and president of Central Blue Mountains Rotary Club.

### **Higgins, Sigrid**

Sigrid is a Principal Member assigned to all Divisions and List Manager of the Community Services matters in the AEO Division. Sigrid is also a barrister and accredited mediator. She has had senior legal management experience in Australia and overseas and a former member of the Patent and Trade Marks Attorneys Disciplinary Tribunal and the Defence Honours and Awards Appeals Tribunal.

### **Hilson, Freda Elaine**

Freda Hilson has worked in the disability sector for 38 years, providing services and advocacy support to people with physical and intellectual disabilities and people with acquired brain injury and their families. She has occupied the position of Executive Director of the NSW Brain Injury Association and the National Disability Abuse and Neglect Hotline. She has also worked as a Regional Manager in the Office of the Public Guardian and as an Official Community Visitor as well as managing services in a number of non-government disability organisations.

### **Hitter, Monique**

Solicitor with over 15 years experience in civil law. Prior to that worked as a social worker in community health settings. Held legal positions in government, community and private sectors, with a particular focus on social justice.

### **Holles, Francis Dominic Logue**

Admitted to practice in Australia [ Solicitor 1983 Barrister 2000 ]and the Republic of Ireland [1996] .

### **Hollis, Dr Jean Margaret MBBS (Hons) FRANZCP, FPOA, MPhil**

Old Age Psychiatrist, currently working as a Senior Lecturer for the University of Sydney at the Concord Centre for Cardiometabolic Health in Psychosis.

### **Holwell, Kim Joseph BA LLB (SYD) LLM (QUT)**

Retired barrister after 37 years experience predominantly in civil law. Local Court Arbitrator and experience in mediation for 20 years. Formerly Member Consumer Trader and Tenancy Tribunal since 2002

### **Hughes, Barbara Louise**

Admitted as solicitor in 1998. Employed as a criminal lawyer with the Legal Aid Commission prior to appointment to Mental Health Review Tribunal in 2009. Appointed as a senior member ( legal) to former Guardianship Tribunal in 2012. Cross-appointed to Consumer and Commercial Division in 2015.

### **Hunter, Penelope**

Solicitor of over 19 years experience in civil and criminal law. Former member of Consumer Trader and Tenancy Tribunal, Social Security Appeals Tribunal. Current member of the Administrative Appeals Tribunal.

### **Isenberg RFD, Norman Saul**

Member of former Administrative Decisions Tribunal. Solicitor in private practice for over 30 years, including Accredited Specialist Business Law and Public Notary. Former Colonel in Army Reserve, Fellow Taxation Institute of Australia, Chartered Tax Adviser, Fellow Australian Institute of Company Directors.

### **Isenberg, Naida**

Naida Isenberg is currently a Senior Member of NCAT and the Administrative Appeals Tribunal and a Member of the Defence Honours and Awards Appeals Tribunal. She formerly served on the Veterans' Review Board and the Migration and Refugee Review Tribunals. She has a long legal background at a senior level in both the Commonwealth and NSW governments, as well as in the private sector. She holds the rank of Lieutenant-Colonel in the Australian Army Legal Corps. She serves on the boards of two charities, one of which is the War Widows Guild.

### **Jamieson, Dr Gail MBBS, FRACP**

Specialist geriatrician with 13 years experience in both public and private practice. Special interest in dementia, psychogeriatrics, and community care.

**Johnston, Susan BSocStud, MPH**

Social Worker with over 35 years experience in mental health, alcohol and other drug disorders, HIV/AIDS, squalor and hoarding, homelessness and supported housing services. Member of Mental Health Review Tribunal and Board Director of Evergreen Life Care, a not for profit aged care facility.

**Jones, Amanda BSW**

Social worker with over 15 years' experience in Child Protection and Out of Home care. Currently in private practice focusing on Fostering and Adoption. Also is employed as a Social Work Manager in a health setting. Presented at the 2014 National Out of Home Care Summit.

**Kelleghan, Dinoo**

Communicator, tribunal member and researcher in non-profit, journalism, tribunal (NCAT and Refugee Review Tribunal) and union fields over 35 years. Expertise in capturing and analysing information from people who are disadvantaged or have disabilities.

**Kelly, Josephine**

Barrister specializing in administrative and public law generally and part-time member of the Administrative Appeals Tribunal

**Kennedy, Claudia Muriel MA (U Syd), BA (Flinders), Dip Rehab Couns (U Syd), Dip Ed (Flinders), MASRC**

Claudia is an experienced rehabilitation counsellor who has worked and taught in the area of disability for 35 years. Claudia has worked for CRS, WorkCover NSW, and Ageing, Disability and Home Care (ADHC), FACS. Claudia has a special interest in psychiatric rehabilitation, and ageing and disability issues. Claudia is a Member of the Housing Appeals Committee. The Committee provides for an external merits review for social housing applicants and tenants where they believe a social housing provider made an incorrect decision. Claudia was appointed as a part time professional member of the Guardianship Tribunal in August 2012.

**Kinross, Julie**

Barrister, Adjunct Professor, UQ School of Journalism and Communication, member of the Australian Press Council, former Information Commissioner and Commissioner for Fair Trading.

**Kinsey, Graham Anthony**

Solicitor with 34 years experience working for both government and in private practice. Sole practitioner for 27 years in busy suburban practice specialising in conveyancing, civil litigation, consumer law, estates and leasing. Recently sold practice and am now employed as a solicitor on a part time basis. Member of the former Consumer Trader and Tenancy Tribunal.

**Klause, Jennifer**

Extensive experience in intellectual disability rights work with experiences of educator, advocate, plain language publication and policy development roles. Quality assessor in aged care, community services sector and disability services in NSW. Has been a board member of the Intellectual Disability Rights Service.

**Knight, Dr Peter Kenneth BVSc, PhD, MBA**

Head of Discipline of Biomedical Sciences, University of Sydney; Deputy Chair, University of Sydney Animal Ethics Committee; Official Veterinarian Racing NSW and Australian Turf Club; Editor International Group of Specialist Racing Veterinarians

**Koussa, Janet**

Registered psychologist with over 25 years experience working with people who have an intellectual disability and mental illness. Past facilitator of eating disorders groups. Previous involvement in advocacy organisations and carer for person with dementia.

**Laurence, Kerrie**

Extensive experience in disability education and as aged care quality assessor. Was carer for both parents with dementia. Currently manager with Family & Community Services with responsibility for investigation of abuse in out of home care. Has been a member of two Federal Tribunals.

**Le Breton, John Vincent**

Many years experience managing government and non-government services supporting people with disabilities. Former Member of Administrative Decisions Tribunal and Mental Health Review Tribunal. Former Director of the NSW Office of the Public Guardian and former Director of Victim's Services NSW.

**Leal, Suzanne Maree**

Suzanne Leal was admitted to the Supreme Court of NSW in 1992. She was appointed to the Administrative Decisions Tribunal (NSW) in 2003 and has been a member of the New South Wales Civil and Administrative Tribunal since its inception. Between 2001 and 2014, she was a member of the Migration Review Tribunal and the Refugee Review Tribunal. She has worked as a criminal lawyer and mediator with the Legal Aid Commission of NSW, as a policy adviser at the Criminal Law Review Division of the NSW Attorney General's Department and as an author for the Australian Criminal Reports.

**Lennard, Jann BA LLB(Hons)**

Experience as lecturer in law at University of Canberra, in legal practice and as a mediator. Currently a Senior Member of the ACT Civil and Administrative Tribunal and Nationally Accredited Mediator.

### **Levingston, John BA, LLB (ANU)**

Practising Barrister NSW Bar (admitted to High Court, ACT, NSW and Victoria), Arbitrator, Accredited Mediator (NMAS) and Costs Assessor. Previously Member of NSW Consumer, Trader and Tenancy Tribunal. Author of "The Law of Affidavits" Federation Press 2013 and "The Law of Tribunals" Federation Press (to be published later in 2015).

### **Limbury, Ashley**

Mediator with over 12 years' experience in discrimination, workplace, retail tenancy and family law matters. Mediator of the former Administrative Decisions Tribunal Previous Human Resources experience with discrimination, performance issues, and experience as a Guardian ad Litem, FDRP, Child Consultant.

### **Longley, Wendy Bsc(Hons), MSc, MA**

A clinical neuropsychologist with over 28 years of experience providing assessment, interventions and education to people affected by acquired brain impairment. Has published international scientific articles on improving the quality of life of people with cognitive impairment. Is also a caregiver. Member of the Australian Psychological Society's College of Clinical Neuropsychologists.

### **Lowe, Anthea Elizabeth**

Workplace management consultant with over 25 years practical experience in the prevention of discrimination and harassment. Member of Australian Human Resources Institute and the Management Committee of Refugee Advice and Casework Service. Previously worked at Anti-Discrimination Board of NSW.

### **Lucy, Dr Juliet**

Barrister practising mainly in commercial and administrative law. Formerly senior solicitor at the NSW Crown Solicitor's Office and academic at the University of Western Sydney.

### **Lynch, Joanne BA LLB (Syd Uni)**

Joanne Lynch has been a Member of NCAT and before that Consumer Trader and Tenancy Tribunal (CTTT) since its inception in 2002. Her background is as a solicitor in regional practice for 15 years. She is currently a Registrar in the Children's Court of NSW and lectures at Charles Sturt University and Riverina Institute of TAFE.

### **Manga, Dr Robert Zoa**

I have a background in medicine (Bachelor of Medicine, Bachelor of Surgery), public health (Master of Public Health). I also have qualifications in management (Master of Health Services Management). My professional background is in medicine, medical research as well as teaching. I have published in the field of medical research, public health, international health and health promotion. Since 2010, I work as part-time member of the

Guardianship Tribunal now known as the Guardianship Division of NCAT. I am Co-Owner and Director of a company called My Voice. My other current professional involvements include being a member of the World Health Organisation International Classification Functioning Reference Group. I have also co-authored a book, *New Directions in Rehabilitation Counselling*. I have a lived experience of a person with disability, having sustained a permanent spinal cord injury following a motor accident. I am the president of Spinal Talk, a support group for people with spinal cord injuries in Australia. I am also a chair-elect of the Australian Catholic Disability Council.

### **Manns, Leonie**

Leonie Manns is a long serving Community member of The Guardianship Division (previously Guardianship Tribunal). Her areas of expertise are mental health & disability. Leonie also supports and mentors people with mental illness in the workforce and she is a long term member of the MHRT.

### **Marks, The Hon Acting Judge Francis LLM**

After almost 30 years as a solicitor, I was appointed in 1992 a Deputy President and Judicial Member of the Industrial Relations Commission of NSW and a Judge of the Industrial Court of NSW, retiring in June 2012. I am currently an Acting Judge in the District Court of NSW, and a mediator, as well as a Principal member of NCAT.

