



Administrative
Appeals
Tribunal

ANNUAL REPORT
2008-09



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Appeals
Tribunal

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PRESIDENT'S CHAMBERS
The Hon Justice Garry Downes AM

The Hon Robert McClelland MP
Attorney-General
Parliament House
CANBERRA ACT 2600

17 September 2009

My dear Attorney-General

In accordance with section 24R of the *Administrative Appeals Tribunal Act 1975*, I present to you the annual report of the Administrative Appeals Tribunal covering the Tribunal's operations for the year ended 30 June 2009.

yours faithfully,

GARRY DOWNES

This report

An electronic version of this annual report is on the Tribunal's website, www.aat.gov.au/CorporatePublications/AnnualReport.htm. More information about the Tribunal is on the Tribunal's website, www.aat.gov.au.

Enquiries, comments or requests for further information about this annual report may be addressed to:

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Photos: Unless otherwise stated, the series of photos used in this report show Tribunal members and staff in situations that self-represented parties may encounter during a review. Cover: Member Dr John Campbell, Senior Member Naida Isenberg, Stephen Shepherd, Neil Mackenzie, Catriona Hamlin. Page 12: Francis Pham, Sheryl Myers. Page 15: Kim Richardson, Mary Desses, Christopher Matthies, Jan Sadler. Page 16: Mark Dowsett. Page 26: Shanthi Sri Ganeshan, Member Stephen Frost. Page 36: Catriona Hamlin. Photographer: Leighton Hutchinson.

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CHAPTER 1

THE YEAR IN REVIEW

PRESIDENT'S OVERVIEW



The Tribunal has been providing independent merits review of administrative decisions for the Australian community since 1976, yet it was not until 2008 that the High Court of Australia was called upon to consider

the general nature of the Tribunal's task in carrying out this role.

On 30 July 2008, the High Court handed down its decision in *Shi v Migration Agents Registration Authority* (2008) 235 CLR 286. The High Court affirmed the approach to review developed in key decisions of the Tribunal and the Federal Court. Unless the statute governing the decision under review indicates otherwise, the Tribunal will have regard to the latest information available and determine the correct or preferable decision on the circumstances as they exist at the time it makes its decision. The Tribunal is not generally confined to considering the circumstances as they existed at the time the reviewable decision was made. Nor is the Tribunal limited to looking at the material that was before the decision-maker.

These principles flow from the powers conferred on the Tribunal under the *Administrative Appeals Tribunal Act 1975* and, in particular, the Tribunal's ability to substitute its own decision for that of the original decision-maker. This is the essence of the merits review function.

As was noted in *Shi*, one of the key characteristics of merits review is that the Tribunal can take into account new evidence when it makes its decision. In many applications before the Tribunal, additional evidence from experts assists the Tribunal to reach its decision. Given its broad jurisdiction, the Tribunal interacts with experts from a wide range of fields.

During 2008-09 the Tribunal has been working on two sets of guidelines dealing with expert evidence. The first set of guidelines will provide general guidance on evidence of this kind and will be similar in nature to guidelines promulgated by other courts and tribunals. The second set of guidelines will relate to the use of concurrent evidence, the procedure where two or more

experts give evidence at the same time in a Tribunal hearing.

The guidelines will inform experts as well as parties and their representatives about the Tribunal's expectations and procedures in relation to expert evidence. The aim is to ensure that such evidence is of the highest quality and utility in the review process. Drafts of the guidelines were released for comment during 2008-09 and the final versions will be released in 2009-10.

In relation to the Tribunal's workload, the total number of applications lodged and finalised in 2008-09 was of a similar order to the previous year. As to the timeliness of the review process, it is pleasing to note that the proportion of applications finalised within 12 months of lodgement improved in the social security and veterans' affairs jurisdictions.

In the workers' compensation jurisdiction, however, there was a decline in the proportion of applications finalised within 12 months. A range of external factors can impact on timeliness in this jurisdiction, such as the time required to obtain expert medical evidence and the need to await the determination of related claims for compensation. However, it is also essential that the Tribunal and the parties do what they can to progress each application in the most efficient and effective manner possible. The Tribunal will work with users in this jurisdiction in 2009-10 to implement ways in which timeliness can be improved.

The Tribunal has noted with interest the recent proposals to amend the *Federal Court of Australia Act 1976* to clarify and strengthen the Federal Court's powers to manage civil cases and to ensure the efficient conduct of civil litigation. The proposed changes are similar to reforms introduced in a number of other jurisdictions. The goal is to achieve the just resolution of disputes in a manner that is also timely and cost effective, not only for the parties but for the public in relation to the use of court resources.

The principles underlying these reforms are also relevant to the Tribunal, particularly in relation to those cases that may involve significant hearing

time and resources. The Tribunal is required to provide a review process that is not only fair and just but also economical, informal and quick. It has a responsibility to ensure that an appropriate balance between the objectives is achieved in each case.

One of the principal ways in which the Tribunal seeks to do this is through the use of alternative dispute resolution. At least one conference is held in most applications lodged with the Tribunal. Other types of ADR – conciliation, mediation, case appraisal and neutral evaluation – are also used in appropriate cases. In 2008-09 the Tribunal conducted some 9,500 ADR processes. As in previous years, only one-fifth of applications were finalised by way of a decision of the Tribunal following a hearing.

The use of ADR processes can have significant benefits for the parties as well as for the Tribunal. ADR processes are informal. They can lead to the resolution of a dispute or assist to narrow the issues in dispute, both of which can reduce the costs incurred by the parties and by the Tribunal. An agreed resolution is likely to be a more satisfactory outcome for both parties. The Tribunal will continue its efforts to ensure that ADR is used to best effect in the review process.

As I noted in last year's annual report, the Chief Justice of the Federal Court of Australia, the Hon Michael Black AC, and I became Presidents of the International Association of Supreme Administrative Jurisdictions in November 2007. The next triennial congress of the association will be co-hosted by the Federal Court and the Tribunal and will take place in Canberra and Sydney in March 2010. Planning for the congress has continued in 2008-09. It promises to be a stimulating forum with attendees from a diverse range of countries.

The Tribunal maintained its relationship with the Administrative Court of Thailand during the reporting year. In February 2009 the Tribunal hosted a delegation comprising 38 judges and members of staff from the court, and also hosted delegations from the People's Republic of China and Vietnam. These visits provide an excellent opportunity for the exchange of information about the ways in which administrative law disputes are handled in different countries.

In relation to the Tribunal's membership, I note that Justice Robert Buchanan of the Federal Court was appointed as a presidential member of the Tribunal from 30 March 2009. He was also appointed to act as President during periods when I am absent from the Tribunal. The need to appoint a new Acting President was prompted by the retirement of the Hon Brian Tamberlin as a Judge of the Federal Court. His relationship with the Tribunal will continue, however, following his appointment as a part-time Deputy President.

A number of member positions were advertised during the course of 2008-09 and some of those appointment processes were complete at the time of writing. I am pleased to note the reappointment of Deputy President Raymond Groom, Senior Member Narelle Bell, Senior Member Bruce Pascoe, Member Dr Gordon Hughes, Member Dr Graham Maynard, Member Regina Pertou, Member Anne Shanahan and Member Simon Webb. Graham Kenny has been re-appointed as a Senior Member, a well-deserved promotion. The Tribunal will also welcome a number of new members in 2009-10. Robin Handley returns to the Tribunal as a full-time Deputy President and will be joined by Anne Britton, Professor Robin Creyke and Jill Toohey who have been appointed as full-time Senior Members. Frank O'Loughlin has been appointed as a part-time Senior Member and Peter Wulf as a part-time Member.

I would like to acknowledge Rear Admiral Tony Horton who retired from the Tribunal during 2008-09. He was an active and valued member of the Tribunal over a period of almost 18 years. I would also like to thank Deputy President Geoffrey Walker, Senior Member James Constance, Senior Member Robin Hunt, Senior Member Josephine Kelly and Member Simon Fisher for their significant contribution to the Tribunal over the term of their appointments.

In 2008-09 the Tribunal received the results of the user satisfaction survey undertaken in 2008. They indicate that parties and representatives are generally satisfied with the quality of the service they receive from the Tribunal. This reflects the very high standard of the work done by all of the members and staff of the Tribunal. I would like to thank them for their efforts during 2008-09. I look forward to another productive year in 2009-10.

REGISTRAR'S REPORT



The past year has been one of continued achievement for the Tribunal.

Overall, lodgements of new appeals to the Tribunal were at a similar level to last year. However, differences

emerged in the volume of work in the major jurisdictions. Applications for review of decisions of the Social Security Appeals Tribunal relating to family assistance and social security payments increased by 24 per cent. This increase was offset by fewer lodgements in the areas of citizenship and immigration, compensation, taxation and veterans' affairs. As in the previous reporting year, the Tribunal finalised more applications in 2008-09 than were lodged, leading to a reduction in the number of applications on hand at 30 June 2009. The Tribunal may struggle to achieve a similar result in 2009-10 should the trend for increased numbers of appeals in the social security area be maintained.

Turning to finance, notwithstanding the Tribunal's approval to run at a deficit of \$600,000 in the reporting year, it returned a surplus of \$368,000. This result was achieved through the careful implementation of a number of efficiency measures identified in external reviews carried out by PricewaterhouseCoopers and Oakton in the previous year. The capacity of the Tribunal to continue to find efficiencies without affecting service levels will become progressively more difficult in future years.

The past year has seen new arrangements put in place for the sharing of resources with the Migration Review Tribunal/Refugee Review Tribunal and the Veterans' Review Board. New

memorandums of understanding were signed with each of these bodies. The Migration Review Tribunal/Refugee Review Tribunal have increased the number of members using Tribunal premises in Adelaide, Brisbane and Perth. The Tribunal now provides hearing room facilities for the Veterans' Review Board in Adelaide, Canberra and Perth. These revised arrangements result in significant savings on a whole of government basis.

In Adelaide, the refurbishment of the registry has been completed. The work involved modifications to the registry area, new carpet and painting throughout. I thank the Adelaide staff for their patience and good humour during the refurbishment process.

In late August 2008, the Tribunal received the results of the user survey conducted in June and July. Applicants, officers of decision-making agencies and private legal practitioners were asked for their views on their experience with the Tribunal. The Tribunal received positive feedback both in relation to the service provided by members and staff and its facilities. The results are discussed further in Chapter 4.

This year saw the departure of our Adelaide District Registrar Catherine Cashen. We wish her well in her new position with Fair Work Australia. By the time this report is tabled, our new District Registrar, Clare Byrt, will have commenced. Clare rejoins the Tribunal having previously held a position as a Conference Registrar in Sydney.

Finally, I would like to acknowledge and thank members and staff for their efforts during the year.

Chart 1.1 Organisational plan, and achievements for 2008-09

Our Vision	Our Mission	Our Values	Key Result Areas
To improve the quality of administrative decision-making through the provision of a review mechanism that is fair, just, economical, informal and quick.	To deliver high-quality independent merits review of administrative decisions in a timely fashion using alternative dispute resolution processes where appropriate.	Integrity Professionalism Efficiency Accessibility Independence	Our Users Our Partners Our People Our Organisation
Goals	Strategies	Key Targets 2008-09	Achievements to 30 June 2009
OUR USERS To provide a high-quality national merits review process that contributes to community confidence in a system of open and accountable government.	Continue to improve case management practices and procedures. Improve the way the AAT communicates with its users and the public. Respond appropriately to feedback from users.	1. Issue guidelines relating to expert evidence in the Tribunal. 2. Issue a practice direction on taxation of costs. 3. Commence a review of practice and procedure in the veterans' jurisdiction. 4. Continue implementation of communication strategy by: <ul style="list-style-type: none"> introducing a consistent look for all communication products issuing revised brochures and new information products. 5. Commence a review of standard orders and directions. 6. Analyse and develop responses to feedback received from the user survey. 7. Conduct regular liaison meetings.	1. Draft guidelines released for comment in 2008-09. Final guidelines to be issued in 2009-10. 2. Draft practice direction released for comment in 2008-09. Final practice direction to be issued in 2009-10. 3. Review deferred to 2009-10. 4. Consistent look developed for communication products - to be implemented in 2009-10. Brochures revised and will be made available in 2009-10. 5. Review deferred to 2009-10. 6. User survey results analysed. Areas for improvement identified and changes implemented. 7. Liaison meetings conducted.

Chart 1.1 Organisational plan, and achievements for 2008–09

Goals	Outcomes	Strategies	Key Targets 2008–09	Achievements to 30 June 2009
OUR PARTNERS				
To cooperate with government, other tribunals, the legal profession and other interested groups and to continue to forge links with international counterparts.	Legislators and policy makers value the Tribunal's expertise on matters of administrative review. Better understanding of the AAT and its role in the administrative decision-making process. Government and other tribunals view the AAT as a centre of excellence in administrative review. Improved links with overseas bodies that have similar functions to the AAT. All necessary preparations in place for the IASAJ Conference in 2010.	Develop and enhance our links with government, other tribunals and our partners in administrative review. Develop links with universities and law education providers.	<ol style="list-style-type: none"> 1. Participate fully and provide expert advice to government and legal forums relevant to the work of the AAT. 2. Continue resource sharing arrangements with courts and tribunals. 3. Seek out further opportunities to share resources, particularly in relation to government-ordered inquiries and other government departments. 4. Begin preparation to host IASAJ Conference in 2010. 5. Continue to undertake AAT moot competition. 6. Participate in conferences and training relevant to the work of the AAT. 7. Continue cooperative work with overseas bodies. 	<ol style="list-style-type: none"> 1. Submissions made and information provided on a range of issues relating to the Tribunal and its role. 2. New MoUs agreed with MRT/RRT and VRB. Agreement reached to provide additional space for four MRT/RRT members. 3. Use of Tribunal facilities by HMAS Sydney II Inquiry. Defence Honours and Awards Tribunal using Canberra hearing rooms. 4. Planning for IASAJ Conference well underway. 5. Moot competition took place between August and October 2008. Registrations open for 2009 competition. 6. AAT arranged and participated in a range of conferences and seminars and training activities. 7. Delegations from China, Thailand, the United Kingdom and Vietnam visited the Tribunal.

Chart 1.1 Organisational plan, and achievements for 2008–09

Goals	Outcomes	Strategies	Key Targets 2008–09	Achievements to 30 June 2009
OUR PEOPLE				
To maintain professional standards and a positive, safe and productive workplace that values diversity.	Appropriate workplace policies in all areas. We have a healthy and safe working environment. Increase in Indigenous employee numbers. Members and staff have the skills, knowledge and commitment to deliver high-quality services. New staff participate in a high-quality induction. Obtain organisational feedback from members and staff.	Maintain occupational health and safety practices. Maintain and promote employment diversity strategies. Provide and support enhanced learning and development opportunities for members and staff. Seek, and respond appropriately to, feedback from members and staff.	<ol style="list-style-type: none"> 1. Strive to eliminate our already low level of workplace injuries. Implement new health and safety management arrangements. 2. Continue the Indigenous employment program. 3. Negotiate a new workplace agreement. 4. Hold biennial staff conference. 5. Respond to the March 2008 staff survey. 6. Review member and staff development/training programs to identify possible efficiencies. 7. Develop and finalise the Tribunal's Practice Manual. 	<ol style="list-style-type: none"> 1. Injuries rate maintained at a low level. New health and safety management arrangements implemented. 2. Current program completed — will look to recommence in 2009–10. 3. New workplace agreement approved by staff. 4. Staff conference cancelled as savings measure. Registry-based seminars planned for 2009–10. 5. Regular telephone hookups with Case Service Officers commenced. Training sessions on giving and receiving feedback sessions planned for 2009–10. 6. Review conducted. Relevant policies updated. E-learning and blended learning solutions in development. 7. Significant work undertaken on drafting manual content.

Chart 1.1 Organisational plan, and achievements for 2008–09

Goals	Outcomes	Strategies	Key Targets 2008–09	Achievements to 30 June 2009
OUR ORGANISATION				
To be an organisation with systems and processes that maximise effective and efficient use of Tribunal resources.	Accommodation and facilities meet user needs. Planning and organisational decisions are based on timely, accurate and relevant information. IT and other systems and processes allow staff to work more efficiently and provide high-quality service. Continue improvement in meeting ACSI 33 compliance and improved physical security for AAT premises, members and staff.	Improve accommodation in order to meet AAT current and future needs. Improve IT systems. Improve resources management. Minimise exposure to system or other risks, fire or natural disaster.	<ol style="list-style-type: none"> Undertake refurbishment of Adelaide Registry. Implement ACSI 33 and physical security improvements as funding allows. Review business continuity plan. Begin implementation of new finance and HR information technology systems. Continue improvements to TRACS. Enhancement to Tribunal IT systems. Implement agreed recommendations of PricewaterhouseCoopers and Oakton reviews Prepare a 3–5 year Strategic Plan covering organisational outcomes and systems changes necessary. 	<ol style="list-style-type: none"> Adelaide refurbishment complete. Modifications to secure stores underway. New backup power sources installed in Adelaide and Brisbane. New programs purchased to improve technical management. Business continuity plan issued and available on intranet. Tender process for HR system underway and shared service options being considered. Twenty sets of functional enhancements implemented, improving productivity and reporting functionality. Project to install new servers underway. Agreed recommendations of reviews implemented. Planning meeting to take place in 2009–10.

CHAPTER 2

OVERVIEW OF THE TRIBUNAL

The role of the Tribunal is to provide independent merits review of administrative decisions. The Tribunal aims to provide a review mechanism that is fair, just, economical, informal and quick.

The Tribunal falls within the portfolio of the Attorney-General, the Hon Robert McClelland MP.

ESTABLISHMENT

The Tribunal was established by the *Administrative Appeals Tribunal Act 1975* and commenced operations on 1 July 1976. The *Administrative Appeals Tribunal Act* and the *Administrative Appeals Tribunal Regulations 1976* set out the Tribunal's functions, powers and procedures.

FUNCTIONS AND POWERS

Review of decisions

The Tribunal reviews a wide range of administrative decisions made by Australian Government ministers, departments, agencies, authorities and other tribunals. The Tribunal can also review administrative decisions made by state government and non-government bodies in limited circumstances.

Merits review of an administrative decision involves considering afresh the facts, law and policy relating to that decision. The Tribunal considers the material before it and decides what is the correct — or, in a discretionary area, the preferable — decision. It will affirm, vary or set aside the decision under review.

The Tribunal is not always the first avenue of review of an administrative decision. Sometimes, the Tribunal cannot review a decision until an internal review has been conducted by the person or body that made the primary decision. In other cases, review by the Tribunal is only available after intermediate review by a specialist tribunal. For example, an application in relation to a family assistance or social security decision may be made only after review by the Social Security Appeals Tribunal.

Section 33 of the *Administrative Appeals Tribunal Act* requires that proceedings of the Tribunal be conducted with as little formality and technicality, and with as much expedition, as the requirements of the Act and a proper consideration of the matters before the Tribunal permit. The Tribunal is not bound by the rules of evidence and can inform itself in any manner it considers appropriate.

Jurisdiction

The Tribunal does not have a general power to review decisions made under Commonwealth legislation. The Tribunal can only review a decision if an Act, regulation or other legislative instrument states that the decision is subject to review by the Tribunal.

The Tribunal has jurisdiction to review decisions made under more than 400 Acts and legislative instruments. Applications about decisions in the areas of family assistance and social security, taxation, veterans' affairs and workers' compensation constitute the largest part of the Tribunal's workload. The Tribunal also reviews decisions in areas such as bankruptcy, civil aviation, citizenship and immigration, corporations law, customs, freedom of information, industry assistance, passports and security assessments by the Australian Security Intelligence Organisation.

Changes to the Tribunal's jurisdiction during the reporting year appear in Appendix 6.

ORGANISATION

The Tribunal consists of the President, other presidential members (who may be judges or Deputy Presidents), Senior Members and Members. Staff are employed under the *Public Service Act 1999* to assist the Tribunal to carry out its functions.

The President, with the assistance of the Registrar, is responsible for managing the Tribunal and its resources. The President has established a number of committees to provide advice and assistance in the management of the Tribunal.

The Tribunal has a Principal Registry and District Registries. Principal Registry managers and District Registrars also provide policy advice and operational assistance.

Further information on the Tribunal's membership, staff, registries and committees follows.

Membership of the Tribunal

Members of the Tribunal are appointed by the Governor-General. Qualification requirements for all categories of members are listed in the *Administrative Appeals Tribunal Act* and are outlined below. Appointments to the Tribunal may be full time or part time.

President

The Hon Justice Garry Downes AM was appointed a judge of the Federal Court of Australia and Acting President of the Tribunal on 2 April 2002. He was appointed President of the Tribunal on 16 May 2005, for seven years.

The President of the Tribunal must be a judge of the Federal Court.

Other presidential members

Judges of the Federal Court and the Family Court of Australia may be appointed part-time presidential members of the Tribunal.

Deputy Presidents must have been enrolled as legal practitioners for at least five years.

Senior Members

Senior Members must have been enrolled as legal practitioners for at least five years or have special knowledge or skill relevant to the duties of a Senior Member.

Members

Members must have knowledge or skill relevant to the duties of a Member. Current Members have expertise in areas including accountancy, aviation, engineering, law, medicine, pharmacology, military affairs, public administration and taxation.

The members exercise powers in divisions which include the General Administrative, Security Appeals, Taxation Appeals and Veterans' Appeals Divisions. Presidential members can exercise powers in any of the Tribunal's divisions. Senior Members and Members may only exercise powers in the division or divisions to which they have been assigned.

There were 83 members of the Tribunal at 30 June 2009. The breakdown of full-time and part-time members by category is shown in Table 2.1.

See Appendix 1 for a list of the Tribunal's members by state and territory, the divisions to which each non-presidential member was assigned, and a profile of each member, other than judges of the Federal Court and Family Court.

Table 2.1 Tribunal membership, 30 June 2009

Category of member	Judges	Full-time	Part-time	Total (Women)
President	1			1 (0)
Presidential members:				
Federal Court judges	8			8 (1)
Family Court judges	5			5 (2)
Deputy Presidents		6	6	12 (1)
Senior Members		9	12	21 (8)
Members		3	33	36 (7)
Total	14	18	51	83 (19)

Registrar and Assistant Registrar

The Tribunal's Registrar is Doug Humphreys. He was first appointed Registrar on 25 August 2003. His second five-year term began on 25 August 2008.

The Registrar assists the President to manage the Tribunal and advises on its operations and performance. The Registrar may act on behalf of the President in the administration of the Tribunal.

The position of Registrar is a statutory office appointed by the Governor-General. The Registrar is the agency head for the purposes of the Public Service Act, responsible for the employment of the Tribunal's staff on behalf of the Commonwealth. The Registrar is also the Chief Executive for the purposes of the *Financial Management and Accountability Act 1997*.



The Registrar is assisted by the Assistant Registrar, and senior officers in the Principal and District Registries. The Assistant Registrar holds office as a senior executive in the Australian Public Service.

Megan Cassidy was appointed Assistant Registrar in September 2007.

Staff

Tribunal staff are employed under the Public Service Act as ongoing, non-ongoing or intermittent employees. At 30 June 2009, 154 staff were employed by the Tribunal.

See Appendix 2 for more staffing information, including equal employment opportunity data.

Registries

Principal Registry

Principal Registry staff advise and assist the President and the Registrar, and provide a range of services for members and staff. They are responsible for finance, human resource management, information technology, legal and policy services, library services, payroll and property.

Principal Registry staff are in Brisbane and Sydney.

District Registries

There are District Registries in each of the state capital cities and in Canberra. The registry service in Hobart is provided by the Federal Court. The Brisbane Registry manages Northern Territory applications and is responsible for ensuring an effective level of service to Northern Territory residents.

In each District Registry, a Deputy President or Senior Member is appointed Executive Deputy President. The Executive Deputy President and the District Registrar are responsible for local registry management. District Registrars are assisted by Deputy Registrars.

Conference Registrars are appointed by the President in each registry to conduct the majority of the conferences held by the Tribunal. They also conduct other alternative dispute resolution processes.

District Registry staff:

- provide information to parties and their representatives and the general public on the operation and procedures of the Tribunal
- process documents
- facilitate the listing and conduct of conferences, other ADR processes and hearings, and
- provide administrative and other support services to members.



District Registry staff assist applicants and other parties, as well as the general public.

Table 2.2 lists the Executive Deputy Presidents, at 30 June 2009.

See Figure 2.3 for the administrative structure of the Tribunal, including senior staff.

Tribunal committees

The President has established the following committees within the Tribunal.

The Alternative Dispute Resolution Committee oversees the use of alternative dispute resolution processes in the Tribunal, including the development of policies and guidelines for their use. The committee is chaired by Deputy President Hack and comprises a group of members and senior staff with experience in ADR.

The Executive Deputy Presidents Committee provides a forum for discussion of case management and other matters of common interest. Its members are the President and the Executive Deputy President for each District Registry.

The Library Committee considers the Tribunal's information needs and oversees the collection development policy. It is chaired by Deputy President Hotop and comprises members from different registries, the Registrar, the Assistant Registrar and the Principal Registry Librarian.

The Practice and Procedure Committee deals with practice and procedure issues such as proposals to improve how the Tribunal manages applications for review. The committee comprises the President, the Executive Deputy Presidents, the Registrar, the Assistant Registrar, the District Registrar

from each registry and a representative of the Conference Registrars.

The Professional Development Committee considers matters relating to the professional development of Tribunal members. The committee is chaired by Deputy President Jarvis and comprises members from various registries who have an interest in professional development and the Registrar.

For information about the Tribunal's Audit Committee, see page 51.

THE CASE MANAGEMENT PROCESS

The Tribunal's case management process aims to deal with applications in a flexible and timely manner. It is designed to promote:

- orderly and controlled passage of matters from lodgement to resolution
- achievement of case management targets
- equitable treatment of parties
- effective use and allocation of Tribunal resources, and
- maintenance and enhancement of public confidence in the Tribunal.

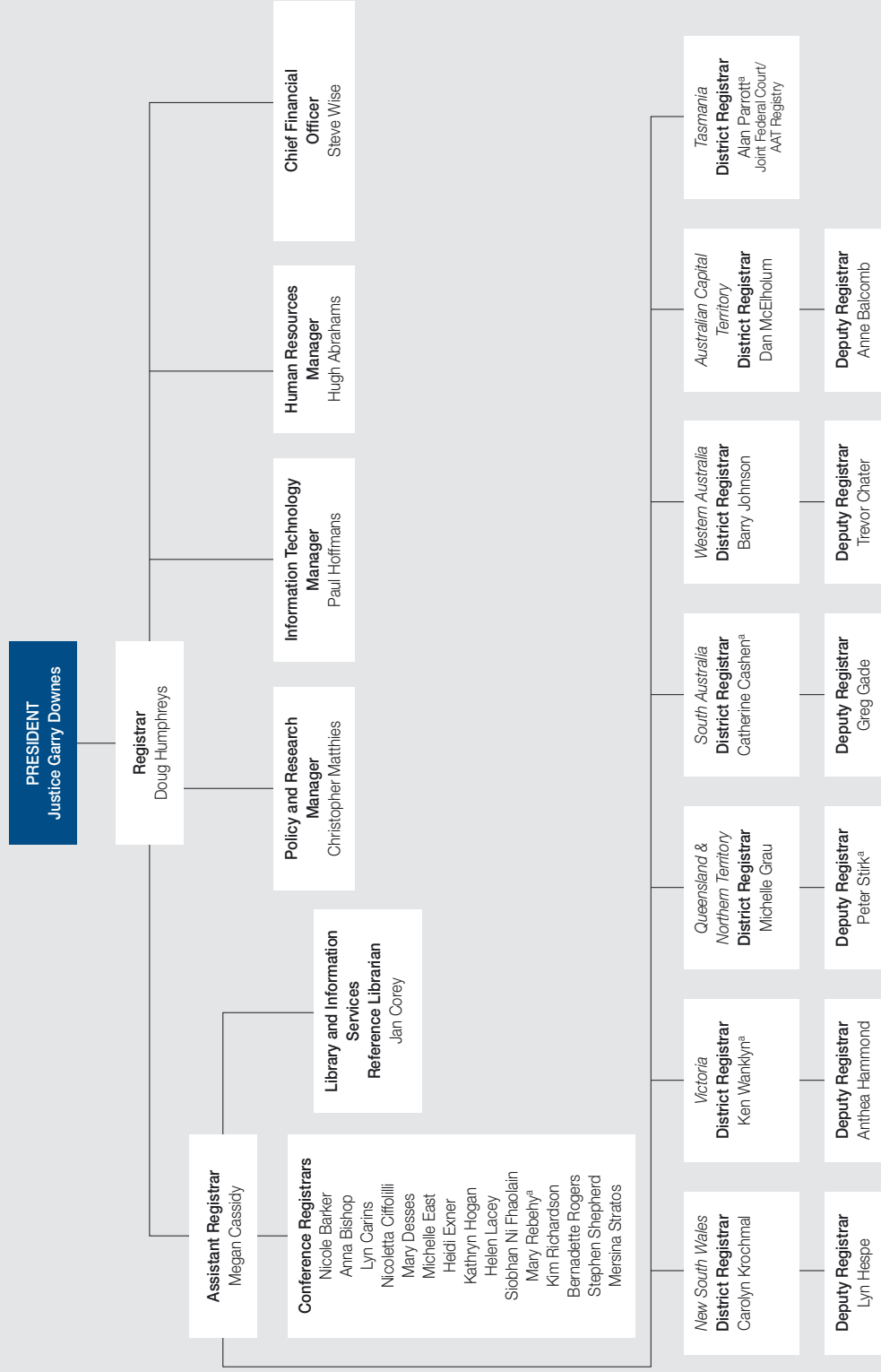
The process

When the Tribunal receives an application for review of a decision that is within its jurisdiction, it notifies the decision-maker of the application who then has 28 days to provide the Tribunal and the applicant with a statement of reasons for the decision and all documents relevant to the review. These are known as the 'Section 37 Documents' or the 'T Documents'.

Table 2.2 Executive Deputy Presidents, 30 June 2009

State/Territory	Executive Deputy Presidents
Australian Capital Territory	Senior Member James Constance
New South Wales	Deputy President Geoffrey Walker
Queensland/Northern Territory	Deputy President Philip Hack SC
South Australia	Deputy President Deane Jarvis
Tasmania	Deputy President Raymond Groom
Victoria	Deputy President Graham McDonald
Western Australia	Deputy President Stanley Hotop

Figure 2.3: Administrative structure of the Tribunal at 30 June 2009



a Has left the Tribunal since the date of this report.



A conference offers parties an opportunity to discuss their case, and explore whether the matter can be settled.

A Conference Registrar or Tribunal member holds one or more conferences with the parties to discuss the issues in dispute, identify and consider additional material that may be obtained and explore whether the matter can be settled. The future conduct of the review will also be discussed, including whether another form of ADR — conciliation, mediation, case appraisal or neutral evaluation — may be appropriate. The Tribunal assists the parties to attempt to reach an agreed resolution, while ensuring that steps are taken to prepare the matter for a hearing if agreement cannot be reached.

If an agreed resolution is not reached, the Tribunal, constituted by one, two or three members, conducts a hearing and makes a decision.

A flow chart outlining the progress of an application through the Tribunal appears in Figure 2.4.

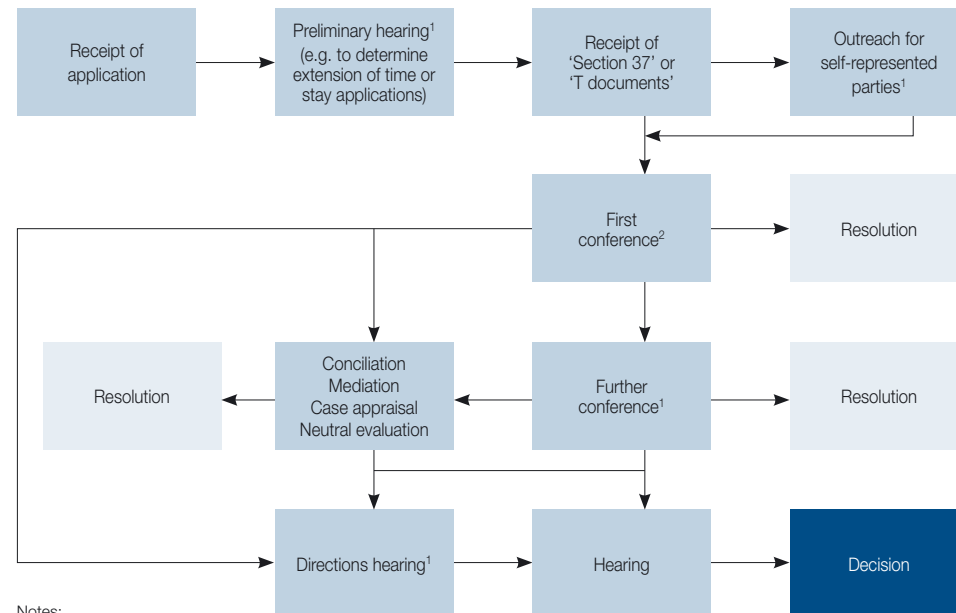
The Tribunal’s practice directions and jurisdictional guides outline the procedures that are generally adopted to manage applications

lodged with it. The General Practice Direction applies to applications in which the applicant is represented, unless another specific legislative procedure, practice direction or jurisdictional guide applies. The Tribunal has a Small Taxation Claims Tribunal Practice Direction. Jurisdictional guides include the *Guide to the Social Security Jurisdiction* and the *Guide to the Workers’ Compensation Jurisdiction*.

These practice directions and guides are complemented by practice directions on specific issues. These include the Practice Direction relating to Section 37 of the Administrative Appeals Tribunal Act, the Freedom of Information Practice Direction, and the Listing and Adjournment Practice Direction. The Tribunal is developing a new practice direction on the procedure for taxing costs.

The Tribunal has developed process models for each form of alternative dispute resolution that is available in the Tribunal, as well as a policy for guiding referral of applications to the different ADR processes.

Figure 2.4 Case management process



Notes:
 1. Where necessary
 2. Explore possibility of using other ADR process

ACCESS TO THE TRIBUNAL

Information on the Tribunal

The Tribunal has a range of written materials that provide information on its role and procedures. A series of leaflets, designed for the self-represented applicant, explains the Tribunal's role, when it can assist and the stages in a review. Written information is available in a range of languages and in large print.

A video/DVD, 'Getting Decisions Right', provides information about the Tribunal's practice and procedure. Comprehensive information about the Tribunal and its procedures is available on the website, www.aat.gov.au.

The Tribunal is reviewing its communications with external users: see Chapter 4 for more detail.

Outreach program

The Tribunal's Outreach program helps self-represented parties understand its processes and provides them with the opportunity to ask



Outreach in action – an important element of the review process for the self-represented party.

questions about the Tribunal's practices and procedures. Outreach services are provided by Tribunal staff, usually by telephone before the first conference. In addition to explaining the review process, staff assess what further information may be of assistance and identify whether the person will require an interpreter or assistance because of a disability.

Legal advice schemes and referrals

The Tribunal hosts legal advice schemes in cooperation with legal aid organisations in New South Wales, Queensland, South Australia, Victoria and Western Australia. A legal aid solicitor attends the registry on a weekly or fortnightly basis and can advise and give minor assistance to self-represented parties. Further assistance, such as representation, may be provided if a person makes a successful application for legal aid.

The Tribunal advises self-represented parties of the service and makes the appointments for them. The majority of these appointments are for self-represented parties in the social security jurisdiction.

The Tribunal also refers self-represented parties to community legal centres and other legal service providers that may be able to provide advice or representation.

Interpreter services

If a party requires an interpreter, the Tribunal engages one and meets the cost. The Tribunal's policy is to arrange interpreters who are accredited by the National Accreditation Authority for Translators and Interpreters (NAATI) at the 'professional' level. A 'paraprofessional' interpreter may only be used for languages without an accredited professional-level interpreter.

The Tribunal has information for interpreters on its procedures and terminology. The information sheet is available from the Tribunal's registries and the Tribunal's website.

Access by persons with disabilities

The Tribunal strives to make access easier for people with a disability by:

- making electronic and printed material available in appropriate formats
- providing portable hearing loop systems in Tribunal premises
- facilitating telephone contact for those with a hearing or speech impairment
- making all premises wheelchair accessible, and
- providing facilities for participation in conferences or hearings by telephone or video link.

Service Charter and complaints

The Service Charter sets out the standards of service that people can expect when they deal with the Tribunal. The Charter also includes information on how to make a complaint about the Tribunal and its complaint-handling procedures.

The Charter is written in clear, simple language. It can be viewed on the Tribunal's website. Information about the Tribunal's compliance with its commitments under the Charter and about complaints is in Chapter 3.

CHAPTER 3

OUR PERFORMANCE

The following data illustrates the workload of the Tribunal, variations between jurisdictions in recent years, and a measure of the Tribunal's performance in meeting its outcome and outputs.

WORKLOAD OVERVIEW

The Tribunal received 6,226 applications and finalised 7,231 applications in 2008–09. There were 6,179 applications current at 30 June 2009, 14 per cent fewer than were on hand at the end of 2007–08.

Overall, the volume of applications lodged and finalised during the reporting year was similar to 2007–08. Variations occurred, however, in particular areas of the Tribunal's work. These changes are discussed in more detail below.

Chart 3.1 shows the numbers of applications lodged and finalised in the three most recent reporting years, as well as the number of applications current at 30 June in each of those years.

Workload by jurisdiction

Chart 3.2 shows the number of lodgements and finalisations in 2008–09, and the number of current matters at 30 June 2009, for each of the Tribunal's major jurisdictions.

Applications for review of family assistance and social security decisions were the most common type of application lodged with the Tribunal, constituting 36 per cent of all lodgements. Applications in relation to workers' compensation and taxation were the next most common types, comprising 20 per cent and 19 per cent of total lodgements respectively.

The Tribunal finalised more applications than were lodged in 2008–09 in most jurisdictions, which has led to the overall reduction in matters on hand at year-end. The taxation jurisdiction has the greatest number of current matters, a legacy of the large volume of applications lodged in earlier years and, in particular, applications relating to tax schemes.

See Appendix 3 for more detailed information on the types of applications lodged and finalised, and the outcomes of matters finalised during the reporting year.

The following section examines trends in lodgements, finalisations and current matters in each of the Tribunal's major jurisdictions.

Social security

The number of applications lodged, finalised and current at 30 June in the Tribunal's social security jurisdiction in the three most recent reporting years is shown in Chart 3.3.

The number of applications lodged in this jurisdiction increased by 24 per cent in 2008–09. This related primarily to a rise in the number of applications from recipients of newstart allowance about participation failures and some increase in applications from individuals concerning overpayments and debt recovery. The number of applications lodged in 2008–09 by the departments responsible for administering family assistance and social

security entitlements decreased. The Tribunal recorded 105 departmental applications, 55 per cent fewer than were lodged in 2007–08.

The number of applications finalised in the social security jurisdiction in 2008–09 was 16 per cent higher than in 2007–08, and the number of applications on hand at 30 June 2009 was eight per cent higher. These trends are consistent with the increase in the number of applications lodged in the reporting year.

