



# Administrative Appeals Tribunal

## ANNUAL REPORT 2009-10



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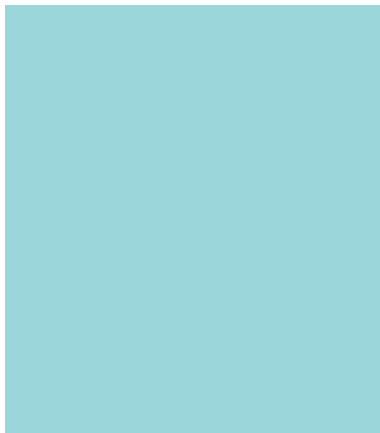
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Administrative  
Appeals  
Tribunal

ANNUAL  
REPORT  
2009-10



### This report

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

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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: Senior Member Steven Frost, Conference Registrar Kim Richardson, Shanthi Sri Ganeshan, Paul Hoffmans. Page 12: Francis Pham, Sheryl Myers. Page 17: Mark Dowsett. Photographer: Leighton Hutchinson.

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Administrative  
Appeals  
Tribunal

PRESIDENT'S CHAMBERS  
The Hon Justice Garry Downes AM

17 September 2010

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

*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 2010.

*yours faithfully,*  
*Garry Downes*

**GARRY DOWNES**

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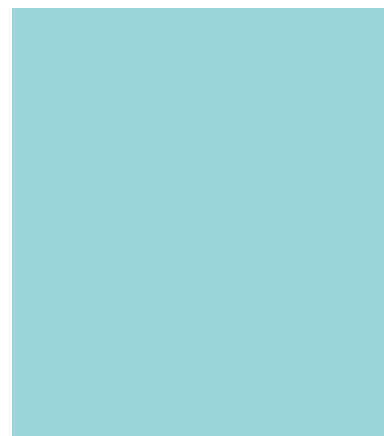
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# CHAPTER 1

## THE YEAR IN REVIEW



## PRESIDENT'S OVERVIEW



The Tribunal has witnessed significant change this year. In February, the Registrar of the Tribunal, Doug Humphreys, resigned, in order to take up the position of Principal Member of the Veterans' Review Board.

I would like to thank Doug for his hard work, dedication and valuable contribution to the Tribunal for over six years. While the recruitment process was underway, Megan Cassidy became Acting Registrar and Chris Matthies became Acting Assistant Registrar. Philip Kellow has been appointed Registrar and began his five year appointment on 22 July 2010. Philip comes from the Federal Court, where he worked as Deputy Registrar. As well as being responsible for various aspects of the court's management and administration, he was involved in significant projects such as the court's reform of its case management systems. I am delighted that Philip now joins the Tribunal.

There has also been change in Tribunal membership. During the period under review, the Tribunal farewelled Ms Lesley Hastwell, Mr Bruce Pascoe, Mr John Short, Dr Peter Staer, Ms Lisa Tovey, Dr David Weerasooriya and The Honourable Christopher Wright QC. I thank them for their contribution to the Tribunal.

I welcome the appointment of the following new Senior Members: Ms Katherine Bean, Mr Dean Letcher QC, Ms Jan Redfern and Mrs Chelsea Walsh. I also welcome the following new members: Air Vice Marshal Tony Austin, Dr Roslyn Blakley, Dr Jan Chaney, Dr Amanda Frazer, Dr Hadia Haikal-Mukhtar, Ms Kathryn Hogan, Mr Mark Hyman and Mr Ian Laughlin.

I congratulate the following members and senior members on their re-appointment: Dr Ion Alexander, Mr Rodney Dunne, Brigadier Conrad Ermert (Rtd), Ms Geri Ettinger, Mr Graham Friedman, Dr Gordon Hughes, Brigadier Graham Maynard (Rtd), Associate Professor Peter McDermott RFD, Dr Roderick McRae, Dr Michael Miller,

Mr Steven Penglis, Mr Andre Sweidan, Dr Maxwell Thorpe and Brigadier Gerry Warner (Rtd). I particularly congratulate Mr Egon Fice and Mr Stephen Frost, who were appointed as Senior Members, and Mr Stanley Hotop who was re-appointed as Deputy President in Western Australia.

I am pleased that the Tribunal attracts such high-quality members, from a wide variety of professional backgrounds, who are able to make a real contribution to Tribunal decision-making.

I also congratulate Regina Pertou, who received a medal in the General Division of the Order of Australia in the Queen's Birthday Honours List in June 2010. Regina received her medal for her contribution to administrative law and the community, particularly in the areas of equal opportunity and multiculturalism.

On 23 September 2009, the Commonwealth Attorney-General published *A Strategic Framework for Access to Justice in the Federal Civil Justice System*. The report recommended that the Tribunal take a more active approach to case management. The Tribunal was already aware and conscious of the need to review its approach to case management. The Tribunal focused on case management at its two conferences, one held for members, Conference Registrars and District Registrars and the other held for Tribunal staff. At both conferences, participants generated ideas for improving case management which they have since taken back to their individual registries. Members, Conference Registrars, District Registrars and registries are all working towards improving the case management process.

In 2009, the Tribunal engaged an external consultant, Bendelta Pty Ltd, to review the functions and workload of Tribunal staff. In May 2010, Bendelta presented its findings. Bendelta observed that the Tribunal has a strong reputation for fairness to parties and thoroughness in decision-making. The Tribunal is considering Bendelta's recommendations and the most appropriate form of implementation.

In our capacity as co-Presidents of the International Association of Supreme Administrative Jurisdictions (IASAJ), the then Chief Justice of the Federal Court, the Honourable Michael Black AC and I hosted the three-yearly conference of the Association in March 2010. The IASAJ consists of a network of more than 100 administrative jurisdictions. Its purpose is to promote co-operation by exchanging ideas and experiences. The theme of the conference was each country's means of review of administrative decisions of government. The conference, which was held in Sydney and Canberra, was a great success. It brought together more than 100 delegates, representing almost 50 countries, including a wide range of representatives from Asia. The conference allowed delegates to learn a great deal about each other's administrative law, practice and procedure. Greater knowledge and understanding of different jurisdictions will enable delegates to reflect upon their own systems and identify areas of improvement. I thank all staff responsible for organising the conference, at the Tribunal and the Federal Court, as well as the delegates, for ensuring the success of the conference.

We have reached the end of another busy year. As President, I look forward to leading the Tribunal in what is already proving to be another highly-productive year.



Swearing in new members. Justice Downes (right) watches carefully as newly appointed Deputy President Robin Handley signs an oath of office with Senior Member Jill Toohey looking on. Deputy President Handley and Senior Member Toohey were appointed to the Tribunal in August 2009.



## REGISTRAR'S REPORT



During 2009-10, the Tribunal navigated its way through changes and positioned itself to undertake more reforms in 2010-11.

As the President has noted, a review of the functions and workload of the Tribunal's staff was undertaken during 2009-10 by external consultants. The review made a number of recommendations on strategy, staffing structures and support. A management response to this review is being prepared.

Lodgements at the Tribunal remained relatively stable over the course of the reporting period. The Tribunal was able to reduce the number of applications on hand by 27 percent. In part, this was due to the resolution of a large number of matters relating to tax schemes, particularly in the Perth Registry. I anticipate that the vast majority of these matters will be resolved by the end of 2010-11. A strategic approach and great deal of hard work is responsible for this outcome and I congratulate the members and staff on this excellent achievement. The reduction in the number of current cases also reflects the Tribunal's commitment to manage its workload more proactively. Staff should take credit for contributing to this pleasing statistic.

The Tribunal continues to identify efficiencies and capitalise on opportunities to share costs with other areas of government, particularly other courts and tribunals. For example, the Tribunal worked with the Federal Court during the year to recruit and train a new District Registrar for the Tribunal and Federal Court in Tasmania. I welcome Catherine Scott to that role. The shared registry services arrangement between the Federal Court and the Tribunal is one example of the efficiencies that are made possible by a collaborative approach.

The appointment of the new Registrar of the Tribunal was announced by the Attorney-General on 14 July 2010. Philip Kellow will bring a wealth of experience and knowledge to the role from his time at the Federal Court.

Other changes during the year include the retirement of Ken Wanklyn as District Registrar in the Melbourne Registry in August 2009. My thanks go to Ken for the hard work he put in at the Melbourne Registry in recent years. A significant contribution was also made by Anthea Hammond, who acted as District Registrar in Melbourne until March 2010. After 11 years of service, Anthea resigned from the Tribunal in June to take up a position at the Department of Immigration and Citizenship, and I wish her well. Susan Woodford has been appointed District Registrar in Melbourne and I welcome her to that role.

On 21 May 2010, the Attorney-General announced the appointment of Kathryn Hogan, one of the Tribunal's Conference Registrars in Perth, as a part-time Member of the Tribunal. In June 2010, Michelle Grau, the District Registrar in Brisbane, was appointed a full-time member at the Migration Review Tribunal and Refugee Review Tribunal. It is pleasing to see staff of the Tribunal successful in their applications for statutory appointments and I congratulate both appointees.

Two major information technology projects were pursued in 2009-10. The old version of our financial system will make way for a new version of the SAP system; and our existing human resources and payroll system will be replaced. Both of these projects are on track to be fully implemented and effective early in the 2010-11 financial year.

It has been a pleasure and a privilege to act as Registrar from March until the end of this reporting period.

Figure 1.1 Organisational plan and achievements 2009-10

Goals	Outcomes	Strategies	Key Targets 2009-10	Achievements to 30 June 2010
<b>OUR VISION</b> To improve the quality of administrative decision-making through the provision of a review mechanism that is fair, just, economical, informal and quick.	Tribunal users have equitable access to fair, just, economical, informal and quick merits review. Processes are monitored and improved. Tribunal communicates effectively with its users and the public. Tribunal practice and procedure informed by user feedback. More streamlined consultative mechanism.	Make full use of alternative dispute resolution powers. Continue to improve case management practices and procedures. Improve the way the Tribunal communicates with its users and the public. Respond appropriately to feedback from users.	<b>Our Values</b> Integrity Professionalism Efficiency Accessibility Independence	<b>Key Result Areas</b> Our Users Our Partners Our People Our Organisation
<b>OUR USERS</b> To provide a high-quality national merits review process that contributes to community confidence in a system of open and accountable government.	Tribunal users have equitable access to fair, just, economical, informal and quick merits review. Processes are monitored and improved. Tribunal communicates effectively with its users and the public. Tribunal practice and procedure informed by user feedback. More streamlined consultative mechanism.	Make full use of alternative dispute resolution powers. Continue to improve case management practices and procedures. Improve the way the Tribunal communicates with its users and the public. Respond appropriately to feedback from users.	1 Commence a review of practice and procedure in the veterans' affairs jurisdiction. 2 Continue implementation of our communication strategy by: - continuing the review and revision of the Tribunal's information products, and - commencing a redesign of the Tribunal website. 3 Commence an update of Tribunal forms. 4 Conduct regular liaison meetings. 5 Form a national consultative group.	1 Deferred. Timing to be considered in 2010-11. 2 Revision of majority of brochures and fact sheets complete, including new translations. New website design approved and prepared for implementation in 2010-11. 3 Update of forms underway. Revised forms to be introduced in 2010-11. 4 Liaison meetings conducted by registries. 5 To be considered in 2010-11.

Goals	Outcomes	Strategies	Key Targets 2009-10	Achievements to 30 June 2010
<b>OUR PEOPLE</b>				
To maintain professional standards and a positive, safe and productive workplace that values diversity.	<p>Appropriate workplace policies in all areas.</p> <p>We have a healthy and safe working environment.</p> <p>Increase in Indigenous employee numbers.</p> <p>Members and staff have the skills, knowledge, commitment and tools to deliver high-quality services.</p> <p>New staff and members participate in a high-quality induction.</p> <p>Obtain organisational feedback from staff/members.</p>	<p>Maintain occupational health and safety practices.</p> <p>Maintain and promote employment diversity strategies.</p> <p>Provide and support enhanced learning and development opportunities for members and staff.</p> <p>Make available high-quality resources that assist members and staff to undertake their work</p> <p>Seek, and respond appropriately to, feedback from members and staff.</p>	<ol style="list-style-type: none"> <li>1 Strive to eliminate our already low level of workplace injuries.</li> <li>2 Finalise and implement new workplace agreement for 2009-10 and negotiate future agreement.</li> <li>3 Continue the Indigenous employment program.</li> <li>4 Hold Tribunal National Conference in March 2010.</li> <li>5 Hold new member induction course.</li> <li>6 Finalise Tribunal Practice Manual.</li> <li>7 Review and revise Registry Procedures Manual.</li> <li>8 Conduct member/staff survey.</li> </ol>	<ol style="list-style-type: none"> <li>1 Number of workplace injuries continues to be very small.</li> <li>2 Agreement for 2009-10 implemented. Agreement for 2010-11 negotiated and approved.</li> <li>3 Planning undertaken for participation in 2010-11 portfolio program</li> <li>4 Tribunal National Conference held successfully in March 2010.</li> <li>5 New member induction course evaluated and updated and held on 9, 10 and 11 November 2009.</li> <li>6 Majority of Tribunal Practice Manual drafted and edited; planned for release in 2010-11.</li> <li>7 Registry Procedures Manual updated and to be released in 2010-11.</li> <li>8 Conduct of survey deferred. Timing to be considered in 2010-11.</li> </ol>

Goals	Outcomes	Strategies	Key Targets 2009-10	Achievements to 30 June 2010
<b>OUR ORGANISATION</b>				
To be an organisation with systems and processes that maximise effective and efficient use of Tribunal resources.	<p>Improvement in meeting ACSI 33 compliance and improved physical security for Tribunal premises, members and staff.</p> <p>Planning and organisational decisions are based on timely, accurate and relevant information.</p> <p>IT and other systems and processes allow staff to work more efficiently and provide high-quality service.</p> <p>Ensure budget and activity levels are financially sustainable and make best use of resources.</p> <p>Tribunal uses 'green' options whenever viable.</p>	<p>Ensure accommodation and facilities meet Tribunal needs</p> <p>Minimise exposure to system or other risks, fire or natural disaster.</p> <p>Improve IT systems.</p> <p>Improve resources management.</p>	<ol style="list-style-type: none"> <li>1 Continue to implement ACSI and physical security improvements as funding allows.</li> <li>2 Maintain and update as required business continuity and risk management plans.</li> <li>3 Continue implementation process of new finance, HR and IT systems.</li> <li>4 Continue to enhance IT systems.</li> <li>5 Prepare a 3-5 Year Strategic Plan covering organisational outcomes and necessary systems changes.</li> <li>6 Prepare new long term operational and capital budget plans.</li> <li>7 Review hearing, recording and transcript services looking at new technology possibilities.</li> <li>8 Investigate 'green' business options</li> </ol>	<ol style="list-style-type: none"> <li>1 Upgrade of secure rooms completed in five registries. Sydney computer room upgraded.</li> <li>2 Plans maintained and updated as required.</li> <li>3 Significant work undertaken on installing new finance and HR systems; implementation to be completed in first quarter of 2010-11.</li> <li>4 Functional enhancements made to case management system and new reporting module implemented. New Help Desk system and new servers installed.</li> <li>5 Planning exercise deferred to 2010-11.</li> <li>6 Ten year asset replacement program prepared.</li> <li>7 Review deferred to 2010-11.</li> <li>8 Investigation scheduled for 2010-11.</li> </ol>

Goals	Outcomes	Strategies	Key Targets 2009-10	Achievements to 30 June 2010
<b>OUR PARTNERS</b>				
To co-operate 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 Tribunal and its role in the administrative decision-making process. Government and other tribunals view the Tribunal as a centre of excellence in administrative review. IASAJ Conference successfully held showcasing Australian administrative review system. Improved links with overseas bodies that have similar functions to Tribunal. Tribunal is viewed as actively engaging in cost saving opportunities while maintaining service delivery.	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"> <li>1 Participate fully and provide expert advice to government and legal forums relevant to the work of the AAT.</li> <li>2 Continue resource sharing arrangements with courts and tribunals.</li> <li>3 Seek out further opportunities to share resources, particularly in relation to government ordered enquiries and other government departments.</li> <li>4 Hold IASAJ Conference in 2010.</li> <li>5 Continue co-operative work with overseas bodies.</li> <li>6 Continue to undertake Tribunal moot competition.</li> <li>7 Participate in conferences and training relevant to the work of the Tribunal.</li> </ol>	<ol style="list-style-type: none"> <li>1 Submissions made and information provided on a range of issues relating to the Tribunal.</li> <li>2 Arrangements continued with a range of courts and tribunals, including the Federal Court, the Migration Review Tribunal, Refugee Review Tribunal, the National Native Title Tribunal and the Veterans' Review Board.</li> <li>3 Opportunities to collaborate with other agencies in relation to learning and development devised and pursued.</li> <li>4 IASAJ Conference held successfully in March 2010.</li> <li>5 Delegations from China, India and Korea visited the Tribunal.</li> <li>6 Mooting competition held successfully between July and October 2009.</li> <li>7 Tribunal arranged and contributed to a range of conferences, seminars and training activities.</li> </ol>

## OVERVIEW OF THE TRIBUNAL

## CHAPTER 2

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. In limited circumstances, the Tribunal can also review administrative decisions made by state government and non-government bodies.

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 of the primary decision has been conducted. 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 are in Appendix 6.

## DIVISIONS

The Tribunal exercises powers in divisions which include the General Administrative, Security Appeals, Taxation Appeals and Veterans' Appeals Divisions. The Taxation Appeals Division is known as the Small Taxation Claims Tribunal for the review of certain tax decisions, including those where the tax in dispute is less than \$5,000.

## ORGANISATION

The Tribunal consists of the President, other presidential members (who may be judges or Deputy Presidents), Senior Members and Members. The President, with the assistance of the Registrar, is responsible for managing the Tribunal and its resources.

The Tribunal has a Principal Registry and District Registries. Principal Registry managers

and District Registrars provide policy advice and operational assistance. Staff are employed under the *Public Service Act 1999* to assist the Tribunal to carry out its functions.

### Membership of the Tribunal

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

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 91 members of the Tribunal at 30 June 2010; see Table 2.1 for the breakdown of full-time and part-time members by category.

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.

#### 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 may be appointed as 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 skills relevant to the duties of a Senior Member.

#### Members

Members must have knowledge or skills 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.

### Registrar and Assistant Registrar

At 30 June 2010, the Tribunal's Acting Registrar was Megan Cassidy. She was appointed to act in that position following the resignation of the former Registrar, Doug Humphreys. He left the Tribunal on 19 March 2010 to take up the appointment of Principal Member of the Veterans' Review Board. Mr Humphreys was first appointed Registrar on 25 August 2003, and his second five-year term began on 25 August 2008.

**Table 2.1** Tribunal membership, 30 June 2010

Category of member	Judge	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		5	7	12 (1)
Senior Members		10	17	27 (11)
Members		2	36	38 (11)
<b>Total</b>	<b>14</b>	<b>17</b>	<b>60</b>	<b>91 (26)</b>



Philip Kellow commenced his five-year appointment as Registrar on 22 July 2010, after the date of this report.

The Registrar assists the President 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 who holds office as a senior executive in the Australian Public Service. Ms Cassidy was appointed Assistant Registrar in September 2007. On her appointment as Acting Registrar, Christopher Matthies was appointed Acting Assistant Registrar for the remainder of the reporting period.

**Staff**

Tribunal staff are employed under the Public Service Act as ongoing, non-ongoing or intermittent employees. At 30 June 2010, 162 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, Perth and Sydney.



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

*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

**Table 2.2** Executive Deputy Presidents, 30 June 2010

State/Territory	Executive Deputy Presidents
Australian Capital Territory	Senior Member Professor Robin Creyke
New South Wales	Deputy President Robin Handley
Queensland/Northern Territory	Deputy President Philip Hack SC
South Australia	Deputy President Deane Jarvis
Tasmania	Deputy President Raymond Groom AO
Victoria	Deputy President Graham McDonald
Western Australia	Deputy President Stanley Hotop



(L-R) Executive Deputy Presidents Hack, Hotop, Creyke, Handley, Groom and Jarvis, with Justice Downes (centre) at the Administrative Appeals Tribunal National Conference.

on the operation and procedures of the Tribunal

- process applications
- facilitate the listing and conduct of conferences, other alternative dispute resolution processes and hearings, and
- provide administrative and other support services to members.

Table 2.2 lists the Executive Deputy Presidents, at 30 June 2010, and Figure 2.3 shows the administrative structure of the Tribunal, including senior staff.

**Tribunal committees**

The President has established a number of committees to provide advice and assistance in the management of the Tribunal.

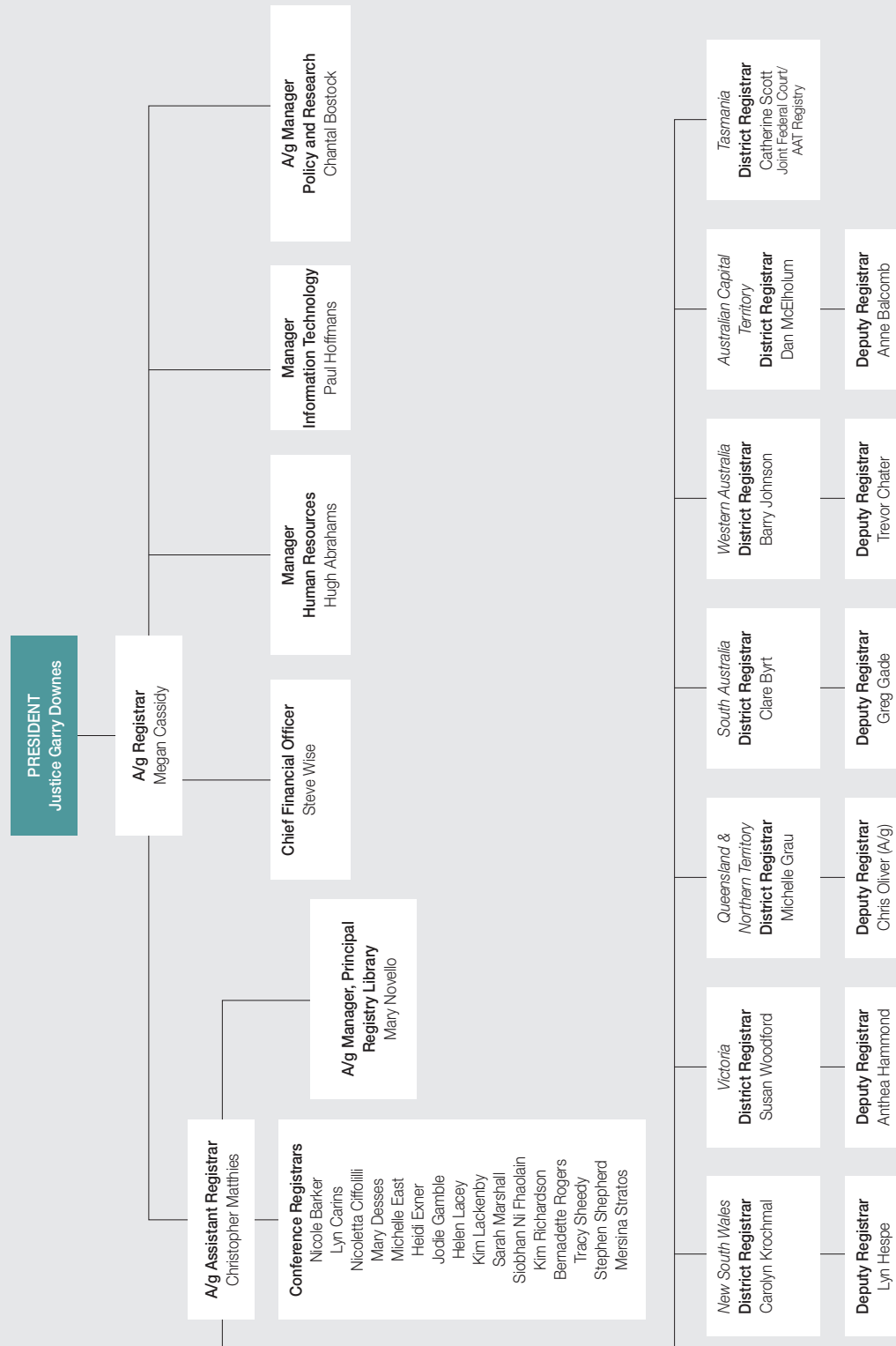
*Alternative Dispute Resolution Committee*

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 consists of a group of members and senior staff with experience in alternative dispute resolution. For more information on the work of this committee, see Chapter 4.

*Executive Committee*

The Executive Committee assists and advises the President on executive management issues. Its members are the President, Deputy President Hack, Member Webb, the Registrar, the Assistant Registrar and the Chief Financial Officer.

Figure 2.3 Administrative structure of the Tribunal at 30 June 2010



*Executive Deputy Presidents Committee*

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.

*Library Committee*

The Library Committee considers the Tribunal's information needs and oversees the collection development policy. It is chaired by Deputy President Hotop and consists of members from different registries, the Assistant Registrar and the Principal Registry Librarian. For more information on the work of this committee, see Chapter 5.

*Practice and Procedure Committee*

The Practice and Procedure Committee deals with issues relating to the Tribunal's management of applications. Members of the committee are the President, the Executive Deputy Presidents, the Registrar, the Assistant Registrar, the District Registrar of each registry and a representative of the Conference

Registrars. For more information on the work of this committee, see Chapter 4.

*Professional Development Committee*

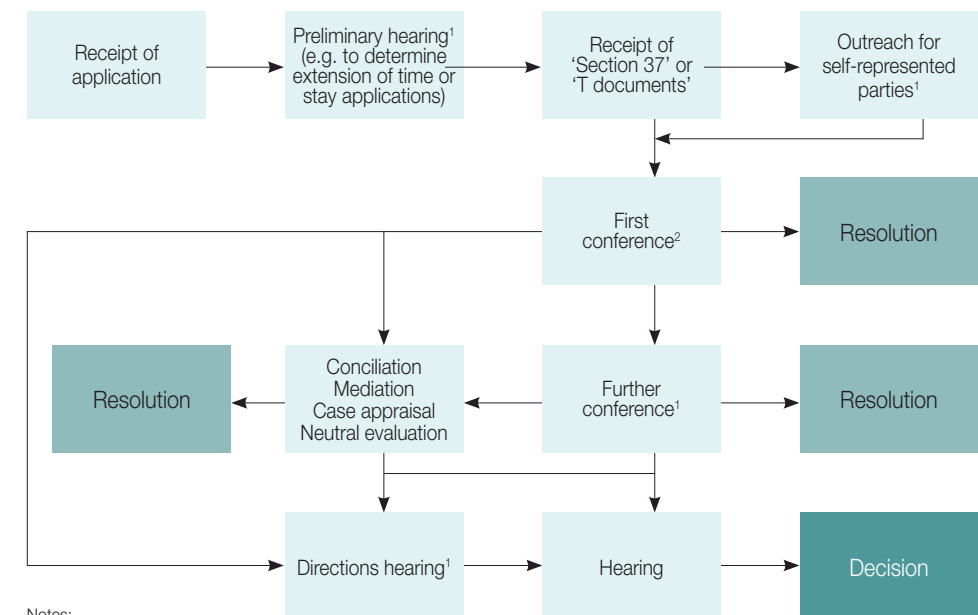
The Professional Development Committee considers matters relating to the professional development of Tribunal members. The committee is chaired by Deputy President Jarvis and its members are the Registrar, members who have an interest in professional development and the Tribunal's Learning and Development Officer. For more information on the work of this committee, see Chapter 5.

For information about the Tribunal's Audit Committee, see page 49.

**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; equitable treatment of parties; achievement of case management targets; effective use and allocation of Tribunal resources; and public confidence in the Tribunal.

Figure 2.4 Case management process



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

## The process

When the Tribunal receives an application that is within its jurisdiction, it notifies the decision-maker of the application. The decision-maker 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, the 'Section 37 Documents' or the 'T Documents'.

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 alternative dispute resolution — conciliation, mediation, case appraisal or neutral evaluation — may be appropriate. The Tribunal assists the parties to reach an agreed resolution.

If agreement cannot be reached, the Tribunal — constituted by one, two or three members — conducts a hearing and makes a decision.

Figure 2.4 illustrates the progress of an application through the Tribunal.

### Practice directions, guides and process models

The Tribunal's practice directions and jurisdictional guides outline the general procedures for managing applications, and are supplemented by practice directions on specific issues.

The General Practice Direction applies to all cases 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 and two jurisdictional guides: the *Guide to the Social Security Jurisdiction* and the *Guide to the Workers' Compensation Jurisdiction*.

Practice directions on specific issues 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, and a policy for guiding referral of applications to the different ADR processes.

The practice directions, guides and process models are all available on the Tribunal's website, [www.aat.gov.au](http://www.aat.gov.au).

## ACCESS TO THE TRIBUNAL

### Information on the Tribunal

The Tribunal offers information on its role and procedures in multiple formats. A series of brochures for self-represented applicants explain the Tribunal's role, when it can assist and the stages in a review. They are designed to be clear and easy to understand, and are available in a range of languages and in large print.

A DVD, *Getting Decisions Right*, illustrates the Tribunal's practices and procedures for applicants.

Comprehensive information about the Tribunal and its procedures is on the website, [www.aat.gov.au](http://www.aat.gov.au), and is regularly updated.

### Outreach program

The Tribunal's Outreach program aims to help self-represented parties understand the Tribunal's processes and gives them the opportunity to ask questions about practices and procedures. Tribunal staff provide the Outreach services, usually by telephone before the first conference. Staff also ascertain whether a person will require an interpreter or assistance because of a disability, and assess what further information may assist the person.

### Legal advice schemes and referrals

The Tribunal hosts legal advice schemes in co-operation with legal aid organisations in New South Wales, Queensland, South Australia, Victoria and Western Australia. A legal aid solicitor who can advise and give minor assistance to self-represented parties attends the registry on a weekly or

fortnightly basis. 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 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.

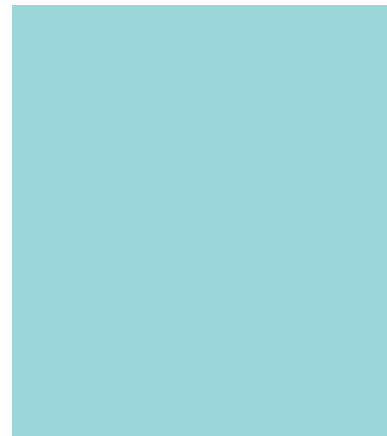
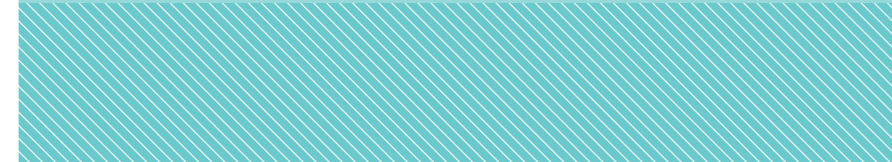


The first in the series of brochures that explains the Tribunal's role to the self-represented applicant.



# 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 program.

### WORKLOAD OVERVIEW

The Tribunal received 5,787 applications and finalised 7,447 applications in 2009-10. There were 4,532 applications current at 30 June 2010, 27 percent fewer than a year earlier.

The total number of applications lodged during the reporting year was seven percent lower than in 2008-09, but the number of finalisations was slightly higher. Chart 3.1 summarises applications lodged and finalised in the three most recent reporting years, and applications current at 30 June in each year.

#### Workload by jurisdiction

Applications for review of family assistance and social security decisions were the most common type of application lodged with the Tribunal in 2009-10, constituting 36 percent of all lodgements. These were followed by applications in relation to workers' compensation and taxation, comprising 21 percent and 18 percent of total lodgements respectively.

The Tribunal finalised more applications than were lodged in 2009-10 in all major jurisdictions, leading to the overall reduction in matters on hand at year-end. The taxation jurisdiction has the greatest number of current matters, a legacy of a larger number of applications lodged in earlier years.

Chart 3.2 summarises lodgements and finalisations in 2009-10, and current matters at 30 June 2010 for each of the Tribunal's major jurisdictions. More detailed information on the types of applications lodged and finalised, and the outcomes of matters finalised during the reporting year is in Appendix 3. A discussion of the trends in lodgements, finalisations and current matters in each of the Tribunal's major jurisdictions follows.

#### Social security

The seven percent fall in the number of applications lodged in this jurisdiction in 2009-10 can be mostly attributed to the decline in the number of applications about participation failures from recipients of Newstart Allowance. The number of applications lodged by the departments that administer family assistance and social security entitlements continued to fall, down 38 percent from the previous year to 65 applications.

