



Administrative  
Appeals  
Tribunal

ANNUAL REPORT

2007—08

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Administrative Appeals Tribunal


PRESIDENT'S CHAMBERS  
The Hon Justice Garry Downes AM

19 September 2008

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 2008.

yours faithfully,  


GARRY DOWNES

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## READER'S GUIDE

The purpose of this Annual Report is to inform the Attorney-General, the Parliament, Tribunal users and the general public about the performance of the Administrative Appeals Tribunal during the period 1 July 2007 to 30 June 2008.

The Tribunal's Organisational Plan 2007–08 sets out key result areas, goals and strategies that are linked to the outcome specified for the Tribunal in the Portfolio Budget Statements. That outcome is:

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

This report provides information on the Tribunal's performance in relation to this outcome and each of the key result areas identified in the Organisational Plan.

### CHAPTER 1: THE YEAR IN REVIEW

Chapter 1 comprises the President's overview and the Registrar's report. These two reports highlight significant events, issues and developments during the reporting year. Chapter 1 also includes the Tribunal's Organisational Plan for 2007–08 and a statement of achievements against the plan.

### CHAPTER 2: OVERVIEW OF THE TRIBUNAL

Chapter 2 sets out basic information about the Tribunal's role, functions and powers. It includes information about the Tribunal's members and staff, its organisational structure, case management process and the accessibility of the Tribunal.

### CHAPTER 3: WORKLOAD AND PERFORMANCE

Chapter 3 provides information and commentary on the Tribunal's workload and performance. It sets out summary statistical information on applications lodged and finalised in the reporting year and the number of applications on hand at 30 June 2008. It contains information on the Tribunal's performance in relation to the targets specified in the Portfolio Budget Statements and its performance against internal time standards. It also sets out information on complaints about the Tribunal and external scrutiny of the Tribunal's decisions and operations.

### CHAPTER 4: OUR USERS AND OUR PARTNERS

Chapter 4 contains information on the achievement of the goals set out in the Tribunal's Organisational Plan in relation to its users and partners. It includes information on the initiatives undertaken during the reporting year to improve the Tribunal's practices and procedures and to better meet the needs of users. This chapter also provides information on the Tribunal's relationships with other organisations and the various activities undertaken during 2007–08 to increase awareness and understanding of the Tribunal and its role.

## CHAPTER 5: OUR PEOPLE AND OUR ORGANISATION

Chapter 5 provides information on the achievement of the goals set out in the Tribunal's Organisational Plan in relation to its people and the organisation. It also contains a range of other information relating to human resource management within the Tribunal and the administration of the Tribunal generally.

The audited financial statements of the Tribunal are set out after Chapter 5, commencing at page 55. There are also ten appendixes which include more detailed information on aspects of the Tribunal and its operations. They include profiles of the Tribunal's members, more detailed statistical information on the Tribunal's workload and performance and summaries of decisions of interest. A complete list of appendixes is provided in the table of contents


The following tools may assist in finding information in this report — the table of contents at page iv, a compliance index at page 162 and an alphabetical index at page 165.

An electronic version of this Annual Report is available from the Tribunal's website at [www.aat.gov.au/CorporatePublications/AnnualReport.htm](http://www.aat.gov.au/CorporatePublications/AnnualReport.htm). Further information about the Tribunal is available from the Tribunal's homepage, at [www.aat.gov.au](http://www.aat.gov.au)


Enquiries, comments or requests for further information about this Annual Report may be addressed to:

Registrar  
Principal Registry  
Administrative Appeals Tribunal  
GPO Box 9955  
SYDNEY NSW 2001

Telephone: (02) 9391 2491  
Fax: (02) 9391 2578  
Email: [annrep@aat.gov.au](mailto:annrep@aat.gov.au)



Chapter 1:  
The year in review



## PRESIDENT'S OVERVIEW



The Tribunal must provide a merits review process that is fair, just, economical, informal and quick. In pursuing this objective, the Tribunal makes extensive use of alternative dispute

resolution processes, assisting the parties to reach an agreed outcome where possible. It hears and decides those matters that do not settle. The overriding goal is to ensure that the correct or preferable decision is made in each application.

The Tribunal undertook a range of activities during 2007–08 that were focused on enhancing the effectiveness of the review process. Developments occurred in relation to aspects of practice and procedure and there was a continued commitment to the professional development of the Tribunal's members and staff.

The Tribunal provides services to people throughout Australia. Members and staff are located in Adelaide, Brisbane, Canberra, Hobart, Melbourne, Perth and Sydney. During my time as President, I have been keen to ensure that the Tribunal operates consistently across the country. One way of promoting this is to encourage communication between members and staff in different cities.

The Tribunal held its National Conference in October 2007. Held every two years, the conference allows members and senior staff to come together to discuss the way in which the Tribunal goes about its work and to undertake continuing education in specific areas of law and practice. It also provides an invaluable opportunity to build relationships and networks which facilitate improved communication on an ongoing basis.

The National Conference is but one aspect of the Tribunal's comprehensive professional development program for members. It also includes induction, mentoring and a peer review appraisal scheme. During 2007–08, the Tribunal undertook the first set of

appraisals. The process combines self-assessment with an appraisal by another Tribunal member against the framework of competencies for members that the Tribunal has developed. Appraisal offers members an opportunity to reflect on their current performance and identify areas for further training or development that would assist to improve their effectiveness. Informal feedback to date suggests that both appraisers and appraisees are finding the process a useful and positive experience.

As I noted in last year's Annual Report, the Tribunal is conducting a review over time of practice and procedure in each of its major areas of jurisdiction. Each review will culminate in the publication of a guide that explains how the Tribunal manages cases in that particular jurisdiction. The Tribunal completed its review of the social security jurisdiction during the reporting year with the release of the Guide to the Social Security Jurisdiction in April 2008. The guide will assist parties and their representatives to understand how the Tribunal operates and what is expected of them during the review process.

The release of the jurisdictional guides is one part of a wider review of the way in which the Tribunal communicates with its users. The Tribunal engaged a communications specialist in late 2007 to assist with the revision of its key information products and to ensure that Tribunal communications have a consistent and professional look. A considerable amount of work has been undertaken in the first half of 2008 which will result in a progressive rollout of revised products in the next reporting period. Users will benefit from clear and helpful information about the Tribunal and what it does.

The people and organisations who use the Tribunal's services are at the centre of its operations. The Tribunal values feedback from users about their experience of the review process. The Tribunal has recently engaged a consultant to undertake a user satisfaction



survey which replicates a survey conducted in 2005. Surveys have been sent to over 4,000 individuals and telephone surveys have been conducted with staff of government agencies and legal representatives who deal with the Tribunal on a regular basis. The results of the survey will be available shortly. They will provide a welcome opportunity to learn more about how the Tribunal's services are perceived and areas in which improvements may be needed.

The Tribunal has continued to work closely with the other Commonwealth merits review tribunals and the Council of Australasian Tribunals during the reporting year. The Tribunal has also strengthened its relationships with international administrative law bodies. In particular, I am pleased to report that the Hon Michael Black AC, Chief Justice of the Federal Court of Australia, and I became the Presidents of the International Association of Supreme Administrative Jurisdictions in November 2007. This body, established in the early 1980s, has as its purpose the strengthening of the rule of law through exchanges of ideas and experience between the members of organisations that adjudicate in the area of administrative law. The Federal Court and the Tribunal will co-host the next congress of the association which is to be held in March 2010. Planning for the congress is underway. It will provide a unique opportunity not only to showcase the sophisticated system of administrative law that exists in Australia but also to reflect on our system in light of what we learn about how other countries deal with similar issues and problems.

There have been a number of membership changes during 2007–08. The Tribunal welcomed the appointment of three distinguished lawyers. Dr Bruce McPherson CBE, formerly a judge of the Queensland Court of Appeal and Mr Robert Nicholson AO, a former judge of the Federal Court of Australia, were appointed as part-time Deputy Presidents. Mr Steve Karas AO, the former Principal Member of the Migration Review Tribunal and Refugee Review Tribunal, was appointed as a part-time Senior Member. I am also pleased to note that

Deputy President Graham McDonald has returned to the Tribunal after seven and a half years as Chairperson of the Superannuation Complaints Tribunal. His depth of knowledge and experience are of great benefit to the Tribunal.

The Tribunal farewelled a number of valued members during the reporting period. In particular, I would like to acknowledge the significant contributions made by Dr Rodney Purvis AM QC, Dr Ted Christie, Associate Professor Bruce Davis AM and Brigadier Ian Way (Rtd), each of whom was an active member of the Tribunal for over 15 years. I would also like to thank Mr Howard Olney AM QC, Emeritus Professor Ivan Shearer AM RFD and Mr Michael Griffin for the valuable work they undertook during their time with the Tribunal.

Sian Leathem, the Tribunal's Assistant Registrar since 2004, resigned during the year to take up an appointment as Registrar of the New South Wales Workers Compensation Commission. Ms Leathem brought skill, enthusiasm and warmth to her role and made a significant contribution to the quality of the Tribunal's administration. Our new Assistant Registrar, Megan Cassidy, was appointed in September 2007.

I am also pleased to record that the Tribunal's Registrar, Doug Humphreys, has been reappointed to that role for a further five-year term. His second term commences in August 2008. The Tribunal will continue to receive the benefit of his considerable skills and experience.

As I do each year, I would like to acknowledge the excellent work done by the Tribunal's members and staff. Their skill, professionalism and commitment to the Tribunal's mission are essential to ensuring the Tribunal provides a review process that is accessible for our users and of the highest quality.



Garry Downes

## REGISTRAR'S REPORT



This past year has been a year of consolidation in many areas for the Tribunal.

The Tribunal undertook a member/staff survey. Members and staff were given the opportunity to

express their views on the Tribunal as an employer and organisation. The survey produced very positive results. On average, the level of satisfaction among Tribunal members and staff is higher than that recorded for small agencies generally in the annual Australian Public Service Commission's "State of the Service" survey. The results of the survey will help us to make improvements in our workplace.

We have also conducted a comprehensive user survey. The last user survey was conducted three years ago. The survey asks individual applicants, legal representatives and officers of decision-making agencies for feedback on their experience with the Tribunal. The results of the survey will be available in the next reporting period. They will help us identify areas in relation to which we are meeting or hopefully exceeding expectations and those areas where we need to improve our performance.

Work continues on developing the capabilities of our case management system, TRACS. We are looking forward to the introduction of further improvements for users as funds permit. I would like to acknowledge the work of the Tribunal's IT section which has strived to maintain and improve the complex IT and communications systems of the Tribunal.

In early 2008, the Tribunal was pleased to host two IT staff from the Administrative Court of Thailand. Tom and Lee spent three months with the Tribunal under an AusAID Fellowships program. They gained an in-depth understanding of the Tribunal as a whole and its IT systems in particular. This knowledge will assist the Thai Court to further develop its own systems to better suit its particular needs. The Tribunal is committed to further projects with the court as opportunities arise. The relationship between the Tribunal and the Thai Court is very strong and will continue to grow.

On the property front, we have completed a refurbishment in Melbourne that has added to the amenity of the facilities. Delays have been experienced with planning for a proposed refurbishment in Adelaide. These obstacles have now been overcome and I expect to see this project completed in 2008–09.

The Tribunal continues to work to extract maximum value for the taxpayer dollar from our property investment. This year, the Tribunal hosted in our New South Wales Registry the Equine Influenza Inquiry, headed by Commissioner Callinan. The HMAS Sydney II Commission of Inquiry opened its hearings in our New South Wales Registry and will use the Registry when public hearings are held later in 2008. We have also welcomed the Veterans' Review Board in our Australian Capital Territory and South Australian Registries. It is using Tribunal facilities to conduct hearings. Arrangements for hosting Migration Review Tribunal/Refugee Review Tribunal members and hearings in Adelaide, Brisbane and Perth continue as does the provision of office space to the National Native Title Tribunal in Adelaide. These arrangements provide considerable savings on a whole of government basis.

This year has seen the departure of our Queensland District Registrar, Heather Baldwin, who has returned to the Federal Court in Brisbane. Sadly, Sian Leathem, our Assistant Registrar, resigned to take up the position of Registrar of the New South Wales Workers Compensation Commission. We wish her well in this important position. In turn, we have welcomed the promotion of Megan Cassidy to the position of Assistant Registrar. Megan previously worked in the Tribunal's Policy and Research Section and brings a wealth of experience to her new role.

The members and staff of the Tribunal are its greatest asset. I thank them for their commitment and contribution to the work of the Tribunal in the last 12 months.