### **Martin, Dr Meredith Anne**

Consultant in disability, welfare, criminal justice. P/T Lecturer at Sydney University. Member of the MHRT and BOSTES. Extensive experience in direct service, training and evaluations with complex service situations.

### **Martin, Katherine Elizabeth BSc, MSc, MAPS, MCCN**

Clinical Neuropsychologist with 20 years experience in rehabilitation, geriatrics and mental health. Currently working as a clinician and researcher in psychogeriatrics, with focus on dementia, brain injury, chronic mental health conditions, decision making capacity and end of life planning.

### **Marzilli, Claudio BA BCom LLB MCom GCDR**

Claudio Marzilli has been a part-time general member of NCAT from Jan 2014 and his current appointment expires 24 Feb 2019. He has previously been a part-time member of the Social Security Appeals Tribunal, Mental Health Review Tribunal, Residential Tenancies Tribunal, Fair Trading Tribunal and Consumer Trader and Tenancy Tribunal. He is admitted as a solicitor of the Supreme Court of NSW and is a former: legal practitioner; qualified accountant (FCPA & FCA); and, Senior Lecturer.

**Matheson, Alice Marie BA Hons. Clin. Psych. MA Hons. Clinical Neuro. MAPS CCN**

Nine years experience as a Clinical Psychologist in both in-patient units and community mental health followed by extensive experience as a Clinical Neuropsychologist within hospital setting. Established "Headway" community support group for patients and families of the brain impaired in northern region of Sydney. Churchill Fellowship for further study of cognitive rehabilitation and management of the traumatically brain impaired. Training in mediation and conciliation.

**Matthews AM, Dr Richard John**

Director Neuroscience Research Institute, Alzheimer's Aust (NSW) and Calvary Healthcare. Advisory Board Centre for Healthy Brain Ageing. Formally Deputy Director General NSW Health (2003-2011)

**McAlpine, Ethel**

Community member with more than 30 years experience working in the disability services area in both government and NGO sectors.

**McAteer, John Anthony**

Solicitor with over 15 years' experience in civil and criminal law. Extensive experience in advocacy, government law, administrative law, compensation law (including victims compensation) and law relating to children. 10 years' experience as regulator of privacy law and 25 years plus legal experience.

**McAuliffe, Dr Jane**

Dr Jane McAuliffe is a Clinical Neuropsychologist with over 25 years' experience in acute, rehabilitation and aged care neuropsychology across both private and public settings. She is currently working in aged care and adult rehabilitation and is involved in dementia treatment clinical trials.

**McCalman, Maralean**

I joined the GD of NCAT in August 2014 as a Community Member. I have a background in managing services in the non government sector and in executive and policy positions in government working across the human services fields including disability, housing, mental health and aging. I am soon to complete a Law Degree and have a strong interest in human rights law.

**McCarthy, Shaun Gerard**

Shaun McCarthy is a solicitor and Director of the University of Newcastle Legal Centre and Program Convenor of the Practice Program at the Newcastle Law School. He is an Investigator in a current NHMRC grant regarding Personally Controlled Electronic Health Records for persons with a disability.

**McCue, Margaret Mary LLM (UNSW)**

Margaret is a commercial lawyer practising in Macquarie Street Sydney. She is a local court arbitrator and nationally accredited mediator Margaret has appointments on a number of boards, including the board of a private school.

**McIllhatton, Susan**

Sue has been a Deputy President of the Guardianship Tribunal and a member of the Consumer Trader and Tenancy Tribunal. She was a Deputy District Registrar of the Federal Court of Australia and also a Judicial Registrar of both that Court and the Federal Circuit Court. She was appointed as a Member to the Refugee Review Tribunal at its inception and subsequently became a Senior Member of that Tribunal. Prior to these appointments Sue held a range of positions as a solicitor at the Legal Aid Commission.

**McMillan, Jennifer Margaret BA LLB Acc Spec (Wills & Estates) TEP**

Jennifer McMillan is a Law Society of NSW accredited specialist in wills and estates, a member of the NSW Law Society Elder Law and Succession Committee, and of the Society of Trust and Estate Practitioners. She is the Practice Leader – Wills and Estates in the College of Law's LLM (Applied Law) program.

**McMurrin, Alan Malcolm BA (RMC /UNSW) LLB (UNSW); GAICD**

Solicitor with over 35 years' experience in all jurisdictions. Practiced extensively in litigation and dispute resolution. Trained mediator and civil arbitrator in the NSW District Court. Former councillor Law Society of NSW. Tutor UTS Law Faculty, presenter and author. Contributor NSW Pocket Guide to the Law and Redfern Legal Centre Resources' Manual. Solicitor advocate in civil and criminal trials in general practice. Partner and former head of litigation in medium sized city firm. Former Chair Law Society Costs' Committee and member of Professional Conduct Committee.

**McPhee, Dr Brenda**

General Practitioner for 30 years with special interest in women's health. Experienced assessing and managing mental health problems in the community and in working with people with dementia, brain injury and intellectual disability. Formerly a member of the Social Security Appeals Tribunal.

**McSwiggan, Dr Sally Ann**

Dr McSwiggan is a Clinical Neuropsychologist with over 15 years experience in geriatrics. Currently a member of the Mental Health Review Tribunal (Civil and Forensic divisions) and a Research Fellow in biomedical ethics. Dr McSwiggan's published work is in the area of decision-making capacity.

**Meadows, Geoffrey BA, BsocStud, MT&CP, LLB**

Teacher, social worker, drug counsellor, parole officer and then solicitor with 27 years experience in personal injury, insurance, employment and administrative law. Former senior member in Consumer Trader and Tenancy Tribunal.

**Millbank, Prof Jenni BA, LL.B (Hons) (USyd); LL.M (UBC); Phd, Kent Barrister of the Supreme Court of NSW and Solicitor of the High Court of Australia;**

Jenni Millbank is Professor of Law at UTS. She is an established socio-legal researcher with a wide range of expertise in health law, in particular in the area of assisted reproduction and health regulation.

**Moin, Gregory Robert LLM (Sydney) BA (UNE) Dip Ed (STC)**

Solicitor with over 20 years experience in private general practice and accredited mediator. Experience of working with persons with disabilities as a lawyer and as a director of not-for-profit service provider.

**Moir, Jillian**

Ms Moir holds a Bachelor of Arts (Hons) and Law and a Bachelor of Science (Psychology). Ms Moir holds part time appointments as a Senior Member (legal) and mediator at the NSW Civil and Administrative Tribunal, Legal Member of the Social Security Appeals Tribunal, Member at the Veterans Review Board and Presiding Member of the NSW Housing Appeals Committee.

**Molony, Peter Henry**

Peter Molony is a barrister who for the past 30 years has been a member of diverse federal and state tribunals. He was a Senior Member of the Fair Trading Tribunal (heading up the home building division). He has held appointments as a member of VCAT, the SSAT, the Refugee Review Tribunal, and the Guardianship Tribunal, as well as an arbitrator and appeal panel convener of the Workers Compensation Commission.

**Montgomery, Stephen Henry**

Qualifications: Bachelor of Laws (Hons) UTS (1992) Graduate Diploma in Legal Practice UTS (1995) Bachelor of Science in Agriculture integrated with Diploma of Education University of Sydney (1976) Teaching Certificate NSW Department of Education (1980). 1990 - Awarded the Office of Public Management Traveling Fellowship in Public Sector Management. Professional qualifications: Admitted as a Barrister in July 1992, I hold a current unrestricted Solicitor practising certificate. Professional Experience: Senior Member NCAT (2014 to present) Part-Time Judicial Member of the Administrative Decisions Tribunal (NSW) (2001 to 2014) Part-Time Member of the Consumer Trader and Tenancy Tribunal (NSW) (March 2002)

Part-Time Member of the Fair Trading Tribunal of NSW (1999 – March 2002) Project Officer Attorney General's Department Legislation and Policy Division (March 2000 – Dec 2000) Deputy Registrar Fair Trading Tribunal of NSW (Mar 1999 – Mar 2000) Registrar Commercial Tribunal of NSW (June 1997 – Nov. 1999) Solicitor Commercial Tribunal of NSW (Jan 1993 – June 1997).

**Morgan, Richard MA, FRSA, JP**

Director in Local Government in Regional NSW with 19 years experience in leadership roles in non-government schools in Sydney. Directorships on several not-for profit boards.

**Morris, Athol LL. B; B. Ec.**

Previously a barrister and solicitor specialising in family law and domestic violence work, Athol is a former Registrar of the ACT Magistrates Court and the first Registrar of the ACT Civil and Administrative Tribunal, where he also presently holds a Member's appointment. He is currently an Adjunct Associate Professor of Law at the University of Canberra and has given a course in Alternative Dispute Resolution for the last 2 years.

**Moss, Deborah**

Barrister with over 27 years' experience in civil and criminal law. Full-time Tribunal Member from 2002 to 2007. Part-time Tribunal Member since 2007.

**Mullane A/DCJ, The Hon Graham R BA, LL.M, MJS**

Family Court Judge 1986/08; Conjoint Prof, Newcastle University since 2009; Judicial Member, Administrative Decisions Tribunal 2009/13; Deputy Chair(p/t), Health Professions Tribunals 2012/13; Principal Member (p/t) and appeal panel member NCAT since March 2014; Acting District Court Judge since Sept 2014.

**Mulock, Mark Joseph**

Solicitor with more than 33 years experience in private legal practice in suburban Sydney specialising in criminal and civil litigation. Member of the former CTTT. Have undertaken extensive pro bono work in his local community.

**Mulvey, Craig Anthony**

Mr Craig Mulvey was admitted to practice as a solicitor in 2001 and as a barrister in 2005. He was appointed as a Legal Member to the then Guardianship Tribunal in 2012. Mr Mulvey has practised in the insurance and injury compensation claims areas, as well as commercial litigation, family law, equity and anti-discrimination. Mr Mulvey is a duty barrister at the Downing Centre and participates in the Pro Bono Assistance Scheme in the District and Supreme Courts. He is also a volunteer barrister at the Inner City Legal Centre.

### **Murray, Dr Maree Kathleen**

Maree Murray has academic experience, lecturing and researching in Industrial Relations, including Gender and Work. She was formerly National Manager Research and Evaluation at a large not for profit organisation focussing on the educational achievement and labour market patterns of children and youth from equity target groups, Presently she works in Equity and Diversity Strategy at the University of Sydney.

