

CHAPTER // 01

The year in review

President's overview



collaboration and cooperation of many people, particularly in the tribunals, the Attorney-General's Department and the portfolio departments for the MRT-RRT and SSAT. Action was required across a broad range of areas, including development and passage of the *Tribunals Amalgamation Act 2015*, reviewing and updating practice and procedure documentation, consideration of membership and staffing arrangements, as well as the many other practical issues associated with creating a single organisation from 1 July 2015.

I thank the former Principal Members of the MRT-RRT and SSAT, respectively Kay Ransome and Jane Macdonnell. Each worked tirelessly, and with selfless dedication, as heads of their respective jurisdictions to ensure the success of the amalgamation while also working with their members to ensure the day-to-day delivery of merits review was to the highest standards. The Registrars of the MRT-RRT and SSAT, Colin Plowman and Louise Anderson respectively, made very significant contributions to the project as did the Registrars of the AAT, Philip Kellow and, from April 2015, Sian Leatham. Many other staff of the tribunals also played critical roles in the amalgamation, particularly through their participation in working groups established to deal with issues relating to client service delivery, financial and human resources management, information technology, library and information services, tribunal practice and procedure, property and security.

I would also like to acknowledge the work of the staff of the Attorney-General's Department, particularly Deputy Secretary David Fredericks and the Tribunals Amalgamation Taskforce, who coordinated the implementation of the Government's decision. The way in which they engaged with the tribunals has assisted in the establishment of an amalgamated AAT that is well-placed to meet the needs of the Australian community into the future.

The amalgamation will simplify the pathways for individuals and organisations seeking

Amalgamation of tribunals

The Commonwealth Administrative Review Committee (Kerr Committee) concluded in 1971 that the basic fault of the entire administrative law structure at that time was that review could not, as a general rule, be obtained on the merits despite that being what the aggrieved citizen was seeking. The Kerr Committee recommended that merits review be made available and that such review should be undertaken by a single independent, highly skilled, generalist body. Four decades later, with bipartisan support in the Parliament, that recommendation has been largely implemented. On 1 July 2015, the Migration Review Tribunal (MRT), Refugee Review Tribunal (RRT) and Social Security Appeals Tribunal (SSAT) were amalgamated into the AAT.

The task of achieving the Government's announced objective to amalgamate these key Commonwealth merits review tribunals was a primary area of focus of this Tribunal and its staff and members in 2014–15. The successful implementation of this decision was only possible because of the

review of Commonwealth administrative decisions without diminishing existing rights of review. The transfer of the members and staff of the MRT-RRT and SSAT to the AAT and the broad preservation of the procedures of each of the tribunals will provide for a continuity of experience for users of the tribunals. However, bringing the tribunals together also offers opportunities to enhance the merits review system.

I welcome each of the members and officers of the MRT-RRT and SSAT as a new and valued colleague within the expanded AAT. The new Tribunal has over 300 members and more than 600 staff. It will deal with some 40,000 matters a year. I look forward to working together to develop our new organisation which draws on the best know-how that each of the amalgamating tribunals has to offer to ensure that our Australian model remains the best merits review model in the world.

The process of bringing together three significant existing institutions with minimal disruption necessarily has left some issues for the future. Some legacy issues that were incapable of quick agreement were put aside for later attention and we will now shift our focus to work on these. For example, we have inherited quite different funding models that apply to different parts of our single tribunal. It should also not be thought that the new system will be static. It would be surprising if the amalgamation does not reveal further opportunities for reform, including removal of any remaining legacy inconsistencies in aspects of our procedures which have no ongoing utility. The passage of the amalgamation legislation is not the end of the amalgamation reform task, but it is an essential and significant beginning.

Not only can the AAT exercise inquisitorial powers, but also in cases where it is appropriate, its members manage vigorously contested proceedings between legally represented parties. The commitment for professional development and the time and experience that must be devoted to acquire the skill sets and professionalism required of members is often underappreciated. As President of the AAT for the past three years, I have come to regard merits review

decision-making as a profession or vocation in its own right. The expertise acquired by an experienced member cannot be cheaply replicated. I intend, as far as I can, to ensure that member expertise is valued and, if possible, retained.