Chart 3.2 Applications lodged, finalised and current in 2008–09 — by jurisdiction

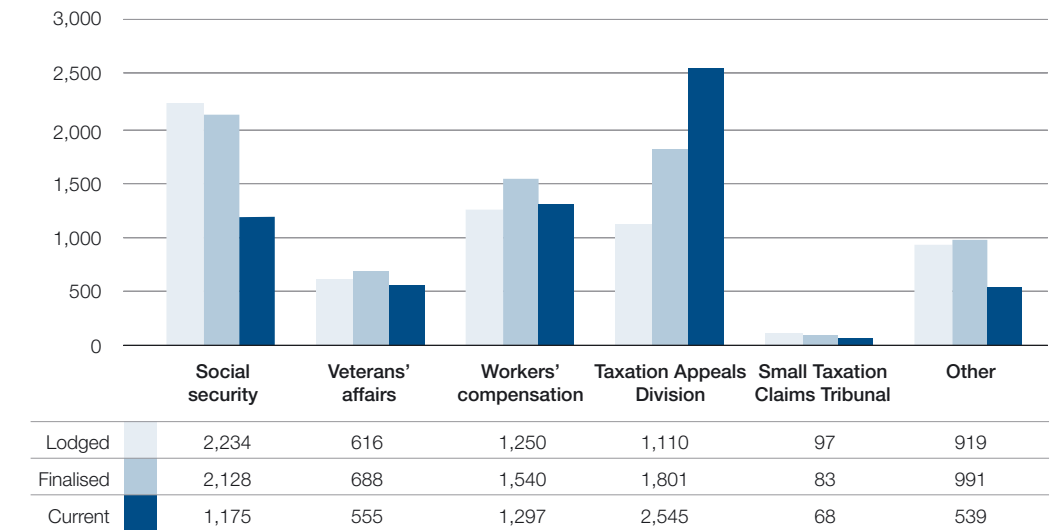


Chart 3.1 Applications lodged, finalised and current

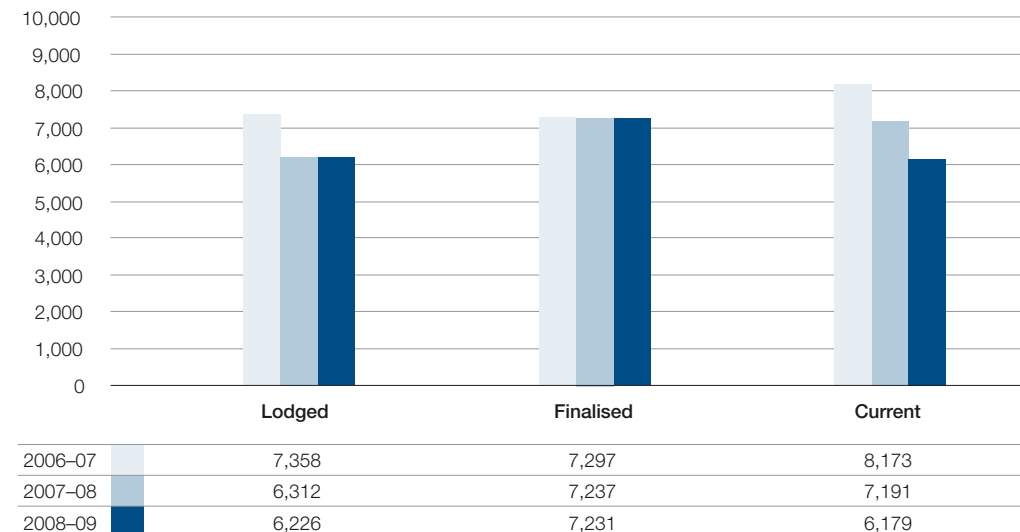
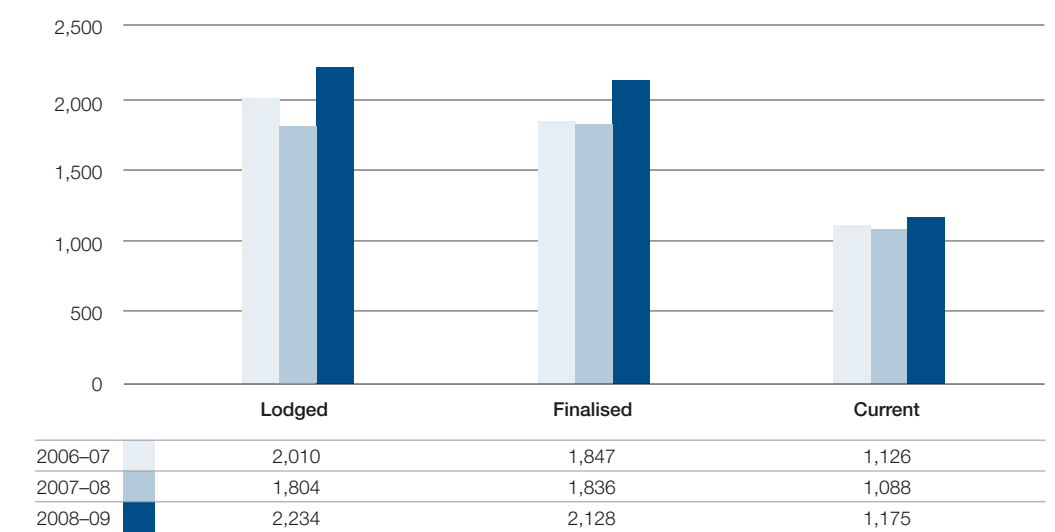


Chart 3.3 Applications lodged, finalised and current — social security



Veterans' affairs

The number of applications lodged, finalised and current at 30 June in the Tribunal's veterans' affairs jurisdiction in the three most recent reporting years is shown in Chart 3.4.

Applications lodged in the veterans' affairs jurisdiction decreased in 2008–09 by nine per cent. The number of applications under the *Veterans' Entitlements Act 1986* continues to decline over time.

There was a 15 per cent decrease in the number of applications finalised in the veterans' affairs jurisdiction in 2008–09 and a 13 per cent decrease in the number of applications on hand at 30 June 2009. This corresponds with the lower number of applications lodged in this jurisdiction in 2008–09.

Workers' compensation

The number of applications lodged, finalised and current at 30 June in the Tribunal's workers' compensation jurisdiction in the three most recent reporting years is shown in Chart 3.5.

Lodgements in the workers' compensation jurisdiction decreased by 14 per cent in 2008–09, reflecting a decline in applications for review of decisions made by Australia Post, Comcare and Telstra. Small increases were noted in the number of applications involving

corporations granted self-insurance licences more recently under the *Safety, Rehabilitation and Compensation Act 1988*. During the reporting year, the Tribunal received its first applications relating to employees of the Commonwealth Bank of Australia, TNT Australia Pty Ltd and Transpacific Industries Pty Ltd.

The number of applications finalised in the workers' compensation jurisdiction increased in 2008–09 by 21 per cent. It was noted in last year's annual report that there had been an increase in the number of older applications that remained outstanding at the end of 2007–08. These applications were subsequently finalised in 2008–09.

The 18 per cent decrease in current compensation applications is consistent with the lower number of applications lodged in this jurisdiction in 2008–09.

Taxation

The number of applications lodged, finalised and current at 30 June in the Taxation Appeals Division and the Small Taxation Claims Tribunal in the three most recent reporting years is shown in Chart 3.6.

There was a 13 per cent decrease in the number of applications lodged in the Taxation Appeals Division in 2008–09.

Fewer applications were received in relation to most types of tax decisions, including applications relating to tax schemes. The number of applications lodged in the Small Taxation Claims Tribunal was similar to that in 2007–08.

The Tribunal continued to finalise a significant number of applications in the Taxation Appeals Division in 2008–09, although 17 per cent fewer than in 2007–08. There was also

a 28 per cent decrease in the number of applications finalised in the Small Taxation Claims Tribunal. These trends are consistent with the lower number of lodgements relating to taxation decisions in recent years.

The number of applications on hand in the Taxation Appeals Division at 30 June 2009 was 21 per cent lower than at the end of the previous reporting period. Fifty per cent of these are applications relating to tax schemes,

Chart 3.4 Applications lodged, finalised and current — veterans' affairs

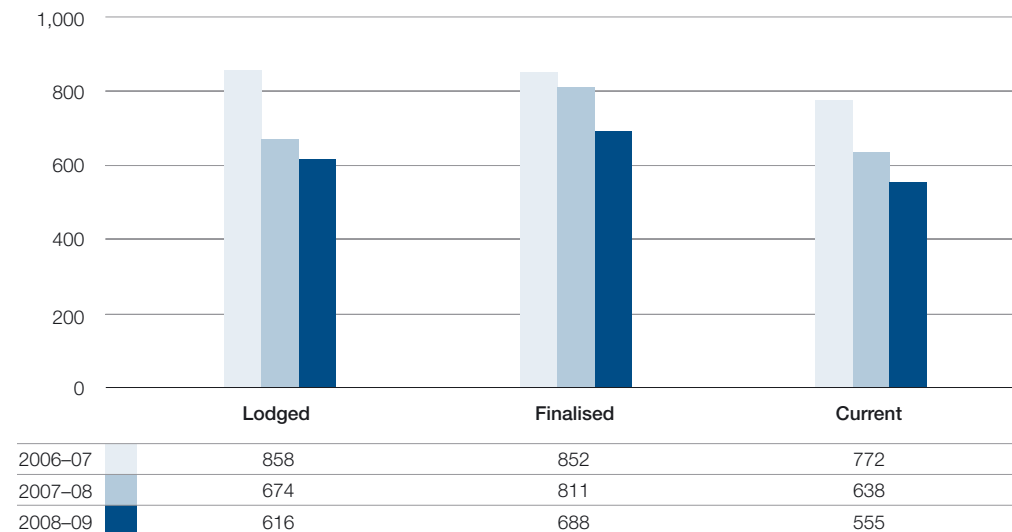


Chart 3.5 Applications lodged, finalised and current — workers' compensation

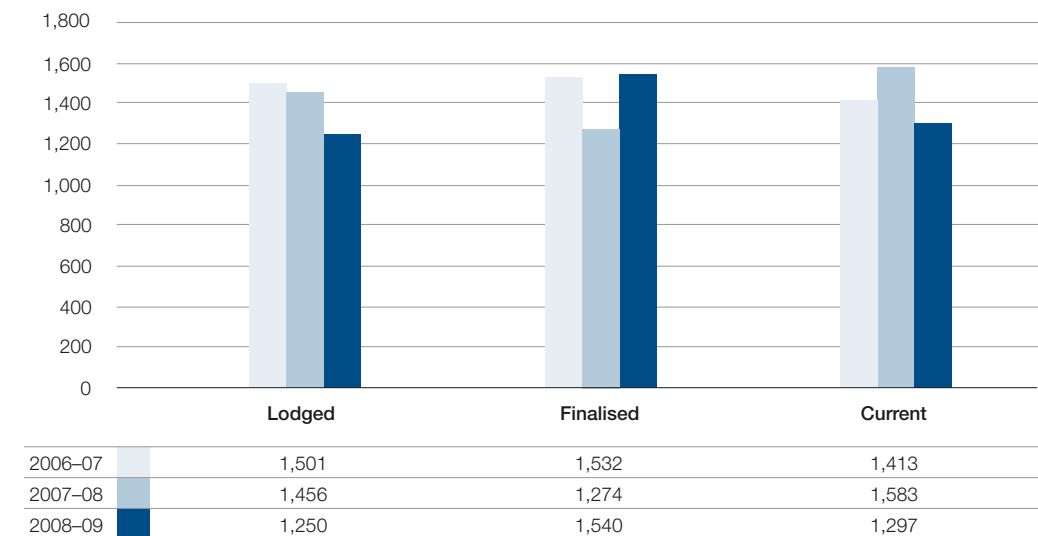
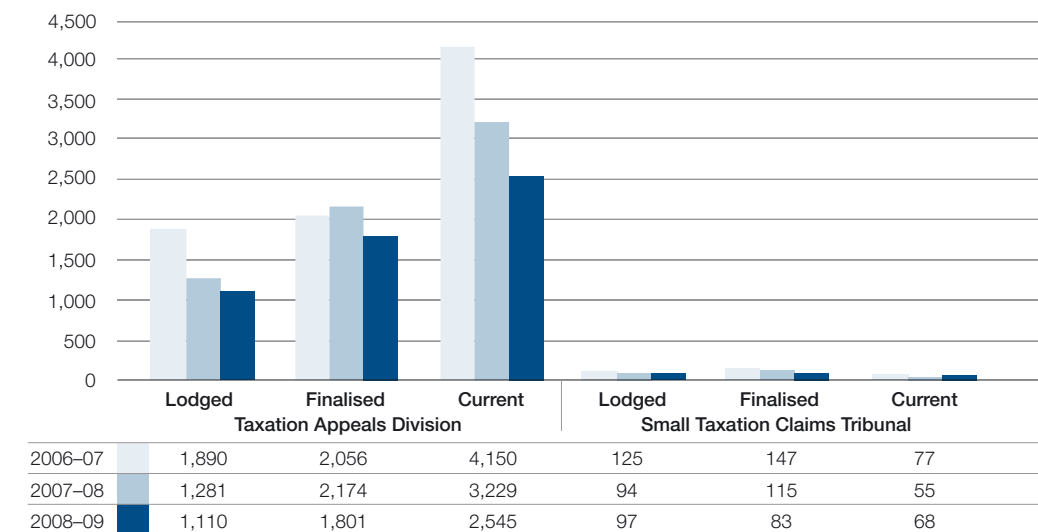


Chart 3.6 Applications lodged, finalised and current — taxation



a further 79 per cent of which relate to two particular schemes. The Tribunal has a case management strategy in place for dealing with these applications and anticipates that the majority will be finalised in 2009–10.

There was a small increase in the number of applications on hand in the Small Taxation Claims Tribunal.

PERFORMANCE

Outcome and outputs structure

The Tribunal has one outcome specified in the 2008–09 Portfolio Budget Statements:

Improve the quality of administrative decision-making through the provision of a review mechanism that is fair, just, economical, informal and quick.

There is one output group relating to this outcome:

Output Group 1 — Completed review of decisions

Output 1.1.1 — Applications finalised without a hearing

Output 1.1.2 — Applications finalised with a hearing

See Appendix 4 for the summary table showing total resources for the Tribunal compared with the total payments made during 2008–09. The appendix also includes a summary table showing the total resources for the Tribunal's outcome.

Performance measures and results

Table 3.7 sets out the performance measures for the Tribunal's outcome, and Table 3.8 shows the actual performance

Table 3.7 Performance standards 2008–09

Output description	Performance measure	
Output Group 1 — Completed reviews of decisions		
Output 1.1.1 — Applications finalised without a hearing	<i>Quality:</i>	85% of matters have first conference within 13 weeks
	<i>Quantity:</i>	5,218 finalisations ^a
	<i>Price:</i>	\$2,819 per completed application ^a
Output 1.1.2 — Applications finalised with a hearing	<i>Quality:</i>	85% of matters to hearing within 40 weeks
	<i>Quantity:</i>	1,476 finalisations ^a
	<i>Price:</i>	\$13,281 per completed application ^a

^a Projection for 2008–09; see Table 3.8 for actual figures.

Table 3.8 Performance results 2008–09

Output description	Performance result	
Output Group 1 — Completed reviews of decisions		
Output 1.1.1 — Applications finalised without a hearing	<i>Quality:</i>	88% of matters had first conference within 13 weeks
	<i>Quantity:</i>	5,838 finalisations
	<i>Price:</i>	\$2,533 per completed application
Output 1.1.2 — Applications finalised with a hearing	<i>Quality:</i>	46% of matters to hearing within 40 weeks
	<i>Quantity:</i>	1,393 finalisations
	<i>Price:</i>	\$13,291 per completed application

against the performance measures for applications finalised, including the cost per finalised application.

The number of applications finalised by the Tribunal without a hearing was above the budget projections for 2008–09. As a result, the price per completed application was less than anticipated. Further information relating to the percentage of applications finalised without a hearing in the major jurisdictions is set out in Table A3.4 in Appendix 3.

As a means of monitoring its performance, the Tribunal has set time standards in relation to particular steps in the review process and for the finalisation of applications generally. Commentary relating to the Tribunal's performance against the measures in Table 3.7 and the Tribunal's own targets follows.

Intermediate time standards

The Tribunal has set the following time standards for certain steps in the review process:

- time taken by the decision-maker to lodge the documents required under section 37 of the Administrative Appeals Tribunal Act (Section 37 Documents)
- time taken to hold a first conference
- time taken to hold a hearing, and
- time taken to deliver a decision following the last day of hearing or the date of receipt of further material after a hearing.

The first step is within the control of decision-makers. Responsibility for the timeliness of

the second and third steps is shared between the Tribunal and the parties. The fourth step is within the control of the Tribunal.

Table 3.9 shows the extent to which these intermediate time standards were met in 2008–09 and the two previous reporting periods.

The proportion of Section 37 Documents lodged within the Tribunal's time standard improved marginally in 2008–09. Particular improvements were noted in relation to general taxation applications and in the veterans' affairs jurisdiction.

Eighty-eight per cent of first conferences were held within 13 weeks of lodgement, the same as in 2007–08. The Tribunal exceeded the performance standard in the Portfolio Budget Statements by three per cent. The standard was met in all of the Tribunal's major jurisdictions.

The proportion of applications in which a hearing was held within 40 weeks of lodgement was three per cent lower in 2008–09 than in 2007–08. The result was affected by the large number of hearings in older taxation applications. When these applications in the Taxation Appeals Division are excluded, 53 per cent of hearings were held within 40 weeks of lodgement. Timeliness of hearings improved in the social security and veterans' affairs jurisdictions, but the overall result remains lower than the standard of 85 per cent in the Portfolio Budget Statements.

Table 3.9 Performance against intermediate time standards

Step	Time standard (days)	2006–07 %	2007–08 %	2008–09 %
Receipt of Section 37 Documents after notifying decision-maker of application	35	80	82	85 ^a
Receipt of application to first conference	91	81	88	88
Receipt of application to first day of hearing	280	50	49	46
Last day of hearing or date of receipt of further material to delivery of decision	60	73	70	73

^a This figure excludes applications relating to tax schemes. For many applications relating to tax schemes, the Tribunal agreed to extend the time for lodging the Section 37 Documents until they were ready to proceed.

As Table 3.8 makes clear, most applications lodged with the Tribunal are finalised other than by way of a decision of the Tribunal following a hearing. The Tribunal's case management process pursues the dual goals of attempting to resolve matters by agreement between the parties, where possible, while ensuring that appropriate steps are taken to prepare for hearing those matters that do not settle.

During the pre-hearing process, the Tribunal works with the parties to:

- discuss and define the issues in dispute
- identify any further supporting material that parties may wish to obtain, and
- explore whether the matter can be settled.



A hearing offers the parties to a review an opportunity to present their case to the Tribunal.

Where an application cannot be resolved during the pre-hearing process, it is referred for hearing.

There is a range of reasons why a hearing may not be held within 40 weeks of an application being lodged. In general, it is because the parties require additional time rather than

the Tribunal being unable to list conferences, alternative dispute resolution processes or hearings in a timely manner. The pace at which applications progress at the pre-hearing stage is heavily influenced by the time needed by the parties to obtain any expert medical evidence or to undertake other investigations and gather relevant material. Some applications are delayed pending a further decision by a department or agency on a related matter, the decision of a court in a test case, or in criminal proceedings. Delays also occur where parties are not in a position to proceed because of illness or other adverse circumstances. The Tribunal's ability to list hearings in a timely manner is affected generally by the availability of parties, representatives and witnesses for the hearing.

In relation to the Tribunal's time standard for delivering decisions, there was a three per cent improvement in the proportion of decisions delivered within 60 days of the last day of hearing or the receipt of further submissions or other material.

Time standards for finalising applications

The Tribunal aims to finalise the majority of applications within 12 months of lodgement. It has set percentage targets for the finalisation of applications within this timeframe for the major jurisdictions. Information on compliance with these targets in 2008–09 and in the previous two years is set out in Table 3.10.

Overall, the Tribunal's timeliness improved slightly from 2007–08, with 62 per cent of all applications finalised during the reporting period within 12 months of lodgement. As noted below, this overall result is affected by the finalisation of a large number of older taxation applications. When applications

Table 3.10 Percentage of applications finalised within 12 months

Jurisdiction	Target %	2006–07 %	2007–08 %	2008–09 %
All applications	—	67	61	62
Social security	90	91	84	88
Veterans' affairs	80	67	62	65
Workers' compensation	75	62	60	53
Taxation Appeals Division	75	42	31	29

dealt with in the Taxation Appeals Division are excluded from the overall figures, 73 per cent of applications were finalised within 12 months and 88 per cent within 18 months of lodgement during 2008–09.

The proportion of applications finalised within 12 months improved in two of the Tribunal's major jurisdictions in 2008–09. In the social security jurisdiction, the Tribunal was within two per cent of the 90 per cent target. Sixty-one per cent of all applications were finalised within six months of lodgement and 96 per cent were finalised within 18 months.

Timeliness also improved marginally in the veterans' affairs jurisdiction. The proportion of matters finalised within 12 months was three per cent higher than in 2007–08.

The proportion of applications finalised within 18 months of lodgement was 82 per cent.

The proportion of applications finalised within 12 months of lodgement has decreased in the Tribunal's other major jurisdictions. In the workers' compensation area, the result for 2008–09 was seven per cent lower than for 2007–08. Seventy-seven per cent of applications were finalised within 18 months of lodgement.

In relation to the Taxation Appeals Division, a substantial proportion of the applications finalised in 2008–09 were lodged before 1 July 2007. The number of lodgements in the Taxation Appeals Division in 2004–05, 2005–06 and 2006–07 was significantly higher than in earlier years and included a large number of applications relating to tax schemes. There was a small decrease in the proportion of applications finalised within 12 months of lodgement.

The Tribunal notes that, as discussed earlier, the reasons why it may not hold a hearing within 40 weeks of an application being lodged

are also relevant when explaining why it may not finalise an application within 12 months of lodgement. Delays in the delivery of decisions following a hearing can also contribute to delays in finalising applications.

When the Small Taxation Claims Tribunal was established, the Tribunal indicated that it would aim to finalise applications of this type within 12 weeks of lodgement. Table 3.11 shows that the proportion of applications finalised within this timeframe increased slightly in 2008–09.

The Small Taxation Claims Tribunal was created to provide a cheaper and more informal means for taxpayers to obtain review of decisions where the amount of taxation in dispute is less than \$5,000. The Tribunal's experience is that applications dealt with in the Small Taxation Claims Tribunal are not necessarily less complex than applications for review of other types of taxation decisions. While the amount of tax in dispute may not be large, the issues in dispute can be complex and the parties may require additional time to gather relevant material.

The Tribunal has in place a number of initiatives aimed generally at improving the timeliness of the review process. These include:

- a national system of monitoring and addressing non-compliance by parties with legislative requirements and Tribunal directions
- regular review of matters outstanding for longer than two years, and
- project management of tax scheme matters on a national level.

The Tribunal will continue to seek to identify sources of delay in particular jurisdictions and work with members, staff and stakeholders to determine ways in which these delays may be addressed. The focus in 2009–10 will be on improving the timeliness of the review process in the workers' compensation jurisdiction.

Table 3.11 Percentage of Small Taxation Claims Tribunal applications finalised within 84 days

	2006–07 %	2007–08 %	2008–09 %
Small Taxation Claims Tribunal	22	17	18

EXTERNAL SCRUTINY

Tribunal decisions may be appealed to the courts. The Tribunal's operations are also subject to external scrutiny by way of complaints to the Commonwealth Ombudsman, requests under the *Freedom of Information Act 1982*, inquiries undertaken by Parliamentary Committees and audits undertaken by the Australian National Audit Office. This section provides a summary of activity in relation to these forms of scrutiny during the reporting period.

Appeals from Tribunal decisions

A party may appeal to the Federal Court, on a question of law, from most final decisions of the Tribunal pursuant to section 44 of the Administrative Appeals Tribunal Act. The Federal Court may transfer the appeal to the Federal Magistrates Court unless the Tribunal was constituted by, or included, a presidential member.

A party may also seek judicial review of decisions made in the course of the review process and certain final decisions under the *Administrative Decisions (Judicial Review) Act 1977*, section 39B of the *Judiciary Act 1903*, Part 8 of the *Migration Act 1958* or section 75 of the Constitution. Applications may be made to the Federal Court, the Federal Magistrates Court or the High Court.

In 2008–09, 95 appeals made pursuant to section 44 of the Administrative Appeals Tribunal Act were lodged with the Federal Court.¹ There were 15 applications for judicial review made under other enactments, 10 of which related to decisions concerning visas under the *Migration Act 1958*. Table A3.9 in Appendix 3 provides information on the number of appeals lodged against decisions in each of the Tribunal's major jurisdictions.

During the reporting year, 106 appeals lodged under section 44 of the Administrative Appeals Tribunal Act and 16 applications for judicial review under other enactments were finally determined. The Tribunal's decision was set

¹ In some circumstances, a party may lodge an application seeking relief under section 44 of the Administrative Appeals Tribunal Act and under another enactment. These applications are treated as section 44 appeals for statistical purposes.

aside in 36 cases. This constitutes 30 per cent of the total number of appeals determined during the reporting period and less than one per cent of all applications finalised by the Tribunal during the reporting year.

Tables A3.10 and A3.11 in Appendix 3 offer more information on appeals determined during the reporting year and their outcomes.

During the reporting year, there were no judicial decisions or decisions of other tribunals that had, or may have had, a significant impact on the operations of the Tribunal.

Freedom of information

The Tribunal received five requests for access to documents under the Freedom of Information Act in 2008–09. In relation to two of the requests, the Tribunal determined that the documents requested did not exist. One request was granted in full and another request was granted in part. In relation to the final request the Tribunal determined that a charge was associated with the granting of the request and notified the applicant of the preliminary assessment of the charge. That request remained outstanding at the end of the reporting period.

The Tribunal did not receive any requests to amend or annotate records and no requests were carried over from previous years.

The statement required to be published in this Annual Report under section 8 of the Freedom of Information Act is at Appendix 8.

Ombudsman

During 2008–09, the Commonwealth Ombudsman received 26 approaches concerning the Tribunal. This was six fewer than in the previous reporting year, a 19 per cent decrease.

The Commonwealth Ombudsman closed 26 approaches, covering 26 issues, relating to the Tribunal. Of these, five (19 per cent) covering five issues were investigated. The Ombudsman made one finding of administrative deficiency in relation to one investigation.

Complaints to other bodies

One complaint was made to the Privacy Commission during 2008–09. The Privacy Commission decided that the complainant's privacy had not been interfered with and the Tribunal took steps to resolve the complaint directly with the complainant.

Reports by the Auditor-General or Parliamentary Committees

The Tribunal's operations were not the subject of any report by the Auditor-General or any Parliamentary Committee during the reporting period.

TRIBUNAL SERVICE CHARTER

The Tribunal's Service Charter sets out the Tribunal's service standards and information relating to making complaints about the Tribunal. Information on the extent of the Tribunal's compliance with the service standards (where information is available) is in Table 3.12. Information on the number and nature of complaints made to the Tribunal follows.

Complaints to the Tribunal

The Tribunal's Service Charter sets out how a person may make a complaint to the Tribunal about its service, and the standards for responding to complaints. Complaints may be made verbally or in writing.

When a complaint is made in person or by telephone, the Tribunal will attempt to resolve it immediately. The Tribunal aims to respond to written complaints within 20 working days, and to complaints submitted in a language other than English within 30 working days. If more time is required, because of the complexity of the complaint or the need to consult with other persons before providing a response, the Tribunal will advise the complainant of progress in handling the complaint. Responses to complaints must address the issues that led to the complaint being made. When appropriate, a complaint will result in an apology or a change to practice and procedure.

During 2008–09, the Tribunal received written complaints from 23 individuals. The

total number of complaints was 24, as one complainant made two separate complaints. One complaint remained outstanding at the end of the reporting period. The issues raised in the complaints related to:

• conduct of members of the Tribunal	7
• general procedural issues	5
• complaints about Tribunal decisions	4
• conduct of conferences	4
• complaints about other parties to Tribunal proceedings, and	3
• complaints about the timeliness of the progress of an application	1

There were no complaints about the timeliness of the making of Tribunal decisions after a hearing.

In all but four of the 23 complaints finalised in 2008–09, the Tribunal provided an initial response within the 20-day period. The average number of days from complaint to final response was approximately 14 working days. The longest period of time taken to investigate and respond to a complaint was 60 days.

The Tribunal does not measure whether a complainant believes his or her complaint was resolved. However, six complainants wrote again to the Tribunal after receiving an initial response to their complaint. In most instances, these complainants were provided with further information to address any outstanding concerns.



Table 3.12 Service standards

Commitment	Result for 2008-09
We will treat you with respect and courtesy	
We will be polite, respectful and courteous and use language that is clear and understandable.	Tribunal users rated the following service attributes positively in the satisfaction survey conducted in 2008: <ul style="list-style-type: none"> – courtesy of staff – staff explained things clearly, and – Conference Registrars and members clearly explained what would happen at conferences and hearings.
We will make ourselves accessible	
Country residents can contact us on our national telephone number for the cost of a local call.	The Tribunal's national toll-free telephone number was available throughout the year.
People who are deaf or have a hearing or speech impairment can contact the Tribunal.	The Tribunal enhanced its capacity to communicate with users who have a hearing or speech impairment. The Tribunal engaged the National Relay Service to provide a range of call options, including a TTY service.
Wheelchair access and hearing induction loops will be available at each office.	All Tribunal premises are wheelchair-accessible. Induction loops are available at each of the Tribunal's registries.
Hearings will be held in capital cities and in country centres.	The Tribunal conducted 145 hearings, 39 conferences and eight conciliations in locations outside capital cities.
Where appropriate you may participate in a hearing by telephone or video-link.	The Tribunal conducted the following number of listings by telephone: <ul style="list-style-type: none"> • conferences — 7,124 • other ADR processes — 4 • directions hearings — 1,549 • interlocutory hearings — 261 • hearings — 45
If you need an interpreter, we will provide one free of charge.	There were no instances when the Tribunal was unable to arrange for an interpreter to participate in an alternative dispute resolution process or hearing where needed.
If you are self-represented we will help you understand AAT procedures through our Outreach program. Outreach officers will contact self-represented parties by telephone within 4-6 weeks of an application being lodged.	Data relating to the conduct of Outreach with some 1,000 parties shows that the average time from lodgement of an application to Outreach was 27 days.
We will deal with you fairly	
Applicants, respondents and/or their representatives will have a reasonable opportunity to present their cases.	In the satisfaction survey conducted in 2008, Tribunal users rated positively the opportunity they or their representatives were given to present their case.
A private conference will usually be held within 6-10 weeks after receipt of an application.	72 per cent of applications had a first conference within 10 weeks of lodgement, two per cent higher than in 2007-08.
We will operate in an efficient manner	
If a decision was not given orally at a hearing, written decisions will usually be provided within two months.	As noted in Table 3.9, 73 per cent of decisions were delivered within 60 days of the last day of hearing or the receipt of further submissions or other material.

ADDITIONAL FUNCTIONS CONFERRED ON TRIBUNAL MEMBERS

As well as performing their role under the Administrative Appeals Tribunal Act, Tribunal members may exercise powers under a range of other Acts.

Warrants, controlled operations and other functions

All Deputy Presidents and full-time Senior Members, and any part-time Senior Member or Member who has been enrolled as a legal practitioner for at least five years, may be nominated to:

- issue telecommunications interception warrants and stored communications warrants under the *Telecommunications (Interception and Access) Act 1979*
- issue warrants and exercise related powers under the *Surveillance Devices Act 2004*, and
- review certificates that authorise controlled operations under the *Crimes Act 1914*.

The President and all Deputy Presidents, and any Senior Member who has been enrolled as a legal practitioner for at least five years, may be nominated to make orders allowing information given to the Inspector of Transport Security to be disclosed to another government agency under the *Inspector of Transport Security Act 2006*.

The President and all Deputy Presidents are eligible to be appointed as issuing authorities for making continued preventative detention orders under the Criminal Code.

All members of the Tribunal are authorised to exercise a range of powers monitoring overseas students' compliance with visa conditions under the *Education Services for Overseas Students Act 2000* and the *Migration Act 1958*.

Table 3.13 sets out the number of occasions on which Tribunal members considered applications under any of these Acts in the three most recent reporting years.

The Tribunal is flexible in performing these functions and members are available outside standard business hours. In the reporting period, out-of-hours appointments were arranged on 55 occasions. 'Out-of-hours' means before 9 am or after 5 pm on weekdays or at any time on the weekend or on a public holiday.

Proceeds of crime examinations

All presidential members of the Tribunal, and any Senior Member or Member who has been enrolled as a legal practitioner for at least five years, may be appointed as an approved examiner under the *Proceeds of Crime Act 2002*. Approved examiners are authorised to issue examination notices at the request of the Commonwealth Director of Public Prosecutions and oversee compulsory examinations in connection with confiscation proceedings. See Table 3.14 for the number of examination sessions conducted by Tribunal members in the past three reporting years.

Table 3.13 Applications relating to warrants, controlled operations and other functions considered by Tribunal members

	2006-07	2007-08	2008-09
Number of occasions on which applications considered	1,864	1,946	1,877

Table 3.14 Examinations held under the *Proceeds of Crime Act 2002*

	2006-07	2007-08	2008-09
Number of examination sessions held	34	26	24

CHAPTER 4

OUR USERS AND OUR PARTNERS

This chapter outlines the Tribunal's performance in meeting the goals for its users and partners identified in the 2008-09 Organisational Plan.

OUR USERS

The principal users of the Tribunal are parties to Tribunal proceedings — individuals, organisations and government departments and agencies — and their representatives. This section addresses how the Tribunal worked during the reporting year to meet its goal in relation to its users:

To provide a high-quality national merits review process that contributes to community confidence in a system of open and accountable government.

Practice and procedure

The Tribunal's Practice and Procedure Committee met in December 2008 and June 2009 to consider ways in which practice and procedure can be improved to better meet the goal. Significant developments in practice and procedure issues during the reporting period follow.

Guidelines relating to expert evidence

The Tribunal continued work in 2008-09 on two sets of guidelines relating to expert evidence in Tribunal proceedings.

The first set of guidelines will apply generally to evidence provided by experts. They will inform experts, parties and their representatives of the Tribunal's expectations for expert evidence, and will cover the nature of an expert's duty to the Tribunal and the expected content of expert reports.

The second set of guidelines will relate to the use of concurrent evidence — two or more experts giving evidence at the same time in a hearing. The guidelines will cover how the concurrent evidence procedure usually operates, factors that may be taken into account in deciding whether the procedure will be used and the process for making this decision.

Drafts of the guidelines were released for comment in October 2008 and the Tribunal is considering submissions from a wide range of organisations. The Tribunal expects to finalise and issue the guidelines in 2009-10.

Taxation of costs

In limited circumstances, but most commonly in the workers' compensation jurisdiction, the Tribunal may order a party to a proceeding to pay the costs incurred by another party. If the parties are unable to agree about the amount of the costs, the Tribunal may tax them.

The Tribunal has been reviewing how it taxes costs to enhance both the flexibility of the process and its ability to assist the parties to reach an agreement. A draft practice direction with revised procedures was circulated for comment in April 2009. The Tribunal expects to finalise and introduce the practice direction in 2009-10.

Review of summons procedures

The Tribunal is working to streamline its procedures for the production of documents under a summons. Summonses are issued most frequently in the workers' compensation jurisdiction. One of the Tribunal's aims is to establish a nationally consistent process so that appearances before a Tribunal member will generally be limited to circumstances in which there is a dispute in relation to the documents.

Work on the project, including the development of a practice direction relating to summonses, will continue in 2009-10.

Review of regulations

The Tribunal has been reviewing the *Administrative Appeals Tribunal Regulations 1976* and has identified a number of areas in which it considers changes or improvements could be made.

The Tribunal released a consultation paper in January 2009 seeking comments on a range of proposals, including changing the name of the Veterans' Appeals Division to the Veterans' and Military Compensation Division, specifying more clearly the requirements for lodging documents electronically, revising

the provisions relating to amounts that are payable for complying with a summons, and prescribing fees for issuing summonses to produce documents and for taxing costs.

The Tribunal is liaising with the Attorney-General's Department in relation to its suggestions for changes.

Alternative dispute resolution

The Alternative Dispute Resolution Committee met four times in 2008-09 to consider the use of ADR in the Tribunal and how it can be improved.

The Tribunal undertook a range of activities during the reporting year aimed at raising awareness of the ADR processes available in the Tribunal and encouraging their use. Tribunal members and staff spoke at a number of external conferences and seminars about ADR in the Tribunal. An internal conference was held with the Tribunal's Conference Registrars which focused on best practice in ADR and referral to ADR processes.

The Tribunal participated in the inquiry being undertaken by the National Alternative Dispute Resolution Advisory Council (NADRAC) into ADR in the civil justice system. The Tribunal provided submissions and took part in consultations conducted by NADRAC.

The Tribunal was also an active member of the ADR Inter-Agency Group, a forum for Australian Government agencies which encourages the sharing of information and training resources in relation to ADR.

Tax scheme matters

Since 1999, the Tribunal has received more than 12,000 applications for review of decisions relating to some 120 different tax schemes or types of tax arrangements. The Tribunal developed specific processes to manage this large volume of applications, as detailed in last year's annual report.

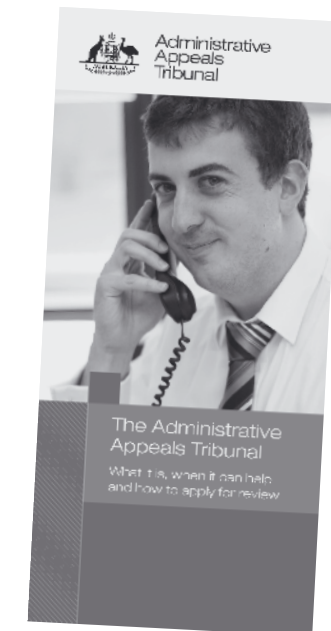
The Tribunal expects that the bulk of the applications outstanding at 30 June 2009 will be finalised by 30 June 2010. Nearly 80 per cent of these applications relate to two particular schemes.

Communication with Tribunal users

Publications and website

The Tribunal seeks to communicate with its users in a variety of ways that contribute to their understanding of its role, procedures and processes and how it can help them. The Tribunal's range of written documents and other information materials have been developed to suit a variety of needs.

Following a review of its communications, the Tribunal is upgrading its information products. A new logo and new designs for stationery and other corporate material are largely complete. Brochures have been rewritten and redesigned, and illustrated to show the self-represented applicant the types of rooms and situations they can expect to encounter during a review. The new materials will be launched in 2009-10.



Regular user forums and meetings with users

As part of its commitment to being an approachable and transparent organisation, the Tribunal met with regular users and other stakeholders in a range of settings during 2008-09.

District registries arrange user group meetings with departments, agencies, private legal practitioners and other decision-makers who appear regularly before the Tribunal in that location. Some registries hold meetings with users from all jurisdictions while others arrange jurisdiction-specific meetings. The meetings are a forum in which the Tribunal can inform users of impending and proposed changes to practice and procedure, and users can give feedback on the service the Tribunal is providing.

In May 2009, the Tribunal convened a meeting with authorities, agencies and corporations who hold licences under the *Safety, Rehabilitation and Compensation Act 1988*. The meeting offered an opportunity for Tribunal members and staff to explain, particularly to newer licensees, the Tribunal's role, procedures and the role of decision-makers before the Tribunal.

During the year, the President, members and senior staff attended meetings with representatives of other agencies and authorities to discuss operational issues arising in the review process. Meetings were held with Comcare, the Safety, Rehabilitation and Compensation Commission and the Seafarers Safety, Rehabilitation and Compensation Authority.

User survey

As was noted in last year's annual report, the Tribunal engaged Profmark Consulting to conduct a survey of Tribunal users. The survey was conducted in June and July 2008 to establish the level of satisfaction of Tribunal users with aspects of the service provided by the Tribunal. A similar survey was conducted in 2005.

Written surveys were sent to all individuals whose applications were finalised in 2007. Telephone surveys were conducted with private legal practitioners and employees of government departments, agencies and other decision-makers who appear regularly in the Tribunal. The Tribunal received the final report on the survey in August 2008.

A total of 981 responses (22 per cent) were received from individuals who had participated in the review process. Key findings of the survey responses from individuals were as follows.

- Individuals were generally satisfied with all aspects of the service provided by the Tribunal. The courtesy of staff received the highest rating among general service attributes.
- Individuals rated all aspects of conferences positively. Individuals were most satisfied that the Conference Registrar provided a clear explanation of the proceedings.
- Individuals were generally satisfied with all aspects of hearings, including that the level of formality of the hearing was appropriate.
- A majority of individuals felt that the Tribunal had dealt with their review fairly.

In general, the results of the 2008 survey were consistent with or slightly better than the results of the survey conducted in 2005.

Employees of decision-makers and private legal practitioners also rated all aspects of the Tribunal's service positively. One of the most highly rated attributes of conferences was that they were conducted fairly. In relation to hearings, the opportunity for parties to explain their case was rated highest most frequently. A very high proportion considered that the Tribunal deals with reviews fairly.

Charts 4.1, 4.2 and 4.3 illustrate the user survey results for aspects of satisfaction and perception of fairness.

The Tribunal has examined the results of the survey, including the many ad hoc comments made by individuals who responded to the survey. They have assisted the Tribunal to identify areas in which changes could be made to improve the service provided. The Tribunal plans to conduct another user survey in 2011.



The Tribunal uses the results of user surveys to inform the development and implementation of improved procedures for its users.

Chart 4.1 Satisfaction of individuals with Tribunal service, in 2005 and 2008. Rating: 1= not at all satisfied; 5= extremely satisfied.