### **Newman, Jennifer Lee**

Wiradjuri. I have worked with A&TSI adult learners in TAFE and university; designed and delivered Aboriginal studies courses in Australia and overseas; PhD candidate at the Institute for Social Justice, ACU, critiquing movements toward constitutional recognition of A&TSI peoples through an indigenous discourse analysis.

### **O’Carrigan, Patrick John FRAIA AIAMA**

Registered Architect and urban designer with 25+ years experience in private and public sectors. Qualified as an arbitrator, former Member of Administrative Decisions Tribunal with an interest in ethics and governance.

### **O’Connor AM, A/DCJ Kevin Patrick**

Judge, since 1998. President, Administrative Decisions Tribunal (1998-2013), Chairperson, Fair Trading Tribunal and Commercial Tribunal (5 yrs). Founding Australian Privacy Commissioner; Hearing Commissioner, Human Rights Commission (1989-96). Also, legislation director, barrister, law teacher.

### **O’Halloran AM, Maree AM BA/DipEd BLegS/GDLP LLM GAICD**

Experienced industrial relations practitioner who has also worked in education and social welfare sectors. Current member of the NSW Public Services Advisory Commission and a Director of Teachers Mutual Bank.

### **Organ, Lynne LLB (Sydney University)**

Solicitor with extensive experience in private practice and government agencies including acting in catastrophic injury claims and at Inquests. Specialised in health and government law. Current volunteer at Matthew Talbot Hostel and previous volunteer at Women’s Legal Resources Centre and Redfern Legal Centre.

### **Ovadia, Fortune Tony**

Clinical psychologist with over 40 years’ experience in public and private sectors as a clinician, administrator and policy worker. Member of the Mental Health Review Tribunal, former Chair of the Disability Council, former Member of the then Medical Tribunal and of many boards of community NGOs.

### **Oxenham, Melanie Ann**

Social Worker with over 20 years experience in the disability and aged care sectors. Extensive experience in guardianship. Involved in the development of supported decision making and advance care planning resources.

### **Patten, David Louthean LLB**

Sydney solicitor 1956 to 1992 District Court judge 1992 to 2004 Acting Supreme Court judge 2004 to 2009 Deputy President ADT 2009 to 2013 Chairman Management Committee NSW Crime Commission since 2012.

### **Paull, Christine**

Senior Member, NCAT Consumer and Commercial Division. A solicitor of 30 years standing, working in private practice, the Corporate, Federal and State sectors. A Senior Tribunal Member with managerial and legislative drafting experience and an extensive background in Home Building, Consumer and Residential law, mediation and dispute resolution.

### **Perrignon, Richard John BA (Hons)(Syd) LLB (Syd)**

Mr Perrignon was admitted as a solicitor of the Supreme Court of NSW in 1987 and as a barrister-at-law in 2002. From 2008 to 2014, he sat as a judicial member of the Administrative Decisions Tribunal while practising at the Bar. Since 2010, he has also been a member of the Workers Compensation Commission. He was appointed a senior member of NCAT on 1 January 2014, and sits in its Administrative and Equal Opportunity Division.

### **Pheils, Johanna**

I have been practising as a solicitor since 1988 in the areas of litigation and criminal law. I have been a member of this Tribunal since 1997.

### **Pickering, Edwina Anne**

Social Worker with 30 years experience in the health and community sector. Extensive experience in accreditation systems and promoting organisational quality. Board member of disability advocacy and legal service.

### **Porter, Lyn**

Qualifications in Social Science, many years experience working in areas of child protection, sexual assault and domestic violence. Appointed as an Official Community Visitor for eleven years, promoting the rights of young people in care and people with disabilities who live in supported accommodation.

### **Priestley, William**

Admitted to NSW Supreme Court in 1991. Established the litigation firm "Priestleys" in Darwin in 1998. Admitted to the Northern Territory Bar in 2005. Legal Member of the Northern

Territory's Legal Practitioner's Disciplinary Committee 2006 - 2008. Admitted to the NSW Bar in 2011. Accredited Mediator (NAMS). Registered Family Dispute Resolution Practitioner.

### **Rayner, Robyn BSW (UNSW)**

Social Worker with 40+ years extensive experience in Australia and England. Aged Care, Palliative Care, Neurology, Rehabilitation, Crisis Intervention, with adults and adolescents in Community, Acute and Rehabilitation Settings.

### **Redfern PSM, Jan Louise**

Solicitor with over 30 years' experience in the private and public sector. Prior to her appointment as a Principal Member, held positions as a part-time Deputy President of the former Guardianship Tribunal, Senior Member of the Administrative Appeals Tribunal, partner of a national law firm and Executive Director of ASIC.

### **Renwick SC, Dr James George**

Senior Counsel, first admitted as a legal practitioner in 1985, Adjunct Professor Australian National University, Former Fulbright Scholar (The Johns Hopkins University) and Parsons Scholar (Sydney University), Captain RANR and Head Sydney Naval Legal Panel, Associate, Sydney Centre for International Law.

### **Rickards, Kim Beresford**

Private legal practice in Sydney and rural NSW for 37 years. Undergraduate degrees in Commerce and Law, and Masters degree in Comparative Law. Local and District Court arbitrator. Appointed as Judicial Member, Retail Leases Division, Administrative Decisions Tribunal in 2003, and as Member of CTTT in 2008.

### **Ringrose, John**

Barrister with 45 years experience in many areas of law. Accredited mediator currently appointed to the Supreme Court and District Court mediator panels. Previously appointed as a part time member of CTTT of NSW

### **Riordan, Michelle Anne**

Solicitor admitted in 1986. Extensive experience in private legal practice in civil law and specialising in workers compensation. Member of the former Administrative Decisions Tribunal.

### **Robberds QC, Lionel Philip**

Barrister with 49 year's experience covering civil, criminal, Royal Commission and commissions of inquiry areas. Appointed QC in 1982. Member of former ADT(Legal Services Division) and previous similar bodies from 1994 .

### **Roberts, Susan Mary BA LLB (Hons)**

Ms Roberts is a solicitor with over 25 years experience in government, not-for-profit and private sectors as a senior executive, lawyer, consultant and board member. Ms Roberts was previously the Executive Director of the Australian Human Rights Commission and has a particular interest in the areas of disability rights, human rights and social justice.

### **Robinson, Diane BA LLB (Hons) LLM (Hons)**

Lawyer with extensive Tribunal experience. Former President NSW Guardianship Tribunal and Deputy President NSW Mental Health Review Tribunal. Former Legal Member, NSW Medical Board and Chair, Psychology Tribunal. Associate Professor, Faculty of Law UNSW.

### **Ross, Katherine Ann BA BLegS**

A solicitor in private practice for 24 years, and part time member of the CTTT for 12 years, Katherine has held a fulltime appointment to the Tribunal since 2012. She was also a past president of Disability Advocacy.

### **Rosser, Kim**

Kim Rosser has been a full-time Senior Member of NCAT since its inception. She has previously held appointments as a Member and Senior Member of the Consumer, Trader and Tenancy Tribunal and of the Refugee Review Tribunal. In addition, Kim has served as a part-time Member of the Social Security Appeals Tribunal.

### **Royer, Rosemary**

Social worker for many years with experience working with vulnerable families with young children. Also developed and administered policies and procedures for non government organisations working with people with a disability. Current board member of overseas aid organisation, Grace Ministries.

### **Rylands, Sandra**

Bachelor of Arts majoring in Sociology. Senior Investigation and Liaison Officer at Guardianship Tribunal. Worked in child protection with Department of Community Services 10 years. Taught for 14 years Illawarra Institute of TAFE in Community Services, Disabilities and Aged Care. Care planner Commonwealth Respite Care Centre, Queanbeyan. Client Manager Community Support Program Mission Australia Goulburn.

### **Sarginson, Gregory John**

Barrister for 12 years specialising in commercial litigation, insurance litigation, administrative law and criminal law. Prior to admission at the Bar, a Solicitor for 9 years specialising in insurance litigation. Since 2004 lecturer at the Law Extension Committee (University of Sydney) and adjunct lecturer College of Law.

**Scahill, Anne Maria BA (1st class hon) LLB Grad Cert Management GAICD**

I have worked in a range of legal roles in the private, government and non government organisation sectors. I have also held management roles at the NSW Medical Board and most recently the University of Sydney. I have been a member of the NSW Mental Health Review Tribunal since 2005.

**Schneeweiss AM, Dr Joachim**

Consultant Physician with teaching hospital appointment for several decades. Part-time member of the Anti-Discrimination Board of NSW, 1984-1993. Member, Prime Minister's Advisory Council of Multicultural Affairs (ACMA) 1987-1992. Member, NSW Medical Board, 1996-2004. Non-judicial member of the former Administrative Decisions Tribunal, 2004-2015.

**Schwager AO, Jane Louise**

Extensive experience in leading Government Departments and Non-profits. She is a nationally accredited Mediator and a Member of the former Administrative Decisions Tribunal.

**Seiden SC, Rashelle Leah**

Rashelle was called to the Bar in 1996. She has maintained a diverse practice primarily focused upon tax litigation and was appointed Senior Counsel for the State of New South Wales in 2013. Prior to being a barrister she was an investment banker.

**Shipp, Bernard Martin**

Solicitor with experience in Commonwealth and State original decision-making and merits review Tribunals. Nationally accredited mediator. Past employment with community legal centres and legal aid and as President of a disability service.

**Shub, Oscar**

I am a solicitor with 45 years of experience as a litigator and partner in major law firms around the world. I am a recognized mediator having trained through LEADR and am a former chair of LEADR. I am a former Chair of the HPCA and now a Principal Member of NCAT in the Occupational Division and Appeals Division

**Simon, Theresa**

Theresa Simon has both an educational and legal background. She set up the Home Building Advocacy Service at Macquarie Legal Centre, which assists consumers with Home Building disputes. She was also part of a program developed by Legal Aid to encourage participation of Culturally and Linguistically Diverse Communities in family dispute resolution and is a registered family dispute resolution practitioner. She has lectured in law and sociology at the University of Western Sydney. Since 2012 she has been a full time Member with the Consumer, Trader and Tenancy

Tribunal and in 2015 was appointed as a Senior Member with the Consumer and Commercial Division of NCAT.

**Simpson, James Christopher Heaton BA LLB (Syd) LLM (Lond) GCDR (UTS)**

Lawyer who has worked in the disability field for 30 years as first Principal Solicitor of the Intellectual Disability Rights Services and now systemic advocate for NSW Council for Intellectual Disability. Recipient of the Justice Medal of the Law and Justice Foundation NSW.

**Smith AM, Philippa Judith**

Bachelor of Economics. Former Commonwealth Ombudsman. Member of the former Administrative Decisions Tribunal and Administrative Appeals Tribunal.