Parliament has required a formal review of the amalgamation to be conducted after 1 July 2018. We will need to demonstrate that the reforms have achieved their objective of providing a mechanism of merits review that is accessible, fair, just, economical, informal and quick, and proportionate to the importance and complexity of a matter. Australia has been well served for the past 40 years by those who have been members and staff of merits review tribunals, and with the significant experience and strong commitment we have from the renewed Tribunal's members and staff, I am confident that we will continue to achieve this outcome.

Tribunal performance and other developments in 2014–15

While the AAT necessarily focused on work associated with the amalgamation, we continued to deliver high-quality merits review in 2014–15.

Total lodgements in 2014–15 were some nine per cent lower than in 2013–14. The most significant change was a 50 per cent decrease in applications in the taxation jurisdiction. We did, however, experience a further increase in the number of applications for review of decisions about family assistance and social security decisions, reflecting higher numbers of applications dealt with in the SSAT in 2014–15. Two levels of merits review will continue to be available in the amalgamated AAT for these types of decisions and the Tribunal will monitor closely whether there is any change in the proportion of applications for second review under the new arrangements.

The AAT maintained its output in 2014–15, finalising the same number of applications as in 2013–14. We continued to meet our two key performance targets, resolving 80 per cent of applications without a hearing and finalising 78 per cent of applications within 12 months

of lodgement. These results were achieved despite uncertainties relating to the future and some changes in the membership during the year.

The AAT is committed to improving the effectiveness and efficiency of our review processes and there were two key developments in relation to our case management practices during the reporting year. Firstly, an Integrated Dispute Resolution Working Group was established to identify opportunities for improving how we manage cases with a particular focus on ensuring members, Conference Registrars and registry staff work together as effectively as possible during the review process. In March 2015, pilots commenced in the Adelaide and Sydney Registries for a team approach to the early assessment of social security applications to identify and implement the appropriate review pathway. The pilots will continue in 2015–16. Secondly, Deputy President Philip Hack SC led the development of a set of nationally consistent procedures that will apply to cases in the AAT's new Taxation and Commercial Division from 1 July 2015. Consultation with user groups held around Australia indicated support for the proposed model. This will involve a member managing most cases from lodgement to finalisation and identifying with the parties the case management strategy that will most effectively deal with the real issues in dispute, including, where possible, by resolving the matter by agreement through the use of alternative dispute resolution.

Our people

The AAT is a strong and high-performing organisation because of its people. As always is the case, it is very awkward to single out anyone for special mention but the past twelve months have seen a number of the AAT's most valued and long-serving members, each with 10 years or greater service, depart. All were valued colleagues who made significant contributions to the jurisprudence of the Tribunal.

Deputy President Stan Hotop who was first appointed in 1991 as a part-time member retired as the full-time Executive Deputy President in Perth after 24 years of service.

Deputy President Robin Handley, initially appointed as a Senior Member and most recently as Executive Deputy President in Sydney, retired after 11 years of service over a period of 16 years; Deputy President Ray Groom retired after a decade as Executive Deputy President in Hobart; Senior Member Graham Friedman departed after 14 years of service, first as a full-time Member and then as a full-time Senior Member; Senior Member Graham Kenny departed after 13 years of service, first as a part-time Member and later as a part-time Senior Member; Member Professor Graham Johnston was also first appointed in 1991 and retired in 2014 after 23 years of service; Member Professor Tania Sourdin departed with 13 years of service and Senior Member Steven Penglis and Member Brigadier (Dr) Graham Maynard (ret'd) departed, each having contributed 10 years of service.

A number of other members departed during the year who also made valued contributions to the work of the AAT: Senior Member Anne Britton; Senior Member Robin Creyke; Senior Member Dean Letcher QC; Senior Member Jan Redfern; Member Dr Roslyn Blakley; Member Dr Jan Chaney; Member Dr Amanda Frazer; Member Dr Hadia Haikal-Mukhtar; Member Kathryn Hogan; Member Mark Hyman; Member Dr Roderick McRae; Member Professor Peter Reilly AO and Member Dr Peter Wulf.

It was with sadness that we learnt of the passing of Alfred Argent, a former part-time Member in Melbourne, who died in September 2014. In April of this year we learnt of the death of former judge of the High Court of Australia and Federal Court of Australia John Toohey AC QC. He was appointed a presidential member of the AAT in 1980 while serving as a judge of the Federal Court and remained so until his appointment to the High Court in 1987.