Doug Humphreys

**Chart 1.1** Administrative Appeals Tribunal 2007–08 Organisational Plan and Statement of Achievements

Our Vision		Our Mission	Our Values		
<p>To improve the quality of administrative decision-making through the provision of a review mechanism that is fair, just, economical, informal and quick.</p>		<p>To deliver high-quality independent merits review of administrative decisions in a timely fashion using alternative dispute resolution processes where appropriate.</p>	<p>Integrity Professionalism Efficiency Accessibility Independence</p>		
Key Result Area	Goals	Strategies	Key Targets	Outcomes	Achievements
<b>OUR USERS</b>	<p>To provide a high-quality national merits review process that contributes to community confidence in a system of open and accountable government.</p>	<ul style="list-style-type: none"> <li>• Make full use of ADR powers.</li> <li>• Continue to review case management practices and procedures.</li> <li>• Review the way in which the AAT communicates with its users and the public.</li> <li>• Seek and respond appropriately to feedback from users.</li> </ul>	<ul style="list-style-type: none"> <li>• Publish the Guide to the Social Security Jurisdiction.</li> <li>• Issue guidelines relating to expert evidence in the Tribunal.</li> <li>• Issue practice direction on taxation of costs.</li> <li>• Finalise communication strategy and commence implementation.</li> <li>• Complete review of standard correspondence.</li> <li>• Conduct user survey.</li> <li>• Conduct regular liaison meetings.</li> </ul>	<ul style="list-style-type: none"> <li>• Australians have equitable access to fair, just, economical, informal and quick merits review.</li> <li>• Processes are monitored and improved.</li> <li>• Tribunal communicates effectively with its users and the public.</li> <li>• Tribunal decision-making informed by user feedback.</li> </ul>	<ul style="list-style-type: none"> <li>• Guide to the Social Security Jurisdiction published in April 2008.</li> <li>• Draft expert evidence guidelines in development – to be released for comment in 2008–09.</li> <li>• Draft practice direction on taxation of costs to be released for comment in 2008–09.</li> <li>• Communications Project Officer employed.</li> <li>• Revision of Tribunal information products underway.</li> <li>• Review of standard correspondence completed.</li> <li>• User survey being undertaken. Results available in 2008–09.</li> <li>• Liaison meetings held in each Registry.</li> </ul>

Chart 1.1 Administrative Appeals Tribunal 2007–08 Organisational Plan and Statement of Achievements (Continued)

Key Result Area	Goals	Strategies	Key Targets	Outcomes	Achievements
<b>OUR PEOPLE</b>	To maintain professional standards and a positive, safe and productive workplace that values diversity.	<ul style="list-style-type: none"> <li>Maintain occupational health and safety practices.</li> <li>Maintain and promote employment diversity strategies.</li> <li>Provide and support enhanced learning and development opportunities for members and staff.</li> <li>Seek, and respond appropriately to, feedback from members and staff.</li> </ul>	<ul style="list-style-type: none"> <li>Maintain low level of workplace injuries.</li> <li>Continue and enhance Indigenous employment program.</li> <li>Complete revision of staff induction program.</li> <li>Maintain ongoing learning and development program.</li> <li>Hold biennial national conference.</li> <li>Undertake member/staff survey.</li> </ul>	<ul style="list-style-type: none"> <li>Appropriate workplace policies in all areas.</li> <li>We have a healthy and safe working environment.</li> <li>Increase in Indigenous employee numbers.</li> <li>New staff participate in a high-quality induction.</li> <li>Members and staff have the skills, knowledge and commitment to deliver high-quality services.</li> <li>Obtain organisational feedback from staff/members.</li> </ul>	<ul style="list-style-type: none"> <li>Low level of injuries being maintained. No major injuries reported for 2007–08.</li> <li>New ATSI trainee recruited for 12-month period.</li> <li>Diversity plan reviewed.</li> <li>Staff induction program revised.</li> <li>Training and development activities approved as funding allows.</li> <li>WebEx Online system introduced to enhance training on case management system.</li> <li>National conference held in October 2007.</li> <li>Member/staff survey completed. Results provided to members and staff.</li> </ul>

Chart 1.1 Administrative Appeals Tribunal 2007–08 Organisational Plan and Statement of Achievements (Continued)

Key Result Area	Goals	Strategies	Key Targets	Outcomes	Achievements
<b>OUR ORGANISATION</b>	To be an organisation with systems and processes that maximise effective and efficient use of Tribunal resources.	<ul style="list-style-type: none"> <li>Improve accommodation in order to meet AAT current and future needs.</li> <li>Improve IT systems.</li> <li>Improve resources management.</li> <li>Minimise exposure to system or other risks, fire or natural disaster.</li> </ul>	<ul style="list-style-type: none"> <li>Undertake refurbishment in Melbourne and Adelaide.</li> <li>Continue improvements to Tribunal's electronic case management system, TRACS.</li> <li>Identify and let tenders for IT replacement systems in Human Resources and Finance areas.</li> <li>Implement further ACSI-33 compliance measures.</li> <li>Implement agreed security review recommendations.</li> </ul>	<ul style="list-style-type: none"> <li>Accommodation and facilities meet user needs.</li> <li>Planning and organisational decisions are based on timely and accurate information.</li> <li>IT and other systems and processes allow staff to work more efficiently and provide high-quality service.</li> </ul>	<ul style="list-style-type: none"> <li>Melbourne refurbishment complete. Adelaide scope of works agreed and project proceeding. Completion expected in late 2008.</li> <li>Several enhancements to TRACS implemented. Historical data loaded in TRACS.</li> <li>TRACS Super Users formally appointed in all Registries.</li> <li>Tribunal joined with other agencies to request tenders for new Human Resources System.</li> <li>New IT Strategy presented and released internally for comment.</li> <li>New telecommunications tender placed – responses being evaluated.</li> <li>Scope of work for ACSI-33 compliance and security enhancements identified and being implemented as funding allows.</li> </ul>

Chart 1.1 Administrative Appeals Tribunal 2007–08 Organisational Plan and Statement of Achievements (Continued)

Key Result Area	Goals	Strategies	Key Targets	Outcomes	Achievements
<b>OUR PARTNERS</b>	To cooperate with government, other tribunals, the legal profession and other interested groups.	<ul style="list-style-type: none"> <li>Develop and enhance our links with government, other tribunals and our partners in administrative review.</li> <li>Develop links with universities and law education providers.</li> </ul>	<ul style="list-style-type: none"> <li>Participate fully and provide expert advice to government and legal forums relevant to the work of the AAT.</li> <li>Continue resource sharing arrangements with courts and tribunals.</li> <li>Continue AAT moot competition.</li> <li>Participate in conferences and training relevant to the work of the AAT.</li> <li>Continue cooperative work with overseas bodies.</li> </ul>	<ul style="list-style-type: none"> <li>Legislators and policy makers value the Tribunal's expertise on matters of administrative review.</li> <li>Better understanding of the AAT and its role in the administrative decision-making process.</li> <li>Government and other tribunals view the AAT as a centre of excellence in administrative review.</li> <li>Improved links with overseas bodies that have similar functions to the AAT.</li> </ul>	<ul style="list-style-type: none"> <li>Submissions made and information provided on a range of matters relating to the Tribunal and its role.</li> <li>Tribunal hosted Equine Influenza Inquiry and pursued resource sharing arrangements with the Veterans' Review Board.</li> <li>Moot competition conducted.</li> <li>Tribunal members and staff arranged and participated in a range of conferences, seminars and training activities.</li> <li>Three-month placement undertaken by two officers from the Administrative Court of Thailand under AusAID Fellowships program.</li> <li>Work underway on hosting IASAJ 2010 congress.</li> </ul>



## Chapter 2: Overview of the Tribunal

The role of the Tribunal is to provide independent merits review of administrative decisions. The Tribunal aims to provide a mechanism of review 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 1975* and the *Administrative Appeals Tribunal Regulations 1976* set out the Tribunal's powers, functions and procedures.

## FUNCTIONS AND POWERS

### Review of decisions

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

Merits review of an administrative decision involves its reconsideration. On the facts before it, the Tribunal decides whether the correct – or, in a discretionary area, the preferable – decision has been made in accordance with the applicable law. 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. In some cases, the Tribunal cannot review a decision until an internal review has been conducted by the person or body that made the primary decision. In other cases, review by the Tribunal is only available after intermediate review by a specialist tribunal. For example, in relation to family assistance and social security decisions, an application may be made to the Tribunal only after review by the Social Security Appeals Tribunal.

Section 33 of the *Administrative Appeals Tribunal Act 1975* 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 provides specifically that the decision is subject to review by the Tribunal. Jurisdiction is generally conferred by the enactment under which the reviewable decision was made.

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

Changes to the Tribunal's jurisdiction during the reporting year are set out in Appendix 5.

## ORGANISATION

The Tribunal consists of the President, other presidential members (who may be judges or Deputy Presidents), Senior Members and Members. The members exercise powers in Divisions which include the General Administrative Division, Security Appeals Division, Taxation Appeals Division and Veterans' Appeals Division.

Staff members are employed under the *Public Service Act 1999* to assist the Tribunal to carry out its functions.



The President, with the assistance of the Registrar, is responsible for the management of the Tribunal and its resources. The President has established a number of committees comprising Tribunal members and senior staff to provide advice and assistance in specific areas. Principal Registry managers and District Registrars also provide policy advice and operational assistance.

The Tribunal's Principal Registry is located in Brisbane and Sydney. The Tribunal has registry facilities in all capital cities. The Northern Territory is currently managed from Brisbane.

The President and Registrar are located in Sydney.

## MEMBERSHIP

### President

The Hon Justice Garry Downes AM was appointed as a judge of the Federal Court of Australia on 2 April 2002. On that day, Justice Downes was also appointed Acting President of the Tribunal. On 16 May 2005, he was appointed as President of the Tribunal for a period of seven years.

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

### Membership of the Tribunal

The qualification requirements for the different categories of members are set out in the *Administrative Appeals Tribunal Act 1975*.

### Presidential members

Judges of the Federal Court and the Family Court of Australia 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 skill relevant to the duties of a Senior Member.

### Members

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

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.

As at 30 June 2008, the Tribunal's membership totalled 87. The number of full-time and part-time members in each category is set out in Table 2.1.

Appendix 1 contains a list of the Tribunal's members by State and Territory and shows the Divisions to which each non-presidential member was assigned as at 30 June 2008.

**Table 2.1** Tribunal membership as at 30 June 2008

Category of member	Judges	Full-time	Part-time	Total (Women)
President	1			1 (0)
Presidential members:				
Federal Court judges	11			11 (1)
Family Court judges	5			5 (2)
Deputy Presidents		6	5	11 (1)
Senior Members		9	12	21 (8)
Members		3	35	38 (7)
<b>Total</b>	<b>17</b>	<b>18</b>	<b>52</b>	<b>87 (19)</b>

Appendix 1 also contains a profile of each of the Tribunal's members other than judges of the Federal Court and Family Court.

## REGISTRAR AND ASSISTANT REGISTRAR

The Tribunal's Registrar is Doug Humphreys. He was appointed as Registrar on 25 August 2003. In June 2008, Mr Humphreys was reappointed for a further term of five years which is to commence on 25 August 2008.

The Registrar assists the President to manage the Tribunal and advises on its operations and performance. The Registrar may act on behalf of the President in relation to the administrative affairs 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 1999* and is responsible for the employment of the Tribunal's staff on behalf of the Commonwealth. The Registrar is also the Chief Executive for the purposes of the *Financial Management and Accountability Act 1997*.

The Registrar is assisted by the Assistant Registrar and senior officers in the Principal Registry and District Registries.



The Tribunal's Assistant Registrar until August 2007 was Sian Leatham. Megan Cassidy (left) was appointed as Assistant Registrar in September 2007. The Assistant

Registrar holds office as a senior executive in the Australian Public Service.

## STAFF

Tribunal staff members are employed under the *Public Service Act 1999* as ongoing, non-ongoing or intermittent employees. As at 30 June 2008, a total of 161 staff members were employed by the Tribunal.

Appendix 2 lists:

- numbers of ongoing, non-ongoing and intermittent staff of each classification in each Registry; and
- numbers of ongoing employees who fall into each equal employment opportunity category, where staff members have provided this information.

## REGISTRIES

### Principal Registry

Principal Registry staff members provide advice and assistance to the President and the Registrar as well as a range of services for Tribunal 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 members are located in Brisbane, Sydney and Melbourne. Frequent and regular communication between staff members is maintained via email, telephone and video conferences and periodic face-to-face meetings.

### District Registries

District Registries are located in each capital city. The registry service in Tasmania is provided by the Federal Court. The Queensland Registry manages Northern Territory applications and is responsible for ensuring an effective level of service to Northern Territory residents.

In each Registry, a Deputy President or Senior Member has been appointed as the State or Territory Coordinator. The Coordinator and the District Registrar are responsible for local registry management.

Conference Registrars conduct the bulk of the pre-hearing conferences in all District Registries with the exception of Tasmania, where the District Registrar performs that role. Conference Registrars also conduct other alternative dispute resolution (ADR) processes.

District Registry staff are responsible for:

- providing information to parties and their representatives as well as to the general public on the operation and procedures of the Tribunal;
- processing documents;
- facilitating the listing and conduct of conferences, other ADR processes and hearings; and
- providing administrative and other support services to members.

Table 2.2 identifies the State and Territory Coordinators as at 30 June 2008.

Information on the administrative structure of the Tribunal, including the names of senior staff as at 30 June 2008, is set out in Figure 2.3.

## TRIBUNAL COMMITTEES

The President has established a number of committees that provide advice and assistance in relation to aspects of the management of the Tribunal. A brief description of the role and membership of each committee is set out below.

The **Alternative Dispute Resolution Committee** is responsible for overseeing the use of ADR processes in the Tribunal, including the development of policies and guidelines concerning their use. The committee comprises the President and a group of members and senior staff with experience in ADR.

The **Library Committee** considers issues relating to the Tribunal's information needs and oversees the Tribunal's collection development policy. It comprises the President, a diverse group of members from different Tribunal Registries, the Registrar, the Assistant Registrar and the Principal Registry Librarian.

The **Practice and Procedure Committee** deals with practice and procedure issues and, in particular, proposals to improve the way in which the Tribunal manages applications for review. The committee comprises the President, the State and Territory Coordinators, the Registrar, the Assistant Registrar, the District Registrar from each Tribunal Registry and a representative of the Tribunal's Conference Registrars.