**Smith OAM, Dr Margaret Ann FAPsS**

Dr Meg Smith is a community psychologist. She has been active in mental health services reform and is currently president of Way Ahead, a mental health promotion organisation. Meg has personal experience of mental illness and the development of family support networks.

**Smith, Jeffery LLB, B Pharm**

Admitted as barrister 1976. Post graduate training in alternate dispute resolution. Appointed Senior Member NCAT 2014 and appointed Senior Member/Member of all precursor Tribunals exercising civil jurisdiction from 1989. Acting Chairperson, Consumer Trader and Tenancy Tribunal 2013.

**Smith, Peter Dip Law (BAB)**

Court Registrar and Chamber Magistrate. Member of former Tribunals, Consumer Trader and Tenancy Tribunal and Residential Tribunal since 1999.

**Smith, Stephen BA MHA(UNSW) LLM SJD (Syd)**

Former member FTT, CTTT, and health professions tribunals. Doctoral thesis on professional misconduct, numerous journal articles on medical and general legal topics; broad 'hands on' experience with motor vehicles and home building. 30 years' litigation experience. Taught consumer law at LLB level.

**Sorensen, Dr Holger Ronald CTA, LL B, LL M (HONS), PhD**

Barrister with over 25 years' experience as a taxation specialist briefed by revenue authorities and taxpayers. Adjunct Professor, University of Notre Dame, Sydney; Co-editor, Hill Duties Legislation; published articles in Taxation in Australia, the Law Society Journal and Australian Tax Review.

**Spencer, Dr Margaret Cert. Nursing, B.Theol, BSW, PhD**

Dr Margaret Spencer is a lecturer within the University of Sydney's Social Work and Policy Studies Program. Her particular research focus is on the rights of people with intellectual disability, sexual wellbeing and parenting. Margaret holds degrees in nursing, theology and social work. In 2007 Margaret was awarded a doctorate through University of Sydney for her research on parenting with intellectual disability. Margaret has over 30 years experience working with individuals and families with unique support needs living in vulnerable contexts. For 25 years Margaret undertook caseworker with Brown Nurses Inner City Ministry. Prior to joining University of Sydney's Social Work and Policy Studies Program in 2014, Margaret coordinated the Parents Program at Intellectual Disability Rights Service. In addition to her position at the University of Sydney, Margaret sits on the Guardianship Division of the NSW Civil and Administrative Tribunal and is a member of the International Association for the Scientific Study of Intellectual Disabilities (IASSID) special interest research group on parenting with intellectual disabilities. Dr Spencer has received several awards including a Churchill Fellowship, the NSW Health Mental Health Best Practice Award and the NSW Premier's Women of the Year Award for her service to people living on the margins in the inner city of Sydney.

**Sponza, Walter Gregory**

Solicitor with over 25 years experience in civil and criminal law. Extensive experience in the Attorney General's Department and the courts, legislation and policy, legal aid and private practice. Qualifications through LEADR as a Conciliator and Mediator. 8 years experience as a lawyer conducting Dispute Resolution Conferences for the Children's Court. Part time member of the former Consumer Trader and Tenancy Tribunal.

**Stamatellis, Stamatia**

Solicitor. Experience as solicitor at the Intellectual Disability Rights Service and Legal Aid NSW. Former presiding chairperson of Housing Appeals Committee and former member of Consumer, Trader and Tenancy Tribunal.

**Staples, Melissa Joy**

Clinical Psychologist/Neuropsychologist with 25 years specialist experience working with adults gained through public sector employment and private consultancy work in a variety of clinical settings and clinical management roles.

**Stewart, Leanne BSW, UNSW**

Social Worker with executive management experience in aged care, including the not for profit sector, Home Care Service of NSW and Department of Social Security. Consulting business in aged care with commercial and NGO clients involving managerial reviews, standards assessments, dispute resolution.

**Stone, Dr Suzanne**

Medical Practitioner with over 30 years of professional and personal experience working with people with a disability. Member of both the Guardianship Division and the Mental Health Review Tribunal.

**Suthers, Aaron LLB.**

Solicitor and mediator in private practice. Former member of QCAT. Accredited specialist in family law in Queensland and New South Wales. Family Dispute Resolution Practitioner.

**Taylor, Susan Edith**

Social Worker. Extensive experience working in acute mental health services, and residential and community services for people with a mental illness. Experience managing services providing support and community services to people with multiple sclerosis. Former member, Social Security Appeals Tribunal and NSW Mental Health Review Tribunal.

**Tearle, William Joseph LLB (Hons)**

Admitted to legal practice 1970. Extensive experience of financial counselling and mental health issues. Former Deputy President of both the Guardianship and Mental Health Review Tribunals. Former Research Director, NSW Law Reform Commission. Guest lecturer at many universities, including Oxford.

**Thode, Sabine**

Ms Sabine Thode was raised and educated in Germany before migrating to Australia in 1983. On graduating from Sydney University with a Bachelor of Economics she became a District Court Judge's Associate in 1995 while completing her law degree. She was admitted to the Bar in 1999 and joined Maurice Byers Chambers in 2000 practicing in commercial, construction and personal injury law. Ms Thode has appeared in the High Court, Court of Appeal, Federal, Supreme and District Courts in a broad variety of matters and practice areas including commercial and administrative law. After leaving the bar Ms Thode practiced as a solicitor in civil litigation and was appointed as a Senior Member of the Consumer Trader and Tenancy Tribunal in 2012 and to NCAT in 2014.

**Thompson, Dr Susan Lynne MBBS, FRANZCP, Certificate in Child and Adolescent Psychiatry (RANZCP) and Graduate Diploma in Systemic Therapy (AIRS)**

Child, adolescent, adult and family psychiatrist working for many years in inpatient and outpatient public mental health settings, private practice and for Relationships Australia. I am currently a professional member of the guardianship division and a psychiatrist member of the Mental Health Review Tribunal.

**Thompson, John BCom(Ec) LLB (UNSW)**

Five years as an investigator with the Trade Practices Commission; eight years in total as a lawyer with the Corporate Affairs Commission, the NSW Department of Consumer Affairs and the Office of the NSW DPP; and extensive experience as a barrister; currently practising from a remote town in Western NSW. A Part-Time member of the CTTT and NCAT for eight years.

**Thomson, Bruce Geoffrey BA, Dip FP, FIAA**

Actuary with 25 years experience in personal and group investments, superannuation, disability and life insurances, risk management, complaints mediation, anti-discrimination compliance. Past chair of a retirement village. Board member of local sporting and charity organisations.

**Thorley, David John**

Barrister since 1975, NMAS-accredited mediator, and a registered Family Dispute Resolution Practitioner and a Local Court-appointed arbitrator. A Navy Reserve Legal Officer, as well as a former government lawyer and prosecutor, and a Naval Officer.

**Tibbey, Mandy B. Juris, LLB, LLM (all from UNSW)**

Barrister since 2004, solicitor 1987-2004, extensive experience in civil and administrative law litigation including commercial, consumer, equity, discrimination and in mediation. Presently a member of a Professional Conduct Committee of NSW Bar Association, previously Chair of Women Barristers' Forum and member of Human Rights Committee, NSW Bar Association.

**Titterton, Robert BComm, LLB, MArtsMgt**

Mr Robert Titterton is a Senior Member of the NSW Civil and Administrative Tribunal. He is assigned to Occupational Division, and cross-assigned to the Consumer and Commercial Division and the Guardianship Division of the Tribunal. In addition, he regularly sits on the Appeal Panel of the Tribunal. Robert is also a Member of the Commonwealth Administrative Appeals Tribunal, where he sits in the Migration and Refugee Division. Previously he has been a Member of the NSW Consumer Trader and Tenancy Tribunal, a Deputy Chairperson of nine NSW health disciplinary tribunals, and a Specialist Assistant Director and Senior Specialist with the Australian Securities and Investments Commission. For 14 years he practised as a barrister at the NSW Bar. Previously he worked as a solicitor, and was an Associate to former High Court justice Sir William Deane AC KBE.

**Tong, Dr Lizabeth**

Holds the degree of PhD from The Faculty of Medicine at The University of Sydney. Principal Psychologist for Mental Health Services at Sydney Local Health District since 2007 and concurrently A/Director of NSW Children's Court Clinic; Clinical Consultant to Crown Solicitor's Office of NSW; Member of Clinical

& Forensic Colleges of the Australian Psychological Society; Member NSW Psychology Council; Chartered Clinical & Forensic Psychologist & A/Fellow of the British Psychological Society; Member UK Health Care Professions Council, EuroPsy EU Accreditation, List of Experts, The Hague International Criminal Court; Member World Health Organisation Global Clinical Practice Network Internet-Based 2014-2017 Field Studies for the International Classification of Mental and Behavioural Disorders (ICD-11).

**Toohy, Daniel LLB (Hons I), BSc, GCert (Arbitration)**

Experienced adjudicator and mediator, and qualified arbitrator. Over fifteen years of broad commercial experience in private legal practice and government positions.

**Topolinsky, Vadim B.E.(Structural) N.S.W.U.T.S MIEAust (NPER) FNIFI**

Structural engineer and consultant with over 25 years' experience in structural, civil, forensic and remedial engineering. Former Member Consumer Claims Tribunal (CTTT). Engineering practitioner of many years with experience in residential, commercial and industrial projects. Past Accredited Mediator with the Department of Fair Trading and L.E.A.D.R. Accredited Certifier (Structural and Civil) EP&A Act 1979. Member of the Accreditation Committee, Building Professionals Board (2009).

**Verick, Amarjit Singh**

Judicial Member of the ADT from 1 July 2001 - 31 December 2013 and Senior Member of NCAT from 1 January 2014. Since 2000, Specialist Taxation Consultant. Overseas assignments include legal adviser to Tonga to implement consumption tax, consultant to Revenue Office of South Africa to assist in drafting their anti-avoidance tax legislation and May 2012 - June 2012 was invited by Adam Smith International (UK) to provide specialist advice in Kabul (Afghanistan) to introduce Value Added Tax. Previously, Assistant Commissioner of Tax with ATO attending to litigation.

**von Kolpakow, Michael**

Town planner with 35 years in local and state government and the private sector. Extensive experience in project management specifically relating to major infrastructure provision, stakeholder and community engagement.

**Vrabac, Nick**

I have had 10 years' experience as a solicitor with the government and private practice. I was a Deputy Chair of the CTTT for 8 years, 2002-2010. I was a volunteer with the Sydney Olympics and the World Youth Day. I was a Secretary/Vice President of a National League Soccer Club for 7 years

**Wakefield, Alexander John Stevens FCI Arb,  
FACICA, LLM(UNSW), MPhil(Cantab)**

Solicitor since 1990. Accredited specialist in commercial litigation. Accredited arbitrator and mediator. Former court appointed arbitrator. Former president CI Arb Australia. Vice chair Australian Disputes Centre. Former member Law Society professional conduct committee. Former member Administrative Decisions Tribunal.