Chart 3.1 Applications lodged, finalised and current



The number of applications finalised in 2009-10 was nine percent higher than in the previous year, and the number of applications on hand at 30 June 2010 was 23 percent lower than a year earlier. These results illustrate the flexibility and efficiency of the Tribunal's case management processes as they respond to, and manage, variations in lodgement numbers.

Chart 3.3 summarises applications lodged, finalised and current at 30 June in the

Tribunal's social security jurisdiction in the last three years.

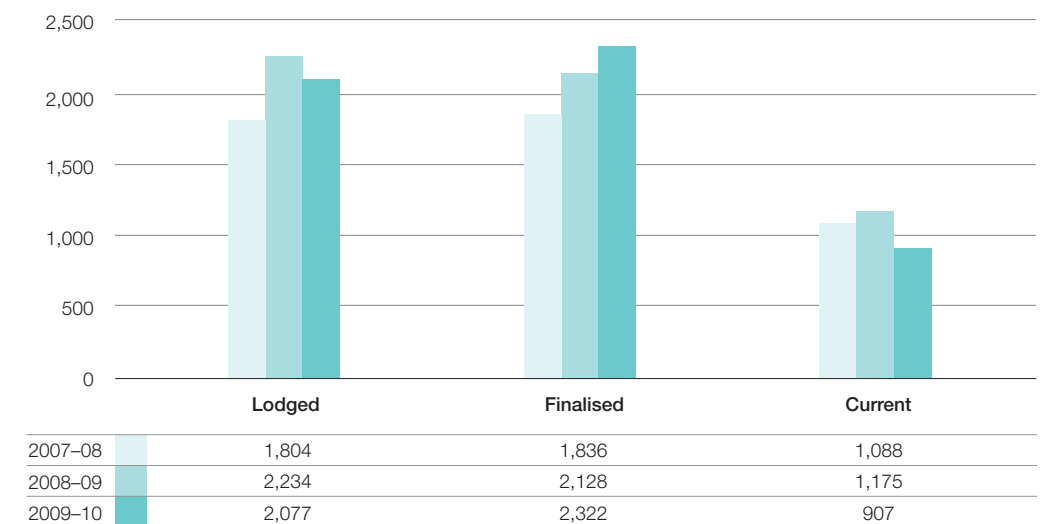
#### Veterans' affairs

The number of applications lodged in the veterans' affairs jurisdiction fell by 20 percent in 2009-10. The number of applications under the *Veterans' Entitlements Act 1986* continues to decline over time, and applications under the *Military Rehabilitation and Compensation*

Chart 3.2 Applications lodged, finalised and current in 2009-10 — by jurisdiction



Chart 3.3 Applications lodged, finalised and current — social security



Act 2004 remain a relatively small proportion of total lodgements.

The 10 percent decrease in the number of applications finalised in the veterans' affairs jurisdiction in 2009-10, and 24 percent fall in the number of applications on hand at 30 June 2010 correspond to the continued decline in lodgements in this jurisdiction in 2009-10.

Chart 3.4 shows the number of applications lodged, finalised and current at 30 June in the Tribunal's veterans' affairs jurisdiction in the last three years.

**Workers' compensation**

There were slightly fewer lodgements in the workers' compensation jurisdiction in 2009-10 than in the previous year. The decreases in the number of applications for review of decisions by the Military Rehabilitation and Compensation Commission and Australia Post were offset by increases relating to the Commonwealth Bank of Australia, National Australia Bank, Telstra and other corporations.

Although the number of applications finalised in 2009-10 was six percent less than a year earlier, the net effect of the balance between lodgements and finalisations was a 17 percent fall in current compensation applications on hand at 30 June.

Chart 3.5 shows the number of applications lodged, finalised and current at 30 June in the Tribunal's workers' compensation jurisdiction in the last three years.

**Taxation**

The 10 percent fall in lodgements in the Taxation Appeals Division in 2009-10 is primarily due to fewer applications relating to income tax.

The finalisation of a large number of applications about tax schemes led to both the 11 percent increase in applications finalised in the same period, and the 38 percent fall in the number of applications on hand at 30 June 2010. The Tribunal expects to finalise the bulk of the 250 or so applications relating to tax schemes yet to be completed before 30 June 2011.

Lodgements in the Small Taxation Claims Tribunal were significantly fewer in 2009-10 than in the previous year, and there was a marked decline in the number of applications concerning release from taxation liabilities. The number of applications on hand continues to be low.

Chart 3.6 shows 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.

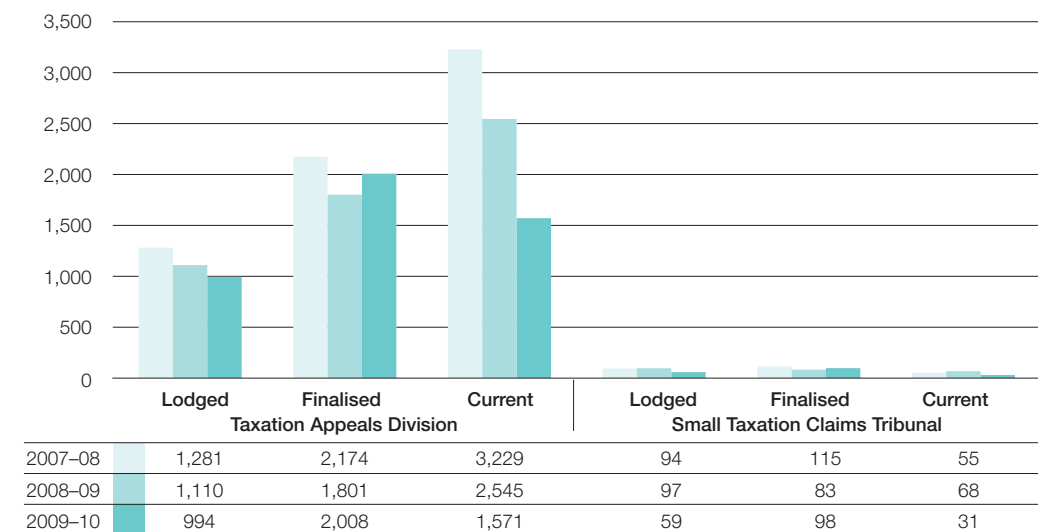
**Chart 3.4** Applications lodged, finalised and current — veterans' affairs



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



**Chart 3.6** Applications lodged, finalised and current — taxation



## PERFORMANCE

### Outcome and program structure

The Tribunal has one outcome specified in the 2009-10 Portfolio Budget Statements:

*Access to a fair, just, economical, informal and quick review mechanism for applicants through review of government administrative decisions, including dispute resolution processes and independent formal hearings.*

The Tribunal is a single program agency. The primary deliverable is completed review of decisions, and there are two paths to achieving it:

- applications finalised without a hearing, and
- 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 2009-10. The appendix also includes a summary table showing the total resources for the Tribunal's outcome.

### Performance measures and results

The performance measures and actual performance for the Tribunal's outcome are shown in Table 3.7.

The number of applications finalised by the Tribunal without a hearing was higher than the budget projections for 2009-10, leading to a lower than expected price per completed application. For more information on the percentage of applications finalised without a hearing in the major jurisdictions, see Table A3.4 in Appendix 3.

The Tribunal's case management process pursues the dual goals of attempting to resolve matters by agreement while ensuring that appropriate steps are taken to prepare matters that do not settle for hearing. As Table 3.7 makes clear, most applications lodged with the Tribunal are finalised pre-hearing, including by agreement and following alternative dispute resolution, rather than by decision following a hearing.

During the pre-hearing process, the Tribunal works with the parties to discuss and define the issues in dispute, identify any further supporting material they may wish to obtain, and explore whether the matter can be settled.

Applications that cannot be resolved during the pre-hearing process are referred for hearing.

Eighty-seven percent of first conferences were held within 13 weeks of lodgement, slightly less than in 2008-09 although the Tribunal again exceeded the performance standard in the Portfolio Budget Statements by two percentage points, as shown in Table 3.7 and again in Table 3.8.

The proportion of hearings held within 40 weeks of lodgement of the application was six percentage points higher than in 2008-09, but again substantially lower than the 85 percent standard in the Portfolio Budget Statements.

There are many reasons why a hearing may not be held within 40 weeks of an application being lodged. The most common reason is that the parties need more time. The pace that applications progress through the pre-hearing stage is heavily influenced by the time the parties need to obtain expert medical evidence, undertake other investigations and gather relevant material. Some applications are delayed pending a 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 when parties cannot 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.

### Time standards

The Tribunal monitors its performance against time standards for steps in the review process and for the finalisation of applications generally.

Two of the time standards for steps in the review process are included in the Portfolio Budget Statements: 85 percent of matters have the first conference within 13 weeks, and 85 percent of matters go to hearing within 40 weeks, as shown in Table 3.7.

The two additional steps are: the time for the decision-maker to lodge the documents required under section 37 of the Administrative Appeals Tribunal Act; and the time to deliver a decision following the last day of hearing or the date of receipt of further material after a hearing.

The decision-maker controls step one; the Tribunal and the parties share the responsibility for the timeliness of steps two and three; and the Tribunal controls the timeliness of step four.

Timeliness results for 2009-10 and the two previous reporting periods are shown in Table 3.8.

The proportion of applications for which the Section 37 Documents were lodged within five weeks was slightly higher in 2009-10 than in the previous year. The Tribunal also improved the timeliness of delivery of decisions following a hearing by nine percentage points in 2009-10.

**Table 3.7** Performance standards and results, 2009-10

Program description	Performance		
	standard <sup>a</sup>	result	
<b>Program 1.1 — Completed reviews of decisions</b>			
Program 1.1.1 — Applications finalised without a hearing	<i>Quality:</i> matters have first conference within 13 weeks	85%	87%
	<i>Quantity:</i> finalisations	5,218	6,129
	<i>Price:</i> per completed application	\$2,946	\$2,600
Program 1.1.2 — Applications finalised with a hearing	<i>Quality:</i> matters to hearing within 40 weeks	85%	52%
	<i>Quantity:</i> finalisations	1,476	1,318
	<i>Price:</i> per completed application	\$13,878	\$14,620

a Projection for 2009-10

**Table 3.8** Performance against time standards

Step	Time standard (weeks)	2007-08	2008-09	2009-10	
		%	%	%	
1	Receipt of Section 37 Documents after notifying decision-maker of application	5	82	85 <sup>a</sup>	87 <sup>a</sup>
2	Receipt of application to first conference	13	88	88	87
3	Receipt of application to first day of hearing	40	49	46	52
4	Last day of hearing or date of receipt of further material to delivery of decision	8.4 <sup>b</sup>	70	73	82

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.

b This figure equates to 60 days.

*Time standards for finalising applications*

The Tribunal aims to complete the majority of applications within 12 months of lodgement, and to meet its targets for the major jurisdictions. Its performance and comparison with the targets is in Table 3.9.

In 2009-10, the Tribunal again made a small improvement in timeliness and finalised 63 percent of all applications within 12 months of lodgement despite the presence of the large number of older applications relating to tax schemes. Excluding these applications lifts the performance to 73 percent for applications finalised within 12 months, and 87 percent for applications finalised within 18 months of lodgement.

The Tribunal improved its results in the social security jurisdiction, meeting the 90 percent target for the year. Sixty-three percent of all social security applications were finalised within six months of lodgement, and 97 percent within 18 months.

An increased focus on timeliness in the workers' compensation jurisdiction in 2009-10 improved the results (57 percent), although they still fell short of the target (75 percent). The proportion of matters finalised within 12 months was four percentage points higher than in 2008-09, and 78 percent of applications were finalised within 18 months.

Timeliness fell slightly in the other major jurisdictions – down to 63 percent from 65 percent in veterans' affairs, although 83 percent of applications were finalised within 18 months. In the Taxation Appeals Division, the result was affected by the finalisation of a large number of older tax scheme applications. The proportion of applications finished within 12 months continued to decline, falling from 29 to 26 percent, well short of the 75 percent target.

The reasons identified earlier about why the Tribunal may not hold a hearing within the 40-week target are also relevant in 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.

The Small Taxation Claims Tribunal aims to finalise applications within 12 weeks of lodgement. In the reporting year, the proportion of applications meeting this standard increased to 22 percent, as shown in Table 3.10. It is the Tribunal's experience that applications dealt with in the Small Taxation Claims Tribunal cannot necessarily be completed faster than other types of taxation reviews. Although 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.

In 2009-10, the Tribunal's initiatives for improving the timeliness of the review process included a national system of monitoring and addressing non-compliance by parties with legislative requirements and Tribunal directions, and close management of tax scheme matters on a national basis.

The Tribunal has increased its focus on improving case management practices (see Chapter 4), and introduced file audits and regular reporting on the time that applications spend in each of the major stages of a review. The Tribunal continues to identify sources of unnecessary delay in the various jurisdictions, and work with stakeholders on minimising such delays.

**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 by Parliamentary Committees and audits by the Australian National Audit Office.

**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(v) of the Constitution. Applications may be made to the Federal Court, the Federal Magistrates Court or the High Court.

In 2009-10, 83 appeals made pursuant to section 44 of the Administrative Appeals Tribunal Act were lodged with the Federal Court. There were 19 applications for judicial review made under other enactments,

13 relating to decisions concerning visas under the Migration Act. 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, 107 appeals lodged under section 44 of the Administrative Appeals Tribunal Act and 18 applications for judicial review under other enactments were finally determined. The Tribunal's decision was set aside in 35 cases. This constitutes 28 percent of the total number of appeals determined during the reporting period and less than one percent of all applications finalised by the Tribunal during the reporting year. This is a slight improvement on the result for the previous 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 four requests for access to documents under the Freedom of Information Act in 2009-10. One request that had been made in 2008-09 was outstanding at the beginning of the reporting period.

Four requests were finalised in 2009-10. One was granted in part and two were refused on the basis that no relevant documents existed. One request was taken to have been withdrawn as the applicant did not respond to a notice from the Tribunal relating to charges.

One request under the Freedom of Information Act was outstanding at the end of the reporting period.

The Tribunal did not receive any requests to amend or annotate records.

For the statement required to be published in this annual report under section 8 of the Freedom of Information Act, see Appendix 8.

**Table 3.9** Percentage of applications finalised within 12 months

Jurisdiction	Target %	2007-08 %	2008-09 %	2009-10 %
All	—	61	62	63
Social security	90	84	88	90
Veterans' affairs	80	62	65	63
Workers' compensation	75	60	53	57
Taxation Appeals Division	75	31	29	26

**Table 3.10** Time standard for Small Taxation Claims Tribunal

	Target	2007-08 %	2008-09 %	2009-10 %
Percentage of applications to Small Taxation Claims Tribunal finalised within 12 weeks	12 weeks	17	18	22



### Ombudsman

During 2009–10, the Commonwealth Ombudsman received 29 approaches concerning the Tribunal, three more than in the previous reporting year.

The Ombudsman investigated one approach and closed 26 approaches, making no findings of administrative deficiency. Many of the complaints were about Tribunal decisions that are outside the Ombudsman’s jurisdiction.

### Complaints to other bodies

There were no complaints to other complaint-handling organisations such as the Australian Human Rights Commission or the Office of the Privacy Commissioner during the reporting period.

### 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, including the standards for responding to complaints. 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

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 or within 30 working days to complaints submitted in a language other than English. 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 2009–10, the Tribunal received 32 written complaints from 30 individuals, about the issues shown in Table 3.11. Some of these complaints were about multiple issues.

**Table 3.11** Complaints to the Tribunal

Issue	Number of complaints*
Conduct of members of the Tribunal	10
General procedural issues	9
Complaints about Tribunal decisions	8
Conduct of conferences	6
Conduct of staff of the Tribunal	4
Privacy	3
Timeliness of Tribunal decision following a hearing	1
Complaints about other parties to Tribunal proceedings	1
<b>Total</b>	<b>42</b>

\* Any one complaint may raise multiple issues

In 2009–10, the Tribunal responded to 32 complaints within the 20 days for all but seven of the complaints. The average number of days from complaint to final response was 17 working days.

The Tribunal does not measure whether a complainant believes his or her complaint was resolved. Eleven complainants wrote again to the Tribunal after receiving an initial response to their complaint, and in most instances, they were given further information to address any outstanding concerns.

**Table 3.12** Service standards

Commitment	Result for 2009–10
<b>We will treat you with respect and courtesy</b>	
We will be polite, respectful and courteous and use language that is clear and understandable.	Tribunal members and staff continue to be polite, respectful and courteous and use language that is clear and understandable so that Tribunal users can understand the processes.
<b>We will make ourselves accessible</b>	
Country residents can contact us on our national telephone number for the cost of a local call.	The Tribunal’s national telephone number was available throughout the year.
People who are deaf or have a hearing or speech impairment can contact the Tribunal.	The Tribunal uses the National Relay Service to provide users with 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 118 hearings and 11 conciliations in locations outside capital cities.
Where appropriate you may participate in a hearing by telephone or video-link.	The Tribunal conducted the following listings by telephone: conferences — 6,600 other ADR processes — 1 directions hearings — 1,485 interlocutory hearings — 246 hearings — 41.
If you need an interpreter, we will provide one free of charge.	The Tribunal arranges 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 collated for Outreach, for 1,100 parties, shows the average time from lodgement of an application to Outreach was 30 days, slightly more than four weeks.
<b>We will deal with you fairly</b>	
Applicants, respondents and/or their representatives will have a reasonable opportunity to present their cases.	Applicants, respondents and their representatives continue to have a reasonable opportunity to present their cases.
A private conference will usually be held within 6–10 weeks after receipt of an application.	69 percent of applications had a first conference within 10 weeks of lodgement, down from 72 percent in 2008–09.
<b>We will operate in an efficient manner</b>	
If a decision was not given orally at a hearing, written decisions will usually be provided within two months.	82 percent of decisions were delivered within 60 days of the last day of hearing or the receipt of further submissions or other material, up from 73 percent in 2008–09 (see Table 3.8).

## 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
- vary controlled operations authorities 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 Act 1995*.

All members of the Tribunal are authorised to exercise a range of powers relating to 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, there were 82 out-of-hours appointments (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* or the *Proceeds of Crime Regulations 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

	2007-08	2008-09	2009-10
Number of occasions on which applications considered	1,946	1,877	1,924

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

	2007-08	2008-09	2009-10
Number of examination sessions held	26	24	18

# CHAPTER 4

## OUR USERS AND OUR PARTNERS

## OUR USERS

The principal users of the Tribunal are parties to Tribunal proceedings – individuals, organisations, government departments and agencies – and their representatives. This section reports on how the Tribunal worked to meet the goal:

*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 monitors the operation of the review process to ensure it continues to provide a mechanism of review that is fair, just, economical, informal and quick. Significant developments in relation to practice and procedure issues during the reporting period follow.

The Practice and Procedure Committee, supported by staff from the Policy and Research Section, considers ways in which practice and procedure can be improved to promote the effective and timely disposition of applications lodged with the Tribunal. The Committee met once during the year, in March 2010.

### Case management

The Tribunal began a detailed examination of its approach to case management in 2009–10, prompted in particular by concerns about the timeliness of the review process in certain types of cases. This focus on case management is consistent with a recommendation made in the report of the Access to Justice Taskforce, *A Strategic Framework for Access to Justice in the Federal Civil Justice System*, released by the Attorney-General in September 2009. The Taskforce noted that the Tribunal has successful case management processes that promote early resolution in a large proportion of cases, particularly through the use of conferences. However, there appears to be scope to further improve case management for the proportion of cases that proceed to hearing.



Deputy President Hack talking about the Tribunal's renewed focus on case management, at the national staff conference.

Case management was a major theme at the Tribunal's National Conference for members and senior staff held in March 2010, as well as the conference for Tribunal staff held in June 2010. The conferences offered the opportunity for members and staff to work together to identify similarities and differences in approach, areas of concern and ideas for improvements.

Following the conference in March, registries have been actively reviewing their case management practices with a view to addressing any issues and identifying potential reforms. A range of monitoring mechanisms have also been implemented nationally, including regular reporting on the time current cases have spent in each stage of the review process and file audits of older applications.

Proposals for changes to case management processes will be developed further and presented to the Practice and Procedure Committee for consideration. The Tribunal will work with regular users and other stakeholders in making improvements.

### Review of regulations

The Tribunal has reviewed the *Administrative Appeals Tribunal Regulations 1976* and identified a number of areas in which changes or improvements could be made. During 2009–10 the Tribunal worked closely with the Attorney-General's Department in the development of the proposed amendments.

### Review of summons procedures

During the reporting year, the Tribunal continued the project to streamline procedures for producing documents under a summons, which are issued most frequently in the workers' compensation jurisdiction. The Tribunal's aim is to establish a nationally consistent process so that appearances before a Tribunal member about a summons will generally be limited to disputes about the production of, or access to, the documents that are the subject of the summons.

The Tribunal made changes to its electronic case management system that it will assist in administering a nationally consistent summons procedure. The project includes developing a practice direction for summonses, and will continue in 2010–11.

### Guidelines relating to expert evidence

The Tribunal has been working on guidelines relating to expert evidence and concurrent evidence and expects to finalise them in the next reporting period.

### Taxation of costs

In limited circumstances, the Tribunal can order a party to pay the costs incurred by another party. If the parties are unable to agree on the amount of the costs, the Tribunal may tax them. The Tribunal has been reviewing its procedures for taxing costs and developed a draft Practice Direction relating to Taxation of Costs. Finalisation of the practice direction was deferred pending consideration of a proposed fee regime for taxing costs. The Tribunal expects to implement the practice direction in 2010–11.

### Alternative dispute resolution

The Alternative Dispute Resolution Committee oversees and reviews the Tribunal's use of alternative dispute resolution processes. The committee met in March 2010.

The Tribunal worked during the year to raise awareness of the alternative dispute resolution processes that it has available, and encouraged their use. Members and staff spoke at a number of external conferences and seminars about the Tribunal's approach

to alternative dispute resolution. Case management, which includes the use of alternative dispute resolution, was the focus of the Tribunal's conferences for members and staff in 2010.

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

### Tax scheme matters

Over the decade from 1999, the Tribunal 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 and employed processes designed to manage this large number of applications.

At the end of the reporting period, approximately 250 applications remained outstanding, 81 percent fewer than the number outstanding at 30 June 2009. The Tribunal expects to finalise the bulk of the remaining applications in the next reporting period.

### Communication with Tribunal users

The Tribunal communicates with its users in a variety of ways to assist their understanding of its role and procedures, and how it can help them. To this end, the Tribunal's range of written documents and other information materials are developed and designed to suit a variety of needs.

### Publications and website

Following a review of its communications, the Tribunal continues the upgrade of its information products. The Tribunal's brochures aimed at self-represented parties – rewritten, redesigned and illustrated – and a new fact sheet relating to privacy and confidentiality at the Tribunal were launched early in 2010 and are available in print and on the website. The Tribunal is working on a further brochure and additional fact sheets.

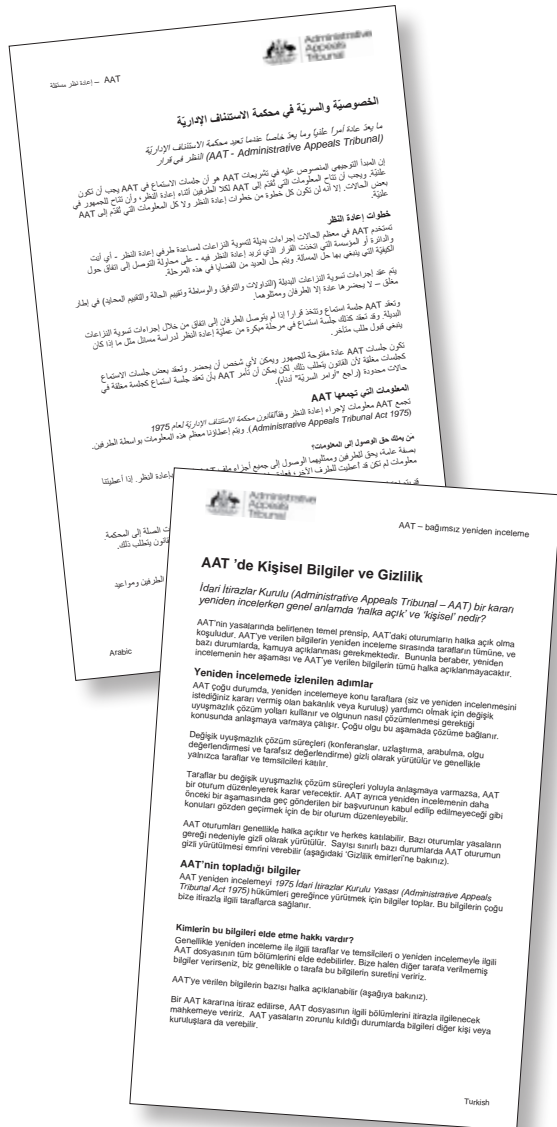
The Tribunal is aware that many of its users speak a language other than English at home, and has therefore arranged for the brochures and fact sheets to be translated into up to 20



of the Tribunal's most frequently requested languages. These translations will be added to the website in the first half of 2010-11.

Templates for a new design for the Tribunal web pages are in development, and implementation is planned for 2010-11.

The new design has been tested to ensure that it is accessible, and will give the website a fresh and clean look.



Many of the Tribunal's information documents have been translated, for example the fact sheet, *Privacy and Confidentiality at the AAT*, is available in the 20 most frequently requested languages at the Tribunal.

**Regular user forums and meetings with users**

As part of its commitment to being an open and transparent organisation, the Tribunal met with regular users and other stakeholders in a range of settings during 2009-10.

District registries arrange regular liaison meetings with departments, agencies and other decision-makers, private legal practitioners, community legal centres and legal aid bodies 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.

The Tribunal met with senior representatives of government agencies to discuss operational issues arising in the review process. These agencies included the Australian Taxation Office, Centrelink, the Child Support Agency, the Department of Human Services and Comcare.

In some registries, the Tribunal convened liaison meetings with representatives of criminal justice agencies to discuss operational issues arising in relation to the exercise by Tribunal members of powers to issue warrants and other authorisations.

**TRIBUNAL PARTNERS**

The Tribunal partners with organisations and individuals in relationships that go beyond participation in tribunal proceedings. Such partners may be involved in administrative review, or have a general interest in tribunals and their work. Some tribunals and other agencies have entered arrangements with the Tribunal for sharing resources.

This section reports on the Tribunal's work and activities in meeting the goal:

*To cooperate with government, other tribunals, the legal profession and other interested groups and to continue to forge links with international counterparts.*

**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 2009-10.

**Liaison with the Attorney-General's Department, 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.

The Tribunal also had contact with a number of other departments and agencies about issues and proposals that concern it. These included the Department of Education, Employment and Workplace Relations, the Department of Innovation, Industry, Science and Research and the Department of Prime Minister and Cabinet.

**Administrative Review Council**

As President of the Tribunal, Justice Downes is an ex officio member of the Administrative Review Council. The Council'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 Council and its operations, please refer to the Council'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 with local chapters, and was established to facilitate discussion and collaboration on matters relevant to tribunals.

The Tribunal continued its active involvement in the Council during the year, receiving the benefits that membership offers, including

shared training, access to the *COAT Practice Manual* and networking opportunities.

Tribunal members and staff were active contributors to the work of the Council. Deputy President Jarvis is the immediate past Convenor of the South Australian Chapter and continues as a member of that chapter's committee. Deputy President Hack served on the Queensland committee throughout the year. Senior Member Bell was a member of the Executive Committee of the New South Wales Chapter during part of 2009-10. Senior Member Hastwell served on the Committee of the South Australian Chapter, and Member Perton and District Registrar Woodford were members of the committee of the Victorian Chapter in 2009-10.

Senior Member Britton gave a presentation to the Seventh Annual NSW COAT Conference (see Appendix 9). Other 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 Administrative Appeals Tribunal, Migration Review Tribunal, Refugee Review Tribunal, Social Security Appeals Tribunal and the Veterans' Review Board – maintained their cooperative relationships during 2009-10. Liaison during the year included pursuing opportunities for achieving efficiencies through cooperative action, and ongoing communication between officers of the tribunals about matters such as staff vacancies, and learning and development activities.

The Tribunal continued arrangements with courts and other tribunals for the provision of facilities and services in 2009-10, details of which are described below.

*Federal Court of Australia*

The Tribunal and the Federal Court share a joint registry in Hobart. Staff of the Court provide registry and other services for the Tribunal.



### *Migration Review Tribunal/Refugee Review Tribunal*

The Migration Review Tribunal and Refugee Review Tribunal have registries in Melbourne and Sydney. Administrative Appeals Tribunal staff in Adelaide, Brisbane and Perth receive applications and handle enquiries on behalf of the Migration Review Tribunal and Refugee Review Tribunal. The Tribunal also continued to provide accommodation and hearing room facilities for Migration Review Tribunal and Refugee Review Tribunal members in 2009-10, including hearing room assistance and videoconferencing facilities.

### *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.

### **International arrangements 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, then Chief Justice of the Federal Court of Australia, and Justice Downes became co-presidents of the association in 2007.

The Tribunal and the Federal Court of Australia co-hosted the association's 10th congress in March 2010. The main theme of the congress was review of administrative decisions of government by administrative courts and tribunals. More than 100 delegates

from 50 countries exchanged ideas and information on administrative law.

Some of the international judges attending the congress also attended the AAT National Conference, held immediately before the IASAJ conference. Mr Jean-Marc Sauvé, Vice-President of the Council of State and Vice-President of the IASAJ (France), Lord Justice Robert Carnwath CVO, Senior President of Tribunals (United Kingdom) and Mrs Marion Eckertz-Höfer, President of the Federal Administrative Court of Germany each contributed to the Tribunal's understanding of its international counterparts and their roles.

### *Visiting delegations*

The Tribunal regularly hosts visitors from international courts and tribunals, and other organisations interested in gathering information on the Tribunal and its operations. In 2009-10 these visitors included delegations from the Indian Securities Appellate Tribunal, the Korean Anti-Corruption and Human Rights Commission, and the Shaanxi Bureau of Letters and Calls. The Tribunal also hosted a delegation as part of the Australia-China Legal Profession Development Program.

### **Better understanding of the Tribunal and its role**

The Tribunal continued its program of helping to promote a better understanding of the Tribunal and its role in administrative law.

### **The Obligation to Assist: Model Litigants in AAT Proceedings**

The Obligation to Assist: Model Litigants in Administrative Appeals Tribunal Proceedings Seminar, held in Canberra on 26 August 2009, was designed to clarify and promote the obligations on decision-makers in proceedings before the Tribunal. Decision-makers have an obligation to assist the Tribunal under section 33(1AA) of the Administrative Appeals Tribunal Act, and government agencies must also comply with the *Legal Services Directions 2005*, including the model litigant rules, in the conduct of proceedings before the Tribunal.

Stuart Pilkinton, President of the ACT Bar Association, introduced the seminar, and Justice Downes introduced the issues.

The Attorney-General, the Hon. Robert McClelland MP, delivered the keynote address. The seminar brought together a wide range of tribunal members, agency representatives and legal practitioners who approached the topic from a variety of perspectives.

The Tribunal received overwhelmingly positive feedback in relation to the seminar. The seminar papers are published on the Tribunal website.

### **Tribunal participation in external conferences, seminars and other activities**

Members and staff gave presentations about the Tribunal and its operations at a number of external conferences, seminars and forums during the reporting period: see Appendix 9 for more information on these activities.

### **Administrative Appeals Tribunal Mooting Competition**

The Tribunal held its fifth annual AAT Mooting Competition from July to October 2009. Preparation for the fifth competition took into account the results of a formal evaluation of the previous moots and suggestions for change. The Tribunal was encouraged by feedback from participants that suggested that students gain a deeper understanding of administrative law, and a greater appreciation of the jurisdiction and powers of tribunals through participating in the competition.

Thirty-one teams from 16 Australian universities participated, each team made up of two law students acting as senior and junior counsel, with a third student acting as researcher and scribe.

The moots are abridged versions of Tribunal hearings. The teams present written and oral submissions to a Tribunal member or members acting as adjudicators, based on a factual scenario drawn from the Tribunal's jurisdictions.

The grand final, in Sydney on 7 October 2009, was won by Katherine Manstead and Jordan Byrnes from Bond University, Queensland. Katherine Manstead also received the Registrar's Best Oralist award. The runners-up, from the University of New South Wales, were Emily Burke, Ashley George and Anna Lee. The Tribunal's President, Justice Downes, Deputy President Block and Senior Member Frost adjudicated.

### **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 Adelaide University, Bond University, the Leo Cussen Institute, Queensland University of Technology and the University of Wollongong, and a student from Adelaide High School.