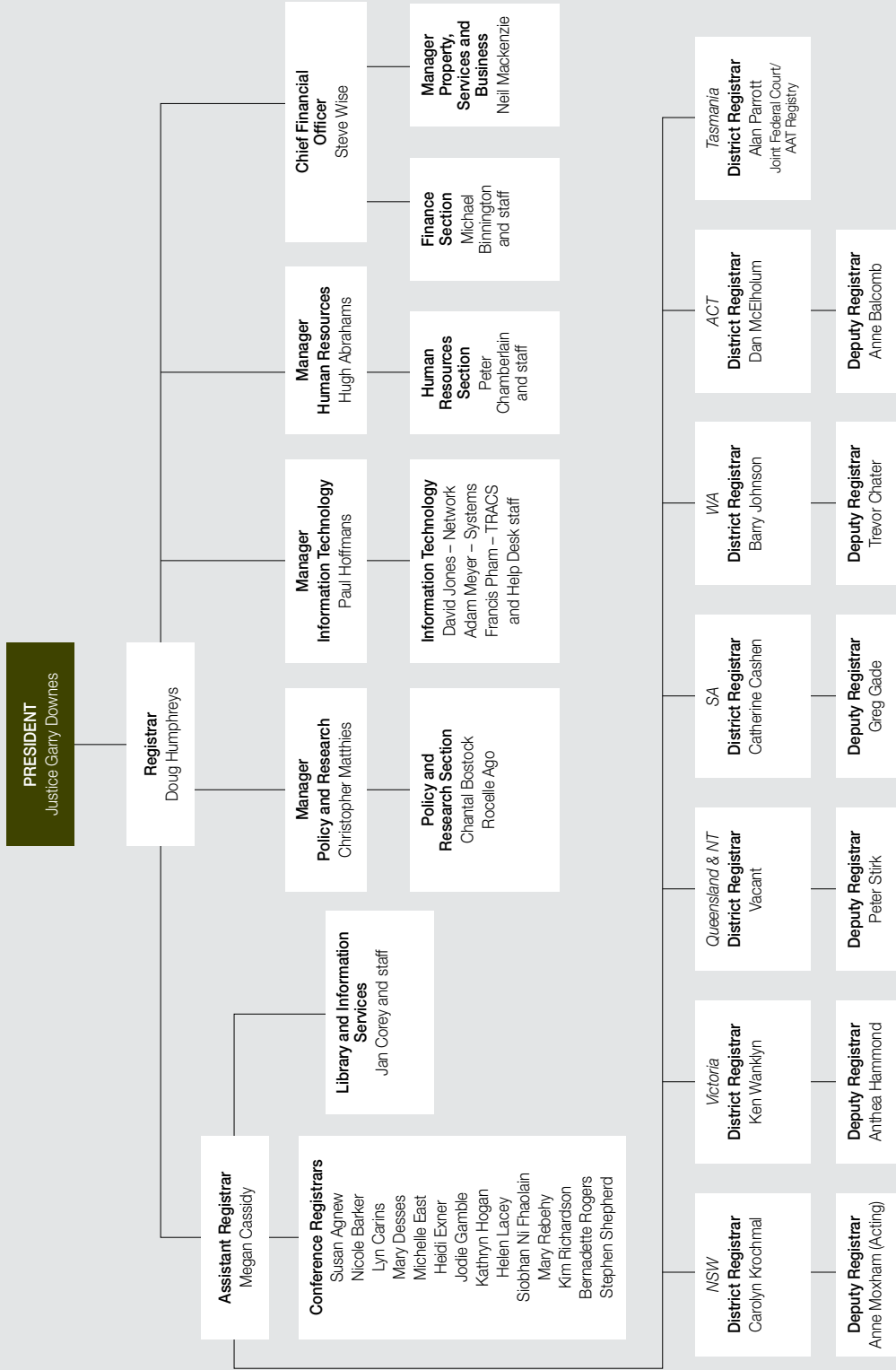
The **Professional Development Committee** considers issues relating to the professional development of Tribunal members. The committee comprises the President, a diverse group of members from different Tribunal Registries with an interest in professional development, and the Registrar.

The **State and Territory Coordinators Committee** comprises the President and the State or Territory Coordinator from each Registry. It provides a forum for coordinators to discuss issues relating to case management and other matters of common interest.

**Table 2.2** State and Territory Coordinators as at 30 June 2008

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

Figure 2.3: Administrative structure of the Tribunal as at 30 June 2008



## THE CASE MANAGEMENT PROCESS

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

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

On receipt of an application in relation to which the Tribunal has jurisdiction, the Tribunal notifies the decision-maker that the application has been made. Within 28 days of receiving notice of an application, the decision-maker must provide to the Tribunal and to the applicant a statement of reasons for the decision and all documents that are relevant to the review. These are known as the 'Section 37 documents' or the 'T documents'.

One or more conferences, conducted by a Conference Registrar or Tribunal member, are held with the parties to discuss the issues in dispute, identify any further material that parties may wish to obtain and explore whether the matter can be settled. Conferences also provide an opportunity to discuss the future conduct of the application and, in particular, whether another form of ADR may assist in resolving the matter. The other forms of ADR available in the Tribunal are conciliation, mediation, case appraisal and neutral evaluation.

The Tribunal assists the parties to attempt to reach an agreed resolution, while ensuring that appropriate steps are taken to prepare for hearing those matters that do not settle. Parties are expected to play an active role in identifying legal and factual issues early in the pre-hearing process. This encourages early resolution of disputes or, where that is not possible, a clear framework within which the parties can prepare for hearing.

Where an agreed resolution cannot be reached, the Tribunal conducts a hearing and makes a formal decision. For the purposes of the hearing, the Tribunal may be constituted by one, two or three members.

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

The Tribunal has developed a number of practice directions and jurisdictional guides which outline the procedures that are generally adopted to manage applications lodged with the Tribunal. These include:

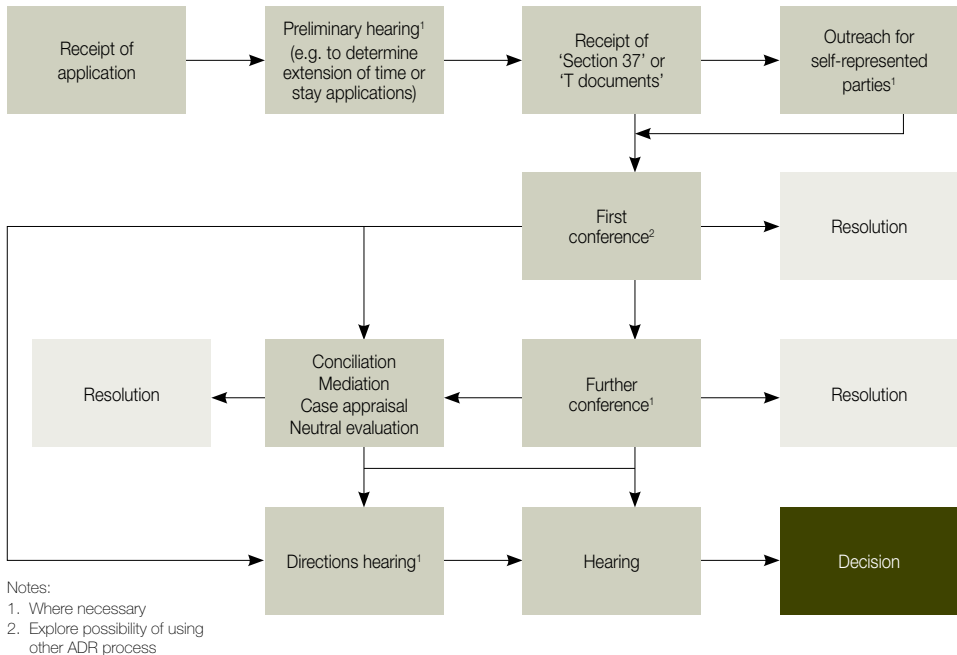
- the General Practice Direction, which applies to applications lodged with the Tribunal where the applicant is represented unless another specific legislative procedure, practice direction or jurisdictional guide applies;
- the Guide to the Social Security Jurisdiction;
- the Guide to the Workers' Compensation Jurisdiction; and
- the Small Taxation Claims Tribunal Practice Direction.

These practice directions and guides are complemented by practice directions on specific issues. These include:

- the Practice Direction relating to Section 37 of the *Administrative Appeals Tribunal Act 1975*;
- the Freedom of Information Practice Direction; and
- the Listing and Adjournment Practice Direction, which sets out the Tribunal's approach to listing hearings and dealing with requests for adjournments.

The Tribunal has also developed process models for each of the different forms of ADR that are available in the Tribunal and a policy that guides referral of applications to the different ADR processes.

Figure 2.4 Case management process flow chart



## ACCESS TO THE TRIBUNAL

### Information on the Tribunal

The Tribunal has developed a range of leaflets which contain information about when the Tribunal can be of assistance, how to make an application, the pre-hearing process, what happens at a hearing and what to do once a Tribunal decision is made. This information is also available in a range of languages, in large print and on audio cassette.

A video/DVD 'Getting Decisions Right' is available to parties and provides information about the Tribunal's practice and procedure.

The Tribunal has also developed:

- an information sheet on the Tribunal's procedures for overseas applicants which has been translated into a number of community languages; and
- information sheets on applications subject to expedited review procedures in the immigration jurisdiction.

The Tribunal is undertaking a review of the way in which it communicates with external users. Further information on this review appears in Chapter 4.

Comprehensive information about the Tribunal and its procedures is available on the Tribunal's website ([www.aat.gov.au](http://www.aat.gov.au)).

### Outreach Program

The Tribunal has an Outreach Program which aims to help self-represented parties understand the Tribunal's processes. Outreach is conducted by Tribunal staff, usually over the telephone, prior to the first conference.

During the Outreach call, the staff member provides information about the review process and answers any questions the person may have about procedural issues. The staff member will arrange to send out any further information the person may find helpful such as a copy of the video/DVD 'Getting Decisions Right'. The Outreach call

also offers an opportunity for the Tribunal to ascertain whether a self-represented party may require an interpreter or any particular assistance because of a disability during the review process.

### **Legal advice schemes and referrals**

The Tribunal hosts legal advice schemes in cooperation with the legal aid bodies in New South Wales, Queensland, South Australia, Victoria and Western Australia. A legal aid solicitor attends the Tribunal Registry on either a weekly or fortnightly basis. The Tribunal advises self-represented parties that the service is available and will make an appointment if the person expresses interest.

The solicitor is able to provide self-represented parties with advice and minor assistance. Further assistance, including representation, may be provided if a person makes a successful application for legal aid. The majority of appointments are conducted with self-represented parties in the social security jurisdiction.

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

### **Interpreter services**

Where a party requires an interpreter for a conference, other ADR process or hearing, the Tribunal engages an interpreter and meets the associated 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 in languages where no professional-level interpreter is accredited.

The Tribunal has developed an information sheet for interpreters that provides information on Tribunal procedures and terminology used in the Tribunal. The information sheet is available from the Tribunal's Registries and can be accessed on the Tribunal's website ([www.aat.gov.au](http://www.aat.gov.au)).

### **Access by persons with disabilities**

In accordance with the Tribunal's Disability Action Plan, the Tribunal strives to make access to the Tribunal easier for people with a disability by:

- making electronic and printed material available in appropriate formats;
- providing hearing aid induction loops in Tribunal premises, including conference and hearing rooms, and at registry counters;
- 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.

Further information about the Tribunal's Disability Action Plan and its performance in relation to the Commonwealth Disability Strategy is outlined in Chapter 5 and Appendix 9 of this report.

### **Service Charter and complaints**

The Tribunal's Service Charter sets out the rights and responsibilities of the Tribunal and its users. It provides information about the Tribunal's service standards, commitments to clients, responsibilities of the parties and contact information. The Charter also includes information on how to make a complaint together with information on the Tribunal's complaint-handling procedures.

The Charter is written in clear, simple language. A copy of the Charter can be viewed on the Tribunal's website ([www.aat.gov.au](http://www.aat.gov.au)).

Information in relation to compliance with aspects of the Tribunal's obligations under the Charter and in relation to complaints is set out in Chapter 3.

## ADDITIONAL FUNCTIONS CONFERRED ON TRIBUNAL MEMBERS

In addition to carrying out their functions under the *Administrative Appeals Tribunal Act 1975*, members of the Tribunal may exercise powers under a number of other Acts.

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 undertake the following functions:

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

The President and 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 Deputy Presidents may be appointed as issuing authorities in relation to the making of continued preventative detention orders under the *Criminal Code*.

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

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





Chapter 3:  
Workload and performance



## WORKLOAD

This section of the Annual Report provides statistical information on the overall number of applications lodged and finalised in 2007–08 and the number of applications that were on hand at the end of the reporting period. It also provides more detailed information relating to the Tribunal's major jurisdictions: workers' compensation, social security, veterans' affairs and taxation. Information relating to the previous two reporting periods is provided for the purposes of comparison.

### Overall results

Chart 3.1 sets out the total number of applications that were lodged and finalised in the three most recent reporting years. It also sets out the number of applications that were current as at 30 June in each of those three reporting years.

The number of applications lodged with the Tribunal in 2007–08 was 14 per cent lower than the number lodged in 2006–07. As Chart 3.2 demonstrates, there were decreases in the number of applications lodged in the Taxation Appeals Division as well as in the social security and veterans' affairs jurisdictions.

The Tribunal finalised 7,237 applications in 2007–08, 60 fewer than in 2006–07. Changes in the number of applications finalised in particular jurisdictions are discussed in more detail below.

The number of applications that were on hand as at 30 June 2008 was 10 per cent lower than the number current at the end of the previous reporting period. As Chart 3.4 shows, this can be attributed primarily to a significant decrease in the number of applications on hand in the Taxation Appeals Division.