**Walker, Professor Emeritus Geoffrey Dennis de  
Quincey LLB (Syd), LLM, SJD (Penn.) LLD (Qld)**

Barrister since 1965. Former Dean, University of Queensland Law School. Former Executive Deputy President, federal Administrative Appeals Tribunal. Council member, Rule of Law Institute.

**Wannan, Alison Diane BSW (Hons) MSW**

Social worker with extensive management experience in community services - disability, child protection and social housing. Most recently completed community research (UNSW and Sydney University) with people with mental health issues, older people and Aboriginal families living in social housing.

**Wass SC, Penelope**

Barrister with over 25 years' experience in civil and criminal law. Senior Counsel since 2013. Revenue List Manager and Senior Member of NCAT.

**Watson, Margaret**

Social welfare professional with 35 years experience in disability services, community development work, psychotherapy and Tribunals in NSW and formerly Queensland.

**West AM, Dr Carolyn Mary**

Medical Practitioner, Director Spina Bifida Service, Children's Hospital at Westmead, 32 years retiring 2011. Visiting Medical Officer, Royal Prince Alfred Hospital, Spina Bifida Service 1982 - 2018, Member Guardianship Tribunal 1989-2016

**Wheatley, Marie B.Soc.Sci, UNE M. P.S.Mgt, UTS**

I have worked as a practitioner in Health for many years and Dept of Community Services as Director for 9 years and I am currently the Director of Out of Home Care services for the Benevolent Society.

**Williams, Dr Phoebe Catherine May MSc (Oxon)  
MBBS (Hons) (USyd) BSc / BCom (ANU) DCH**

Medical Doctor with psychology qualifications and extensive experience working with people with disabilities and psychiatric illness. Founder of the international NGO [www.handsofhelp.org](http://www.handsofhelp.org); one of the 2014 Financial Review '100 Women of Influence'. Current PhD candidate with The University of Oxford.

**Williams, Louise LLM**

Member of Tribunals since 1999, including the former Fair Trading Tribunal and Consumer, Trader and Tenancy Tribunal. Admitted as a solicitor for 25 years, with past experience in Courts, and in private practice. Accredited mediator.

**Williams, Marcelle**

More than 20 years experience in the disability sector in areas of substitute decision making, advocacy, complaint handling, review work and investigations. Parent of an adult person with a disability.

**Wilson, Graham Hood**

Lawyer with experience in legislative drafting and later 35 years in commercial legal practice including 25 years as a partner in a legal firm in Dubbo. Appointed as a Part Time Member in 2009 conducting hearings in Dubbo and surrounding towns.

**Wortley, Janice Margaret**

Special Educator and Consultant Psychologist with 25 years experience in developing and implementing person centred planning and positive behavioural strategies for people with dual diagnosis and challenging behaviours in community and incarcerated settings. Accredited Lecturer in Disability Studies and Community Services, qualified workplace trainer and accredited mental health first aid instructor. Extensive experience working with and advocating for people with intellectual disabilities, psychiatric disabilities and acquired brain injuries in community and educational settings. Recipient of the Premier's Award for Excellence in Working with People in Boarding Houses. Former State Manager DET & TAFENSW Disability Services. Extensive experience in reviewing and crafting anti discrimination and disability legislation.

**Wroth, Dr Melanie Jane MB BS, FRACP**

Clinical consultant geriatrician working at RPA Hospital. Teacher and examiner for medical students and doctors in specialist training. Hearing Member with Medical Council NSW for doctors' performance assessment and disciplinary matters. Volunteer with Gondwana Children's Choirs as tour doctor.

**Xuereb, Charles Richard**

General legal practitioner with over 37 years' experience in most areas of the law, mainly as a sole practitioner. Coordinator of the Lawyers Assistance Program since 2008. Former councillor of the Law Society. Served on many committees of the Law Society, including as former chairperson of Property Law Committee. Treasurer of the Law Society (2006). Former director of LawCover.

**Yeoh AM, Dr Robert Theam Hock**

General practitioner since 1975. Board member of Alzheimer's Disease International, Director of Alzheimer's Australia NSW and

former National President of Alzheimer's Australia. Member of the medication advisory committees of several aged care homes. Former member of the NSW Ministerial Advisory Committee on Ageing.

**Yuvarajan, Dr Rasiah**

Specialist Psychiatrist and Psychogeriatrician with over 35 years of clinical and teaching experience, spanning across Asia, Africa, UK, New Zealand and Australia. Also a part time member of MHRT and specialist panel of HCCC.

**Ziegler, Deborah**

Solicitor of over 17 years standing. Extensive experience in private legal practice with particular focus on corporate and commercial law. Accredited mediator with experience in conciliation and facilitation with Forum Sentencing NSW. Former member of Consumer Trader and Tenancy Tribunal.

Also NCAT members during the 2014-2015 financial year:

Andrews, Ms Munya; Awad, Dr Magdoline; Boyce, Stuart Anthony; Glynn, Wal; Hardy, Rex; Jerram, Mary Stella; O'Connell, Dr Irene; Davison, Steven.

# Appendix 4

## NCAT Member Code of Conduct

---

This Code of Conduct is issued by the President of the NSW Civil and Administrative Tribunal pursuant to section 20 of the *Civil and Administrative Tribunal Act 2013* (the NCAT Act) and applies to all Members of the Tribunal, including occasional Members.

### Purpose

This Code seeks to provide guidance to Members in the performance of their statutory functions as Members of the Tribunal and to assist Members in identifying and resolving ethical issues as they may arise.

A further purpose of this Code is to provide Tribunal users with information by reference to which to assess Members' conduct.

### Upholding the objects of the NCAT Act

The objects of the NCAT Act include:

- ensuring that the Tribunal is accessible and responsive to the needs of all of its users;
- enabling the Tribunal to resolve the real issues in proceedings justly, quickly, cheaply and with as little formality as possible;
- ensuring that the decisions of the Tribunal are timely, fair, consistent and of a high quality;
- ensuring that the Tribunal is accountable and its processes are transparent and open;
- promoting public confidence in Tribunal decision-making and the conduct of Tribunal Members.

Members are to perform their duties and conduct themselves consistently with these objects.

### General Responsibilities

Tribunal Members have the following general responsibilities both in their activities as a Member and in their personal activities:

- to uphold the law, including being aware of and complying with legislation dealing with privacy, discrimination and corruption;
- to uphold the highest standards of integrity, truthfulness, and honesty.

### Tribunal Values

In performing their duties, Members should at all times strive to give effect to the following values (which are derived from 'A Guide to Standards of Conduct for Tribunal Members' (Revised August 2009) of the Administrative Review Council).

#### Respect for the Law

Members should while acting as a Tribunal Member and while performing functions associated with membership demonstrate respect for the law in all its aspects.

In particular, Members should:

- at all times while performing Tribunal duties comply with the law in relation to the conduct of hearings, the determination of matters and interactions with other Members, Tribunal staff and Tribunal users;
- ensure that all decisions and determinations are legally well founded.

#### Fairness

Fairness requires a Tribunal Member to make unbiased, impartial decisions and to give all parties the opportunity to put forward their positions.

More specifically, Members are to:

- apply the law equally and act in an impartial manner in the performance of their decision making functions so that their actions do not give rise to a legitimate apprehension of bias or amount to actual bias;
- advise the parties of any matter or circumstance which might give rise to bias or conflict of interest or a perception of bias or conflict of interest and determine whether in the circumstances it is appropriate to continue to conduct or determine the proceedings;
- refrain, other than during a hearing or in exceptional circumstances, from any communication (either oral or in writing) or association during the course of proceedings with a party, legal representative or witness in the absence of the other party or parties or their representatives.
- abide by the principles of procedural fairness, in particular, by ensuring that parties have a reasonable opportunity to present their case and to answer the case against them;
- be aware of and address appropriately barriers such as language, cultural background, lack of literacy or disability which are likely to impede parties in presenting their case;

In addition, Members should:

- if engaged in another profession, occupation or business, take care to ensure that those activities do not conflict with or undermine the discharge of their responsibilities as a Member;
- refrain from engaging in partisan political activity which is directly related to the work of the Tribunal or which may impinge upon the perception of impartiality of the Member or the Tribunal.

### **Independence**

Tribunal Members are to perform their duties independently, free from external influence and free from the fear of adverse consequences.

Members should not allow themselves to be put in a position where their independence may be compromised or be perceived to be compromised.

Where part time Members have a professional practice in addition to being Members of the Tribunal, they will not be able to act for or against or provide services to individuals or bodies who are litigants before them in the Tribunal.

### **Respect for Persons**

Members are to conduct proceedings in a manner that is patient, courteous and respectful of all parties, witnesses, representatives, staff and others with whom the Members has to deal.

In particular, Members are to:

- demonstrate patience, courtesy and respect in their own conduct and demeanour;
- communicate in a clear, plain manner so as to be understood by the parties;
- control the proceedings in such a way as to create an environment in which participants can and are encouraged to treat other participants courteously and respectfully;
- be aware of and responsive to cultural and other sensitivities in relation to forms of address, conduct and dress.

### **Diligence and Efficiency**

Members are to be diligent and timely in the performance of their duties. They should take reasonable steps to maintain and enhance the knowledge, skills and personal qualities necessary to the performance of their duties.

In particular, Members should:

- conduct proceedings and make decisions with due rigour, diligence and intellectual honesty;
- perform their duties in the Tribunal so as to resolve matters in a timely and appropriate manner with a view to ensuring that the Tribunal's proceedings are efficient, effective and inexpensive;

- provide oral reasons for decision where appropriate and deliver reserved decisions within the NCAT Divisional standards, except where the complexity or difficulty of the matter requires otherwise;
- undertake and participate in professional development and training programs aimed at enhancing knowledge and skills relevant to their duties;
- keep informed of developments in substantive and procedural matters within the jurisdiction of the Tribunal relevant to their duties;
- support and encourage where possible the professional development of colleagues;
- become proficient in the use of, and use where appropriate, technology including the Tribunal's computerised case management system, digital provision of documents, the Tribunal's intranet, digital sound recording facilities, and other technological developments implemented by the Tribunal.

In order to promote the efficient conduct of proceedings, Members should:

- clearly identify the issues and orders in dispute;
- facilitate the resolution or narrowing of issues in dispute, where appropriate;
- adjourn proceedings only when necessary in the interests of justice and fairness;
- ensure that any interlocutory orders and applications do not unnecessarily delay the final determination of proceedings;
- ensure that evidence is confined by reference to the issues in dispute and is given as concisely as reasonably possible.