We have also welcomed several new members in 2014–15, including a number of judges who I am delighted have accepted an additional commission as a judicial member of the Tribunal. While the number of matters determined by the AAT as constituted by one or more judicial members makes up only a small percentage of our total cases, it is a

great strength to have that option where the significance of a matter warrants it. I remain committed to increasing the utilisation of judicial members for reasons that were originally articulated by the Tribunal's initial President, Brennan J.

We also welcomed the important appointments of Deputy Presidents Gary Humphries, Christopher Kendall and Greg Melick in Canberra, Perth and Hobart respectively. A full list of appointments and reappointments made during the reporting year is detailed in Appendix 1 of this report.



Gathered at the ceremonial sitting of the amalgamated Administrative Appeals Tribunal on 1 July 2015 were five Presidents of the Tribunal: the Hon Acting Justice Jane Mathews AO, the Hon Sir Gerard Brennan AC KBE QC, the Hon Daryl Davies QC, the Hon Justice Kerr and the Hon Garry Downes AM QC.

Registrar's review



It is an exciting and challenging time to be Registrar of the AAT. As a result of the amalgamation on 1 July 2015, we will become a significantly larger agency, with our caseload expected to increase by around 500 per cent, and our members and staff numbers increasing by approximately 250 per cent.

As I only commenced in the role of Registrar in April 2015, I wish simply to add my thanks and congratulations to those responsible for the excellent work undertaken in the 12 months preceding amalgamation. The smooth transition on 1 July 2015 is largely the result of the thorough planning, coordination and goodwill demonstrated by members and staff of the AAT, MRT-RRT and SSAT in the lead up to amalgamation.

Unsurprisingly, a key focus for the reporting year was the work associated with the amalgamation of the tribunals and, in particular, the work required to bring together the people and systems of the AAT, MRT-RRT and SSAT. Staff of the AAT worked closely

with colleagues in the MRT-RRT and SSAT and with officers of the Attorney-General's Department in a number of working groups to progress activities in a wide range of areas.

Extensive work took place in the following key areas to ensure the smooth transition to an amalgamated tribunal.

- **Our users and stakeholders**

Considerable efforts were made to ensure that the amalgamation was as seamless as possible for our users. Targeted communications were issued to existing review applicants and key agencies towards the end of 2014–15, to ensure they were aware of the upcoming changes. A single 1800 telephone number was activated from 1 July 2015, so that users could contact all divisions of the AAT via a single contact number. Arrangements were also put in place to ensure that every registry was in a position to receive any application lodged, irrespective of the division to which the application relates.

- **Our people**

In the lead up to amalgamation, there was strong engagement with members and staff from across the tribunals to communicate the nature and extent of the upcoming changes and the impact that amalgamation would have on day-to-day operations. These communication activities were complemented by the delivery of targeted training to assist managers and staff in dealing with the challenges associated with change.

- **Our systems**

The IT networks of the AAT, MRT-RRT and SSAT have now been integrated so that all key applications used by the various divisions and Principal Registry can be accessed from all sites. Significant progress has also been made on transitioning the entire AAT workforce onto a single human resource management system.

A new organisational structure has been developed and implemented to ensure the successful integration and delivery of corporate services and to support the work of our divisions. We are now well advanced in developing integrated budgeting and financial management arrangements, including an Audit and Risk Committee that can serve the amalgamated AAT.

- **Our information resources**

In the lead up to amalgamation, a new corporate brand was developed for the amalgamated AAT and has been in use from 1 July 2015. Drawing upon the branding, a new website was created to explain the operations of the amalgamated AAT while continuing to maintain access to the information and resources developed by the former tribunals. Furthermore, from 1 July 2015, all AAT members and staff have been able to access a single intranet, which will increasingly become a site for collaboration and internal information sharing across the divisions and Principal Registry.

- **Our workplace**

Having inherited 15 separate workplace sites on 1 July 2015, an important aspect of amalgamation will be the consolidation and rationalisation of our property portfolio. To support this work, a property masterplan has been developed to guide the creation of workplaces that effectively meet the needs of our members, staff and users into the future. Work is now well advanced on the co-location of offices in Sydney and Perth, with Brisbane expected to follow by the end of 2015–16.

Budget & 2014–15 financial result

At the end of financial year 2014–15, the Tribunal recorded an operating surplus of \$2.970 million, prior to depreciation charges and revaluations. The surplus is largely attributable to the appointment of fewer members than anticipated and lower than expected numbers of review applications relating to the National Disability Insurance Scheme. There will need to be a continued focus on strong budget management, particularly in light of the anticipated savings associated with the amalgamation.