### Applications lodged

The number of applications lodged in the Tribunal's major jurisdictions in each of the three most recent reporting years is shown in Chart 3.2.

Applications for review of family assistance and social security decisions continued to be the most common type of application lodged with the Tribunal in 2007–08, constituting 29 per cent of all lodgements. Applications in the workers' compensation jurisdiction and the Taxation Appeals Division were the next most common types of applications comprising 23 per cent and 20 per cent of total lodgements respectively.

**Chart 3.1** Applications lodged, finalised and current

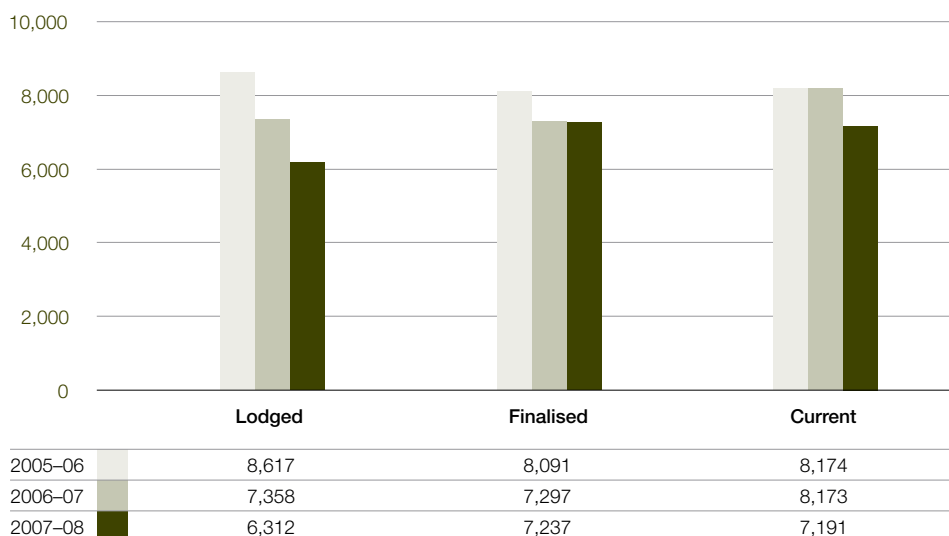
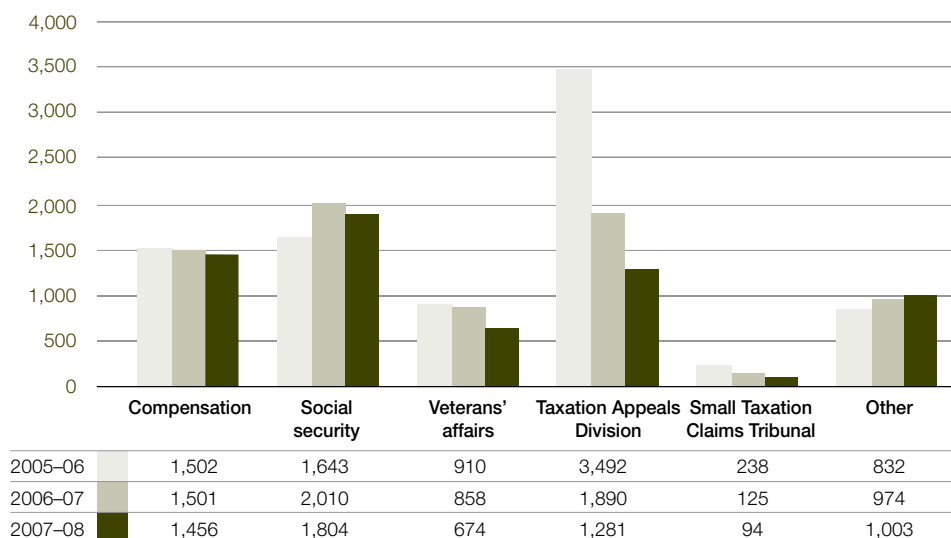


Chart 3.2 Applications lodged in major jurisdictions



The overall number of applications lodged in the social security jurisdiction decreased by 10 per cent in 2007–08. This is attributable to a decrease in the number of applications lodged by the Departments responsible for the administration of family assistance and social security entitlements. The Tribunal recorded 235 departmental applications in 2007–08 compared with 441 in 2006–07. The Tribunal notes that there was also a decrease in the number of departmental applications lodged over the course of the reporting year. Sixty-six applications were lodged in the second half of 2007–08, 39 per cent fewer than the number lodged in the first six months of the reporting year.

The number of applications for review of social security decisions lodged by individuals in 2007–08 was consistent with the number lodged in the previous reporting period. The Tribunal notes, however, that there was an increase in the number of lodgements in the final quarter of 2007–08. The Tribunal understands that the Social Security Appeals Tribunal has experienced a significant increase in applications in 2007–08, which is likely to result in an increased workload for the Tribunal in the next reporting period.

The number of applications lodged in the workers' compensation jurisdiction in 2007–08 was marginally lower than the number lodged in 2006–07. The Tribunal notes that the number of corporations granted licences under Part VIII of the *Safety, Rehabilitation and Compensation Act 1988* increased further in 2007–08. This may well lead to an increase in applications in the future in this jurisdiction. During the reporting year, the Tribunal received its first applications relating to employees of Chubb Security Services Limited, the John Holland group of companies and the National Australia Bank.

There was a 32 per cent decrease in the number of applications lodged in the Taxation Appeals Division in 2007–08. This can be attributed primarily to a decrease in the number of applications relating to taxation schemes and applications relating to assessments of income tax generally. There was also a 25 per cent decline in the number of applications lodged in the Small Taxation Claims Tribunal.

The number of applications lodged in the veterans' affairs jurisdiction decreased in 2007–08 by 21 per cent. While there was a marginal increase in applications for review of decisions made under the *Military*

*Rehabilitation and Compensation Act 2004*, the number of applications under the *Veterans' Entitlements Act 1986* continues to decline over time.

Table A3.1 in Appendix 3 provides more detail on the types of applications lodged in the reporting year for all jurisdictions. Chart A3.2 in Appendix 3 provides details in relation to the number of applications lodged in each Registry.

### Applications finalised

The number of applications finalised in the Tribunal's major jurisdictions in each of the past three years is shown in Chart 3.3.

The Tribunal continued to finalise a significant number of applications in the Taxation Appeals Division in 2007–08, 6 per cent more than in 2006–07. This follows from the large number of taxation applications lodged over recent years. Approximately 34 per cent of finalisations in 2007–08 were applications relating to taxation schemes.

The number of applications finalised in the social security jurisdiction was marginally lower in 2007–08 than in the previous reporting period. This is consistent with the decrease in the number of applications lodged in this jurisdiction in the reporting year.

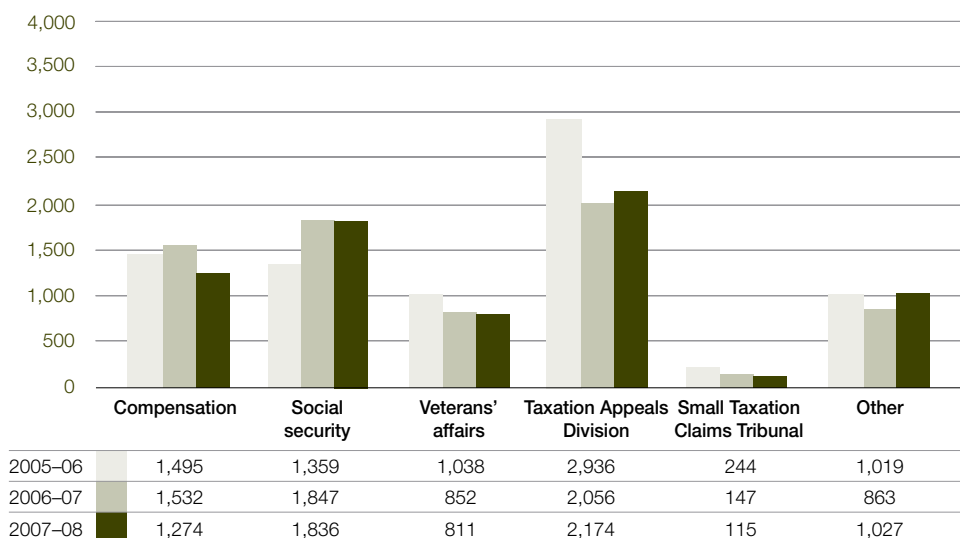
The number of applications finalised in the workers' compensation jurisdiction declined by 17 per cent in 2007–08. This relates in part to the slight decrease in the number of lodgements during the year. However, it also reflects an increase in the number of older applications that are yet to be finalised. The Tribunal is exploring the reasons for this.

There was a marginal decrease in the number of applications finalised in the veterans' affairs jurisdiction in 2007–08 and a 22 per cent decrease in the number of applications finalised in the Small Taxation Claims Tribunal. These results are consistent with the decline in the number of applications lodged in these areas in recent reporting periods.

The number of applications finalised in other jurisdictions increased by 19 per cent in 2007–08. This relates, in part, to an increase in the number of applications relating to citizenship and immigration decisions that were finalised during the year.

Table A3.1 in Appendix 3 provides more detail on the types of applications finalised in the reporting year for all jurisdictions. Chart A3.3 in Appendix 3 provides information in relation to the number of applications finalised in each Registry. Table A3.5 in Appendix 3 provides statistical information on the outcomes of matters finalised in the reporting year.

**Chart 3.3** Applications finalised in major jurisdictions



## Current applications

The number of applications current in the Tribunal's major jurisdictions at the end of the current and the two previous reporting periods is shown in Chart 3.4.

The number of applications on hand in the workers' compensation jurisdiction at 30 June 2008 was 12 per cent higher than the number current at the end of the previous reporting period. As has been noted above, this reflects an increase in the number of older applications that are yet to be finalised in this jurisdiction.

In the Tribunal's other major jurisdictions, the number of applications on hand has fallen. The small reduction in the social security jurisdiction and the 17 per cent decrease in the veterans' affairs jurisdiction can be attributed to the lower number of applications lodged in these jurisdictions in 2007–08.

There was a 22 per cent decrease in the number of applications on hand at the end of the reporting period in the Taxation Appeals Division. Fifty-four per cent of these are applications relating to taxation schemes, a further 62 per cent of which relate to two particular schemes. While the Tribunal has a case management strategy in place for dealing with applications relating to taxation

schemes, it will take some time to finalise all of these applications.

The number of applications on hand in the Small Taxation Claims Tribunal decreased by 29 per cent which reflects the small number of lodgements in the reporting period.

Chart A3.6 in Appendix 3 provides information about the number of applications current in each Registry.

## OUR PERFORMANCE

### Outcome and outputs structure

The Tribunal has one outcome specified in the 2007–08 Portfolio Budget Statements:

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

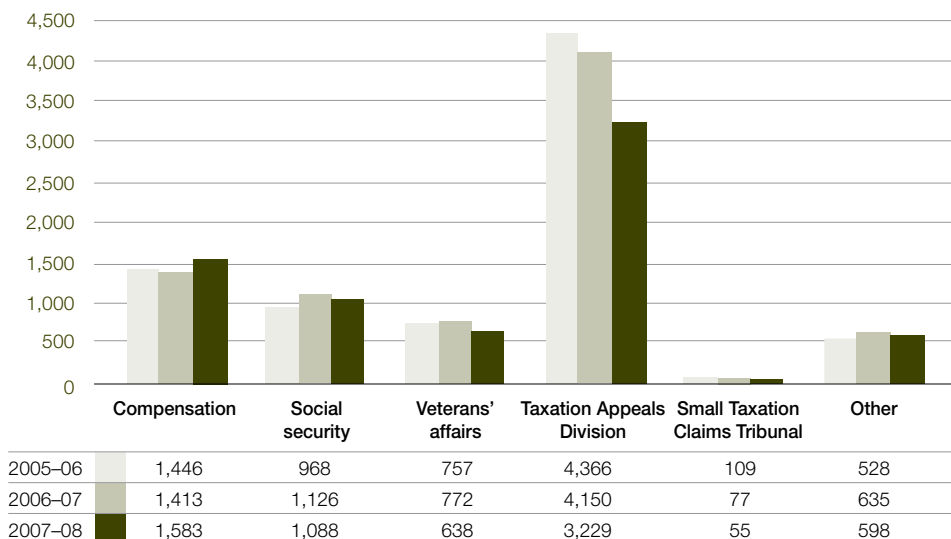
There is one output group relating to this outcome:

*Output group 1.1 — Completed review of decisions*

*Output 1.1.1 — Applications finalised without a hearing*

*Output 1.1.2 — Applications finalised with a hearing*

**Chart 3.4** Applications current in major jurisdictions



### Total resourcing for outcome

Table 3.5 shows how the 2007–08 budget appropriations for the Tribunal translate to total resourcing for the Tribunal's outcome, including administered expenses, revenue from the government (appropriation), revenue from other sources and the total price of the outputs.

### Performance measures

Table 3.6 sets out the performance measures for the Tribunal's outcome. The Tribunal's performance against these standards is described below.