Justice Downes congratulates the winners of the 2010 Mooting Competition, Jordan Byrnes and Katherine Manstead

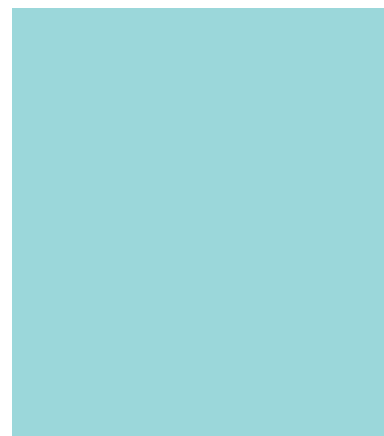
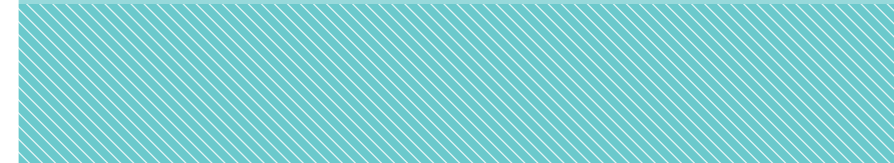


Justice Downes with the runners-up, Emily Burke, Anna Lee and Ashley George



# CHAPTER 5

## OUR PEOPLE AND OUR ORGANISATION



This chapter outlines the Tribunal's performance in meeting the goals in the 2009-10 Organisational Plan for its people and the organisation, and also reports on human resource management and the Tribunal's administration and governance.

## OUR PEOPLE

During the reporting year, the Tribunal worked towards meeting the goal:

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

### Human resource management

#### Staffing

At 30 June 2010 the Tribunal had 162 staff: 114 ongoing and 48 non-ongoing. Nineteen of the non-ongoing staff were engaged to undertake duties that are irregular or intermittent. For information on the classification levels, full time/part time status, gender and location of the staffing complement, see Appendix 2.

The Tribunal's ongoing staffing complement remained relatively stable during the reporting period, increasing by two compared over the previous year. There were 25 employment opportunities notices gazetted in 2009-10, for six ongoing and 19 non-ongoing vacancies. A large proportion of the non-ongoing placements were for short-term positions for legal graduates who work with members of the Tribunal, usually for 12 to 18 months. The Tribunal's learning and development and performance management programs foster staff retention.

#### Agency-wide and individual employment agreements

The Tribunal's collective workplace agreement, the *Administrative Appeals Tribunal Agency Agreement 2009-10*, expired on 30 June 2010. A further one-year union collective agreement was negotiated in 2009-10 and a successful ballot conducted on 7 June 2010.

The new agreement offered a 3 percent annual salary increase and a sign-on bonus, and continues to promote a high standard of user

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 improvements in technology.

The number of employees covered by the collective agreement, Australian Workplace Agreements and other employment instruments at 30 June 2010 is shown in Table A2.3, Appendix 2, which also details salary ranges for APS employees and staff covered by these arrangements.

In 2009-10, six employees received a performance bonus linked to a performance agreement: the Tribunal's only Senior Executive Service employee, three staff at Executive Level 2 and two staff at Executive Level 1. The Tribunal paid \$54,516 in bonuses. Privacy considerations preclude the publication of the quantum of bonuses paid at each classification level.

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

#### Senior Executive Service Officer remuneration

Remuneration for the Tribunal's only Senior Executive Service position, the Assistant Registrar, is based on comparison with the remuneration for staff in similar Australian Government agencies. The remuneration package allows the occupant to cash out certain items, in accordance with common Australian Government practice.

#### Non-salary benefits

Non-salary benefits in the Agency Agreement included:

- two days of paid leave between Christmas Day and New Year's Day, other than for skeleton staff who maintained 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 flu vaccinations, and
- study assistance.

The Studies Assistance Scheme allows ongoing staff to apply for full or partial reimbursement of fees and costs, as well as time off work to attend lectures, tutorials and examinations. During the reporting year, 12 staff were approved for undergraduate or postgraduate studies in accounting, business education, law, management, public administration and policy, and workplace training. The cost of reimbursing study fees and charges was \$14,200, and approximately 830 study hours were approved for all purposes.

#### Performance management program

In accordance with the Performance Management Program, all ongoing staff are required to have performance agreements, and may advance through the salary scale if they obtain 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.

Appraisals for all staff are conducted in accordance with the Performance Management Guidelines, and salary advancement is based on performance.

#### Salary packaging

Salary packaging is available to staff pursuant to two policies covering different products; one administered externally by McMillan Shakespeare, and the other administered internally by the Human Resources Section. During the reporting year, 52 staff took advantage of the salary packaging arrangements.

#### Ethical standards

Tribunal staff are required to act in accordance with the Australian Public Service Values and Code of Conduct, and the Tribunal encourages staff to understand and apply them. The Australian Public Service Values, Code of Conduct and explanatory materials are on the intranet, and in recruitment guidelines and induction materials. In 2009-10, staff also attended training on the content and

application of the Australian Public Service Values and Code of Conduct.

### Learning and development

The Tribunal is committed to a learning and development environment that maintains high professional standards and helps members and staff stay up-to-date with developments relevant to their work. The Tribunal has a number of programs that assist members and staff in their roles and that contribute to improving the productivity and achievements of the Tribunal, as detailed below.

#### Members' professional development

The Tribunal's Members' Professional Development Program ensures members continue to develop and enhance their knowledge and skills. Based on a framework of competencies developed by the Tribunal, the program covers induction, mentoring, appraisal, and other professional development opportunities.

The high standing of the program is evident in the number of requests from other Australian tribunals for information about the Tribunal's work in this area.

The Professional Development Committee regularly reviews the program and advises on its development. At the date of this report, the committee is working on a proposal for the evaluation of the Members' Professional Development Program.

The New Member Induction Program helps new members enjoy a smooth transition into the Tribunal. The Professional Development Committee regularly reviews and improves the program to ensure that sessions meet the participants' needs. A program was held in November 2009 with Deputy President Hack and Senior Member Friedman moderating.

The Mentoring Scheme assists newly-appointed members gain a better understanding of the workings of the Tribunal and their role, while promoting the Tribunal's objectives. Senior Member Bell coordinated the scheme in 2009-10.

The Appraisal Scheme combines self-assessment and peer review, giving members



the opportunity to reflect upon their practice and consider options for further professional development. Deputy President Jarvis coordinated the scheme.

A range of learning activities is offered to members for ongoing professional development. Registries arrange meetings at which members, staff or invited speakers give presentations on topical issues. The participation of other registries by videoconference or telephone facilitates shared learning.

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

**Administrative Appeals Tribunal National Conference 2010**

The Tribunal's biennial national conference, held in March 2010, is an important professional development activity for the

Tribunal. It offers a unique opportunity for members, Conference Registrars and District Registrars to come together to discuss Tribunal practice, share information and experiences and undertake continuing education.

The theme of the 2010 conference was 'Learning from different perspectives'. Keynote addresses were given by three international guests, participants in the IASAJ Congress (see page 36), about the systems of administrative law in France, Germany and the United Kingdom. Similarities and differences with the Australian system were explored in formal sessions and informal exchanges. Workshops on improving case management in the Tribunal formed another significant element of the conference. The program also included presentations on access to justice, confidentiality and privacy issues, recent developments in the law and concurrent evidence.

**Conference Registrars' professional development**

Conference Registrars participate in a range of internal and external learning activities to maintain their knowledge and expertise. These include a monthly learning circle at which one or two Conference Registrars lead discussion on a topic of interest.

Preliminary work has commenced on the development of a Conference Registrars'

Professional Development Program that will embed professional development within a performance improvement framework, align with the statutory imperatives of the Tribunal and complement the Members' Professional Development Program.

**National staff conference 2010**

The Tribunal held a national conference for staff in June 2010. The conference affords staff the rare opportunity to meet face to face, build relationships and skills, and collaborate in workshops.

The theme of the conference, 'Case Management: Shared Expectations and a Shared Responsibility', reflected the Tribunal's current focus on improving case management. Workshops encouraged staff to develop ideas to contribute to this process. Other aspects of the program included a workshop on team work and collaboration and sessions on recent developments in law and procedures, ethical issues for public servants, record keeping and security. The conference was a great success.

**Staff learning and development**

The Tribunal is committed to ensuring that staff have access to learning and development opportunities that meet the identified learning needs of employees, align with the

Organisational Plan and reflect the values of the Tribunal and the Australian Public Service. The learning and development calendar offers internal and external opportunities such as courses, seminars, workshops and conferences. The active contribution by staff to the programs ensures they meet the Tribunal's needs and represent value for money.

Collaborative learning has proven an effective learning and development tool as the popularity of the Members' Support Staff Network, for legal and administrative staff, shows.

The Tribunal continues to improve the range of online training materials available within the Tribunal, this year providing access to information on ergonomic principles for setting up the workspace and for safe manual handling as part of the Staff Induction Program, and a package promoting a greater understanding of the challenges associated with mental illness.

The Tribunal offers a Studies Assistance Scheme giving interested staff access to development opportunities. See page 41 for more detail.

**Membership of learning communities**

The Tribunal continues to work collaboratively with other tribunals and courts on staff training initiatives through its leadership of the



Tribunal members, international speakers and senior staff at the Administrative Appeals Tribunal National Conference.



Tribunal staff make valuable use of their time together at the national staff conference to collaborate as they renew, and forge new, working relationships.

Commonwealth Tribunals and Courts Learning and Development Forum.

Together with the Social Security Appeals Tribunal, the Tribunal developed an introduction to diversity in the workplace program which is available to all staff on the intranet.

In February 2010, the Tribunal conducted seminars on working effectively with users in the Brisbane and Sydney registries, and these were attended by staff from the Family Court, Federal Court, Migration Review Tribunal, Refugee Review Tribunal, National Native Title Tribunal, Social Security Appeals Tribunal and Veterans' Review Board.

In June 2010, the Tribunal offered places to other tribunals for a seminar on building resilience, and Tribunal staff also participated in learning and development activities conducted by other members of the Forum.

The Tribunal is represented on the Australasian Committee for Court Education Committee, working with other courts and tribunals to share learning and development strategies and activities, including customised programs; develop professional development programs and other initiatives; and contribute to position papers when relevant.



Every year the Tribunal aims to participate in Law Week activities. This year, the Sydney Registry and Principal Registry staff took part in the Walk for Justice to launch Law Week 2010. The walk coincided with other walks in Adelaide, Brisbane, Melbourne and Perth. Pictured during the Sydney walk are (L-R) Alison Connor, Diana Weston, Claire Doherty, Adele Veness, Lloyd Doherty, Steven Mulipola, Carolyn Krochmal.

**Resources for members and staff**

*Tribunal Practice Manual*

The Tribunal is developing a practice manual on its role and functions that complements 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's practice manual will provide members and Conference Registrars with a readily-accessible overview of law and practice in areas such as practice and procedure, immigration, social security, tax, veterans' affairs and workers' compensation. It will include references to legislation and policy, case law and other resources. The manual will assist the Tribunal to carry out its functions in a fair, just, timely, informal and economical manner. Drafting and editing of the manual was substantially completed in the reporting year. The manual will be launched in 2010-11.

*Registry Procedures Manual*

The *Registry Procedures Manual* is a detailed 'best practice' guide for staff on processing applications, from lodgement to finalisation. It also covers a range of other matters, including confidentiality and privacy obligations when handling files, procedures for appeals to the Federal Court, handling complaints and processing requests for information under the *Freedom of Information Act 1982*. The manual facilitates a nationally consistent approach to processing cases.

During the reporting year, the Tribunal updated the content and presentation of the manual, developing a more comprehensive and user-friendly version. The revised manual is scheduled for release before the end of 2010.

**A positive, safe and productive workplace that values diversity**

**Occupational health and safety**

The Tribunal is committed to providing and maintaining a safe and healthy work environment for its employees through cooperative, consultative relationships. It is also committed to promoting and

developing measures that ensure the health, safety and welfare of employees at work. This commitment covers members, appointed under the Administrative Appeals Tribunal Act, and staff, engaged under the Public Service Act.

The Tribunal recognises its duties and responsibilities to its employees (and contractors and third parties in certain circumstances) under the *Occupational Health and Safety Act 1991*, *Occupational Health and Safety Regulations*, and the Occupational Health and Safety Code of Practice 2008.

*Health and safety management arrangements*

The Tribunal's Health and Safety Management Arrangements cover the legislative requirements: informing employees, reviewing effectiveness, certification of employee representatives and dealing with disputes; implementation; workplace responsibilities; designated work groups and health and safety representatives; OH&S risk management arrangements and training; and the date of effect.

- Consultative arrangements

The Arrangements were developed in consultation with the Health and Safety

Committee, members and staff, and include contributions from Tribunal members who are medically-qualified. They took effect from 30 July 2008. The Tribunal reviewed the arrangements in 2009, consulting with members and staff. The Arrangements also contain resolution procedures for establishing or varying a Designated Work Group.

The draft Arrangements were distributed to members and staff by email and on the intranet for consultation. The Arrangements are available on the intranet for all members and staff.

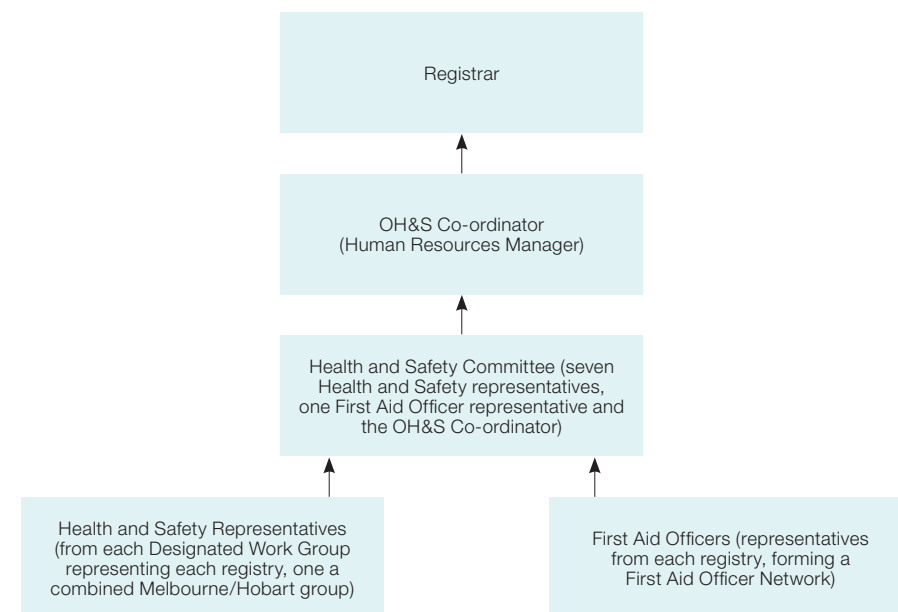
- Dispute resolution mechanisms

The Arrangements provide for dealing with disputes arising in the course of consultations under the OH&S Act (other than section 24) between the Tribunal and its staff, or representatives of the employee (when requested by the employee). The parties may seek resolution through mediation with an appropriate senior manager of the Tribunal.

*OH&S initiatives*

The Tribunal continued its program of promoting health and well-being of its employees in their time at the Tribunal.

Figure 5.1 OH&S management structure



Initiatives in the reporting year included vaccinations against flu (including swine flu), eye-sight testing, providing taxis to ensure personal safety in certain circumstances, an Employee Assistance Program and assistance with return to work costs for both compensation and non-compensation conditions.

Assistance for group or individual participation in health and fitness-related physical activities was also provided with support of the Melbourne running/walking teams. The Melbourne Registry Women's Running Team had their most successful result in the Corporate Cup 2010 Autumn Season, winning both the Most Improved and Fastest Team categories in their Division.

The Tribunal's 2009-10 Agency Agreement provided for a National Consultative Committee to improve consultation with staff on workplace issues. The committee met twice during the year. The first issue identified by the committee for action is a review of unplanned absences with the aim of reducing its use over time. Improvements in monitoring and reporting capacity to be implemented in 2010-11 will allow the Tribunal to conduct a better analysis of the issue.

The Tribunal continued its commitment to health and safety training, offering training to health and safety representatives (seven were trained during the year) and initial and refresher training to first aid officers (14 were trained during the year). Staff in all registries were trained in the use of automated external defibrillators.

*OH&S inspections*

Health and Safety Representatives conducted regular formal and informal inspections within their registries, finding no specific registry issues that had a national impact or required significant central involvement.

The Tribunal offers assessments and remedial action when occupational health and safety problems are identified.

*Notification reports, investigations and claims*

The Comcare Guide to Incident Reporting is supplemented by Tribunal instructions.

The Tribunal had no notifiable incidents – accidents causing death, serious personal injury or incapacity, or dangerous occurrences – to report during the year (see Table 5.2). The most recent notifiable incident, in October 2008, was a dangerous occurrence but Comcare did not take any further action.

As in the previous two years, Comcare did not conduct any investigations in relation to the Tribunal during the reporting year.

Case management of compensation matters are conducted either in-house or by external service providers, depending on the location and the complexity of the matter. Two compensation claims accepted by Comcare in 2009-10 are expected to have minimal impact in the future.

**Workplace harassment**

The Tribunal's commitment to preventing and eliminating all forms of harassment in the workplace is set out in the Prevention and Elimination of Workplace Harassment Policy

which articulates the Tribunal's expectations of members, managers and staff in preventing and dealing with workplace harassment. Managers and supervisors are actively encouraged to be familiar with, promote and support the Tribunal's policy and strategies for dealing with harassment.

The Tribunal's five Workplace Harassment Contact Officers have received appropriate training and operate as a national network. They are available for all members and staff to contact.

**Benevolent trust**

The Tribunal is a caring employer that 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. During the year one staff member sought and was given assistance by the Trust.

**Productivity gains**

The Tribunal is pursuing technological and employee health-related initiatives, described elsewhere in this report, to increase productivity in its operations.

The productivity gains emanate from the Tribunal's investments in: members and staff to ensure they have access to the health and well-being initiatives they require; the workplace so that it meets their occupational health and safety needs; and the technology and training for members and staff to do their work more efficiently. In particular, the Tribunal implemented new financial management and human resources systems in the latter part of 2009-10.

**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 Workplace Diversity Plan which is under review and

planned for implementation in 2010-11. The Workplace Diversity Committee met during the reporting year and minutes from meetings are made available to members and staff.

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

**Reconciliation Action Plan**

The Tribunal aims to promote reconciliation by increasing employment opportunities for Indigenous Australians in the Australian Public Service consistent with the *National Partnership Agreement on Indigenous Economic Participation* as well as promoting awareness of the Tribunal's services among Indigenous Australians. The Tribunal is reviewing the Reconciliation Action Plan in 2010-11. The plan is on the Tribunal's website, [www.aat.gov.au](http://www.aat.gov.au).

The Tribunal reviewed its Indigenous Employment Strategy in 2009. The results will help the Tribunal determine the most appropriate approach for 2010-11, which may include participation in a portfolio-wide initiative.

**Commonwealth Disability Strategy**

The Commonwealth Disability Strategy is designed to help agencies improve the access to their services and facilities for people with disabilities. The Tribunal performs the roles of an employer and a provider. See Appendix 11 for the summary of the Tribunal's performance in its role as a provider during 2009-10.

*Disability Action Plan*

The Disability Action Plan reflects and implements the Tribunal's commitment to the principles of workplace diversity and equality of access and is based on the Commonwealth Disability Strategy. The plan shows performance indicators for various aspects of the Tribunal's role as an employer and provider. The Tribunal is reviewing and updating the plan.

**Table 5.2** Notifiable incidents

Notifiable incidents	2007-08	2008-09	2009-10
Accidents causing deaths, serious personal injury or incapacity	0	0	0
Dangerous occurrences	1*	1	0
<b>Total</b>	<b>1*</b>	<b>1</b>	<b>0</b>

\* Note: As a result of an administrative error, this incident was not identified in recent annual reports.



## OUR ORGANISATION

The Tribunal worked to meet its goal as an organisation during the reporting year:

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

This section describes how the Tribunal met this goal, including 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 and Security.

#### Financial management

The Tribunal's audited financial statements for 2009-10 appear from page 53.

Although the Minister for Finance and Deregulation approved a deficit of \$1.7m for the 2009-10 financial year, tight management of expenses meant the Tribunal's financial performance came in well under budget. A smaller than budgeted increase in salary costs, compared with the previous year, led to a lower than expected expenditure on salary. The commencement of some technology projects was also deferred pending further consideration of the Tribunal's technology strategy.

#### 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.

No major work was undertaken this financial year but some minor security work was completed in Melbourne, Perth and Sydney.

In Canberra and Sydney, as per the terms of the existing leases, rent reviews led to increases of 4.3 and 12.5 percent respectively, in line with market expectations and included in budget planning.

### Purchasing

The Tribunal observes the core principles of the Commonwealth Procurement Guidelines and relevant best practice guidelines in its purchasing activities. Regular reviews of the Chief Executive Instructions ensure they conform with the procurement guidelines as 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's competitive procurement processes 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. The purchasing guidelines require at least three quotes for goods or services that do not involve major purchases or contracts.

#### Consultants

The Tribunal employs consultants when the required skill or specialist capacity is not available internally. Consultants are engaged using the procurement methods specified in the Chief Executive Instructions including open tender, select tender or direct sourcing depending on the circumstances, timelines and the identified need for a consultant.

During 2009-10, the Tribunal entered into four new consultancy contracts with a total actual expenditure of \$155,132. Two ongoing consultancy contracts were active during 2009-10, for a total actual expenditure of \$55,832. Table 5.3 sets out the Tribunal's total actual expenditure on all consultancies in the three most recent reporting years. All contract amounts include GST.

**Table 5.3** Total actual expenditure on consultancy contracts

Year	Total actual expenditure (incl GST)
2007-08	\$199,014
2008-09	\$113,566
2009-10	\$210,964

Appendix 10 shows the one new consultancy let by the Tribunal during 2009-10 valued at \$10,000 or more, 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. 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 on agency contracts.

There were no contracts of \$100,000 or more let in 2009-10 that did not include a clause providing for the Auditor-General to have access to the contractor's premises.

There were no contracts of more than \$10,000 (including GST) or standing offers exempt 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](http://www.tenders.gov.au).

#### Risk management

##### Audit and fraud control

The Tribunal's Audit Committee meets periodically to oversee the audit policy and plan for the forthcoming year. The Committee advises the Registrar on matters such as the financial statements and fraud control, and commissions internal audits on operational activities.

Each year, the Tribunal's independent internal auditor reviews the operations most at risk and at most common risk, and audits these operations.

During the reporting year, the internal auditor audited the Adelaide, Brisbane and Perth registries and scrutinised assets, attendance records and payroll, bank accounts, hospitality, payments and receipting, purchasing and security. Principal Registry finance and human resources operations are also audited annually. No major risks were identified by the audits.

The Audit Committee has implemented sufficient processes to enable the Registrar to complete the Certificate of Compliance for the 2009-10 financial year. The Registrar certifies that the Tribunal has prepared risk assessments and fraud control plans and has procedures in place 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, but cover is provided should that occur. In line with a general trend in the industry, the insurance premium decreased again in 2009-10.

#### Risk assessment review

The Tribunal has completed a risk assessment review examining all business risks that may have an impact on national operations. The review covered registry operations, public interaction, 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 that was issued in June 2009 and is available on the Tribunal's intranet for all members and staff.

Officers who have delegated responsibility under the plan are given a backup of the plan to use should internet access be unavailable. The benefits of this strategy were highlighted during the reporting year when a technical problem resulted in some downtime for the

network. Information in the plan used to locate maintenance contractors minimised the chance of a longer period of disruption.

#### *Risk management training*

As part of its risk management program, the Tribunal included training in risk management and business continuity and other finance-related topics for participants at the national staff conference in June 2010. The success of the training has led to plans to include more detailed training in a targeted program planned for 2010–11.

#### **Security**

The Tribunal places a high priority on security. The following measures ensure that members, staff and visitors are in safe and secure environments when in Tribunal offices: Tribunal offices are secure; duress alarms in conference and hearing rooms and at registry counters will protect members and staff in the event of an incident. The Tribunal's fee-for-service agreement with Chubb Security Pty Limited provides additional security services for alternative dispute resolution processes and hearings as required. These services were arranged on several occasions during the year as a precautionary measure.

The Tribunal has arrangements with the Family Court and the Federal Court to use their court rooms and security arrangements for hearings that include a security risk, and used them on several occasions during the year, 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*.

The Tribunal continued to implement the recommendations of the 2006–07 review, by T4 Protective Security, of the Tribunal's physical security arrangements. The review was designed to ensure that the Tribunal takes appropriate measures to protect members, staff, the public and Australian Government records and assets from attack or unwanted intervention. T4 Protective Security will assess the completed work to ensure that it meets the required standards.

#### **Information technology**

The focus of the Tribunal's information technology projects in 2009–10 was to ensure that the software is modern, efficient and housed on latest technology hardware in a secure data centre, and supports the Tribunal's work.

The Tribunal introduced a range of enhancements to its case management system (TRACS) and developed and implemented a new case management reporting system; upgraded the security of the Sydney computer centre; installed new file server hardware; assisted the move to a new payroll system, and the upgrade to the Tribunal's financial management system. The Tribunal also implemented a new Help Desk system to enhance the service provided by the IT Section to Tribunal members and staff.

#### **Library and information services**

##### **Library Committee**

The Library Committee oversees the acquisition of library materials, making selection decisions that are guided by the Collection Development Policy and the budget.

The Committee supports the Tribunal by identifying and selecting materials that constitute a relevant, up-to-date and well-balanced resource. It gives priority to items regularly cited in Tribunal hearings, frequently requested by members for legal research or for writing decisions, that support the administrative function of the Tribunal and current research, and that answer requests for information.

The Committee met in March 2010, and the members of the acquisitions sub-committee liaised regularly about purchases.

##### **Library network**

The library network provides library and information services to all Tribunal members and staff through the Principal Registry library in Brisbane, and District Registry libraries in Adelaide, Melbourne, Perth and Sydney. Professional librarians organise and manage the collection, and assist members and staff with their information needs.

The library network provides access to online legal and reference resources made available through the Tribunal intranet which, along with the external website, is managed by the Electronic Publishing Officer who is also a librarian.

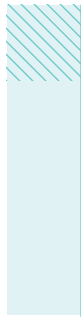
During the reporting year the library network acquired, catalogued and distributed the new paper and electronic materials added to the collection; maintained the Tribunal's intranet and internet sites; and managed electronic delivery of Tribunal decisions to publishers, government agencies and other interested parties, as well as the AustLII website.

#### **Policy and Research**

The Tribunal has a dedicated Policy and Research Section to provide advice and assistance to the President, Registrar and Assistant Registrar on legal and policy issues affecting the Tribunal. The section also provides information and assistance to members and staff on legislative changes, case law developments, and practice and procedure issues. In addition, it manages litigation when the Tribunal is named as a party; monitors appeals from Tribunal decisions; produces regular resource materials; coordinates reporting on Tribunal performance; supports Tribunal committees; and educates external users on the Tribunal at legal education seminars.

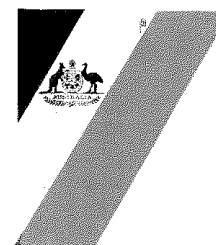
During the reporting year the section updated the Tribunal's external communication products, including the brochures, advised on the ongoing development of the functionality and reporting capacity of the Tribunal's electronic case management system, coordinated the Mooting Competition and developed national summons procedures.





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## 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 2010, which comprise: the Statement by the Chief Executive and Chief Financial Officer; Statement of Comprehensive Income; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Schedule of Contingencies; Schedule of Asset Additions; 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 2010 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  
13 September 2010

## 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 2010 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.



PHILIP KELLOW

Chief Executive

9 September 2010



STEPHEN WISE

Chief Financial Officer

9 September 2010

ADMINISTRATIVE APPEALS TRIBUNAL  
STATEMENT OF COMPREHENSIVE INCOME

for the period ended 30 June 2010

	Notes	2010 \$'000	2009 \$'000
<b>EXPENSES</b>			
Employee benefits	3A	21,138	20,350
Supplier expenses	3B	12,392	11,512
Depreciation and amortisation	3C	1,662	1,438
Write-down and impairment of assets	3D	13	-
Losses from assets sales	3E	-	2
<b>Total expenses</b>		<b>35,205</b>	<b>33,302</b>
<b>LESS:</b>			
<b>OWN-SOURCE INCOME</b>			
<b>Own-source revenue</b>			
Sale of goods and rendering of services	4A	1,122	1,029
<b>Total own-source income</b>		<b>1,122</b>	<b>1,029</b>
<b>GAINS</b>			
Other	4B	261	374
<b>Total gains</b>		<b>261</b>	<b>374</b>
<b>Total own-source revenue</b>		<b>1,383</b>	<b>1,403</b>
<b>Net cost of services</b>		<b>33,822</b>	<b>31,899</b>
Revenue from Government	4C	32,772	32,267
<b>Surplus (Deficit) attributable to the Australian Government</b>		<b>(1,050)</b>	<b>368</b>
<b>OTHER COMPREHENSIVE INCOME</b>			
Changes in asset revaluation reserves		263	-
<b>Total other comprehensive income</b>		<b>263</b>	<b>-</b>
<b>Total comprehensive income (loss) attributable to the Australian Government</b>		<b>(787)</b>	<b>368</b>

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

ADMINISTRATIVE APPEALS TRIBUNAL  
BALANCE SHEET

as at 30 June 2010

	Notes	2010 \$'000	2009 \$'000
<b>ASSETS</b>			
<b>Financial Assets</b>			
Cash and cash equivalents	5A	726	500
Trade and other receivables	5B	8,293	9,708
<b>Total financial assets</b>		<b>9,019</b>	<b>10,208</b>
<b>Non-Financial Assets</b>			
Leasehold improvements	6A,C	6,642	7,343
Plant and equipment	6B,C	1,448	1,379
Intangibles	6D,E	430	301
Other	6F	1,619	1,933
<b>Total non-financial assets</b>		<b>10,139</b>	<b>10,956</b>
<b>Total Assets</b>		<b>19,158</b>	<b>21,164</b>
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	7A	1,117	1,262
<b>Total payables</b>		<b>1,117</b>	<b>1,262</b>
<b>Non-Interest Bearing Liabilities</b>			
Other	8	778	903
<b>Total non-interest bearing liabilities</b>		<b>778</b>	<b>903</b>
<b>Provisions</b>			
Employee provisions	9A	5,890	5,863
Other	9B	385	385
<b>Total provisions</b>		<b>6,275</b>	<b>6,248</b>
<b>Total liabilities</b>		<b>8,170</b>	<b>8,413</b>
<b>Net assets</b>		<b>10,988</b>	<b>12,751</b>
<b>EQUITY</b>			
<b>Parent Entity Interest</b>			
Contributed equity		1,592	2,568
Reserves		3,433	3,170
Retained surplus (accumulated deficit)		5,963	7,013
<b>Total parent entity interest</b>		<b>10,988</b>	<b>12,751</b>
<b>Total Equity</b>		<b>10,988</b>	<b>12,751</b>

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

ADMINISTRATIVE APPEALS TRIBUNAL  
STATEMENT OF CHANGES IN EQUITY

As at 30 June 2010

	Retained Surplus		Asset Revaluation Reserves		Contributed Equity		Total Equity	
	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000
<b>Opening balance</b>								
Balance carried forward from previous period	7,013	6,645	3,170	3,170	2,568	2,568	12,751	12,383
Adjustment for errors	-	-	-	-	-	-	-	-
Adjustment for changes in accounting policy	-	-	-	-	-	-	-	-
<b>Adjusted opening balance</b>	<b>7,013</b>	<b>6,645</b>	<b>3,170</b>	<b>3,170</b>	<b>2,568</b>	<b>2,568</b>	<b>12,751</b>	<b>12,383</b>
<b>Comprehensive income</b>								
Other comprehensive income	-	-	263	-	-	-	263	-
Surplus (Deficit) for the period	(1,050)	368	-	-	-	-	(1,050)	368
<b>Total comprehensive income</b>	<b>(1,050)</b>	<b>368</b>	<b>263</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(787)</b>	<b>368</b>
Of which:								
Attributable to the Australian Government	(1,050)	368	263	-	-	-	(787)	368
<b>Transactions with owners</b>								
<b>Distribution to owners</b>								
Returns of capital:								
Other*	-	-	-	-	(976)	-	(976)	-
<b>Contribution by owners</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Sub-total transactions with owners</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(976)</b>	<b>-</b>	<b>(976)</b>	<b>-</b>
<b>Closing balance as at 30 June</b>	<b>5,963</b>	<b>7,013</b>	<b>3,433</b>	<b>3,170</b>	<b>1,592</b>	<b>2,568</b>	<b>10,988</b>	<b>12,751</b>
<b>Closing balance attributable to the Australian Government</b>	<b>5,963</b>	<b>7,013</b>	<b>3,433</b>	<b>3,170</b>	<b>1,592</b>	<b>2,568</b>	<b>10,988</b>	<b>12,751</b>

\* Return of unspent depreciation funding.