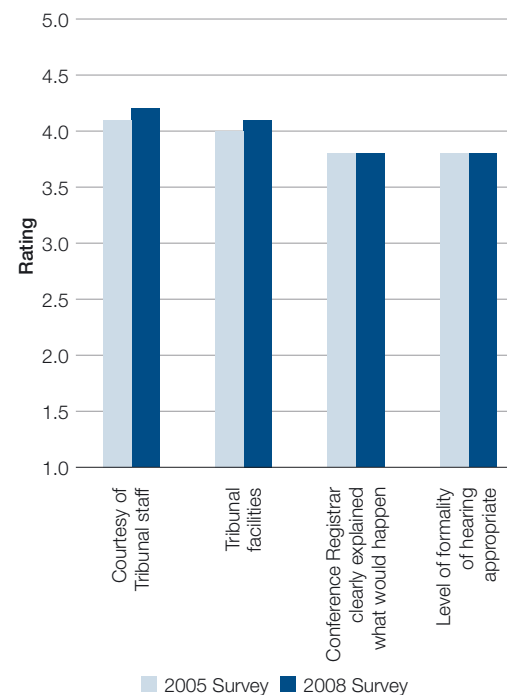


Chart 4.3 Satisfaction of regular users with Tribunal service, in 2005 and 2008. Rating: 1= not at all satisfied; 5= extremely satisfied.

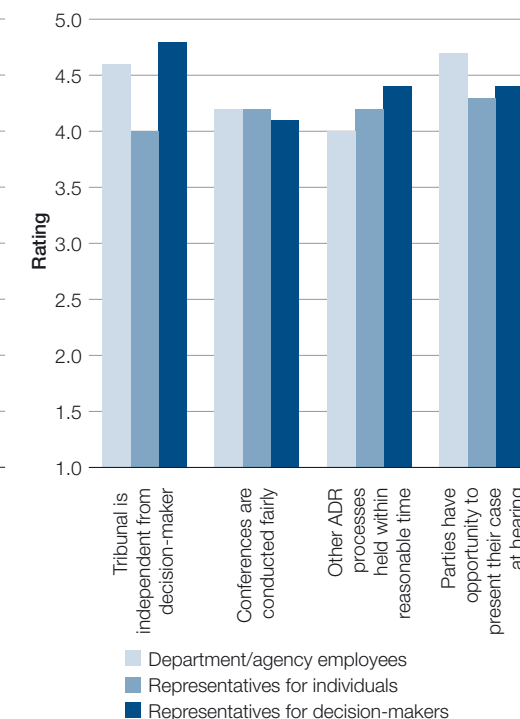
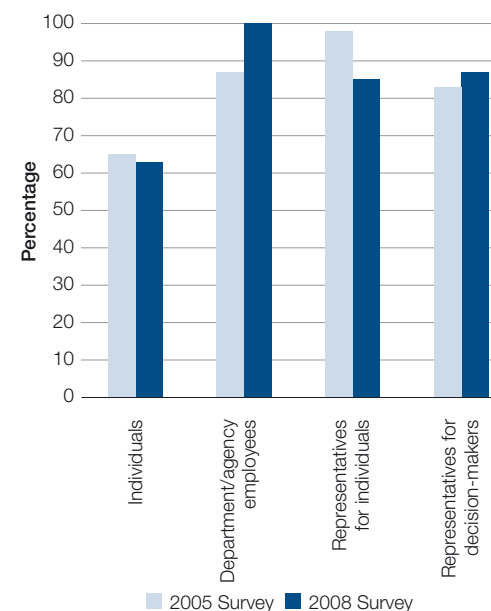


Chart 4.2 Perception of fairness of the review process, in 2005 and 2008.



TRIBUNAL PARTNERS

Tribunal partners are organisations or individuals with whom the Tribunal has a relationship beyond participation in Tribunal proceedings. Partners may be organisations or individuals that are involved in administrative review or that have an interest in tribunals generally. They may also be organisations with which the Tribunal develops cooperative arrangements for the sharing of resources. Tribunal partners include government departments and agencies, other tribunals, courts, the legal profession, individuals and other national and international organisations.

The Tribunal's goal in relation to its partners, as outlined in its Organisational Plan, is:

To cooperate with government, other tribunals, the legal profession and other interested groups.

This section of the report describes the activities undertaken by the Tribunal during the reporting period that are directed to meeting this goal.

Developing and enhancing links with government, other tribunals, individuals and organisations

The Tribunal maintained and developed its relationships with a range of departments and agencies, organisations and individuals during 2008–09.

Liaison with the Attorney-General's Department and other departments and agencies

The Tribunal worked closely with the Attorney-General's Department during the reporting year on a wide range of issues relating to the Tribunal and its operations, including the Tribunal's jurisdiction, workload and budget and potential amendments to the *Administrative Appeals Tribunal Regulations 1976*.

The Tribunal also had contact with a number of other departments and agencies in relation to issues and proposals that concern the Tribunal. These include the Department of Agriculture, Fisheries and Forestry, the Department of Education, Employment and Workplace Relations, the Department of Prime Minister and Cabinet and the Productivity Commission.

Administrative Review Council

As President of the Tribunal, Justice Downes is an ex officio member of the Administrative Review Council (ARC). The ARC's role is to monitor, and provide advice to government on, the operation of the Commonwealth system of administrative law. The President attended meetings and participated in the activities of the ARC during the reporting year.

For further information relating to the ARC and its operations, please refer to the ARC's annual report.

Council of Australasian Tribunals

The Council of Australasian Tribunals (COAT) is an association for tribunals and those who work in, or have an interest in, tribunals in Australia and New Zealand. It consists of a National Council and local chapters and is designed to facilitate discussion and collaboration on matters that are relevant to

tribunals. Tribunal members and staff were active contributors to the work of the Council during the reporting year.

The Tribunal's Registrar, Doug Humphreys, was the Executive Officer and Public Officer of the Council at the national level until June 2009. Tribunal staff managed the Council's website and undertook work on a number of projects during the reporting year, including the development of an electronic version of the COAT Practice Manual for Tribunals.

Tribunal members and staff have also been active in the Council's State and Territory Chapters. Deputy President Deane Jarvis was the Convenor of the South Australian Chapter throughout 2008–09. Member Regina Perton was Convenor of the Victorian Chapter until March 2009 and has continued as a member of the committee after that time. Deputy President Philip Hack SC, Senior Member Narelle Bell and Senior Member Lesley Hastwell also served on the committee of their local chapter during 2008–09. District Registrar Ken Wanklyn was the Secretary/Treasurer of the Victorian Chapter until March 2009. Other Tribunal members and staff were members of local chapters and participated in chapter activities.

Cooperation with other tribunals and courts

Commonwealth tribunals and courts

The Commonwealth merits review tribunals — the AAT, the Migration Review Tribunal (MRT), the Refugee Review Tribunal (RRT), the Social Security Appeals Tribunal and the Veterans' Review Board (VRB) — maintained their cooperative relationship during 2008–09. The heads and the registrars of the tribunals met twice during the reporting year to discuss issues of mutual concern. Liaison occurred throughout the year in relation to various matters, including pursuing opportunities for efficiencies through cooperative action. There was also ongoing communication between officers of the tribunals in relation to matters such as advertising of staff vacancies and learning and development activities.

The Tribunal had arrangements with a number of courts and tribunals in relation to the provision of facilities and services during 2008–09. A description of a number of these arrangements follows.

- Federal Court of Australia

The Tribunal shares a joint Registry with the Federal Court in Hobart. The court provides staff to meet the needs of the Tribunal in that Registry.

- Migration Review Tribunal/Refugee Review Tribunal

The MRT and RRT have registries in Melbourne and Sydney. In Adelaide, Brisbane and Perth, AAT staff receive applications and handle enquiries on behalf of the tribunals. The Tribunal also provided accommodation and hearing room facilities for MRT and RRT members, including hearing room assistance and videoconferencing facilities.

In June 2009, the Tribunal concluded an agreement with the MRT and RRT to provide additional member accommodation and services in Adelaide, Brisbane and Perth. The provision of this additional accommodation will provide considerable savings on a whole of government basis.

- National Native Title Tribunal

The Tribunal provided additional accommodation to the National Native Title Tribunal at its Adelaide premises.

- Veterans' Review Board

The Tribunal made facilities available in its registries in Adelaide, Canberra and Perth for the Veterans' Review Board to conduct hearings.

Other tribunals

In June 2009, the Tribunal attended a meeting of the Workers' Compensation Dispute Resolution Organisations. This group comprises the Australian and New Zealand bodies charged with resolving workers' compensation disputes. It meets annually to exchange information and ideas and discuss emerging issues.

International relationships and delegations

International Association of Supreme Administrative Jurisdictions

The International Association of Supreme Administrative Jurisdictions (IASAJ) is an organisation for bodies that are empowered to adjudicate public law disputes. The association's purpose is to promote the exchange of ideas and experiences between jurisdictions. The IASAJ was founded in 1983, and the Tribunal has been a member since 2004.

The Hon Michael Black AC, Chief Justice of the Federal Court of Australia, and Justice Downes became Co-Presidents of the association in 2007. Australia will host the association's 10th congress in March 2010. The congress will be co-hosted by the Tribunal and the Federal Court of Australia.

Administrative Court of Thailand

The Tribunal maintained its relationship with the Administrative Court of Thailand during the reporting year.

In February 2009, a delegation of 38 judges and staff visited Australia. The delegation spent time at the Tribunal, the Federal Court of Australia and the NSW Workers Compensation Commission. The delegation also travelled to Canberra where they visited Parliament House and were greeted by the Attorney-General, the Hon Robert McClelland MP.

Visiting delegations

The Tribunal also hosted a number of visitors from other overseas courts and organisations interested in gathering information on the Tribunal and its operations. These included:

- Professor John Angel, Chairman of the United Kingdom Information Tribunal
- Mr Dinh Trung Tung, Vice-Minister for Justice, with officials from the Vietnamese Ministry of Justice, and
- Mr Jiang Huiling, Senior Judge, with five fellow judges from the Supreme People's Court of China.



Justice Garry Downes (centre left) and Registrar Doug Humphreys (centre right) with Mr Jiang Huiling, Senior Judge of the Supreme People's Court and leader of the delegation, with Senior Judge Mr Jin Kesheng and Judges Mr Wang Xiaodong, Ms Bao Jianping, Ms He Ti and Ms Long Fei, and Ms Zhao Xin Official, Supreme People's Court.

Better understanding of the Tribunal and its role

The Tribunal was involved in a range of activities during the reporting period that help to promote a better understanding of the Tribunal and its role in administrative law.

Joint AAT and Law Council Seminar on the AAT

On 25 June 2009, the Tribunal and the Law Council of Australia conducted a joint seminar on the Administrative Appeals Tribunal. The seminar was attended by some 50 Tribunal members and staff, legal practitioners with an interest in the Tribunal and representatives of government departments and agencies involved in the Tribunal's major jurisdictions.

A keynote address was delivered by the Hon Michael Black AC, Chief Justice of the Federal Court. This was followed by a series of papers and discussion on three major themes: the nature of proceedings in the Tribunal, alternative dispute resolution in the Tribunal, and expert evidence and expert members. The seminar offered a unique forum in which to explore aspects of the Tribunal's operations.

Tribunal participation in external conferences, seminars and other activities

Members and staff gave presentations on the Tribunal and its operations at a number of external conferences, seminars and forums during the reporting period. More information on these activities is in Appendix 9.

Administrative Appeals Tribunal Mooting Competition

The fourth AAT Mooting Competition was held between August and October 2008, with 21 teams from 14 universities. Teams each comprised two students acting in the roles of senior and junior counsel, and a third student could participate as a researcher and designated scribe.

In each round, teams were issued with detailed factual scenarios. They were required to prepare written submissions and present oral arguments to the Tribunal member or members who adjudicated the moots. The factual scenarios were drawn from a variety of administrative law areas, including freedom of information, immigration, social security and veterans' affairs.



The AAT's Mooting Competition winners (l-r) Gerowyn Lyons, Dominique Mayo and Stewart Webster, with the runners-up Dan O'Neill and Ben Martin.

The final was held in Sydney on 8 October 2008. The competition was won by Stewart Webster, Dominique Mayo and Gerowyn Lyons from the University of Queensland. Mr Webster was also awarded the Registrar's Best Oralist prize. Dan O'Neill and Ben Martin from the University of Notre Dame were the runners-up.

Sponsoring work experience placements

The Tribunal's registries provided a number of work experience placements for university students during the year. Work experience placements included undergraduate and graduate law students from the College of Law in New South Wales, Queensland University of Technology, Macquarie University, the University of New South Wales and Wollongong University.

CHAPTER 5

OUR PEOPLE AND OUR ORGANISATION

This chapter outlines the Tribunal's performance in meeting the goals for its people and the organisation identified in the 2008-09 Organisational Plan. It also provides information on human resource management and the Tribunal's administration and governance.

OUR PEOPLE

This section addresses how the Tribunal worked towards to meeting the following goal during the reporting period:

To maintain professional standards and a positive, safe and productive workplace that values diversity.

Members' Professional Development

The Members' Professional Development Program is a comprehensive program based on a framework of competencies developed by the Tribunal. The program comprises induction, mentoring, self-assessment complemented by peer review and other professional development opportunities. The Professional Development Committee met in December 2008 and June 2009 to advise on the program and its development.

Learning activities for members are developed with reference to the Tribunal's framework of competencies. A range of options, such as attendance at conferences and seminars, are offered that assist members to remain up-to-date with developments relevant to their work.

Most registries have a program of regular professional development meetings, and other registries may participate by videoconference or telephone, facilitating shared learning. Topics covered in 2008-09 included updates on significant cases, aspects of practice and procedure, comparative law and cultural awareness.

Mentoring Scheme

The Mentoring Scheme assists newly appointed members to gain a better understanding of the workings of the Tribunal and their role, and promotes the Tribunal's overall objectives. Senior Member Narelle Bell, who continued as the coordinator of the Mentoring Scheme in 2008-09, led a formal evaluation of the Scheme during the

reporting year. The evaluation confirmed that the premises upon which the scheme were developed are sound. Mentoring is particularly worthwhile for newly appointed members and the framework of competencies provides a useful reference point for discussions between mentors and mentees. There was agreement that, where possible, mentors and mentees should be located in the same registry to improve the effectiveness of the relationship.

Appraisal Scheme

The Appraisal Scheme combines self-assessment with appraisal by another Tribunal member against the framework of competencies. The self-assessment and peer review process gives members the opportunity to reflect upon their practice and consider options for further professional development. Deputy President Deane Jarvis continued as Appraisal Scheme Coordinator in 2008-09. An evaluation of the Appraisal Scheme will be conducted in 2009-10.

Tribunal members are encouraged to share their expertise not only with their peers and Tribunal staff, but also with the wider profession and members of other tribunals through participation in organisations such as the Council of Australasian Tribunals (COAT). Members learn from colleagues working in other jurisdictions by attending conferences, including the Australasian Institute of Judicial Administration/COAT Tribunals' Conference and the annual conference of the Australian Institute of Administrative Law.

National Conference Registrars' conference

The Tribunal's Conference Registrars met in the Sydney Registry on 1-2 December 2008 to explore three themes: best practice elements of alternative dispute resolution practice; case management and workflow; and strategies for promoting settlement.

Outcomes from the conference included:

- further improvement of the Tribunal's alternative dispute resolution checklist
- implementation of a professional development component into the Conference Registrars' monthly meetings

- continued discussion of case management and settlement options, and
- an ongoing commitment by Conference Registrars to continue to raise awareness of the Tribunal's conferencing and other ADR processes by conducting sessions for civil law lawyers and current and potential users.

Learning and development

Learning and development is a priority in the Tribunal. The broad-based learning and development program addresses the identified learning needs of employees, as well as being aligned with the Organisational Plan and reflecting the values of the Tribunal.

During the reporting year, the learning and development calendar included activities offered in response to identified training needs. Face-to-face and videoconference sessions covered topic areas including practice and procedure issues, working effectively with Tribunal users, editing and proofreading, online legal research, risk management fundamentals, National Relay Service information sessions, identifying and dealing with mood disorders, and cultural awareness and diversity.

Staff also attended relevant external short courses, seminars, workshops and conferences.

Collaborative learning has proven to be an effective methodology. For example, the Members Support Staff Network is a popular forum for the legal and administrative staff who work closely with the members to share ideas and remain abreast of developments in the law.

The Studies Assistance Scheme provides another avenue for staff to develop their capability, as well as that of the Tribunal, through vocational education at pre-tertiary, undergraduate and postgraduate levels. Most staff participating in the scheme undertook legal studies, while others elected public sector management, education and training.

Evaluation by participants at the pre-training and post-training stages is an important feature of the Tribunal's learning and development program. Staff contribute to the customisation of particular programs through

participation in focus groups and also provide formal feedback. This initiative ensures that programs meet the Tribunal's needs and represent value for money.

Membership of learning communities

Commonwealth Tribunals Learning & Development Forum

The Tribunal has a memorandum of understanding to work with other Australian Government tribunals on training initiatives to make the best use of government resources. To this end, a learning community, the Commonwealth Tribunals Learning & Development Forum, was formed in 2005. The major achievement of the forum in the reporting period has been the development of an e-learning diversity and inclusion program.

The major outcome of the memorandum of understanding has been the ability of the Tribunal to collaborate with the Federal Court, the Social Security Appeals Tribunal, the Migration Review Tribunal/Refugee Review Tribunal and the Veterans' Review Board on mutually beneficial training programs and lower training costs.

Australian Committee for Court Education

The Tribunal has a nominated representative on the Australian Committee for Court Education (ACCE). The Tribunal's representative was a member of the sub-committee of ACCE which reviewed specialist court competencies. This led to the development of new competencies which will form the basis for the delivery of accredited training. This improvement in the applicability of competencies to both court and tribunal staff has been designed to increase participation in the Certificate IV in Government (Court Services) and the Diploma in Government (Court Services) and the mobility of staff across Australian jurisdictions. ACCE will monitor interest in these courses across jurisdictions.

Tribunal Practice Manual

The Tribunal is developing a practice manual relating to its role and functions that will complement the COAT Practice Manual for Tribunals. The COAT manual covers topics that

are of general relevance to tribunals, including statutory interpretation, procedural fairness, conducting hearings and making decisions.

The Tribunal Practice Manual will provide members and Conference Registrars with a readily-accessible overview of law and practice in a number of areas, including practice and procedure and the major jurisdictions. It will include references to legislation and policy, case law and other resources.

The manual is being drafted by members of the Tribunal to ensure it has a practical focus. Significant progress was made during the reporting year on the parts of the manual relating to general practice and procedure, family assistance and social security, immigration and veterans' affairs.

The first edition of the manual is planned for completion in 2009–10.

A positive, safe and productive workplace that values diversity

Occupational health and safety

The Tribunal gives priority to the health and work safety of its members and staff. In accordance with Comcare requirements and to assist in monitoring occupational health and safety issues, the Tribunal has a national Health and Safety Committee which includes appropriately trained staff representatives from each registry. The committee meets regularly by telephone to discuss issues including site reports, incident reporting and recent information releases from Comcare.

The Tribunal finalised its Occupational Health and Safety Policy and the new Health and Safety Management Arrangements began on 30 July 2008. Following extensive consultation with members and staff, a revised First Aid Policy began on 18 June 2009.

Necessary refresher training has been undertaken by some members of the Health and Safety Committee and First Aid Officers during the year. Automated External Defibrillators were purchased for each Tribunal registry during 2008–09, and targeted but voluntary training made available to all members and staff.

Workplace assessments are undertaken by providers such as the Commonwealth Rehabilitation Service for the benefit of staff where occupational health and safety problems are identified. Assessments are conducted in relation to matters such as posture, workstation set-up and equipment requirements. Remedial action is implemented. Case management of compensation matters is conducted either in-house or by external service providers, depending on the location and the complexity of the matter.

The Comcare Occupational Health and Safety Incident Reporting Guidelines are in place, supplemented by Tribunal instructions. There was one incident reported to Comcare during 2008–09 about possible exposure to tuberculosis in the Perth Registry which proved to be negative. There were no investigations into the Tribunal's operations.

Productivity gains

The Tribunal is pursuing several initiatives designed to increase productivity gains in its operations. The primary initiatives are technological and employee health-related.

The Tribunal is reviewing the provision of HR and Finance systems, and is planning to implement new arrangements to provide additional functionality, such as Employee and Manager Self Service, and improved reporting functionality.

The Tribunal is committed to health and well-being strategies aimed at improving employee health and promoting a healthy and productive workforce. In addition to current strategies such as vaccinations, eyesight testing and the Employee Assistance Program, the Tribunal is looking to undertake a review of unplanned absences.

The Tribunal's electronic case management system, TRACS, has undergone further enhancement (see the Information Technology section). This has provided additional functionality to its users. Over time, the system is expected to facilitate a range of more efficient work practices and time-saving measures.

Administrative Appeals Tribunal Benevolent Trust

The Tribunal is a caring employer which supports its people. To that end, a benevolent trust, funded by voluntary contributions from members and staff and managed by elected trustees, was established in 2003 for the purpose of assisting any members or staff and their immediate families who may require financial assistance. In 2008–09, the trustees approved grants of assistance to two staff members who had been affected by misfortune and illness.

Tribunal sporting activities

The Tribunal encourages a healthy lifestyle for its staff by making a financial contribution towards the registration of Tribunal teams in sporting competitions and other activities.

Brisbane staff participated in a lunchtime mixed soccer competition, and yoga classes were arranged for staff in Sydney.

Workplace diversity

The Tribunal recognises that people have different qualities, skills, qualifications and experience. Valuing and making proper and effective use of these differences can improve the workplace for individuals and enhance the overall performance of the Tribunal. These attitudes are reflected in the Tribunal's Workplace Diversity Plan which can be viewed on the Tribunal's website. An initiative to review the plan was implemented during 2008–09. The revised plan is expected to be finalised shortly and implemented during 2009–10.

The Tribunal's Workplace Diversity Committee comprises staff representatives and a Tribunal member, and is chaired by the Assistant Registrar. It continues to be involved in the Tribunal's Indigenous Employment Strategy. The committee met once during the reporting year and minutes from meetings are made available to members and staff via the intranet.

Appendix 2 shows the number of staff members who have indicated that they fall within particular equal employment opportunity categories. This includes Aboriginal and Torres Strait Islander employees.



Brisbane's lunchtime mixed soccer team: BACK ROW l-r Chris Oliver, Alan Wallis, David Kearns (coach), Hugh Abrahams, Don Smyth, Adam Meyer, FRONT ROW l-r Michael Borg, Veronica Limu, Belinda Scarth-Johnson, Lynne Stalley, Jacqueline Woods, Michael Buckingham.

Reconciliation Action Plan

The Tribunal's Reconciliation Action Plan aims to promote reconciliation through the engagement of Indigenous employees and promoting awareness of the Tribunal's services among Indigenous Australians. The plan is available on the Tribunal's website (www.aat.gov.au).

Indigenous traineeship

The Tribunal's Indigenous Employment Strategy provides Aboriginal and Torres Strait Islander trainees with an opportunity to learn basic clerical job skills and to prepare for a career in the Australian Public Service or elsewhere. A review of the strategy was commenced in the first half of 2009, the results of which will be used in planning for the Tribunal's third Indigenous traineeship which is due to commence in the second half of 2009.

Efforts will be made in 2009-10 to re-establish Indigenous traineeships for eligible school-aged candidates.

Workplace Harassment Contact Officer network

The Tribunal has four Workplace Harassment Contact Officers, including one Tribunal member. The trained officers operate as a national network. Tribunal members and staff are able to contact any Workplace Harassment Contact Officer within the network.

All members and staff of the Tribunal are entitled to a workplace free from intimidation and harassment. The Tribunal's commitment to the prevention and elimination of all forms of harassment in the workplace is supported by its Prevention and Elimination of Workplace Harassment Policy. This policy sets out the Tribunal's expectations of Tribunal members, managers and staff in preventing and dealing with workplace harassment. In particular, the policy encourages managers and supervisors to be familiar with, and actively promote and support, the Tribunal's policy and strategies for dealing with harassment.

Commonwealth Disability Strategy

The Commonwealth Disability Strategy is designed to help agencies improve access to their services and facilities for people with disabilities. The Tribunal performs the roles of an employer and a provider. Appendix 11

provides a summary of the Tribunal's performance in its role as a provider during 2008-09.

Disability Action Plan

The Tribunal's Disability Action Plan reflects and implements the Tribunal's commitment to the principles of workplace diversity and equality of access. It is based on the Commonwealth Disability Strategy. The plan sets out performance indicators in relation to various aspects of the Tribunal's role as an employer and provider. While the plan is under review, it can be viewed on the Tribunal's website.

Human resource management

Workplace planning, staff retention and turnover

The Tribunal's training and development and performance management programs foster staff retention and professional development. The Tribunal's ongoing staffing complement was relatively stable during the reporting period, declining by two. There were 20 employment opportunity notices gazetted in 2008-09, for eight ongoing vacancies and 12 non-ongoing vacancies.

Agency-wide and individual employment agreements

The Tribunal's collective workplace agreement, the Administrative Appeals Tribunal Agency Agreement 2006-2009 which offered 4.2 per cent annual salary increases, nominally expired on 30 June 2009. A one-year union collective agreement was negotiated during 2008-09 with a successful ballot being conducted on 30 June 2009. The new agreement offers a 3.5 per cent annual salary increase. It continues to promote a high standard of client service and staff development. It also seeks to improve productivity and efficiency while reducing costs through in-house programs and initiatives, particularly those associated with the continuing development of the purpose-designed electronic case management system, TRACS, and the implementation of replacement human resources and financial management information systems.

The number of employees covered by the Agency Agreement and Australian Workplace Agreements (AWAs) at 30 June 2009 is in Table A2.3 in Appendix 2. That table also sets out the salary ranges for APS employees by classification level and for all staff members covered by AWAs. Other conditions of service are similar or identical to those in the Agency Agreement.

During 2008-09, seven employees covered by AWAs received a performance bonus linked to a performance agreement: the Tribunal's only Senior Executive Service employee, three staff members at Executive Level 2 and three staff members at Executive Level 1. As only a small number of employees received a performance bonus, the quantum of bonuses paid at each classification level is not published for privacy reasons. The Tribunal paid \$55,159.14 in bonuses for the 2008-09 year.

The Tribunal does not have a performance pay or bonus system for employees covered only by the Agency Agreement.

Senior Executive Service Officer remuneration

The Tribunal has only one Senior Executive Service position: the Assistant Registrar. Remuneration for that position is based on comparisons with the remuneration for staff in similar Australian Government agencies. The remuneration package allows the occupant to cash out certain limited items in accordance with common Australian Government practice.

Performance Management Program

All ongoing Tribunal staff members have performance agreements in accordance with the Performance Management Program and Training and Development Plans. Depending on performance during the appraisal period, ongoing staff members may advance through the salary scale if they have obtained a performance assessment of fully effective or higher. The program is linked to the Agency Agreement. Salary levels for non-ongoing staff are reviewed on the expiration of their contracts or the completion of 12 months service, whichever is earlier. Salary advancement is based on performance.

Appraisals are completed for all staff in accordance with the Performance Management Guidelines, taking into consideration leave of absences and other approvals for extensions.

Non-salary benefits

Tribunal staff members were provided with the following non-salary benefits under the current Agency Agreement:

- two days of paid leave between Christmas Day and New Year's Day during which the Tribunal operates a skeleton staff to maintain basic registry functions
- two additional weeks of paid maternity/parenting leave
- ability to participate in a Transport Loans Scheme
- health and well-being benefits such as influenza vaccinations, and
- study assistance.

Ongoing staff members are eligible to apply for study assistance which can include limited time off work to attend lectures, tutorials and examinations, as well as full or partial reimbursement of fees and costs. During 2008-09, 17 staff members were accredited as approved students under the Tribunal's Studies Assistance Scheme. Most approvals related either to undergraduate or postgraduate studies in law. Other approved courses included accounting, education, business, management, public administration and policy, and workplace training. The cost of reimbursing study fees and charges was \$17,470. Approximately 847 study hours were approved for all purposes, such as attendance at lectures and tutorials, study leave and exam leave.

During the year the Tribunal reviewed the Studies Assistance Scheme, and the new policy was approved on 15 October 2008. The revised policy comprehensively details employee entitlements for both study leave and the financial assistance available to eligible staff. It addresses different types of studies, such as on- and off-campus, online, thesis and intensive. It continues to provide higher study leave benefits for Aboriginal and Torres Strait Islander staff.

Salary packaging

Salary packaging is available to Tribunal members and staff pursuant to two policies covering different products: one policy is administered externally by the commercial firm McMillan Shakespeare and the other is administered internally by the Human Resources Section. During the reporting year, 59 employees took up the opportunity to access salary packaging arrangements.

Ethical standards

Tribunal staff members are required to act in accordance with the Australian Public Service Values and Code of Conduct. The Tribunal employs a range of means to ensure that staff members understand and apply them. The Australian Public Service Values, Code of Conduct and explanatory materials are available to staff on the intranet. Additionally, recruitment guidelines and induction materials include information on them. Staff attended specific training during the reporting period in relation to the content and application of the Australian Public Service Values and Code of Conduct.

OUR ORGANISATION

The Tribunal's goal as an organisation is outlined in the Organisational Plan:

To be an organisation with systems and processes that maximise effective and efficient use of Tribunal resources.

This section describes activities that the Tribunal undertook to meet this goal, as well as other information on the Tribunal's administration and governance.

Finance and property

Finance and property are the responsibility of the Chief Financial Officer, the Finance Section and the Manager, Property, Services and Business.

Financial management

The Tribunal's audited financial statements for 2008-09 appear from page 55.

The Tribunal's financial performance was well under budget due to tight management of expenses. While the Tribunal was approved to operate at a loss, the Registrar's continued review of costs as well as the deferral of some information technology projects led to a positive result. There was a lower than expected increase in salary costs compared with the previous year, and supplier costs remained stable.

Property

The Tribunal operates from commercially-leased premises in Adelaide, Canberra, Melbourne, Perth and Sydney, and from Commonwealth Law Courts buildings in Brisbane and Hobart.

A minor refurbishment of the registry in Adelaide was completed during 2008-09 and some minor issues were addressed in the Canberra premises. The Tribunal has no plans for any further significant refurbishment in the medium term.

Purchasing

The Tribunal observes the core principles of the Commonwealth Procurement Guidelines and relevant best practice guidelines in relation to its purchasing activities. The Tribunal's Chief Executive Instructions, which are maintained on the Tribunal's intranet, are reviewed to ensure that they conform to the current procurement guidelines. They are a valuable tool for staff with purchasing duties and have been used as a model by several other agencies.

For major purchases or contracts, the Tribunal uses competitive procurement processes to ensure value for money as well as proper and effective competition. Open tender processes are employed unless the circumstances indicate that a select tender would be appropriate. In accordance with the Tribunal's purchasing guidelines, at least three quotes are ordinarily obtained for goods or services that do not involve major purchases or contracts.

Consultants

The Tribunal employs consultants when the required skills or specialist capacity are not available within the Tribunal. Consultants are engaged using the procurement methods specified in the Chief Executive Instructions for the purchasing of services. Open tender, select tender or direct sourcing is used depending on the circumstances, timelines and the identified need for a consultant.

During 2008-09, the Tribunal entered into one new consultancy contract with a total actual expenditure of \$8,943. Eight ongoing consultancy contracts were active during 2008-09, for a total actual expenditure of \$104,623. Table 5.1 sets out the Tribunal's total actual expenditure on all consultancies in the three most recent reporting years. All contract amounts include GST.

Table 5.1 Total actual expenditure on consultancy contracts

Year	Total actual expenditure (incl GST)
2006-07	\$232,662
2007-08	\$199,014
2008-09	\$113,566

Appendix 10 shows the new consultancy let by the Tribunal during 2008-09, and the number and aggregate value of consultancies valued at \$10,000 or more for the three most recent reporting years.

Reporting on purchases

All purchases were gazetted as required. Overview details of all contracts of \$100,000 or more current in any one calendar year are available through the Tribunal's website in accordance with the Senate order relating to agency contracts.

Table 5.2 lists the contracts of \$100,000 or more that were current in 2008-09 and did not include a clause providing for the Auditor-General to have access to the contractor's premises.

Table 5.2 Contracts of \$100,000 or more in 2008-09

Contractor	Value of Contract	Reason why standard access clauses were not included in the contract
Crowne Plaza Hunter Valley	\$114,000	Standard accommodation booking contract
Mossop Group	\$627,000	Standard industry building contract
Telstra	\$564,000	Standard Telstra contract

No contracts in excess of \$10,000 (inclusive of GST) or standing offers were exempted from being published on the AusTender website on the basis that they would disclose exempt matters under the Freedom of Information Act.

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website www.tenders.gov.au.

Risk management

Audit and fraud control

The Tribunal's Audit Committee meets periodically to oversee the audit policy and plans for the forthcoming year. Its responsibilities include providing advice to the Registrar on a range of matters, such as the financial statements and fraud risk assessment, as well as commissioning internal audits on operational activities.

Each year, the Tribunal's independent internal auditor reviews the operations at most risk, and at most common risk, and undertakes audit activities related to these operations. During the reporting year, the internal auditor undertook audits of the Canberra, Melbourne and Sydney registries. Areas scrutinised included assets, attendance records and payroll, bank accounts, hospitality, payments and receipting, purchasing and security. Audits of Principal Registry finance

and human resources operations are also undertaken each year. No major risks were identified as a result of the audits.

The Audit Committee has implemented sufficient processes to enable the Registrar to complete the Certificate of Compliance for the 2008-09 financial year. The Registrar certifies that the Tribunal has prepared risk assessments and fraud control plans and has in place procedures that provide for fraud prevention, detection, investigation, reporting and data collection in compliance with the Commonwealth Fraud Control Guidelines.

Insurance

The Tribunal is insured through Comcover. In general terms, the Tribunal has a low risk of insurance exposure and a limited likelihood of major disruption to its services. However, cover is provided should that occur. In line with a general trend in the industry, the insurance premium decreased again in 2008-09.

Risk management assessment

The Tribunal has completed a risk assessment review examining all business risks that may impact on the Tribunal's national operations. The review covered registry operations, public interaction and information systems and links with the fraud control plan. These assessments provided the basis for a comprehensive review of the Tribunal's Business Continuity Plan which was issued in June 2009. This plan is available on the Tribunal's intranet for all staff and members. Officers with delegated responsibility under the plan will be supplied with the plan on a portable USB device for use in the event that internet access is unavailable.

Risk management training

Risk management was a priority for the Tribunal in the reporting period. Comcover provided tailored in-house training in Risk Management Fundamentals, and more than one-third of Tribunal staff participated.

Security

The Tribunal's office areas are access-controlled. Duress alarms are installed in conference and hearing rooms and at registry

counters to protect Tribunal members and staff in the event of an incident. The Tribunal has a fee-for-service agreement with Chubb Security Pty Limited to provide additional security services for Tribunal alternative dispute resolution processes and hearings as required. During the year, security services were arranged on several occasions as a precautionary measure.

The Tribunal has arrangements in place with the Family Court and the Federal Court to use their court rooms and security arrangements for hearings that involve a security risk. Court rooms were used on several occasions during the year for this purpose without incident.

The Australian Federal Police undertakes security vetting of staff whose duties require a security clearance in compliance with the *Commonwealth Protective Security Manual*.

T4 Protective Security reviewed the Tribunal's physical security arrangements in 2006-07 to ensure that appropriate measures are taken to protect Tribunal members, staff, the public and Australian Government records and assets from attack or unwanted intervention. Implementation of the recommendations of the review commenced in 2008-09, and proceeded as available resources permitted.

Information technology

Network upgrade

The Tribunal selected a new supplier of wide area data network services in 2008-09, moved to a new network type and upgraded the bandwidths to provide sufficient capacity for future data growth. These improvements were made without any significant increase in running costs.

Upgrade to servers

The Tribunal began a project to replace its servers with new servers to reduce the risk of faults and to improve throughput performance. The Tribunal chose Hewlett Packard 'blade' technology and VMWare software to introduce virtualisation techniques. This technology allows the Tribunal to make more efficient use of the hardware to meet its needs.

The project increases centralisation of the servers into its Sydney computer facility, enabling simpler technical management and lower costs. It will also enable secondary projects to proceed towards further improvement of security of the hardware, software and data.

TRACS

The Tribunal continued to improve its case management system (TRACS) in 2008-09. Improvements included more efficient procedures for updating case details, several new reports to enable better monitoring of cases, and the resolution of a number of small defects in the system.

The Tribunal is developing a fee processing module to provide for a more efficient transfer of information from the seven registries to the Finance Section. A trial of bar-code technology for use in tracking files has also commenced.

Cost efficiencies

The Tribunal looks for ways to provide its information technology services in a cost effective manner. In addition to the improved value for money from the new network and hardware technology, participation in the centralised procurement of Microsoft licences has reduced costs. The Tribunal will consider other areas of alignment with other government agencies if improved value can be gained without reduction of quality of services.

For the 2008-09 financial year, the Tribunal's IT services were provided within the original budget.

IT staffing strategy

The Tribunal's approach to ensuring effective management and support of its IT operations is to maintain a small team of staff focused on strategy and project management. The staff assess the operational needs of the Tribunal and design and implement effective software systems. If the required expertise is not available in-house, the Tribunal's maintenance agreements with suppliers includes on-site work by contractors for short periods.

Library and information services

Library Committee

The Library Committee is responsible for the selection of library materials. Selection decisions are guided by the Collection Development Policy and the budget.

The Committee aims to support the operation of the Tribunal by identifying and selecting materials that constitute a relevant, up-to-date and well-balanced resource collection. To achieve this, priority is given to the selection of materials that are regularly cited in Tribunal hearings, frequently required by members for legal research or for writing decisions, support the administrative function of the Tribunal, support current research, and answer specific requests for information.

The Library Committee met twice during the reporting year, in December 2008 and June 2009. Members of the acquisitions sub-committee liaised regularly about the purchase of additional hard-copy and online resources.

Library network

The library network provides library and information services to Tribunal members and staff in all registries. The network consists of the Principal Registry library in Brisbane and District Registry libraries in Adelaide, Melbourne, Perth and Sydney. Libraries are staffed by professional librarians who organise and manage the collection, and assist members and staff with their information needs.

The library network provides access to a number of online legal resources and online reference resources which are available through the Tribunal intranet. The Electronic Publishing Officer, also a librarian located in Principal Registry library, manages the content of the Tribunal's internet and intranet.

Achievements of the library network in the reporting year include:

- acquiring, cataloguing and distributing new paper and electronic materials in response to Library Committee recommendations for the collection

- completion of a project to provide electronic copies of all Tribunal decisions to the AustLII website
- maintaining the Tribunal's intranet and internet sites, and
- ongoing management of the process of electronic delivery of Tribunal decisions to publishers, government departments and agencies and other interested parties.

Policy and Research Section

The Policy and Research Section provides the President, Registrar and Assistant Registrar with advice and assistance in relation to legal and policy issues affecting the Tribunal. It also provides information and assistance to Tribunal members and staff in relation to legislative changes, case law developments and practice and procedure issues.

The primary responsibilities of the section are:

- preparing advice, correspondence and submissions relating to matters affecting the Tribunal
- developing Tribunal policy on legal and operational issues
- monitoring appeals from Tribunal decisions
- producing and maintaining Tribunal resource materials, including the jurisdiction list, procedure manuals and the weekly bulletin
- coordinating reporting on Tribunal performance, including producing statistical information on the Tribunal's workload
- managing projects and providing support to Tribunal committees
- providing information and training to the Tribunal's Conference Registrars and other staff on legal, policy and technical matters, and
- giving presentations on the Tribunal at legal education seminars.

Key achievements for the reporting year included:

- developing, and coordinating consultation on, the draft guidelines relating to expert evidence and the draft practice direction relating to taxation of costs
- progressing the review of the Tribunal's communication products
- assisting with the ongoing development of the functionality and reporting capacity of the Tribunal's electronic case management system, TRACS
- coordinating the Mooting Competition, and
- working with the Tribunal's Conference Registrars and the Learning and Development Officer to present a seminar during Law Week in Sydney on evidence at the AAT.

FINANCIAL STATEMENTS

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4 September 2009

Mr Douglas Humphreys
Registrar
Administrative Appeals Tribunal
GPO Box 9955
BRISBANE QLD 4001

Dear Mr Humphreys

**ADMINISTRATIVE APPEALS TRIBUNAL
2008-2009 FINANCIAL STATEMENTS AUDIT**

Attached are the original signed financial statements, together with an audit opinion on the above audit. A report and a copy of the signed financial statements have been forwarded to the Attorney-General.