**Table 3.5** Total resources for Outcome 1 (\$'000)

	Budget 2007–08	Actual expenses 2007–08	Variation	Budget 2008–09
<i>Departmental appropriations</i>				
Output group 1.1 — Completed reviews of decisions				
Output 1.1.1 — Applications finalised without a hearing	13,811	14,073	262	13,655
Output 1.1.2 — Applications finalised with a hearing	18,404	18,142	(262)	18,194
<i>Total revenue from government (appropriations) contributing to the price of departmental outputs</i>	32,215	32,215	–	31,849
<i>Revenue from other sources</i>				
Output 1.1.1 — Applications finalised without a hearing	535	634	99	620
Output 1.1.2 — Applications finalised with a hearing	714	817	103	827
<i>Total revenue from other sources</i>	1,249	1,451	202	1,447
<b>Total price of departmental outputs</b> (Total revenue from government and other sources)	33,464	33,666	202	33,296
<b>Total estimated resourcing for Outcome 1</b> (Total price of outputs and administered expenses)	33,464	33,468	4	33,896

**Table 3.6** Performance standards 2007–08

Performance information for departmental outputs	
<i>Output description</i>	<i>Performance measure</i>
Output group 1.1 — Completed reviews of decisions	
Output 1.1.1 — Applications finalised without a hearing	<i>Price:</i> \$2,749 per completed application <sup>a</sup>
	<i>Quality:</i> 85% of matters have first conference within 13 weeks
	<i>Quantity:</i> 5,218 finalisations <sup>a</sup>
Output 1.1.2 — Applications finalised with a hearing	<i>Price:</i> \$12,953 per completed application <sup>a</sup>
	<i>Quality:</i> 85% of matters to hearing within 40 weeks
	<i>Quantity:</i> 1,476 finalisations <sup>a</sup>

a Projection for 2007–08; see Table 3.7 for actual figures.

## Performance results

Table 3.7 sets out the Tribunal's actual performance against the performance measures related to applications finalised, including the cost per finalised application.

The number of applications finalised by the Tribunal during the year without a hearing was above the budget projections for 2007–08. As a result, the price per completed application was less than anticipated. Further information relating to the percentage of applications finalised without a hearing in the major jurisdictions is set out in Table A3.4 in Appendix 3.

As a means of monitoring its performance, the Tribunal has set time standards in relation to particular steps in the review process and for the finalisation of applications generally. Commentary relating to the Tribunal's performance against the measures set out in Table 3.6 and the Tribunal's own targets is set out below.

### Intermediate time standards

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

- the time taken by the decision-maker to lodge the documents required under section 37 of the *Administrative Appeals Tribunal Act 1975* (Section 37 Documents);

- the time taken to hold a first conference;
- the time taken to hold a hearing; and
- the time taken by the Tribunal to deliver a decision following the last day of hearing or the date of receipt of further material after a hearing.

The first of the steps is within the control of decision-makers. Responsibility for the timeliness of the second and third steps is shared between the Tribunal and the parties. The fourth step is within the control of the Tribunal.

Table 3.8 sets out figures on the extent to which these intermediate time standards were met in 2007–08 and in the two previous reporting periods.

The proportion of Section 37 Documents lodged within the time standard improved marginally in 2007–08. There was also a notable improvement in the proportion of first conferences held within 13 weeks of lodgement. The Tribunal exceeded the performance standard set out in the Portfolio Budget Statements by three per cent.

The result for the proportion of applications in which a hearing was held within 40 weeks of lodgement in 2007–08 was marginally lower than the result for 2006–07. It continues to be below the standard of 85 per cent set out in the Portfolio Budget Statements.

**Table 3.7** Performance results 2007–08

Performance information for departmental outputs	
Output description	Performance result
Output group 1.1 — Completed reviews of decisions	
Output 1.1.1 — Applications finalised without a hearing	<i>Price:</i> \$2,544 per completed application
	<i>Quality:</i> 88% of matters had first conference within 13 weeks
	<i>Quantity:</i> 5,748 finalisations
Output 1.1.2 — Applications finalised with a hearing	<i>Price:</i> \$12,657 per completed application
	<i>Quality:</i> 49% of matters to hearing within 40 weeks
	<i>Quantity:</i> 1,489 finalisations

**Table 3.8** Performance in relation to intermediate time standards<sup>a</sup>

Step	Time standard (days)	2005–06 %	2006–07 %	2007–08 %
Receipt of Section 37 Documents after notifying decision-maker of application	35	83	80	82
Receipt of application to first conference	91	86	81	88
Receipt of application to first day of hearing	280	50	50	49
Last day of hearing or date of receipt of further material to delivery of decision	60	67	73	70

a The figures for 2005–06 relate to all applications other than applications dealt with in the Small Taxation Claims Tribunal.

As the figures in Table 3.7 make clear, most applications lodged with the Tribunal are finalised other than by way of a decision of the Tribunal following a hearing. The Tribunal's case management process pursues the dual goals of attempting to resolve matters by agreement between the parties where possible, while ensuring that appropriate steps are taken to prepare for hearing those matters that do not settle.

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

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

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

There is a range of reasons why a hearing may not be held within 40 weeks of an application being lodged. In general, it is because the parties require additional time rather than the Tribunal being unable to list conferences, alternative dispute resolution processes and hearings in a timely manner. The pace at which applications progress at the pre-hearing stage is heavily influenced by the time needed by the parties to obtain any expert medical evidence or to undertake other investigations and gather relevant material. Some applications are delayed pending a further decision by a department or agency on a related matter or the decision of a court in a test case. Delays also occur where

parties are not in a position to proceed because of illness or other adverse circumstances. The Tribunal's ability to list hearings in a timely manner is affected generally by the availability of parties, representatives and witnesses for the hearing.

In relation to the Tribunal's time standard for delivering decisions, there was a slight decrease in the proportion of decisions delivered within 60 days of the last day of hearing or the receipt of further submissions or other material. However, the result for 2007–08 continues to be higher than results in the years before 2006–07.

#### ***Time standards for finalising applications***

The Tribunal aims to finalise the majority of applications within 12 months of lodgement. It has set percentage targets for the finalisation of applications within this timeframe for the major jurisdictions. Information on compliance with these targets in 2007–08 and in the previous two years is set out in Table 3.9.

Overall, 61 per cent of applications finalised during the reporting period were completed within 12 months of lodgement. As noted below, this result is affected by the finalisation of a large number of older applications relating to taxation decisions. When applications dealt with in the Taxation Appeals Division are excluded from the overall figures, 74 per cent of applications were finalised within 12 months of lodgement during 2007–08. Eighty-nine per cent of applications were finalised within 18 months.



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

Jurisdiction	Target %	2005–06 %	2006–07 %	2007–08 %
All applications <sup>a</sup>	—	65	67	61
Compensation	75	62	62	60
Social security	90	91	91	84
Veterans' affairs	80	66	67	62
Taxation Appeals Division	75	49	42	31

a The figures for 2005–06 relate to all applications other than applications dealt with in the Small Taxation Claims Tribunal.

The proportion of applications finalised within 12 months declined in all of the Tribunal's major jurisdictions in 2007–08. Overall, the Tribunal fell six per cent short of meeting its target in the social security jurisdiction. The proportion of applications lodged by individuals that were finalised within 12 months of lodgement was marginally higher at 86 per cent. Ninety-six per cent of all applications in the social security jurisdiction were finalised within 18 months.

There was a small decrease in the proportion of applications finalised within 12 months of lodgement in the workers' compensation jurisdiction in 2007–08. The result for the veterans' affairs jurisdictions was five per cent lower than in the previous reporting period. The proportion of applications finalised within 18 months of lodgement in those jurisdictions was 81 per cent and 83 per cent respectively.

The number of applications lodged in the Taxation Appeals Division in 2004–05, 2005–06 and 2006–07 was significantly higher than in previous years. This included a large number of applications relating to taxation schemes. While the Tribunal has been moving these applications towards resolution as quickly as possible, this increased workload has contributed to the 11 per cent decrease in the proportion of

applications finalised in this jurisdiction within 12 months of lodgement.

More generally, the Tribunal notes that the reasons identified in the previous section as to why the Tribunal may not hold a hearing within 40 weeks of an application being lodged are also relevant in explaining why the Tribunal may not finalise any application within 12 months of lodgement. Delays in the delivery of decisions following a hearing can also contribute to delays in finalising applications.

When the Small Taxation Claims Tribunal was established, the Tribunal indicated that it would aim to finalise applications of this type within 12 weeks of lodgement. Table 3.10 shows that the proportion of applications finalised within this timeframe declined further in 2007–08. The Small Taxation Claims Tribunal was created to provide a cheaper and more informal means for taxpayers to obtain review of decisions where the amount of taxation in dispute is less than \$5,000. The Tribunal's experience is that applications dealt with in the Small Taxation Claims Tribunal are not necessarily less complex than applications for review of other types of taxation decisions. While the amount of tax in dispute may not be large, the issues in dispute can be complex and the parties may require additional time to gather relevant material.

**Table 3.10** Percentage of Small Taxation Claims Tribunal applications finalised within 84 days

	2005–06 %	2006–07 %	2007–08 %
Small Taxation Claims Tribunal	36	22	17

The Tribunal has implemented a number of initiatives in recent years aimed at improving the timeliness of the review process. These include:

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

These initiatives will continue in 2008–09. The Tribunal will also continue to seek to identify sources of delay in particular jurisdictions and work with members, staff and stakeholders to determine ways in which these delays may be addressed.

## EXTERNAL SCRUTINY

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

### Appeals from Tribunal decisions

A party may appeal to the Federal Court, on a question of law, from any final decision of the Tribunal pursuant to section 44 of the *Administrative Appeals Tribunal Act 1975*. 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 seek judicial review of decisions made in the course of the review process and certain final decisions under the *Administrative Decisions (Judicial Review) Act 1977*, section 39B of the *Judiciary Act 1903*, Part 8 of the *Migration Act 1958* or section 75 of the Constitution. Applications may be made to the Federal Court, the Federal Magistrates Court or the High Court.

In 2007–08, 121 appeals made pursuant to section 44 of the *Administrative Appeals Tribunal Act 1975* were lodged with the Federal Court.<sup>1</sup> There were 21 applications for judicial review made under other enactments, 13 of which related to decisions concerning visas under the *Migration Act 1958*. Table A3.9 in Appendix 3 provides information on the number of appeals lodged against decisions in each of the Tribunal's major jurisdictions.

During the reporting year, 127 appeals lodged under section 44 of the *Administrative Appeals Tribunal Act 1975* and 18 applications for judicial review under other enactments were finally determined. The Tribunal's decision was set aside in 48 cases. This constitutes 33 per cent of the total number of appeals determined during the reporting period and less than one per cent of all applications finalised by the Tribunal during the reporting year.

Tables A3.10 and A3.11 in Appendix 3 provide further information in relation to appeals finally determined during the reporting year and the outcomes of those appeals.

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

<sup>1</sup> In some circumstances, a party may lodge an application seeking relief under section 44 of the *Administrative Appeals Tribunal Act 1975* and under another enactment. These applications are treated as section 44 appeals for statistical purposes.

## Freedom of information

The Tribunal received two requests for access to documents under the *Freedom of Information Act 1982* in 2007–08. In relation to the first request, access to the requested documents was granted in full. In relation to the second request, the Tribunal determined that the document requested did not exist.

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

The statement required to be published in this Annual Report under section 8 of the *Freedom of Information Act 1982* appears at Appendix 7.

## Ombudsman

During 2007–08, the Commonwealth Ombudsman received a total of 32 approaches concerning the Tribunal. This was nine less than in the previous reporting period, a 22 per cent decrease. Of these approaches, 13 were by telephone, ten in writing, seven via email and two via the Ombudsman's online complaint form.

The Commonwealth Ombudsman closed 31 approaches relating to the Tribunal, covering 31 issues. Of the approaches closed, four (13 per cent) covering four issues were investigated. The Ombudsman did not record any findings of administrative deficiency.

## Complaints to other bodies

One complaint was made to the Human Rights and Equal Opportunity Commission during 2007–08. This was ultimately dismissed by the Commission with no finding made against the Tribunal.

## 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. This section provides information on the extent of the Tribunal's compliance with the service standards, where this information is available, as well as information on the number and nature of complaints made to the Tribunal.

### Service standards

#### Accessibility

The Tribunal's national telephone number, which enables people in any part of Australia to call the Tribunal for the cost of a local call, was available throughout 2007–08. The Tribunal's telephone typewriter service number was also available throughout the reporting year. Induction loops are available at the counter and in conference rooms and hearing rooms at each of the Tribunal's Registries. All Tribunal premises are wheelchair-accessible.

The Tribunal travels regularly to locations outside major cities to ensure access to the review process. During the year, the Tribunal conducted 160 hearings, 17 conferences and six conciliations in locations outside capital cities.

The Tribunal also conducts alternative dispute resolution processes and hearings by telephone where appropriate. During 2007–08, the Tribunal conducted the following number of listings by telephone:

- Conferences — 7,847;
- Other ADR processes — 8;
- Directions hearings — 1,342;
- Interlocutory hearings — 175;
- Hearings — 31.

During the reporting year, there were no instances where the Tribunal was unable to arrange for an interpreter to participate in an alternative dispute resolution process or hearing where needed.

The Tribunal maintained its Outreach Program, contacting self-represented parties by telephone to explain the Tribunal's processes and provide other information and assistance. Data relating to the conduct of Outreach with some 800 parties indicates that the average time from lodgement of an application to Outreach was 27 days.

### **Fairness and efficiency**

The Service Charter states that a conference will usually be held within 6–10 weeks after receipt of an application. In some cases it may be delayed pending resolution of preliminary issues such as an application to extend the time for applying for review. During 2007–08, 70 per cent of applications had a first conference within ten weeks of lodgement. This is eight per cent higher than the result for 2006–07.

Information on the percentage of Tribunal decisions delivered within 60 days after the hearing or the date on which any further material was received is set out in Table 3.8. Information relating to the sum of application fees refunded in 2007–08 is set out in Appendix 4.