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

ADMINISTRATIVE APPEALS TRIBUNAL  
CASH FLOW STATEMENT

For period ended 30 June 2010

	Notes	2010 \$'000	2009 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Goods and services		1,088	1,096
Appropriations		34,221	30,797
Net GST received		1,217	1,175
<b>Total cash received</b>		<b>36,526</b>	<b>33,068</b>
<b>Cash used</b>			
Employees		(20,887)	(19,351)
Suppliers		(13,528)	(12,541)
<b>Total cash used</b>		<b>(34,415)</b>	<b>(31,892)</b>
<b>Net cash from operating activities</b>	10	<b>2,111</b>	<b>1,176</b>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of plant and equipment		(642)	(1,134)
Purchase of intangibles		(267)	(8)
<b>Total cash used</b>		<b>(909)</b>	<b>(1,142)</b>
<b>Net cash (used by) investing activities</b>		<b>(909)</b>	<b>(1,142)</b>
<b>FINANCING ACTIVITIES</b>			
<b>Cash used</b>			
Other		(976)	-
<b>Total cash used</b>		<b>(976)</b>	<b>-</b>
<b>Net cash (used by) financing activities</b>		<b>(976)</b>	<b>-</b>
<b>Net increase in cash held</b>		<b>226</b>	<b>34</b>
Cash and cash equivalents at the beginning of the reporting period		500	466
<b>Cash and cash equivalents at the end of the reporting period</b>	5A	<b>726</b>	<b>500</b>

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

ADMINISTRATIVE APPEALS TRIBUNAL  
SCHEDULE OF COMMITMENTS

as at 30 June 2010

	2010 \$'000	2009 \$'000
<b>BY TYPE</b>		
<b>Commitments receivable</b>		
GST recoverable on commitments	(3,226)	(3,439)
<b>Total commitments receivable</b>	<b>(3,226)</b>	<b>(3,439)</b>
<b>Other commitments</b>		
Operating leases <sup>1,2</sup>	35,488	37,827
Other commitments	2	-
<b>Total other commitments</b>	<b>35,490</b>	<b>37,827</b>
<b>Net commitments by type</b>	<b>32,264</b>	<b>34,388</b>
<b>BY MATURITY</b>		
<b>Commitments receivable</b>		
One year or less	(595)	(528)
From one to five years	(2,631)	(2,637)
Over five years	-	(274)
<b>Total commitments receivable</b>	<b>(3,226)</b>	<b>(3,439)</b>
<b>Operating lease commitments</b>		
One year or less	6,544	5,812
From one to five years	28,944	29,003
Over five years	-	3,012
<b>Total operating lease commitments</b>	<b>35,488</b>	<b>37,827</b>
<b>Other commitments</b>		
One year or less	2	-
From one to five years	-	-
Over five years	-	-
<b>Total other commitments</b>	<b>2</b>	<b>-</b>
<b>Net commitments by maturity</b>	<b>32,264</b>	<b>34,388</b>

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

as at 30 June 2010

There are no quantifiable contingent assets or liabilities (2009: Nil). Refer to Note 11 for details of any unquantifiable or remote contingent assets or contingent liabilities.

## SCHEDULE OF ASSET ADDITIONS

For the period ended 30 June 2010

The following non-financial, non-current assets were added in 2009-10:

	Leasehold improvements \$'000	Plant and equipment \$'000	Intangibles \$'000	TOTAL \$'000
By purchase – appropriation equity	-	-	-	-
By purchase – appropriation ordinary annual services	180	472	257	909
<b>Total additions</b>	<b>180</b>	<b>472</b>	<b>257</b>	<b>909</b>

The following non-financial, non-current assets were added in 2008-09:

	Leasehold improvements \$'000	Plant and equipment \$'000	Intangibles \$'000	TOTAL \$'000
By purchase – appropriation equity	-	-	-	-
By purchase – appropriation ordinary annual services	777	357	8	1,142
<b>Total additions</b>	<b>777</b>	<b>357</b>	<b>8</b>	<b>1,142</b>

SCHEDULE OF ADMINISTERED ITEMS			
	Notes	2010 \$'000	2009 \$'000
<b>Income administered on behalf of Government</b>			
<i>for the period ended 30 June 2010</i>			
<b>Revenue</b>			
<b>Non-taxation revenue</b>			
Filing fees	15	519	523
<b>Total revenues administered on behalf of Government</b>		<b>519</b>	523
<b>Total income administered on behalf of Government</b>		<b>519</b>	523
<b>Expenses administered on behalf of Government</b>			
<i>for the period ended 30 June 2010</i>			
Refund of filing fees	16	427	372
<b>Total expenses administered on behalf of Government</b>		<b>427</b>	372

There were no administered assets or liabilities as at 30 June 2010, (2009: Nil).

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

SCHEDULE OF ADMINISTERED ITEMS			
		2010 \$'000	2009 \$'000
<b>Administered Cash Flows</b>			
<i>for the period ended 30 June 2010</i>			
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Filing fees		519	523
<b>Total cash received</b>		<b>519</b>	523
<b>Cash used</b>			
Refund of filing fees		(427)	(372)
<b>Total cash used</b>		<b>(427)</b>	(372)
<b>Net cash flows from operating activities</b>	19	<b>92</b>	151
<b>Net Increase in Cash Held</b>		<b>92</b>	151
Cash and cash equivalents at the beginning of the reporting period		-	-
Cash from Official Public Account for:		427	372
– Appropriations			
Cash to Official Public Account for:		(519)	(523)
– Appropriations			
<b>Cash and cash equivalents at the end of reporting period</b>		<b>-</b>	-

There were no administered commitments or contingencies as at 30 June 2010, (2009: Nil).

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

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

**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 Statements**

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

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 2009: 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 or 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 unrecognised are reported in the Schedule of Commitments or the Schedule of Contingencies.

Unless alternative treatment is specifically required by an accounting standard, revenues and expenses are recognised in the Statement of Comprehensive Income 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/Interpretations/amending standards were issued prior to the signing of the statement by the Director, Chief Executive and Chief Financial Officer, were applicable to the current reporting period and had a financial impact on the entity:

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

**AASB 101: Presentation of Financial Statements**

The Australian Accounting Standards Board revised AASB101 and as a result, there have been changes to the presentation and disclosure of certain information within the financial statements. Below is an overview of the key changes of the impact on the financial statements.

**Disclosure impact**

Terminology changes – The revised version of AASB 101 contains a number of terminology changes, including the amendment of the names of the primary financial statements.

Reporting changes in equity – The revised AASB 101 requires all changes in equity from transactions with owners, in their capacity as owners, to be presented separately from non-owner changes in equity. Owner changes in equity are to be presented in the statement of changes in equity, with non-owner changes in equity presented in the statement of comprehensive income. The previous version of AASB 101 required that owner changes in equity and other comprehensive income be presented in the statement of changes in equity.

Statement of comprehensive income – The revised AASB 101 requires all income and expenses to be presented in the statement of comprehensive income.

Other comprehensive income – the revised version of AASB 101 introduces the concept of other comprehensive income which comprises income and expenditure that are not recognised in profit or loss as required by other Australian Accounting Standards. Items of other comprehensive income are to be disclosed in the statement of comprehensive income.

Other new standards/revised standards/Interpretations/amending standards that were issued prior to the signing of the statement by the Director, 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.

AASB 1	First-time Adoption of Australian Accounting Standards – May 2009 (Principal)
AASB 7	Financial Instruments: Disclosures – June 2009 (Compilation)
AASB 102	Inventories – June 2009 (Compilation)
AASB 107	Statement of Cash Flows – June 2009 (Compilation)
AASB 108	Accounting Policies, Changes in Accounting Estimates and Errors – July 2008 (Compilation)
AASB 110	Events after the Reporting Period – June 2009 (Compilation)
AASB 111	Construction Contracts – June 2009 (Compilation)
AASB 116	Property, Plant and Equipment – June 2009 (Compilation)
AASB 117	Leases – June 2009 (Compilation)
AASB 118	Revenue – August 2008 (Compilation).
AASB 119	Employee Benefits – June 2009 (Compilation)
AASB 120	Accounting for Government Grants and Disclosure of Government Assistance – July 2008 (Compilation)
AASB 128	Investments in Associates – July 2008 (Compilation)
AASB 131	Interests in Joint Ventures – July 2008 (Compilation)
AASB 132	Financial Instruments: Presentation – June 2009 (Compilation)
AASB 136	Impairment of Assets – June 2009 (Compilation)
AASB 137	Provisions, Contingent Liabilities and Contingent Assets – June 2009 (Compilation)
AASB 138	Intangible Assets – June 2009 (Compilation)
AASB 139	Financial Instruments: Recognition and Measurement – October 2009 (Compilation)
AASB 1031	Materiality – December 2007 (Compilation)



## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

AASB 1048	Interpretation of Standards – June 2010 (Principal)
AASB 1049	Whole of Government and General Government Sector Financial Reporting – September 2008 (Compilation)
Interp. 4	Determining whether an Arrangement contains a Lease – June 2009 (Compilation)
Interp. 8	Scope of AASB 2 – September 2007 (Compilation)
Interp. 9	Reassessment of Embedded Derivatives – May 2009 (Compilation)
Interp. 10	Interim Financial Reporting and Impairment – October 2009 (Compilation)
Interp. 115	Operating Leases – Incentives – June 2009 (Compilation)
Interp. 127	Evaluating the Substance of Transactions Involving the Legal Form of a Lease – June 2009 (Compilation)
Interp. 132	Intangible Assets – Web Site Costs – September 2007 (Compilation)
Interp. 1019	The Superannuation Contributions Surcharge – December 2007 (Compilation)
Interp. 1031	Accounting for the Goods and Services Tax (GST) – December 2007 (Compilation)

**Future Australian Accounting Standard Requirements**

The following new standards/revised standards/interpretations/amending standards were issued by the Australian Accounting Standards Board prior to the signing of the statement by the Director, Chief Executive and Chief Financial Officer, which are expected to have a financial impact:

- AASB 9: Financial Instruments and AASB 2009-11: Amendments to Australian Accounting Standards arising from AASB 9 [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 121, 127, 128, 131, 132, 136, 139, 1023 & 1038 and Interpretations 10 & 12] (applicable for annual reporting periods commencing on or after 1 January 2013), on the entity for future reporting periods:

These Standards are applicable retrospectively and amend the classification and measurement of financial assets. The Tribunal has not yet determined any potential impact on the financial statements.

- The changes made to accounting requirements include:
  - simplifying the classifications of financial assets into those carried at amortised cost and those carried at fair value;
  - removing the tainting rules associated with held-to-maturity assets;
  - requiring financial assets to be reclassified where there is a change in an entity's business model as they are initially classified based on: (a) the objective of the entity's business model for managing the financial assets; and (b) the characteristics of the contractual cash flows.

- AASB 124: Related Party Disclosures (applicable for annual reporting periods commencing on or after 1 January 2011).

This Standard removes the requirement for government-related entities to disclose details of all transactions with the government and other government-related entities and clarifies the definition of a 'related party' to remove inconsistencies and simplify the structure of the Standard. No changes are expected to materially affect the Tribunal.

- AASB 2009-4: Amendments to Australian Accounting Standards arising from the Annual Improvements Project [AASB 2 and AASB 138 and AASB Interpretations 9 & 16] (applicable for annual reporting periods commencing from 1 July 2009) and AASB 2009-5: Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project [AASB 5, 8, 101, 107, 117, 118, 136 & 139] (applicable for annual reporting periods commencing from 1 January 2010).

These Standards detail numerous non-urgent but necessary changes to Accounting Standards arising from the IASB's annual improvements project. No changes are expected to materially affect the Tribunal.

- AASB 2009-12: Amendments to Australian Accounting Standards [AASBs 5, 8, 108, 110, 112, 119, 133, 137, 139, 1023 & 1031 and Interpretations 2, 4, 16, 1039 & 1052] (applicable for annual reporting periods commencing on or after 1 January 2011).

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

This Standard makes a number of editorial amendments to a range of Australian Accounting Standards and Interpretations, including amendments to reflect changes made to the text of IFRSs by the IASB. The Standard also amends AASB 8 to require entities to exercise judgment in assessing whether a government and entities known to be under the control of that government are considered a single customer for the purposes of certain operating segment disclosures. The impacts of the amendments will be in the form of disclosure.

- AASB 2009-14: Amendments to Australian Interpretation – Prepayments of a Minimum Funding Requirement [AASB Interpretation 14] (applicable for annual reporting periods commencing on or after 1 January 2011).

This Standard amends Interpretation 14 to address unintended consequences that can arise from the previous accounting requirements when an entity prepays future contributions into a defined benefit pension plan.

- AASB 2010-4 Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project [AASB 1, AASB 7, AASB 101 & AASB 134 and Interpretation 13] (applicable for annual reporting periods commencing on or after 1 January 2011).

This standard amends the identified standards providing additional disclosure requirements.

There were additional new standards/revised standards/interpretations/amending standards issued by the Australian Accounting Standards Board which are not listed above that are not relevant to the operations of the Tribunal.

**1.5 Revenue****Revenue from Government**

Amounts appropriated for departmental outputs 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.

**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.

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:

- services performed to date as a percentage of total services to be performed; or
- the proportion that costs incurred to date bear to the estimated total costs of the transaction.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

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 end of reporting period. Allowances are made when collectability of the debt is no longer probable.

**1.6 Gains****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.

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

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)

**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 '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.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

**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 included in the FMO, at the present value of the estimated future cash flows to be made in respect of all employees at 30 June 2010. 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.

**1.10 Cash**

Cash and cash equivalents includes cash on hand, cash held with outsiders, demand deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value. 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.

**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.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

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 not 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 in the surplus/deficit. Revaluation decrements for a class of assets are recognised directly the surplus/deficit 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:

	2010	2009
Leasehold improvements (fitout)	Lease term	Lease term
Plant and equipment	3-20 years	3-20 years

**Impairment**

All assets were assessed for impairment at 30 June 2010. 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.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

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.

**Derecognition**

An item of leasehold improvement, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

**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 are 3 to 5 years (2009: 3 to 5 years).

All software assets were assessed for indications of impairment as at 30 June 2010. 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.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

**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 Reporting Period**

There were no significant events occurring after the balance date.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2010 \$'000	2009 \$'000
<b>Note 3: Expenses</b>		
<b>Note 3A: Employee benefits</b>		
Wages and salaries	16,795	16,056
Superannuation		
Defined contribution plans	2,065	2,238
Defined benefit plans	755	462
Leave and other entitlements	1,523	1,520
Separation and redundancies	-	74
<b>Total employee benefits</b>	<b>21,138</b>	<b>20,350</b>
<b>Note 3B: Suppliers</b>		
Goods and services		
General suppliers	5,308	4,349
Other property costs	2,442	2,048
<b>Total goods and services</b>	<b>7,750</b>	<b>6,397</b>
Goods and Services are made up of:		
Provision of goods – related entities	-	-
Provision of goods – external entities	461	346
Rendering of services – related entities	307	430
Rendering of services – external entities	6,982	5,621
<b>Total goods and services</b>	<b>7,750</b>	<b>6,397</b>
<b>Other supplier expenses</b>		
Operating lease rentals:		
Minimum lease payments	4,539	4,972
Workers compensation expenses	103	143
Total other supplier expenses	4,642	5,115
Total supplier expenses	12,392	11,512
<b>Note 3C: Depreciation and Amortisation</b>		
Depreciation:		
Leasehold improvements, plant and equipment	1,534	1,329
<b>Total depreciation</b>	<b>1,534</b>	<b>1,329</b>
Amortisation:		
Intangibles:		
Computer software	128	109
<b>Total amortisation</b>	<b>128</b>	<b>109</b>
<b>Total depreciation and amortisation</b>	<b>1,662</b>	<b>1,438</b>

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2010 \$'000	2009 \$'000
<b>Note 3D: Write down and impairment of assets</b>		
Revaluation decrement – non-financial assets	13	-
<b>Total write-down and impairment of assets</b>	<b>13</b>	<b>-</b>
<b>Note 3E: Losses from assets sales</b>		
Infrastructure, plant and equipment		
Proceeds from sale	-	-
Carrying value of assets sold	-	2
Selling expense	-	-
<b>Total losses from assets sales</b>	<b>-</b>	<b>2</b>
<b>Note 4: Income</b>		
<b>Revenue</b>		
<b>Note 4A: Sale of Goods and Rendering of Services</b>		
Rendering of services – related entities	723	668
Rendering of services – external entities	399	361
<b>Total sale of goods and rendering of services</b>	<b>1,122</b>	<b>1,029</b>
<b>Note 4B: Other Revenue</b>		
Resources received free of charge	37	37
Liabilities assumed by other departments	224	337
<b>Total other revenue</b>	<b>261</b>	<b>374</b>
<b>REVENUE FROM GOVERNMENT</b>		
<b>Note 4C: Revenue from Government</b>		
Appropriations:		
Departmental outputs	32,772	32,267
<b>Total revenue from government</b>	<b>32,772</b>	<b>32,267</b>



## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2010 \$'000	2009 \$'000
<b>Note 5: Financial Assets</b>		
<b>Note 5A: Cash and cash equivalents</b>		
Cash on hand or on deposit	726	500
<b>Total cash and cash equivalents</b>	<b>726</b>	<b>500</b>
<b>Note 5B: Trade and Other receivables</b>		
Goods and services – related entities	50	98
Goods and services – external parties	6	14
<b>Total receivables for goods and services</b>	<b>56</b>	<b>112</b>
<b>Appropriations receivable:</b>		
For existing outputs	8,021	9,470
<b>Total appropriations receivable</b>	<b>8,021</b>	<b>9,470</b>
<b>Other receivables:</b>		
GST receivable from the Australian Taxation Office	216	126
<b>Total other receivables</b>	<b>216</b>	<b>126</b>
<b>Total trade and other receivables (Net)</b>	<b>8,293</b>	<b>9,708</b>
Receivables are expected to be recovered in:		
No more than 12 months	8,293	9,708
More than 12 months	-	-
<b>Total trade and other receivables (net)</b>	<b>8,293</b>	<b>9,708</b>
Receivables are aged as follows:		
Not overdue	8,277	9,704
Overdue by:		
0 to 30 days	15	4
31 to 60 days	-	-
61 to 90 days	1	-
More than 90 days	-	-
	<b>16</b>	<b>4</b>
<b>Total receivables (gross)</b>	<b>8,293</b>	<b>9,708</b>

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2010 \$'000	2009 \$'000
<b>Note 6: Non-Financial Assets</b>		
<b>Note 6A: Leasehold Improvements</b>		
Leasehold improvements:		
Fair value	6,642	7,343
Accumulated depreciation	-	-
<b>Total leasehold improvements</b>	<b>6,642</b>	<b>7,343</b>
<b>Total leasehold improvements</b>	<b>6,642</b>	<b>7,343</b>
No indicators of impairment were found for leasehold improvements.		
No leasehold improvements are expected to be sold or disposed of within the next 12 months.		
<b>Note 6B: Plant and Equipment</b>		
Other plant and equipment		
Fair value	1,448	1,379
Accumulated depreciation	-	-
<b>Total other plant and equipment</b>	<b>1,448</b>	<b>1,379</b>
<b>Total plant and equipment</b>	<b>1,448</b>	<b>1,379</b>

All revaluations are in accordance with the revaluation policy stated in Note 1.16. On 30 June 2010, an independent valuer, the Australian Valuation Office, conducted the revaluations.

Revaluation increment of \$262,880 for leasehold improvements were credited to the asset revaluation reserve by asset class and included in the equity section of the balance sheet (no increments were credited in 2009).

Revaluation decrement of \$12,596 for plant and equipment was expensed (no decrements were expensed in 2009)

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

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

**Note 6C: Reconciliation of the Opening and Closing Balances of Leasehold Improvements, Plant and Equipment (2009-10)**

	Leasehold Improvements \$'000	Plant and Equipment \$'000	TOTAL \$'000
As at 1 July 2009			
Gross book value	7,343	1,379	8,722
Accumulated depreciation and impairment	-	-	-
<b>Net book value 1 July 2009</b>	<b>7,343</b>	<b>1,379</b>	<b>8,722</b>
Additions:			
by purchase	180	472	652
Revaluations and impairments recognised in other comprehensive income	263	-	263
Revaluations recognised in the operating result	-	(13)	(13)
Depreciation expense	(1,144)	(390)	(1,534)
Impairment recognised in the operating result	-	-	-
Disposals:			
other disposals	-	-	-
<b>Net book value 30 June 2010</b>	<b>6,642</b>	<b>1,448</b>	<b>8,090</b>
<b>Net book value as at 30 June 2010 represented by:</b>			
Gross book value	6,642	1,448	8,090
Accumulated depreciation	-	-	-
Accumulated impairment losses	-	-	-
	6,642	1,448	8,090

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

**Note 6C: 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	-	-	-
<b>Net book value 1 July 2008</b>	<b>7,617</b>	<b>1,302</b>	<b>8,919</b>
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)
<b>Net book value 30 June 2009</b>	<b>7,343</b>	<b>1,379</b>	<b>8,722</b>
<b>Net book value as at 30 June 2009 represented by:</b>			
Gross book value	7,343	1,379	8,722
Accumulated depreciation/amortisation and impairment	-	-	-
	7,343	1,379	8,722

**Note 6D: Intangibles**

	2010 \$'000	2009 \$'000
Computer software at cost	1,653	1,399
Accumulated amortisation	(1,223)	(1,098)
<b>Total intangibles (net)</b>	<b>430</b>	<b>301</b>

No indicators of impairment were found for intangible assets.

No intangibles are expected to be sold or disposed of within the next 12 months.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

## Note 6E: Reconciliation of the opening and closing balances of intangibles (2009-10).

Item	Computer software purchased \$'000	Total \$'000
<b>As at 1 July 2009</b>		
Gross book value	1,399	1,399
Accumulated depreciation/amortisation and impairment	(1,098)	(1,098)
<b>Net book value 1 July 2009</b>	301	301
Additions:		
by purchase or internally developed	257	257
Amortisation	(128)	(128)
Write-off		
Gross value of assets written off	(3)	(3)
Accumulated depreciation	3	3
<b>Net book value 30 June 2010</b>	430	430
<b>Net book value as of 30 June 2010 represented by:</b>		
Gross book value	1,653	1,653
Accumulated depreciation/amortisation and impairment	(1,223)	(1,223)
	430	430

## Note 6E: Reconciliation of the opening and closing balances of intangibles (2008-09).

<b>As at 1 July 2008</b>		
Gross book value	1,407	1,407
Accumulated amortisation and impairment	(1005)	(1005)
<b>Net book value 1 July 2008</b>	402	402
Additions:		
by purchase	8	8
Internally developed		
Amortisation	(109)	(109)
<b>Net book value 30 June 2009</b>	301	301
<b>Net book value as of 30 June 2009 represented by:</b>		
Gross book value	1,399	1,399
Accumulated amortisation and impairment	(1,098)	(1,098)
	301	301

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2010 \$'000	2009 \$'000
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## Note 6F: Other non-financial assets

Salary advances	-	4
Prepayments	1,619	1,929
<b>Total other non-financial assets</b>	<b>1,619</b>	<b>1,933</b>

All other non-financial assets are current assets.

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

Total other non-financial assets – are expected to be recovered in:

No more than 12 months	1,619	1,933
More than 12 months	-	-
<b>Total other non-financial assets</b>	<b>1,619</b>	<b>1,933</b>

## Note 7: Payables

## Note 7A: Suppliers

Trade creditors and accruals	1,117	1,262
<b>Total supplier payables</b>	<b>1,117</b>	<b>1,262</b>

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

Supplier payables expected to be settled within 12 months:

Related entities	94	281
External parties	1,023	981
<b>Total</b>	<b>1,117</b>	<b>1,262</b>

Supplier payables expected to be settled in greater than 12 months:

Related entities	-	-
External parties	-	-
<b>Total</b>	<b>-</b>	<b>-</b>
<b>Total supplier payables</b>	<b>1,117</b>	<b>1,262</b>

Settlement is usually made within 30 days.

## Note 8: Non-Interest Bearing Liabilities

Lease incentives	778	903
<b>Total non-interest bearing liabilities</b>	<b>778</b>	<b>903</b>
Current	182	243
Non-current	596	660
<b>Total non-interest bearing liabilities</b>	<b>778</b>	<b>903</b>

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2010 \$'000	2009 \$'000
<b>Note 9: Provisions</b>		
<b>Note 9A: Employee provisions</b>		
Leave	4,394	4,443
Separation and redundancies	-	-
Other	1,496	1,420
<b>Total employee provisions</b>	<b>5,890</b>	<b>5,863</b>
Employee provisions are expected to be settled in:		
No more than 12 months	5,390	5,303
More than 12 months	500	560
<b>Total employee provisions</b>	<b>5,890</b>	<b>5,863</b>
<b>Note 9B: Other provisions</b>		
Provision for restoration obligations	385	385
<b>Total other provisions</b>	<b>385</b>	<b>385</b>
Other provisions are expected to be settled in:		
No more than 12 months	-	-
More than 12 months	385	385
<b>Total other provisions</b>	<b>385</b>	<b>385</b>
	<b>Provision for restoration \$'000</b>	<b>Total \$'000</b>
<b>Carrying amount 1 July 2009</b>	<b>385</b>	<b>385</b>
Additional provisions made	-	-
Amount used	-	-
Amounts reversed	-	-
Unwinding of discount or change in the discount rate	-	-
<b>Closing balance 2010</b>	<b>385</b>	<b>385</b>

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.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2010 \$'000	2009 \$'000
<b>Note 10: Cash Flow Reconciliation</b>		
<b>Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement</b>		
<b>Report cash and cash equivalents as per:</b>		
Cash Flow Statement	726	500
Balance Sheet	726	500
<b>Difference</b>	<b>-</b>	<b>-</b>
<b>Reconciliation of net cost of services to net cash from operating activities:</b>		
Net cost of services	(1,050)	368
Add revenue from Government		
<b>Adjustments for non-cash items</b>		
Depreciation/amortisation	1,662	1,438
Net write-down of non-financial assets	13	-
Loss on disposal of assets	-	2
<b>Changes in assets/Liabilities</b>		
(Increase)/decrease in net receivables	1,415	(1,403)
(Increase)/decrease in prepayments	314	(48)
Increase/(decrease) in employee provisions	26	662
Increase/(decrease) in supplier payables	(145)	356
Increase/(decrease) in other payable	(124)	(199)
Increase/(decrease) in other provisions	-	-
<b>Net cash from/(used by) operating activities</b>	<b>2,111</b>	<b>1,176</b>

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

At 30 June 2010 the Tribunal has no quantifiable contingent liabilities (2009: Nil).

**Unquantifiable or Remote Contingencies**

At 30 June 2010, the Tribunal has not identified any unquantifiable or remote contingencies (2009: Nil).

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

## Note 12: Senior Executive Remuneration

## Note 12A: Actual Remuneration paid to Senior Executives

## Executive Remuneration

	2010	2009
The number of senior executives who received:		
less than \$145,000*	-	-
\$175,000 to \$189,999	-	1
\$190,000 to \$204,999	1	-
\$205,000 to \$219,999	1	-
\$280,000 to \$294,999	-	1
<b>Total</b>	<b>2</b>	<b>2</b>

\* Excluding acting arrangements and part-year service.

## Total expense recognised in relation to Senior Executive employment

Short-term employee benefits		
Salary (including annual leave taken)	287,245	329,933
Changes in annual leave provisions	822	13,485
Performance bonus	10,315	4,070
Other	63,635	65,863
Total short-term employee benefits	362,017	413,351
Superannuation (post-employment benefits)	41,975	45,325
Other long term benefits	-	-
<b>Total</b>	<b>403,992</b>	<b>458,676</b>

During the year the entity did not pay any termination benefits to senior executives (2009: Nil)

## Note 12B: Salary Packages for Senior Executives as at 30 June

## Average annualised remuneration packages for substantive Senior Executives

	As at 30 June 2010			As at 30 June 2009		
	No. SES	Base salary (including annual leave)	Total remuneration package	No. SES	Base salary (including annual leave)	Total remuneration package
<b>Total remuneration*</b>						
\$175,000 to \$189,999				1	114,620	188,930
\$190,000 to \$204,999	1	125,509	201,674			
\$265,000 to \$279,999	1	203,910	277,825	1	197,890	271,980
<b>Total</b>	<b>2</b>			<b>2</b>		

\* Excluding acting arrangements and part-year service.

Note that the Registrar of the Tribunal resigned from the Tribunal in March 2010.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2010 \$'000	2009 \$'000
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## Note 13: Remuneration of Auditors

Financial statement audit services were provided free of charge to the Tribunal.

The fair value of the audit services provided was:

	37	37
	<b>37</b>	<b>37</b>

No other services were provided by the Auditor-General.

## Note 14: Financial Instruments

## Note 14A: Categories of financial instruments

## Financial assets

Loans and receivables

Cash and cash equivalents	726	500
Trade receivables	56	112

## Carrying amount of financial assets

	782	612
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## Financial liabilities

Fair value through profit and loss (designated)

Payables – suppliers	1,117	1,262
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## Carrying amount of financial liabilities

	1,117	1,262
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## 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 2010 (2009: 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 2010 (2009: 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 (2010: \$55,130 and 2009: \$112,033). The Tribunal has assessed the risk of the default on payment and has allocated nil in 2010 (2009: 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.



## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

## Note 14D: Credit risk (continued)

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

	Not Past Due Nor Impaired 2010 \$'000	Not Past Due Nor Impaired 2009 \$'000	Past Due or Impaired 2010 \$'000	Past Due or Impaired 2009 \$'000
<b>Loans and receivables</b>				
Cash and cash equivalents	726	500	-	-
Trade receivables	56	108	16	4
<b>Total</b>	<b>782</b>	<b>608</b>	<b>16</b>	<b>4</b>

Ageing of financial assets that are past due but not impaired for 2010

	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	90+ days \$'000	Total \$'000
<b>Loans and receivables</b>					
Trade receivables	15	-	1	-	16
<b>Total</b>	<b>15</b>	<b>-</b>	<b>1</b>	<b>-</b>	<b>16</b>

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
<b>Loans and receivables</b>					
Trade receivables	4	-	-	-	4
<b>Total</b>	<b>4</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>4</b>

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

## 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 Tribunal (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 2010 \$'000	Within 1 year 2010 \$'000	1 to 2 years 2010 \$'000	2 to 5 years 2010 \$'000	> 5 years 2010 \$'000	Total 2010 \$'000
<b>Other liabilities</b>						
Suppliers	-	1,117	-	-	-	1,117
<b>Total</b>	<b>-</b>	<b>1,117</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,117</b>

	On demand 2009 \$'000	Within 1 year 2009 \$'000	1 to 2 years 2009 \$'000	2 to 5 years 2009 \$'000	> 5 years 2009 \$'000	Total 2009 \$'000
<b>Other liabilities</b>						
Suppliers	-	1,262	-	-	-	1,262
<b>Total</b>	<b>-</b>	<b>1,262</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,262</b>

## 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

	2010 \$'000	2009 \$'000
<b>Non-Taxation Revenue</b>		
<b>Note 15A: Fees and Fines</b>		
Filing fees	519	523
Total revenue	<b>519</b>	<b>523</b>

## Note 16: Expenses Administered on Behalf of the Government

	2010 \$'000	2009 \$'000
<b>Note 16A: Other Expenses</b>		
Refund of filing fees	427	372
<b>Total expenses</b>	<b>427</b>	<b>372</b>

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

**Note 17: Assets Administered on Behalf of the Government**

There were no administered assets as at 30 June 2010, (2009: Nil).

**Note 18: Liabilities Administered on Behalf of the Government**

There were no administered liabilities as at 30 June 2010, (2009: Nil).

**Note 19: Administered Reconciliation Table**

	2010 \$'000	2009 \$'000
<b>Opening administered assets less administered liabilities as at 1 July</b>	-	-
Plus: Administered income	519	523
Less: Administered refunds	(427)	(372)
Administered transfers to/from Australian Government:		
Appropriation transfers from OPA	427	372
Transfers to OPA	(519)	(523)
<b>Closing administered assets less administered liabilities as at 30 June</b>	-	-

**Note 20: Administered Contingent Assets and Liabilities**

There were no administered contingent assets or liabilities as at 30 June 2010, (2009: Nil).