### **Integrity**

Members, in carrying out their duties as Members, are to act honestly and truthfully.

In particular, Members must:

- not knowingly take advantage of or benefit from information, not publicly available, obtained in

the course of performing their Tribunal functions;

- not use their position as a Member improperly to gain or seek to gain any advantage or benefit for themselves or any other person;
- be scrupulous in the use of Tribunal resources;
- not disclose any confidential information otherwise than as permitted by law;
- refrain from conduct which would bring the Tribunal into disrepute.

### **Accountability and Transparency**

Members are accountable for their decisions and actions taken as Members and have a responsibility to be open and frank about their decisions, action and inaction in relation to their duties.

In particular, Members are to:

- participate in performance evaluations conducted by the Tribunal;
- co-operate fully in complaint investigations carried out by the Tribunal.

### **Responsibility of the Tribunal Head and Heads of Divisions**

It is the responsibility of the President together with the Heads of each of the Divisions to assist Members to comply with the Code of Conduct and to perform their responsibilities as Tribunal Members through the provision of appropriate training, leadership and support.

### **Particular Issues**

#### **Gifts, Benefits and Hospitality**

Where gifts or benefits are offered, or social invitations extended, by parties or representatives in Tribunal proceedings, to Members in their capacity as such, these should, as a general rule, be declined.

If a gift is proffered to a Member, in his or her capacity as a Member, in circumstances where it cannot be or it is inappropriate for it to be declined, it should be handed to the Principal Registrar for

inclusion in the Tribunal's gift register and appropriate disposition, such as for a charitable purpose or for public display in the Tribunal's premises.

### **Corrupt Conduct**

If a Member becomes aware of an instance of behaviour that could be corrupt conduct, maladministration, or criminal conduct, relating to the Tribunal, the Member should report it promptly to the Principal Registrar or the President, and also, if appropriate, to the Independent Commission Against Corruption.

### **Post Service Conduct**

After ceasing to be a Member of the Tribunal it is expected that a former Member:

- would continue to behave in a way that upholds the integrity and good reputation of the Tribunal;
- would not appear before the Tribunal as a representative where to do so would contravene the Barristers' Rules, the Solicitors' Rules or any other similar applicable professional rules;
- would not use or take advantage of confidential information obtained in the course of his or her duties as a Member.

### **Complaints**

Complaints in relation to Members will be dealt with as outlined in the Tribunal's Complaints protocol.

### **Compliance with the Code**

If a Member does not comply with the Code, the President may direct the Member to take specified action to rectify his or her conduct or determine that further work not be allocated to the Member until the breach is rectified. In cases of serious breach the President may refer a matter to the Attorney General or recommend that the Member not be reappointed at the expiration of their term. Whether such action will be taken will depend on factors such as the seriousness of the conduct in question, whether

there is a pattern of such conduct, the intent of the Member concerned and the effect upon the Tribunal or others of the conduct.

The Code of Conduct does not stand alone but forms part of the accountability framework within which both the Tribunal and the Members operate. It is complementary to the Tribunal's procedures and policies, including the Member professional development framework and the Tribunal's complaints process. The Code may be reviewed from time to time to ensure its relevance.

### **The Hon Justice Robertson Wright**

President

August 2014

# Appendix 5

## NCAT Expenditure Report

The following NCAT Expenditure Report applies to the period of 1 July 2014 to 30 June 2015.

<b>SALARY AND RELATED PAYMENTS</b>	<b>\$'000</b>
Salaries	15,720
Statutory appointees	11,357
Annual leave	1,748
Overtime	32
Long service leave	1,126
Superannuation	2,847
Workers compensation	112
Payroll tax	1,888
Fringe benefit tax	44
Voluntary redundancy	131
<b>Subtotal</b>	<b>35,006</b>

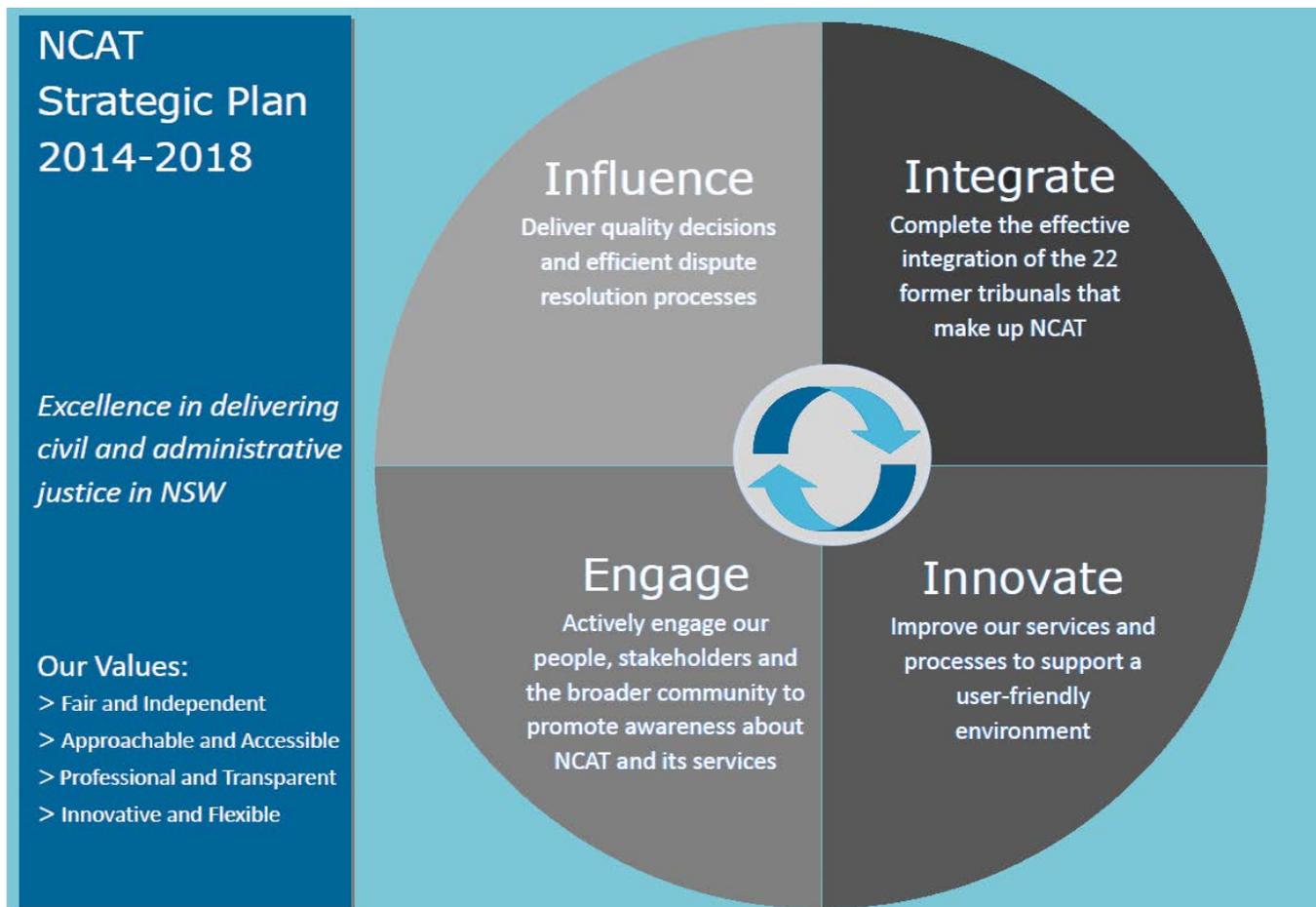
<b>OPERATIONAL EXPENSES</b>	<b>\$'000</b>
Contractors	639
Office accommodation	6,362
Postage and couriers	540
Telephones	382
Minor computer purchases and consumables	0
Fees	1,832
Security services	738
Training and development fees	29
Motor vehicle expenses	19
Travel expenses	572
Printing and stores	494
Minor miscellaneous	134
<b>Subtotal</b>	<b>11,742</b>
Depreciation	468
Ex-Gratia payments	0
<b>Total operational expenses</b>	<b>47,216</b>

<b>TOTAL</b>	<b>\$'000</b>
Capital expenditure	1,004
<b>Total expenditure</b>	<b>48,220</b>

**Note:** This appendix is based on information supplied by Department of Attorney General and Justice's Finance Services. The Audit Office had not completed the audit of the Department's financial statements when this information was supplied.

# Appendix 6

## NCAT Strategic Plan 2014-2018



### Key initiatives 2014-2015

#### INTEGRATE: Transformation Project

The consolidation of NCAT moved into a new phase during the year with the establishment of the Transformation Project and associated change management. By the end of June, NCAT's systems had been successfully migrated into the Justice environment. As a result, all Divisions of NCAT are on the same computer network and email system, the NCAT Online lodgement service and other e-Services have been transitioned, and a single telephony system established. This has improved

efficiencies, and enhanced internal and external communications.

By the end of the reporting year, substantial progress had been made in preparation for the establishment of a single NCAT case management system (CMS). A staged implementation approach is being taken, with an analysis of the CMS needs against business processes in the Administrative and Equal Opportunity Division and the Occupational Division completed and development work commenced. Mapping of the Guardianship Division business processes was also underway. Full implementation of the single NCAT CMS is on track

for completion in the second half of the next financial year. Further service enhancements and innovation are also being planned.

An important component of the Transformation Project is the ongoing change management process aimed at enhancing member and staff awareness about the impact of the changes on how they work and how they deliver services to Tribunal users. Change management activities during the year included the staff and member engagement at face-to-face meetings, the regular distribution of project updates in the *NCAT News* newsletter, the development and distribution of user guides and FAQ sheets. The close involvement of Divisional Registrars and Principal Registry staff in the design of system improvements and other Transformation Project activities is crucial to its success.

#### **INFLUENCE: Members' Reference Manual**

Development of an online NCAT Members' Reference Manual commenced in the second half of the year. The Manual will be an important online resource for Tribunal Members and staff across NCAT.

A Steering Committee chaired by Stuart Westgarth, Deputy President and Head of the Consumer and Commercial Division, has been established to guide the project along with a working group that will contribute to the work of the Steering Committee. Group members include Division Heads Nancy Hennessy, Malcolm Schyvens and The Hon Acting Judge Jennifer Boland, Divisional Registrar Vikki Hardwick, Senior Tribunal Member Dr Juliet Lucy, and Tracey Cremming from the Principal Registry. This broad membership brings an across-NCAT view to the Committee's discussions.