### **Complaints to the Tribunal**

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

Where 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. The Tribunal aims to respond to complaints submitted in a language other than English within 30 working days. If additional 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. Where appropriate, a complaint will

result in an apology or a change to practice and procedure.

During 2007–08, the Tribunal received written and verbal complaints from 27 individuals. Four complaints raised two issues. The issues raised in the complaints related to:

General procedural issues	16
Complaints about Tribunal decisions	6
Conduct of members of the Tribunal	4
Conduct of conferences	2
Complaints about staff	2
Complaints about other parties to Tribunal proceedings	1

There were no complaints about the timeliness of Tribunal decisions.

Twenty-six complaints were finalised in 2007–08. In all but two cases, the Tribunal provided an initial response within the 20-day period. The average number of days from complaint to final response was approximately 11 working days. The longest period of time taken to investigate and respond to a complaint was 31 days.

The Tribunal does not measure whether a complainant believes his or her complaint was resolved. However, 14 per cent of complainants wrote again to the Tribunal after receiving an initial response to their complaint. In most instances, these complainants were provided with further information to address any outstanding concerns.

## **ADDITIONAL FUNCTIONS CONFERRED ON TRIBUNAL MEMBERS**

### **Warrants, controlled operations and other functions**

In addition to performing their role under the *Administrative Appeals Tribunal Act 1975*, Tribunal members may exercise powers under a range of other Acts, including the *Surveillance Devices Act 2004* and the *Telecommunications (Interception and Access) Act 1979*.

Table 3.11 sets out the number of occasions on which Tribunal members considered applications under any of those Acts in the three most recent reporting years. There was a four per cent increase in 2007–08.

The Tribunal is flexible in relation to the performance of these functions and members are available outside standard business hours. In the reporting period, out-of-hours appointments were arranged on 46 occasions. 'Out-of-hours' means before 9 am or after 5 pm on weekdays or at any time on the weekend or on a public holiday.

### Proceeds of crime examinations

Table 3.12 sets out the number of examination sessions conducted by Tribunal members under the *Proceeds of Crime Act 2002* during the three most recent reporting years. The number of examinations held in 2007–08 was 24 per cent lower than the number of examinations conducted in 2006–07.

**Table 3.11** Applications relating to warrants, controlled operations and other functions considered by Tribunal members

	2005–06	2006–07	2007–08
Number of occasions on which applications considered	1,702	1,864	1,946

**Table 3.12** Examinations held under the *Proceeds of Crime Act 2002*

	2005–06	2006–07	2007–08
Number of examination sessions held	62	34	26





Chapter 4:  
Our users and our partners



This chapter describes the Tribunal's performance in meeting the goals identified in the 2007–08 Organisational Plan in relation to its users and partners.

## USERS OF THE TRIBUNAL

The principal users of the Tribunal are parties to Tribunal proceedings and their representatives. Parties to proceedings include individuals, organisations and government departments and agencies. The Tribunal also makes information about its role and functions available to members of the public and other organisations, including government bodies.

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

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

This section of the report outlines developments during the reporting year that relate to the achievement of this goal.

### Practice and Procedure Committee

The Committee met in October 2007 and June 2008 and discussed a range of matters concerning practice and procedure in the Tribunal. Agenda items included:

- the review of practice and procedure in the social security jurisdiction;
- developments relating to the use of alternative dispute resolution (ADR) processes;
- the development of guidelines relating to opinion evidence and the use of the concurrent evidence procedure in Tribunal hearings;
- the development of a practice direction relating to taxation of costs; and
- the review of the way in which the Tribunal communicates with users.

Significant developments in relation to practice and procedure issues that have occurred in the reporting period are described below.

### Development of jurisdiction-specific practice and procedure guides

For many years, the Tribunal has relied on the General Practice Direction to manage the majority of applications lodged with the Tribunal. It sets out the general procedure to be adopted by the Tribunal and imposes time limits on the parties for undertaking major steps in the review process.

The Tribunal has decided that the General Practice Direction is no longer the most appropriate means of managing its diverse workload. Each of the major jurisdictions has particular characteristics that impact on the way in which applications proceed towards resolution. A jurisdiction-specific approach will provide greater clarity in relation to the management of those types of applications. Greater flexibility is also required in identifying what parties must do at each stage of the review process so that cases progress in the most efficient and effective manner.

The Tribunal is undertaking a review of practice and procedure in each of its major jurisdictions. The review of each jurisdiction will result in the publication of a guide that sets out general information about the review process in that jurisdiction. The guide will provide the general framework for the review process. Specific requirements to be met in individual applications will be set by Conference Registrars or Tribunal members. This will ensure that parties and their representatives have clear guidance as to what is required at each stage of the review process.

#### ***Guide to the Social Security Jurisdiction***

The Tribunal released a draft of the Guide to the Social Security Jurisdiction for comment in September 2007. The draft guide was forwarded to peak bodies and a range of regular users in the social security jurisdiction, including government agencies, legal aid bodies and community legal centres. It was also made available on the Tribunal's website.

The final version of the Guide to the Social Security Jurisdiction was published in April 2008. It took effect on 19 May 2008.



The General Practice Direction was also varied to make clear that it no longer applies to applications in the social security jurisdiction.

### **Alternative dispute resolution**

The Tribunal undertook a range of activities during the reporting year which were directed to raising awareness about, and encouraging the use of, the full range of ADR processes available within the Tribunal. These included:

- a session at the National Conference devoted to ADR with an emphasis on case appraisal and neutral evaluation;
- information forums for legal practitioners and government agency representatives held in the New South Wales Registry as part of Law Week in April 2008;
- a presentation given to legal officers at a forum organised by the Australian Taxation Office.

The Tribunal also took its first steps towards evaluating the use of the case appraisal and neutral evaluation processes. A file review was undertaken in relation to applications finalised before March 2008 in which either process had been used. Information was gathered on a range of matters, including the nature of the issues referred to case appraisal or neutral evaluation and the nature and timing of the processes. While the size of the sample was small, the data-gathering exercise produced some useful qualitative information about the processes. It provided insights into which aspects of the existing process models are working well and which areas may need to be clarified. The evaluation should also assist with a review of the ADR referral guidelines which the ADR Committee plans to undertake in 2008–09.

### **Tribunal guidelines relating to the use of opinion evidence**

The Tribunal undertook further work during the reporting period on developing a set of guidelines which will inform persons who are retained to provide opinion evidence, as well as parties and their representatives about the Tribunal's expectations in relation to this kind of evidence. While similar in nature to

guidelines that have been developed by other courts and tribunals, the guidelines will be tailored to the Tribunal and its way of operating.

As noted in last year's Annual Report, the Tribunal is also developing a set of guidelines relating to the use of the concurrent evidence procedure which involves two or more experts giving evidence at the same time in a Tribunal hearing. The guidelines are being developed in response to, and are informed by, the findings of the Tribunal's pilot study on the concurrent evidence procedure.

The Tribunal will release consultation drafts of the guidelines for comment in 2008–09.

### **Taxation of costs**

In limited circumstances, the Tribunal is able to order a party to a proceeding to pay the costs incurred by another party. This occurs most commonly in the workers' compensation jurisdiction. Where the parties are unable to agree about the amount of the costs, they may be taxed by the Tribunal.

The Tribunal has been developing a practice direction which will set out the procedures that the Tribunal will adopt in regard to taxation of costs. It is anticipated that a draft practice direction will be released for comment in the first half of 2008–09.

### **Management of taxation scheme matters**

Since 1999, the Tribunal has received in excess of 12,000 applications for review of decisions relating to taxation schemes. Approximately 7,400 applications were lodged prior to 1 July 2003. Many were subject to orders deferring further action pending the outcome of test cases in the Federal Court and the High Court.

In December 2003, the Tribunal devised a case management strategy to deal with the large number of taxation scheme matters. This strategy involved appointing a member with experience in the taxation jurisdiction to coordinate the management of all applications relating to the same taxation scheme. Where possible, the Managing Member was appointed from the Registry which had the majority of applications relating

to the particular scheme. Almost all of the applications received before 1 July 2003 have now been finalised.

Applications lodged since 1 July 2003 have been managed closely to ensure that they progress in a coordinated and timely manner. The applications are now being overseen centrally by the Assistant Registrar and managed in each of the Registries by members with expertise in the taxation jurisdiction.

### **Management of applications for review of decisions by APRA and ASIC**

In early 2008, the Tribunal implemented a strategy for managing applications for review of decisions made by the Australian Prudential Regulation Authority (APRA) and the Australian Securities and Investments Commission (ASIC). The majority of these applications relate to decisions disqualifying individuals from holding certain positions. In the case of APRA, the disqualifications usually prohibit participation in the insurance industry. ASIC disqualifications generally prohibit involvement in the management of companies.

APRA and ASIC applications are being overseen by a Senior Member of the Tribunal with experience in this area of law. The Senior Member manages the applications during the pre-hearing process, referring matters to a suitable ADR process or preparing them for hearing. The Senior Member hears a proportion of the applications personally. The remainder are referred to other members with relevant knowledge and experience.

### **Communication with Tribunal users**

The Tribunal communicates with its users in a variety of ways and using a number of different media. These have developed in a relatively ad hoc manner over time. Parties and their representatives are provided with a range of written materials, including practice directions, guides, leaflets and letters. Information is provided by members and staff in person and by telephone during Outreach, conferences and other contacts with the Tribunal.

The Tribunal has a DVD that demonstrates how the Tribunal operates which is made available to self-represented parties. Practice directions, leaflets and other written materials on the Tribunal are also available on the Tribunal's website.

A review of the Tribunal's existing information products and methods of communicating with users was undertaken last year. As a result, the Tribunal engaged a part-time communications officer and contracted ZOO Communications to upgrade the Tribunal's information products. New designs for brochures, correspondence and other corporate material were developed during the year. Revised materials will be produced during 2008–09.

### **Review of standard correspondence**

One of the areas for improvement identified in the national Work Organisation Review conducted in 2006–07 was the standardisation across the Tribunal of correspondence relating to the review process. A review of correspondence was undertaken during 2007–08 and standard correspondence relating to the application stage of the review process has been updated on the Tribunal's computer systems. The remainder of the correspondence will be updated in 2008–09.

### **Regular user forums and meetings with users**

The Tribunal met with regular users and other stakeholders in a range of settings during 2007–08. The Tribunal is committed to being an approachable and transparent organisation that takes into account the needs of the people and organisations that use its services.

Individual Tribunal Registries arrange user group meetings with departments and agencies, legal practitioners and others who appear regularly before the Tribunal in that location. Some Registries hold meetings with users from all jurisdictions while others arrange jurisdiction-specific meetings.

While the format of the user forums may vary between Registries, they provide an excellent opportunity for the Tribunal to explain any changes to practice and procedure affecting parties. In addition, the Tribunal receives valuable feedback on areas where it is performing well and areas where it might be able to make improvements.

Members and senior staff also met with representatives of the Australian Taxation Office, the then Department of Employment and Workplace Relations and Seacare during the year to discuss operational issues arising in the jurisdictions relevant to those agencies.

### User survey

In February 2008, the Tribunal engaged Profmark Consulting to undertake a survey of Tribunal users. Profmark Consulting undertook the last user satisfaction survey on behalf of the Tribunal in 2005.

In June 2008, written surveys were sent to more than 4,000 individuals whose applications had been finalised in 2007. Profmark Consulting also conducted telephone surveys with employees of government departments and agencies and legal practitioners who appear regularly in the Tribunal. The Tribunal expects to receive a report on the results of the survey in August 2008.

## TRIBUNAL PARTNERS

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

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

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

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

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

The Tribunal maintained and developed its relationships with a range of agencies, organisations and individuals during 2007–08.

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

The Tribunal worked closely with the Attorney-General's Department during the reporting year on a wide range of issues relating to the Tribunal and its operations, including the Tribunal's jurisdiction, workload and budget and potential amendments to the *Administrative Appeals Tribunal Regulations 1976*. The Tribunal also had contact with a number of other departments and agencies in relation to issues and proposals that concern the Tribunal. These include the Australian Law Reform Commission, the Australian Taxation Office, Comcare, the Department of Education, Employment and Workplace Relations, the Department of Human Services, the Department of Prime Minister and Cabinet and the Productivity Commission.

#### *Administrative Review Council*

As President of the Tribunal, Justice Downes is an ex officio member of the Administrative Review Council. The ARC's role is to monitor and provide advice to Government, through the Attorney-General, 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. The Tribunal hosted the meeting of the ARC held in February 2008 and also provided facilities for consultation forums conducted during the year.

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

### **Council of Australasian Tribunals**

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

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

The Tribunal's Registrar, Doug Humphreys, was the Executive Officer and Public Officer of the Council at the national level during 2007–08. Tribunal staff managed the Council's website and undertook work on a number of projects during the reporting year, including the development of an electronic version of the COAT Practice Manual for Tribunals.

Tribunal members and staff have also been active in the Council's State and Territory Chapters. Deputy President Deane Jarvis was the Convenor of the South Australian Chapter. Member Regina Perton was the Convenor and District Registrar Ken Wanklyn the Secretary/Treasurer of the Victorian Chapter. Deputy President Philip Hack SC, Senior Member Narelle Bell and Senior Member Lesley Hastwell served on the committee of their local chapter during 2007–08. Other Tribunal members and staff were members of local chapters and participated in a range of chapter activities.