**Note 21: Administered Investments**

There were no administered investments as at 30 June 2010, (2009: Nil).

**Note 22: Administered Financial Instruments**

There were no administered financial instruments as at 30 June 2010, (2009: Nil).

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

**Note 23: Appropriations**

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

Particulars	Departmental Outputs		Total	
	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000
Balance brought forward from previous period (Appropriation Acts)	9,970	8,466	9,970	8,466
Appropriation Act:				
Appropriation Act (No.1)	32,772	31,849	32,772	31,849
Appropriation Act (No.3)	-	418	-	418
Appropriations reduced (Appropriation Act sections 10, 11&12)	(976)	-	(976)	-
Comcover receipts (Appropriation Act s12)	-	-	-	-
FMA Act:				
Refunds credited (FMA Act s30)	474	101	474	101
Appropriations to take account of recoverable GST (FMA Act s30A)	1,217	1,175	1,217	1,175
Annotations to 'net appropriations' (FMA Act s31)	1,088	1,096	1,088	1,096
Total appropriations available for payments	44,545	43,105	44,545	43,105
Cash payments made during the year (GST inclusive)	(35,798)	(33,135)	(35,798)	(33,135)
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:	8,747	9,970	8,747	9,970
Cash at bank and on hand	726	500	726	500
Departmental appropriations receivable	8,021	9,470	8,021	9,470
<b>Total as at 30 June</b>	<b>8,747</b>	<b>9,970</b>	<b>8,747</b>	<b>9,970</b>

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 23: 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	
	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000
Balance brought from previous period (Appropriation Acts)	-	-	-	-
Appropriation Act:				
Appropriation Act (No.2)	-	-	-	-
FMA Act:				
Refunds credited (FMA s30)	-	-	-	-
Appropriations to take account of recoverable GST (FMA s30A)	-	-	-	-
Total appropriations available for payments	-	-	-	-
Cash payments made during the year (GST inclusive)	-	-	-	-
Appropriations credited to Special Accounts (GST exclusive)	-	-	-	-
<b>Balance of Authority to Draw Cash from the Consolidated Revenue Fund for Other than Ordinary Annual Services Appropriations</b>	-	-	-	-

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	2010 \$'000	2009 \$'000
Cash payments made during the year	427	372
<i>Estimated actual</i>	600	600

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

## Note 24: Special Accounts

The Administrative Appeals Tribunal has not recorded any transaction through any Special Accounts for the year ended 30 June 2010 (2009: Nil).

## Note 25: Compensation and Debt Relief

	2010 \$	2009 \$
<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. (2009: nil)	Nil	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. (2009: nil)	Nil	Nil

## Note 26: Reporting of Outcomes

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

## Note 26A: Net Cost of Outcome Delivery

	Total	
	2010 \$'000	2009 \$'000
<b>Expenses</b>		
Administered	427	372
Departmental	35,205	33,302
<b>Total</b>	<b>35,632</b>	<b>33,674</b>
<b>Income from non-government sector</b>		
Administered	-	-
Activities subject to cost recovery		
Other		
Total administered	-	-
Departmental		
Activities subject to cost recovery		-
Other	399	361
<b>Total</b>	<b>399</b>	<b>361</b>
Other own-source income		
Administered	519	523
Departmental	723	668
<b>Total</b>	<b>1,242</b>	<b>1,191</b>
<b>Net cost/(contribution) of outcome delivery</b>	<b>33,991</b>	<b>32,122</b>

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

**Note 26B: 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	
	2010 \$'000	2009 \$'000
<b>Administered expenses</b>		
Refund of fees and fines	(427)	(372)
<b>Total</b>	<b>(427)</b>	<b>(372)</b>
<b>Administered income</b>		
Fees & fines	519	523
<b>Total</b>	<b>519</b>	<b>523</b>

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## APPENDIX 1: MEMBERS OF THE TRIBUNAL

### Tribunal members, 30 June 2010

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 Mr J Block  
The Honourable BJM Tamberlin QC  
Mr RP Handley

##### **Non-presidential members**

Senior Members Mr MD Allen (G,V,T,S)  
Ms G Ettinger (G,V,T,S)  
Ms NP Bell (G,V,S)  
Ms N Isenberg (G,V,S)  
Mr PW Taylor SC (G,V,T)  
Ms JF Toohey (G,V)  
Ms AK Britton (G,V)  
Mr SE Frost (G,V,T)  
Mr D Letcher QC (G,V,T)  
Ms JL Redfern (G,V,T)

Members Dr IS Alexander (G,V)  
Air Vice Marshal Dr TK Austin (G,V)  
Dr JD Campbell (G,V)  
Mr DM Connolly AM (G,V,S)  
Dr H Haikal-Mukhtar (G,V)  
Dr TJ Hawcroft (G,V)  
Mr TC Jenkins (G,V,T)  
Professor GAR Johnston AM (G,V)  
Mr IW Laughlin (G,T)  
Dr TM Schafer (G,V)  
Professor TM Sourdin (G,V)  
Dr MEC Thorpe (G,V)  
Dr SH Toh (G,V)

##### **Notes**

Presidential members and Senior Members are listed by date of appointment, 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 Ms SA Forgie  
Mr GL McDonald

### **Non-presidential members**

Senior Members Mr JR Handley (G,V,T)  
Mr GD Friedman (G,V,S)  
Mr FD O'Loughlin (G,V,T)  
Mr E Fice (G,V,T)

Members Dr R Blakley (G)  
Dr KJ Breen AM (G,V)  
Brigadier C Ermert (Rtd) (G,V)  
Dr GL Hughes (G,V,T)  
Dr RJ McRae (G,V)  
Ms RL Perton OAM (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 Mr PE Hack SC  
The Honourable Dr B McPherson CBE

### **Non-presidential members**

Senior Members Mr BJ McCabe (G,V,T)  
Associate Professor PM McDermott RFD (G,V,T)  
Ms MJ Carstairs (G,V,T)  
Dr KStC Levy RFD (G,V,T)  
Mr SA Karas AO (G,V,S)  
Mr RG Kenny (G,V,T)

Members Dr ML Denovan (G,V)  
Dr GJ Maynard, Brigadier (Rtd) (G,V)  
Associate Professor JB Morley RFD (G,V)  
Dr PL Wulf (G)



**South Australia****Presidential members**

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

**Non-presidential members**

Senior Members	Mr RW Dunne (G,V,T) Ms K Bean (G,V,T)
Members	Mr S Ellis AM (G,V,S) Dr ET Eriksen (G,V) Professor PL Reilly AO (G,V)

**Western Australia****Presidential members**

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

**Non-presidential members**

Senior Members	Mr S Penglis (G,V,T) Mr A Sweidan (G,V,T) Ms CR Walsh (G,V,T)
Members	Dr JL Chaney (G,V) Mr WG Evans (G,V) Dr ARL Frazer (G,V) Ms KL Hogan (G,V,T) Brigadier AG Warner AM LVO (Rtd) (G,V,S)

**Tasmania****Presidential members**

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

**Non-presidential members**

Senior Member	Ms 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	Professor RM Creyke (G,V)
Members	Air Vice Marshal F Cox AO (Rtd) (G,V) Mr MG Hyman (G) Dr MD Miller AO (G,V) Mr S Webb (G,V,T) Dr P Wilkins (G,V)

**Appointments and cessations in 2009-10****Changes to appointments in 2009-10**

Mr E Fice (from full-time Member to full-time Senior Member)  
Mr SE Frost (from part-time Member to part-time Senior Member)  
Mr RG Kenny (from part-time Member to part-time Senior Member)

**New appointments during the year**

Deputy President RP Handley  
Senior Member K Bean  
Senior Member AK Britton  
Senior Member RM Creyke  
Senior Member D Letcher QC  
Senior Member FD O'Loughlin  
Senior Member JL Redfern  
Senior Member JF Toohey  
Senior Member CR Walsh  
Member Air Vice Marshal Dr T Austin  
Member Dr R Blakley  
Member Dr JL Chaney  
Member Dr ARL Frazer  
Member Dr H Haikal-Mukhtar  
Member KL Hogan  
Member MG Hyman  
Member IW Laughlin  
Member Dr PL Wulf

**Cessations during year**

Deputy President GDdeQ Walker  
Deputy President Christopher Wright QC  
Senior Member JW Constance  
Senior Member L Hastwell  
Senior Member R Hunt  
Senior Member J Kelly  
Senior Member BH Pascoe  
Member SC Fisher  
Member JG Short  
Member Dr PA Staer  
Member LR Tovey  
Member Dr HAD Weerasooriya

MEMBER PROFILES<sup>1</sup>**The Honourable Justice Garry Downes AM**

BA LLB FCIArb

*President**First appointed 2 April 2002;  
current appointment until 15 May 2012*

Justice Downes was appointed a Judge of the Federal Court and President of the Administrative Appeals Tribunal in 2002. He is the immediate past President of the 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 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 (International Association of Lawyers), 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 FRACP FCICM

*Part-time Member, NSW**First appointed 2 August 2004;  
current appointment until 25 October 2014*

Ion Alexander is a Senior Staff Specialist at Sydney Children's Hospital at Randwick and was a Clinical Director from 2001 to 2008.

He has been a member of the NSW Health Care Complaints Peer Review Panel since 1997 and was a member of the Professional Services Review Panel from 2001 to 2010.

Dr Alexander was a member of the Organising Committee for the 2010 AAT National Conference.

**Mason Allen RFD**

Barrister-at-Law

*Full-time Senior Member, NSW**First appointed 31 March 1988;  
current appointment until 31 May 2011*

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 Tribunal in 1988.

**Air Vice Marshal Dr Tony Austin***Part-time Member, NSW**First appointed 26 October 2009;  
current appointment until 25 October 2014*

Tony Austin transferred to the Royal Australian Air Force Specialist Reserve in 2008, having served with the RAAF since 1980. He is Chairman and Director of the Remote Area Health Corps Ltd, an Examiner with the Royal Australasian College of Medical Administrators and an Adjunct Associate Professor, Faculty of Health Sciences at the University of Queensland. Air Vice Marshal Dr Austin was head of Defence Health Services from 2005 until 2008.

**Katherine Bean**

BA LLB MA Grad Dip Leg Prac

*Part time Senior Member, SA**First appointed 7 December 2009;  
current appointment until 6 December 2014*

Katherine Bean was admitted as a solicitor of the Supreme Court of New South Wales in 1990. She joined the office of the Australian Government Solicitor in Sydney the same year, and remained with the AGS, first in Sydney and later in Adelaide, until 2009 when she was appointed to the Tribunal. Immediately prior to her appointment she held the position of General Counsel with the AGS in Adelaide. Senior Member Bean has extensive administrative law experience and at the time of her appointment had practised in the Tribunal since 1996, including in the workers' compensation, social security, immigration and veterans' jurisdictions.

**Narelle Bell**

BA LLB

*Full-time Senior Member, NSW**First appointed 1 July 2001;  
current appointment until 30 June 2014*

Narelle Bell was appointed to the Tribunal as a full-time Member in 2001 and 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 in 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 Tribunal's Mentoring Coordinator and a member of the Tribunal's Professional Development Committee during 2009–10. She was also a member of the Executive Committee of the New South Wales Chapter of the Council of Australasian Tribunals for part of the year.

**Dr Roslyn Blakley***Part-time Member, Vic**First appointed 1 June 2010;  
current appointment until 31 May 2015*

Roslyn Blakley has been a senior medical advisor with the Department of Defence, Area Health Services, Victoria since February 2008. Her experience in the Australian Regular Army includes acting as Director of Army Health at Australian Army Headquarters (2005–08) and Deputy Director of the Joint Health Support Agency (2002–04) in Canberra. She was also director of clinical services (2000–01) in the 2nd Health Support Battalion and, before that, officer commanding clinical company (1996–98), regimental medical officer (1994–96) and resident medical officer and intern (1992–93) in various military and civilian hospitals in Brisbane. Dr Blakley was awarded the Conspicuous Service Cross in the Queen's Birthday Honours List in 2004 for outstanding achievements in the Australian Defence Force in the area of health administration. She has a Bachelor of Medicine and Bachelor of Surgery from the University of Queensland and Master of Health Administration from the University of New South Wales.

**Julian Block**

HDIPLaw HDIPTax LLM MTax

*Part-time Deputy President, NSW**First appointed 9 August 1995;  
current appointment until 30 September 2010*

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 Tribunal 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 the Wagner Society, and a patron of Opera Australia.

<sup>1</sup> Profiles of judicial members, other than the President, are not included.

**Dr Kerry Breen AM**

MBBS MD FRACP

*Part-time Member, Vic**First appointed 1 July 2006;  
current appointment until 31 May 2011*

Kerry Breen is a consultant physician in gastroenterology. 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 Breen currently holds the appointment of Commissioner of Complaints for the National Health and Medical Research Council.

**Anne Britton***Full-time Senior Member, NSW**First appointed 26 October 2009;  
current appointment until 25 October 2014*

Anne Britton is a former Deputy President of the NSW Administrative Decisions Tribunal (2006–09) and Judicial Member of the ADT (1999–06). She has also served as an arbitrator with the NSW Workers' Compensation Commission, a Chair of the NSW Government and Related Employees Appeal Tribunal and a member of the Consumer Trader and Tenancy Tribunal. Ms Britton has lectured in media and entertainment law, most recently in the Masters program at the University of New South Wales. Ms Britton was a board member of the NSW Legal Aid Commission (to 2007) and is currently a member of the board of Sydney's Belvoir Street Theatre.

Senior Member Britton was a member of the Tribunal's Professional Development Committee in 2009–10.

**Dr John Campbell**

MBBS DTM&amp;H MHA LLB LLM FRACMA FAICD FAIM

*Part-time Member, NSW**First appointed 19 June 1991;  
current appointment until 31 May 2011*

John Campbell 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 Tribunal's Remuneration Committee in 2009–10.

**Margaret Carstairs**

BA (Hons) LLB

*Full-time Senior Member, Qld**First appointed 1 July 2001;  
current appointment until 30 November 2011*

Margaret Carstairs was appointed as a full-time Member of the Tribunal in 2001 and as a full-time Senior Member in November 2006. Prior to her appointment to the Tribunal, 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. Senior Member Carstairs has lectured in public administration at the University of New England and has published in this area.

**Dr Jan Chaney***Part-time Member, WA**First appointed 26 October 2009;  
current appointment until 25 October 2014*

Jan Chaney has been in general medical practice in Perth since 1980 and was a part-time Member of the Social Security Appeals Tribunal from 1989 to 1999. Prior to 1980, Dr Chaney was a resident medical officer in the Sir Charles Gairdner Hospital and the King Edward Memorial Hospital in WA.

**David Connolly AM**

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

*Part-time Member, NSW**First appointed 24 August 2006;  
current appointment until 31 May 2011*

David Connolly served as a career diplomat in Colombo, the United Nations 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 and a part-time member of the Migration Review Tribunal and Refugee Review Tribunal.

Mr Connolly was a member of the Tribunal's Remuneration Committee in 2009–10.

**James Constance**

BA LLB (Hons)

*Full-time Senior Member, ACT**First appointed 16 August 2004;  
appointment ceased 11 September 2009*

James Constance 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.

**Air Vice Marshal Franklin (Frank) D Cox AO (Rtd)***Part-time Member, ACT**First appointed 24 August 2006;  
current appointment until 30 November 2010*

Frank Cox trained with the Royal Australian Air Force 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 six years.

**Professor Robin Creyke***Full-time Senior Member, ACT**First appointed 14 September 2009;  
current appointment until 31 August 2014*

Robin Creyke holds a Master of Laws from the Australian National University, a Bachelor of Laws from the University of Western Australia and a Graduate Diploma in small group learning and teaching from the University of Western Sydney. She has been a Professor of Law at the Australian National University since 2002 and the Alumni Chair of Administrative Law since 2003. She has also held the position of Integrity Adviser to the Australian Taxation Office, Commissioner of the Australian Capital Territory's Independent Competition and Review Commission, and was formerly a member of the Social Security Appeals Tribunal and the Nursing Homes and Hostels Review Panel for the ACT. Professor Creyke is also a member of the Administrative Review Council.

Professor Creyke has been the Executive Deputy President for the Australian Capital Territory since her appointment to the Tribunal. She was a member of the Tribunal's Executive Deputy Presidents Committee and the Practice and Procedure Committee in 2009–10.

**Ann Cunningham**

LLB (Hons) FAICD

*Part-time Senior Member, Tas**First appointed 5 September 1995;  
current appointment until 31 May 2011*

Ann Cunningham was appointed as a part-time Member of the Tribunal 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. Senior Member 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. Other positions held by Ms Cunningham include Deputy President of the Mental Health Tribunal and Complaints Commissioner with the University of Tasmania. She is a fellow of the Australian Institute of Company Directors (AICD) and a member of the AICD Director Advisory Panel.

Senior Member Cunningham was a member of the Tribunal's Alternative Dispute Resolution Committee in 2009-10.

#### **Dr Marella Denovan**

BSc MBBS FRACGP JD

*Part-time Member, Qld*

*First appointed 15 December 2005;  
current appointment until 30 November 2010*

Marella Denovan 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.

#### **Rodney (Rod) Dunne**

LLB FCPA

*Part-time Senior Member, SA*

*First appointed 15 June 2005;  
current appointment until 31 May 2015*

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 continues to practise part time as a special counsel 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 Law Society of South 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.

Senior Member Dunne was a member of the Tribunal's Alternative Dispute Resolution Committee and the Remuneration Committee in 2009-10.

#### **Stuart Ellis AM**

BA Grad Dip Mgt Stud Grad Dip Strtgc Stud

*Part-time Member, SA*

*First appointed 21 September 2006;  
current appointment until 31 May 2011*

Stuart Ellis 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*

*First appointed 17 October 2002;  
current appointment until 19 October 2010*

From 1977 until 1998, Erik Eriksen 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*

*First appointed 19 June 1991;  
current appointment until 31 May 2015*

Conrad Ermert is a practising engineering consultant. He had 31 years' service in the Australian Army retiring in the rank of Brigadier. From 1990 to 1995, he was the director of major capital projects for the Alfred Group of Hospitals before establishing his consultancy practice. Brigadier Ermert 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 Chairman of Judges of the Institution's Excellence Awards.

Brigadier Ermert was a member of the Tribunal's Alternative Dispute Resolution Committee in 2009-10.

#### **Geri Ettinger**

BA (Economics) LLB

*Part-time Senior Member, NSW*

*First appointed 19 June 1991;  
current appointment until 25 October 2014*

Geri Ettinger 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 practises in ADR at the Tribunal as well as in commercial, equity, personal injury, medical negligence and workplace disputes. In addition to undertaking regular additional training to keep up to date, she conducts ADR training for various organisations and private parties. Senior Member Ettinger is a Specialist Accredited Mediator under the Law Society program, and nationally accredited pursuant to the National Mediator Accreditation Program.

Senior Member Ettinger sits as a member of the Medical Tribunal and chairs Professional Standards Committees on behalf of the New South Wales Medical Council in relation to disciplinary action taken against 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 Law Society, New South Wales. She is Chair of the Specialist Accreditation Committee, Dispute Resolution, of the Law Society, New South Wales, and a member of the ADR Committee of the Law Council of Australia.

During 2009-10, Senior Member Ettinger was a member of the Tribunal's Alternative Dispute Resolution Committee, and a coordinator of the professional development program for Tribunal members in Sydney.

#### **Warren Evans**

Grad Dip Logistics Mngt Cert Business Studies FAIM

*Part-time Member, WA*

*First appointed 21 September 2006;  
current appointment until 30 November 2011*

From 1967 until 1989, Warren Evans 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.

Since 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 Senior Member, Vic*

*First appointed 12 June 2003;  
current appointment until 31 May 2015*

Egon Fice was appointed to the Tribunal as a part-time Member in 2003 and was appointed on a full-time basis from 29 August 2005. He was appointed as a Senior Member in 2010. 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).

Senior Member Fice was a member of the Tribunal's Alternative Dispute Resolution Committee during 2009–10.

#### Simon Fisher

LLB (Hons) LLM

*Part-time Member, Qld*

*First appointed 5 May 2004;  
appointment ceased 4 July 2009*

From 2000 until his appointment to the Tribunal, Simon Fisher 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 *Churches, Clergy and the Law*.

#### Stephanie Forgie

LLB (Hons)

*Full-time Deputy President, Vic*

*First appointed 8 September 1988;  
current appointment until 3 November 2021*

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 Tribunal. 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. L F Bowen.

In September 1988, Deputy President Forgie was appointed to the Tribunal. 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 Tribunal. 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 Tribunal's various management committees over the years.

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

#### Dr Amanda Frazer

*Part-time Member, WA*

*First appointed 26 October 2009;  
current appointment until 25 October 2014*

Amanda Frazer has been executive director for the Women and Newborn Health Service in Perth since 2006 and was a part-time member of the Social Security Appeals Tribunal from 1994 until 2001. Between 2002 and 2006 Dr Frazer was medical director of the King Edward Memorial Hospital for Women and the clinical director of Revenue Capture in the Western Australian Department of Health.

#### Graham Friedman

BEc LLB GradDipAdmin

*Full-time Senior Member, Vic*

*First appointed 1 July 2001;  
current appointment until 31 May 2015*

Appointed as a full-time Member in 2001, Graham Friedman 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 Tribunal's Professional Development Committee in 2009–10.

#### Stephen Frost

BA (Hons) Dip Law (BAB)

*Part-time Senior Member, NSW*

*First appointed 24 August 2006;  
current appointment until 25 October 2014*

Stephen Frost 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. In May 2010 Senior Member Frost was appointed a part-time judicial member of the Administrative Decisions Tribunal of New South Wales.

Senior Member Frost was a member of the Tribunal's Alternative Dispute Resolution Committee in 2009–10.



**The Honourable Raymond Groom AO**

LLB

*Part-time Deputy President, Tas**First appointed 5 July 2004;  
current appointment until 4 July 2014*

Raymond Groom was admitted to practise 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 2009-10. He was a member of the Tribunal's Executive Deputy Presidents Committee and the Practice and Procedure Committee.

**Philip Hack SC***Full-time Deputy President, Qld**First appointed 9 January 2006;  
current appointment until 30 November 2010*

Philip Hack took office as a Deputy President 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 Tribunal. 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 2009-10. He was the Chair of the Tribunal's Alternative Dispute Resolution Committee and a member of the Executive Deputy Presidents Committee and the Practice and Procedure Committee.

**Dr Hadia Haikal-Mukhtar***Part-time Member, NSW**First appointed 2 November 2009;  
current appointment until 1 November 2014*

Hadia Haikal-Mukhtar holds degrees in science, medicine and law and is a Fellow of the Royal Australian College of General Practitioners. She has been a general practitioner since 1984 and has extensive experience in aged care. She is currently head of the Auburn Sub-school of the Sydney School of Medicine of the University of Notre Dame Australia, a senior medical educator for the Royal Australian College of General Practitioners and GP Synergy in Sydney. Dr Haikal-Mukhtar is a former member of the Medical Practitioners Board of Victoria, and is currently a member of the Professional Standards Panels of the Victorian Medical Board of the Medical Board of Australia.

**John Handley***Full-time Senior Member, Vic**First appointed 14 June 1989;  
current appointment until 3 May 2018*

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 Tribunal 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 an accredited mediator and has a special interest in dispute resolution and ombudsmen.

Senior Member Handley has been a member of the Tribunal's Alternative Dispute Resolution Committee since 2008.

**Robin Handley**

LLB (Hons), LLM

*Full-time Deputy President, NSW**First appointed 17 August 2009;  
current appointment until 16 August 2014*

Robin Handley is admitted as a solicitor in the United Kingdom and as a legal practitioner in the Australian Capital Territory and New South Wales. He has 25 years experience as an academic lawyer with a particular interest in administrative law. He taught for many years at the University of Wollongong, serving as Dean there for two years from October 1999. He also served as a part-time member of the Social Security Appeals Tribunal for eight years until 1997.

He was first appointed a Senior Member of the Tribunal in February 1998 and served as a Deputy President between July 2001 and July 2004. Between then and being reappointed to the Tribunal as a Deputy President in August 2009, he served as a part-time Acting Deputy President of the New South Wales Workers Compensation Commission, part-time Judicial Member and later part-time Deputy President of the New South Wales Administrative Decisions Tribunal, and part-time Legal Member of the New South Wales Mental Health Review Tribunal.

Deputy President Handley has been the Executive Deputy President for New South Wales since his appointment to the Tribunal. During 2009-10, he was a member of the Executive Deputy Presidents Committee, the Practice and Procedure Committee and Professional Development Committee, and Chair of the Practice Manual Committee.

**Lesley Hastwell**

LLB LLM

*Part-time Senior Member, SA**First appointed 22 July 2004;  
appointment ceased 25 January 2010*

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 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 is a founding member of the Committee of the South Australian Chapter of the Council of Australasian Tribunals. She is trained in mediation and in Collaborative Practice.

**Dr Timothy (Tim) Hawcroft**

BSc (Hons) MACVSc

*Part-time Member, NSW**First appointed 1 July 2006;  
current appointment until 31 May 2011*

Tim Hawcroft 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.

**Kathryn Hogan***Part-time Member, WA**First appointed 1 June 2010;  
current appointment until 31 May 2015*

Kathryn Hogan was a partner of Holding Redlich in Melbourne from 1987 to 1993 and of Dwyer Durack in Perth from 1993 to 1998. Since 2005 she has practised as a barrister at Albert Wolff Chambers, primarily in the areas of personal injuries and medical negligence. She commenced working as a part-time Conference Registrar of the Tribunal in 2007. Ms Hogan is a member of the Western Australian Bar Association, the Law Society of Western Australia and a committee member of the Women Lawyers Association of Western Australia Inc. Ms Hogan has a particular interest in promoting diverse opportunities for women within the legal profession.

**Stanley (Stan) Hotop**

BA LLB LLM

*Full-time Deputy President, WA**First appointed 19 June 1991;  
current appointment until 31 May 2015*

Stan Hotop 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 2009–10. He was the Chair of the Tribunal's Library Committee and a member of the Executive Deputy Presidents Committee and the Practice and Procedure Committee.

**Dr Gordon Hughes**

LLB (Hons) LLM PhD

*Part-time Member, Vic**First appointed 5 July 2004;  
current appointment until 8 September 2014*

Gordon Hughes has been a partner at Blake Dawson 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**First appointed 5 July 2004;  
appointment ceased 4 July 2009*

Robin Hunt 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.

**Mark Hyman***Part-time Member, ACT**First appointed 26 October 2009;  
current appointment until 25 November 2014*

Mark Hyman has more than 17 years' experience as a senior executive in developing and implementing policies and providing advice to Government on a broad range of environment protection issues and legislation. He was formerly the Director of the Canberra Office of the Western Australian Department of Premier and Cabinet. From 1992 to 2005 Mr Hyman was an Assistant Secretary in the Commonwealth Department of Environment and Heritage.

**Naida Isenberg**

LLB

*Part-time Senior Member, NSW**First appointed 1 July 2001;  
current appointment until 31 May 2011*

Naida Isenberg was appointed as a part-time Member of the Tribunal in 2001 and as a part-time Senior Member in August 2006. She is a Judicial Member of the New South Wales Administrative Decisions Tribunal and a legal management consultant.

Senior Member Isenberg is an accredited mediator under the National Mediator Accreditation System, serving as a Mediator for the New South Wales Law Society, Dust Diseases Tribunal, and the Defence Force. She was a member of the Tribunal's Alternative Dispute Resolution Committee.

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). She is a Fellow of the Institute of Chartered Secretaries and serves on the Institute's Public Sector Advisory Group.

Senior Member Isenberg was a member of the Tribunal's Library Committee and the Remuneration Committee in 2009–10.

**Deane Jarvis**

LLB (Hons), FAICD

*Full-time Deputy President, SA**First appointed 1 July 2003;  
current appointment until 31 May 2011*

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 Tribunal, 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 a former Convenor of the South Australian Chapter of the Council of Australasian Tribunals. He provides 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 2009–10. He was the Chair of the Tribunal's Professional Development Committee and a member of the Executive Deputy Presidents Committee and the Practice and Procedure Committee. He 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**First appointed 1 July 2006;  
current appointment until 31 May 2011*

Tim Jenkins is active as an educator in insurance finance. He was previously an emeritus partner and consulting actuary with PricewaterhouseCoopers from 2003 to 2009, 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 was Chair of the Life Insurance Actuarial Standards Board from 1998 until it was handed over to the Australian Prudential Regulation Authority in 2008. 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*

*First appointed 19 June 1991;  
current appointment until 30 September 2012*

Graham Johnston 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*

*First appointed 26 September 2007;  
current appointment until 30 November 2012*

Steve Karas was a Senior Member of the Immigration Review Tribunal in 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.

Senior Member 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. He 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*

*First appointed 5 July 2004;  
appointment ceased 4 July 2009*

Josephine Kelly was in practice at the New South Wales Bar from 1986 until her appointment to the Tribunal 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.

#### **Graham Kenny**

BA LLB (Hons) LLM

*Part-time Senior Member, Qld*

*First appointed 1 July 2001;  
current appointment until 8 September 2014*

Graham Kenny was appointed as a part-time Member of the Tribunal in 2001 and as a part-time Senior Member in September 2009. 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.

In 2008, he retired from his position of senior lecturer in the School of Law at the University of Queensland, having joined in 1976. His responsibilities in the Law School included Chair of the Law School Teaching and Learning Committee, Director of the Bachelor of Laws and Juris Doctor programs and Chief Examiner. Senior Member Kenny practised as a barrister from 1978 until 1989. From 1964 until 1974, he was a teacher with the Queensland Department of Education.

#### **Ian Laughlin**

BSc FIA FIAA FAICD

*Part-time Member, NSW*

*First appointed 26 October 2009;  
current appointment until 25 October 2014*

Ian Laughlin was appointed as a Member of the Australian Prudential Regulation Authority on 1 July 2010 for a three-year term. He has extensive experience in the financial services industry. He has been a non-executive director of AMP Life Limited, serving as chairman of its Board Audit Committee, Managing Director of the United Kingdom life insurance subsidiaries of AMP (Pearl, London Life and NPI), director of HHG plc, and non-executive director of Diligenta Ltd in the UK. Before then, he held senior management positions in AMP, Suncorp and National Mutual, in Australia, New Zealand and Hong Kong.

Mr Laughlin is a qualified actuary and has served on the Council of the Institute of Actuaries of Australia.

#### **Dean Letcher QC**

*Part-time Senior Member, NSW*

*First appointed 26 October 2009;  
current appointment until 25 October 2014*

Dean Letcher has been in private practice as a barrister in New South Wales, the Australian Capital Territory and Papua New Guinea since 1972 and was appointed Queens Counsel in 1988. Senior Member Letcher was appointed as a part-time Member of the New South Wales Mental Health Review Tribunal in September 2008 and has also held appointments as a mediator, arbitrator and contributions assessor with the New South Wales Supreme and District Courts and Dust Diseases Tribunal.

#### **Dr Kenneth Levy RFD**

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

*Part-time Senior Member, Qld*

*First appointed 5 July 2004;  
current appointment until 30 November 2011*

Kenneth Levy was appointed as a part-time Member of the Tribunal in July 2004 and as a part-time Senior Member in September 2006. Prior to his appointment to the Tribunal, he worked in the Queensland Public Service for approximately 36 years, retiring as Director-General of the Department of Justice in December 2003. He 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.

Senior Member Levy is a practising barrister and has served on Boards of Management in a number of industries. He is also appointed as a Professor to the Faculty of Law of Bond University and teaches part-time each semester in the areas of evidence, criminal law, superannuation and succession. 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.

Senior Member Levy served for five years as a member of the Tribunal's Library Committee.

#### **Brigadier Graham Maynard (Rtd)**

MBBS MSc (OCC MED) DIH DTM&H

*Part-time Member, Qld*

*First appointed 5 July 2004;  
current appointment until 8 September 2014*

After graduating in Queensland in 1965, Graham Maynard 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. Brigadier Maynard's 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 (UNSW) GradDipLegPrac (UTS)  
LLM (Corp & Comm) (Dist) (Bond)

*Full-time Senior Member, Qld*

*First appointed 1 July 2001;  
current appointment until 30 November 2011*

Bernard McCabe was appointed as a part-time Member of the Tribunal 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. 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, lectured at Bond University's Faculty of Law and spoke at a conference on the law of international business transactions.

During 2009–10, Senior Member McCabe was a member of the Tribunal's Professional Development Committee and the Organising Committee for the 2010 AAT National Conference.