A short survey sent to members in order to identify the type of information that might be included in the Manual received a good response and revealed strong support for the initiative. Members identified procedural fairness, annotated Acts and practice and procedure topics as top priorities for the Manual.

#### **INNOVATE: Online Dispute Resolution**

A pilot of Online Dispute Resolution (ODR) was conducted in the first half of the reporting year. ODR is an innovative service using technology to facilitate negotiation and resolution of disputes for people and businesses in an inexpensive and convenient way.

Participation in the three month pilot was on an 'opt in' basis and involved consumer disputes with claims less than \$5,000 brought to the Consumer and Commercial Division. Participants accessed the ODR pilot via a secure, 24/7 online portal that allowed the parties in dispute to exchange information about their dispute in a structured way without the need to meet, speak or attend NCAT in person. This ODR framework is designed to assist parties in focusing on the issues and to lead the parties to outcomes with a view to reaching a negotiated agreement. Where agreement is reached, parties seek an enforceable consent order from the Tribunal to give effect to their agreement. Where agreement is not reached, or if either party chooses not to use ODR, the dispute remains listed for hearing before the Tribunal and the parties need to attend.

The Tribunal has undertaken an evaluation of the pilot. It is exploring the possibility of developing an Online Dispute Resolution pathway and integrating this into Tribunal practice for appropriate matters. This work will occur over the 2015-2016 year.

#### **ENGAGE: Accessibility Project**

Development of a whole of NCAT strategy to promote equal access to NCAT for all users and potential users and the formation of a committee to progress this work began during the year. Malcolm Schyvens, Deputy President and Division Head of the Guardianship Division, is leading this Project which will involve staff and members from across NCAT.

The project goals will emphasise commitment to the fair and equal treatment of everyone with whom the Tribunal deals. This is a significant project given the diversity of NCAT users and its aim of ensuring equality of access to NCAT services, including in

relation to hearing processes as well as pre and post hearing services.

By the end of June 2015, the Terms of Reference for the Accessibility Committee had been approved by the NCAT President and the first meeting was being planned. The Committee will review all current policies and practices across NCAT to assess the existing accessibility of its services to all users and potential users. It will consider new and additional supports, adjustments and aids that might be introduced as well as any practical limitations and challenges which might exist and might hinder the implementation of identified enhancements.

The Accessibility Project will include consultation with members, staff, key stakeholder groups and Tribunal users in order to develop an optimal strategy that will guide NCAT's response on this important topic over the coming years.

# Appendix 7

## Resolution Processes

---

The Tribunal has a wide and flexible power to resolve disputes other than by adjudication. These processes are referred to in the legislation as resolution processes. A resolution process is any process in which the parties to proceedings are assisted to resolve or narrow the issues between them. The more common term, 'alternative dispute resolution' or ADR was not used presumably because government wished to convey the idea that resolution other than by adjudication should be considered as mainstream rather than alternative.

In the Occupational Division, where the focus is on professional discipline, there is little scope for the use of resolution processes other than narrowing the issues in dispute. While resolution processes other than adjudication have been trialled in the Guardianship Division, the protective nature of proceedings in that Division means that special care must be taken. There is more scope for resolution processes to be used in the Administrative and Equal Opportunity Division. It is routine in that Division for discrimination complaints to be resolved by mediation. Resolution processes such as expert conclaves, negotiation and conciliation are used extensively in the Consumer and Commercial Division.

Following is the range of resolution processes offered by the Tribunal.

### Conciliation

Conciliation is a technique that is routinely used to resolve disputes in the Consumer and Commercial Division. It brings people in dispute together to talk about their issues in an informal, private meeting and try to reach an agreement. Conciliation is closely linked to the hearing process. Agreements reached by parties during conciliation are turned

into enforceable consent agreements by a Tribunal Member.

The Guardianship Division also assists parties to resolve their matter outside the Tribunal hearing process.

### Mediation

Schedule 37 of the Act defines mediation as a structured negotiation process in which the mediator, as a neutral and independent party, assists the parties to a dispute to achieve their own resolution of the dispute.

Mediation is offered for suitable cases such as in the Equal Opportunity List of the Administrative and Equal Opportunity Division. It is a confidential, informal problem-solving process managed by an independent mediator. The mediator manages the process but does not take sides or give an opinion about the case. One possible outcome of mediation is that the parties reach agreement about how the matter can be resolved.

### Conclave

Conclave is a joint meeting between experts engaged by the applicant and the respondent. This resolution method is usually used in the Home Building List of the Consumer and Commercial Division with the purpose of limiting or eliminating the need for expert evidence, or the issues to be determined, at hearing. The conclave is usually held on-site and is facilitated by a Tribunal Member.

During a conclave, the experts discuss the issues on which they have prepared reports with a view to clarifying matters in dispute, reaching agreement where possible and reducing the issues to be determined.

## Preliminary Sessions

In the Administrative and Equal Opportunity Division, preliminary conferences, planning meetings and case conferences are sessions that parties must participate in before a hearing. At these sessions a Member explores avenues to resolve the proceedings or reduce the issues in dispute. These preliminary sessions are called:

- 'preliminary conferences' in state revenue cases
- 'planning meetings' in government information access and privacy cases
- 'case conferences' in discrimination cases.

## Directions hearings

Directions hearings are a case management tool used to prepare for the substantive hearing. They are usually short in duration and are used in matters where there may be a need to establish jurisdiction, identify issues in dispute, set a timeframe for the hearing or make directions for the exchange of evidence. All parties are required to attend directions hearings and must comply with procedural directions.

## Online Dispute Resolution

During the year a pilot of Online Dispute Resolution (ODR) was conducted for identified consumer disputes with claims less than \$5,000 brought to the Consumer and Commercial Division. More about this initiative is provided at **Appendix 6** to this report. The Tribunal has undertaken an evaluation of the pilot. It is exploring the possibility of developing an Online Dispute Resolution pathway and integrating this into Tribunal practice for appropriate matters. This work will occur over the 2015-2016 year.

## Types of Hearings

Matters are listed for hearing according to the type of application and nature of the dispute. Notices of Hearing are issued to parties in advance of their hearing. They provide information such as the type

of hearing event they will be attending and what they need to do to prepare for their hearing.

Following are the hearing types conducted by this Tribunal.

### Group Lists

A 'group list' is where a number of Consumer and Commercial Division cases are listed together before a Tribunal Member on a particular day. The majority of applications are listed for first hearing in a group list.

When both parties appear at the hearing they are encouraged to resolve their dispute through conciliation. If only one party appears, 'ex-parte' orders (i.e. orders made where the other party is not in attendance) may be made or the application may be dismissed by the Tribunal Member. If conciliation is unsuccessful the case proceeds to hearing.

Sometimes, if the parties need to obtain further evidence, or the hearing will take further time, the matter can be adjourned to a hearing on a later date.

### Hearings

Hearings are listed for a specific length of time where the issues in dispute will be finally determined and a decision made. These hearings can run for a few hours or several days, depending on the complexity of the issues in dispute.

The number of Tribunal Members hearing an individual matter will depend on the Division in which the application was lodged. For example, hearings in the Consumer and Commercial Division are conducted before a single Tribunal Member while the majority of applications in the Guardianship Division are before a panel of three members.

NCAT's hearings, except hearings in the Guardianship Division, are open to the public unless a specific order is made closing the hearing. Hearing lists are published on the NCAT website. Public

hearings ensure that the Tribunal's processes are transparent.

## Adjudication on the papers

The Tribunal may dispense with a hearing if the issues for determination can be adequately determined on the basis of written submissions and other material. Dispensing with an oral hearing may be appropriate for example where there are no factual issues in dispute.

In the Strata and Community Schemes list of the Consumer and Commercial Division, adjudications are generally determined 'on the papers'. Parties make written submissions which are considered by an Adjudicator, who is usually also a Tribunal Member. The adjudicator makes a written determination on the basis of those submissions.

Hearing on the papers is also used in the Administrative and Equal Opportunity Division, in the Occupational Division and for internal appeals.

## Internal Appeals

This process permits decisions at first instance to be scrutinised and, where necessary, corrected without the expense or delay involved in bringing proceedings in the District Court or the Supreme Court. This scrutiny also improves the standard of decision making and writing throughout the Tribunal.

Under section 32 of the *Civil and Administrative Tribunal Act 2013*, parties have a right to lodge an internal appeal from:

- any decision made by the Tribunal in proceedings for a general decision or an administrative review decision
- any decision made by a registrar of a kind that is internally appealable.

Internal appeals can be lodged as of right on a question of law in most cases. An appeal on other

grounds can be lodged if the Appeal Panel grants leave.

The Appeal Panel which hears any internal appeal will in most cases be made up of two or three members. At least one of the members will be a lawyer. Panel Members are drawn from across NCAT's membership.

NCAT's internal appeal jurisdiction does not extend to:

- decisions made in the Occupational Division relating to the following professions: medical practitioners, health professionals (nurses, psychologists, physiotherapists and similar professions), legal practitioners, veterinary practitioners, architects, registered surveyors, accredited certifiers;
- decisions made in the Occupational Division in relation to applications for dismissal of councillors from civic office;
- decisions in proceedings for the exercise of the Tribunal's enforcement jurisdiction;
- decisions of the Tribunal in proceedings for the imposition of a civil penalty in exercise of its general jurisdiction;
- decisions of a Division in an external appeal (for example, an appeal from a decision of an adjudicator under the *Strata Schemes Management Act 1996*); and
- decisions of an Appeal Panel.

There are exclusions and variations under some of the divisional schedules to the Act and in some of the specific laws giving jurisdiction to NCAT. Some Divisional decisions that are not subject to an internal appeal may be appealed to the Land and Environment Court, the Supreme Court or the Court of Appeal. A decision of the Guardianship Division may be appealed either to the Appeal Panel or the Supreme Court but not to both.

Information about lodging an appeal is provided in *NCAT Guideline 1 – Internal Appeals*. This Guideline and the requisite forms are available on the NCAT

website. NCAT appeal decisions are published to the NSW Caselaw website, and a selection is published in NCAT's Legal Bulletin.

### **Set aside or vary Tribunal Decision**

In some instances, a party to proceedings may apply to NCAT to set aside or vary a Tribunal decision after the matter is finalised, as an alternative to lodging an appeal. The grounds for an application to set aside or vary Tribunal decisions are contained in Part 3 of the Civil and Administrative Tribunal Regulation 2013 and others are found in the Act. Dissatisfaction with the decision is not a sufficient reason to request that the Tribunal decision be set aside or varied.

Applications to set aside or vary a Tribunal decision are often decided 'on the papers', based on the information provided on the application form and any written submissions provided by the parties. The Tribunal may refuse the application in the first instance or call for submissions from the other party before determining the application.