I would like to take this opportunity to thank you and your staff for the co-operation and assistance provided during the audit.

Yours sincerely

Mark A. Moloney
Senior Director



INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

Scope

I have audited the accompanying financial statements of the Administrative Appeals Tribunal for the year ended 30 June 2009, which comprise: a Statement by the Chief Executive (and Chief Financial Officer); Income Statement; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Schedule of Contingencies; Schedule of Administered Items and Notes to and forming part of the Financial Statements, including a Summary of Significant Accounting Policies.

The Responsibility of the Chief Executive Officer for the Financial Statements

The Chief Executive Officer is responsible for the preparation and fair presentation of the financial statements in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards (which include the Australian Accounting Interpretations). This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected

depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Administrative Appeals Tribunal's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Administrative Appeals Tribunal's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Chief Executive Officer, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

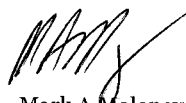
In conducting the audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

Auditor's Opinion

In my opinion, the financial statements of the Administrative Appeals Tribunal:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Administrative Appeals Tribunal's financial position as at 30 June 2009 and its financial performance and cash flows for the year then ended.

Australian National Audit Office



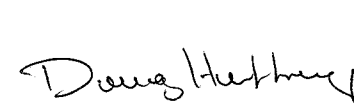
Mark A Moloney
Senior Director

Delegate of the Auditor-General

Canberra
4 September 2009

ADMINISTRATIVE APPEALS TRIBUNAL STATEMENT BY THE CHIEF EXECUTIVE (AND CHIEF FINANCIAL OFFICER)

In our opinion, the attached financial statements for the year ended 30 June 2009 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.



DOUGLAS HUMPHREYS
Chief Executive

3 September 2009



STEPHEN WISE
Chief Financial Officer

3 September 2009

ADMINISTRATIVE APPEALS TRIBUNAL
INCOME STATEMENT for Not-For-Profit Reporting Entities

for the period ended 30 June 2009

	Notes	2009 \$'000	2008 \$'000
INCOME			
Revenue			
Revenue from Government	3A	32,267	32,215
Sale of goods and rendering of services	3B	1,029	1,121
Total revenue		33,296	33,336
Gains			
Other gains	3C	374	330
Total gains		374	330
Total Income		33,670	33,666
EXPENSES			
Employee benefits	4A	20,350	20,088
Suppliers	4B	11,512	11,928
Depreciation and amortisation	4C	1,438	1,226
Write-down and impairment of assets	4D	-	224
Losses from assets sales	4E	2	2
Total Expenses		33,302	33,468
Surplus (Deficit)		368	198
Surplus (Deficit) attributable to the Australian Government		368	198

The above statement should be read in conjunction with the accompanying notes.

ADMINISTRATIVE APPEALS TRIBUNAL
BALANCE SHEET for Not-For-Profit Reporting Entities

as at 30 June 2009

	Notes	2009 \$'000	2008 \$'000
ASSETS			
Financial Assets			
Cash and cash equivalents	5A	500	466
Trade and other receivables	5B	9,708	8,305
Total financial assets		10,208	8,771
Non-Financial Assets			
Leasehold improvements	6A,C	7,343	7,617
Plant and equipment	6B,C	1,379	1,302
Intangibles	6D	301	402
Other non-financial assets	6E	1,933	1,885
Total non-financial assets		10,956	11,206
Total Assets		21,164	19,977
LIABILITIES			
Payables			
Suppliers	7A	1,262	906
Total payables		1,262	906
Non-Interest Bearing Liabilities			
Other	8	903	1,102
Total Non-Interest Bearing Liabilities		903	1,102
Provisions			
Employee provisions	9A	5,863	5,201
Other provisions	9B	385	385
Total provisions		6,248	5,586
Total Liabilities		8,413	7,594
Net Assets		12,751	12,383
EQUITY			
Parent Entity Interest			
Contributed equity		2,568	2,568
Reserves		3,170	3,170
Retained surplus (accumulated deficit)		7,013	6,645
Total Equity		12,751	12,383
Current Assets		12,141	10,656
Non-Current Assets		9,023	9,321
Current Liabilities		6,808	5,774
Non-Current Liabilities		1,605	1,820

The above statement should be read in conjunction with the accompanying notes.

ADMINISTRATIVE APPEALS TRIBUNAL
STATEMENT OF CHANGES IN EQUITY for Not-For-Profit Reporting Entities
 As at 30 June 2009

	Retained Earnings		Asset Revaluation Reserves		Contributed Equity/Capital		Total Equity	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Opening balance								
Balance carried forward from previous period	6,645	6,447	3,170	2,836	2,568	2,275	12,383	11,558
Adjustment for errors	-	-	-	-	-	-	-	-
Adjustment for changes in accounting policy	-	-	-	-	-	-	-	-
Adjusted opening balance	6,645	6,447	3,170	2,836	2,568	2,275	12,383	11,558
Income and expense								
Revaluation adjustment	-	-	-	334	-	-	-	334
Sub-total income and expenses recognised directly in equity	-	-	-	334	-	-	-	334
Surplus (Deficit) for the period	368	198	-	-	-	-	368	198
Total income and expenses attributable to the Australian Government	368	198	-	-	-	-	368	532
Transactions with owners								
<i>Contribution by owners</i>								
Appropriation (equity injection)	-	-	-	-	-	293	-	293
Sub-total transactions with owners	-	-	-	-	-	293	-	293
Transfer between equity components	-	-	-	-	-	-	-	-
Closing balance as at 30 June	7,013	6,645	3,170	3,170	2,568	2,568	12,751	12,383
Closing balance attributable to the Australian Government	7,013	6,645	3,170	3,170	2,568	2,568	12,751	12,383

The above statement should be read in conjunction with the accompanying notes.

ADMINISTRATIVE APPEALS TRIBUNAL
CASH FLOW STATEMENT for Not-For-Profit Reporting Entities
 for the period ended 30 June 2009

	Notes	2009 \$'000	2008 \$'000
OPERATING ACTIVITIES			
Cash received			
Goods and services		1,096	1,075
Appropriations		30,797	31,355
Net GST received		1,175	1,368
Total cash received		33,068	33,798
Cash used			
Employees		(19,351)	(19,389)
Suppliers		(12,541)	(13,235)
Total cash used		(31,892)	(32,624)
Net cash from (used by) operating activities	10	1,176	1,174
INVESTING ACTIVITIES			
Cash used			
Purchase of plant and equipment		(1,134)	(1,603)
Purchase of intangibles		(8)	(90)
Total cash used		1,142	(1,693)
Net cash from (used by) investing activities		(1,142)	(1,693)
FINANCING ACTIVITIES			
Cash received			
Contributed equity		-	293
Total cash received		-	293
Net cash from (used by) financing activities		-	293
Net increase (decrease) in cash held		34	(226)
Cash and cash equivalents at the beginning of the reporting period		466	692
Cash and cash equivalents at the end of the reporting period	5A	500	466

The above statement should be read in conjunction with the accompanying notes.

ADMINISTRATIVE APPEALS TRIBUNAL
SCHEDULE OF COMMITMENTS for Not-For-Profit Reporting Entities
as at 30 June 2009

	2009 \$'000	2008 \$'000
BY TYPE		
Commitments receivable		
GST recoverable on commitments	(3,439)	(3,906)
Total commitments receivable	(3,439)	(3,906)
Other commitments		
Operating leases ^{1,2}	37,827	42,798
Other commitments	-	164
Total other commitments	37,827	42,962
Net commitments by type	34,388	39,056
BY MATURITY		
Commitments receivable		
One year or less	(528)	(556)
From one to five years	(2,637)	(2,649)
Over five years	(274)	(701)
Total commitments receivable	(3,439)	(3,906)
Operating lease commitments		
One year or less	5,812	5,951
From one to five years	29,003	29,133
Over five years	3,012	7,714
Total operating lease commitments	37,827	42,798
Other commitments		
One year or less	-	164
From one to five years	-	-
Over five years	-	-
Total other commitments	-	164
Net commitments by maturity	34,388	39,056

NB: Commitments are GST inclusive where relevant.

1 These commitments comprise leases of hearing rooms and office accommodation for the Tribunal.

2 Operating leases included are effectively non-cancellable and comprise:

- **Leases for office accommodation.**

Lease payments are subject to fixed or market review increases as listed in the lease agreements; and all office accommodation leases are current and most have extension options for the Tribunal following a review of rentals to current market. A commitment for four years has been included for the Commonwealth Law Courts Buildings in Brisbane and Hobart even though there is no lease, budget funding has been approved for this period.

- **Agreements for the provision of motor vehicles to senior executive officers.**

No contingent rentals exist and there are no renewal or purchase options available to the Tribunal.

The above schedule should be read in conjunction with the accompanying notes.

ADMINISTRATIVE APPEALS TRIBUNAL
SCHEDULE OF CONTINGENCIES for Not-For-Profit Reporting Entities
as at 30 June 2009

There are no quantifiable contingent assets or liabilities (2008: Nil). Refer to Note 11 for details of any unquantifiable or remote contingent assets or contingent liabilities.

SCHEDULE OF ADMINISTERED ITEMS			
	Notes	2009 \$'000	2008 \$'000
Income administered on behalf of Government			
<i>for the period ended 30 June 2009</i>			
Non-taxation revenue			
Filing fees	15	523	627
Total revenues administered on behalf of Government		523	627
Total income administered on behalf of Government		523	627
Expenses administered on behalf of Government			
<i>for the period ended 30 June 2009</i>			
Refund of filing fees	16	372	460
Total expenses administered on behalf of Government		372	460

There were no administered assets or liabilities as at 30 June 2009, (2008: Nil).

The above schedule should be read in conjunction with the accompanying notes.

ADMINISTRATIVE APPEALS TRIBUNAL
SCHEDULE OF ADMINISTERED ITEMS

		2009 \$'000	2008 \$'000
Administered Cash Flows			
<i>for the period ended 30 June 2009</i>			
OPERATING ACTIVITIES			
Cash received			
Filing fees		523	627
Total cash received		523	627
Cash used			
Refund of filing fees		(372)	(460)
Total cash used		(372)	(460)
Net cash flows from (used by) operating activities	19	151	167
Net Increase (Decrease) in Cash Held			
Cash and cash equivalents at the beginning of the reporting period		-	-
Cash from Official Public Account for:			
– Appropriations		372	460
Cash to Official Public Account for:			
– Appropriations		(523)	(627)
Cash and cash equivalents at the end of reporting period		-	-

There were no administered commitments or contingencies as at 30 June 2009, (2008: Nil).

The above schedule should be read in conjunction with the accompanying notes.

ADMINISTRATIVE APPEALS TRIBUNAL

Index to the Notes of the Financial Statements

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Note 2:	Events after the Balance Sheet Date
Note 3:	Income
Note 4:	Expenses
Note 5:	Financial Assets
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Note 7:	Payables
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Note 1: Summary of Significant Accounting Policies

1.1 Objectives of the Tribunal

The Administrative Appeals Tribunal (the Tribunal) is an Australian Public Service organisation. The objective and sole outcome of the Tribunal is to provide independent review on merit of a wide range of administrative decisions of the Australian Government so as to ensure in each case the correct or preferable decision is made.

Tribunal activities contributing toward this outcome are classified as either departmental or administered. Departmental activities involve the use of assets, liabilities, revenues and expenses controlled or incurred by the Tribunal in its own right. Administered activities involve the management or oversight by the Tribunal, on behalf of the Government, of items controlled or incurred by the Government.

The continued existence of the Tribunal in its present form and with its present programs is dependent on Government policy and on continuing appropriations by Parliament for the Tribunal's administration and programs.

1.2 Basis of Preparation of the Financial Report

The Financial Statements and notes are required by section 49 of the *Financial Management and Accountability Act 1997* and are a General Purpose Financial Report.

The Financial Statements and notes have been prepared in accordance with:

- Finance Minister's Orders (or FMO) for reporting periods ending on or after 1 July 2008: and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The Financial Statements have been prepared on an accrual basis and are in accordance with historical cost convention, except for certain assets at fair value or amortised cost. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The Financial Statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

Unless alternative treatment is specifically required by an Accounting Standard or the FMO, assets and liabilities are recognised in the Balance Sheet when and only when it is probable that future economic benefits will flow to the Entity a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under agreements Equally Proportionately Unperformed are not recognised unless required by an Accounting Standard. Liabilities and assets that are unrealised are reported in the Schedule of Commitments and the Schedule of Contingencies (other than unquantifiable or remote contingencies, which are reported at Note 11).

Unless alternative treatment is specifically required by an accounting standard, revenues and expenses are recognised in the Income Statement when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

Administered revenues, expenses, assets and liabilities and cash flows reported in the Schedule of Administered Items and related notes are accounted for on the same basis and using the same policies as for departmental items except where otherwise stated at Note 1.21.

1.3 Significant Accounting Judgements and Estimates

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next accounting period.

1.4 New Accounting Standards

Adoption of New Australian Accounting Standard Requirements

No accounting standard has been adopted earlier than the application date as stated in the standard.

The following new standards/revised standards/amending standards were issued prior to the signing of the statement by the chief executive and chief financial officer, were applicable to the current reporting period and had a financial impact on the entity:

AASB 2007-9 *Amendments to Australian Accounting Standards arising from the Review of AASs 27, 29 and 31* relocated a number of paragraphs from AASs 27, 29 and 31 substantively unamended into the following existing standards AASB 3, 5, 8, 101, 114, 116, 127 and 137.

AASB 1004 *Contributions* also received a number of substantively unamended paragraphs from AASs 27, 29 and 31 following their withdrawal.

AASB 1050 *Administered items* and AASB 1052 *Disaggregated Disclosures* were created and received a number of substantively unamended paragraphs from AASs 27 and 29.

It is not expected that the relocation of AASs 27, 29 and 31 will have a material financial impact but may affect the disclosure presented in future financial reports.

AASB 1051 *Land Under Roads* was created and takes over from AASs 27, 29 and 31 in respect of land under roads. The new standard allows entities to recognise or not to recognise as an asset, land under roads acquired before the end of the first reporting period ending on or after 31 December 2007. Administrative Appeals Tribunal elects not to recognise. The standard also clarifies that the principles in other Standards (including AASB 116 Property, Plant and Equipment) apply to land under roads, except to the extent that AASB 1051 requires or permits otherwise, including the requirement that land under roads acquired after the end of the first reporting period ending on or after 31 December 2007 is accounted for in accordance with AASB 116. It is not practicable to determine the financial impact this will have.

AASB 123: *Borrowing Costs* and AASB 2007-6: *Amendments to Australian Accounting Standards arising from AASB 123 (AASB 1, AASB 101, AASB 107, AASB 111, AASB 116 and AASB 138 and Interpretations 1 and 12)* (applicable for annual reporting periods commencing from 1 January 2009). The revised AASB 123 has removed the option to expense all borrowing costs and will therefore require the capitalisation of all borrowing costs directly attributable to the acquisition, construction or production of a qualifying asset.

It is not expected that any changes will have a material effect on future financial statements.

AASB 2008-5: *Amendments to Australian Accounting Standards arising from the Annual Improvements Project (July 2008)* and AASB 2008-6: *Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project (July 2008)* detail numerous non-urgent but necessary changes to accounting standards arising from the IASB's annual improvement project. No changes are expected to materially affect the Tribunal.

Other new standards/revised standards/amending standards that were issued prior to the signing of the statement by the chief executive and chief financial officer and are applicable to the current reporting period did not have a financial impact, and are not expected to have a future financial impact on the entity.

Future Australian Accounting Standard Requirements

The following new standards/revised standards/amending standards were issued by the Australian Accounting Standards Board prior to the signing of the statement by the chief executive and chief financial officer, which are expected to have a financial impact on the entity for future reporting periods:

AASB 3: *Business Combinations*, AASB 127: *Consolidated and Separate Financial Statements*, AASB 2008-3: *Amendments to Australian Accounting Standards arising from AASB 3 and AASB 127 (AASB Standards, 1, 2, 4, 5, 7, 101, 107, 112, 114, 116, 121, 128, 131, 132, 133, 134, 136, 137, 138 and 139 and Interpretations 9 and 107)* (applicable for annual reporting periods commencing from 1 July 2009) and AASB 2008-7: *Amendments to Australian Accounting Standards - Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate (AASB 1, AASB 118, AASB 121, AASB 127 and AASB 136)* (applicable for annual reporting periods commencing from 1 January 2009). These Standards are applicable prospectively and so will only affect relevant transactions and consolidations occurring from the date of application. Neither of these Standards are currently applicable to the Administrative Appeals Tribunal.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

AASB 101: Presentation of Financial Statements, AASB 2007-8: Amendments to Australian Accounting Standards arising from AASB 101, and AASB 2007-10: Further Amendments to Australian Accounting Standards arising from AASB 101 (all applicable to annual reporting periods commencing from 1 January 2009). The revised AASB 101 and amendments supersede the previous AASB 101 and redefine the composition of financial statements including the inclusion of a statement of comprehensive income. There will be no measurement or recognition impact on Administrative Appeals Tribunal.

Other new standards/revised standards/amending standards that were issued prior to the signing of the statement by the chief executive and chief financial officer and are applicable to the future reporting period are not expected to have a future financial impact on the entity.

1.5 Revenue

Revenue from Government

Amounts appropriated for departmental outputs appropriations for the year (adjusted for any formal additions and reductions) are recognised as revenue when the Tribunal gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned.

Appropriations receivable are recognised at their nominal amounts.

Other Resources Received Free of Charge

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government Agency or Authority as a consequence of a restructuring of administrative arrangements (Refer to Note 1.7).

Resources received free of charge are recorded as either revenue or gains depending on their nature.

Other Types of Revenue

Revenue from the sale of goods is recognised when:

- the risks and rewards of ownership have been transferred to the buyer;
- the seller retains no managerial involvement nor effective control over the goods;
- the revenue and transaction costs incurred can be reliably measured; and
- it is probable that the economic benefits associated with the transaction will flow to the Tribunal.

Revenue from the rendering of services is recognised by reference to the stage of completion of contracts at the reporting date. The revenue is recognised when:

- the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- the probable economic benefits associated with the transaction will flow to the Tribunal.

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for goods and services, which have 30 day terms, are recognised at their nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at balance date. Allowances are made when collectability of the debt is no longer probable.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

1.6 Gains

Other Resources Received Free of Charge

Resources received free of charge are recognised as gains when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government Agency or Authority as a consequence of a restructuring of administrative arrangements (Refer to Note 1.7).

Resources received free of charge are recorded as either revenue or gains depending on their nature.

Sale of Assets

Gains, from disposal of non-current assets, are recognised when control of the asset has passed to the buyer.

1.7 Transactions with the Government as Owner

Equity injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) are recognised directly in Contributed Equity in that year.

Restructuring of Administrative Arrangements

Net assets received from or relinquished to another Australian Government agency or authority under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

Other distributions to owners

The FMO require that distributions to owners be debited to Contributed Equity unless in the nature of a dividend.

1.8 Employee Benefits

Liabilities for services rendered by employees are recognised at the reporting date to the extent that they have not been settled.

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits due within twelve months of balance date are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

All other employee benefit liabilities are measured at the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the Tribunal is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that applied at the time the leave is taken, including the Tribunal's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave is recognised and measured, using the method include in the FMO, at the present value of the estimated future cash flows to be made in respect of all employees at 30 June 2009. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Separation and Redundancy

Provision is made for separations and redundancy benefit payments. The Tribunal recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

Superannuation

Most members and staff of the Tribunal are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) and the PSS Accumulation Plan (PSSap).

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported by the Department of Finance and Deregulation as an administered item.

The Tribunal makes employer contributions to the employee superannuation schemes at rates determined by an actuary to be sufficient to meet the cost to the Government of the superannuation entitlements of the Tribunal's employees. The Tribunal accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised at 30 June represents outstanding contributions for the final fortnight of the year.

1.9 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased non-current assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

The Tribunal does not have any finance leases. Operating lease payments are expensed on a straight line basis which is representative of the pattern of benefits derived from the leased assets.

Lease incentives taking the form of 'free' leasehold improvements and rent holidays are recognised as liabilities. These liabilities are reduced by allocating lease payments between rental expense and reduction of the liability over the term of the related lease (refer Note 8).

1.10 Cash

Cash and cash equivalents includes notes and coins held and any deposits held at call with a bank or financial institution. Cash is recognised at its nominal amount.

1.11 Financial Assets

The Tribunal's financial assets are all classified as 'loans and receivables'. The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition.

Financial assets are recognised and derecognised upon 'trade date'.

Effective Interest Method

The effective interest method is a method of calculating the amortised cost of a financial asset and of allocating interest income over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset, or, where appropriate, a shorter period.

Income is recognised on an effective interest rate basis except for financial assets that are recognised at fair value through profit or loss.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Loans and Receivables

Trade receivables, loans and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. They are included in current assets, except for maturities greater than 12 months after the balance sheet date. These are classified as non current assets. Loans and receivables are measured at amortised cost using the effective interest method less impairment. Interest is recognised by applying the effective interest rate.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any allowance for impairment. Collectability of debts is reviewed at balance date. Provisions are made when collectability of the debt is no longer probable.

1.12 Financial Liabilities

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities. Financial liabilities are recognised and derecognised upon 'trade date'.

Financial liabilities at fair value through profit or loss

Financial liabilities at fair value through profit or loss are initially measured at fair value. Subsequent fair value adjustments are recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest paid on the financial liability.

Other financial liabilities

Other financial liabilities are initially measured at fair value, net of transaction costs.

Other financial liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective yield basis.

The effective interest method is a method of calculating the amortised cost of a financial liability and of allocating interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments through the expected life of the financial liability, or, where appropriate, a shorter period.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

1.13 Contingent Liabilities and Contingent Assets

Contingent liabilities and contingent assets are not recognised in the Balance Sheet but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset, or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but no virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

1.14 Financial Guarantee Contracts

Financial guarantee contracts are accounted for in accordance with AASB139 *Financial Instruments: Recognition and Measurement*. They are not treated as a contingent liability, as they are regarded as financial instruments outside the scope of AASB137 *Provisions, Contingent Liabilities and Contingent Assets*. The Tribunal currently has no financial guarantee contracts.

1.15 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate. The Tribunal does not own any land and buildings.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and revenues at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor agency's accounts immediately prior to the restructuring.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

1.16 Leasehold Improvements, Plant and Equipment**Asset Recognition Threshold**

Purchases of leasehold improvements, plant and equipment are recognised initially at cost in the Balance Sheet, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'makegood' provisions in property leases taken up by the Tribunal where there exists an obligation to restore the property to its original condition. These costs are included in the value of the Tribunal's leasehold improvements with a corresponding provision for the 'makegood' recognised.

Revaluations

Fair values for each class of asset are determined as shown below:

Asset class	Fair value measured at
Leasehold improvements	Depreciated replacement cost
Plant and equipment	Market selling price

Following initial recognition at cost, plant and equipment are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not materially differ with the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that reverses a previous revaluation decrement of the same asset class that was previously recognised through the operating result. Revaluation decrements for a class of assets are recognised directly through the operating result except to the extent that they reverse a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated at the revalued amount.

Depreciation

Depreciable plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the Tribunal using, in all cases, the straight-line method of depreciation. Leasehold improvements are depreciated on a straight-line basis over the lesser of the estimated useful life of the improvements or the unexpired period of the lease.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2009	2008
Leasehold improvements (fitout)	Lease term	Lease term
Plant and equipment	3-20 years	3-20 years

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Impairment

All assets were assessed for impairment at 30 June 2009. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent of the asset's ability to generate future cash flows, and the asset would be replaced if the Tribunal were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

No indicators of impairment were found for assets at fair value.

1.17 Intangibles

The Tribunal's intangibles comprise externally purchased software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses. Software is amortised on a straight-line basis over their anticipated useful lives. The useful lives of the Tribunal's software is 3 to 5 years (2008: 3 to 5 years).

All software assets were assessed for indications of impairment as at 30 June 2009. No indications of impairment were found for intangible assets.

1.18 Taxation

The Tribunal is exempt from all forms of taxation except fringe benefits tax (FBT) and the goods and services tax (GST).

Revenues, expenses and assets are recognised net of GST:

- except where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- except for receivables and payables.

1.19 Foreign Currency

Transactions denominated in a foreign currency are converted at the exchange rate at the date of the transaction. Foreign currency receivables and payables are translated at the exchange rate current as at balance date. Associated currency gains and losses are not material.

1.20 Insurance

The Tribunal has insured against risks through the Government's insurable risk managed fund, called 'Comcover'. Workers compensation is insured through Comcare Australia.

1.21 Reporting of Administered Activities

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Schedule of Administered Items and related notes.

Except where otherwise stated below, administered items are accounted for on the same basis and using the same policies as for departmental items, including the application of Australian Accounting Standards.

Administered Cash Transfers to and from Official Public Account

Revenue collected by the Tribunal for use by the Government rather than the Tribunal is administered revenue. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance and Deregulation. Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by the Tribunal on behalf of the Government and reported as such in the Statement of Cash Flows in the Schedule of Administered Items and in the Administered Reconciliation Table in Note 19. Thus the Schedule of Administered Items largely reflects the Government's transactions, through the Tribunal, with parties outside the Government.

Administered Revenue and Expenditure

The major financial activities of the Tribunal are the collection of fees payable on lodging with the Tribunal of an application for a review of a decision, other than in income maintenance matters. On matters other than income maintenance, applicants may apply for a waiver of the fee under regulation 19(6) of the *Administrative Appeals Tribunal Regulations 1976*.

Applications deemed to be successful may result in a refund of the fee paid.

Fees are refunded in whole if the proceedings terminate in a manner favourable to the applicant except for Small Taxation Claims Tribunal applications where a smaller once-only fee is payable irrespective of the outcome of the decision.

Note 2: Events after the Balance Sheet Date

There were no significant events occurring after the balance date.

Note 3: Income

	2009 \$'000	2008 \$'000
Revenue		
Note 3A: Revenue from Government		
Appropriations:		
Departmental outputs	32,267	32,215
Total revenue from government	32,267	32,215
Note 3B: Sale of goods and rendering of services		
Rendering of services – related entities	668	621
Rendering of services – external entities	361	500
Total sale of goods and rendering of services	1,029	1,121
Gains		
Note 3C: Other gains		
Resources received free of charge	37	36
Liabilities assumed by other departments	337	294
Total other gains	374	330
Note 4: Expenses		
Note 4A: Employee benefits		
Wages and salaries	16,056	15,440
Superannuation		
Defined contribution plans	2,238	2,377
Defined benefit plans	462	585
Leave and other entitlements	1,520	1,626
Separation and redundancies	74	60
Total employee benefits	20,350	20,088
Note 4B: Suppliers		
Provision of goods – related entities	-	-
Provision of goods – external entities	346	400
Rendering of services – related entities	430	301
Rendering of services – external entities	5,621	6,073
Operating lease rentals:		
Minimum lease payments	4,972	5,025
Workers compensation premiums	143	129
Total supplier expenses	11,512	11,928

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2009 \$'000	2008 \$'000
Note 4C: Depreciation and amortisation		
Depreciation:		
Leasehold improvements, plant and equipment	1,329	1,129
Total depreciation	1,329	1,129
Intangibles:		
Computer software	109	97
Total amortisation	109	97
Total depreciation and amortisation	1,438	1,226
Note 4D: Write down and impairment of assets		
Revaluation decrement – non-financial assets	-	224
Total write-down and impairment of assets	-	224
Note 4E: Losses from assets sales		
Infrastructure, plant and equipment		
Proceeds from sale	-	-
Carrying value of assets sold	2	2
Selling expense	-	-
Total losses from assets sales	2	2
Note 5: Financial Assets		
Note 5A: Cash and cash equivalents		
Cash on hand or on deposit	500	466
Total cash and cash equivalents	500	466
Note 5B: Trade and other receivables		
Goods and services – related entities	98	28
Goods and services – external parties	14	147
Total receivables for goods and services	112	175
Appropriations receivable:		
for existing outputs	9,470	8,000
Total appropriations receivable	9,470	8,000
GST receivable from the Australian Taxation Office	126	130
Total other receivables	126	130
Total trade and other receivables (gross)	9,708	8,305
Receivables are represented by:		
Current	9,708	8,305
Non-current	-	-
Total trade and other receivables (gross)	9,708	8,305

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Note 5: Financial Assets (continued)

	2009 \$'000	2008 \$'000
Receivables are aged as follows:		
Not overdue	9,704	8,291
Overdue by:		
Less than 30 days	4	7
30 to 60 days	-	4
60 to 90 days	-	3
More than 90 days	-	-
	4	14
Total receivables (net)	9,708	8,305
Note 6: Non-Financial Assets		
Note 6A: Leasehold improvements		
Fair value	7,343	7,617
Accumulated depreciation	-	-
Total leasehold improvements	7,343	7,617
Note 6B: Plant and equipment		
Gross carrying value (at fair value)	1,379	1,302
Accumulated depreciation	-	-
Total plant and equipment	1,379	1,302

All revaluations are in accordance with the revaluation policy stated in Note 1.16. On 30 June 2009, an independent valuer, the Australian Valuation Office, conducted the revaluations. The revaluation indicated no change in leasehold improvements for 2009 (2008: \$333,699 increment) and no change for plant and equipment (2008: \$223,640 decrement).

No indicators of impairment were found for leasehold improvements, plant and equipment.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Note 6C: Analysis of property, plant, and equipment

TABLE A – Reconciliation of the opening and closing balances of leasehold improvements, plant and equipment (2008–09)

	Leasehold Improvements \$'000	Plant and Equipment \$'000	TOTAL \$'000
As at 1 July 2008			
Gross book value	7,617	1,302	8,919
Accumulated depreciation/amortisation and impairment	-	-	-
Net book value 1 July 2008	7,617	1,302	8,919
Additions:			
by purchase	777	148	925
by purchase (partially complete)	-	209	209
Revaluation and impairments through equity	-	-	-
Revaluation of makegood	-	-	-
Depreciation/amortisation expense	(1,051)	(278)	(1,329)
Impairment recognised in the operating result	-	-	-
Disposals:			
other disposals	-	(2)	(2)
Net book value 30 June 2009	7,343	1,379	8,722
Net book value as at 30 June 2009 represented by:			
Gross book value	7,343	1,379	8,722
Accumulated depreciation/amortisation and impairment	-	-	-
	7,343	1,379	8,722

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Note 6C: Analysis of property, plant, and equipment (continued)

TABLE A – Reconciliation of the opening and closing balances of leasehold improvements, plant and equipment (2007–08)

	Leasehold Improvements \$'000	Plant and Equipment \$'000	TOTAL \$'000
As at 1 July 2007			
Gross book value	6,637	1,700	8,337
Accumulated depreciation/amortisation and impairment	-	-	-
Net book value 1 July 2007	6,637	1,700	8,337
Additions:			
by purchase	1,452	109	1,561
by purchase (partially complete)	42	-	42
Revaluation and impairments through equity	334	(224)	110
Revaluation of makegood	-	-	-
Depreciation/amortisation expense	(848)	(281)	(1,129)
Impairment recognised in the operating result	-	-	-
Disposals:			
other disposals	-	(2)	(2)
Net book value 30 June 2008	7,617	1,302	8,919
Net book value as at 30 June 2008 represented by:			
Gross book value	7,617	1,302	8,919
Accumulated depreciation/amortisation and impairment	-	-	-
	7,617	1,302	8,919
	2009	2008	
	\$'000	\$'000	
Note 6D: Intangibles			
Computer software at cost	1,399	1,407	
Accumulated amortisation	(1,098)	(1,005)	
Total intangibles (non-current)	301	402	

No indicators of impairment were found for intangible assets.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

TABLE B – Reconciliation of the opening and closing balances of intangibles (2008–09).

Item	Computer software purchased \$'000	Total \$'000
As at 1 July 2008		
Gross book value	1,407	1,407
Accumulated depreciation/amortisation and impairment	(1,005)	(1,005)
Net book value 1 July 2008	402	402
Additions:		
by purchase or internally developed	8	8
Amortisation	(109)	(109)
Write-off		
Gross value of assets written off	(16)	(16)
Accumulated depreciation	16	16
Net book value 30 June 2009	301	301
Net book value as of 30 June 2009 represented by:		
Gross book value	1,399	1,399
Accumulated depreciation/amortisation and impairment	(1,098)	(1,098)
	301	301

TABLE B – Reconciliation of the opening and closing balances of intangibles (2007–08).

Item	Computer software purchased \$'000	Total \$'000
As at 1 July 2007		
Gross book value	1,317	1,317
Accumulated depreciation/amortisation and impairment	(908)	(908)
Net book value 1 July 2007	409	409
Additions:		
by purchase (partially complete)	90	90
Amortisation	(97)	(97)
Net book value 30 June 2008	402	402
Net book value as of 30 June 2008 represented by:		
Gross book value	1,407	1,407
Accumulated depreciation/amortisation and impairment	(1,005)	(1,005)
	402	402

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2009 \$'000	2008 \$'000
Note 6E: Other non-financial assets		
Salary advances	4	4
Prepayments	1,929	1,881
Total other non-financial assets	1,933	1,885

All other non-financial assets are current assets.
No indicators of impairment were found for other non-financial assets.

Note 7: Payables**Note 7A: Suppliers**

Trade creditors	1,262	906
Total supplier payables	1,262	906

All supplier payables are current liabilities. Settlement is usually made 30 days from receipt of invoice.

Note 8: Non-Interest Bearing Liabilities

Lease incentives	903	1,102
Total non-interest bearing liabilities	903	1,102
Current		
	243	200
Non-current		
	660	902
Total non-interest bearing liabilities	903	1,102

Note 9: Provisions**Note 9A: Employee provisions**

Salaries and wages	646	535
Leave	4,443	4,007
Superannuation	740	628
Separation and redundancies	-	-
Other	34	31
Total employee provisions	5,863	5,201
Employee provisions are represented by:		
Current	5,303	4,668
Non-current	560	533
Total employee provisions	5,863	5,201

The classification of current employee provisions includes amounts for which there is not an unconditional right to defer settlement by one year, hence in the case of employee provisions the above classification does not represent the amount expected to be settled within one year of reporting date. Employee provisions expected to be settled in twelve months from the reporting date is \$2,768,156 (2008: \$1,781,604), in excess of one year \$3,095,266 (2008: \$3,419,546).

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2009 \$'000	2008 \$'000
Note 9B: Other provisions		
Restoration obligations	385	385
Total other provisions	385	385
All other provisions are non-current liabilities.		
	Provision for restoration \$'000	Total \$'000
Carrying amount 1 July 2008	385	385
Additional provisions made	-	-
Amount used	-	-
Amounts reversed	-	-
Unwinding of discount or change in the discount rate	-	-
Closing balance 2009	385	385

The Tribunal currently has two agreements for the leasing of premises which have provisions requiring the Tribunal to restore the premises to their original condition at the conclusion of the lease. The Tribunal has made provision to reflect the present value of this obligation.

Note 10: Cash Flow Reconciliation**Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement****Report cash and cash equivalents as per:**

Cash Flow Statement	500	466
Balance Sheet	500	466
Difference	-	-

Reconciliation of operating result to net cash from operating activities:

Operating result	368	198
Depreciation/amortisation	1,438	1,226
Net write-down of non-financial assets	-	224
Loss on disposal of assets	2	2
(Increase)/decrease in net receivables	(1,403)	(906)
(Increase)/decrease in prepayments	(48)	(4)
Increase/(decrease) in employee provisions	662	405
Increase/(decrease) in supplier payables	356	46
Increase/(decrease) in other liabilities	(199)	(17)
Net cash from/(used by) operating activities	1,176	1,174

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Note 11: Contingent Liabilities and Assets**Quantifiable Contingencies**

At 30 June 2009 the Tribunal has no quantifiable contingent liabilities (2008: Nil).

Unquantifiable or Remote Contingencies

At 30 June 2009, the Tribunal has not identified any unquantifiable or remote contingencies (2008: Nil).

Note 12: Senior Executive Remuneration

The number of senior executives who received or were due to receive total remuneration of \$130,000 or more

	2009	2008
\$145,000 to \$159,999		1
\$160,000 to \$174,999	1	-
\$205,000 to \$219,999	-	-
\$220,000 to \$234,999	-	-
\$250,000 to \$264,999	1	1
Total	2	2

The aggregate amount of total remuneration of senior executives shown above.

\$431,999	\$405,038
------------------	------------------

The aggregate amount of separation and redundancy/termination benefit payments during the year to executives shown above.

-	-
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Note 13: Remuneration of Auditors

	2009 \$'000	2008 \$'000
Financial statement audit services are provided free of charge to the Tribunal.		
The fair value of the audit services provided to the Tribunal was:	37	36
	37	36

No other services were provided by the Auditor-General.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Note 14: Financial Instruments

	2009 \$'000	2008 \$'000
Note 14A: Categories of financial instruments		
Financial assets		
Loans and receivables		
Cash and cash equivalents	500	466
Trade receivables	112	175
Carrying amount of financial assets	612	641
Financial liabilities		
Other liabilities		
Payables - suppliers	1,262	906
Carrying amount of financial liabilities	1,262	906

Note 14B: Net income and expense from financial assets

The Tribunal had no income or expense in relation to financial assets in the year ending 2009 (2008: nil)

Note 14C: Net income and expense from financial liabilities

The Tribunal had no income or expense in relation to financial liabilities in the year ending 2009 (2008: nil)

Note 14D: Credit risk

The Tribunal is exposed to minimal credit risk as loans and receivables are cash and trade receivables. The maximum exposure to credit risk is the risk that arises from potential default of a debtor. This amount is equal to the total amount of trade receivables (2009: \$112,033 and 2008: \$175,417). The Tribunal has assessed the risk of the default on payment and has allocated nil in 2009 (2008: nil) to an impairment allowance account.

The Tribunal manages its credit risk by limiting the extension of credit to customers, acting promptly to recover past due amounts and withholding credit from defaulting customers until accounts are returned to normal terms. In addition, the Tribunal has policies and procedures that guide employees debt recovery activities including the use of debt collection agents if required.

The Tribunal has no significant exposures to any concentrations of credit risk with particular customers and does therefore not require collateral to mitigate against credit risks.

Credit quality of financial instruments not past due or individually determined as impaired

	Not Past Due Nor Impaired 2009 \$'000	Not Past Due Nor Impaired 2008 \$'000	Past Due or Impaired 2009 \$'000	Past Due or Impaired 2008 \$'000
Loans and receivables				
Cash and cash equivalents	500	466	-	-
Trade receivables	108	161	4	14
Total	608	627	4	14

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Ageing of financial assets that are past due but not impaired for 2009

	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	90+ days \$'000	Total \$'000
Loans and receivables					
Trade receivables	4	-	-	-	4
Total	4				4

Ageing of financial assets that are past due but not impaired for 2008

	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	90+ days \$'000	Total \$'000
Loans and receivables					
Trade receivables	7	4	3	-	14
Total	7	4	3	-	14

Note 14E: Liquidity risk

The Tribunal's financial liabilities are supplier payables. The exposure to liquidity risk is based on the notion that the Tribunal will encounter difficulty in meeting its obligations associated with financial liabilities. This is highly unlikely due to appropriation funding and mechanisms available to the Entity (e.g. Advance to the Finance Minister) and internal policies and procedures put in place to ensure there are appropriate resources to meet its financial obligations. The Tribunal is appropriated funding from the Australian Government and manages its budgeted funds to ensure it is able to meet payments as they fall due. Policies are in place to ensure timely payment are made when due and there have been no past experience of defaults.

The following tables illustrates the maturities for financial liabilities

	On demand 2009 \$'000	Within 1 year 2009 \$'000	1 to 5 years 2009 \$'000	> 5 Years 2009 \$'000	Total 2009 \$'000
Other liabilities					
Suppliers	-	1,262	-	-	1,262
Total	-	1,262	-	-	1,262

	On demand 2008 \$'000	Within 1 year 2008 \$'000	1 to 5 years 2008 \$'000	> 5 Years 2008 \$'000	Total 2008 \$'000
Other liabilities					
Suppliers	-	906	-	-	906
Total	-	906	-	-	906

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Note 14F: Market risk

The Tribunal holds basic financial instruments that do not expose it to certain market risks. The Tribunal is not exposed to 'Currency risk', 'Interest rate risk' or 'Other price risk'.