#### **Associate Professor Peter McDermott RFD**

LLB (Hons) LLM PhD

*Part-time Senior Member, Qld*

*First appointed 15 November 2004;  
current appointment until 14 November 2014*

Peter McDermott is an Associate Professor and Reader in Law in the School of Law at the University of Queensland. He is also an elected member of the Academic Board of the University of Queensland.

Senior Member McDermott was admitted as a barrister of the Supreme Court of Queensland in 1978. He has acted as the Crown Counsel

for the State of Queensland. 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 was the Senior Legal Officer (1982–88) and later the Principal Legal Officer (1988–91) of the Queensland Law Reform Commission. He was later appointed as Deputy Chair of that 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).

Prior to his appointment to the Tribunal, Senior Member McDermott served on a number of Queensland tribunals. From 2002 until 2006, he was a member of the South Queensland Regional Community Corrections Board. He also 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 M D 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. He has also co-authored a forthcoming article on tax penalties: 'An Admirable Safe Harbour' in (2010) 34(2) *Melbourne University Law Review*.

Senior Member McDermott was a member of the Tribunal's Library Committee and the Remuneration Committee in 2009–10.

#### **Graham McDonald**

LLB

*Part-time Deputy President, Vic*

*First appointed 14 October 1988;  
current appointment until 8 September 2010*

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 been extensively involved 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. In addition to his Tribunal work, Deputy President McDonald is currently involved in the establishment of an employment and training scheme in financial services for Indigenous Australians. Deputy President McDonald is a board member of Auda Limited, the NGO which regulates Australia's domain names.

Deputy President McDonald was the Executive Deputy President for Victoria in 2009–10. He was a member of the Executive Deputy Presidents Committee and the Practice and Procedure Committee.

#### **The Honourable Dr Bruce McPherson CBE**

BA LLB PhD Hon LLD

*Part-time Deputy President, Qld*

*First appointed 6 September 2007;  
current appointment until 5 September 2012*

Bruce McPherson 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*

*First appointed 1 January 2006;  
current appointment until 31 May 2015*

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 Tribunal 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), the Australasian Medical Publishing Company, and is a director of several companies, including AMA Victoria. He is a Fellow of the AMA. He is a qualified bioethicist who sits on the AMA's Ethics and Medicolegal Committee, several hospital ethics committees and national government committees related to medical workforce and other healthcare issues. 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 McRae was a member of the Tribunal's Remuneration Committee in 2009–10.



**Dr Michael Miller AO AVM (Rtd)**

MBBS FRANZCOG FRCOG FAFPHM

*Part-time Member, ACT**First appointed 9 August 1995;  
current appointment until 30 November 2010*

Michael Miller 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. Dr Miller 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**First appointed 15 November 1985;  
current appointment until 30 November 2011*

Barrie Morley has been a consultant neurologist since 1965. 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**First appointed 6 September 2007;  
current appointment until 5 September 2010*

Robert Nicholson 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 Tribunal. 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 CIJL 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.

**Frank O'Loughlin**

BEc LLB (Hons)

*Part-time Senior Member, Vic**First appointed 23 September 2009;  
current appointment until 22 September 2014*

Frank O'Loughlin is a practising member of the Victorian Bar and prior to that was a partner of the firm Corrs Chambers Westgarth practising in taxation and commercial law. He is the chair of the CPA Australia Discipline Committee, a Senior Fellow of the Law Faculty of the University of Melbourne teaching the Melbourne Masters program, a member of the Council of Mannix College at Monash University and Deputy Chair of the Business Law Section of the Law Council of Australia. Senior Member O'Loughlin is also a member of the Taxation Committee of the Business Law Section of the Law Council of Australia, the Melbourne Federal Court Users Group and the Federal Litigation Section of the Law Council of Australia.

Senior Member O'Loughlin was a member of the Tribunal's Professional Development Committee in 2009–10.

**Bruce Pascoe**

FCA FTIA MIAMA

*Part-time Senior Member, Vic**First appointed 5 December 1991;  
appointment ceased 28 June 2010*

Bruce Pascoe was appointed as a part-time Member of the Tribunal in 1991 and a Senior Member in 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. Senior Member Pascoe was Chair of the Tax Agents' Board of Victoria until 1997.

**Steven Penglis**

BJuris LLB

*Part-time Senior Member, WA**First appointed 15 June 2005;  
current appointment until 31 May 2015*

Steven Penglis 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.

**Regina Pertont OAM**

BA LLB Dip Ed

*Full-time Member, Vic**First appointed 9 August 2004;  
current appointment until 8 August 2014*

Regina Pertont's previous roles have included Senior Member of the Migration Review Tribunal and 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 Pertont has held management positions in several tribunals and worked as a secondary teacher and in real estate. Ms Pertont 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 Pertont was awarded a Centenary Medal in 2001 for service to equal opportunity, immigration, ethnic affairs and the law. She was awarded a Medal of the Order of Australia (OAM) in the Queen's Birthday 2010 Honours List for service to administrative law and to the community, particularly in the areas of equal opportunity and multiculturalism.

Ms Pertont is a member of the committees of the Victorian Chapters of the Council of Australasian Tribunals and the Australian Institute of Administrative Law.



**Jan Redfern PSM**

BEc LLM FCIS

*Part-time Senior Member, NSW**First appointed 2 November 2009;  
current appointment until 1 November 2014*

Jan Redfern has over 27 years in legal practice and has worked in both the private and public sectors. She was a partner of national law firm Hunt & Hunt Lawyers from 1989 to 1999, specialising in complex commercial litigation. She has served on a number of practice committees, including the Litigation Law and Practice Committee of the Law Society, and was a member of the Enforcement Committee of the International Organisation of Securities Commissions (IOSCO) from 2004 to 2007. She is a Fellow of the Institute of Chartered Secretaries and Administrators and a member of the Law Committee of the Australian Institute of Company Directors.

Senior Member Redfern held a number of senior executive positions with the Australian Securities and Investments Commission from 1999 to 2008 and was the Executive Director, Enforcement from 2004 to August 2008. She was awarded a Commonwealth Public Service Medal in 2007 for outstanding public service in the field of corporate and financial services regulation and enforcement. Senior Member Redfern was appointed a part-time Legal Member of the New South Wales Guardianship Tribunal in June 2010.

**Professor Peter Lawrence Reilly AO***Part-time Member, SA**First appointed 1 July 2006;  
current appointment until 31 May 2011*

Peter Reilly 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**First appointed 24 August 2006;  
current appointment until 31 May 2011*

Teresa Schafer is both a scientist and lawyer. She is currently a partner in Piper Alderman's corporate group and provides specialist advice to clients predominantly in the pharmaceutical, biotechnology and medical device industries. She is also the Director of Pharmedica Pty Ltd, a company she established in 2001, which provides advice on the regulation of therapeutic goods. 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 legal practice.

**Elizabeth Anne Shanahan**

BSC MBBS FRACS LLB

*Part-time Member, Vic**First appointed 19 June 1991;  
current appointment until 8 September 2014*

Anne Shanahan 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**First appointed 1 October 2004;  
appointment ceased 30 September 2009*

Prior to his appointment to the Tribunal, John Short 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.

**Professor Tania Sourdin**

BA LLB LLM PhD

*Part-time Member, NSW**First appointed 1 July 2001;  
current appointment until 1 November 2014*

Tania Sourdin is 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 predecessor tribunals for more than 18 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, *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 2009, 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 Tribunal's Alternative Dispute Resolution Committee during 2009-10.

**Peter Staer**

MBBS DObst (RCOG) FRCS (Eng) FRACS

*Part-time Member, WA**First appointed 15 November 1985;  
appointment ceased 30 September 2009*

Before his appointment to the Tribunal, Peter Staer 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. Dr Staer 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**First appointed 18 August 2005;  
current appointment until 31 May 2012*

Andre Sweidan 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 Tribunal, 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 a period of 12 years.

Senior Member Sweidan was a member of the Tribunal's Professional Development Committee during 2009-10 and was also a managing member for tax schemes.

#### **The Honourable Brian Tamberlin QC**

BA LLB (Syd) LLM (Harv)

*Part-time Deputy President, NSW*

*First appointed 30 March 2009;  
current appointment until 29 March 2014*

Brian Tamberlin 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 Tribunal 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.

#### **Peter Taylor SC**

*Part-time Senior Member, NSW*

*First appointed 24 August 2006;  
current appointment until 31 May 2011*

Peter Taylor 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*

*First appointed 15 November 1985;  
current appointment until 25 October 2011*

Max Thorpe was a member of the Repatriation Review Tribunal before his appointment to the Tribunal in 1985. 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 Saw Hooi Toh**

MBBS FRACGP

*Part-time Member, NSW*

*First appointed 24 August 2006;  
current appointment until 31 May 2011*

Saw Hooi 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.

#### **Jill Toohey**

*Full-time Senior Member, NSW*

*First appointed 17 August 2009;  
current appointment until 16 August 2014*

Jill Toohey holds a Bachelor of Jurisprudence and Bachelor of Laws from the University of Western Australia. She has worked in private practice and in community legal centres in Western Australia and was a Commissioner of the Legal Aid Commission of Western Australia. Between 1993 and 2004 she was a full-time member, and then Registrar, of the Refugee Review Tribunal in Sydney. From 2005 to 2009 she was the Senior Member of the Human Rights stream of the Western Australian State Administrative Tribunal. She is an accredited mediator.

#### **Lisa Tovey**

BJuris LLB LLM (Dist)

*Part-time Member, WA*

*First appointed 15 June 2005;  
appointment ceased 31 May 2010*

Lisa Tovey has been a barrister at John Toohey Chambers in Perth since 2003. She 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 has been the presiding member of the Osteopaths Registration Board of Western Australia, and served as the deputy presiding member between 2003 and 2004. Ms Tovey was a Lieutenant in the Royal Australian Naval Reserves between 1994 and 2001 and has completed a Practitioner's Certificate in Mediation.

#### **Professor Emeritus Geoffrey Walker**

LLD

*Full-time Deputy President, NSW*

*First appointed 2 August 2004;  
appointment ceased 1 August 2009*

Geoffrey Walker 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.

#### **Chelsea Walsh**

*Part-time Senior Member, WA*

*First appointed 1 June 2010;  
current appointment until 31 May 2015*

Chelsea Walsh has worked as a Senior Associate in the taxation department of Allens Arthur Robinson. Mrs Walsh has also worked in the taxation departments of first tier law firms in Perth and Sydney and at boutique taxation law practices in Perth and Sydney. Mrs Walsh worked as a tax attorney in the tax department of Fried Frank Harris Shriver & Jacobson in New York, and was the associate to Justice Graham Hill in the Federal Court of Australia in 1997. Mrs Walsh has a Masters of Laws (with Honours) from the University of Sydney.

#### **Dr Robert (Rob) Walters**

*Part-time Member, Tas*

*First appointed 16 November 2006;  
current appointment until 31 May 2011*

Rob Walters is a general practitioner in Hobart. He is a 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*

*First appointed 15 June 2005;  
current appointment until 31 May 2015*

Gerry Warner's 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. In 2007-08 he served on a panel appointed by the Prime Minister to review the award of honours for the 1966

Battle of Long Tan. He is a sessional Senior Member of the Western Australian State Administrative Tribunal, a member of the Mental Health Review Board of Western Australia and is CEO of the RAAF Association (WA Div) Inc.

#### **Simon Webb**

*Full-time Member, ACT*

*First appointed 16 July 2001;  
current appointment until 15 July 2014*

Prior to his appointment to the Tribunal, Simon Webb held the office of Deputy Director of the Commonwealth Classification Board with extensive periods acting in the office of Director (1997-2001). 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 Tribunal's Professional Development Committee and the Remuneration Committee during 2009-10.

#### **Dr David Weerasooriya**

MBBS MRCP (Lond) MRCP (Edin) MRCP (Glas) DCH

*Part-time Member, WA*

*First appointed 29 July 1996;  
appointment ceased 30 November 2009*

Prior to his appointment to the Tribunal, David Weerasooriya 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 Peter Wilkins MBE**

BA MBBS MHP MLitt GradDipHum FAFOEM FAFPHM

*Part-time Member, ACT*

*First appointed 24 August 2006;  
current appointment until 30 November 2010*

Peter Wilkins 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 Tribunal's Library Committee, the Organising Committee for the 2010 AAT National Conference and the Remuneration Committee in 2009-10.

#### **The Honourable Christopher Wright QC**

BBL

*Part-time Deputy President, Tas*

*First appointed 6 February 2001;  
appointment ceased 30 June 2010*

From 1986 until 2000, Christopher Wright 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.

#### **Dr Peter Wulf**

BSc(Hons), LLB, LLM, PhD Scholar, Barrister at Law

*Part-time Member, Qld*

*First appointed 9 September 2009;  
current appointment until 8 September 2014*

Peter Wulf is a scientist and barrister with more than 18 years' experience in a variety of industries, government, academic and research institutions. Dr Wulf's experience includes undertaking environmental impact assessments, freshwater and marine research, water quality assessment and remediation of both point and diffuse sources, and dredging and sediment studies. His PhD investigated the appropriate regulatory mechanisms to achieve best environmental management practices for land-based water quality pollution entering the Great Barrier Reef World Heritage Area from cane lands.

Dr Wulf is admitted as a Barrister at Law of the Supreme Court of Queensland and High Court of Australia and predominantly practices in the areas of environmental and planning law at Commonwealth and state levels (including climate change and greenhouse gas emissions). He has been briefed to act in matters in a range of areas, including administrative law, cultural heritage, freedom of information, maritime, mining, native title and water. He is a member of the Queensland Civil and Administrative Tribunal and the former Queensland Building and Development Tribunal and Fisheries Tribunal. Dr Wulf also has a background in negotiations, and his experience as a qualified mediator in both legal and non-legal disputes allows him to undertake negotiations for win-win outcomes.

## APPENDIX 2: STAFF OF THE TRIBUNAL

**Table A2.1** Employment by registry, 30 June 2010

Class.	Registries								Total
	Sydney	Melbourne	Brisbane	Adelaide	Perth	Hobart	Canberra	Principal	
APS 2	2	1	2	–	2	–	2	–	9
AAT 3/4	25	18	15	8	8	2	5	6	87
APS 5	1	1	1	–	–	–	–	6	9
APS 6	4	3	–	2	2	–	1	10	22
Exec 1	–	–	–	–	–	–	–	9	9
Exec 2	5	4	4	3	3	–	3	3	25
SES 1	–	–	–	–	–	–	–	1	1
<b>Total</b>	<b>37</b>	<b>27</b>	<b>22</b>	<b>13</b>	<b>15</b>	<b>2</b>	<b>11</b>	<b>35</b>	<b>162</b>

Note: There are no staff at APS 1.

Staff included: ongoing full-time and part-time; non-ongoing including irregular or intermittent. Staff not included: on long-term unpaid leave of absence or long-term temporary transfer to another agency who have not been replaced. Principal Registry staff are in Brisbane (15), Sydney (19) and Perth (1).

**Table A2.2** Equal employment opportunity, 30 June 2010

Class.	Total	Women	Men	ATSI	NESB	PWD
APS 2	9	6	3	–	1	–
AAT 3/4	87	62	25	1	28	3
APS 5	9	7	2	–	3	–
APS 6	22	14	8	–	6	–
Exec 1	9	3	6	–	2	–
Exec 2	25	19	6	–	6	1
SES 1	1	1	–	–	–	–
<b>Total</b>	<b>162</b>	<b>112</b>	<b>50</b>	<b>1</b>	<b>46</b>	<b>4</b>

ATSI – Aboriginal and Torres Strait Islander

NESB – 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 2010

Class.	Salary range	Full-time	Part-time	Irregular/Intermittent	Total	AWA	Agency Agreement	Flexibility Term*	Individual s24(1) Det*
APS 1	\$37,978 – 41,972	–	–	–	–	–	–	–	–
APS 2	\$42,980 – 48,350	–	–	9	9	–	9	–	–
AAT 3/4	\$50,894 – 59,239	73	7	7	87	–	87	–	–
APS 5	\$60,853 – 64,529	9	–	–	9	–	9	–	–
APS 6	\$65,724 – 75,499	19	3	–	22	–	22	–	–
Exec 1	\$82,065 – 98,276	7	2	–	9	–	9	1	1
Exec 2	\$99,978 – 113,662	14	8	3	25	1	24	1	1
SES 1	\$102,692–128,791	1	–	–	1	1	–	–	–
<b>TOTAL</b>		<b>123</b>	<b>20</b>	<b>19</b>	<b>162</b>	<b>2</b>	<b>160</b>	<b>2</b>	<b>2</b>

AWA – Australian Workplace Agreement

s24(1) Det – section 24(1) determination, Public Service Act

\* included in Agency Agreement total

## APPENDIX 3: APPLICATIONS, OUTCOMES, LISTINGS AND APPEALS STATISTICS

Table or chart	Title
A3.1	Applications lodged and applications finalised in 2009-10
A3.2	Applications lodged, by state and territory
A3.3	Applications finalised, by state and territory
A3.4	Percentage of applications finalised without a hearing
A3.5	Outcomes of applications for review of a decision finalised in 2009-10
A3.6	Applications current, by state and territory 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 from decisions of the Tribunal by jurisdiction
A3.10	Appeals from decisions of the Tribunal — outcomes of appeals determined
A3.11	Appeals from decisions of the Tribunal — outcomes of appeals determined by jurisdiction

This statistical information on different aspects of the Tribunal's workload for 2009-10 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 2009-10. Information for the Tribunal's major jurisdictions is followed by information on other applications grouped by Australian Government portfolio.

**Table A3.1** Applications lodged and applications finalised in 2009-10

	Applications lodged		Applications finalised	
	No	%	No	%
<b>APPLICATIONS FOR REVIEW OF A DECISION — MAJOR JURISDICTIONS</b>				
<b>Social security</b>				
Age pension/Pension bonus scheme	205		207	
Austudy payment	19		19	
Baby bonus	24		24	
Carer allowance and carer payment	62		79	
Compensation preclusion period	74		67	
Disability support pension	567		580	
Disaster recovery payment	5		6	
Economic security strategy payment	38		76	
Family tax benefit	110		96	
Farm household support	3		10	
Newstart Allowance	262		384	
Overpayments and debt recovery	506		568	
Parenting payment	63		66	
Pensioner education supplement	11		9	
Rent assistance	22		20	
Special benefit	5		8	
Youth allowance	40		39	
Other	61		64	
<b>Subtotal</b>	<b>2,077</b>	<b>36</b>	<b>2,322</b>	<b>31</b>
<b>Veterans' affairs</b>				
<i>Military Rehabilitation and Compensation Act 2004</i>	23		32	
<i>Veterans' Entitlements Act 1986</i>				
Disability pension	285		391	
Service pension/Income support supplement/ Pension bonus	83		53	
Widows pension	91		132	
Other	9		12	
<b>Subtotal</b>	<b>491</b>	<b>8</b>	<b>620</b>	<b>8</b>



	Applications lodged		Applications finalised	
	No	%	No	%
<b>Workers' compensation</b>				
<i>Safety, Rehabilitation and Compensation Act 1988, by decision-maker</i>				
Australian Postal Corporation	179		269	
Comcare	511		634	
Commonwealth Bank of Australia	21		10	
Linfox Armaguard Pty Limited/ Linfox Australia Pty Limited	50		57	
Military Rehabilitation and Compensation Commission	135		191	
National Australia Bank Limited	34		26	
Optus Administration Pty Limited	12		25	
Telstra Corporation Limited	144		143	
Other decision-makers	92		38	
<i>Seafarers Rehabilitation and Compensation Act 1992</i>	48		51	
<b>Subtotal</b>	<b>1,226</b>	<b>21</b>	<b>1,444</b>	<b>19</b>
<b>TAXATION</b>				
<b>Taxation Appeals Division</b>				
Australian Business Number	1		2	
Fringe benefits tax	19		19	
Goods and services tax	99		109	
Income tax (other than tax schemes)	712		644	
Income tax (tax schemes)	34		1,109	
Self-managed superannuation fund regulation	16		0	
Superannuation guarantee charge	16		28	
Taxation administration	13		9	
Other	84		88	
<b>Subtotal</b>	<b>994</b>	<b>17</b>	<b>2,008</b>	<b>27</b>
<b>Small Taxation Claims Tribunal</b>				
Fringe benefits tax	0		0	
Goods and services tax	2		2	
Income tax (other than tax schemes)	27		34	
Income tax (tax schemes)	0		1	
Refusal of extension of time to lodge objection	14		20	
Release from taxation liabilities	9		34	

	Applications lodged		Applications finalised	
	No	%	No	%
Superannuation guarantee charge	4		7	
Other	3		0	
<b>Subtotal</b>	<b>59</b>	<b>1</b>	<b>98</b>	<b>1</b>
<b>Subtotal</b>	<b>1,053</b>	<b>18</b>	<b>2,106</b>	<b>28</b>
<b>SUBTOTAL for major jurisdictions</b>	<b>4,847</b>	<b>84</b>	<b>6,492</b>	<b>87</b>

**APPLICATIONS FOR REVIEW OF A DECISION – BY PORTFOLIO****Agriculture, Fisheries and Forestry**

Agricultural and veterinary chemicals	1		1	
<b>Subtotal</b>	<b>1</b>	<b>&lt;1</b>	<b>1</b>	<b>&lt;1</b>

**Attorney-General's**

Background checking	7		6	
Bankruptcy	26		22	
Customs	32		45	
Human rights	1		0	
Marriage celebrants	5		1	
Waiver of fees in courts	2		1	
<b>Subtotal</b>	<b>73</b>	<b>1</b>	<b>75</b>	<b>1</b>

**Broadband, Communications and the Digital Economy**

Communications and media	1		4	
<b>Subtotal</b>	<b>1</b>	<b>&lt;1</b>	<b>4</b>	<b>&lt;1</b>

**Climate Change and Energy Efficiency**

Renewable energy	2		1	
<b>Subtotal</b>	<b>2</b>	<b>&lt;1</b>	<b>1</b>	<b>&lt;1</b>

**Defence**

Defence Force retirement and death benefits	4		12	
Employer support payments	2		1	
Other	8		4	
<b>Subtotal</b>	<b>14</b>	<b>&lt;1</b>	<b>17</b>	<b>&lt;1</b>

**Education, Employment and Workplace Relations**

Child care services	2		1	
Disability services	2		2	
Education services for overseas students	1		0	

	Applications lodged		Applications finalised	
	No	%	No	%
Higher education funding	37		33	
Mutual recognition of occupations	6		7	
Occupational health and safety	1		0	
<b>Subtotal</b>	<b>49</b>	<b>&lt;1</b>	<b>43</b>	<b>&lt;1</b>
<b>Environment, Water, Heritage and the Arts</b>				
Environment protection and biodiversity	7		3	
Great barrier reef marine park	1		1	
Protection of movable cultural heritage	1		1	
Tax offsets for films	3		1	
<b>Subtotal</b>	<b>12</b>	<b>&lt;1</b>	<b>6</b>	<b>&lt;1</b>
<b>Families, Housing, Community Services and Indigenous Affairs</b>				
Aboriginal corporations	1		3	
<b>Subtotal</b>	<b>1</b>	<b>&lt;1</b>	<b>3</b>	<b>&lt;1</b>
<b>Finance and Deregulation</b>				
Electoral matters	3		0	
<b>Subtotal</b>	<b>3</b>	<b>&lt;1</b>	<b>0</b>	<b>0</b>
<b>Foreign Affairs and Trade</b>				
Export market development grants	8		9	
Passports	11		8	
<b>Subtotal</b>	<b>19</b>	<b>&lt;1</b>	<b>17</b>	<b>&lt;1</b>
<b>Health and Ageing</b>				
Aged care	15		16	
Medicare and other health decisions	4		9	
Pharmacists	13		15	
Sports anti-doping	1		0	
Therapeutic goods	6		9	
<b>Subtotal</b>	<b>39</b>	<b>&lt;1</b>	<b>49</b>	<b>&lt;1</b>
<b>Human Services</b>				
Child support	70		57	
<b>Subtotal</b>	<b>70</b>	<b>1</b>	<b>57</b>	<b>&lt;1</b>
<b>Immigration and Citizenship</b>				
Business visa cancellation	16		22	

	Applications lodged		Applications finalised	
	No	%	No	%
Citizenship	236		201	
Migration agent registration	3		3	
Protection visa cancellation or refusal	1		4	
Visa cancellation or refusal on character grounds	49		57	
<b>Subtotal</b>	<b>305</b>	<b>5</b>	<b>287</b>	<b>4</b>
<b>Infrastructure, Transport, Regional Development and Local Government</b>				
Airports	1		0	
Aviation and maritime transport security	1		4	
Civil aviation	27		14	
Maritime safety	0		1	
Motor vehicle standards	24		17	
<b>Subtotal</b>	<b>53</b>	<b>&lt;1</b>	<b>36</b>	<b>&lt;1</b>
<b>Innovation, Industry, Science and Research</b>				
Automotive industry	0		1	
Industry research and development	17		8	
Patents, designs and trademarks	5		3	
Textiles, clothing and footwear	0		2	
Venture capital	1		0	
<b>Subtotal</b>	<b>23</b>	<b>&lt;1</b>	<b>14</b>	<b>&lt;1</b>
<b>Treasury</b>				
Auditors and liquidators registration	0		3	
Corporations and financial services regulation	25		34	
Insurance and superannuation regulation	0		6	
Tax agent registration	12		16	
<b>Subtotal</b>	<b>37</b>	<b>&lt;1</b>	<b>59</b>	<b>&lt;1</b>
<b>SUBTOTAL for portfolios</b>	<b>702</b>	<b>12</b>	<b>669</b>	<b>9</b>

**APPLICATIONS FOR REVIEW OF A DECISION – OTHER****Security Appeals**

ASIO assessments	6		0	
Decisions of National Archives of Australia relating to ASIO records	0		6	
<b>Subtotal</b>	<b>6</b>	<b>&lt;1</b>	<b>6</b>	<b>&lt;1</b>

	Applications lodged		Applications finalised	
	No	%	No	%
<b>Whole of Government</b>				
<i>Archives Act 1983</i>	1		1	
<i>Freedom of Information Act 1982</i>	110		139	
<b>Subtotal</b>	<b>111</b>	<b>2</b>	<b>140</b>	<b>2</b>
<b>Case Management and Tribunal Decisions</b>				
No jurisdiction/Uncertain jurisdiction	60		79	
Review of decision relating to fees	5		5	
<b>Subtotal</b>	<b>65</b>	<b>1</b>	<b>84</b>	<b>1</b>
<b>SUBTOTAL for other</b>	<b>182</b>	<b>3</b>	<b>230</b>	<b>3</b>
<b>OTHER APPLICATIONS UNDER THE ADMINISTRATIVE APPEALS TRIBUNAL ACT 1975</b>				
Application for extension of time to lodge an application for review of a decision	55		56	
Other	1		0	
<b>Subtotal</b>	<b>56</b>	<b>&lt;1</b>	<b>56</b>	<b>&lt;1</b>
<b>TOTAL<sup>a</sup></b>	<b>5,787</b>	<b>100</b>	<b>7,447</b>	<b>100</b>

a Percentages do not total 100% due to rounding.

Chart A3.2 Applications lodged, by state and territory



Chart A3.3 Applications finalised, by state and territory

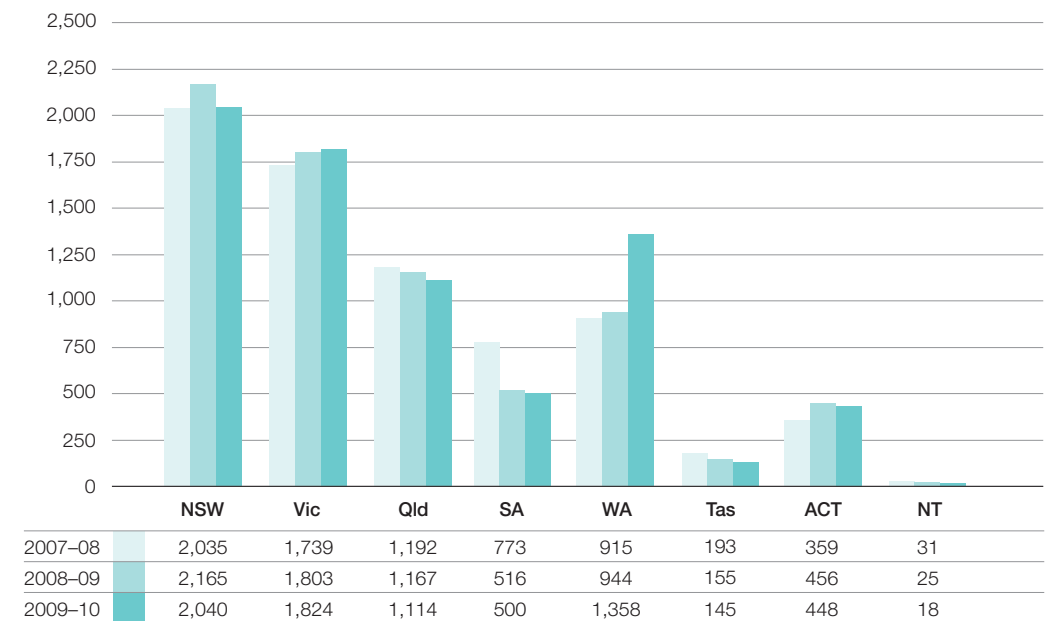


Table A3.4 Percentage of applications finalised without a hearing<sup>a</sup>

Jurisdiction	2007-08 %	2008-09 %	2009-10 %
All	79	81	82
Social security	70	76	77
Veterans' affairs	75	74	75
Workers' compensation	85	85	85
Taxation			
Taxation Appeals Division	91	89	92
Small Taxation Claims Tribunal	72	84	95

a Applications 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. Includes applications finalised in accordance with terms of agreement lodged by the parties (ss 34D and 42C), applications withdrawn by the applicant (subs 42A(1A)) and applications dismissed by the Tribunal (ss 42A and 42B).

Table A3.5 Outcomes of applications for review of a decision finalised in 2009-10

	All applications			Veterans' affairs			Social security			Workers' compensation			Taxation		
	No	%		No	%		No	%		No	%		No	%	
<b>By consent or withdrawn</b>															
Decision affirmed <sup>a</sup>	343	5	12	2	21	<1	288	20	<1	11	<1	1	1	1	1
Decision varied <sup>a</sup>	1,332	18	43	7	27	1	63	4	1,178	59	12	12	12	12	12
Decision set aside <sup>a</sup>	1,477	20	158	25	455	20	487	34	208	10	31	32	31	32	32
Dismissed by consent <sup>b</sup>	57	<1	3	<1	27	1	9	<1	5	<1	1	1	1	1	1
Dismissed by operation of law <sup>c</sup>	397	5	0	-	393	17	2	<1	1	<1	0	-	0	-	-
Withdrawn by applicant	1,809	24	236	38	608	26	344	24	345	17	43	44	43	44	44
<b>Subtotal</b>	<b>5,415</b>	<b>73</b>	<b>452</b>	<b>73</b>	<b>1,531</b>	<b>66</b>	<b>1,193</b>	<b>83</b>	<b>1,748</b>	<b>87</b>	<b>88</b>	<b>90</b>	<b>88</b>	<b>90</b>	<b>90</b>
<b>By decision</b>															
Decision affirmed <sup>d</sup>	857	12	109	18	393	17	146	10	85	4	1	1	1	1	1
Decision varied <sup>d</sup>	106	1	4	<1	33	1	5	<1	32	2	0	-	0	-	-
Decision set aside	355	5	41	7	113	5	62	4	36	2	4	4	4	4	4
<b>Subtotal</b>	<b>1,318</b>	<b>18</b>	<b>154</b>	<b>25</b>	<b>539</b>	<b>23</b>	<b>213</b>	<b>15</b>	<b>153</b>	<b>8</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>
<b>Other</b>															
Dismissed by Tribunal <sup>e</sup>	318	4	7	1	179	8	13	<1	68	3	4	4	4	4	4
No jurisdiction <sup>f</sup>	161	2	5	<1	22	<1	15	1	17	<1	1	1	1	1	1
Extension of time refused	62	<1	1	<1	37	2	4	<1	0	-	0	-	0	-	-
No application fee paid	84	1	0	-	0	-	0	-	22	1	0	-	0	-	-
Other <sup>g</sup>	33	<1	1	<1	14	<1	6	<1	0	-	0	-	0	-	-
<b>Subtotal</b>	<b>658</b>	<b>9</b>	<b>14</b>	<b>2</b>	<b>252</b>	<b>11</b>	<b>38</b>	<b>3</b>	<b>107</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>
<b>Total<sup>h</sup></b>	<b>7,391</b>	<b>100</b>	<b>620</b>	<b>100</b>	<b>2,322</b>	<b>100</b>	<b>1,444</b>	<b>100</b>	<b>2,008</b>	<b>100</b>	<b>98</b>	<b>100</b>	<b>98</b>	<b>100</b>	<b>100</b>

a Applications finalised by the Tribunal in accordance with the terms of agreement reached by the parties either in the course of an alternative dispute resolution process (s 34D of the Administrative Appeals Tribunal Act) or at any stage of review proceedings (s 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.