Looking ahead

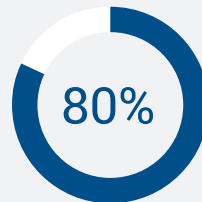
Work is already under way on the development of a strategic plan for the amalgamated AAT. This plan will identify our key priorities over the coming years and outline how the organisation will support the continued delivery of high-quality, effective and efficient merits review. The next year will also see the implementation of new governance arrangements as part of the creation of a single integrated organisation.

People and acknowledgements

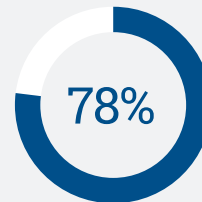
During the reporting period there were a number of key staff changes in the Tribunal. I would like to particularly acknowledge the former Registrar of the AAT, Philip Kellow, and the former Executive Director Operations, Nerrilee Cuthbertson, who ably filled my role before I commenced in April. I would also like to extend my thanks to the President for his leadership during this critical period, and to all of the members and staff of the former tribunals for the constructive way in which they approached the task of amalgamation.

I look forward to working with all of the members and staff of the amalgamated AAT to create and deliver an integrated, client-focused and high-performing Tribunal.

2014–15 highlights and achievements



applications
finalised other
than by way of a
decision following
a hearing



applications
finalised within
12 months of
lodgement

Our users – to provide a high-quality independent merits review process that is fair, just, economical, informal and quick

- We worked closely with the Attorney-General's Department and the MRT-RRT and SSAT on the legislative changes required to give effect to the Government's decision to amalgamate the tribunals from 1 July 2015. They included amendments which support more effective and efficient dispute resolution processes.
- The AAT, MRT-RRT and SSAT collaborated to produce revised practice directions, guides, guidelines and forms for the amalgamated AAT to take effect from 1 July 2015.
- We developed and consulted users on a *Review of Taxation and Commercial Decisions Practice Direction* which sets out a new approach to managing these types of cases from 1 July 2015.
- An Integrated Dispute Resolution Working Group was established and commenced two pilots for a team approach to the early assessment of social security applications.
- We implemented a mobile and tablet friendly version of our website and ReadSpeaker text-to-speech software to enhance the accessibility of our website.
- The AAT, MRT-RRT and SSAT worked together on the development of a new website for the amalgamated AAT and implemented coordinated contact arrangements from 1 July 2015.

Our relationships – to engage effectively with government, tribunals, the legal profession and other interested organisations in Australia and internationally

- We engaged extensively with the Attorney-General's Department, the MRT-RRT and SSAT and their portfolio departments in relation to the establishment of the amalgamated AAT.
- AAT members and staff continued to be active participants in the Council of Australasian Tribunals and other forums, and gave presentations at a wide range of conferences and seminars.
- We welcomed a number of international visitors to the AAT, including hosting with the Federal Court of Australia the first judge to visit the Oceania region under a judges' exchange program introduced by the International Association of Supreme Administrative Jurisdictions.
- The tenth annual Mooting Competition and the second Negotiating Outcomes on Time Competition were held, giving Australian university students a comprehensive experience of the administrative review process at the AAT.
- We offered a significant number of internship and work experience placements.

Our organisation – to manage our resources strategically and effectively

- We worked closely with the MRT-RRT and SSAT to plan for, and commence implementation of, coordinated approaches to financial and human resources management, information technology, library and information services, property and security for the amalgamated AAT.
- The Long Term Accommodation Masterplan was developed for the amalgamated AAT and progress was made on planning for co-location of our offices over coming years.
- We pursued projects to improve the management of our administrative records.
- We enhanced our IT systems to improve security compliance and network management activities and to improve the robustness of our electronic case management system, TRACS.

Our people – to maintain a professional, productive, rewarding and safe workplace

- Learning and development programs were delivered to assist members and staff prepare for and deal with the changes associated with the amalgamation and a range of communication channels were used to keep members and staff informed about developments relating to the amalgamation.
- Ongoing training was provided for members and staff in relation to the AAT's National Disability Insurance Scheme jurisdiction.
- We developed our relationship with the National Judicial College of Australia and worked with them to pilot a program for tribunal members on understanding and engaging people in tribunal hearings.