Notes to the Schedule of Administered Items**Note 15: Income Administered on Behalf of the Government**

	2009 \$'000	2008 \$'000
<i>Revenue</i>		
Filing fees	523	627
Total revenue	523	627

Note 16: Expenses Administered on Behalf of the Government

	2009 \$'000	2008 \$'000
<i>Expenses</i>		
Refund of filing fees	372	460
Total expenses	372	460

Note 17: Assets Administered on Behalf of the Government

There were no administered assets as at 30 June 2009, (2008: Nil).

Note 18: Liabilities Administered on Behalf of the Government

There were no administered liabilities as at 30 June 2009, (2008: Nil).

Note 19: Administered Reconciliation Table

	2009 \$'000	2008 \$'000
Opening administered assets less administered liabilities as at 1 July	-	-
Plus: Administered income	523	627
Less: Administered refunds	(372)	(460)
Administered transfers to/from Australian Government:		
Appropriation transfers from OPA	372	460
Transfers to OPA	(523)	(627)
Closing administered assets less administered liabilities as at 30 June	-	-

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Note 20: Contingent Assets Administered on Behalf of the Government

There were no administered contingent assets as at 30 June 2009, (2008: Nil).

Note 21: Contingent Liabilities Administered on Behalf of the Government

There were no administered contingent liabilities as at 30 June 2009, (2008: Nil).

Note 22: Investments Administered on Behalf of the Government

There were no administered investments as at 30 June 2009, (2008: Nil).

Note 23: Financial Instruments Administered on Behalf of the Government

There were no administered Financial Instruments as at 30 June 2009, (2008: Nil).

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Note 24: Appropriations

Table A: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations

Particulars	Departmental Outputs		Total	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Balance carried from previous period	8,466	7,832	8,466	7,832
Appropriation Act:				
Appropriation Act (No.1)	31,849	31,766	31,849	31,766
Appropriation Act (No.3)	418	449	418	449
Comcover receipts (Appropriation Act s12)	-	-	-	-
FMA Act:				
Refunds credited (FMA s30)	101	116	101	116
Appropriations to take account of recoverable GST (FMA s30A)	1,175	1,339	1,175	1,339
Annotations to 'net appropriations' (FMA s31)	1,096	1,075	1,096	1,075
Total appropriations available for payments	43,105	42,577	43,105	42,577
Cash payments made during the year (GST inclusive)	(33,135)	(34,111)	(33,135)	(34,111)
Appropriations credited to Special Accounts (GST exclusive)	-	-	-	-
Balance of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations and as represented by:	9,970	8,466	9,970	8,466
Cash at bank and on hand	500	466	500	466
Departmental appropriations receivable	9,470	8,000	9,470	8,000
Total as at 30 June	9,970	8,466	9,970	8,466

Departmental and non-operating appropriations do not lapse at financial year end. However, the responsible Minister may decide that part or all of a departmental or non-operating appropriation is not required and request the Minister for Finance and Deregulation to reduce that appropriation. The reduction in the appropriation is effected by the Minister for Finance and Deregulation's determination and is disallowable by Parliament.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Note 24: Appropriations (continued)

Table B: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Other than Ordinary Annual Services Appropriations

Particulars	Non-operating Equity		Total	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Balance carried from previous period (Appropriation Acts)	-	-	-	-
Appropriation Act:				
Appropriation Act (No.2)	-	293	-	293
FMA Act:				
Refunds credited (FMA s30)				
Appropriations to take account of recoverable GST (FMA s30A)	-	29	-	29
Total appropriations available for payments	-	322	-	322
Cash payments made during the year (GST inclusive)	-	(322)	-	(322)
Appropriations credited to Special Accounts (GST exclusive)	-	-	-	-
Balance of Authority to Draw Cash from the Consolidated Revenue Fund for Other than Ordinary Annual Services Appropriations	-	-	-	-

Table C: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund – Special Appropriations (Unlimited Amount)

<i>Financial Management and Accountability Act 1997</i> section 28	2009 \$'000	2008 \$'000
Cash payments made during the year	372	460
Estimated actual	600	600

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Note 25: Special Accounts

The Administrative Appeals Tribunal has not recorded any transaction through any Special Accounts for the year ended 30 June 2009 (2008: Nil).

Note 26: Compensation and Debt Relief

	2009 \$	2008 \$
<i>Administered</i>		
No 'Act of Grace' payments, waivers of debt, ex gratia payments, Compensation for Detriment caused by Defective Administration Scheme payments or special circumstances payments pursuant to section 73 of the <i>Public Service Act 1999</i> were made during the reporting period.	Nil	Nil
(2008: nil)		
<i>Departmental</i>		
No 'Act of Grace' payments, waivers of debt, ex gratia payments, Compensation for Detriment caused by Defective Administration Scheme payments or special circumstances payments pursuant to section 73 of the <i>Public Service Act 1999</i> were made during the reporting period.	Nil	Nil
(2008: nil)		

Note 27: Reporting of Outcomes

The Tribunal has only one outcome which is described in note 1.1.

Note 27A: Net Cost of Outcome Delivery

	Total	
	2009 \$'000	2008 \$'000
Expenses		
Administered	372	460
Departmental	33,302	33,468
Total expenses	33,674	33,928
Costs recovered from provision of goods and services to the non-government sector		
Administered	-	-
Departmental	361	500
Total costs recovered	361	500
Other external revenues		
Administered	523	627
Departmental	668	621
Total other external revenues	1,191	1,248
Net cost/(contribution) of outcome	32,122	32,180

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Note 27B: Major Classes of Departmental Revenues and Expenses by Output Group and Outputs

The Tribunal has only one output group.

	Total	
	2009 \$'000	2008 \$'000
Departmental expenses		
Employees	20,350	20,088
Suppliers	11,512	11,928
Depreciation and amortisation	1,438	1,226
Other expenses	2	226
Total departmental expenses	33,302	33,468
Funded by:		
Revenues from government	32,267	32,215
Sale of goods and services	1,029	1,121
Other gains	374	330
Total departmental income	33,670	33,666

Note 27C: Major Classes of Administered Revenues and Expenses by Outcomes.

The Tribunal has only one output group which is described in note 1.1.

	Total Outcome 1	
	2009 \$'000	2008 \$'000
Administered Income		
Fees & fines	523	627
Total Administered Income	523	627
Administered Expenses		
Refund of fees and fines	(372)	(460)
Total Administered Expenses	(372)	(460)

APPENDIXES

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APPENDIX 1: MEMBERS OF THE TRIBUNAL

Tribunal members, 30 June 2009

President The Honourable Justice GK Downes AM

New South Wales

Presidential members

Federal Court The Honourable Justice ACB Bennett AO
The Honourable Justice RF Edmonds
The Honourable Justice RJ Buchanan

Deputy Presidents Deputy President J Block
Deputy President GDdeQ Walker
Deputy President BJM Tamberlin QC

Non-presidential members

Senior Members Senior Member MD Allen (G,V,T,S)
Senior Member G Ettinger (G,V,T,S)
Senior Member NP Bell (G,V,S)
Senior Member R Hunt (G,V,T,S)
Senior Member JC Kelly (G,V)
Senior Member N Isenberg (G,V,S)
Senior Member PW Taylor SC (G,V,T)

Members Dr IS Alexander (G,V)
Dr JD Campbell (G,V)
Mr DM Connolly AM (G,V,S)
Mr SE Frost (G,V,T)
Dr TJ Hawcroft (G,V)
Mr TC Jenkins (G,V,T)
Professor GAR Johnston (G,V)
Dr TM Schafer (G,V)
Professor TM Sourdin (G,V)
Dr SH Toh (G,V)

Note

Presidential members and Senior Members are listed according to their date of appointment, while Members are listed alphabetically.

Presidential members may exercise the powers of the Tribunal in all of the Tribunal's divisions. Senior Members and Members may exercise the powers of the Tribunal only in the divisions to which they have been assigned. The divisions to which Senior Members and Members have been assigned are indicated as follows:

- G General Administrative Division
- V Veterans' Appeals Division
- T Taxation Appeals Division
- S Security Appeals Division

Victoria

Presidential members

Federal Court The Honourable Justice PRA Gray

Family Court The Honourable Justice N Mushin

Deputy Presidents Deputy President SA Forgie
Deputy President GL McDonald

Non-presidential members

Senior Members Senior Member JR Handley (G,V,T)
Senior Member BH Pascoe (G,V,T)
Senior Member GD Friedman (G,V,S)

Members Dr KJ Breen AM (G,V)
Brigadier C Ermert (Rtd) (G,V)
Mr E Fice (G,V,T)
Dr GL Hughes (G,V,T)
Dr RJ McRae (G,V)
Ms RL Perton (G,V,S)
Miss EA Shanahan (G,V)

Queensland

Presidential members

Federal Court The Honourable Justice JEJ Spender
The Honourable Justice AP Greenwood

Family Court The Honourable Justice JPO Barry

Deputy President Deputy President PE Hack SC
Deputy President B McPherson CBE

Non-presidential members

Senior Members Senior Member BJ McCabe (G,V,T)
Senior Member PM McDermott RFD (G,V,T)
Senior Member MJ Carstairs (G,V,T)
Senior Member KStC Levy RFD (G,V,T)
Senior Member SA Karas AO (G,V,S)

Members Dr ML Denovan (G,V)
Mr SC Fisher (G,V,T)
Mr RG Kenny (G,V,T)
Dr GJ Maynard, Brigadier (Rtd) (G,V)
Associate Professor JB Morley RFD (G,V)

South Australia**Presidential members**

Federal Court	The Honourable Justice BT Lander
Family Court	The Honourable Justice CE Dawe
Deputy President	Deputy President DG Jarvis

Non-presidential members

Senior Members	Senior Member L Hastwell (G,V) Senior Member RW Dunne (G,V,T)
Members	Mr S Ellis AM (G,V,S) Dr ET Eriksen (G,V) Professor PL Reilly AO (G,V) Mr JG Short (G,V,T)

Western Australia**Presidential members**

Federal Court	The Honourable Justice AN Siopis
Deputy President	Deputy President SD Hotop Deputy President RD Nicholson AO

Non-presidential members

Senior Members	Senior Member S Penglis (G,V,T) Senior Member A Sweidan (G,V,T)
Members	Mr WG Evans (G,V) Dr PA Staer (G,V) Ms LR Tovey (G,V) Brigadier AG Warner AM LVO (Rtd) (G,V,S) Dr HAD Weerasooriya (G,V)

Tasmania**Presidential members**

Family Court	The Honourable Justice RJC Benjamin
Deputy Presidents	Deputy President CR Wright QC Deputy President RJ Groom

Non-presidential members

Senior Member	Senior Member AF Cunningham (G,V,T)
Member	Dr RJ Walters (G,V)

Australian Capital Territory**Presidential members**

Family Court	The Honourable Justice MM Finn
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Non-presidential members

Senior Member	Senior Member JW Constance (G,V,T,S)
Members	Air Vice Marshal F Cox AO (Rtd) (G,V) Dr MD Miller AO (G,V) Mr S Webb (G,V,T) Dr P Wilkins (G,V)

Changes to appointments in 2008–09

New appointments during the year to 30 June 2009 were:

- The Honourable Justice RJ Buchanan, Part-time presidential member
- The Honourable BJM Tamberlin QC, Part-time Deputy President

The following persons ceased to be members during the reporting year:

- The Honourable Justice RS French
- The Honourable Justice RV Gyles AO
- The Honourable Justice PC Heerey
- Rear Admiral AR Horton AO RAN (Rtd)

MEMBER PROFILES

The Honourable Justice Garry Downes AM

BA LLB FCIArb

President

Justice Downes was appointed a Judge of the Federal Court and President of the Administrative Appeals Tribunal in 2002. He is also a judge of the Supreme Court of Norfolk Island. He is Co-President of l'Association Internationale des Hautes Juridictions Administratives (International Association of Supreme Administrative Jurisdictions).

He was called to the Australian Bar in 1970 and appointed Queen's Counsel in 1983. He was also a member of the English Bar. His practice was concentrated on commercial law, administrative law and international arbitration.

Justice Downes is the immediate past Chair of the Council of Australasian Tribunals and was a member of the Council of the Australasian Institute of Judicial Administration. He was Chairman of the Federal Litigation Section of the Law Council of Australia and Chairman of its Administrative Law Committee.

He has served international and national organisations in various capacities, including as President of the Union Internationale des Avocats, Founder and Patron of the Anglo-Australasian Lawyers' Society, Chairman of the Chartered Institute of Arbitrators Australia, Member of the International Court of Arbitration of the International Chamber of Commerce, Member of the Council of the NSW Bar Association and Chairman of the NSW Council of Law Reporting.

Dr Ion Alexander

MBBS (Hons) LLB MRACMA FRACP FJFICM

Part-time Member, NSW

Ion Alexander was appointed as a Member of the AAT in August 2004. He is a Senior Staff Specialist and Clinical Director at Sydney Children's Hospital at Randwick. He has been a member of the Health Care Complaints Peer Review Panel since 1997 and the Professional Services Review Panel since 2001.

Dr Alexander was a member of the Organising Committee for the 2010 AAT National Conference in 2008-09.

Mason Allen RFD

Barrister-at-Law

Full-time Senior Member, NSW

After admission in 1968, Mason Allen served with the Australian Army Legal Corps in South Vietnam and Papua New Guinea. He was a Solicitor, Common Law, with Brisbane City Council from 1970 to 1973 when he was appointed Crown Counsel in the office of the Tasmanian Solicitor-General. He was appointed Senior Crown Counsel in 1978. In 1980, he returned to private practice at the Queensland Bar with a commission to prosecute in both the Supreme and District Courts. He was appointed as a Senior Member of the Veterans' Review Board in 1985 and as a Senior Member with tenure of the AAT in 1988.

Narelle Bell

BA LLB

Full-time Senior Member, NSW

Narelle Bell was appointed to the AAT as a full-time Member in 2001 and a full-time Senior Member from 1 July 2004. She is a former legal member of the Social Security Appeals Tribunal (1994-2001), Judicial Member/Mediator with the New South Wales Administrative Decisions Tribunal (1994-2001), Consultant Reviewer with the Office of the Legal Services Commissioner (1995-2001), member of the Professional Standards Council of New South Wales and Western Australia and legal policy consultant. She worked as a corporate counsel and legal adviser (part-time) for the New South Wales State Rail Authority during 1994-95. From 1988 until 1994, she worked as a policy officer and assistant director in the Legislation and Policy Division of the New South Wales Attorney-General's Department. Prior to this, she worked as a solicitor at the Anti-Discrimination Board (1986-88), the Redfern Legal Centre (1983-86) and for a private law firm (1982-83).

Senior Member Bell was the AAT's Mentoring Coordinator and a member of the AAT's Professional Development Committee during 2008-09. She was also a member of the Executive Committee of the New South Wales Chapter of the Council of Australasian Tribunals.

Julian Block

HDIPLaw HDIPTax LLM MTax

Part-time Deputy President, NSW

Julian Block was originally admitted as a solicitor in South Africa and thereafter in the United Kingdom. He emigrated to Australia in March 1978 and joined Freehills in 1978, becoming a partner in 1980. He was appointed as a Senior Member of the AAT in 1995, full-time Deputy President in 2000 and a part-time Deputy President in 2001. He is a part-time Judicial Member of the New South Wales Administrative Decisions Tribunal. He is a part-time consultant to Morgan Lewis, Solicitors, and to Investec Bank. He is a member of the Executive of the Sydney International Piano Competition and Wagner Society and a patron of Opera Australia.

Deputy President Block was a managing member for tax schemes in 2008-09.

Dr Kerry Breen AM

MBBS MD FRACP

Part-time Member, Vic

Kerry Breen is a consultant physician in gastroenterology and has been a Member of the AAT since 2006. He has served as President of the Australian Medical Council and President of the Medical Practitioners Board of Victoria. From 2000 to 2006, he chaired the Australian Health Ethics Committee of the National Health and Medical Research Council.

Dr John Campbell

MBBS DTM&H MHA LLB LLM FRACMA FAICD FAIM

Part-time Member, NSW

John Campbell has been a Member of the AAT since 1991. He served in the Australian Army between 1962 and 1980 and as a senior executive in NSW Health between 1980 and 1998. In subsequent years, Dr Campbell has been involved as a director with NRMA (until 2001) and Mercy Family Life Centre (until 2003) and as Chairman of MA International Ltd, a health management consultancy company.

Dr Campbell was a member of the AAT's Professional Development Committee in 2008-09. He was also an adjudicator in the 2008 AAT Mooting Competition.

Margaret Carstairs

BA (Hons) LLB

Full-time Senior Member, Qld

Margaret Carstairs was appointed as a full-time Member of the AAT in 2001 and as a full-time Senior Member in November 2006. Prior to her appointment to the AAT, she was the Executive Director of the Social Security Appeals Tribunal (2000-01) and was a Senior Member of the Social Security Appeals Tribunal in Brisbane for four years from 1996. She has extensive experience in administrative law within Australian Government departments and was Coordinator of the Welfare Rights Centre in Brisbane from 1994 to 1995. She has lectured in public administration at the University of New England and has published in this area.

Senior Member Carstairs was an adjudicator in the 2008 AAT Mooting Competition.

David Connolly AM

BA (Syd) DipBS (Ceylon) FCPA (HM)

Part-time Member, NSW

David Connolly was appointed to the AAT as a part-time Member in August 2006. He served as a career diplomat in Colombo, the UN New York and Tel Aviv before his election to the House of Representatives as the member for Bradfield from 1974 to 1996. He was a consultant with Phillips Fox Lawyers and a Commonwealth adviser to the South African Parliament until 1998 when he was appointed Australia's High Commissioner to South Africa, Namibia, Botswana, Lesotho and Swaziland. On his return to Australia in 2003, Mr Connolly was appointed a Trustee/Director of the CSS/PSS now ARIA superannuation schemes and chairman of Rice Warner Actuaries. He was also a director of the Braidwood Rural Lands Protection Board until 2009. He is a part-time member of the Migration and Refugee Review Tribunals.

James Constance

BA LLB (Hons)

Full-time Senior Member, ACT

James Constance was appointed to the AAT in August 2004. He practised as a barrister and solicitor in the Australian Capital Territory and New South Wales from 1970 as an employed solicitor, sole practitioner and, for more than

22 years, as a partner in legal firms. Senior Member Constance graduated from the Australian National University with a Bachelor of Arts degree, a Bachelor of Laws with First Class Honours and the University Prize in Law in 1968. His legal experience encompasses administrative law, taxation law, employment law, family law, personal injury compensation, discrimination, wills and estates, mortgages and property, veterans' affairs, defamation, contracts, statutory interpretation, criminal law and coronial inquests.

Senior Member Constance was the Executive Deputy President for the Australian Capital Territory in 2008-09. He was a member of the AAT's Executive Deputy Presidents Committee, the Library Committee and the Practice and Procedure Committee. He was an adjudicator in the 2008 AAT Mooting Competition.

Air Vice Marshal Franklin (Frank) D Cox AO (Rtd)

Part-time Member, ACT

Frank Cox was appointed to the AAT on 24 August 2006. He trained with the Royal Australian Air Force (RAAF) as a pilot and held numerous flying and staff appointments during his military career. The last senior appointment he held was Assistant Chief of the Defence Force — Personnel.

Air Vice Marshal Cox is a graduate of the Royal College of Defence Studies (London) and the USAF Air War College. After service with the RAAF, he worked as a consultant in human resource management. He was appointed to the Defence Force Remuneration Tribunal in 1999 and held the position of ex-service member for a period of six years.

Air Vice Marshal Cox was a member of the AAT's Alternative Dispute Resolution Committee in 2008-09.

Ann Cunningham

LLB (Hons)

Part-time Senior Member, Tas

Ann Cunningham was appointed as a part-time Member of the AAT in 1995 and became a Senior Member on 1 July 2006. She is a Presiding Member of the Resource

Management and Planning Appeal Tribunal and Chairperson of the Board of the Public Trustee. Ms Cunningham is an accredited mediator and arbitrator and has worked as a mediator for the Supreme Court of Tasmania and the Magistrates Court. She worked as a barrister and solicitor in private practice for a number of years. Between 1984 and 1999, she was a Deputy Registrar of the Family Court of Australia.

Senior Member Cunningham was a member of the AAT's Alternative Dispute Resolution Committee in 2008-09. She was also an adjudicator for the moot finals held at the Australian Law Students' Association Conference in Hobart.

Dr Marella Denovan

BSc MBBS FRACGP JD

Part-time Member, Qld

Marella Denovan was appointed to the AAT in December 2005. She was a part-time medical adviser with the Department of Veterans' Affairs between 2000 and 2001 and a general practitioner in private practice between 1992 and 2001.

Dr Denovan holds a Bachelor of Science from Griffith University (1984), a Bachelor of Medicine/Bachelor of Surgery from the University of Queensland (1990), and a Juris Doctor from the University of Queensland (2004). She was awarded Fellowship of the Royal Australian College of General Practitioners in 2000.

Dr Denovan was an adjudicator in the 2008 AAT Mooting Competition.

Rodney (Rod) Dunne

LLB FCPA

Part-time Senior Member, SA

Rod Dunne was admitted as a barrister and solicitor of the Supreme Court of South Australia in October 1982 and is a qualified accountant. He was appointed to the AAT in June 2005. Senior Member Dunne continues to practise part-time as a partner in the Adelaide commercial law firm Donaldson Walsh, where he specialises in taxation and revenue law, superannuation and estate planning. He is a member of the Specialist

Taxation Committee of the Business Law Section of the Law Council of Australia and a Fellow of the Taxation Institute of Australia.

Senior Member Dunne is a former lecturer and tutor in income tax law as part of the commerce degree. He is also a past lecturer and examiner in taxation administration as part of the Master of Legal Studies degree with the law school at the University of Adelaide.

Stuart Ellis AM

BA Grad Dip Mgt Stud Grad Dip Strtgc Stud

Part-time Member, SA

Stuart Ellis was appointed as a Member of the AAT in 2006. He served with the Australian Army from 1975 to 1996. He was involved in a number of overseas deployments including to Somalia in 1994. He was subsequently appointed Chief Executive Officer of the Country Fire Service in South Australia before establishing his own consultancy business in 2002. Mr Ellis consults nationally on operational leadership and emergency management, including to the Australian Defence Force.

Dr Erik Eriksen

MBBS FRCS FRACS

Part-time Member, SA

Dr Erik Eriksen was appointed to the AAT in October 2002. From 1977 until 1998, he was a medical consultant and consultant surgeon at the Ashford Hospital. In 1976, he was a visiting specialist in Accident and Emergency at the Royal Adelaide Hospital. Dr Eriksen spent 1973 in Tanzania as a consultant and orthopaedic surgeon at Williamson Diamond Mine. From 1967 to 1971, he gained experience in the speciality of neurosurgery in the United Kingdom and the United States of America. He was until recently involved in rehabilitative orthopaedic medicine as a rehabilitation consultant.

Brigadier Conrad Ermert (Rtd)

MSc FIEAust CPEng

Part-time Member, Vic

Conrad Ermert has been a Member of the AAT since 1991. He is a practising engineering consultant. He had 31 years' service in the Australian Army, his last appointments being

Director General Electrical and Mechanical Engineering and Director General Logistics in the rank of Brigadier. From 1990 to 1995, he was Director of Facilities and Supply at the Alfred Group of Hospitals before establishing his consultancy practice. He is the Chairman of AMOG Holdings, Chairman of the AIF Malayan Nursing Scholarship, a past Chairman of the Victoria Division, Institution of Engineers, Australia and the current Chairman of Judges of the Institution's Excellence Awards.

Geri Ettinger

BA (Economics) LLB

Part-time Senior Member, NSW

Geri Ettinger was first appointed to the AAT in June 1991. She has worked both in the private and public sectors. She was Chief Executive of the Australian Consumers' Association, publisher of CHOICE Magazine, for more than 10 years and was for a long period, until mid 2002, a member of the Board of St George Bank.

Senior Member Ettinger first trained as a mediator approximately 20 years ago. She has been mediating and conciliating at the AAT as well as in commercial, equity, personal injury, medical negligence and workplace disputes since that time. In addition to undertaking regular additional training to keep up to date, she conducts ADR training for various organisations and private parties. She is an accredited mediator under the National Mediator Accreditation System.

Senior Member Ettinger sits as a member of the Medical Tribunal and chairs Professional Standards Committees on behalf of the New South Wales Medical Board in relation to disciplinary action regarding medical practitioners. She is a Mediator at the New South Wales Workers Compensation Commission. For many years, Senior Member Ettinger held appointments as a part-time member of the New South Wales Consumer, Trader and Tenancy Tribunal and its predecessor bodies (the Consumer Claims Tribunal, Building Disputes Tribunal and Fair Trading Tribunal).

Senior Member Ettinger participates in the work of various committees and advisory bodies, including the Dispute Resolution

Committee of the New South Wales Law Society. She was Chair of the Mediation Specialist Accreditation Committee of the New South Wales Law Society in 2008–09. She was the Deputy Chair of the AAT's Alternative Dispute Resolution Committee and was also a coordinator of the professional development program for members in Sydney.

Warren Evans psc

Grad Dip Logistics Mngt Cert Business Studies FAIM

Part-time Member, WA

Warren Evans was appointed as a Member of the AAT in September 2006. From 1967 until 1989, he served in the Australian Army, including in South Vietnam in 1970–71. During his service, Mr Evans undertook extensive and diversified training, gaining considerable experience across a number of disciplines, including aviation, administration, logistics, recruiting, Special Forces and intelligence. During 1978–79, he was Honorary Aide-de-Camp to Sir Roden Cutler VC, Governor of New South Wales. From 1986 to 1989, he was the Chairman of the Defence Armaments Committee and on the Steering Committee of Monash University's Logistics Degree Course. Retiring as a Lieutenant Colonel in 1989, Mr Evans became the State Manager (Logistics) for Myer Stores in Western Australia and then undertook several CEO appointments, directing several successful company recoveries.

After establishing his own company in 1996, Mr Evans has concentrated on corporate forensic intelligence work which has led to work with the federal and state governments on major projects, interspersed with private sector activity. From 1997 to 2000, he was on the supervisory staff of Curtin University with responsibility for students undertaking PhD studies in logistics management. He was also a member of the Western Australian Government's Aviation Training Advisory Committee, a member of the Western Australian Department of Main Roads Consultative Committee, a member of the Jandakot Airport Chamber of Commerce and a member of several flying clubs. From 2001 to 2005, Mr Evans held a senior appointment with the Defence Materiel Office, associated with the \$6 billion ANZAC Ship Project. In 2006, he was involved in the retention of Jandakot Airport

at its present site. In January 2007, Mr Evans was appointed Honorary Colonel of the Royal Australian Army Ordnance Corps — Western Region. He is an experienced company director, company secretary and business consultant. He has been a Fellow of the Australian Institute of Management since 1995.

Egon Fice

BBus (Bachelor of Business) LLB (Hons) LLM

Full-time Member, Vic

Egon Fice was appointed to the AAT as a part-time Member in 2003 and was appointed on a full-time basis from 29 August 2005. Prior to taking up his full-time appointment, Mr Fice was a partner in Charles Fice, Solicitors. He was a partner specialising in litigation in Phillips Fox from 1995 to 1998 and worked in insolvency and commercial litigation law from 1990 until 1995. From 1967 to 1980, he was a pilot in the Royal Australian Air Force before working as a pilot for eight years with Associated Airlines (BHP and CRA Corporate Airline).

Mr Fice was a member of the AAT's Alternative Dispute Resolution Committee during 2008–09. He was an adjudicator in the 2008 AAT Mooting Competition. He also acted as adviser to the committee drafting case scenarios for the Mooting Competition.

Simon Fisher

LLB (Hons) LLM

Part-time Member, Qld

Simon Fisher was appointed a Member of the AAT in 2004. From 2000 until his appointment to the AAT, he was a part-time member of the Social Security Appeals Tribunal.

Mr Fisher is a practising member of the Queensland Bar. His practice spans many areas, including administrative law and governmental law, competition law and corporate and securities law. He was a sessional lecturer at the TC Beirne School of Law at the University of Queensland, having previously been an Associate Professor of Law. He was previously a lecturer (1992–95) and senior lecturer (1995–99) in the Faculty of Law at the Queensland University of Technology and was a visiting fellow at the Australian National University in 1995.

Between 1992 and 2002, Mr Fisher practised as a solicitor and legal consultant at Praeger Batt, Solicitors, Ebsworth & Ebsworth, Solicitors, and Bowdens Lawyers. From 1981 until 1987, he worked for the Reserve Bank of Australia in various positions of a legal, policy and operational nature and, from 1980 until 1981, worked in the import/export area of the Banque Nationale de Paris.

Mr Fisher was a member of the Corporations Law Committee of the Law Council of Australia and a board member of several not-for-profit enterprises. He has published widely in the area of contract, personal property, commercial, company and associations law and the law of obligations. He has authored and co-authored a number of books, including one entitled *Churches, Clergy and the Law*.

Stephanie Forgie

LLB (Hons)

Full-time Deputy President, Vic

Stephanie Forgie was in private practice and lecturing and tutoring in the law of contract before becoming the Deputy Master of the Supreme Court of the Northern Territory. In that position, she gained considerable experience in court management. She built on and consolidated that experience when she later became the Registrar of the AAT. In the intervening years, she worked in various legal policy positions in the Attorney-General's Department in Canberra. She has been closely involved in the development of legislation such as the *Freedom of Information Act 1982*, the *Insurance Contracts Act 1984* and the *Federal Proceedings (Costs) Act 1981*. Her work on policy issues relating to international trade law and private international law led to her representing Australia at international meetings on these subjects and to her work on the implementation of the United Nations Convention on Contracts for the International Sale of Goods. Subsequently, she held the departmental position of Legal Adviser in the office of the then Deputy Prime Minister and Attorney-General, the Hon LF Bowen.

In September 1988, Deputy President Forgie was appointed to the AAT. Between 1993 and 1999, she also held part-time positions as a Deputy Chairperson of the Land Tribunal and

as a Member of the Land Court. Both were Queensland appointments. They gave her the opportunity to hear matters beyond the broad and diverse range that she has heard, and continues to hear, as Deputy President of the AAT. In addition to her casework, Deputy President Forgie has enjoyed the extensive opportunities she has previously been given to draw upon her management skills. She has been responsible for case management in the Queensland, Victorian and South Australian Registries and has been an active member of the AAT's various management committees over the years.

She has held various positions on professional associations, an arts council and a charitable organisation.

Graham Friedman

BEd LLB GradDipAdmin

Full-time Senior Member, Vic

Graham Friedman has been a member of the AAT since July 2001 and was appointed as a Senior Member in June 2005. He was a Senior Member of the Migration Review Tribunal from 1999 to 2001 and Chairman/Convenor of the Disciplinary Appeal Committee of the Public Service and Merit Protection Commission from 1993 to 2000. Prior to this, Senior Member Friedman practised at the Victorian Bar (1988–1993). He represented the Victorian Department of Human Services as Prosecutor, Child Protection, from 1993 to 1999. He was Chairman, Grievance Review Tribunal, Victorian Department of Conservation and Natural Resources from 1994 to 1996. He has previous experience in administrative law with the Australian Government Attorney-General's Department.

Senior Member Friedman was a member of the Organising Committee for the joint AAT and Law Council seminar, in June 2009.

Stephen Frost

BA (Hons) Dip Law (BAB)

Part-time Member, NSW

Stephen Frost was appointed to the AAT in August 2006. He was admitted as a legal practitioner in New South Wales in 1989, having been employed since 1977 by the Australian Taxation Office in Sydney and

Canberra. From 1989 until 2008, he was a tax practitioner in the private sector. From 1995 to 2008, he was a tax partner at KPMG. He is a nationally accredited mediator member of the Institute of Arbitrators & Mediators Australia.

The Honourable Raymond Groom

LLB

Part-time Deputy President, Tas

Raymond Groom has been a Deputy President of the AAT since July 2004. He was admitted to practice in the Supreme Court of Victoria in 1968 and Tasmania in 1970. He was a partner in the Tasmanian firm of Crisp Hudson & Mann and committee member of the Bar Association of Tasmania. He is a former Premier of Tasmania and Attorney-General of Tasmania. He was Chairman of the Australian Standing Committee of Attorneys-General, as well as Chairman of the Australian Housing Industry Council and the Australian Construction Industry Council. Deputy President Groom is the chairman or director of several charities and community bodies.

Deputy President Groom was the Executive Deputy President for Tasmania in 2008-09. He was a member of the AAT's Executive Deputy Presidents Committee and the Practice and Procedure Committee. He was also an adjudicator in the 2008 AAT Mooting Competition.

Philip Hack SC

Full-time Deputy President, Qld

Philip Hack took office as a Deputy President on 9 January 2006 after a career as a barrister in private practice extending over some 23 years. He was admitted to practice as a barrister in 1981 and commenced private practice the following year. He was appointed Senior Counsel in and for the State of Queensland on 1 December 2000. Deputy President Hack had a broad practice at the Bar, successfully undertaking both criminal and criminal appellate work, as well as general civil, commercial, insolvency, revenue and public law cases at both trial and appellate level.

Deputy President Hack served on the Committee (later the Council) of the Bar Association of Queensland for more than 16 years until his appointment to the AAT. He was,

for a number of years, the Honorary Treasurer of the Queensland Bar Association and the Australian Bar Association. More recently, he was the inaugural Chair of the Bar's Practising Certificate Committee.

Deputy President Hack was the Executive Deputy President for Queensland and the Northern Territory during 2008-09. He was the Chair of the AAT's Alternative Dispute Resolution Committee and a member of the Executive Deputy Presidents Committee, the Practice and Procedure Committee and the Professional Development Committee. He was also a managing member for tax schemes in 2008-09 and an adjudicator in the 2008 AAT Mooting Competition.

John Handley

Full-time Senior Member, Vic

John Handley was appointed as a member of the Victorian Administrative Appeals Tribunal (now Victorian Civil and Administrative Tribunal) in 1988 and as a full-time tenured Senior Member of the AAT in 1989. He is a barrister and solicitor of the Supreme Court of Victoria and High Court and was in private practice between 1981 and 1988. He was a part-time member of the Crimes Compensation Tribunal during 1987 and 1988. From 1981 until 1988, he was a member of the Goulburn Valley College of TAFE. While in private legal practice in Shepparton during this time, he was also involved in the Shepparton self-help group and Council for Disabled Persons and, for a time, served as its President. He is a mediator and has a special interest in dispute resolution and ombudsmen.

Senior Member Handley was a member of the AAT's Alternative Dispute Resolution Committee during 2008-09.

Lesley Hastwell

LLB LLM

Part-time Senior Member, SA

Lesley Hastwell was admitted as a barrister and solicitor of the Supreme Court of South Australia in March 1976. She has been in private legal practice since that time apart from a period of five years when she worked on a full-time basis as an academic in the Law School at the University of Adelaide.

Senior Member Hastwell continued to have academic involvement after ceasing full-time academic work and, for a number of years, she continued to present courses for the Adelaide Law School with some ongoing involvement in the examining and supervision of students. She holds a Masters Degree in Law from the University of Adelaide.

Senior Member Hastwell was until recently a partner in the Adelaide law firm Norman Waterhouse Lawyers. She has recently retired as a partner and has taken on the role of Senior Consultant. Her specialties are in family law and all associated areas, and the area of estate planning.

Senior Member Hastwell was appointed to the AAT in July 2004. She has previously held appointments as a Deputy President of the South Australian Guardianship Board (1994-2004), as a legal member of the Social Security Appeals Tribunal (1987-96) and as a legal member of the South Australian Dental Board (1992-99). She currently holds the position of Deputy Chair of the South Australian Psychological Board. She is a founding member of the Committee of the South Australian Chapter of the Council of Australasian Tribunals and continues to serve on that committee. She is trained in mediation and in Collaborative Practice. She is a current member of the Collaborative Law Committee of the Law Society of South Australia.

Dr Timothy (Tim) Hawcroft

BVSc (Hons) MACVSc

Part-time Member, NSW

Tim Hawcroft was appointed to the AAT in July 2006. He graduated with a Bachelor of Veterinary Science (Hons) from the University of Sydney in 1969. He established and was principal of the Gordon Veterinary Hospital from 1971 to 2002. He was Honorary Veterinarian for the Royal Agricultural Society of New South Wales from 1975 until 1986 and a part-time consultant for the University Veterinary Centre, Sydney, during 2003. He is an accredited veterinarian with the Australian Quarantine and Inspection Service.

Dr Hawcroft is the author of a number of books on veterinary science and animal care. He is a life member of the Australian Veterinary

Association and the Australian College of Veterinary Scientists.

Rear Admiral Anthony (Tony) Horton AO RAN (Rtd)

BA

Part-time Member, NSW

Tony Horton was appointed to the AAT in June 1991. His appointment followed completion of service in the Royal Australian Navy, his last appointment being Flag Officer Naval Support Command. During his service, Rear Admiral Horton specialised in naval aviation and navigation and held a number of commands and senior positions, including responsibility for naval and civilian personnel and the naval legal branch. During a two-year posting in command of the Naval College, he was also appointed a Special Magistrate. He has interests in the merchant shipping industry and has been, and remains, on the boards of a number of charitable organisations.

Rear Admiral Horton's appointment as a member of the Tribunal ended on 31 May 2009.

Stanley (Stan) Hotop

BA LLB LLM

Full-time Deputy President, WA

Stan Hotop has been a member of the AAT since 1991. He was appointed as a part-time Deputy President in March 2002 and became a full-time Deputy President in June 2005. He was an Associate Professor of Law at the University of Sydney from 1980 to 1988 and at the University of Western Australia from 1989 to 2005. He was Dean and Head of the Law School at the University of Western Australia from 1990 to 1993 and was President of the Australasian Law Teachers' Association from 1990 to 1991. He taught administrative law in university law schools from 1971, first at the University of Sydney (1971-88) and subsequently at the University of Western Australia (1989-2005). He is the author of several textbooks in the area of administrative law.

Deputy President Hotop was the Executive Deputy President for Western Australia during 2008-09. He was the Chair of the AAT's Library Committee and a member of the Executive Deputy Presidents Committee and the Practice and Procedure Committee.

Deputy President Hotop was also a managing member for tax schemes and an adjudicator in the 2008 AAT Mooting Competition.

Dr Gordon Hughes

LLB (Hons) LLM PhD

Part-time Member, Vic

Gordon Hughes was appointed as a Member of the AAT in July 2004. He has been a partner at Blake Dawson Waldron since 1997 and is currently joint head of their national information technology, communications and media division. He was a managing partner of the Melbourne office of Hunt & Hunt from 1993 until 1997 and partner with Lander & Rogers from 1979 until 1993. He is a past president of the Law Institute of Victoria (1992-93), the Law Council of Australia (1999-2000) and LAWASIA (2001-03). He has authored several legal textbooks, including one on accident compensation and one on privacy. He is also a qualified Grade 1 arbitrator and an Adjunct Professor at RMIT University.

Robin Hunt

BA LLM

Full-time Senior Member, NSW

Robin Hunt was appointed to the AAT in July 2004. She was previously a full-time Senior Member of the Migration Review Tribunal (MRT) in Canberra from October 2001. She was a full-time Member of the MRT in Sydney from 1999 until 2001 and for a short time prior to that a part-time Member of the Immigration Review Tribunal. Prior to joining the MRT on a full-time basis, Senior Member Hunt was a senior associate and solicitor in private practice for over 30 years.

Between 1996 and 2001, Senior Member Hunt undertook work as a technical tax writer with Computer Law Services and Thomson Legal (Law Book Company). She has tutored and lectured in tax, corporations and business law at Macquarie University and has been an occasional lecturer in law at the University of Technology Sydney. She has a Bachelor and Master of Laws from the University of Sydney.

Naida Isenberg

LLB

Part-time Senior Member, NSW

Naida Isenberg was appointed as a part-time Member of the AAT in 2001. In August 2006, she was appointed as a part-time Senior Member. She is also a New South Wales Law Society Panel Mediator, a Mediator with the Dust Diseases Tribunal, a Defence Force Mediator and a legal management consultant. Senior Member Isenberg was formerly a part-time Senior Member of the Veterans' Review Board and a District Court Arbitrator. Her previous experience includes: general counsel of a major insurance company; Director of Crown Legal Services, New South Wales; and Deputy Director of the Australian Government Solicitor. She is also a Lieutenant Colonel in the Army Reserve (Legal Corps) and is the Legal Consultant to Land Headquarters. She is a fellow of the Institute of Chartered Secretaries.

Senior Member Isenberg was a member of the AAT's Alternative Dispute Resolution Committee in 2008-09 and is an accredited mediator under the National Mediator Accreditation System.