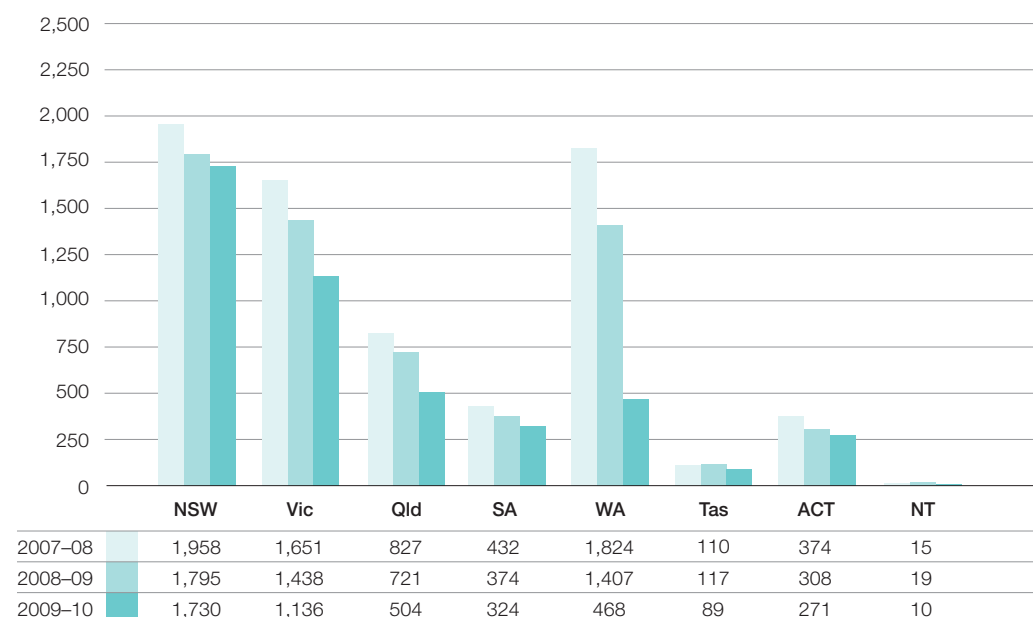
e Applications dismissed under subsection 42A(2) of the Administrative Appeals Tribunal Act (non-appearance at a case event), subsection 42A(5) (failure to proceed with an application or to comply with a direction of the Tribunal) and subs 42B(1) (application is frivolous or vexatious).

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, by state and territory at 30 June



**Table A3.7** Alternative dispute resolution processes, interlocutory hearings and hearings conducted by the Tribunal

Event type	2007-08	2008-09	2009-10
Conferences	9,668	8,886	8,265
Case appraisals	10	8	8
Conciliations	504	529	507
Mediations	56	55	46
Neutral evaluations	24	49	49
Interlocutory hearings <sup>a</sup>	470	613	497
Hearings	1,413	1,300	1,277

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		2009-10	
	No.	%	No.	%	No.	%
Judge alone	7	<1	1	<1	3	<1
Judge with 1 other member	7	<1	10	<1	4	<1
Judge with 2 other members	3	<1	2	<1	1	<1
Deputy President alone	158	11	186	14	175	14
Deputy President with 1 other member	53	4	51	4	62	5
Deputy President with 2 other members	5	<1	3	<1	9	<1
Senior Member alone	651	46	578	44	649	51
Senior Member with 1 other member	131	9	145	11	167	13
Senior Member with 2 other members	6	<1	2	<1	5	<1
Member alone	358	25	290	22	178	14
Two Members	33	2	32	2	22	2
Three Members	1	<1	0	-	2	<1
<b>Total<sup>a</sup></b>	<b>1,413</b>	<b>100</b>	<b>1,300</b>	<b>100</b>	<b>1,277</b>	<b>100</b>
Total multi-member tribunals	239	17	245	19	272	21

a Percentages do not total 100% due to rounding.

**Table A3.9** Appeals against decisions of the Tribunal, by jurisdiction

Jurisdiction	2007-08		2008-09		2009-10	
	Section 44 <sup>a</sup>	Other <sup>b</sup>	Section 44 <sup>a</sup>	Other <sup>b</sup>	Section 44 <sup>a</sup>	Other <sup>b</sup>
Social security	25	0	20	1	16	0
Veterans' affairs	24	2	16	1	11	1
Workers' compensation	15	0	16	1	18	1
Taxation						
Taxation Appeals Division	25	2	13	1	17	0
Small Taxation Claims Tribunal	0	0	2	0	1	0
Other	32	17	28	11	20	17
<b>Total</b>	<b>121</b>	<b>21</b>	<b>95</b>	<b>15</b>	<b>83</b>	<b>19</b>

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 other enactments, including the *Administrative Decisions (Judicial Review) Act 1977*, the *Judiciary Act 1903*, Part 8 of the *Migration Act 1958* and section 75(v) of the Constitution.



**Table A3.10** Appeals against decisions of the Tribunal — outcomes of appeals determined<sup>a</sup>

Outcome	2007-08 <sup>b</sup>		2008-09		2009-10	
	Section 44	Other	Section 44	Other	Section 44	Other
Allowed/Remitted	50	4	32	4	30	5
Dismissed	67	11	55	12	59	9
Discontinued	25	2	19	–	18	4
<b>Total</b>	<b>142</b>	<b>17</b>	<b>106</b>	<b>16</b>	<b>107</b>	<b>18</b>

a Where a decision of a Federal Magistrate, a single judge of the Federal Court or the Full Court of the Federal Court has been appealed, only the ultimate result is counted for the purpose of these statistics.

b Figures for 2007-08 differ from those given in the *Administrative Appeals Tribunal Annual Report 2007-08*. An audit revealed that a number of records had not been included or had been incorrectly classified in the figures for that reporting year.

**Table A3.11** Appeals from decisions of the Tribunal — outcomes of appeals determined, by jurisdiction

Outcome	2007-08 <sup>a</sup>		2008-09		2009-10	
	Section 44	Other	Section 44	Other	Section 44	Other
<b>Social security</b>						
Allowed/Remitted	6	0	6	0	4	0
Dismissed	19	0	14	0	19	0
Discontinued	5	0	4	0	2	1
<b>Subtotal</b>	<b>30</b>	<b>0</b>	<b>24</b>	<b>0</b>	<b>25</b>	<b>1</b>
<b>Veterans' affairs</b>						
Allowed/Remitted	13	0	8	0	7	1
Dismissed	9	1	14	0	7	0
Discontinued	2	0	1	0	1	0
<b>Subtotal</b>	<b>24</b>	<b>1</b>	<b>23</b>	<b>0</b>	<b>15</b>	<b>1</b>
<b>Workers' compensation</b>						
Allowed/Remitted	11	0	8	0	3	0
Dismissed	10	2	2	1	8	0
Discontinued	4	0	6	0	6	1
<b>Subtotal</b>	<b>25</b>	<b>2</b>	<b>16</b>	<b>1</b>	<b>17</b>	<b>1</b>

Outcome	2007-08 <sup>a</sup>		2008-09		2009-10	
	Section 44	Other	Section 44	Other	Section 44	Other
<b>Taxation</b>						
<b>Taxation Appeals Division</b>						
Allowed/Remitted	11	0	2	0	7	0
Dismissed	12	0	7	1	9	0
Discontinued	6	1	2	0	4	0
<b>Subtotal</b>	<b>29</b>	<b>1</b>	<b>11</b>	<b>1</b>	<b>20</b>	<b>0</b>
<b>Small Taxation Claims Tribunal</b>						
Allowed/Remitted	0	0	0	0	0	0
Dismissed	0	0	1	0	0	0
Discontinued	0	0	0	0	1	0
<b>Subtotal</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>
<b>Subtotal</b>	<b>29</b>	<b>1</b>	<b>12</b>	<b>1</b>	<b>21</b>	<b>0</b>
<b>Other</b>						
Allowed/Remitted	9	4	8	4	9	4
Dismissed	17	8	17	10	16	9
Discontinued	8	1	6	0	4	2
<b>Subtotal</b>	<b>34</b>	<b>13</b>	<b>31</b>	<b>14</b>	<b>29</b>	<b>15</b>
<b>Total</b>	<b>142</b>	<b>17</b>	<b>106</b>	<b>16</b>	<b>107</b>	<b>18</b>

a Figures for 2007-08 differ from those given in the *Administrative Appeals Tribunal Annual Report 2007-08*. 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 2009–10 Portfolio Budget Statements:

*Access to a fair, just, economical, informal and quick review mechanism for applicants through reviews of government administrative decisions, including dispute resolution processes and independent formal hearings.*

There is one program group relating to this outcome: Program group 1.1 — Completed review of decisions.

There are two paths to achieving the deliverable: applications finalised without a hearing and applications finalised with a hearing.

### Resource statements

Table A4.1 shows the Tribunal's various sources of funding.

**Table A4.1** Tribunal resource statement, 2009–10

	Actual Available Appropriations for 2009–10 \$'000	Payments Made 2009–10 \$'000	Balance Remaining
	(a)	(b)	(a–b)
<b>ORDINARY ANNUAL SERVICES<sup>1</sup></b>			
<b>Departmental appropriation</b>			
Departmental appropriation	42,742	34,107	8,635
S.31 Relevant agency receipts	1,088	–	1,088
<b>Total</b>	<b>43,830</b>	<b>34,107</b>	<b>9,723</b>
<b>Total ordinary annual services</b>	<b>43,830</b>		
<b>OTHER SERVICES<sup>2</sup></b>			
<b>Departmental non-operating</b>			
Equity injections	–	976	(976)
<b>Total</b>	<b>–</b>	<b>976</b>	
<b>Total other services</b>	<b>–</b>	<b>976</b>	
<b>Total available annual appropriations</b>	<b>43,830</b>	<b>35,083</b>	<b>8,747</b>
<b>Total Resourcing and Payments</b>	<b>43,830</b>	<b>35,083</b>	

1 Appropriation Bill (No.1) 2009–10 and Appropriation Bill (No.3) 2009–10

2 Appropriation Bill (No.2) 2009–10 and Appropriation Bill (No.4) 2009–10

## 2. Resources for outcome

Table A4.2 shows how the 2009–10 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 program.

**Table A4.2** Expenses and resources for outcome 1

### Outcome 1 – Completed reviews of decisions

Outcome 1: Access to a fair, just, economical, informal and quick review mechanism for applicants through reviews of government administrative decisions, including dispute resolution processes and independent formal hearings	Budget* 2009–10 \$'000	Actual Expenses 2009–10 \$'000	Variation \$'000
<b>Program 1.1: Administrative Appeals Tribunal</b>			
Departmental expenses			
Ordinary annual services (Appropriation Bill No. 1)	32,772	32,772	–
Revenues from independent sources (section 31)	1,085	1,122	(37)
Expenses not requiring appropriation in the budget year	2,000	1,311	689
<b>Total expenses for Outcome 1</b>	<b>35,857</b>	<b>35,205</b>	<b>652</b>
	<b>2008–09</b>	<b>2009–10</b>	
<b>Average staffing level (number)</b>	<b>161</b>	<b>162</b>	

\* Full-year budget, including any subsequent adjustment made to the 2009–10 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. The rules relating to the payment and refund of fees are set out in regulations 19 and 19AA of the Administrative Appeals Tribunal Regulations.

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 that a statement of reasons for a decision is not adequate.

The standard application fee in 2009-10 was \$682, and the fee to lodge an application in the Small Taxation Claims Tribunal was \$68.

From 1 July 2010 the standard application fee is \$777, and the fee to lodge an application fee in the Small Taxation Claims Tribunal is \$77.

### 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, 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.

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: regulations 19(5) and 19AA(5).

Certain types of applicants are exempt from the requirement to pay a fee. An application fee is not payable if 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 2009-10

In 2009-10, the Tribunal received \$519,334 and refunded \$427,236 in application fees.

There were 984 applications (see Table A5.1) for which fees were not paid pursuant to regulations 19(5), 19(6), 19AA(5) and 19AA(6), as described under 'Circumstances in which an application fee is not payable'. The total revenue forgone was \$660,036.

The Tribunal refused 16 applications to waive the application fee on financial hardship grounds under paragraph 19(6)(c).

Five applications for review of a decision not to waive payment of an application fee were made under regulation 20; the five applications were made by a single applicant.

**Table A5.1** Applications – no fee paid

Category	Number of applications
One fee paid for two or more applications relating to the same applicant	534
Applicant exempt from paying fee	362
Application fee waived by Tribunal	88
<b>Total</b>	<b>984</b>

## 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 2009 to 30 June 2010.

The list includes enactments or parts of enactments that were assented to or made before 1 July 2009 but which commenced during the reporting period. The list does not include those enactments or parts of enactments that were assented to or made in the reporting period but had not commenced at 30 June 2010.

### 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 2010) Order 2009</i>	
<i>Australian Meat and Live-stock Industry (High Quality Beef Export to the European Union) Order 2010</i>	
<i>Clothing and Household Textile (Building Innovative Capability) Scheme 2010</i>	
<i>Healthcare Identifiers Act 2010</i>	
<i>Marine Orders Part 9 – Issue 6 (Order No 1 of 2010)</i>	
<i>Marine Order Part 12 – Issue 3 (Order No 13 of 2009)</i>	
<i>Marine Order Part 15 – Issue 5 (Order No 9 of 2009)</i>	
<i>Marine Order Part 18 – Issue 4 (Order No 7 of 2009)</i>	
<i>Marine Orders Part 21 – Issue 6 (Order No 2 of 2009)</i>	
<i>Marine Order Part 25 – Issue 7 (Order No 14 of 2009)</i>	
<i>Marine Order Part 27 – Issue 4 (Order No 10 of 2009)</i>	
<i>Marine Order Part 30 – Issue 8 (Order No 5 of 2009)</i>	
<i>Marine Order Part 41 – Issue 10 (Order No 11 of 2009)</i>	
<i>Marine Order Part 49 – Issue 5 (Order No 6 of 2009)</i>	
<i>Marine Order Part 50 – Issue 5 (Order No 12 of 2009)</i>	
<i>Marine Order Part 94 – Issue 5 (Order No 8 of 2009)</i>	
<i>National Consumer Credit Protection Act 2009</i>	
<i>National Greenhouse and Energy Reporting Amendment Regulations 2009 (No 2)</i>	<i>National Greenhouse and Energy Reporting Regulations 2008</i>
<i>National Health (Pharmaceuticals and Vaccines – Cost Recovery) Regulations 2009</i>	
<i>Offshore Petroleum and Greenhouse Gas Storage (Management of Greenhouse Gas Well Operations) Regulations 2010</i>	

Conferring enactment	Affected enactment
<i>Papua New Guinea (Members of the Forces Benefits) Amendment Regulations 2010 (No 1)</i>	<i>Papua New Guinea (Members of the Forces Benefits) Regulations 1961</i>
<i>Personal Property Securities Act 2009</i>	
<i>Resale Royalty Right for Visual Artists Act 2009</i>	
<i>Small Pelagic Fishery Management Plan 2009</i>	
<i>Tax Agent Services Act 2009</i>	
<i>Tax Agent Services Regulations 2009</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>Air Navigation (Aircraft Noise) Amendment Regulations 2010 (No 1)</i>	<i>Air Navigation (Aircraft Noise) Regulations 1984</i>
<i>Air Navigation Amendment Regulations 2009 (No 2)</i>	<i>Air Navigation Regulations 1947</i>
<i>Aviation Transport Security Amendment Regulations 2009 (No4)</i>	<i>Aviation Transport Security Regulations 2005</i>
<i>Broadcasting Legislation Amendment (Digital Television) Act 2010</i>	<i>Broadcasting Services Act 1992</i>
<i>Civil Aviation and Civil Aviation Safety Amendment Regulations 2009 (No 1)</i>	<i>Civil Aviation Regulations 1988</i>
<i>Customs (Prohibited Exports) Amendment Regulations 2009 (No 1)</i>	<i>Customs (Prohibited Exports) Regulations 1958</i>
<i>Customs (Prohibited Imports) Amendment Regulations 2009 (No 3)</i>	<i>Customs (Prohibited Imports) Regulations 1956</i>
<i>Corporations Amendment (Financial Market Supervision) Act 2010</i>	<i>Corporations Act 2001</i>
<i>Dairy Produce Amendment Regulations 2009 (No 1)</i>	<i>Dairy Produce Regulations 1986</i>
<i>Disability Discrimination and Other Human Rights Legislation Amendment Act 2009</i>	<i>Disability Discrimination Act 1992</i>
<i>Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Act 2010</i>	<i>Education Services for Overseas Students Act 2000</i>
<i>Environment Protection and Biodiversity Conservation Amendment Regulations 2010 (No 1)</i>	<i>Environment Protection and Biodiversity Conservation Regulations 2000</i>
<i>Export Market Development Grants Amendment Act 2010</i>	<i>Export Market Development Grants Act 1997</i>
<i>Family Law Amendment Regulations 2008 (No 2)</i>	<i>Family Law Regulations 1984</i>

Amending enactment	Affected enactment
<i>Financial Sector Legislation Amendment (Enhancing Supervision and Enforcement) Act 2009</i>	<i>Life Insurance Act 1995</i>
<i>Fisheries Legislation Amendment Act 2010</i>	<i>Fisheries Management Act 1991</i>
<i>Fuel Quality Standards Amendment Act 2009</i>	<i>Fuel Quality Standards Act 2000</i>
<i>Great Barrier Reef Marine Park and Other Legislation Amendment Act 2008</i>	<i>Great Barrier Reef Marine Park Act 1975</i>
<i>Great Barrier Reef Marine Park Amendment Regulations 2009 (No 1)</i>	<i>Great Barrier Reef Marine Park Regulations 1983</i>
<i>Health Legislation Amendment (Midwives and Nurse Practitioners) Act 2010</i>	<i>Health Insurance Act 1973</i> <i>National Health Act 1953</i>
<i>National Greenhouse and Energy Reporting Amendment Act 2009</i>	<i>National Greenhouse and Energy Reporting Act 2007</i>
<i>National Health Security Amendment Act 2009</i>	<i>National Health Security Act 2007</i>
<i>National Measurement Amendment Act 2008</i>	<i>National Measurement Act 1960</i>
<i>Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulations 2009 (No 2)</i>	<i>Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995</i>
<i>Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulations 2010 (No 1)</i>	<i>Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995</i>
<i>Primary Industries Levies and Charges Collection Amendment Regulations 2009 (No 1)</i>	<i>Primary Industries Levies and Charges Collection Regulations 1991</i>
<i>Renewable Energy (Electricity) Amendment Act 2009</i>	<i>Renewable Energy (Electricity) Act 2000</i>
<i>Statute Stocktake (Regulatory and Other Laws) Act 2009</i>	<i>Industrial Chemicals (Notification and Assessment) Act 1989</i>
<i>Tax Agent Services (Transitional and Consequential Amendments) Act 2009</i>	<i>Income Tax Assessment Act 1936</i>
<i>Tax Laws Amendment (2009 Measures No 2) Act 2009</i>	<i>A New Tax System (Australian Business Number) Act 1999</i>
<i>Tax Laws Amendment (2009 Measures No 4) Act 2009</i>	<i>Taxation Administration Act 1953</i>
<i>Tax Laws Amendment (2009 Measures No 5) Act 2009</i>	<i>Taxation Administration Act 1953</i>
<i>Tax Laws Amendment (2010 GST Administration Measures No 2) Act 2010</i>	<i>A New Tax System (Goods and Services Tax) Act 1999</i> <i>Taxation Administration Act 1953</i>
<i>Therapeutic Goods Amendment (2009 Measures No 1) Act 2009</i>	<i>Therapeutic Goods Act 1989</i>
<i>Therapeutic Goods Amendment Regulations 2009 (No 3)</i>	<i>Therapeutic Goods Regulations 1990</i>
<i>Transport Security Legislation Amendment (2010 Measures No 1) Act 2010</i>	<i>Maritime Transport and Offshore Facilities Security Act 2003</i>

### Jurisdiction removed

The repealing enactments provided for merits review by the Tribunal or removed the Tribunal's jurisdiction under an enactment that continues to exist. The affected enactment is noted in the right column.

**Table A6.3** Jurisdiction removed

Repealing enactment	Affected enactment
<i>Livestock Export (Merino) Repeal Orders 2009</i>	<i>Livestock Export (Merino) Orders</i>
<i>Marine Order Part 9 – Issue 6 (Order No 1 of 2010)</i>	<i>Marine Order Part 6 – Issue 5</i>
<i>Marine Order Part 12 – Issue 3 (Order No 13 of 2009)</i>	<i>Marine Order Part 12 – Issue 2</i>
<i>Marine Order Part 15 – Issue 5 (Order No 9 of 2009)</i>	<i>Marine Order Part 15 – Issue 4</i>
<i>Marine Order Part 18 – Issue 4 (Order No 7 of 2009)</i>	<i>Marine Order Part 18 – Issue 3</i>
<i>Marine Orders Part 21 – Issue 6 (Order No 2 of 2009)</i>	<i>Marine Orders Part 25 – Issue 5</i>
<i>Marine Order Part 25 – Issue 7 (Order No 14 of 2009)</i>	<i>Marine Order Part 25 – Issue 6</i>
<i>Marine Order Part 27 – Issue 4 (Order No 10 of 2009)</i>	<i>Marine Order Part 27 – Issue 3</i>
<i>Marine Order Part 30 – Issue 8 (Order No 5 of 2009)</i>	<i>Marine Order Part 30 – Issue 7</i>
<i>Marine Order Part 41 – Issue 10 (Order No 11 of 2009)</i>	<i>Marine Order Part 41 – Issue 9)</i>
<i>Marine Order Part 49 – Issue 5 (Order No 6 of 2009)</i>	<i>Marine Order Part 49 – Issue 4</i>
<i>Marine Order Part 50 – Issue 5 (Order No 12 of 2009)</i>	<i>Marine Order Part 50 – Issue 4</i>
<i>Marine Order Part 94 – Issue 5 (Order No 8 of 2009)</i>	<i>Marine Order Part 50 – Issue 4</i>
<i>Statute Stocktake (Regulatory and Other Laws) Act 2009</i>	<i>Nursing Homes Assistance Act 1974</i>
<i>Telecommunications (Freephone and Local Rate Numbers – Charities) Allocation (Repeal) Determination 2010</i>	<i>Telecommunications (Freephone and Local Rate Numbers – Charities) Allocation Determination 2007 (No 1)</i>
<i>Telecommunications Service Provider (Mobile Premium Services) Revocation Determination 2009</i>	<i>Telecommunications Service Provider (Mobile Premium Services) Determination 2005 (No 1)</i>



## APPENDIX 7: DECISIONS OF INTEREST

These summaries of some of the more important or interesting Tribunal decisions, published during 2009-10, reflect the matters dealt with by the Tribunal.

### Communications

#### **Re Sublime IP Pty Ltd and Australian Communications and Media Authority**

[2010] AATA 353; 13 May 2010

Deputy President RP Handley;  
Senior Member N Bell

*Whether a decision to issue a final link-deletion notice relating to a webpage classified R 18+ was contrary to the implied freedom of political communication – Whether the notice could be validly issued to Sublime IP Pty Ltd*

Sublime IP Pty Ltd is an internet service provider (ISP) that provided web hosting services to Electronic Frontiers Australia (EFA). EFA is a non-profit association whose major objective is to protect and promote the civil liberties of users and operators of computer-based communications systems and of those affected by their use.

On 5 May 2009, the Australian Communications and Media Authority (ACMA) issued Sublime IP a 'link-deletion notice' to take such steps as necessary to ensure that either it ceased to provide a link from an EFA webpage to an Abortion TV webpage or that access to the webpage be made subject to a restricted access system. The EFA webpage consisted of an article titled 'Net censorship already having a chilling effect' and referred to the 'current net censorship regime' in the context of the Australian Government's proposals to introduce mandatory ISP filtering. The article referred to the power of the ACMA to restrict access to material that has been refused classification (RC) or rated R 18+ or X 18+. The article provided a hypertext link to the Abortion TV webpage which had been the subject of complaints to the ACMA. The Classification Board had subsequently classified the webpage R 18+.

There were two issues before the Tribunal: first, whether the decision to issue the final link-deletion notice was contrary to the implied freedom of political communication and therefore invalidated the ACMA's decision; and second, if the notice did not offend the implied freedom, whether the notice should have been issued to Sublime IP.

In relation to the first issue, the implied constitutional freedom of political communication had been recognised by the High Court. In *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520, the Court set out a two-stage test for determining whether a law infringes the freedom of communication. The first stage is whether the law effectively burdens freedom of communication about government or political matters either in its terms, operation or effect. The second stage is, if it does, whether the law is reasonably appropriate and adapted to serve a legitimate end, the fulfilment of which is compatible with the maintenance of the constitutionally-prescribed system of representative and responsible government.

The Tribunal found that, while imposing restrictions on access to the internet could effectively burden communication about government or political matters, in this particular case the constraint was minor: the notice was not directed to preventing discussion of internet censorship or related issues of public policy and it did not effectively do so. The constraint imposed by the final link-deletion notice related to a hypertext link to the (offshore) Abortion TV webpage: the article's criticism of 'the current internet censorship regime' and the Government's proposal for mandatory filtering was otherwise unaffected.

The Tribunal noted that the right to vote in Australia is for people aged 18 and over. If the webpage was subject to a restricted access system, those who would still be able to access the webpage would be 18 and over. The Tribunal found that the notice was consistent with the classification of the webpage as R 18+ and the constraint was reasonably appropriate and adapted to serve the legitimate end of protecting minors.

In relation to the second issue, the Tribunal found that the notice was validly given pursuant to Schedule 7 to the *Broadcasting Services Act 1992*. Both Sublime IP and EFA were found to be links service providers of the Abortion TV webpage and it was therefore open to the ACMA to give a notice to either Sublime IP or EFA. While the preferable course may have been to give the notice to EFA, which deleted the link at Sublime IP's request, in the circumstances, it was for ACMA to determine how best to achieve its objective of restricting access to prohibited content. The decision under review was affirmed.

### Customs

#### **Australian Frozen Foods Pty Ltd and Chief Executive Officer of Customs**

[2009] AATA 795; 15 October 2009

Member Webb

*What customs tariff, if any, was payable in relation to the importation of gherkins in brine*

Australian Frozen Foods Pty Ltd imported barrels of gherkins in brine (the imported goods). The imported goods were classified by the Australian Customs and Border Protection Service (Customs) under Chapter 20 of Schedule 3 to the *Customs Tariff Act 1995* as 'other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen' and consequently the imported goods incurred a 5 percent tariff. Australian Frozen Foods contended that the correct classification of the gherkins was under Chapter 7 of Schedule 3 as 'vegetables provisionally preserved ... but unsuitable in that state for immediate consumption'. No tariff attaches to goods falling under that classification.

Australian Frozen Foods asserted that the process of preserving gherkins in a high salt solution was one commonly employed as an interim measure for transporting or storing gherkins, pending further processing and preparation for market. This further processing included washing the gherkins in fresh water for two to three days, spicing, slicing, hermetically sealing and heat treating the gherkins.

Arguing that the term 'provisionally preserved' was ambiguous, Customs relied upon the Harmonized System Explanatory Notes (HSEN) made under the *International Convention on the Harmonised Commodity Description and Coding System* to claim that the imported goods were not 'provisionally preserved' because lactic fermentation, an irreversible process, had taken place.

The Tribunal concluded that immersion in brine was a provisional preservation process. Gherkins were used as a raw material in the manufacture of sliced gherkins and the immersion in brine was an interim preservation process pending further preservation. The non-technical term 'provisionally preserved' was neither ambiguous nor would use of the ordinary meaning give rise to a result that was manifestly absurd or unreasonable. Therefore, reliance on the HSEN to elucidate the meaning of 'provisionally preserved' was neither justifiable nor necessary. Furthermore, the HSEN introduced tariff classifications that went beyond or purported to limit the scope of the legislative provisions that had been enacted and could not be preferred so as to overwrite the express language of the statute or used to create doubt about the meaning of a provision.

The Tribunal set aside the decision and substituted a decision that the gherkins should be classified under Chapter 7 of Schedule 3 to the Customs Tariff Act.

### Practice and procedure

#### **Re Mellor and Australian Postal Corporation**

[2010] AATA 288; 22 April 2010

Justice GK Downes, President; Dr I Alexander, Member

*How the Tribunal should be constituted when a matter is remitted from the Federal Court of Australia – Whether a member should recuse himself or herself from rehearing a matter*

The Tribunal, constituted by Dr Alexander, conducted a hearing and affirmed a number of decisions that were under review. Mr Mellor appealed to the Federal Court against part of the Tribunal's decision. Bennett J found that the Tribunal had made an error of law on a narrow question and remitted the matter to the

Tribunal without any direction as to how the Tribunal should be constituted.

The President determined that the matter should be returned to Dr Alexander for rehearing. At the beginning of the rehearing, Mr Mellor made an application under section 21A of the Administrative Appeals Tribunal Act for Dr Alexander to recuse himself.

Section 21A permits a party to 'apply to the Tribunal as constituted ... requesting that the Tribunal be reconstituted'. The Tribunal is obliged to notify the President of the application and the particulars of the submissions made by the parties. The President has a discretion to reconstitute the Tribunal 'if he or she considers that the matters to which the proceeding relates are of such public importance as to justify him or her in so doing'.

The basis of the section 21A application was apprehended bias. It was submitted that findings made by Dr Alexander as to Mr Mellor's credit and as to the weight of medical evidence led to apprehended bias in rehearing the matter.

The Tribunal found that section 21A did not permit the President to reconstitute the Tribunal in any circumstance other than that set out in the section. The Tribunal was satisfied there were no circumstances of sufficient public importance to justify reconstituting the Tribunal.

Nonetheless, as the Tribunal is bound by the rules of natural justice and needed to consider the application as to apprehended bias. The Tribunal noted that a remittal based on a technical error of law should not afford an applicant the opportunity to revisit a factual matter on which he or she was unsuccessful the first time around. Simply because a member makes an observation relating to credit, a fair minded lay observer would not apprehend that the member might not bring an impartial and unprejudiced mind to the resolution of the matter.

The Tribunal found that Dr Alexander should not recuse himself.

## Social security

### **Re Ogilvie and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs**

[2010] AATA 187; 19 March 2010

Senior Member J Handley

*Whether Mr Ogilvie was entitled to an Australian Government Disaster Recovery Payment as a result of the Victorian bushfires in 2009*

Mr Ogilvie was living with his parents in regional Victoria in March 2009. On 2 March 2009, he received a text message from Victoria Police warning of the risk of fire as a result of unprecedented and disastrous conditions. Local schools were closed, 140 km/hr winds were forecast with high temperatures and residents were advised to evacuate. Mr Ogilvie's home was located at the end of a dead-end gravel road and in a poor position from which to fight a fire. Smoke and flames were visible one kilometre away and the Elvis helicopter, which was attempting to extinguish the fires, could be observed from the property. He left the property on 2 March 2009 and returned on 5 March 2009.

Section 1061K of the *Social Security Act 1991* sets out the qualification requirements for the Australian Government Disaster Recovery Payment (the payment). One of the requirements is that a person is 'adversely affected by a major disaster'. The Victorian bushfires were declared to be a major disaster in the *Social Security (Australian Disaster Recovery Payment) Determination 2009 (No 4)* (the Determination). The Determination also prescribed the circumstances in which persons were taken to be adversely affected. These included serious injury, inability to return to a place of residence, utility failure and the experience of psychological trauma.

Mr Ogilvie argued that he was adversely affected by a major disaster because he was unable to return to his principal place of residence for 24 hours or more and, in the alternative, he experienced a psychological trauma.

Although the Tribunal was satisfied that the house in which Mr Ogilvie resided with his parents was his principal place of residence, the Determination provided that an inability to return to one's principal place of residence must be 'supported by the evidence'. Mr Ogilvie did not provide reasons for his inability to return to his house for three days. The Secretary provided material from the Country Fire Authority (CFA) which indicated it was not called to any incidents in the area and there were no road closures. On the basis that there was no prohibition or restraint by the CFA and no fires to prevent return, the Tribunal was satisfied that Mr Ogilvie was not unable to return to his principal place of residence for 24 hours or more.