### **Cooperation with other tribunals and courts**

#### *Commonwealth tribunals and courts*

The Commonwealth merits review tribunals – the AAT, the Migration Review Tribunal (MRT), the Refugee Review Tribunal (RRT), the Social Security Appeals Tribunal and the Veterans' Review Board (VRB) – maintained their cooperative relationship during 2007–08. The heads and registrars of the tribunals met in October 2007 and June 2008 to discuss issues of mutual concern. Liaison occurred throughout the year in relation to various matters, including pursuing opportunities for efficiencies through cooperative action. There was also ongoing communication between officers of the tribunals in relation to matters such as advertising of staff vacancies, learning and development activities and policy issues affecting the tribunals generally.

The Tribunal had arrangements with a number of courts and tribunals in relation to the provision of facilities and services during 2007–08. These included:

- Federal Court of Australia

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

- Migration Review Tribunal and Refugee Review Tribunal

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

- National Native Title Tribunal (NNTT)

The Tribunal provided additional accommodation to the NNTT at its Adelaide premises.

- Veterans' Review Board

The Tribunal made facilities available in its Registry in Canberra for the VRB to conduct hearings.

### *Other tribunals*

In June 2008, the Tribunal attended a meeting of the Workers Compensation Dispute Resolution Organisations. This group comprises the State and Territory and New Zealand bodies charged with resolving workers' compensation disputes. It meets annually to exchange information and ideas and discuss emerging issues. The Tribunal was accepted as an ongoing member of the group at the meeting.

### ***International relationships and delegations***

#### *International Association of Supreme Administrative Jurisdictions*

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

The IASAJ held its ninth triennial congress in Thailand in November 2007. The principal theme of the congress was the recruitment, training and independence of administrative judges. The Tribunal's President and the Registrar attended the congress.

Australia has been chosen as the host nation for the tenth congress to be held in March 2010. The Hon Michael Black AC, Chief Justice of the Federal Court of Australia, and Justice Downes have become the Presidents of the association. The congress will be co-hosted by the Tribunal and the Federal Court of Australia.

#### *Relationship with the Administrative Court of Thailand*

The Tribunal continued to develop and strengthen its relationship with the Administrative Court of Thailand during the reporting year.

Two IT staff from the Office of the Administrative Courts undertook a three-month placement with the Tribunal in 2008.

The placement was funded by AusAID under the Australian Leadership Awards — Fellowships program. The participants gained an in-depth knowledge of the Tribunal's electronic case management system and studied the Tribunal's IT systems and practices more generally. This knowledge will assist the Thai Court to develop its IT capability.

Mr Thirayuth Lorlertratna, Vice President of the Supreme Administrative Court of Thailand and Mrs Kanchanaratt Leevirojana, Deputy Secretary General of the Office of the Administrative Courts attended the Tribunal's National Conference.



**Tribunal's National Conference: Registrar Doug Humphreys; Mr Thirayouth Lorlertratna - Vice President, Supreme Administrative Court of Thailand; The Hon Justice Gary Downes; Mrs Kanchanaratt Leevirojana - Deputy Secretary General, Office of the Administrative Courts, Thailand; The Hon Justice Brian Tamberlin.**

#### *Visiting Delegations*

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

- Judge Kim, Jung-wook of the Seoul Administrative Court;
- Justice David Wong of the High Court of Sabah and Sarawak;
- officials from the Cabinet Office of Japan; and
- officials from the Legislative Affairs Office of the People's Republic of China.

### **Raising awareness of the Tribunal and its role**

The Tribunal was involved in a range of activities during the reporting period which were directed to raising awareness of the Tribunal and its role in administrative law.

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

Members and staff gave presentations on the Tribunal and its operations at a variety of conferences, seminars and other forums during the reporting period. Members and staff were also involved in training and education activities, including programs for advocates appearing before the Tribunal. Specific information about these activities is set out in Appendixes 1 and 8.

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

The third AAT Mooting Competition was held in August and September 2007. It involved 19 teams from 13 universities across Australia. Teams comprised two students acting in the roles of senior and junior counsel. A third student could participate as a researcher and designated scribe.

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

The final was held in Sydney on 20 September 2007. The competition was won by Tomas Fitzgerald and Laura Coffey from Notre Dame University. Tomas was also awarded the Registrar's Best Oralist prize. Tom Smyth, Matt Sherman and Claudia Newman-Martin from the Australian National University were the runners-up.

#### ***Sponsoring work experience placements***

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



AAT Mooting Competition: Tomas Fitzgerald and Laura Coffey from Notre Dame University; Tom Smyth, Matt Sherman and Claudia Newman-Martin from the Australian National University.



Chapter 5:  
Our people and our organisation

This chapter outlines the Tribunal's performance in meeting the goals identified in the 2007–08 Organisational Plan for its people and the organisation. It also provides more general information on human resource management and the Tribunal's administration and governance.

## OUR PEOPLE

The Tribunal's goal in relation to its people is:

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

This section of the report describes the activities undertaken by the Tribunal during the reporting period that are directed to meeting this goal. It also provides a range of other information relating to human resource management in the Tribunal.

### Learning and development in the Tribunal

Learning and development remains a priority in the Tribunal. The reporting year saw the further refinement of a number of ongoing activities and the implementation of some new initiatives to meet the needs of members and staff of the Tribunal.

#### **Members' Professional Development**

The Members' Professional Development Program is a comprehensive program based on a framework of competencies developed for the Tribunal. The program comprises induction, mentoring, appraisal and other professional development opportunities. The Professional Development Committee maintained its important role in advising on the program and its development. The committee met in October 2007 and June 2008.

Learning activities for members are developed with reference to the Tribunal's framework of competencies. A range of activities are offered that assist members to remain up to date with developments relevant to their work.

Most Registries have a program of regular local professional development meetings. On occasion, other Registries participate by videoconference or telephone, encouraging shared learning. Local members take responsibility for organising these sessions. They may involve guest speakers, a member-led discussion on an issue or a tutorial. A wide range of topics was covered in 2007–08 including updates on significant cases, aspects of practice and procedure and cultural awareness.

A workshop on decision writing was conducted by Professor James Raymond in the Tribunal in September 2007. Most members of the Tribunal have now attended a decision writing course. Interest remains high in further developing skills in this area.

Formal and informal mentoring, self-assessment and peer review provide further opportunities for professional development within the Tribunal. Senior Member Narelle Bell continued as the Coordinator of the Mentoring Scheme in 2007–08. Deputy President Deane Jarvis continued in his role as Appraisal Scheme Coordinator.

The Tribunal's appraisal scheme combines self-assessment with appraisal by another Tribunal member against the framework of competencies. The self-assessment and peer review process provides members with an opportunity to reflect upon their practice and consider options for further professional development.

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



### ***National Conference***

One of the most important professional development activities held during the reporting period was the Tribunal's National Conference held in October 2007. Members, District Registrars, Conference Registrars and Principal Registry staff attended the conference. The theme for the conference was "30 years on, rethinking our way to the correct or preferable decision". In keeping with this theme, proceedings included sessions on evaluating current practices, alternative dispute resolution (ADR) processes, decision writing, evidence and current issues and recent developments in merits review.

### ***Staff learning and development***

The organisation-wide staff learning and development program is aligned with the Tribunal's Organisational Plan and reflects the

values of the Tribunal. The program also seeks to meet the learning needs of individuals and teams across all Registries.

During the reporting year, the staff learning and development calendar included learning activities offered in response to identified training needs. Sessions were delivered in a variety of modes and the topic areas covered included Tribunal practice and procedure issues, working effectively with self-represented parties, editing and proofreading, online legal research, self-management skills, videoconferencing as a communication tool and cultural awareness and diversity.

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



Attendees at the Tribunal's National Conference held in October 2007.

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

### ***Staff induction and support networks***

The Staff Induction Working Party reviewed and revised the Tribunal's generic staff induction program. A checklist was developed together with two workbooks for new starters. The Human Resources Section is currently working towards implementing the revised program.

The Tribunal continues to seek innovative ways to develop its staff. The introduction of the Members Support Staff Network has proven to be a popular forum in which legal and administrative staff who assist the members share ideas and remain abreast of developments in the law. Brian Du Bois, Team Leader of the Members Support Team in Melbourne, has led many of the initiatives which have contributed to the success of the network.

Another successful learning and development innovation has been the creation of a Co-Mentoring Program for Conference Registrars. Conference Registrar Bernadette Rogers and Assistant Registrar Megan Cassidy promoted the program which has now evolved into a scheme where Conference Registrars contact their matched peer, usually monthly, to discuss their work.

### **Tribunal Practice Manual**

The Tribunal is developing a practice manual that will complement the COAT Practice Manual for Tribunals. The COAT manual covers a range of topics that are relevant to tribunals generally, including statutory interpretation, procedural fairness, conducting hearings and making decisions. The Tribunal Practice Manual will include material that relates specifically to the Tribunal's role and functions.

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

The manual's content is being drafted by members of the Tribunal to ensure it has a practical focus. Work commenced during 2007–08 and will continue in the next reporting period.

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

#### ***Occupational health and safety***

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

The Health and Safety Committee was re-established in September 2007 under the amended Commonwealth health and safety framework. This led to expressions of interest being sought from staff to perform the roles of Health and Safety Representatives (HSRs) and Deputy HSRs. Representatives have attended appropriate training from providers.

Targeted occupational health and safety training relating to appropriate workstation set-up was conducted in Brisbane, Canberra, Melbourne, Perth and Sydney in 2007–08. This included individual workstation screenings.

Workplace assessments are undertaken by the Commonwealth Rehabilitation Service or similar providers for the benefit of staff where occupational health and safety problems are identified. Assessments are conducted in relation to matters such as posture, workstation set-up and equipment

requirements. Remedial action is implemented. Case management of compensation matters is conducted either in-house or by external service providers, depending on the location and the complexity of the matter.

The Comcare Occupational Health and Safety Incident Reporting Guidelines are in place and are supplemented with Tribunal instructions. There was one incident reported to Comcare during 2007–08 relating to flooding and water damage in the Registry in Perth. There were no investigations into the Tribunal's operations.

The Tribunal is finalising the replacement of its current Occupational Health and Safety Policy with new Health and Safety Management Arrangements.

### ***Member/staff survey***

The Tribunal conducted a survey in 2008 which gave members and staff an opportunity to express their views about workplace issues and the overall performance of the Tribunal.

The Tribunal compared the responses from its staff against the results in the Australian Public Service Commission's 2006–07 'State of the Service' survey and, in particular, the results for small agencies. The exercise indicated that the Tribunal is well-placed in comparison with other small agencies and across the APS. The survey has provided management with some quantitative data that can be used for future planning exercises.

### ***Productivity gains***

The Tribunal is pursuing several initiatives designed to achieve further productivity gains in its operations.

The broad-based learning and development program continues to address the identified learning needs of employees and the Tribunal. Training initiatives have been conducted to improve personal and professional, registry-wide capability. Examples of training include:

- editing and proofreading courses to enable legal staff to more effectively undertake editing for Tribunal members;
- participation in internal and external courses and seminars to cultivate productive working relationships;
- videoconferencing training to ensure more effective provision of videoconferencing, including troubleshooting skills;
- learning about marshalling professional expertise using communication and problem-solving skills to work effectively with Tribunal users;
- diversity training to harness understanding of different perspectives and improve individuals' capacity to work in a cross-cultural setting;
- security updates to increase confidence and decrease concern regarding managing potentially challenging encounters and situations; and
- co-mentoring to draw on information and alternative viewpoints to enhance professional expertise.

The member/staff survey also gave members and staff the opportunity to contribute ideas about areas for improvement within the Tribunal.

The Tribunal's electronic case management system, TRACS, has undergone further enhancement which has provided greater functionality to all users. It is anticipated that the system will facilitate a range of more efficient work practices and time-saving measures over time.

The Information Technology (IT) Section has successfully utilised the WebEx web-conferencing tool to organise online meetings between Registries. The tool reduces the need for trainers to travel to other Registries.

The Tribunal engaged external experts to review the structure and operations of the Principal Registry. A separate and additional review was conducted of the IT Section and its responsibilities.

### ***Administrative Appeals Tribunal Benevolent Trust***

A benevolent trust funded by voluntary contributions from members and staff and managed by elected trustees was established in 2003. The purpose of the trust is to assist any employees or members of the Tribunal and their immediate families who may require financial assistance. In 2007–08, the trustees approved one grant of assistance to a staff member who had been affected by misfortune and illness.

### ***Tribunal sporting activities***

The Tribunal encourages a healthy lifestyle for its staff by making a financial contribution towards the registration of Tribunal teams in sporting competitions and activities. As in earlier years, members and staff in the Victorian Registry formed walking and running teams that participated in the Melbourne City Sports Corporate Cup series. The walking team placed first in their division in the Spring 2007 season and second in the Autumn 2008 season. The running team placed fourth in their division in the Spring 2007 season and first in the Autumn 2008 season.

### ***Workplace diversity***

The Tribunal recognises that people have different qualities, skills, qualifications and experience. Valuing and making proper and effective use of these differences can improve the workplace for individuals and enhance the overall performance of the Tribunal. These attitudes are reflected in the Tribunal's Workplace Diversity Plan which can be viewed on the Tribunal's website at [www.aat.gov.au/CorporatePublications/WorkplaceDiversityPlan.htm](http://www.aat.gov.au/CorporatePublications/WorkplaceDiversityPlan.htm). The plan has been reviewed and revised during 2007–08. The replacement plan is expected to be finalised shortly.

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

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

### ***Reconciliation Action Plan***

The Tribunal has a Reconciliation Action Plan that aims to promote reconciliation through the engagement of Indigenous Australian employees and promoting awareness of the Tribunal's services among Indigenous Australians. The plan is available on the Tribunal's website ([www.aat.gov.au](http://www.aat.gov.au)).