Deane Jarvis

LLB (Hons) FAICD

Full-time Deputy President, SA

Deane Jarvis was admitted as a barrister and solicitor of the Supreme Court of South Australia in March 1964. He was engaged in private practice until his appointment to the AAT from 1 July 2003, and was previously the senior partner and chair of a prominent Adelaide commercial law firm. He is a former chair of Bridgestone Australia Ltd and an Adelaide radio station, and a former director of Macquarie Broadcasting Holdings Limited. He served on the Council of the Law Society of South Australia for 10 years and is a former chair of the Costs, Property and Planning Environment and Administrative Law Committees of that Society. He was the Honorary Consul-General of Japan for South Australia from 2002 to 2003. He was formerly an examiner in administrative law and a part-time tutor in Australian constitutional law at the University of Adelaide.

Deputy President Jarvis is the Convenor of the South Australian Chapter of the Council of Australasian Tribunals. He has provided tuition to persons undertaking the South Australian Bar Readers' course.

Deputy President Jarvis was the Executive Deputy President for South Australia and the Coordinator of the Members' Appraisal Scheme in 2008-09. He was the Chair of the AAT's Professional Development Committee and a member of the Executive Deputy Presidents Committee and the Practice and Procedure Committee. Deputy President Jarvis was also a member of the Organising Committee for the 2010 AAT National Conference, and Chair of the Trustees of the AAT Benevolent Trust.

Timothy Jenkins

FIA FIAA

Part-time Member, NSW

Tim Jenkins was appointed as a Member of the AAT in 2006. He has been an emeritus partner and consulting actuary with PricewaterhouseCoopers since 2003, having been a partner from 1999 until 2002. He was Chief Executive of Superannuation and Insurance at Westpac from 1996 until 1998, having been general manager of Westpac Financial Services from 1993 until 1996, and before that, Managing Director of ANZ Funds Management from 1989 until 1993. Mr Jenkins has also been Managing Director of ANZ Life, a partner with E S Knight & Co, Consulting Actuaries, and an actuary at MLC Life.

Mr Jenkins has been Chair of the Life Insurance Actuarial Standards Board since 1998. He is a former President of the Institute of Actuaries of Australia and Convenor of the Institute's Professional Conduct Committee. He was elected a life member of the Institute of Actuaries of Australia in 2005. He qualified as an actuary by satisfying requirements for admission as a fellow of the Institute of Actuaries (London) in 1965.

Professor Graham Johnston AM

BSc MSc PhD DPharm FRACI FTSE

Part-time Member, NSW

Graham Johnston has been a member of the AAT since 1991. He is Professor of

Pharmacology at the University of Sydney and trained as an organic chemist at the universities of Cambridge and Sydney. He brings expertise in chemistry, pharmacology and toxicology to the Tribunal. His scientific research is directed to the discovery of drugs to treat Alzheimer's disease, amnesia, anxiety, epilepsy and schizophrenia.

Steve Karas AO

BA (Hons) LLB

Part-time Senior Member, Qld

Steve Karas was appointed to the AAT in September 2007. He was a Senior Member of the Immigration Review Tribunal from 1989-99 and a part-time Member and Senior Member of the Migration Review Tribunal from its inception in 1999 until he was appointed to act as Principal Member in early 2001. He was also appointed as the Principal Member of the Refugee Review Tribunal from 1 July 2001.

Mr Karas previously worked in the Australian Government Attorney-General's Department and was in private practice as a legal practitioner for a number of years. He has had extensive community involvement including with the Federation of Ethnic Communities' Councils of Australia and the Ethnic Communities Council of Queensland. Mr Karas has been a member of the Migration Agents Registration Board, the Board of the National Accreditation Authority for Translators and Interpreters and Chairman of the Special Broadcasting Service's Community Advisory Committee.

Josephine Kelly

BA LLB

Full-time Senior Member, NSW

Josephine Kelly was in practice at the New South Wales Bar from 1986 until her appointment to the AAT in 2004. Her practice included administrative law and areas related to public law. She specialised in local government, environmental law and related areas such as property and common law. She was statutory counsel for the New South Wales Environment Protection Authority from 1996 and has appeared in various courts, tribunals and inquiries. She was a member of Professional Conduct Committees of the New South Wales Bar Association from 2001

until 2004 and has been a committee member of various legally-related associations and a trustee of a not-for-profit organisation. She edited *Environmental Law News* from 1989 to 2004. Before going to the Bar, she worked as an associate to a judge, in administration and politics.

Senior Member Kelly was a member of the AAT's Library Committee in 2008-09 and a member of the Organising Committee for the joint AAT and Law Council of Australia seminar held in June 2009. She was also an adjudicator in the 2008 AAT Mooting Competition.

Graham Kenny

BA LLB (Hons) LLM

Part-time Member, Qld

Graham Kenny has been a Member of the AAT in Queensland since 2001. He was a part-time Member and Senior Member of the Veterans' Review Board from 1988 until March 2004. He was a part-time legal member of the Social Security Appeals Tribunal from 1995 until 2001 and Queensland convenor (part-time) of the Student Assistance Review Tribunal from 1988 until 1994. He is a senior lecturer in the School of Law at the University of Queensland, having joined in 1976. His current responsibilities include Chair of the Law School Teaching and Learning Committee, Director of the Bachelor of Laws and Juris Doctor programs and Law School Chief Examiner. Mr Kenny practised as a barrister from 1978 until 1989. From 1964 until 1974, he was a teacher with the Queensland Department of Education.

Dr Kenneth Levy RFD

BA BCom LLB PhD FCA FCPA MAPS Barrister-at-Law

Part-time Senior Member, Qld

Kenneth Levy was appointed as a part-time Member of the AAT in July 2004 and appointed as a part-time Senior Member in September 2006. Prior to his appointment to the AAT, he worked in the Queensland Public Service for approximately 36 years, retiring as Director-General of the Department of Justice in Queensland in December 2003. Dr Levy was National President of the professional accounting body CPA Australia in 2004-05. He has also been a Fulbright scholar at the University of California at Irvine.

Dr Levy is a practising barrister. He is also appointed as a Professor to the Faculty of Law of Bond University and teaches part-time each semester. In addition, Dr Levy serves on the Standby Reserve of the Australian Army and holds the rank of Lieutenant Colonel. He has been awarded the Reserve Force Decoration (RFD), the Centenary Medal, the Australian Defence Medal and the National Service Medal.

Dr Levy serves on the Board of Management of the Centre for Forensic Excellence at Bond University. He recently completed a term as a director of the Accounting Professional and Ethical Standards Board. He has continued to be involved this year in a review of the Auditor General's legislation in the Solomon Islands

Senior Member Levy was a member of the AAT's Library Committee during 2008-09. He was also an adjudicator in the 2008 AAT Mooting Competition.

Brigadier Graham Maynard (Rtd)

MBBS MSc (OCC MED) DIH DTM&H

Part-time Member, Qld

Graham Maynard was appointed as a Member of the AAT in July 2004. After graduating in Queensland in 1965, he spent 27 years as an Australian Army medical officer commencing with duties as an Infantry Battalion Medical Officer in SVN and finishing as Director of Medical Services for the Army in 1990. His career included postings in clinical positions, hospital command, malaria research and senior command. His specialist training was in tropical medicine and occupational medicine. From 1990 to 2002, he was employed as a senior medical officer in the federal Department of Health with responsibilities at various times in food safety, Australian Government Health Services management, Creutzfeld-Jacob disease matters and finally as Chief Medical Adviser for Medical Devices at the Therapeutic Goods Administration.

Bernard McCabe

BA LLB GradDipLegPrac LLM (Corp & Comm) (Dist)

Full-time Senior Member, Qld

Bernard McCabe was appointed as a part-time Member of the AAT in July 2001 and as a full-time Senior Member in November 2003. He was a member of the Faculty of Law at Bond

University from 1992 until 2006 and is now an Adjunct Professor of Law. From 1998 to 2001, he served as a member of the legal committee of the Companies and Securities Advisory Committee, the federal government's peak corporate law advisory body. He continues to edit the consumer protection section of the *Trade Practices Law Journal* and is a member of the editorial committee of the *Corporate Governance eJournal*. During the past year, he published in the areas of trade practices and company law.

During 2008-09, Senior Member McCabe was a member of the AAT's Professional Development Committee and the Organising Committee for the 2010 AAT National Conference. He was an adjudicator in the 2008 AAT Mooting Competition and a judge for the Bond University's High School Mooting Competition.

Associate Professor Peter McDermott RFD

LLB (Hons) LLM PhD

Part-time Senior Member, Qld

Peter McDermott was appointed as a Senior Member of the AAT in November 2004. He is an Associate Professor and Reader in Law in the School of Law at the University of Queensland. He was the Senior Legal Officer (1982-88) and later the Principal Legal Officer (1988-91) of the Queensland Law Reform Commission. In 1998, he accepted a term appointment as an Assistant Commissioner of Taxation, Australian Taxation Office, to contribute to the Ralph reform process (1998-99).

Senior Member McDermott was admitted as a barrister of the Supreme Court of Queensland in 1978. In the Wik case, he was privileged to be the junior counsel to the late Sir Maurice Byers QC before both the Federal Court of Australia and the High Court of Australia. He is a member of the Bar Association of Queensland.

Senior Member McDermott has served on a number of Queensland tribunals. From 2002 until 2006, he was a member of the South Queensland Regional Community Corrections Board. He served on the Children Services Tribunal from 1997 until 2001.

Senior Member McDermott is the author of *Equitable Damages* (foreword by Sir Robert Megarry) (1994). He is a co-author of *Principles of the Law of Trusts* (3rd ed, 1996), *Company Law* (foreword by Justice MD Kirby) (2006, 2nd ed, 2008) and *Fundamental Company Legislation 2008*. He has recently written on citizenship issues: see 'Australian Citizenship and the Independence of Papua New Guinea' (2009) 32(1) *University of New South Wales Law Journal* 50.

Graham McDonald

LLB

Full-time Deputy President, Vic

Graham McDonald has been a legal practitioner since 1972. In addition to establishing a legal firm, he has been involved in a number of public positions, including the inaugural solicitor at the Western Australian Aboriginal Legal Service and subsequently its Principal Legal Officer, Western Australian Commissioner for Corporate Affairs, Principal Member of the Social Security Appeals Tribunal in Western Australia, Chairman of the Western Australian Legal Costs Committee, executive officer for a project examining the establishment of an international insurance exchange for Australia and Pacific Rim countries, inaugural Australian Banking Industry Ombudsman and Chairman of the Superannuation Complaints Tribunal. Deputy President McDonald has had extensive involvement in voluntary legal aid work and chaired various inquiries including into the Western Australian Sexual Assault Centre and to draft legislation for Aboriginal land rights for the Western Australian Government. He has been a presidential member of the AAT since 1988.

Deputy President McDonald was the Executive Deputy President for Victoria in 2008-09. He was also a member of the AAT's Executive Deputy Presidents Committee and the Practice and Procedure Committee.

The Honourable Dr B McPherson CBE

BA LLB PhD Hon LLD

Part-time Deputy President, Qld

Bruce McPherson was appointed to the AAT in September 2007. He was educated at the universities of Natal, Cambridge and Queensland where he completed his PhD in

1967. In 2004, he was awarded an honorary LLD from the University of Queensland.

Deputy President McPherson commenced practice at the Queensland Bar in 1965 and took silk in 1975. In 1982 he was appointed to the Supreme Court of Queensland, in 1990 as Senior Puisne Judge and in 1991 to the Court of Appeal. He retired from the bench in 2006. He was a Judge of the Fiji Court of Appeal and remains a Judge of Appeal of the Solomon Islands. In 2006, he was elected an Overseas Vice-President of the Selden Society.

From 1969 to 1982, Deputy President McPherson was a member of the Queensland Law Reform Commission and its Chairman from 1982 to 1991. In recognition of his contribution to law reform, he was awarded the CBE in 1988.

Deputy President McPherson is the author of *The Law of Company Liquidation* (now in its 5th Australian and 2nd English edition), *The History of the Supreme Court of Queensland 1861–1960: history, jurisdiction and procedure* (1989) and *The Reception of English Law Abroad* (2007), as well as numerous journal articles and papers.

Dr Roderick McRae

MBBS (Hons) BMedSc (Hons) FANZCA FJFICM FAMA
PGDipEcho MBioeth JD

Part-time Member, Vic

Roderick McRae was admitted as a barrister and solicitor of the Supreme Court of the Australian Capital Territory in December 2004 and the Supreme Court of Victoria in February 2005. He was appointed to the AAT in January 2006.

Dr McRae is a practising anaesthetist and intensive care physician. He works primarily in the public healthcare sector providing medical care to non-neonatal patients undergoing complex surgical interventions, as well as participating in many hospital committees. He is Chairman of the Federal Australian Medical Association (AMA) and is a qualified bioethicist who sits on several hospital Human Research Ethics Committees as well as the AMA's Ethics and Medicolegal Committee. He undertakes consultancies related to human research legal and ethical issues. He has

significant undergraduate and postgraduate teaching experience and is an Adjunct Senior Lecturer at Monash University's Department of Epidemiology and Preventive Medicine.

Dr Michael Miller AO AVM (Rtd)

MBBS FRANZCOG FRCOG FAFPHM

Part-time Member, ACT

Michael Miller was appointed to the AAT in August 1995. He had a specialist medical practice in Brisbane from 1964 to 1968 and became an officer in the Royal Australian Air Force (RAAF) in 1968. His appointments included Senior Medical Officer in Vietnam (1970–71), Commanding Officer 4 RAAF Hospital Butterworth in Malaysia (1974–75) and exchange duty with the United States Air Force (1977–79). His various staff appointments included Director of Medical Plans and Deputy Director General Air Force Health Services. He was appointed Director General Air Force Health Services in 1987 with rank of Air Vice Marshal and Surgeon General Australian Defence Force in 1990. He retired in September 1992.

Associate Professor Barrie Morley RFD

MBBS FRACP FRCP

Part-time Member, Qld

Barrie Morley, a consultant neurologist since 1965, has been a Member of the AAT since November 1985. He was consultant neurologist to the Royal Australian Air Force Specialist Medical Reserve from 1969 until 1989. Initially appointed in 1972 as a medical member of the War Pensions Assessment Appeals Tribunal, Associate Professor Morley served on the Repatriation Review Tribunal and then on the Veterans' Review Board. He was formerly Dean of the Clinical School and Head of Medicine of the (now) Monash Medical Centre. He moved to Queensland in 1992 and is now Associate Professor of Medicine in the South West Division of the Rural Clinical School of the University of Queensland.

The Honourable Robert David Nicholson AO

BA LLB LLM MA

Part-time Deputy President, WA

Robert Nicholson was appointed as a part-time Deputy President of the AAT in

September 2007. He was a Judge of the Federal Court of Australia from 1995 to 2007 and before that a Judge of the Supreme Court of Western Australia for six and a half years. During part of his time as a member of the Supreme Court, he was also Chair of the Guardianship and Administration Board of Western Australia. From 1986 to 1988, he was a full-time Deputy President of the AAT. Before this appointment, his professional life was spent in legal practice in Perth associated with the law firm now known as Freehills.

Internationally, Deputy President Nicholson has been active in matters relating to law. As Secretary of the LAWASIA Judicial Section, he has been a resource person to the Conference of Chief Justices of Asia and the Pacific for over a decade. On behalf of the Federal Court of Australia, he was engaged in the delivery of judicial training and education in Indonesia and the Philippines. As a member of the International Commission of Jurists, he has edited the *ICJ Yearbook* and contributed to the *ICJ Yearbook* as well as conducted a trial observership on behalf of the Commission.

Deputy President Nicholson was the Foundation Secretary-General of the Law Council of Australia. Subsequently, he was a Deputy Secretary-General of the International Bar Association. He has represented the Australian legal profession at a number of international meetings. He is the author of a number of legal papers published in Australian legal journals.

Deputy President Nicholson was a recipient of the Centenary Medal in 2001 for service to the judiciary, to education and to the community. He was awarded an Officer of the Order of Australia (AO) in 2002 for service to the judiciary and to the law, to education, particularly in the area of university administration, and to the community. In 2007, he became a Foundation Fellow of the Australian Academy of Law and has since been elected the Academy's foundation President. Since 2007, he has been the President of the Royal Western Australian Historical Society.

Bruce Pascoe

FCA FTIA MIAMA

Part-time Senior Member, Vic

Bruce Pascoe was appointed as a part-time Member of the AAT in December 1991 and has been a Senior Member since April 1995. Until 1991, he was a senior partner of Ernst & Young, Chartered Accountants, where he specialised in taxation and corporate finance. He is a former President of the Taxation Institute of Australia, former National Treasurer of the Institute of Arbitrators & Mediators Australia and a Grade 1 arbitrator and accredited mediator with that Institute. He was Chair of the Tax Agents' Board of Victoria until 1997 and is a director of several companies.

Senior Member Pascoe was a managing member for tax schemes in 2008–09. He was also an adjudicator in the 2008 AAT Mooting Competition.

Steven Penglis

BJuris LLB

Part-time Senior Member, WA

Steven Penglis was appointed to the AAT in June 2005. He is a senior commercial litigator with the national law firm Freehills which he joined in 1983, becoming a partner in 1987. He has been an elected member of the Legal Practice Board of Western Australia since 1996 and was Chairman from 2002 until 2007. Senior Member Penglis has been an elected Member of Council of the Law Society of Western Australia since 2002 and is also the Convenor of the Society's Courts Committee which he also convened from 1995 to 2000. Since 1992, he has been the Chair of Freehills's Perth Pro Bono Committee.

Senior Member Penglis was an adjudicator in the 2008 AAT Mooting Competition.

Regina Pertton

BA LLB Dip Ed

Full-time Member, Vic

Regina Pertton has been a full-time Member of the AAT since August 2004. Prior to her appointment to the AAT, she was a Senior Member of the Migration Review Tribunal. She has also been a Member of the Refugee Review Tribunal and the Immigration

Review Tribunal. She was a member of the Victorian Equal Opportunity Commission and a Commissioner of the Victorian Multicultural Commission. Ms Perton has held management positions in several dispute resolution bodies, including Registrar of the Victorian Residential Tenancies Tribunal and Small Claims Tribunal. Other roles have included working for the Parole Board, in real estate and as a secondary teacher. She has been a member of various boards and committees of professional, health and community organisations, including the Austin & Repatriation Medical Centre and the Turning Point Alcohol & Drug Centre. Ms Perton was awarded a Centenary Medal in 2001 for services to equal opportunity, immigration, ethnic affairs and the law.

Ms Perton was Convenor of the Victorian Chapter of the Council of Australasian Tribunals until March 2009 and continues to serve as a member of that committee. She was also a member of the committee of the Victorian Chapter of the Australian Institute of Administrative Law during 2008-09.

Professor Peter Lawrence Reilly AO

Part-time Member, SA

Peter Reilly was appointed to the AAT in July 2006. He has been a practising neurosurgeon since 1976. From 1994 until 2005, he was head of the Department of Neurosurgery at the Royal Adelaide Hospital. He has also been a visiting staff specialist at Flinders Medical Centre and the Women's and Children's Hospital. Since 2004, he has been clinical professor of Neurosurgery in the Department of Surgery at the University of Adelaide.

Professor Reilly is an executive member of the Neurosurgical Research Foundation Inc. He has recently completed a term as president of the International Neurotrauma Society and is on the advisory committees of several national and international neurotrauma societies. He is a former President of the Neurosurgical Society of Australasia (1996-98), Chair of the Neurosurgical Board of the Royal Australasian College of Surgeons (1991-94) and supervisor of Neurosurgical Training for South Australia. He has a Bachelor of Medical Science, Doctorate of Medicine and Bachelor of Surgery

from the University of Adelaide. He is a fellow of the Royal Australasian College of Surgeons and of the Faculty of Pain Medicine.

Professor Reilly was made an Officer in the General Division of the Order of Australia in 2002 for service to the advancement of neurosurgery in the prevention and treatment of head injuries through clinical practice, research, education and membership in relevant professional organisations. He remains actively involved in the study of traumatic brain injuries.

Dr Teresa Schafer

BSc (Hons) PhD GCertPharmEcon Dip Law GCert Leg Prac
Part-time Member, NSW

Teresa Schafer is both a scientist and lawyer and has been a member of the AAT since August 2006. She is currently a Director in Clayton Utz's product liability practice and provides specialist advice to clients predominantly in the pharmaceutical and medical devices industries. She is also the Director of Pharmedica Consulting Pty Ltd, a company she established in 2001 which provides advice on pharmaceutical and medical device regulation. Dr Schafer has a PhD in organic chemistry from the University of Western Australia and worked in the pharmaceutical industry for more than 13 years, both in senior management roles and as a consultant, before commencing her roles at the AAT and Clayton Utz.

Elizabeth Anne Shanahan

BSC MBBS FRACS LLB
Part-time Member, Vic

Anne Shanahan has been a part-time Member of the AAT since 1991. She is a cardiothoracic surgeon (now retired) and worked both in public and private hospitals in Victoria for 43 years. She is also a barrister, a Harvard alumnus and former Fulbright scholar. From 1973 until 1985, Miss Shanahan was a senior lecturer in the Department of Surgery at Monash University. She has served on numerous hospital committees and a hospital Board of Management, in addition to the Health Service Commissioner's Review Council, a Health Insurance Commission Committee and the Red Cross International Humanitarian Law Committee. Miss

Shanahan is also a part-time Member of the Superannuation Complaints Tribunal and the Victorian Civil and Administrative Tribunal (Professional Bodies).

John Short

LLB
Part-time Member, SA

John Short was appointed to the AAT in 2004. Prior to this, he was a part-time member of the Social Security Appeals Tribunal in Adelaide (1989-2004), a part-time member of the Veterans' Review Board (1993-97) and a part-time member of the South Australian Residential Tenancies Tribunal (2001-04). Mr Short was a legal practitioner in general practice from 1984 until 1992. He lectured in contract law on a part-time basis at the Douglas Mawson Institute (SA) between 1989 and 1992. He was also a part-time Child Support Review Officer from 1992. Mr Short completed a LEADR mediation course in 1997 and maintains a strong interest in alternative dispute resolution.

Mr Short was a member of the AAT's Alternative Dispute Resolution Committee in 2008-09.

Professor Tania Sourdin

BA LLB LLM PhD
Part-time Member, NSW

Tania Sourdin has been a part-time Member of the AAT since 2001. She is also a part-time Professor of Peace and Conflict Resolution at the University of Queensland. She has worked as a lawyer, court registrar, academic, mediator and tribunal member since being admitted to practise as a lawyer in 1985. She has held a number of part-time appointments, including as a Senior Member with the New South Wales Consumer, Trader and Tenancy Tribunal and as a member of its predecessor tribunals for more than 10 years.

Professor Sourdin has published many papers and books in the area of alternative dispute resolution, litigation and research into dispute resolution processes and is the author of the major text on alternative dispute resolution. In 2007, she developed the National Mediation Accreditation Standards that govern mediation practice in Australia. She is a member of the National Alternative Dispute Resolution Advisory Council and attended a number

of national and international conferences as a keynote and specialist speaker during the past year. In 2008, Professor Sourdin conducted additional extensive research into mediation and related processes in Victoria and was retained as an international expert to advise governments and courts on alternative dispute resolution in both the Middle East and the Pacific.

Professor Sourdin was a member of the AAT's Alternative Dispute Resolution Committee during 2008-09.

Dr Peter Staer

MBBS DObst (RCOG) FRCS (Eng) FRACS
Part-time Member, WA

Peter Staer has been a member of the AAT since 1985 and was previously a member of the Repatriation Review Tribunal and Veterans' Review Board. He has practised medicine for 45 years, primarily as a surgeon/gynaecologist. He has served on the Nurses' Examination Board and various medical advisory committees. He is a qualified mediator. He spends two to three months per year in voluntary work in developing countries.

Andre Sweidan

BComm LLB H Dip Tax Law Grad Cert Arbitration and Mediation
Part-time Senior Member, WA

Andre Sweidan was appointed as a Senior Member of the AAT in 2005. He has practised in various fields of law in Australia and overseas for more than 35 years. He is currently a Consultant at Anchor Legal, a firm which he co-founded, in Perth. He has had an extensive legal career in the areas of taxation, revenue, intellectual property and administrative law. He has also had extensive experience representing clients before the AAT, the Federal Court and the Supreme Court of Western Australia. In 1998, he commenced practice as a senior partner with KPMG Legal in Perth. From 1993 to 1998, he worked in sole practice and from 1983 was a partner at Stone James & Co, which subsequently became Mallesons Stephen Jaques in Perth. Before immigrating to Australia from South Africa, Senior Member Sweidan was a partner in the law firm Trakman & Sweidan for 12 years.

Senior Member Sweidan was a member of the AAT's Professional Development Committee during 2008–09 and was also a managing member for tax schemes.

The Honourable BJM Tamberlin QC

BA LLB (Syd) LLM (Harv)

Part-time Deputy President, NSW

Brian Tamberlin has been a part-time Deputy President of the AAT since 30 March 2009. He was previously a Judge of the Federal Court of Australia where he served for a term of 14 years. He was appointed a part-time judicial member of the AAT in 2005 and was Acting President in the absence of the President between 2005 and 2009. Prior to his appointment as a Judge, Deputy President Tamberlin was at the New South Wales Bar for 28 years, 14 as Queen's Counsel. Prior to that he was a solicitor for several years and an in-house counsel.

Over the past five years, Deputy President Tamberlin has been actively involved with the International Association of Supreme Administrative Jurisdictions.

Mr Peter Taylor SC

Part-time Senior Member, NSW

Peter Taylor was appointed to the AAT in August 2006. He is a barrister in private practice in New South Wales. He graduated from the University of Adelaide in 1974 with a Bachelor of Laws (Honours) and was made Senior Counsel in New South Wales in 1993. Senior Member Taylor practises in the areas of commercial, building and construction, insurance, professional liability, equity and trusts, and public authority tort law. He was the Chair of the New South Wales Bar Association Advocacy Committee from 1996 to 2000 and a member of the Legal Profession Admission Board of New South Wales from 1994 to 2008.

From 1984 until 2005, Senior Member Taylor was the General Editor of *Ritchie's NSW Supreme Court Practice*. Since 2005, he has been the General Editor of *Ritchie's NSW Uniform Civil Procedure*.

Dr Maxwell Thorpe

MBBS MD FRACP

Part-time Member, NSW

Max Thorpe has been a member of the AAT since November 1985 and was previously a member of the Repatriation Review Tribunal. For 28 years, he was a consultant physician in private practice and Visiting Medical Officer, Prince of Wales Hospital, where he was Warden of the Clinical School, University of New South Wales. Dr Thorpe continues as Honorary Consultant Medical Officer at the Prince of Wales Hospital. He is Chairman of the Appeals Committee, Overseas Doctors, Australian Medical Council. He was previously a World Health Organisation Consultant in Cambodia advising on postgraduate education. Dr Thorpe was a Guest Professor at Harbin Medical University, China and director of an exchange of medical specialists from Harbin Medical University with teaching hospitals of the University of New South Wales. He has extensive involvement in insurance and reinsurance medicine.

Dr Thorpe was an adjudicator in the 2008 AAT Mooting Competition.

Dr Saw Hooi Toh

MBBS FRACGP

Part-time Member, NSW

Saw Hooi Toh was appointed to the AAT in August 2006. Dr Toh is a general practitioner and a medical educator at the Institute of General Practice Education. She sits as a member of the Medical Tribunal and of Professional Standards Committees of the New South Wales Medical Board. Dr Toh is also Senior Examiner for the Australian Medical Council Board of Examiners.

Lisa Tovey

BJuris LLB LLM (Dist)

Part-time Member, WA

Lisa Tovey was appointed as a part-time Member of the AAT in June 2005. She has been a barrister at John Toohey Chambers in Perth since 2003.

Ms Tovey was admitted as a barrister and solicitor of the Supreme Court of Western Australia and High Court of Australia in 1992. She commenced practice with Corrs

Chambers Westgarth and then worked as Associate to the Honourable Justice Rowland at the Supreme Court of Western Australia. Ms Tovey was a Crown Prosecutor within the Office of the Director of Public Prosecutions for Western Australia between 1996 and 2001. Ms Tovey has been a lecturer and senior lecturer, and the Course Controller for both the law of evidence and administrative law courses at the University of Notre Dame Australia.

Ms Tovey is currently the presiding member of the Osteopaths Registration Board of Western Australia, having served as the deputy presiding member between 2003 and 2004. She is also a member of the Legal Aid Western Australia Review Committee. Ms Tovey was a Lieutenant in the Royal Australian Naval Reserves between 1994 and 2001 and has completed a Practitioner's Certificate in Mediation. Ms Tovey is also a member of the Western Australian Bar Association Equal Opportunity Committee and the Law Society of Western Australia Human Rights Committee.

Professor Emeritus Geoffrey Walker

LLD

Full-time Deputy President, NSW

Geoffrey Walker was appointed to the AAT in 2004. He was admitted to the Bar in 1965 and subsequently gained extensive legal experience in private practice, industry and government. In 1978, he joined the academic staff of the Australian National University and has also taught law at the universities of Sydney, Queensland and Pennsylvania. For 11 years, until returning to the Bar in 1997, he was Dean of Law at the University of Queensland. He has been appointed Adjunct Professor of Law at Murdoch University.

Deputy President Walker is the author of four books, including *The Rule of Law: Foundation of Constitutional Democracy* (1988), and approximately 100 articles in legal and related journals.

Deputy President Walker was the Executive Deputy President for New South Wales in 2008–09. He was a member of the AAT's Executive Deputy Presidents Committee and the Practice and Procedure Committee. He was also an adjudicator in the 2008 AAT Mooting Competition.

Dr Robert (Rob) Walters

Part-time Member, Tas

Dr Rob Walters was appointed to the AAT in November 2006. He is a general practitioner in Hobart. He is past Chair of the Australian Divisions of General Practice (now Australian General Practice Network), a position he held between 2002 and 2005. He continues to sit on a number of national boards and councils.

Dr Walters is Secretary and medico-legal adviser to the Medical Protection Society of Tasmania. As well as providing case advice, he regularly presents to medical practitioners and medical students on matters related to medical indemnity and medico-legal aspects of medical practice.

Dr Walters holds the rank of Colonel in the Australian Army Reserve, having joined the Australian Defence Force in 1972 as a National Serviceman. He is currently the Senior Health Officer for Tasmania and a consultant to the Surgeon General of the Australian Defence Force on General Practice for the Army, Navy and Air Force. He served in East Timor in 2002.

Dr Walters is the Medical Director on the Tasmanian WorkCover Board and a past Chair of the Cancer Council of Tasmania. He also has regular national media commitments on both television and radio.

Brigadier Anthony Gerard (Gerry) Warner AM LVO (Rtd)

BSc (Hons) DipMilStud FAICD

Part-time Member, WA

Gerry Warner was appointed to the AAT in June 2005. His military career, following graduation from the Royal Military College Duntroon, included extensive command experience, tours on the personal staff of Governors-General, pivotal operations and personnel staff appointments and UN peacekeeping on the Golan Heights and in Southern Lebanon. He was the Senior Defence representative in Western Australia in 1996–97 and in his final posting was Chief of Staff Land Headquarters in Sydney during a period of intense operational tempo, including the East Timor campaign and support to the Olympic Games. After separation from the Army in 2003, he was appointed to the independent committee convened by the Board of Western Power to report on the power supply

crisis of February 2004. He is a sessional Senior Member of the State Administrative Tribunal, a member of the Mental Health Review Board of Western Australia and is Chief Executive Officer of the RAAF Association (WA Div) Inc.

Simon Webb

Full-time Member, ACT

Simon Webb was appointed to the AAT in July 2001. From 1997 to 2001, he held the office of Deputy Director of the Commonwealth Classification Board with extensive periods acting in the office of Director. During this period, he was Secretary of the Commonwealth, State and Territory Censorship Ministers' Council. From 1994, Mr Webb worked with federal, state and territory ministers and officials to implement revised censorship laws in a cooperative national legislative classification scheme. He was involved in establishing the Classification Board and the Classification Review Board in 1996 and worked with the Australian Customs Service reviewing prohibited import and export regulations and related administrative procedures. Prior to that, Mr Webb conducted a management consultancy and was General Manager of the Arts Council of Australia. He has over 25 years senior management and public administration experience and is an accredited mediator.

Mr Webb was a member of the AAT's Professional Development Committee during 2008–09. He was also an adjudicator in the 2008 AAT Mooting Competition.

Dr David Weerasooriya

MBBS MRCP (Lond) MRCP (Edin) MRCP (Glas) DCH

Part-time Member, WA

David Weerasooriya has been a part-time Member of the AAT since 1996. He is a part-time Tutor in Problem Based Learning for year two medical students at the University of Notre Dame — School of Medicine. Prior to his appointment to the AAT, he was a medical member of the Social Security Appeals Tribunal from 1994 until 1996. Dr Weerasooriya practised as a specialist physician, paediatrician and vocationally registered general practitioner in Kalgoorlie from 1972 to 1976 and in Perth thereafter. He was a visiting specialist physician to Wanneroo Hospital

from 1989 until 1996. He was a senior lecturer in paediatrics at the University of Ceylon, Colombo. Dr Weerasooriya undertook his postgraduate training in the United Kingdom between 1959 and 1964. He was the author of a textbook on health science for GCE 'O' level students in Sri Lanka. Dr Weerasooriya is a qualified mediator.

Dr Weerasooriya was a member of the AAT's Library Committee in 2008–09.

Dr Peter Wilkins MBE

BA MBBS MHP MLitt GradDipHum FAFOEM FAFPHM

Part-time Member, ACT

Peter Wilkins was appointed to the AAT in August 2006. He served full-time in the Royal Australian Air Force for 22 years and remains a member of its Specialist Reserve. Dr Wilkins has held senior management positions with the Federal Australian Medical Association, NSW Health and as Director of Aviation Medicine for the Civil Aviation Safety Authority. His main current work is consultant practice in occupational medicine.

Dr Wilkins was a member of the Organising Committee for the 2010 AAT National Conference in 2008–09.

The Honourable Christopher Wright QC

BBL

Part-time Deputy President, Tas

Christopher Wright has been a part-time Deputy President of the AAT since February 2001. From 1986 until 2000, he was a judge of the Supreme Court of Tasmania, having been Solicitor General from 1984 until 1986. He practised at the Tasmanian Bar from 1977 until 1983 and was a magistrate in Hobart from 1972 until 1977. Between 1959 and 1972, he was a partner in the Hobart law firm Crisp Wright and Brown. Other appointments he has held include Chairperson of the Retirement Benefits Fund Investment Trust (1984–86), the Social Security Appeals Tribunal (1979–83) and the Tenancy Law Review Committee in Tasmania (1979) and President of the Bar Association of Tasmania (1977–79). He was appointed as Chairman of the Tasmanian Police Review Board in 2004. He was appointed Queen's Counsel in 1984.

APPENDIX 2: STAFF OF THE TRIBUNAL

Table A2.1 Employment by registry, 30 June 2009

Class	Registries							Principal Registry ^a	Total
	Sydney	Melbourne	Brisbane	Adelaide	Perth	Hobart	Canberra		
APS 2	–	2	3	–	3	–	2	–	10
AAT 3/4	25	17	14	7	7	1	4	7	82
APS 5	1	1	1	–	–	–	–	5	8
APS 6	4	3	–	2	2	–	1	8	20
Exec 1	–	–	–	–	–	–	–	9	9
Exec 2	5	4	5	1	4	–	2	3	24
SES 1	–	–	–	–	–	–	–	1	1
Total	35	27	23	10	16	1	9	33	154

Note:

There are no staff at APS 1.

Staff included: ongoing full-time and part-time, and non-ongoing staff including 18 staff employed at various locations for duties that are irregular or intermittent.

Staff not included: on long-term unpaid leave of absence or long-term temporary transfer to another agency. If these staff have been replaced, the replacement staff are included.

^a Principal Registry staff are based in Brisbane (15) and Sydney (18).

Table A2.2 Equal employment opportunity, 30 June 2009

Class	Total staff	Women	Men	ATSI	NESB	PWD
APS 2	10	7	3	–	2	–
AAT 3/4	82	57	25	1	21	2
APS 5	8	6	2	–	3	–
APS 6	20	13	7	–	4	–
Exec 1	9	3	6	–	1	–
Exec 2	24	17	7	–	7	1
SES 1	1	1	–	–	–	–
Total	154	104	50	1	38	3

ATSI = Aboriginal and Torres Strait Islanders; NESB = people of non-English-speaking background; PWD = people with disabilities

Note: The data in this table is based in part on information voluntarily provided by staff.

Table A2.3 Employment status, 30 June 2009

Class	Salary range	Full-time	Part-time	Irregular/ Intermittent	Total	AWAs	Agency Agreement
APS 1	\$36,694 – 40,553	–	–	–	–	–	–
APS 2	\$41,527 – 46,715	–	–	10	10	–	10
AAT 3/4	\$49,173 – 57,236	73	4	5	82	–	82
APS 5	\$58,795 – 62,347	8	–	–	8	–	8
APS 6	\$63,501 – 72,946	16	4	–	20	–	20
Exec 1	\$79,290 – 94,953	7	1	1	9	2	7
Exec 2	\$96,597 – 109,818	14	8	2	24	4	20
SES 1	\$99,701 – 125,040	1	–	–	1	1	–
Total		119	17	18	154	7	147

AWAs — Australian Workplace Agreements

APPENDIX 3: APPLICATIONS, OUTCOMES, LISTINGS AND APPEALS STATISTICS

Table or chart	Title
A3.1	Applications lodged and applications finalised in 2008–09
A3.2	Applications lodged in each registry
A3.3	Applications finalised in each registry
A3.4	Percentage of applications finalised without a hearing
A3.5	Outcomes of applications for review of a decision finalised in 2008–09
A3.6	Applications current in each registry at 30 June
A3.7	Alternative dispute resolution processes, interlocutory hearings and hearings conducted by the Tribunal
A3.8	Constitution of tribunals for hearings
A3.9	Appeals against decisions of the Tribunal by jurisdiction
A3.10	Appeals against decisions of the Tribunal — outcomes of appeals determined
A3.11	Appeals against decisions of the Tribunal — outcomes of appeals determined by jurisdiction

This statistical information on different aspects of the Tribunal's workload for 2008–09 includes some data for earlier years for comparative purposes.

Table A3.1 provides detailed information on the types of applications lodged with, and applications finalised by, the Tribunal in 2008-09. Information for the Tribunal's major jurisdictions is set out first, followed by information on other applications grouped by Australian Government portfolio.