The Determination defined the circumstances in which a person would be taken to have experienced psychological trauma. This included if a person was in the immediate area of the disaster and 'as a direct result of the disaster, the individual's principal place of residence ... was under immediate threat'. The definition did not require medical proof and diagnosis or actual destruction by fire. In view of the extreme weather conditions, the school closures, the warnings issued by the police by text message and the position of his house in a dead-end street, the Tribunal was satisfied that he was in the immediate area of the disaster. As a direct result of the disaster, Mr Ogilvie's principal place of residence was under immediate threat. The reviewable decision was set aside and in substitution it was decided that Mr Ogilvie was entitled to the payment.

### **Re Secretary, Department of Families, Housing, Community Services and Indigenous Affairs and de Waal**

[2009] AATA 635; 26 August 2009

Deputy President DG Jarvis

*Whether Mr de Waal was entitled to an economic security strategy payment*

On 14 October 2008 the Australian Government announced a strategy for strengthening the economy in the face of the global financial crisis. One of the measures was to make economic security strategy payments (ESS payments) to Australia's pensioners, carers and seniors. Parliament

subsequently enacted the *Social Security and Other Legislation Amendment (Economic Security Strategy) Act 2008* to implement the ESS payments. Section 900 of the Social Security Act, as inserted by the amending legislation, provided that a person was qualified for an ESS payment if 'the person was receiving ... in respect of 14 October 2008 ... a disability support pension'.

Mr de Waal was qualified to receive a disability support pension (DSP) in 2008. However, during the 14-day period which ended on 27 October 2008, he was engaged in seasonal work and his earnings exceeded the relevant income test limit under the Social Security Act. His rate of DSP for the period, which included 14 October 2008, was therefore nil. As a result, he was not paid DSP for the period.

Mr de Waal's claim for the ESS payment was refused, a decision affirmed by an authorised review officer. He then applied to the Social Security Appeals Tribunal (SSAT) which decided that he had been 'receiving' DSP during the relevant period within the meaning of the legislation and therefore qualified for the payment. The Secretary sought review of the SSAT's decision.

The Tribunal considered the relevant legislation and observed that 'receiving' denoted a continuing situation. The Tribunal decided that it followed from the ordinary meaning of the words used in the amending legislation, as aided by various other interpretative provisions in the Social Security Act, that, for the period during which Mr de Waal's DSP entitlement was nil, DSP was not payable. The Tribunal rejected the argument made on behalf of Mr de Waal that DSP was a unitary payment paid in instalments over a period of time, and decided that the effect of the above sections was that Mr de Waal was not receiving DSP for the period including 14 October 2008.

The Tribunal recognised that the outcome was unfortunate, but observed that it was inevitable that the eligibility criteria for economic security strategy payments would exclude some people, a fact which could not affect the proper interpretation of the legislation. The Tribunal set aside the decision and, in its place, decided that Mr de Waal was not entitled to an economic strategy payment.



## Taxation

### **Re News Australia Holdings Pty Ltd and Commissioner of Taxation**

[2009] AATA 750

Justice GK Downes, President;  
Senior Member S Frost

*Whether a global corporate restructure of the News Group was for the dominant purpose of obtaining a tax benefit such that the benefit should be cancelled*

News Australia Holdings Pty Ltd, an Australian registered company, was one of several companies involved in a corporate restructure of the News Groups' various international trading entities. News Australia Holdings and several related entities conducted a series of transactions on 8 June 2005 referred to as the 'second spin'. It entered into a buy-back arrangement with News Publishing, the company holding the Group's UK assets, whereby its shares in News Publishing were converted into a liability represented by a note. The corresponding asset, being the benefit of the note, was distributed to the News Australia's substantial shareholder, News Corporation Inc, the corporation intended to hold News Publishing's assets. This asset was then used to subscribe for shares in a US company which merged with News Publishing. A capital loss of \$1.5 billion was incurred by News Australia Holdings as a consequence.

The Commissioner characterised this arrangement as a 'scheme' to which Part IVA of the *Income Tax Assessment Act 1936* applied: namely, a scheme entered into with the dominant purpose of obtaining a tax benefit under section 177D. The Commissioner accordingly sought to cancel the tax benefit accruing from News Australia Holding's capital loss. News Australia Holdings sought review of this determination by the Tribunal.

The parties concurred that a tax benefit had been obtained through the scheme. The Tribunal therefore proceeded to apply the factors, enumerated in section 177D, to the question of whether the transactions were undertaken for the dominant purpose of obtaining a tax benefit. The Tribunal made the following findings: the structure of the

scheme was geared more towards removing uncertainties about transnational taxation implications than incurring a capital loss; the form and substance of the scheme was that of a real transaction with the aim of restructuring ownership arrangements in the News Group entities to give pre-eminence to the American parent; the scheme did not precipitate a change in the financial position of the News Group as a whole; and the scheme entailed commercial benefits for News Australia Holdings.

The Tribunal concluded that the principal motivation underlying the form of the transaction was commercial, in the sense of obtaining a more efficient corporate structure which took into account transnational taxation obligations. This did not objectively point to an arrangement being entered into for the dominant purpose of obtaining a tax benefit. The objection decision of the Commissioner was accordingly set aside and a decision substituted not to determine that the capital loss in issue was not incurred by the taxpayer.

(An appeal against this decision was dismissed by a Full Court of the Federal Court on 30 June 2010: *Commissioner of Taxation v News Australia Holdings Pty Limited* [2010] FCAFC 78.)

## Veterans' affairs

### **Re Ryan and Repatriation Commission**

[2010] AATA 230; 31 March 2010

Senior Member J Toohey; Dr M Thorpe,  
Member

*Whether the widow of a veteran was entitled to a pension*

Mr Ryan served in the Australian Army from March 1944 to November 1946. He died in July 1999 from injuries sustained when he was hit by a car while crossing a road. The police report noted that Mr Ryan crossed a busy road with traffic travelling at 80 kilometres per hour against a Don't Walk sign, and away from marked pedestrian lines. According to the death certificate, the causes of death were skull fracture, cerebral haemorrhage and massive blood loss. Mrs Ryan claimed a widow's pension on the basis that her husband did not hear the car approaching due to his

sensorineural hearing loss which was, she claimed, related to his war service.

Mrs Ryan was entitled to a widow's pension if her husband's death was 'war-caused' within the meaning of the *Veterans' Entitlements Act 1986*. To establish this, there had to be a reasonable hypothesis connecting his death with his service. The Act also provides, however, that a death is not war-caused if it resulted from the veteran's serious default or wilful act occurring after war-service.

Before his death, Mr Ryan was receiving a service pension, which included benefits such as hearing aids and related treatment. He was not receiving, however, a disability pension for any war-caused hearing loss.

The Repatriation Commission refused Mrs Ryan's claim for a pension. On review, the Veterans' Review Board accepted that Mr Ryan's exposure to noise during his service would have caused his hearing loss. However, it determined that he was at serious default in crossing the road in those conditions.

The Tribunal found there was no evidence in Mr Ryan's service records, or provided by Mrs Ryan, which pointed to him being exposed to the kind of noise that would lead to sensorineural hearing loss. Therefore, the hypothesis that Mr Ryan's hearing loss was war-caused could not be demonstrated to be more than a mere possibility. It followed that the hypothesis was not reasonable. Even if the material before the Tribunal pointed to a connection between Mr Ryan's service and his hearing loss, it did not point to a connection with the circumstances of his kind of death.

Although it was not required to do so, the Tribunal considered and dismissed the Commission's argument that Mr Ryan's death was the result of a 'wilful act'. The Tribunal held that 'wilful' connotes conduct that is intentional or that at least apprehends its consequences. The Tribunal could not conclude that Mr Ryan's behaviour was wilful. The actions leading to Mr Ryan's death were inexplicable but, the Tribunal concluded, that was very different from finding that his death was the result of a wilful act. The Tribunal affirmed the decision under review.

## Workers' compensation

### **Re Carpenter and Comcare**

[2010] AATA 62; 29 January 2010

Deputy President DG Jarvis

*Whether Mr Carpenter's generalised anxiety disorder was contributed to by employment in a material degree*

In November 1990, Mr Carpenter suffered a breakdown due to a stress-related illness. Comcare accepted Mr Carpenter's claim for compensation for a temporary aggravation of a chronic underlying anxiety condition but in 1991 decided it was no longer liable to pay compensation.

In April 2006, Mr Carpenter lodged a further claim for his underlying generalised anxiety disorder, which he claimed had arisen from his employment as a result of maladministration of the transfer system, victimisation, bullying and harassment of observers. Comcare rejected this claim in December 2006 and again on reconsideration in June 2007. Mr Carpenter made an additional claim for permanent impairment in respect of generalised anxiety disorder, depression, panic attacks, irritable bowel and frequent cold sores and tension headaches. Comcare also rejected this claim.

The *Safety, Rehabilitation and Compensation Act 1988* provides that an employer is liable to pay compensation when an employee suffers an *injury* if it results in death, incapacity for work or impairment. 'Injury' is defined to include a disease, that was contributed to, in a material degree, by the employee's employment. It excludes any disease or injury suffered by an employee as a result of failure by the employee to obtain a promotion, transfer or benefit in connection with his or her employment.

The issues to be determined by the Tribunal were:

- 1) whether Mr Carpenter's employment made a 'material contribution' to his generalised anxiety disorder
- 2) whether Mr Carpenter's generalised anxiety disorder was the result of failure by him to obtain a transfer or benefit in connection with his employment

3) if Comcare was liable to pay compensation in respect of Mr Carpenter's generalised anxiety disorder, whether he suffered a permanent impairment as a result of his compensable injury and, if so, the degree of that impairment.

The Tribunal found that, on the evidence, Mr Carpenter's perceptions of events and practices at his place of employment did make a material contribution to the onset of his psychiatric disorder in 1990. The Tribunal noted that while other non-work-related matters also contributed to his condition, liability was not negated by such other non-compensable concurrent causes.

The Tribunal found that Mr Carpenter's anxiety condition was not suffered as a result of his failure to obtain claimed allowances, nor was it the result of his failure to obtain the benefit of a permanent transfer overseas, the latter labelled by the Tribunal as a 'minor but not a material contribution to the development of his anxiety condition in 1990'. Following a review of authorities, the Tribunal concluded that the exceptions to injury, such as the failure to obtain a transfer, did not apply if they did not contribute in a material degree to the disease.

The Tribunal set aside the decisions under review and, in their place, decided that Comcare was liable for the condition of generalised anxiety disorder. The Tribunal assessed Mr Carpenter's degree of permanent impairment at 10 percent.

***Re Courtis and Linfox Armaguard Pty Limited***

[2009] AATA 809; 22 October 2009

Senior Member GD Friedman

*Whether Mr Courtis should be denied compensation for an injury sustained when he kicked a trolley*

Mr Courtis had been employed by Linfox Armaguard Pty Limited (Linfox) for more than 30 years. He injured his left wrist and hand at work. Two months later, while at work, he knocked his injured hand on a trolley, causing immediate and severe pain. Mr Courtis kicked the trolley in frustration, striking it with the sole of his right foot, fracturing a bone as a result. Linfox refused Mr Courtis's claim for compensation for injury to his foot on the basis

that he had voluntarily placed himself in a position of abnormal risk of injury.

The Safety, Rehabilitation and Compensation Act provides that an employer is liable to pay compensation when an employee suffers an *injury* if it results in death, incapacity for work or impairment. Section 5A defines injury to include an injury suffered by an employee 'arising out of, or in the course of, the employee's employment'. Section 6(1) of the Act provides that an injury is taken to have arisen out of, or in the course of, employment when it is suffered in specified circumstances, including section 6(1)(b) which addresses injuries suffered while the employee was at the employee's place of work. Section 6(3) provides that section 6(1) does not apply if the employee sustained the injury because he voluntarily and unreasonably submitted to an abnormal risk of injury.

The Tribunal first considered whether section 6(3) was relevant to the application. Mr Courtis submitted it was not relevant on the basis that there was no need to go to section 6 if Mr Courtis fell within the scope of injury as defined in section 5A. Linfox submitted that section 6 was not an extension provision: its purpose was to provide specific examples of situations where an injury to an employee may be treated as 'arising from, or in the course of, employment'. Section 6(1)(b) applied to Mr Courtis and it followed that section 6(3) prevented compensation because he had voluntarily and unreasonably submitted to an abnormal risk of injury.

The Tribunal did not accept that any injury occurring at work is subject to the section 6(3) exclusion as that would detract from or limit the operation of the definition of injury in section 5A. Section 6(1) clarifies situations in which an injury will be taken to have arisen for the purposes of the Act; it gives an extended meaning to the definition of 'arising out of, or in the course of, employment' in situations where there may otherwise be some doubt. Consequently, there was no need for the Tribunal to refer to section 6 because Mr Courtis's circumstances clearly fell within the meaning of injury as defined in section 5A. The Tribunal found that Mr Courtis was at his normal place of work and was engaged in his

usual duties when the injury occurred. The Tribunal did not accept that kicking the trolley was an act that took Mr Courtis outside the scope of the course of his employment.

Although it was not necessary to consider the application of section 6(3), in light of the authorities, the Tribunal found that the act of kicking the trolley in frustration did not constitute an unusual risk of injury and was not inherently dangerous. It was an instinctive and impulsive action and Mr Courtis did not have time to contemplate his action.

The Tribunal set aside the reviewable decision and found that Mr Courtis was entitled to compensation.

## 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 2010.

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 made 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 how comments or complaints about 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*
- Tribunal practice and procedure documents, including practice directions and forms
- documents and other materials containing information on the Tribunal's processes, including jurisdictional guides, brochures, the *Getting Decisions Right* 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, brochures 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](http://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* 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](http://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 2009-10 is in three sections each arranged by date: speeches and presentations; professional development and other activities; and published articles.

**Table A9.1** Speeches and presentations

Title / Role	Event/organisation	Speaker(s)	Date
<i>Advanced Collaborative Practice</i>	Law Institute of Victoria, Melbourne	Professor Tania Sourdin, Member	24-25 July 2009
<i>Improving Mediation Quality</i>	LEADR Association of Dispute Resolvers Forum, Adelaide	Professor Tania Sourdin, Member	25 August 2009
<i>Introduction: The Obligation to Assist</i>	Administrative Appeals Tribunal / Australian Capital Territory Bar Association co-joint seminar, The Obligation to Assist – Model Litigants in Administrative Appeals Tribunal Proceedings, Canberra	Justice Garry Downes, President	26 August 2009
<i>The Obligation to Assist</i>		Senior Member James Constance	
<i>Convenor</i>		Simon Webb, Member	
<i>Making Administrative Decisions: Comparing Approaches to Decision Making</i>	Excellence in Decision Making: Course conducted jointly by University of Sydney and Australian Government Solicitor, Canberra	Deputy President Stephanie Forgie	7 September 2009
<i>Decision Making in the Public Sector: Getting it Right</i>	The Law Society of New South Wales Government Solicitors' CLE Conference, Sydney	Justice Garry Downes, President	15 September 2009
<i>Hot Topics in Tax – What the Courts are Up To</i>	Law Council of Australia, 36th Australian Legal Convention, Perth	Senior Member Frank O'Loughlin	19 September 2009
<i>Respect and Relationships in a Dispute Environment</i>	Comcare 2009 National Conference, Canberra	Regina Pertont, Member	25 September 2009
<i>Case Management – Timing, Directions and Cost Efficiency Issues in Implementing Case Management – Using Case Management to Assist with Judicial Performance Using Case Conferences and ADR</i>	Papers presented at the United Arab Emirates Ministry of Justice, Dubai	Professor Tania Sourdin, Member	2-3 October 2009

Title / Role	Event/organisation	Speaker(s)	Date
<i>Access to Justice – Alternative Dispute Resolution</i>	Commonwealth Secretariat, Commonwealth Senior Officials of Law Ministries, London United Kingdom	Professor Tania Sourdin, Member	8-20 October 2009
<i>Therapeutic Jurisprudence</i>	Training Relating to the Workers' Compensation Jurisdiction for the National Australia Bank and Finance Sector Union	Regina Pertont, Member	26 October 2009
<i>The AAT and Commonwealth Workers' Compensation</i>	College of Law, Sydney, Continuing Professional Development Seminar, Sydney	Deputy President Robin Handley, Conference Registrar Kim Richardson	6 November 2009
<i>Researching Perceptions – What do Disputants Want?</i>	National Legal Aid Forum, Sydney	Professor Tania Sourdin, Member	24 November 2009
<i>Fair Work Australia and the FOI Act: Preparing to Meet Statutory Responsibilities With Regard to Records Management, Privacy and Access to Information While Carrying out Statutory Functions</i>	Fair Work Australia 2010 National Conference, Werribee	Deputy President Stephanie Forgie	31 January 2010
<i>The AAT and Commonwealth Workers' Compensation</i>	National Workers' Compensation Summit 2010, Sydney	Deputy President Robin Handley, Conference Registrar Kim Richardson	17 February 2010
<i>Chair, Community Education Session</i>	Administrative Law: Improving the Decision-making Process, Canberra	Professor Robin Creyke, Senior Member	24 February 2010
<i>The Parable of the Talents and the Fallacy of Anthropomorphism in Corporate Law</i>	Seminar on International Business Law, Riezlern, Austria	Senior Member Bernard McCabe	1 March 2010
<i>Opening Ceremony Speech Opening Plenary Session Speech</i>	10th Congress of the International Association of Supreme Administrative Jurisdictions, Sydney	Justice Garry Downes, President	7-11 March 2010
<i>Rapporteur</i>		Deputy President Brian Tamberlin QC	
<i>The Security Appeals Division of the Administrative Appeals Tribunal – Procedural Fairness, Hearings and Decision-making in the Security Context of the Administrative Appeals Tribunal</i>	Australian Government Solicitor Administrative Law Symposium, University of Sydney Law School, Sydney	Justice Garry Downes, President	26 March 2010

Title / Role	Event/organisation	Speaker(s)	Date
<i>Fact Finding and the Application of the Law</i>	Council of Australasian Tribunals (Victorian Chapter) 2010 Annual Conference, Melbourne	Regina Perton, Member	30 April 2010
<i>Resolve to Resolve – The NADRAC Report</i>	Non Adversarial Justice: Implications for the Legal System and Society Conference, Melbourne	Professor Tania Sourdin, Member	4–7 May 2010
<i>Appeal Proofing Decisions</i>	Council of Australasian Tribunals (New South Wales Chapter) 2010 Annual Conference, Sydney	Senior Member Anne Britton	7 May 2010
<i>Future Challenges in Australian Aviation Regulations: Cancellation of Chief Pilot Approval – Means of Avoiding Show Cause Notices and Automatic Stay Provisions That Apply</i>	Aviation Law Association of Australia and New Zealand 29th Annual Conference, Canberra	Senior Member Egon Fice	12–14 May 2010
<i>Review of Decisions in the AAT</i>	Legalwise Seminar, Melbourne	Senior Member John Handley	26 May 2010
<i>Administrative Law Standards: A Risk Management Approach</i>	Australian National University College of Law, Twentieth Anniversary of the ANU's Centre for International and Public Law, Canberra	Professor Robin Creyke, Senior Member	18 May 2010
<i>Inquisitorial Processes: Obligations on the Profession</i>	Australian Lawyers Alliance Seminar, Canberra	Professor Robin Creyke, Senior Member	25 May 2010
<i>Review of Administrative Decisions in the AAT</i>	Legalwise Seminar, Brisbane	Deputy President Philip Hack SC	27 May 2010
<i>Chair</i>	Australian Medical Association 2010 National Conference, Sydney	Dr Roderick McRae, Member	28– 29 May 2010
<i>Use of Expertise of Expert Tribunal Members</i>	13th Australian Institute of Judicial Administration Annual Tribunals Conference, Brisbane	Dr Peter Wulf, Member	10– 11 June 2010
<i>Pitfalls in Decision Making</i>	Guardianship Tribunal (New South Wales), Sydney	Senior Member Anne Britton	23 June 2010

Table A9.2 Professional development and other activities

Title/Role	Event / organisation	Participants / Speaker(s)	Date
<i>AAT 2009 National Mooting Competition – Adjudicator</i>	AAT 2009 National Mooting Competition 2009	Justice Garry Downes, President Deputy Presidents Julian Block, Philip Hack SC, Robin Handley, Stanley Hotop, Graham McDonald, Brian Tamberlin QC Senior Members Narelle Bell, James Constance, Egon Fice, Stephen Frost, Naida Isenberg, Peter McDermott, Bruce Pascoe Members Dr John Campbell, Dr Kenneth Levy, Simon Webb	July–October 2009
<i>Advocacy Exercises</i>	Tribunal Advocacy Course for Veterans' Advocates, University of Canberra, Canberra	Senior Member Bernard McCabe Simon Webb, Member	10– 11 September 2009
<i>Negotiation and ADR Skills</i>	Australian Government Solicitor Training Program, Canberra	Professor Tania Sourdin, Member	23 March 2010
<i>Negotiation and ADR Skills</i>	Australian Government Solicitors Training Program, Canberra	Professor Tania Sourdin, Member	12 May 2010

**Table A9.3** Articles and other publications

Title	Publication	Citation	Author/s
'General Report X – Review of Administrative Decisions of Government by Administrative Courts and Tribunals'	<i>International Association of Supreme Administrative Jurisdictions</i>	http://www.iasaj.org/library	Deputy President Brian Tamberlin QC
'Administrative Law Evolution: an Academic Perspective'	<i>Administrative Law Review</i>	(2010) 59 <i>Admin Review</i> 27–41	Professor Robin Creyke, Senior Member (with Matthew Groves)
'Administrative Justice in Context'	<i>Chapter 12, Administrative Justice in Australia</i>	M Adler (ed), <i>Administrative Justice in Australia</i> (2010)	Professor Robin Creyke, Senior Member
'Soft Law and Administrative Law: a New Challenge'	<i>Australian Institute of Administrative Law Forum</i>	(2010) 61 <i>AIAL Forum</i> 15–22	Professor Robin Creyke, Senior Member
'Section 52 and the Regulation of Non-Commercial Speech'	<i>Trade Practices Law Journal</i>	(2010) 18 <i>TPLJ</i> 21	Senior Member Bernard McCabe
'Harassment, Undue Coercion and the Power of Talkback Radio'	<i>Trade Practices Law Journal</i>	(2010) 18 <i>TPLJ</i> 118	Senior Member Bernard McCabe
'From Accreditation to Quality Mediation Practice – Next Steps?'	<i>ADR Bulletin</i>	(2010) Vol 11 <i>ADR Bulletin</i> (No 1)	Professor Tania Sourdin, Member
'Poor Quality Mediation – A System Failure'	<i>ADR Bulletin</i>	(2010) Vol 11 <i>ADR Bulletin</i> (No 8)	Professor Tania Sourdin, Member
'Introduction', 'Processes in Australian Dispute Resolution'	Chapter 1 and Chapter 2, Volume One, <i>Australian Dispute Resolution Service</i>	Sourdin, Tania (ed), <i>Australian Dispute Resolution Service</i> (2010)	Professor Tania Sourdin, Member
'Cancelling Visas on Character Grounds'	<i>Law Society Journal</i>	(2009) Vol 47(9) <i>Law Society Journal</i> 66	Chantal Bostock, Acting Manager, Policy and Research
'Procedural Fairness and the AAT's Review of Visa Cancellation Decisions on Character Grounds'	<i>Australian Journal of Administrative Law</i>	(2010) 17 <i>AJ Admin L</i> 77	Chantal Bostock, Acting Manager, Policy and Research
'Merits Review of Business Visa Cancellation Decisions – Relevant Time for Consideration'	<i>Immigration Review Bulletin</i>	(2010) 45 <i>Immigration Review Bulletin</i> [631]	Jason Cabarrús, Acting Senior Legal and Policy Officer

## 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 (see also Chapter 5 for information on consultancies).

### Consultancies

Table A10.1 sets out information on consultancies that were let during 2009–10 with a value of \$10,000 or more. The contract price includes GST.

The selection process for each consultancy, described below, is consistent with the Commonwealth Procurement Guidelines.

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 website.

Select tender: A procurement procedure in which the procuring agency selects which potential suppliers are invited to submit tenders (this includes tenders submitted through Multi Use Lists). 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 A10.2 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 A10.1** Consultancy services let during 2009–10

Name of Consultant	Description	Contract price	Selection process	Justification
Bendelta Pty Ltd	Staff functions and workload review	\$142,966*	Open tender	C
<b>Total</b>		<b>\$142,966</b>		

\* Original contract price of \$122, 650 exceeded due to change of scope to include benchmarking against other courts and tribunals.

**Table A10.2** Trends in consultancy services let

Year	No. of consultancies	Total contract value
2007–08	4	\$167,014
2008–09	1	\$10,141
2009–10	1	\$142,966

### Advertising and market research

The Tribunal did not conduct any market research in 2009–10.

Non-campaign advertising expenditure of \$16,425 was paid to Adcorp Australia for advertising employment vacancies.

### Discretionary grants

The Tribunal does not administer any grants programs.

### Ecologically sustainable development

The Tribunal is a review body and therefore does not administer policy that has a major effect on the environment. The Tribunal gives consideration to the ecologically sustainable principles when arranging new leases and refurbishments. No leases or refurbishments were due in 2009–10.

**Table A10.3** Environmental performance reporting

Theme	Steps taken to reduce effect	Measures to review and improve reducing the effect
Energy efficiency	Asking staff to switch off lights when offices and meeting rooms are not in use.	General energy consumption across the five registries for which data is available, increased by 3.89 during the reporting year. The increase in consumption is attributed to the number of hearings returning to the normal level after falling in the previous year.
Vehicles	Ensuring that the average Green rating of the Tribunal's leased vehicles is as high as possible.	Of the Tribunal's 17 leased vehicles, only five have a Green rating of less than 10, six are hybrid vehicles with a rating of 17.5. Petrol consumption across all registries fell by 17 percent during the reporting year.
Waste	Undertaking recycling of office waste.	All Tribunal registries undertake paper recycling. Two registries also recycle glass, plastics and metals, and two other registries recycle toner cartridges. Opportunities for extended recycling will be reviewed in 2010–11. As the Tribunal uses whole-of-building recycling schemes, separate data on recycling quantities is not currently available.
Water	The Tribunal installs water saving devices such as dual-flush cisterns in its fit-outs.	The Tribunal is not able to access data on water consumption in each of its tenancies, as there are no separate water meters.

### Environmental performance

The Tribunal limits its impact on the environment in day-to-day administrative functions by implementing simple staff-based measures such as switching off lights, recycling office waste and encouraging leasing of vehicles with a higher Green rating. The Tribunal also participates in awareness raising activities such as Earth Hour.

## APPENDIX 11: COMMONWEALTH DISABILITY STRATEGY—TRIBUNAL PERFORMANCE

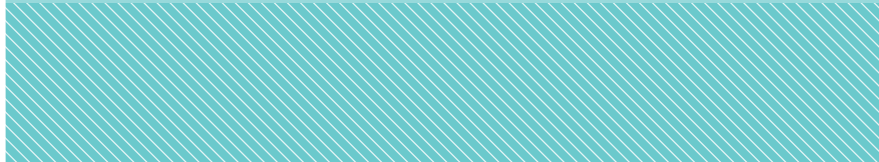
The Tribunal's performance in implementing the Commonwealth Disability Strategy in its role as a provider is shown below.

**Table A11.1** Tribunal performance against Commonwealth Disability Strategy

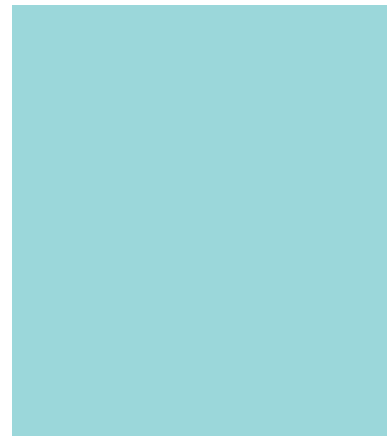
Performance indicator	Performance measures	Performance for 2009–10
Providers have established mechanisms for quality improvement and assurance.	Evidence of quality improvement and assurance systems in operation.	Regular liaison with Tribunal users provided a forum for feedback on service provision.
Providers 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's Service Charter sets out its commitment to providing equitable access to all users. The Charter was available as a leaflet, 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's complaint-handling procedures are set out in the Service Charter. When responding to complaints, the Tribunal advises complainants of external mechanisms that may be relevant to the issues raised, including through the Ombudsman and the Australian Human Rights Commission.



# ENDMATTER



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## GLOSSARY

<b>AASB</b>	Australian Accounting Standards Board	<b>Dismissal of application</b>	In certain circumstances, the Tribunal 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 Tribunal is satisfied that the application is frivolous or vexatious.
<b>AAT</b>	Administrative Appeals Tribunal	<b>FMO</b>	Finance Minister's Order
<b>ACSI</b>	Australian Communications – Electronic Security Instruction	<b>GST</b>	Goods and Services Tax
<b>ADR</b>	Alternative dispute resolution	<b>Hearing</b>	A hearing is conducted by one, two or three Tribunal members. It is the opportunity for the parties to present to the Tribunal evidence and submissions in relation to the decision under review. Parties may call witnesses to give evidence.
<b>Affirm</b>	The Tribunal may affirm a decision under review. This means that the original decision stands.	<b>HSR</b>	Health and Safety Representative
<b>Applicant</b>	This is the person, organisation, department or agency that has lodged an application with the Tribunal.	<b>IASAJ</b>	International Association of Supreme Administrative Jurisdictions
<b>Application for extension of time</b>	An application for review of a decision must be lodged with the Tribunal within a certain time limit. However, an application may be made to the Tribunal to extend the time for lodging an application.	<b>Interlocutory application</b>	This is 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.
<b>APS</b>	Australian Public Service	<b>Mediation</b>	Mediation is an alternative dispute resolution process in which a Tribunal 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.
<b>Case appraisal</b>	Case appraisal is an alternative dispute resolution process conducted by a Tribunal 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.	<b>MRT</b>	Migration Review Tribunal
<b>COAT</b>	Council of Australasian Tribunals	<b>NAATI</b>	National Accreditation Authority for Translators and Interpreters
<b>Conciliation</b>	Conciliation is an alternative dispute resolution process in which a Tribunal 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.	<b>Neutral evaluation</b>	Neutral evaluation is an alternative dispute resolution process in which a Tribunal 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.
<b>Conference</b>	A conference is a meeting conducted by a Tribunal 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.	<b>OPA</b>	Official Public Account
<b>Confidentiality order</b>	The Tribunal may make an order directing that a hearing or part of a hearing be held in private. The Tribunal may also give directions prohibiting or restricting the publication of the names of a party or witnesses, evidence given before the Tribunal or matters contained in documents lodged with the Tribunal.	<b>Outreach</b>	This is a Tribunal program that provides self-represented parties with information about Tribunal practices and procedures and other assistance in relation to the review process.
<b>CSS</b>	Commonwealth Superannuation Scheme	<b>Party</b>	Parties are the participants in the proceedings before the Tribunal. Parties include the person who makes the application to the Tribunal, the decision-maker or other respondent to the application and any other person joined to the proceedings.
<b>Directions hearings</b>	Directions hearings are conducted by Tribunal 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.		

<b>Party joined</b>	Where a person, department or agency has applied to the Tribunal 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 Tribunal may grant that application. This person, department, or agency is a party joined.
<b>Portfolio Budget Statements</b>	Statements prepared to explain the Budget appropriations for agencies within a portfolio in terms of outcomes and programs.
<b>PSS</b>	Public Sector Superannuation Scheme
<b>PSSap</b>	Public Sector Superannuation accumulation plan
<b>RRT</b>	Refugee Review Tribunal
<b>Remit</b>	The Tribunal may set aside a decision and remit it (send it back) to the original decision-maker to be reconsidered in accordance with any directions or recommendations of the Tribunal.
<b>Respondent</b>	This is the party who responds to or answers an application. This is usually the department, agency or organisation that made the original decision.
<b>Section 37 Documents</b>	These are the statement and documents that a decision-maker must prepare and provide to the Tribunal 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.
<b>Set aside</b>	The Tribunal may set aside a decision under review. The effect is that the Tribunal disagrees with the original decision and may make a new decision or remit the matter to the original decision-maker.
<b>SSAT</b>	Social Security Appeals Tribunal
<b>Stay order</b>	This is an order of the Tribunal to suspend the operation or implementation of the decision under review until the matter is determined or resolved.
<b>Summons</b>	This is a notice issued by the Tribunal calling a person to appear before it to give evidence or to produce documents to it.
<b>T-Documents</b>	See 'Section 37 Documents'.
<b>TRACS</b>	The Tribunal's electronic case management system.
<b>Vary</b>	The Tribunal may vary a decision under review. This means that the Tribunal changes or alters the original decision.
<b>VRB</b>	Veterans' Review Board

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