The Tribunal will not grant an application to set aside or vary a decision unless the other party has been notified and given a copy of the application and has been given a reasonable opportunity to respond. The Tribunal will consider all responses before making a decision.

# Appendix 8

## Fees and charges as at 30 June 2015

### Lodgement of applications

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
Guardianship proceedings	No fee payable	No fee payable	No fee payable
Residential proceedings	\$47	\$94	\$5
Strata proceedings	\$97	\$194	\$5
General consumer or commercial proceedings If amount claimed is:			
• \$10,000 or less or no amount	\$47	\$94	\$5
• More than \$10,000 and not more than \$30,000	\$97	\$194	\$5
• More than \$30,000	\$252	\$504	\$5
Decision under <i>Retail Leases Act 1994</i>	\$96	\$192	\$5
Other proceedings:			
• Required to be determined in a Division by 2 or more Division members	\$201	\$402	\$50
• In any other case	\$96	\$192	\$25
Administrative review application:			
• Required to be determined by 2 or more Division members	\$201	na	\$50
• In any other case	\$96	na	\$25

### Lodgement of appeals

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
External appeal:			
• Required to be determined by an Appeal Panel	\$396	\$792	\$25
• Required to be determined in a Division by 2 or more Division members	\$201	\$402	\$50
• Strata	\$96	\$192	\$5
• In any other case	\$96	\$192	\$25
Internal appeal	\$396	\$792	\$100
Set aside or vary decision	\$97	\$194	\$25

<sup>1</sup> **Corporation fee** - Corporations that lodge an application with the incorrect fee will be contacted and will be required to pay the correct fee.

<sup>2</sup> **Reduced or concession fee** applies to applications lodged by the following eligible persons: A person who receives a pension, benefit or allowance under Chapter 2 of the Social Security Act 1991; a person who receives a service pension under Part III of the Veterans Entitlements Act 1986; or a person in receipt of a grant of legal aid or assistance from a community legal centre.

<sup>3</sup> **Residential proceedings** include matters about tenancy, social housing, residential parks, retirement villages and boarding houses.

<sup>4</sup> **General consumer or commercial proceedings** include matters about agent commissions and fees, agricultural tenancy, consumer claims, conveyancing costs, dividing fences, holiday parks, home building, motor vehicles, pawnbrokers and second-hand dealers and Travel Compensation Fund appeals.

## Other services

SERVICE	FEE
Issue of a summons (for production of or to give evidence, or both)	\$43
Supply of sound recording or transcripts	Full cost
Request for the production to Tribunal of documents held by court	\$50
Retrieval of any document or file from archives	\$76
Provisions of copy or certified copy of decision or written reasons	\$76
Request by a non-party to inspect public access documents	\$40
Photocopying of documents where requesting party makes the copies	\$0.50 per sheet
Photocopying of documents where a Tribunal staff member makes the copies	\$2 per sheet
Fees for any other service provided	\$40

# Payment of fee is applicable per finalised matter. Fee is for inspection only and is payable in addition to any charges for the photocopying of documents.

# Appendix 9

## NCAT Liaison Group and Divisional Consultative Forum Membership

---

### NCAT Liaison Group

Brain Injury Association NSW  
Community Legal Centres Group (NSW) Inc  
Health Care Complaints Commission  
Health Professionals Councils Authority  
Law Society of NSW  
Legal Aid Commission of NSW  
Bar Association of NSW  
NSW Council for Intellectual Disability (CID)  
NSW Council of Social Services (NCOSS)  
NSW Medical Council  
Real Estate Institute of NSW  
Redfern Legal Centre  
Tenants' Union of NSW

### Consumer and Commercial Division

#### Aboriginal Consultative Forum

Aboriginal Legal Services  
Anaiwan LALC  
Bungree Aboriginal Association Inc  
Department of Finance, Services and Innovation  
Dtarawarra Aboriginal Resource Unit  
Greater Sydney Aboriginal Tenancy Service  
Mission Australia  
Murra Mia Tenant Advocacy Service  
NSW Aboriginal Land Council

- Southern Zone, Northern Zone
- Eastern Region, Western Region

NSW Department of Aboriginal Affairs  
Tenants' Union of NSW Co-op Ltd  
Western Aboriginal Tenant Advice and Advocacy Service

#### Commercial Consultative Forum

Consumer Credit Legal Centre  
Kemp Strang Lawyers  
Legal Aid NSW  
NSW Fair Trading - Legal Services  
Redfern Legal Centre

### General Consultative Forum

Australian Consumers Association  
Community Relations Commission  
Disability Council of NSW  
Department of Finance, Services and Innovation  
Fair Trading Advisory Council  
Financial Counsellors Association of NSW  
LawAccess NSW  
Office of Migration Agents Registration Authority  
Property Owners Association of NSW  
Tenants Union of NSW

### Home Building Consultative Forum

Australian Institute of Building  
Building and Construction Council of NSW  
Civil Contractors Federation  
Department of Finance, Services and Innovation  
HOBAS c/- Macquarie Legal Centre  
Housing Industry Association  
Institute of Building Consultants  
Institution of Engineers Australia  
Law Society of NSW  
Master Builders Association  
Master Painters Association  
Master Plumbers Association of NSW  
National Electrical & Communications Association of NSW  
National Wood Flooring Association  
NSW Fair Trading Legal Services  
Owners Corporation Network  
Paint Solutions & Associates  
Royal Australian Institute of Architects (NSW Charter)  
Russo and Partners  
Shaw Reynolds Bowen & Garathy Lawyers  
Strata Community Australia (NSW)  
Suncorp  
Swimming Pool and Spa Association of NSW

### Residential Parks Consultative Forum

Affiliated Residential Park Residents Association  
ARPR Central Coast Residents Association  
Caravan & Camping Industry Association NSW  
Combined Pensioners & Superannuants Association of NSW Inc  
Department of Finance, Services and Innovation

Independent Park Residents Action Group of NSW (IPRG NSW)  
Park and Village Service (Combined Pensioners & Superannuants Association)  
Port Stephens Park Residents Association Inc  
Tenants Union of NSW  
The Aged-Care Rights Service

### **Retirement Villages Consultative Forum**

Aged Care Association Australia (NSW)  
Aged & Community Services Association of NSW & ACT  
Bougainvillea Retirement  
Council on the Aging (NSW) Inc  
Department of Finance, Services and Innovation  
NSW Fair Trading  
Public Interest Advocacy Centre  
Retirement Villages Residents Association (RVRA)  
The Aged-Care Rights Service

### **Strata Consultative Forum**

Australian College of Community Assoc Lawyers  
Department of Finance, Services and Innovation  
Law Society  
Management Rights Association (NSW) Inc  
Older Persons Tenancy Services, Combined Pensioners & Superannuants Association Of NSW Inc  
Owners Corporation Network  
Property Council Australia  
Property Owners Association of NSW  
Strata Community Australia (NSW)

### **Tenancy Consultative Forum**

Aboriginal Housing Office  
Argyle Community Housing Ltd  
Common Equity NSW  
Department of Finance, Services and Innovation  
Dtarawarra Pty Ltd  
Estate Agents Co-operative  
Financial Counsellors Association of NSW  
Gandangara Local Lands  
Housing Appeals Committee  
Housing NSW  
Inner Sydney Tenants' Advice & Advocacy Service,  
LawAccess NSW  
Legal Aid NSW  
NSW Federation of Housing Associations  
Public Tenants Council (Central Sydney)  
Real Estate Institute of NSW  
Southern Sydney Tenants Service (SSTAS)  
Teacher Housing Authority of NSW  
Tenants Union of NSW  
UDIA (NSW)

## **Guardianship Division**

### **Guardianship Consultative Forum**

Aboriginal Disability Network Incorporated  
Aboriginal Legal Services (NSW/ACT)  
Alzheimer's Australia NSW  
Brain Injury Association of NSW  
Community Legal Centres NSW Inc  
Department of Family and Community Services  
Disability Council  
Intellectual Disability Rights Service  
Law Society of NSW  
Leading Age Services Australia NSW-ACT  
Legal Aid NSW  
Mental Health Coordinating Council  
Mental Health Review Tribunal  
Multicultural Disability Advocacy Association  
National Disability Insurance Agency  
National Disability Services NSW  
NSW Council for Intellectual Disability  
NSW Ministry of Health  
NSW Network of Women With Disability  
NSW Trustee & Guardian  
Office of the Public Guardian  
People With Disability - PWD Australia  
TARS - The Aged Care Rights Services Inc.

## **Administrative and Equal Opportunity Division / Occupational Division**

### **Consultative Forum**

Ageing, Disability and Home Care (ADHC)  
Anti-Discrimination Board of NSW  
Australian Taxi Drivers Association  
Department of Justice (Justice Legal)  
Education and Communities  
Finance and Corporate Services  
Foster Care Association NSW Inc  
Information and Privacy Commission NSW  
Law Society of NSW  
Law Society of NSW  
Legal Aid NSW  
Legal Services  
Local Government NSW  
Ministry for Police and Emergency Services  
NSW Bar Association  
NSW Crown Solicitor's Office  
NSW Fair Trading  
NSW Trustee and Guardian  
Office of State Revenue  
Office of the Children's Guardian

Office of the Legal Services Commissioner  
Public Interest Advocacy Centre Ltd  
Victims Services

## **Occupational Division**

### **Occupational Division Health List Consultative Forum**

Australian Health Practitioner Regulation Agency  
Health Professional Councils Authority  
Health Care Complaints Commission  
Medical Indemnity Protection Society  
Medical Insurance Group  
Meridian Lawyers  
MDA National  
NSW Nurses & Midwives Association  
NSW Australian Medical Association  
Maurice Byers Chambers  
15 Wardell Chambers  
6 St James Hall Chambers  
Sir James Martin Chambers  
Wentworth Chambers  
Culwulla Chambers  
Jack Shand Chambers  
Denman Chambers  
Forbes Chambers  
12 Wentworth Selborne Chambers  
Dibbs Barker  
HWL Ebsworth  
Tress Cox  
Avant Lawyers

### **Professional Disciplines Consultation Forum**

AMA Australia  
Australian Health Practitioner Regulation Agency  
Avant Law Pty Ltd  
Building Professionals Board  
Health Care Complaints Commission  
Health Practitioners Councils Authority  
Law Society of NSW  
Legal Aid NSW  
Medical Indemnity Protection Society  
Medical Insurance Group Australia  
Meridian Lawyers  
MDA National  
NSW Architects Registration Board  
NSW Bar Association  
NSW Nurses and Midwives Association  
Office of the Legal Services Commissioner  
Veterinary Practitioners Board of NSW