Table A3.1 Applications lodged and applications finalised in 2008-09

	Applications lodged		Applications finalised	
	No	%	No	%
APPLICATIONS FOR REVIEW OF A DECISION – MAJOR JURISDICTIONS				
Social security				
Age pension/Pension bonus scheme	179		177	
Austudy payment	14		12	
Baby bonus	27		28	
Carer allowance and carer payment	79		71	
Compensation preclusion period	64		70	
Disability support pension	542		535	
Disaster recovery payment	3		12	
Economic security strategy payment	43		3	
Family tax benefit	73		70	
Farm household support	10		10	
Newstart allowance	433		353	
Overpayments and debt recovery	552		598	
Parenting payment	68		51	
Pensioner education supplement	11		9	
Rent assistance	17		12	
Special benefit	10		13	
Youth allowance	43		45	
Other	66		59	
Subtotal	2,234	36	2,128	29
Veterans' affairs				
<i>Military Rehabilitation and Compensation Act 2004</i>	27		17	
<i>Veterans' Entitlements Act 1986</i>				
Disability pension	414		487	
Service pension/Income support supplement/ Pension bonus	40		31	
War widows pension	118		125	
Other	17		28	
Subtotal	616	10	688	10
Workers' compensation				
<i>Safety, Rehabilitation and Compensation Act 1988, by decision-maker</i>				
Australian Postal Corporation	214		344	
Comcare	526		677	
Linfox Armaguard Pty Limited/ Linfox Australia Pty Limited	54		10	

	Applications lodged		Applications finalised	
	No	%	No	%
Military Rehabilitation and Compensation Commission	207		237	
National Australia Bank Limited	18		9	
Optus Administration Pty Limited	25		17	
Telstra Corporation Limited	129		186	
Other decision-makers	45		28	
<i>Seafarers Rehabilitation and Compensation Act 1992</i>	32		32	
Subtotal	1,250	20	1,540	21
Taxation				
Taxation Appeals Division				
Australian Business Number	10		11	
Fringe benefits tax	6		5	
Goods and services tax	98		256	
Income tax (other than tax schemes)	817		823	
Income tax (tax schemes)	69		547	
Self-managed superannuation fund regulation	15		20	
Superannuation guarantee charge	34		53	
Taxation administration	22		23	
Other	39		63	
Subtotal	1,110	18	1,801	25
Small Taxation Claims Tribunal				
Fringe benefits tax	1		2	
Goods and services tax	4		6	
Income tax (other than tax schemes)	35		44	
Income tax (tax schemes)	3		0	
Refusal of extension of time to lodge objection	6		5	
Release from taxation liabilities	40		15	
Superannuation guarantee charge	6		8	
Other	2		3	
Subtotal	97	2	83	1
Subtotal	1,207	19	1,884	26
SUBTOTAL for major jurisdictions	5,307	85	6,240	86

APPLICATIONS FOR REVIEW OF A DECISION – BY PORTFOLIO

Agriculture, Fisheries and Forestry				
Agricultural and veterinary chemicals	0		2	
Fisheries	0		1	
Subtotal	0	0	3	<1
Attorney-General's				
Background checking	8		12	
Bankruptcy	24		23	
Customs	26		20	

	Applications lodged		Applications finalised	
	No	%	No	%
Leases on national land	1		1	
Marriage celebrants	0		1	
Waiver of fees in courts	1		3	
Subtotal	60	<1	60	<1
Broadband, Communications and the Digital Economy				
Communications and media	2		1	
Subtotal	2	<1	1	<1
Defence				
Defence Force retirement and death benefits	12		9	
Employer support payments	5		2	
Other	1		1	
Subtotal	18	<1	12	<1
Education, Employment and Workplace Relations				
Disability services	2		2	
Education services for overseas students	0		1	
Higher education funding	13		12	
Mutual recognition of occupations	4		2	
Subtotal	19	<1	17	<1
Environment, Water, Heritage and the Arts				
Environment protection and biodiversity	0		4	
Protection of movable cultural heritage	1		0	
Subtotal	1	<1	4	1
Families, Housing, Community Services and Indigenous Affairs				
Aboriginal corporations	2		0	
Subtotal	2	<1	0	<1
Finance and Deregulation				
Electoral matters	0		2	
Superannuation Acts	2		3	
Subtotal	2	<1	5	<1
Foreign Affairs and Trade				
Export market development grants	10		4	
Passports	7		7	
Subtotal	17	<1	11	<1
Health and Ageing				
Aged care	15		11	
Medicare and other health decisions	9		5	
Pharmacists	21		21	
Therapeutic goods	7		3	
Subtotal	52	<1	40	<1

	Applications lodged		Applications finalised	
	No	%	No	%
Human Services				
Child support	32		30	
Subtotal	32	<1	30	<1
Immigration and Citizenship				
Business visa cancellation	13		71	
Citizenship	141		149	
Migration agent registration	6		12	
Protection visa cancellation or refusal	5		1	
Visa cancellation or refusal on character grounds	50		51	
Subtotal	215	3	284	4
Infrastructure, Transport, Regional Development and Local Government				
Airports	3		1	
Aviation and maritime transport security	5		3	
Civil aviation	17		23	
Motor vehicle standards	23		20	
Subtotal	48	<1	47	1
Innovation, Industry, Science and Research				
Automotive industry	1		0	
Industry research and development	10		6	
Patents, designs and trademarks	1		2	
Textiles, clothing and footwear	2		1	
Subtotal	14	<1	9	<1
Treasury				
Auditors and liquidators registration	3		2	
Corporations and financial services regulation	36		47	
Insurance and superannuation regulation	0		13	
Tax agent registration	18		18	
Subtotal	57	<1	80	1
SUBTOTAL for portfolios	539	9	603	8

APPLICATIONS FOR REVIEW OF A DECISION – OTHER

Security appeals				
ASIO assessments	0		1	
Decisions of National Archives of Australia relating to ASIO records	5		2	
Subtotal	5	<1	3	<1
Whole of government				
Archives Act 1983	4		5	
Freedom of Information Act 1982	139		144	
Subtotal	143	2	149	2

	Applications lodged		Applications finalised	
	No	%	No	%
Case management and Tribunal decisions				
No jurisdiction/Uncertain jurisdiction	180		185	
Review of decision relating to Tribunal fees	1		1	
Subtotal	181	3	186	3
SUBTOTAL for other	329	5	338	5
OTHER APPLICATIONS UNDER THE ADMINISTRATIVE APPEALS TRIBUNAL ACT 1975				
Application for extension of time to lodge an application for review of a decision	49		48	
Other	2		2	
Subtotal for other applications	51	<1	50	<1
TOTAL^a	6,226	100	7,231	100

a Percentages do not total 100% due to rounding.

Chart A3.2 Applications lodged in each registry

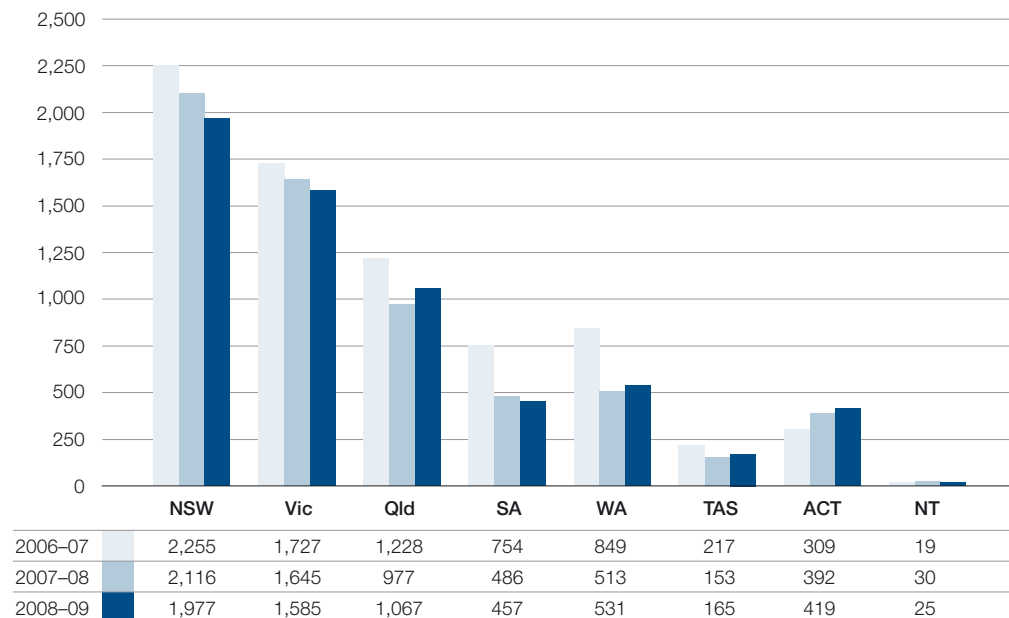


Chart A3.3 Applications finalised in each registry

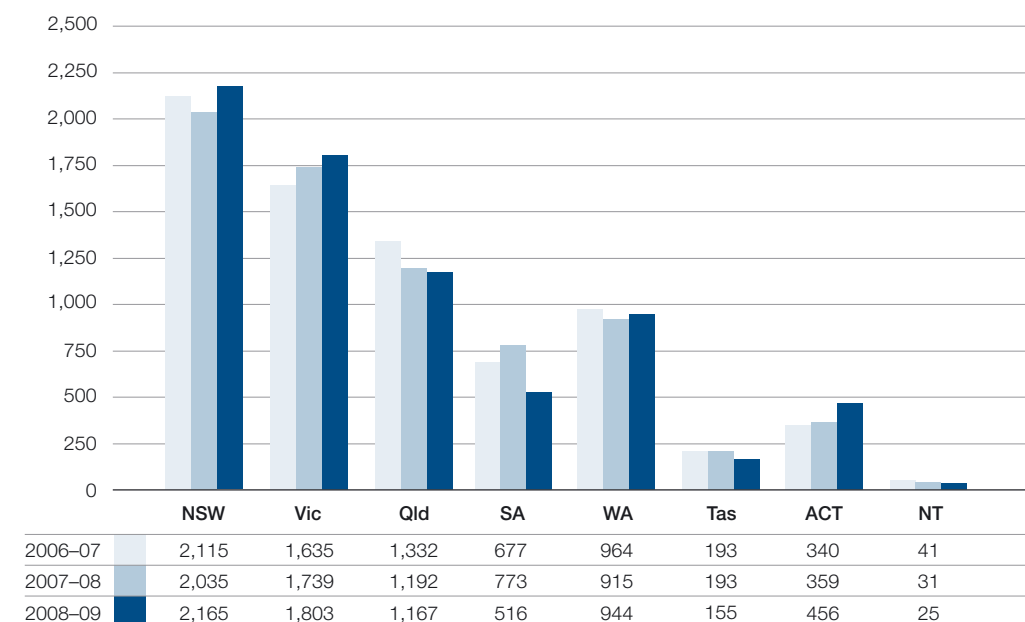


Table A3.4 Percentage of applications finalised without a hearing^a

Jurisdiction	2006-07 %	2007-08 %	2008-09 %
All applications	81	79	81
Social security	72	70	76
Veterans' affairs	78	75	74
Workers' compensation	85	85	85
Taxation			
Taxation Appeals Division	92	91	89
Small Taxation Claims Tribunal	77	72	84

a Applications finalised without a hearing refers to applications that were finalised by the Tribunal without it completing the review and giving a decision on the merits under section 43 of the Administrative Appeals Tribunal Act. This includes applications finalised in accordance with terms of agreement lodged by the parties (sections 34D and 42C), applications withdrawn by the applicant (subsection 42A(1A)) and applications dismissed by the Tribunal (sections 42A and 42B).

Table A3.5 Outcomes of applications for review of a decision finalised in 2008–09

	All applications			Social security			Veterans' affairs			Workers' Compensation			Taxation		
	No	%	No	%	No	%	No	%	No	%	Taxation Appeals Division		Small Taxation Claims Tribunal		
											No	%	No	%	
By consent or withdrawn															
Decision affirmed ^a	352	5	16	<1	9	1	302	20	20	1	2	2	2		
Decision varied ^a	787	11	39	2	70	10	54	4	597	33	24	29			
Decision set aside ^a	1,520	21	392	18	173	25	521	34	298	17	18	22			
Dismissed by consent ^b	98	1	17	<1	2	<1	14	<1	52	3	1	1			
Dismissed by operation of law ^c	368	5	368	17	N/A	–	N/A	–	N/A	–	N/A	–			
Withdrawn by applicant	1,960	27	555	26	249	36	401	26	453	25	23	28			
Subtotal	5,085	71	1,387	65	503	73	1,292	84	1,420	79	68	82			
By decision															
Decision affirmed ^d	907	13	363	17	115	17	150	10	104	6	11	13			
Decision varied ^d	96	1	19	<1	6	<1	12	<1	44	2	1	1			
Decision set aside ^d	390	5	136	6	58	8	69	4	42	2	1	1			
Subtotal	1,393	19	518	24	179	26	231	15	190	11	13	16			
Other															
Dismissed by Tribunal ^e	335	5	148	7	3	<1	10	<1	141	8	2	2			
No jurisdiction ^f	185	3	10	<1	0	–	0	–	26	1	0	–			
Extension of time refused	66	<1	46	2	2	<1	1	<1	1	<1	0	–			
No application fee paid	67	<1	0	–	0	–	0	–	19	1	0	–			
Other ^d	50	<1	19	<1	1	<1	6	<1	4	<1	0	–			
Subtotal	703	10	223	10	6	<1	17	1	191	11	2	2			
TOTAL^h	7,181	100	2,128	100	688	100	1,540	100	1,801	100	83	100			

a Applications finalised by the Tribunal in accordance with terms of agreement reached by the parties either in the course of an alternative dispute resolution process (section 34D of the Administrative Appeals Tribunal Act) or at any other stage of review proceedings (section 42C).

b Applications dismissed by consent under subsection 42A(1) of the Administrative Appeals Tribunal Act.

c If an application in the family assistance and social security area relates to the recovery of a debt, the parties may agree in writing to settle the proceedings. On receipt of the agreement, the application is taken to have been dismissed: section 182 of the *Social Security (Administration) Act 1999*, section 146 of the *A New Tax System (Family Assistance) (Administration) Act 1999* and section 326A of the *Student Assistance Act 1973*.

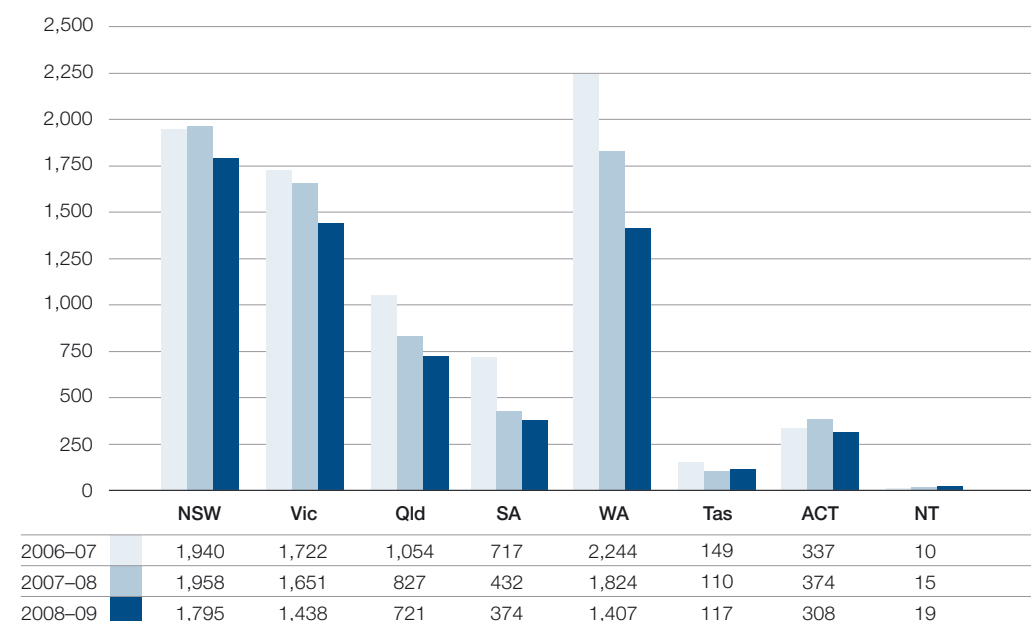
d Applications finalised by a decision of the Tribunal under section 43 of the Administrative Appeals Tribunal Act.

e Applications dismissed under subsection 42A(2) of the Administrative Appeals Tribunal Act (non-appearance at a case event), subsection 42A(5) (failure to proceed with an application or to comply with a direction of the Tribunal) and subsection 42B(1) (application is frivolous or vexatious).

f Applications in relation to which the Tribunal has determined it does not have jurisdiction or dismissed under subsection 42A(4) of the Administrative Appeals Tribunal Act on the basis that the applicant has failed to demonstrate that a decision is reviewable.

g Includes applications for review of a decision that have been lodged out of time and in relation to which no extension of time application is subsequently received.

h Percentages do not total 100% due to rounding.

Chart A3.6 Applications current in each registry, 30 June**Table A3.7** Alternative dispute resolution processes, interlocutory hearings and hearings conducted by the Tribunal

Event type	2007-08	2008-09
Conferences	9,668	8,886
Case appraisals	10	8
Conciliations	504	529
Mediations	56	55
Neutral evaluations	24	49
Interlocutory hearings ^a	470	613
Hearings	1,413	1,300

a Includes hearings relating to the jurisdiction of the Tribunal and hearings relating to applications for orders of the following kind:

- to extend the time to lodge an application for review
- to be joined as a party to a proceeding
- to make a confidentiality order under section 35 of the Administrative Appeals Tribunal Act
- to stay the operation or implementation of a reviewable decision
- to dismiss an application
- to reinstate an application.

Table A3.8 Constitution of tribunals for hearings

Tribunal type	2007-08		2008-09	
	No.	%	No.	%
Judge alone	7	<1	1	<1
Judge with 1 other member	7	<1	10	<1
Judge with 2 other members	3	<1	2	<1
Deputy President alone	158	11	186	14
Deputy President with 1 other member	53	4	51	4
Deputy President with 2 other members	5	<1	3	<1
Senior Member alone	651	46	578	44
Senior Member with 1 other member	131	9	145	11
Senior Member with 2 other members	6	<1	2	<1
Member alone	358	25	290	22
Two Members	33	2	32	2
Three Members	1	<1	0	-
TOTAL^a	1,413	100	1,300	100
Total multi-member tribunals	239	17	245	19

a Percentages do not total 100% due to rounding.

Table A3.9 Appeals against decisions of the Tribunal by jurisdiction

Jurisdiction	2006-07		2007-08		2008-09	
	Section 44 ^a	Other ^b	Section 44 ^a	Other ^b	Section 44 ^a	Other ^b
Social security	39	0	25	0	20	1
Veterans' affairs	24	0	24	2	16	1
Workers' compensation	21	1	15	0	16	1
Taxation						
Taxation Appeals Division	18	0	25	2	13	1
Small Taxation Claims Tribunal	0	0	0	0	2	0
Other	25	6	32	17	28	11
TOTAL	127	7	121	21	95	15

a Appeals lodged in the Federal Court under section 44 of the Administrative Appeals Tribunal Act. In some circumstances, a party may lodge an application seeking relief under section 44 of the Administrative Appeals Tribunal Act and under another enactment. These applications are treated as section 44 appeals for statistical purposes.

b Applications for judicial review made under the *Administrative Decisions (Judicial Review) Act 1977*, the *Judiciary Act 1903*, Part 8 of the *Migration Act 1958* or section 75(v) of the Constitution.

Table A3.10 Appeals against decisions of the Tribunal — outcomes of appeals determined^a

Outcome	2006-07		2007-08 ^b		2008-09	
	Section 44	Other	Section 44	Other	Section 44	Other
Allowed/Remitted	52	3	50	4	32	4
Dismissed	59	7	67	11	55	12
Discontinued	26	1	25	2	19	–
TOTAL	137	11	142	17	106	16

a Where a decision of a Federal Magistrate, a single judge of the Federal Court or the Full Court of the Federal Court in relation to an appeal has been appealed further, only the ultimate result is counted for the purpose of these statistics.

b Please note that the figures for 2007-08 differ from those given in the 2007-08 Annual Report. An audit revealed that a number of records had not been included or had been incorrectly classified in the figures for that reporting year.

During the reporting year, nine appeals (compared with eight in 2007-08) under section 44 of the Administrative Appeals Tribunal Act were finally determined in the Federal Magistrates Court following transfer of the appeal from the Federal Court pursuant to section 44AA of the Administrative Appeals Tribunal Act.

Table A3.11 Appeals against decisions of the Tribunal — outcomes of appeals determined, by jurisdiction

Outcome	2006-07		2007-08 ^a		2008-09	
	Section 44	Other	Section 44	Other	Section 44	Other
Social security						
Allowed/Remitted	7	0	6	0	6	0
Dismissed	14	0	19	0	14	0
Discontinued	10	0	5	0	4	0
Subtotal	31	0	30	0	24	0
Veterans' affairs						
Allowed/Remitted	14	0	13	0	8	0
Dismissed	9	0	9	1	14	0
Discontinued	3	0	2	0	1	0
Subtotal	26	0	24	1	23	0
Workers' compensation						
Allowed/Remitted	10	1	11	0	8	0
Dismissed	10	1	10	2	2	1
Discontinued	2	0	4	0	6	0
Subtotal	22	2	25	2	16	1

Outcome	2006-07		2007-08 ^a		2008-09	
	Section 44	Other	Section 44	Other	Section 44	Other
Taxation						
Taxation Appeals Division						
Allowed/Remitted	9	0	11	0	2	0
Dismissed	6	0	12	0	7	1
Discontinued	5	0	6	1	2	0
Subtotal	20	0	29	1	11	1
Small Taxation Claims Tribunal						
Allowed/Remitted	0	0	0	0	0	0
Dismissed	3	0	0	0	1	0
Discontinued	0	0	0	0	0	0
Subtotal	3	0	0	0	1	0
Subtotal	23	0	29	1	12	1
Other						
Allowed/Remitted	12	2	9	4	8	4
Dismissed	17	6	17	8	17	10
Discontinued	6	1	8	1	6	0
Subtotal	35	9	34	13	31	14
TOTAL	137	11	142	17	106	16

a Please note that the figures for 2007-08 differ from those given in the 2007-08 Annual Report. An audit revealed that a number of records had not been included or had been incorrectly classified in the figures for that reporting year.

APPENDIX 4: RESOURCING TABLES

The Tribunal has one outcome specified in the 2008–09 Portfolio Budget Statements:

Improve the quality of administrative decision-making through the provision of a review mechanism that is fair, just, economical, informal and quick.

There is one output group relating to this outcome:

Output Group 1 – Completed review of decisions

Output 1.1.1 – Applications finalised without a hearing

Output 1.1.2 – Applications finalised with a hearing

Resource statements

Table A4.1 shows the Tribunal's various sources of funding.

Table A4.1 Resource Statement – 2008–09

	Actual Available Appropriations for 2008–09 \$'000	Payments Made 2008–09 \$'000	Balance Remaining
	(a)	(b)	(a-b)
ORDINARY ANNUAL SERVICES¹			
Departmental appropriation			
Departmental appropriation	40,733	31,859	8,874
S.31 Relevant agency receipts	1,096	-	1,096
Total	41,829	31,859	9,970
Total ordinary annual services	41,829	31,859	
OTHER SERVICES²			
Departmental non-operating			
Equity injections	-	-	-
Total	-	-	-
Total other services	-	-	
Total available annual appropriations	41,829	31,859	9,970
Total Resourcing and Payments	41,829	31,859	

1 Appropriation Bill (No.1) 2008-09 and Appropriation Bill (No.3) 2008–09

2 Appropriation Bill (No.2) 2008-09 and Appropriation Bill (No.4) 2008–09

Resources for Outcome

Table A4.2 shows how the 2008–09 budget appropriations for the Tribunal translate to total resourcing for the Tribunal's outcome, including administered expenses, revenue from the government (appropriation), revenue from other sources and the total price of the outputs.

Table A4.2 Total resources for Outcome 1

Outcome 1 – Completed reviews of decisions

	Budget * 2008–09 \$'000 (a)	Actual Expenses 2008–09 \$'000 (b)	Variation \$'000 (a)-(b)
Output Group 1			
Departmental	33,714	33,670	44
Subtotal for Output Group 1	33,714	33,670	44
Total for Outcome 1			
Departmental	33,714	33,670	44
Administered	-	-	-
Average staffing level (number)		160.6	

* Full-year budget, including any subsequent adjustment made to the 2008–09 Budget

APPENDIX 5: TRIBUNAL APPLICATION FEES

This appendix sets out information in relation to fees that are payable to lodge applications with the Tribunal.

Rules relating to the payment and refund of application fees

An application to the Tribunal is not taken to be made unless the prescribed fee is paid: section 29A of the *Administrative Appeals Tribunal Act 1975*. The rules relating to the payment and refund of fees are set out in regulations 19 and 19AA of the *Administrative Appeals Tribunal Regulations 1976*.

Subject to a number of exceptions, an application fee is payable for lodging:

- an application for review of a decision
- an application for a decision on whether a person was entitled to be given a statement of reasons for a decision under subsection 28(1) of the *Administrative Appeals Tribunal Act*, and
- an application for a declaration under subsection 62(2) of the *Freedom of Information Act 1982* that a statement of reasons for a decision is not adequate.

The standard application fee during 2008–09 was \$682. The lower application fee payable for lodging an application that will be dealt with in the Small Taxation Claims Tribunal was \$68.

Circumstances in which an application fee is not payable

Applications for review of certain types of decisions do not attract a fee: regulation 19(1). The relevant decisions are:

- any decision specified in Schedule 3 to the *Administrative Appeals Tribunal Regulations 1976*, and
- any decision under the *Freedom of Information Act* concerning a document that relates to a decision specified in Schedule 3 to the *Administrative Appeals Tribunal Regulations 1976*.

Decisions specified in Schedule 3 include decisions in the areas of family assistance and

social security, veterans' affairs and workers' compensation.

If two or more applications relate to the same applicant and may be conveniently heard before the Tribunal at the same time, the Tribunal may order that only one fee is payable for those applications: subregulations 19(5) and 19AA(5).

Certain types of applicants are exempt from the requirement to pay a fee. An application fee is not payable where:

- the person liable to pay the fee is granted legal aid for the matter to which the application relates: paragraphs 19(6)(a) and 19AA(6)(a) or
- the person liable to pay the fee is:
 - the holder of a health care card, a health benefit card, a pensioner concession card, a Commonwealth seniors health card or any other card that certifies entitlement to Commonwealth health concessions
 - an inmate of a prison, in immigration detention or otherwise lawfully detained in a public institution
 - a child under the age of 18 years, or
 - in receipt of youth allowance, austudy payment or benefits under the ABSTUDY Scheme: paragraphs 19(6)(b) and 19AA(6)(b).

The Tribunal also has a discretion to waive an application fee when it is satisfied that payment of the fee would cause financial hardship to the person: paragraphs 19(6)(c) and 19AA(6)(c).

Refund of application fees

A person who has paid a standard application fee is entitled to a refund of the fee if it was not payable or if the proceedings have terminated in a manner favourable to the applicant. The lower application fee payable for lodging an application that will be dealt with in the Small Taxation Claims Tribunal is refundable only if it was not payable.

Application fees in 2008–09

In 2008–09, the Tribunal received \$523,423 and refunded \$371,610 in application fees.

There were 925 applications (see Table A5.1) for which fees were not paid pursuant to subregulations 19(5), 19(6), 19AA(5) and 19AA(6), as described under 'Circumstances in which an application fee is not payable' opposite. The total revenue forgone was \$608,746.

The Tribunal refused 16 applications to waive the application fee on financial hardship grounds under paragraph 19(6)(c), and one application under paragraph 19AA(6)(c). One application for review of a decision not to waive payment of an application fee was made under regulation 20.

Table A5.1 Applications — no fee paid

Category	Number of applications
One fee paid for two or more applications relating to the same applicant	536
Applicant exempt from paying fee	319
Application fee waived by Tribunal	70
TOTAL	925

APPENDIX 6: CHANGES TO JURISDICTION

This appendix lists the laws — the Acts and legislative instruments (collectively referred to as 'enactments') — that altered the Tribunal's jurisdiction in the period 1 July 2008 to 30 June 2009.

The appendix includes enactments that were assented to or made prior to 1 July 2008 but which commenced during the reporting period. It does not include enactments that were assented to or made in the reporting period but had not commenced as at 30 June 2009.

The appendix is divided into three sections: new jurisdiction conferred, existing jurisdiction that has been altered and jurisdiction removed.

New jurisdiction conferred

The enactments listed in the left column conferred new jurisdiction on the Tribunal to review decisions made under that enactment or under the enactment listed in the right column.

Table A6.1 New jurisdiction

Conferring enactment	Affected enactment
<i>Australian Meat and Live-stock (Beef Export to the USA — Quota Year 2009) Order 2008</i>	
<i>Australian Meat and Live-stock Industry (High Quality Beef Export to the European Union) Order 2009</i>	
<i>Defence Home Ownership Assistance Scheme Act 2008</i>	
<i>Defence Home Ownership Assistance Scheme Act 2008</i>	<i>Defence Home Ownership Assistance Scheme Regulations 2008</i>
<i>Family Law (Family Dispute Resolution Practitioners) Regulations 2008</i>	
<i>Health Insurance (Eligible Collection Centres) Approval Principles 2008</i>	
<i>Marine Orders Part 25 — Issue 6 (Order No 4 of 2008)</i>	
<i>Marine Orders Part 98 — Issue 1 (Order No 8 of 2008)</i>	
<i>National Health Security Act 2007</i>	
<i>National Rental Affordability Scheme Amendment Regulations 2009 (No 1)</i>	<i>National Rental Affordability Scheme Regulations 2008</i>
<i>Offshore Petroleum Act 2006</i>	
<i>Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) Act 2008</i>	
<i>Temporary Residents' Superannuation Legislation Amendment Act 2008</i>	<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>
<i>Wheat Export Marketing Scheme 2008</i>	

Existing jurisdiction amended

The enactments listed in the left column amended the Tribunal's existing jurisdiction to review decisions under the enactment or enactments listed in the right column. The enactments have either extended the Tribunal's jurisdiction or reduced the number of decisions subject to review.

Table A6.2 Amended jurisdiction

Amending enactment	Affected enactment
<i>Aged Care Amendment (2008 Measures No 2) Act 2008</i>	<i>Aged Care Act 1997</i>
<i>Airports (Building Control) Amendment Regulations 2009 (No 1)</i>	<i>Airports (Building Control) Regulations 1996</i>
<i>Aviation Legislation Amendment (International Airline Licences and Carriers' Liability Insurance) Act 2008</i> <i>Air Navigation Amendment Regulations 2009 (No 1)</i>	<i>Air Navigation Regulations 1947</i>
<i>Aviation Transport Security Amendment Regulations 2008 (No 2)</i>	<i>Aviation Transport Security Regulations 2005</i>
<i>Child Support Legislation Amendment (Reform of the Child Support Scheme — New Formula and Other Measures) Act 2006</i>	<i>Child Support (Assessment) Act 1989</i>
<i>Civil Aviation and Civil Aviation Safety Amendment Regulations 2009 (No 1)</i>	<i>Civil Aviation Safety Regulations 1998</i>
<i>Civil Aviation Amendment Regulations 2008 (No 1)</i>	<i>Civil Aviation Safety Regulations 1998</i>
<i>Civil Aviation Amendment Regulations 2008 (No 4)</i>	<i>Civil Aviation Regulations 1988</i>
<i>Customs Amendment Regulations 2009 (No 1)</i>	<i>Customs Regulations 1926</i>
<i>Customs Legislation Amendment (Modernising) Act 2008</i>	<i>Customs Act 1901</i>
<i>Food Standards Australia New Zealand Amendment Act 2007</i>	<i>Food Standards Australia New Zealand Act 1991</i>
<i>Great Barrier Reef Marine Park Amendment Regulations 2008 (No 1)</i>	<i>Great Barrier Reef Marine Park Regulations 1983</i>
<i>Industrial Chemicals (Notification and Assessment) Amendment Regulations 2008 (No 2)</i>	<i>Industrial Chemicals (Notification and Assessment) Regulations 1990</i>
<i>Maritime Transport and Offshore Facilities Security Amendment Regulations 2009 (No 1)</i>	<i>Maritime Transport and Offshore Facilities Security Regulations 2003</i>
<i>National Television Conversion Scheme Variation 2007 (No 1)</i>	<i>National Television Conversion Scheme 1999</i>
<i>Occupational Health and Safety (Safety Standards) Amendment Regulations 2008 (No 1)</i>	<i>Occupational Health and Safety (Safety Standards) Regulations 1994</i>
<i>Occupational Health and Safety (Safety Standards) Amendment Regulations 2008 (No 2)</i>	<i>Occupational Health and Safety (Safety Standards) Regulations 1994</i>
<i>Patents and Trade Marks Legislation Amendment Regulations 2008 (No 1)</i>	<i>Patents Regulations 1991</i> <i>Trade Marks Regulations 1995</i>
<i>Primary Industries Levies and Charges Collection Amendment Regulations 2008 (No 1)</i>	<i>Primary Industries Levies and Charges Collection Regulations 1991</i>
<i>Primary Industries Levies and Charges Collection Amendment Regulations 2008 (No 4)</i>	<i>Primary Industries Levies and Charges Collection Regulations 1991</i>

Amending enactment	Affected enactment
<i>Superannuation Industry (Supervision) Amendment Regulations 2009 (No 3)</i>	<i>Superannuation Industry (Supervision) Regulations 1994</i>
<i>Tax Laws Amendment (2009 Measures No 2) Act 2009</i>	<i>Income Tax Assessment Act 1997</i>
<i>Tradex Scheme Amendment Act 2008</i>	<i>Tradex Scheme Act 1999</i>
<i>Veterans' Entitlement Legislation Amendment (2007 Election Commitments) Act 2008</i>	<i>Veterans' Entitlements Act 1986</i>

Jurisdiction removed

The enactments listed in the left column repealed an enactment that provided for merits review by the Tribunal or removed the Tribunal's jurisdiction under an enactment which continues to exist. The affected enactment is noted in the right column.

Table A6.3 Jurisdiction removed

Repealing enactment	Affected enactment
<i>Australian Meat and Live-stock Industry (High Quality Beef Export to the European Union) Order 2009</i>	<i>Australian Meat and Live-stock Industry (High Quality Beef Export to the European Union) Order 2008</i>
<i>Health Insurance (Eligible Collection Centres) Approval Principles 2008</i>	<i>Health Insurance (Eligible Collection Centres) Approval Principles 2007</i>
<i>Marine Orders Part 25 — Issue 6 (Order No 4 of 2008)</i>	<i>Marine Orders Part 25 — Issue 5</i>
<i>Offshore Petroleum (Repeals and Consequential Amendments) Act 2006</i>	<i>Petroleum (Submerged Lands) Act 1967</i>
<i>Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007</i>	<i>Private Health Insurance Incentives Act 1998</i>
<i>Screen Australia and the National Film and Sound Archive (Consequential and Transitional Provisions) Act 2008</i>	<i>Australian Film Commission Act 1975</i>
<i>Statute Law Revision Act 2008</i>	<i>Air Navigation (Charges) Act 1952</i> <i>Foreign Fishing Boats Levy Regulations</i>

APPENDIX 7: DECISIONS OF INTEREST

This appendix contains summaries of a number of Tribunal decisions that were published during 2008-09. They reflect the different types of matters dealt with by the Tribunal and include some of the more important or interesting decisions delivered during the reporting year.

Aviation

Re McWilliam and Civil Aviation Safety Authority

[2008] AATA 687; 6 August 2008

Mr E Fice, Member

Whether concurrent parachuting and general aviation activity should be allowed at Barwon Heads Aerodrome

Mr McWilliam operated a parachuting business at the Barwon Heads Aerodrome (BHA), dropping between 14,000 and 20,000 parachutists per year. The Civil Aviation Safety Authority (CASA) began receiving complaints about the parachuting operations. These related to matters such as parachutists descending through cloud and near collisions between parachutists and aircraft.

On 6 April 2005, CASA issued two legislative instruments which had the effect of preventing parachuting at BHA. The first instrument directed pilots not to permit a person to make a parachute jump within 4.8 km of BHA. The second instrument varied a general authorisation permitting parachute descents by specifically prohibiting parachute descents within 4.8 km of BHA.

Mr McWilliam applied for review of the decision to issue the two instruments. In a preliminary decision ([2005] AATA 1148), Deputy President Forgie found that the Tribunal had jurisdiction to review the issue of the second instrument but not the first instrument. The review proceeded, however, on the basis that, if the Tribunal were to make a decision that parachuting operations should resume at BHA, CASA would revoke the first instrument.

In 2008, Mr McWilliam constructed a runway on property that he owned adjacent to BHA, some 300 metres from the existing main runway. Mr McWilliam argued that, in reviewing CASA's decision, the Tribunal should take into account recent developments, including alternative proposals he had developed for airspace use at BHA. The Tribunal considered the High Court's decision in *Shi v Migration Agents Registration Authority* (2008) 235 CLR 286 and decided that the correct approach was to limit its consideration to the circumstances existing at the time the decision was made by CASA to issue the legislative instrument.

The Tribunal found that unauthorised parachute descents through cloud had occurred at BHA. Serious conflicts between aircraft and parachutists had also occurred from time to time. The Tribunal accepted that it is possible to conduct parachuting and general aviation activities concurrently, but that this can only be done when there is strict adherence to regulations which have been made to ensure the separation of the participants in those activities. It is imperative that there is a sound relationship between the groups involved in the different activities. This was not the case at BHA. The Tribunal found that concurrent parachuting and general aviation activities at BHA posed a serious risk to the safety of air navigation in that area. The Tribunal concluded that CASA's decision to issue the second instrument was the preferable decision.

Environment

Re Wildlife Protection Association of Australia Inc and Minister for the Environment, Heritage and the Arts and Director-General of the Department of Environment and Climate Change (NSW)

[2008] AATA 717; 15 August 2008; [2008] AATA 846; 23 September 2008; [2008] AATA 1079; 2 December 2008

Deputy President PE Hack SC; Dr TJ Hawcroft, Member

Whether a plan for the commercial harvesting of kangaroos in New South Wales should be declared an approved wildlife trade management plan

The *New South Wales Commercial Kangaroo Harvest Management Plan 2007–2011* (the Plan) was developed by the New South Wales Government to regulate the commercial culling of four species of kangaroo. Products derived from the kangaroos could be exported from Australia only if the Plan was declared an approved wildlife trade management plan under Part 13A of the *Environment Protection and Biodiversity Conservation Act 1999*. The Minister for the Environment and Heritage made such a declaration in December 2006. The Wildlife Protection Association of Australia Inc. sought review of the Minister's decision to approve the Plan.

Before the Plan could be approved, the Minister, and the Tribunal on review, had to be satisfied of a number of matters set out in section 303FO of the *Environment Protection and Biodiversity Conservation Act*. These included requirements relating to the ecological sustainability of the proposed activities, the conservation of biodiversity, the humane treatment of the animals, assessment of the environmental impact of the proposed activities and ongoing management of the environmental impact.

The overarching goal stated in the Plan was the maintenance of viable populations of kangaroos in accordance with the principles of ecologically sustainable development. The Plan provided for population surveys to be undertaken, the setting of quotas for the different species of kangaroo and continuous indirect monitoring of populations. It was considered that approximately one million kangaroos would be culled each year during the five-year life of the Plan.

The Tribunal considered evidence on ecological sustainability and found there was a low risk of overharvesting. The Tribunal was satisfied that, with certain amendments, the Plan would manage the harvesting of kangaroos in an ecologically sustainable way.

The Tribunal did not accept that the culling of kangaroos would, of itself, contribute to the conservation of biodiversity. However, the Tribunal held that the Act did not require such a finding. The Plan was not inconsistent with biodiversity conservation and, as such, would promote it.

The Tribunal considered evidence about the ways in which kangaroos are killed. The Plan required trappers to seek to achieve instantaneous death by a shot to the brain but, if this could not be achieved, to dispatch wounded kangaroos or orphaned joeys quickly and humanely. The Tribunal was satisfied that the Plan and the system of accreditation, licensing and compliance management for trappers promoted the humane treatment of kangaroos. It was likely that the kangaroos would be killed in a way that was generally accepted as minimising pain and suffering.

The Tribunal was also satisfied that the Plan contained an adequate assessment of the environmental impact of the harvesting, and included proper and adequate measures to mitigate and monitor the environmental impact. However, the Tribunal had concerns about the lack of measures in the Plan to respond to an unusual decline in numbers. The Tribunal considered that the Plan should be amended to incorporate a requirement that culling be suspended if appropriate trigger points were reached.

Subject to the inclusion of the proposed amendment, the Tribunal was satisfied of the matters set out in section 303FO of the *Environment Protection and Biodiversity Conservation Act*. The Director-General of the Department of Environment and Climate Change formulated a variation to the Plan to address the Tribunal's concerns. The Tribunal varied the decision under review in accordance with that variation.

Export market development grants

Re Nepenthe Wines Pty Ltd and Australian Trade Commission

[2008] AATA 974; 3 November 2008

Deputy President DG Jarvis

Whether sales of wine produced by the applicant and exported to a US corporation via an Australian company should be taken into account when assessing entitlement to a grant

Nepenthe Wines Pty Ltd was carrying on business in Australia as a vigneron and producer of wines marketed under its own label. Nepenthe entered into a distributorship agreement, effective from January 2000, with Click Imports, a US corporation. The agreement was varied by the subsequent involvement of Click Exports Pty Ltd, a company incorporated in Australia.

Nepenthe applied to Austrade, under the *Export Market Development Grants Act 1997*, for a grant in relation to wine exported in the 2004–05 financial year. Austrade decided not to take into account the proceeds of some 20 sales of wines on the basis that the sales had been made to an Australian resident rather than an overseas purchaser.

Section 109 of the *Export Market Development Grants Act* provided that a person is taken to sell eligible goods only if Austrade is satisfied that the property in the goods passes from that person to a person who is not a resident of Australia at the time when the goods are sold. Section 110 provided that, if a person sells eligible goods at a time when the goods are in Australia, and the buyer later exports the goods, the seller (not the buyer) is taken to export the goods.

It was common ground that the wine produced by Nepenthe constituted eligible goods for the purpose of the *Export Market Development Grants Act*. Nepenthe contended that, under the 2000 distributorship agreement, title in wine exported to Click Imports passed from Nepenthe to Click Imports upon delivery of the wine on board the shipping vessel, and that this was not affected by the subsequent variation to the agreement. Austrade contended that Nepenthe, Click Imports and Click Exports had entered into a

tripartite agreement that took the place of the distributorship agreement and that, under the tripartite agreement, title in goods passed from Nepenthe to Click Exports, thus entitling Click Exports to the grant under the *Export Market Development Grants Act*.

The former managing director of Nepenthe gave evidence that he had no knowledge of any tripartite agreement until the matter had been raised during the Tribunal proceedings. Click Exports and Click Imports were unable to find a copy of the agreement with Nepenthe or any correspondence or communications referring to the agreement with Nepenthe.

The Tribunal found that the course of conduct was consistent with the continued existence of the original distributorship agreement, and that no tripartite agreement was ever entered into with Nepenthe. The Tribunal concluded that the communications from Click Exports constituted a variation of the original distributorship agreement, and Click Exports negotiated that variation on behalf of Click Imports. The original distributorship agreement continued to subsist, but had been varied by the subsequent course of conduct of the parties. Click Exports did not become a party but acted on behalf of Click Imports to facilitate the performance of the distributorship agreement, with Nepenthe assuming that Click Exports was merely acting on behalf of Click Imports.

On the Tribunal's findings, therefore, property in the wine did not pass from Nepenthe to Click Exports, but rather to Click Imports. As that corporation was not a resident of Australia at the time when the wine was sold to it, the Tribunal held that the sales of the wine in question should have been taken into account by Austrade when calculating Nepenthe's entitlement to a grant under the *Export Market Development Grants Act*. The Tribunal accordingly set aside the decision under review and remitted the matter for reconsideration in accordance with its reasons.

Financial services regulation

Re Moore and Australian Securities and Investments Commission

[2008] AATA 1164; 23 December 2008

Justice GK Downes, President; Deputy President RJ Groom; Senior Member AF Cunningham

Whether a banning order could be made in relation to the applicant — the meaning of ‘convicted of fraud’

Mr Moore was convicted of an offence under section 64(1) of the *Australian Securities and Investments Commission Act 2001*. He was found guilty of making a false or misleading statement in the course of an examination conducted under the *Corporations Act 2001*. The Australian Securities and Investments Commission subsequently made a banning order prohibiting Mr Moore from providing financial advice for 18 months. Mr Moore applied to the Tribunal for review of this decision.

Section 920A(1) of the *Corporations Act* provided that ASIC could make a banning order if the person was convicted of fraud. However, the word ‘fraud’ did not appear in section 64 of the *Australian Securities and Investments Commission Act*. The question for the Tribunal was whether Mr Moore’s conviction under the *Australian Securities and Investments Commission Act* was a conviction of fraud. This involved considering not only the meaning of the words ‘convicted of fraud’, but also the influence of the term ‘serious fraud’ which was defined in section 9 of the *Corporations Act* to mean an offence involving fraud or dishonesty:

- against an Australian law or any other law, and
- punishable by imprisonment for life or for a period, or maximum period, of at least three months.

The Tribunal first considered the elements of fraud at common law. It found that fraud involved, at least, a fraudulent act such as making a statement known to be untrue. It also involved intent to advantage the actor or disadvantage the object of the fraudulent act, although in the case of a public official, the

intent could merely be to affect the official’s conduct. The Tribunal held that the offence under section 64(1) of the *Australian Securities and Investments Commission Act* could be established without any evidence of intent to advantage or disadvantage. The absence of this element meant that a conviction under section 64 was not a conviction of fraud at common law.

However, the Tribunal held that Mr Moore had been convicted of serious fraud as defined in section 9 of the *Corporations Act*. By making a false statement without reasonable belief in its truth when there was a statutory obligation to be truthful, Mr Moore had acted dishonestly, even if it was arguable that the statement was not made to advantage or disadvantage. The Tribunal was satisfied that a person convicted of an offence under section 64(1) of the *Australian Securities and Investments Commission Act* is convicted of an offence involving dishonesty. The further two requirements under section 9 were also satisfied.

The Tribunal concluded that, by being convicted of ‘serious fraud’, Mr Moore was ‘convicted of fraud’ within the meaning of section 920A(1) of the *Corporations Act*. He was therefore liable to be subject to a banning order. The Tribunal affirmed the decision under review.

Immigration and citizenship

Re Gaigo and Minister for Immigration and Citizenship

[2008] AATA 590; 9 July 2008

Deputy President BH McPherson CBE

Whether the applicant was entitled to become an Australian citizen again

Mrs Gaigo was born in Papua in 1948. She claimed that the Australian citizenship she held before Papua New Guinea became independent should continue to be recognised. Her application to resume Australian citizenship was refused under the *Australian Citizenship Act 2007*. Mrs Gaigo applied to the Tribunal for review of the decision.

The Tribunal noted that in 1948 Papua was a Territory of the Commonwealth of Australia and Mrs Gaigo became a British subject when

she was born. On the commencement of the *Nationality and Citizenship Act 1948* (Cth), any British subject born in Australia automatically became an Australian citizen. As Australia was defined in that Act to include Territories such as Papua, the Tribunal found that Mrs Gaigo became an Australian citizen.

Papua New Guinea became an independent state on 16 September 1975. Under the Papua New Guinea Constitution, all persons born in Papua were converted into citizens of Papua New Guinea if they had at least two grandparents who were born there and if they had no right of permanent residence in Australia. The Tribunal was satisfied that Mrs Gaigo became a citizen of Papua New Guinea on that day.

The *Papua New Guinea Independence Act 1975* (Cth) provided that Australia ceased to have any sovereignty or rights of administration in respect of Papua New Guinea from the day it became independent. The Tribunal noted that, at common law, this had the effect that the people of Papua New Guinea ceased to be Australian citizens. In addition, the *Papua New Guinea Independence (Australian Citizenship) Regulations 1975* provided explicitly that any Australian citizen who became a citizen of Papua New Guinea on 16 September 1975 thereupon ceased to be an Australian citizen. The validity of these regulations was upheld by the High Court in *Re Minister for Immigration and Multicultural and Indigenous Affairs; Ex parte Ame* (2005) 222 CLR 439.

Mrs Gaigo argued that the deprivation of her Australian citizenship was contrary to Article 15 of the Universal Declaration of Human Rights which provides that everyone has the right to nationality and no one shall be deprived arbitrarily of it. The Tribunal noted that Kirby J had rejected a submission of this kind in *Ex parte Ame*. Those affected by the change of citizenship did not lose a right to nationality. Their nationality status had simply changed as a result of the change of the sovereignty of their birthplace.

The Tribunal held that Mrs Gaigo had ceased to be a citizen of Australia on 16 September 1975. There was nothing in either the *Nationality and Citizenship Act* or the *Australian Citizenship Act* that would have enabled her to

resume her Australian citizenship which was lost by operation of law. The Tribunal affirmed the decision under review.

Social security

Re Secretary, Department of Education, Employment and Workplace Relations and Morrison

[2008] AATA 1017; 12 November 2008

Justice GK Downes, President; Deputy President RJ Groom; Senior Member AF Cunningham

Calculation of the period during which social security benefits not payable following receipt of an award of damages — whether payments for medical expenses should be included in the amount of damages

In January 2006, Mr Morrison was injured in a motor vehicle accident in Tasmania. He suffered significant injuries requiring medical treatment. Pursuant to the *Motor Accidents (Liabilities and Compensation) Act 1973* (Tas), the Motor Accident Insurance Board made approximately 33 payments to hospitals and doctors for a range of medical, hospital and rehabilitation treatment that Mr Morrison received.

In March 2007, Mr Morrison commenced proceedings at common law for damages for negligence. He settled his claim for \$50,000 plus costs in November 2007. In accordance with the Tasmanian scheme, the consent judgment excluded the medical expenses paid by the Board which totalled \$51,528.56.

The *Social Security Act 1991* includes provisions designed to ensure that a person who suffers personal injury and receives compensation for lost earnings or lost earning capacity does not also receive income support payments for the same period. At the relevant time, all lump sum compensation payments received by a person, including any amounts payable for other heads of compensation such as pain and suffering, were to be identified and added together. The *Social Security Act* then deemed that 50 per cent of that total amount was for lost earnings or lost earning capacity. This figure was used to calculate the length of the period during which the person could not be paid certain social security benefits.

The issue for the Tribunal was whether the medical expenses paid by the Board should be included in the total amount of compensation to which the 50 per cent rule would be applied. The Tribunal noted that, if this were the case, the practical effect would be that 100 per cent of the judgment of \$50,000 would be apportioned to loss of earnings. Nothing would be excluded as representing pain and suffering or any other non-income element.

The Tribunal examined closely the schedules outlining the payments made by the Board. Noting that the words 'lump sum payment' were not defined in the Social Security Act, the Tribunal held that their meaning should be determined by their ordinary meaning viewed in the context of their use in the Act. The Tribunal found that the payments for medical expenses were not lump sum payments. This was because a lump sum payment for the purposes of the scheme required more than 'a set of payments for medical services whose grouping is neither entirely logical nor uniform which links items together in some cases and not in others'. The phrase did not cover payments not dependent on fault, paid continuously over a period of time, and not lumped together in an ordered way for the purposes of payment.

The Tribunal also considered whether Mr Morrison had 'received' the payments for the purposes of the Social Security Act. It held that, although Mr Morrison's medical expenses were paid on his behalf and for his benefit, it could not be said that any payments had been received by him.

The Tribunal found that the lump sum compensation payment was restricted to the \$50,000 awarded in the consent judgment. The part of the payment relating to loss of earnings or loss of earning capacity was therefore \$25,000. No youth allowance had been paid to Mr Morrison during the resulting preclusion period of 33 weeks and there was no amount to be repaid. The Tribunal affirmed the decision of the Social Security Appeals Tribunal.

Taxation

Re Hornsby Shire Council and Commissioner of Taxation

[2008] AATA 1060; 26 November 2008

Deputy President GD Walker; Deputy President J Block

Whether a compulsory acquisition of land undertaken at the request of a landowner was a 'supply' within the meaning of A New Tax System (Goods and Services Tax) Act 1999

CSR Ltd was the owner of the Hornsby Quarry. The Hornsby Shire Council rezoned the land on which it was located as public recreation land. Pursuant to the Hornsby Local Environmental Plan 1994, the Council was required to acquire land rezoned as public recreation land if the owner requested this in writing. CSR made such a request.

The Council published a notice of compulsory acquisition of land in the *NSW Government Gazette*. The Council paid CSR Ltd \$26,508,771 in compensation for the market value of the land, the loss attributable to disturbance, and interest. The Council claimed an input tax credit of \$2,409,888.

The main issue before the Tribunal was whether the compulsory acquisition by the Council of the quarry constituted a 'supply' within the meaning of section 9-10 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act). The term 'supply' was defined generally to be any form of supply whatsoever and to include:

- a grant, assignment or surrender of real property: section 9-10(2)(d), and
- any entry into, or release from, an obligation to do anything, to refrain from an act or to tolerate an act or situation: section 9-10(2)(g).

The Commissioner conceded that, if the acquisition of the quarry was a taxable supply, the Council was entitled to an input tax credit.

The Commissioner of Taxation contended that the acquisition of the quarry took place in consequence of the publication of the notice in the *Gazette*. The notice given by CSR under the Local Environmental Plan did not constitute a disposal of an interest in property. CSR could have sold the quarry thereafter to a third party.

The Tribunal found that CSR giving the notice under the Local Environmental Plan was the driving force which resulted in the Council acquiring the quarry. When CSR gave the notice to the Council, it incurred legal obligations. CSR could not have sold the quarry to a third party. Had it attempted to do so, the Council would have been entitled to injunctive relief. The Tribunal was satisfied that, in giving the notice, CSR made a supply within the meaning of section 9-10(2)(g) of the GST Act. The Tribunal also considered the meaning of the term 'surrender' and was satisfied that there was a supply within the meaning of section 9-10(2)(d) of the GST Act.

The Tribunal set aside the Commissioner of Taxation's decision.

Re Roche Products Pty Ltd and Commissioner of Taxation

[2008] AATA 639; 22 July 2008

Justice GK Downes, President

Whether the applicant paid arm's length prices for pharmaceutical and other products — transfer pricing methods

Roche Products Pty Ltd (Roche Australia) was a subsidiary of the multinational pharmaceutical company Roche Holdings Ltd based in Switzerland. It was part of the Roche Group. At the relevant time, Roche Australia was carrying on business through three divisions: the Prescription Division which imported and sold Roche prescription pharmaceuticals, the Consumer Division which sold over-the-counter products, and the Diagnostics Division which sold diagnostic equipment and products.

The Commissioner of Taxation conducted a review of the amount paid by Roche Australia to other companies in the Roche Group for its products. Applying section 136AD of the *Income Tax Assessment Act 1936*, the Commissioner of Taxation assessed Roche Australia to higher income tax on the basis that the amounts it paid were more than the amounts which would be paid in arm's length transactions. Amended assessments were issued for the income tax years ended 30 June 1993 to 30 June 2003. The Tribunal was required to determine whether the amended assessments were excessive.

Roche Australia accepted its acquisitions were not at arm's length. The Tribunal's task was therefore to consider whether they exceeded arm's length prices. The Tribunal noted that, where there is a substantial free market for goods, it will not usually be difficult to establish a benchmark against which the prices paid by a subsidiary to its holding company can be measured. In the case of pharmaceutical products, however, this was difficult because there is generally no free market for these products. The Tribunal considered expert evidence from a number of economists in deciding an appropriate method for determining arm's length prices.

The Tribunal was satisfied that the prices for which Roche Australia acquired the products sold in its Consumer Division and Diagnostic Division were arm's length prices. In relation to the Prescription Division, the Tribunal found that the taxable income was higher than that contended by Roche Australia but, in most cases, not as high as the income on which the amended assessments were based.

In relation to the 1997, 2002 and 2003 income tax years, the Tribunal concluded that the amount of taxable income would be higher than that determined by the Commissioner of Taxation. The Tribunal held that it had the power to increase the amount of assessable income in relation to the 2002 and 2003 years but not in relation to 1997. The period during which an amended assessment could be issued increasing liability had expired in relation to that year.

The Tribunal set aside the Commissioner of Taxation's decision in relation to 10 of the 11 income tax years, substituting decisions relating to the taxable income for the relevant year and remitting the matters to the Commissioner of Taxation for further consideration in accordance with the Tribunal's reasons. The decision in relation to the 1997 income tax year was affirmed.

Veterans' affairs

Re McMahon and Repatriation Commission

[2008] AATA 662; 16 July 2008; [2009] AATA 253; 20 April 2009

Senior Member J Kelly; Dr JD Campbell, Member

Whether the veteran was entitled to disability pension at the special rate

Mr McMahon was born in 1915 and served in the Royal Australian Air Force in World War II. From 1974 until 2006, he worked for the Australian Bureau of Statistics (ABS) on a part-time basis as a field interviewer. Mr McMahon was 90 years of age when he stopped working. He then applied for an increase in his pension under the *Veterans' Entitlements Act 1986*.

The question for the Tribunal was whether Mr McMahon was entitled to the special rate of pension pursuant to section 24 of the *Veterans' Entitlements Act*. To be eligible, Mr McMahon was required to satisfy a number of criteria, including that:

- his war-caused conditions, of themselves alone, rendered him incapable of undertaking remunerative work for more than eight hours per week, and
- his war-caused conditions, alone, prevented him from continuing to undertake his last remunerative work.

Mr McMahon was suffering from a number of service-related conditions but relied primarily on war-caused hearing loss. He claimed his hearing problem caused him to stop working.

The Tribunal did not accept that Mr McMahon's age would prevent him from working. He had been working for the ABS until after his ninetieth birthday, many years beyond the normal span of a working life. On the evidence before it, the Tribunal was satisfied that it was Mr McMahon's hearing loss alone that rendered him incapable of working more than eight hours per week. However, the Tribunal decided it was unable to determine whether it was his war-caused hearing loss alone that had that effect. The evidence did not address whether age-related hearing loss was also a relevant factor. The Tribunal determined that

additional evidence was required for it to make the correct or preferable decision.

Further evidence was obtained from an ear, nose and throat physician who concluded that a person with Mr McMahon's level of age-related hearing loss would be able to cope with the duties of a field interviewer. The Tribunal was satisfied that it was Mr McMahon's service-related hearing loss alone that prevented him from engaging in remunerative work and prevented him from continuing to undertake his last paid work as a field interviewer.

The Tribunal set aside the reviewable decision and determined that Mr McMahon was entitled to the special rate of pension.

Workers' compensation

Re Muscat and Comcare

[2008] AATA 872; 1 October 2008

Senior Member MD Allen; Dr JD Campbell, Member

Whether the applicant could claim compensation under the Safety, Rehabilitation and Compensation Act 1988 following an award of damages made by the Dust Diseases Tribunal of New South Wales

Mr Muscat was exposed to asbestos while he was employed by the Commonwealth. In 1999 he filed a statement of claim in the Dust Diseases Tribunal of New South Wales. The particulars of the injuries specified in the statement of claim included asbestosis and increased risk of developing lung cancer. In August 2003, Mr Muscat settled the action for damages against the Commonwealth for the sum of \$165,000.

Mr Muscat developed lung cancer and made claims for compensation under the *Safety, Rehabilitation and Compensation Act 1988*. There was no dispute that the cancer was contributed to in a material degree by his employment by the Commonwealth. However, Comcare argued that Mr Muscat was not entitled to compensation because he had already received damages in respect of the injury of lung cancer.

Under the *Safety, Rehabilitation and Compensation Act*, compensation cannot be paid in respect of an injury if an employee has recovered damages in respect of that injury. Mr Muscat claimed that any damages in the lump sum award from the Dust Diseases Tribunal attributable to 'increased risk of developing lung cancer' were not damages in respect of an injury in respect of which compensation was payable under the Act.

The Tribunal found that the head of damage in Mr Muscat's statement of claim phrased as 'risk of developing lung cancer' was a notion peculiar to the Dust Diseases Tribunal and could not affect the definition of injury in the *Safety, Rehabilitation and Compensation Act*. The decision of the High Court in *Canute v Comcare* (2006) 226 CLR 535 had made clear that an injury in the terms of the Act means the resultant effect of an incident upon an employee's body. Mr Muscat's injuries were asbestosis and lung cancer. That Mr Muscat received damages for a head of damages otherwise unquantifiable, namely a risk of injury, did not result in part of the damages awarded being awarded 'in respect of' the actual injury when it did occur.

The Tribunal set aside the decisions under review. It determined that Mr Muscat was entitled to weekly compensation payments and to compensation for the permanent impairment resulting from the disease of lung cancer.

APPENDIX 8: FREEDOM OF INFORMATION

Statement under section 8 of the Freedom of Information Act

This statement is made for the purposes of section 8 of the *Freedom of Information Act 1982* and is correct as at 30 June 2009.

Subsections 8(1) and (3) of the Freedom of Information Act require Australian Government agencies to publish the following information:

- the organisation and functions of the agency
- arrangements that exist for outside participation in agency decision-making
- the categories of documents that the agency possesses, and
- how people can gain access to information held by the agency.

Organisation and functions

This statement should be read in conjunction with the detailed information contained in Chapter 2 of this annual report relating to the organisation, functions and powers of the Tribunal.

Arrangements for outside participation

The Tribunal undertakes consultation in relation to proposals for changes to its case management process. Details of proposed changes are sent to regular users and other key stakeholders for comment. They are also available on the Tribunal's website.

Members and staff of the Tribunal hold liaison meetings with users of the Tribunal and other stakeholders. Meetings may involve representatives of government departments, agencies and other organisations whose decisions are reviewed by the Tribunal, legal practitioners and other persons who appear regularly before the Tribunal, including representatives of community legal centres, legal aid bodies and veterans' representative groups and other representative bodies. Liaison meetings provide an opportunity for the Tribunal to seek feedback from users in relation to its operations generally and also in relation to specific proposals for change.

The Tribunal welcomes comments on the standard of the service it provides. The Service Charter sets out the ways in which comments or complaints in relation to its operations may be made.

Categories of documents maintained by the Tribunal

The Tribunal maintains the following categories of documents:

- documents relating to applications made under the Administrative Appeals Tribunal Act, including Tribunal decisions and reasons for decisions
- documents relating to requests for examinations under the *Proceeds of Crime Act 2002*
- an electronic case management system containing information in relation to applications made under the Administrative Appeals Tribunal Act and requests for examinations under the *Proceeds of Crime Act 2002*
- Tribunal practice and procedure documents, including practice directions and forms
- documents and other materials containing information on the Tribunal's processes, including jurisdictional guides, leaflets, the *Getting Decisions Right* video/DVD and the Tribunal's Service Charter
- reference materials, including the Registry Procedures Manual and the Tribunal jurisdiction list
- documents relating to the administration of the Tribunal, including annual reports on the Tribunal's operations, records relating to human and financial resource management, statistical information and other internal documents and correspondence, and
- documents relating to internal policy initiatives, case management strategies and projects.

Facilities for access to documents

A range of documents is available to the public free of charge on request. They include:

- Tribunal practice and procedure documents, including Practice Directions and forms
- documents containing information on the Tribunal's processes, including jurisdictional guides, leaflets and the Tribunal's Service Charter
- the Tribunal jurisdiction list, and
- annual reports on the Tribunal's operations.

These documents can be obtained from any of the Tribunal's registries or the Tribunal's website, www.aat.gov.au.

The following documents can be inspected by the public at the Tribunal free of charge on request:

- once a hearing has been held in relation to an application, transcripts of evidence given before the Tribunal as well as documents lodged with the Tribunal or received in evidence by the Tribunal unless disclosure of the documents is prohibited or restricted, including by the Tribunal under section 35 of the Administrative Appeals Tribunal Act
- Tribunal decisions and reasons for decisions that are not subject to a confidentiality order under section 35 of the Administrative Appeals Tribunal Act
- *Getting Decisions Right* video/DVD, and
- the Registry Procedures Manual.

The following documents are available for purchase by the public in accordance with arrangements set by the Tribunal:

- copies of Tribunal decisions and reasons for decisions, and
- copies of other documents made available for inspection.

Facilities for examining documents and obtaining copies are available at each of the Tribunal's registries.

Many Tribunal decisions can be accessed free of charge through the AustLII website, www.austlii.edu.au.

Freedom of information procedures and initial contact points

Enquiries concerning access to documents relating to individual applications, including requests under the Freedom of Information Act, should be directed to the District Registrar in the relevant Tribunal registry. Northern Territory residents should direct any enquiries to the Brisbane Registry.

Enquiries concerning access to other documents held by the Tribunal or general enquiries concerning freedom of information requests should be directed to the Assistant Registrar at the Tribunal's Principal Registry in Sydney.

Contact officers, addresses and telephone numbers are inside the front cover of this report.

APPENDIX 9: SPEECHES, ARTICLES AND OTHER ACTIVITIES

Tribunal members and staff undertake a wide range of activities that assist to raise awareness of the Tribunal and its role. Members and staff give speeches at conferences and seminars, participate in training and education activities and submit articles for publication. This listing of activities in 2008-09 is in three sections each arranged by date: speeches and presentations; professional development and other activities; and published articles.

Table 9.1 Speeches and presentations

Title	Event / organisation	Speaker(s)	Date
<i>Future Directions / Developments for Generalist Administrative Tribunals in Australia</i>	State Administrative Tribunal Members' Conference, Perth	Deputy President Stan Hotop	17 July 2008
<i>Integrity in Merits Review</i>	Australian Corporate Lawyers Association Conference, Canberra	Deputy President Stephanie Forgie	29 August 2008
<i>Mediation — Quality into the Future</i>	National Mediation Conference, Perth	Professor Tania Sourdin, Member	12 September 2008
<i>Tribunal Dilemma: Rigorous Informality</i>	Professor Harry Whitmore Lecture, New South Wales Chapter of the Council of Australasian Tribunals, Sydney	Justice Garry Downes, President	17 September 2008
<i>Reasonableness, Proportionality and Merits Review</i>	New South Wales Young Lawyers Seminar on Issues of Administrative Law, Sydney	Justice Garry Downes, President	24 September 2008
<i>Current Legal Issues in Superannuation</i>	Queensland Law Society, Brisbane	Senior Member Ken Levy	30 September 2008
<i>Tribunal Practices</i>	Tasmanian Bar Association Convention, Hobart	Senior Member Ann Cunningham	November 2008
<i>Preparation, Preparation</i>	New South Wales Motor Accidents Authority — Medical Assessment Service Assessors Conference, Sydney	Justice Garry Downes, President	1 November 2008
<i>Special Circumstances: Just How Special?</i>	Legal Aid NSW Civil Law Conference, Sydney	Senior Member Naida Isenberg	7 November 2008
<i>Giving Oral Reasons for Decisions</i>	Presentation to Members of the Social Security Appeals Tribunal in Victoria, Melbourne	Senior Member Graham Friedman	12 December 2008
<i>The Australian Tribunal System</i>	Public and Administrative Law Conference, Wellington	Deputy President Geoffrey Walker	20 February 2009
<i>Making Administrative Decisions</i>	Excellence in Decision Making: Course conducted jointly by University of Sydney and Australian Government Solicitor, Canberra	Deputy President Stephanie Forgie	30 March 2009
<i>Administrative Review</i>	Continuing Professional Development Seminar, The Law Society of Western Australia, Perth	Deputy President Stan Hotop	30 March 2009

Title	Event / organisation	Speaker(s)	Date
<i>Australian Tribunal Reforms</i>	Commonwealth Law Conference 2009, Hong Kong	Justice Garry Downes, President	8 April 2009
<i>Procedural Fairness in Merits Review</i>	New South Wales Land and Environment Court, Sydney	Senior Member Narelle Bell	May 2009
<i>Decision-writing</i>	Veterans' Review Board Conference, Glenbrook	Justice Garry Downes, President	6 May 2009
<i>Credentialing and Quality — Recommendations from the Research</i>	Workers Compensation Commission of New South Wales Mediators Forum, Sydney	Professor Tania Sourdin, Member	7 May 2009
<i>Giving Oral Reasons for Decisions</i>	National Conference for Full-Time Members of the Social Security Appeals Tribunal, Melbourne	Senior Member Graham Friedman	20 May 2009
<i>Decision-writing</i>	Workers Compensation Commission of New South Wales, Sydney	Senior Member Narelle Bell	June 2009
<i>Tribunal Craft — Some Observations</i>	12th Australasian Institute of Judicial Administration Annual Tribunals Conference, Sydney	Deputy President Brian Tamberlin QC	4 June 2009
<i>ADR in the Administrative Appeals Tribunal</i>	AAT and Law Council of Australia Joint Seminar on the AAT, Melbourne	Deputy President Philip Hack SC	25 June 2009
<i>Expert members of the Administrative Appeals Tribunal</i>	AAT and Law Council of Australia Joint Seminar on the AAT, Melbourne	Miss Anne Shanahan, Member	25 June 2009

Table 9.2 Professional development and other activities

Title	Event / organisation	Speaker(s)	Date
<i>Alternative Dispute Resolution at the AAT</i>	Australian Taxation Office National Workshop, Melbourne	Conference Registrar Lyn Carins	30 July 2008
<i>Collaborative Learning in a Tribunal</i>	Learning and Development in Practice Conference 2008, Sydney	Registrar Doug Humphreys; Athena Harris Ingall, Learning and Development Officer	August 2008
<i>Judgment-writing seminars</i>	National Court and Magisterial Service of Papua New Guinea, Port Moresby	Senior Member Narelle Bell	August 2008
<i>Practice and Procedure at the AAT</i>	Fourth Annual Public In-House Counsel Conference, Sydney	Assistant Registrar Megan Cassidy, Conference Registrar Mary Rebehy	26 August 2008
<i>Advanced decision-writing seminar</i>	Administrative Appeals Tribunal, Sydney	Senior Member Narelle Bell with Professor James Raymond	September 2008

Title	Event / organisation	Speaker(s)	Date
Decision-writing seminar	Local Court of New South Wales, Sydney	Senior Member Narelle Bell with Professor James Raymond	September 2008
Decision-writing seminar	New South Wales Chapter of the Council of Australasian Tribunals, Sydney	Senior Member Narelle Bell with Professor James Raymond	September 2008
<i>Conducting an Application in the AAT</i>	Continuing Professional Development Seminar, Migration Institute of Australia, Brisbane	Conference Registrar Nicole Barker	10 November 2008
<i>Conducting an Application in the AAT</i>	Continuing Professional Development Seminar, Migration Institute of Australia, Melbourne	Conference Registrar Lyn Carins	18 November 2008
<i>Conducting an Application in the AAT</i>	Continuing Professional Development Seminar, Migration Institute of Australia, Sydney	Christopher Matthies, Manager, Policy and Research; Chantal Bostock, Senior Legal and Policy Officer	20 November 2008
<i>The Administrative Appeals Tribunal</i>	Presentation to lawyers and community workers, Legal Aid NSW, Parramatta	Assistant Registrar Megan Cassidy; Conference Registrars Mary Desses, Mary Rebehy, Kim Richardson; Athena Harris Ingall, Learning and Development Officer	27 November 2008
Decision-writing seminar	Malaysian Sessions Court, Putrajaya and Loloatu	Senior Member Narelle Bell	March 2009
<i>Proceedings before the AAT</i>	Queensland Law Society Government Lawyers' Conference, Brisbane	Senior Member Bernard McCabe	30 April 2009
<i>Centrelink Appeals and the AAT</i>	Legal Services Commission Advice Training Group, Adelaide	District Registrar Catherine Cashen; Conference Registrar Helen Lacey	12 May 2009
<i>Evidence Gathering at the Tribunal</i>	AAT Seminar on Evidence in the AAT, NSW Law Week 2009, Sydney	Justice Garry Downes, President	13 May 2009
<i>Evidence in AAT hearings</i>	AAT Seminar on Evidence in the AAT, New South Wales Law Week 2009, Sydney	Deputy President Brian Tamberlin QC	13 May 2009
<i>The Use of Concurrent Evidence in the AAT</i>	AAT Seminar on Evidence in the AAT, New South Wales Law Week 2009, Sydney	Senior Member Geri Ettinger; Christopher Matthies, Manager, Policy and Research	13 May 2009

Title	Event / organisation	Speaker(s)	Date
<i>Evidence in the Conferencing Process</i>	AAT Seminar on Evidence in the AAT, New South Wales Law Week 2009, Sydney	Conference Registrars Mary Desses, Mary Rebehy, Kim Richardson	13 May 2009
<i>The Administrative Appeals Tribunal</i>	Presentation to Principal Solicitors of New South Wales Community Legal Centres, Sydney	Assistant Registrar Megan Cassidy; Conference Registrars Mary Desses, Mary Rebehy, Kim Richardson; Christopher Matthies, Manager, Policy and Research	20 May 2009

Table 9.3 Articles

'Australian Citizenship and the Independence of Papua New Guinea'	<i>UNSW Law Journal</i>	(2009) 32(1) UNSWLJ 50	Senior Member Peter McDermott
'Merits review of Commonwealth environmental decision-making'	<i>Environmental and Planning Law Journal</i>	(2009) 26 EPLJ 113	Jason Cabarrús, Legal and Policy Officer
'The application of litigation privilege in the Administrative Appeals Tribunal: the Farnaby Decision'	<i>Bulletin (Law Society of South Australia)</i>	30(7) August 2008: 28–29	Lisa Wunderer, Associate to Deputy President Jarvis

APPENDIX 10: CONSULTANCIES AND OTHER REPORTING REQUIREMENTS

This appendix provides more detailed information on certain consultancies let during the reporting year and information on a range of other matters that must be included in the Tribunal's annual report.

Consultancies

Table A10.1 sets out information on consultancies that were let during 2008–09 where the value of the services is \$10,000 or more. The contract price includes GST.

The selection process for each consultancy, described below, is consistent with the Commonwealth Procurement Guidelines (December 2008).

Open tender: A procurement procedure in which a request for tender is published inviting all businesses that satisfy the conditions for participation to submit tenders. Public tenders are generally sought from the Australian Government AusTender internet site.

Select tender: A procurement procedure in which the procuring agency selects which potential suppliers are invited to submit tenders. This procurement process may only be used under certain defined circumstances.

Direct sourcing: A form of restricted tendering, available only under certain defined circumstances, with a single potential supplier or suppliers being invited to bid because of their unique expertise and/or their special ability to supply the goods and/or services sought.

Panel: An arrangement under which a number of suppliers, initially selected through an open tender process, may each supply property or services to an agency as specified in the panel arrangements. Quotes are sought from suppliers that have pre-qualified on the agency panels to supply to the government. This category includes standing offers and supplier panels where the supply of goods and services may be provided for a pre-determined length of time, usually at a pre-arranged price.

The table also shows the justification for the decision to use each consultancy, according to the following key:

- A — the skills currently unavailable within agency
- B — need for specialised or professional skills
- C — need for independent research or assessment.

Table A10.1 Consultancy services let during 2008–09

Name of Consultant	Description	Contract price	Selection process	Justification
T4 Protective Services	Security certification	\$10,141	Select tender	B
TOTAL		\$10,141		

Correction

The following consultancy contract was let in 2007–08, and inadvertently omitted from the 2007–08 Annual Report.

Name of Consultant	Description	Contract price	Selection process	Justification
ZOO Communications	Branding and design	\$ 25,039	Select tender	B

Table A10.2 shows the number of consultancies let by the Tribunal in the three most recent reporting years with contract value of \$10,000 or more, including GST.

Table A10.2 Trends in consultancy services let

Year	No. of consultancies	Total contract value
2006–07	2	\$164,338
2007–08	4	\$167,014
2008–09	1	\$10,141

Advertising and market research

Profmark Consulting Pty Limited, a market research organisation, was paid \$14,973 in 2008–09 for the conduct of a user satisfaction survey. Details on the survey are in Chapter 4 of this report.

Non-campaign advertising expenditure of \$5,172 was paid to HMA Blaze for advertising employment vacancies.

Discretionary grants

The Tribunal does not administer any grants programs.

Environmental performance

The Tribunal is a review body and therefore does not administer policy that has a major effect on the environment.

The Tribunal limits its impact on the environment in day-to-day administrative functions by minimising energy usage and wastage of resources. Results to date are encouraging in that energy usage is moderate compared with usage by similar organisations. General energy consumption fell by 7.63 per cent during the reporting year. Petrol consumption fell by approximately one per cent, although the number of vehicles was unchanged.

In addition, the landlord of the Tribunal's registry in Sydney continues to actively promote energy and resource conservation within the building and seeks ongoing reduction in consumption of these items.

APPENDIX 11: COMMONWEALTH DISABILITY STRATEGY — TRIBUNAL PERFORMANCE

The Tribunal's performance in implementing the Commonwealth Disability Strategy in its role as a provider is shown below.

Performance indicator	Performance measures	Performance for 2008–09
Providers have established mechanisms for quality improvement and assurance.	Evidence of quality improvement and assurance systems in operation.	Regular liaison meetings were held with Tribunal users providing a forum for feedback on service provision. The results of the user satisfaction survey conducted in 2007–08 were received in August 2008.
Providers have an established service charter that specifies the roles of the provider and consumer and service standards which address accessibility for people with disabilities.	Established service charter that adequately reflects the needs of people with disabilities in operation.	The Tribunal has a Service Charter which sets out its commitment to providing equitable access to all users. The Charter was available in leaflet form (including in large print) and on the Tribunal's website.
Complaints/grievance mechanism, including access to external mechanisms, in place to address issues and concerns raised about performance.	Established complaints/grievance mechanisms, including access to external mechanisms, in operation.	The Tribunal has complaint-handling procedures in place which are set out in the Service Charter. When responding to complaints, the Tribunal advises complainants of external mechanisms relevant to the issues raised, including the Ombudsman and the Australian Human Rights Commission.

GLOSSARY

AASB	Australian Accounting Standards Board
AAT	Administrative Appeals Tribunal
ACSI 33	Australian Communications Security Instructions 33 which forms part of the Protective Security Manual.
ADR	Alternative dispute resolution
Affirm	The AAT may affirm a decision under review. This means that the original decision stands.
Applicant	The person, department or agency that has lodged an application with the AAT.
Application for extension of time	An application for review of a decision must be lodged with the AAT within a certain time limit. However, an application may be made to the AAT to extend the time for lodging an application.
Case appraisal	Case appraisal is an ADR process conducted by an AAT member or other person, chosen on the basis of their knowledge of the subject matter, who assists the parties to resolve the dispute by providing a non-binding opinion on the facts in dispute and likely outcomes.
COAT	Council of Australasian Tribunals
Conciliation	Conciliation is an ADR process in which an AAT member or Conference Registrar assists the parties to identify the issues in dispute and endeavour to reach an agreement. The conciliator has no determinative role but may advise on or determine the conciliation process, make suggestions on terms of settlement and actively encourage the parties to reach an agreement.
Conference	A conference is a meeting conducted by an AAT member or Conference Registrar with the parties and/or their representatives. Conferences provide an opportunity to discuss and define the issues in dispute, identify further evidence that may be gathered, explore whether the matter can be settled and discuss the future conduct of the matter.
Confidentiality order	The AAT may make an order directing that a hearing or part of a hearing be held in private. The AAT may also give directions prohibiting or restricting the publication of the names of a party or witnesses, evidence given before the AAT or matters contained in documents lodged with the AAT.
CSS	Commonwealth Superannuation Scheme
Directions hearings	Directions hearings are conducted by AAT members and may be held to deal with procedural matters such as the exchange of statements or documents or to clarify issues relating to the conduct of a hearing. They may also be held to progress a matter in which there has been delay by a party.

Dismissal of application	In certain circumstances, the AAT may dismiss an application without proceeding to review the decision. An application may be dismissed, for example, at the request of the parties, if the applicant fails to appear at an ADR process, directions hearing or hearing, or if the AAT is satisfied that the application is frivolous or vexatious.
FMO	Finance Minister's Order
GST	Goods and Services Tax
Hearing	A hearing is conducted by one, two or three AAT members. It is the opportunity for the parties to present to the AAT evidence and submissions in relation to the decision under review. Parties may call witnesses to give evidence.
IASAJ	International Association of Supreme Administrative Jurisdictions
Interlocutory application	Any application made by a party that relates to an application for review of a decision, including an application for an extension of time to lodge an application, an application to stay the operation of the decision under review or an application for a confidentiality order.
Mediation	Mediation is an ADR process in which an AAT member or Conference Registrar assists the parties to identify the issues in dispute, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in relation to the content of the dispute but may advise on or determine the mediation process.
MRT	Migration Review Tribunal
NAATI	National Accreditation Authority for Translators and Interpreters
Neutral evaluation	Neutral evaluation is an ADR process in which an AAT member or other person, chosen on the basis of their knowledge of the subject matter, assists the parties to resolve the dispute by evaluating the facts and law at issue in the dispute and providing a non-binding opinion on the likely outcomes.
OPA	Official Public Account
Outreach	An AAT program that provides self-represented parties with information about AAT practices and procedures and other assistance in relation to the review process.
Party	Parties are the participants in the proceedings before the AAT. Parties include the person who makes the application to the AAT, the decision-maker or other respondent to the application and any other person joined to the proceedings.
Party joined	Where a person, department or agency has applied to the AAT for review of a decision, any other person, department or agency whose interests are affected by the decision may apply to be made a party to the proceeding, and the AAT may grant that application. This person, department, or agency is a party joined.

Portfolio Budget Statements	Statements prepared to explain the Budget appropriations for agencies within a portfolio in terms of outcomes and outputs.
PSS	Public Sector Superannuation Scheme
PSSap	Public Sector Superannuation accumulation plan
RRT	Refugee Review Tribunal
Remit	The AAT may set aside a decision and send it back (remit it) to the original decision-maker to be reconsidered in accordance with any directions or recommendations of the AAT.
Respondent	The party who responds to or answers an application. This is usually the department, agency or other organisation that made the original decision.
Section 37 Documents	These are the statement and documents that a decision-maker must prepare and provide to the AAT and the other party under section 37 of <i>Administrative Appeals Tribunal Act 1975</i> : known generally as the 'T Documents'. They include the reasons for the decision under review and all other relevant documents.
Set aside	The AAT may set aside a decision under review. The effect is that the AAT disagrees with the original decision and may make a new decision or remit the matter to the original decision-maker.
SSAT	Social Security Appeals Tribunal
Stay order	This is an order of the AAT to suspend the operation or implementation of the decision under review until the matter is determined or resolved.
Summons	This is a notice issued by the AAT calling a person to appear before it or to produce documents to it.
T Documents	See 'Section 37 Documents'.
TRACS	The AAT's electronic case management system.
Vary	The AAT may vary a decision under review. This means that the AAT changes or alters the original decision.
VRB	Veterans' Review Board

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