### ***Indigenous traineeship***

The Tribunal's Indigenous Employment Strategy provides Aboriginal and Torres Strait Islander trainees with an opportunity to learn basic clerical job skills and to prepare for a career in the Australian Public Service or elsewhere. The Tribunal's second Indigenous trainee in the Queensland Registry completed his one-year clerical traineeship in June 2008.

The Tribunal also initiated its first traineeship for a school-aged Indigenous person in the Western Australian Registry. The traineeship commenced in 2007–08 with a Year 11 student attending school for four days per week with the fifth day spent in the Registry. The traineeship was discontinued but is planned to be re-instigated in the second half of 2008.

### ***Workplace Harassment Contact Officer network***

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

All members and staff of the Tribunal are entitled to a workplace free from intimidation and harassment. The Tribunal's commitment to the prevention and elimination of all forms of harassment in the workplace is supported by its Prevention and Elimination of Workplace

Harassment Policy. This policy sets out the Tribunal's expectations of Tribunal members, managers and staff in preventing and dealing with workplace harassment. In particular, the policy encourages managers and supervisors to be familiar with, and actively promote and support, the Tribunal's policy and strategies for dealing with harassment.

#### *Commonwealth Disability Strategy*

The Commonwealth Disability Strategy is designed to help agencies improve access to their services and facilities for people with disabilities. The Tribunal performs the roles of an employer and a provider. Appendix 9 provides a summary of the Tribunal's performance in relation to its role as a provider during 2007–08.

#### *Disability Action Plan*

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

The plan can be viewed on the Tribunal's website at: [www.aat.gov.au/CorporatePublications/DisabilityActionPlan.htm](http://www.aat.gov.au/CorporatePublications/DisabilityActionPlan.htm).

### **Human resource management**

#### ***Workplace planning, staff retention and turnover***

The Tribunal's training and development and performance management programs foster staff retention and professional development. The Tribunal's ongoing staffing complement was relatively stable during the reporting period.

#### ***Agency-wide and individual employment agreements***

The Tribunal's collective workplace agreement, the Administrative Appeals Tribunal Agency Agreement 2006–2009, continued to operate during 2007–08. The three-year collective workplace

agreement, which is nominally set to expire on 30 June 2009, offers 4.2 per cent annual salary increases. The agreement promotes a high standard of client service and the development of staff. It seeks to improve productivity and efficiency while reducing costs through specific in-house programs and initiatives, particularly those associated with the purpose-designed electronic case management system.

Information relating to the number of employees covered by the Agency Agreement and by Australian Workplace Agreements (AWAs) as at 30 June 2008 is set out in Table A2.3 in Appendix 2. That table also sets out the salary ranges for APS employees by classification level. Salary ranges for all staff members covered by AWAs are included in Table A2.3. Other conditions of service are similar or identical to those contained in the Agency Agreement.

During 2007–08, eight employees covered by AWAs received a performance bonus linked to a performance agreement: the Tribunal's only Senior Executive Service employee, three staff members at Executive Level 2 and four staff members at Executive Level 1. In addition, the Registrar of the Tribunal was eligible for a performance bonus under the Remuneration Tribunal's Principal Executive Office determination until the position was reclassified under the Holders of Full-Time Public Office determination with effect from 1 June 2008. As only a small number of employees received a performance bonus, the quantum of bonuses paid at each classification level is not published for privacy reasons. The total value of bonuses paid by the Tribunal for the 2007–08 year was \$80,565.67.

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

#### ***Senior Executive Service Officer remuneration***

The Tribunal has only one Senior Executive Service position: the Assistant Registrar. Remuneration for that position is based on comparisons with the remuneration for staff in

similar Australian Government agencies. The remuneration package allows the occupant to cash out certain limited items in accordance with common Australian Government practice.

### **Performance Management Program**

All Tribunal staff members have performance agreements in accordance with the Tribunal's Performance Management Program.

Depending on performance during the appraisal period, staff members are able to advance through the salary pay scale up to the maximum of the salary range for the relevant position. The program is linked to the Agency Agreement.

Appraisals were completed by 30 June 2008 for all staff members except those who were on leave at the appraisal time or where approval was given for extensions. Staff members also have individual development plans linked to their performance agreements which identify training and development needs.

### **Non-salary benefits**

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

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

Ongoing staff members are eligible to apply for study assistance which can include limited time off work to attend lectures, tutorials and examinations and may include full or partial reimbursement of fees and costs. During 2007–08, 17 staff members were accredited as approved students under the Tribunal's Studies Assistance Scheme. Most approvals related either to

undergraduate or postgraduate studies in law. Other approved courses included accounting, education, business, management, public administration and policy and workplace training. The cost of reimbursing study fees and charges was \$83,415. Approximately 1,351 study hours were approved for all purposes, such as attendance at lectures and tutorials, study leave and exam leave.

### **Salary packaging**

Salary packaging is available to Tribunal members and staff pursuant to two policies covering different products: one policy is administered externally by the commercial firm McMillan Shakespeare and the other is administered internally by the Human Resources Section. During the reporting year, 61 employees took up the opportunity to access salary packaging arrangements in relation to superannuation (54), laptop computers (6) and motor vehicles (2).

### **Ethical standards**

Tribunal staff members are required to act in accordance with the Australian Public Service Values and Code of Conduct. The Tribunal employs a range of means to ensure that staff members are aware of, understand and apply them.

The Australian Public Service Values, Code of Conduct and explanatory materials are available to staff on the intranet. Recruitment guidelines and induction materials include information on them. A number of staff attended specific training during the reporting period in relation to the content and application of the Australian Public Service Values and Code of Conduct.

## **OUR ORGANISATION**

The Tribunal's goal in relation to the organisation is:

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

This section of the report describes the activities undertaken by the Tribunal during 2007–08 that were directed to meeting this goal. It also provides more general information on the Tribunal's administration and governance.

## Finance and property

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

### Financial management

The Tribunal's audited financial statements for 2007–08 appear from page 55.

The 2007–08 financial year was a year of consolidation. The Tribunal's financial performance was just under budget due mainly to the deferral of some accommodation and information technology projects. A slight decrease in the number of applications received contributed to a lower than expected increase in salary costs relating to both members and staff. Supplier costs remained relatively stable for this financial year.

### Property

The Tribunal operates from commercial premises in Adelaide, Canberra, Melbourne, Perth and Sydney. In Brisbane and Hobart, the Tribunal occupies premises in the Commonwealth Law Courts buildings.

A minor refurbishment of the Registry in Melbourne was completed during 2007–08 and some minor issues were addressed in the Canberra premises. Planning for a minor refurbishment in Adelaide was completed during the reporting period and the refurbishments will be carried out in 2008–09.

### Purchasing

The Tribunal observes the core principles of the *Commonwealth Procurement Guidelines* and relevant best practice guidelines in relation to its purchasing activities. The Tribunal's Chief Executive Instructions are

reviewed to ensure that they conform to the current procurement guidelines. They are a valuable tool for staff with purchasing duties and have been used as a model by several other agencies.

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

### Consultants

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

During 2007–08, three new consultancy contracts were entered into involving total actual expenditure of \$129,500 (inclusive of GST). In addition, seven ongoing consultancy contracts were active during 2007–08, involving total actual expenditure of \$69,514 (inclusive of GST). Table 5.1 sets out the Tribunal's total actual expenditure on all consultancies in the three most recent reporting years.

**Table 5.1** Summary of total actual expenditure on consultancy contracts in the three most recent reporting years (inclusive of GST)

Year	Total actual expenditure (incl GST)
2005–06	\$155,093
2006–07	\$232,662
2007–08	\$199,014

Appendix 10 provides details in relation to each new consultancy let by the Tribunal during 2007–08 for which the total contract value (inclusive of GST) is \$10,000 or more. Appendix 10 also sets out 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. No contracts in excess of \$10,000 (inclusive of GST) or standing offers were exempted from being published on the AusTender website on the basis that they would disclose exempt matters under the *Freedom of Information Act 1982*.

Overview details of all contracts of \$100,000 or more current in any one calendar year are available through the Tribunal's website in accordance with the Senate order relating to agency contracts. No contracts were let during 2007–08 that did not provide for the Auditor-General to have access to the contractor's premises.

Information on expenditure on contracts and consultancies is also available on the AusTender website at [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 plans for the forthcoming year. Its responsibilities include providing advice to the Registrar on a range of matters, such as the financial statements and fraud risk assessment, as well as commissioning internal audits on operational activities.

Each year, the Tribunal's independent internal auditor reviews the operations at most risk, and at most common risk, and undertakes audit activities related to these operations. During the reporting year, the internal auditor undertook audits of the Queensland, South Australian and Western Australian Registries. Areas scrutinised included assets, attendance records and payroll, bank accounts, hospitality, payments and

receipting, purchasing and security. Audits of Principal Registry finance and human resources operations are also undertaken each year. No major risks were identified as a result of the audits.

The Audit Committee has implemented sufficient processes to enable the Registrar to complete the Certificate of Compliance for the 2007–08 year.

The Registrar certifies that the Tribunal has prepared risk assessments and fraud control plans and has in place procedures that provide for fraud prevention, detection, investigation, reporting and data collection in compliance with the Commonwealth Fraud Control Guidelines. These plans were reviewed and updated in 2007–08.

#### *Insurance*

The Tribunal is insured through Comcover. In general terms, the Tribunal has a low risk of insurance exposure and a limited likelihood of major disruption to its services. However, cover is provided should that occur. In line with a general trend in the industry, the insurance premium decreased again in 2007–08.

#### *Risk management assessment*

The Tribunal has completed a risk assessment review examining all business risks that may impact on the Tribunal's national operations. The review covered registry operations, public interaction and information systems and links with the fraud control plan. These assessments will provide the basis for a comprehensive review of the Tribunal's Business Continuity Plan.

#### *Security*

The Tribunal's office areas are access-controlled. Duress alarms are installed in conference and hearing rooms and at registry counters to protect Tribunal members and staff in the event of an incident. The Tribunal has a fee-for-service agreement with Chubb Security Pty Limited to provide additional security services for Tribunal ADR processes and hearings as required. During the year, security services were arranged on several occasions as a precautionary measure.



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

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

T4 Protective Security completed a review of the Tribunal's physical security arrangements in 2006–07 to ensure that appropriate measures are taken to protect Tribunal members, staff, the public and Australian Government records and assets from attack or unwanted intervention. Implementation of the recommendations of the review commenced in 2007–08 and will continue in 2008–09.

### **Information Technology**

The IT Section developed and managed several significant projects during the year.

#### **TRACS**

The overall performance of the Tribunal's case management system, known as TRACS (Tribunal Record and Case System), has improved over the last year. Significant enhancements were implemented by the IT Section in consultation with the licensee of the system, Strategic Business Consulting Pty Limited (SBC). Software enhancements were made to improve the speed of the system and to enable users to list a hearing over multiple days and with multiple members, an extremely useful function.

The IT Section undertook considerable work with SBC and Tribunal users during 2007–08 to develop TRACS's reporting capacity. The Tribunal was also able to close down its previous mainframe-based case management system (AATCAMS) in October 2007 following the successful migration of all historical data to TRACS.

Refresher training courses on using TRACS were conducted with staff in all Registries. The IT Section also introduced the WebEx web conferencing tool to enable interactive online meetings with Super Users in local Registries. This allows for ease of communication about program developments.

#### **Infrastructure and network tenders**

The IT Section is in the process of assessing tenders for the supply and implementation of a new generation of servers and a new wide area network connecting the Registries. IT is also assessing submissions for the Tribunal's telephony, videoconferencing, remote access, and internet and gateway/firewall services.

#### **Security compliance**

This year, a remote-access system was implemented to enable Tribunal personnel to work safely from home. Investigations were also undertaken to find a way to securely integrate email-via-mobile phone as part of the network. The Tribunal is continuing to work to enhance system security in line with government requirements.

#### **Information technology strategic alliances**

The Tribunal's Manager of Information Technology, Paul Hoffmans, is a member of the Chief Information Officer (CIO) Forum convened by the Australian Government Information Management Office (AGIMO). At the Forum held in August 2007, Mr Hoffmans met with the CIO of AGIMO and others to discuss a number of subjects, including identity management, security, tenders and contracts, and procurement guidelines. Involvement with the CIO Forum has enabled the IT Section to benefit from a cooperative relationship with other agencies.

A number of other courts and tribunals, including the New South Wales Workers Compensation Commission, use electronic case management systems that are similar to TRACS. The IT Section values the opportunity to liaise with these agencies to discuss and accelerate the development of the system.

## Library and information services

### *Library Committee*

The Library Committee met twice during the reporting year in October 2007 and June 2008. Members of the acquisitions sub-committee liaised regularly in relation to the purchase of additional hard-copy and online resources.

### *Library network*

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

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

Achievements of the library network in the reporting year included:

- acquiring, cataloguing and distributing new paper and electronic materials in response to Library Committee recommendations for the collection;
- continuing a project to provide electronic copies of all Tribunal decisions to the AustLII website;
- maintaining the Tribunal's intranet and internet sites; and
- ongoing management of the process of electronic delivery of Tribunal decisions to publishers, government departments and agencies and other interested parties.

### **Policy and Research Section**

The Policy and Research Section provides the President, Registrar and Assistant Registrar with advice and assistance in relation to legal and policy issues affecting

the Tribunal. It also provides information and assistance to Tribunal members and staff in relation to legislative changes, case law developments and practice and procedure issues. The primary responsibilities of the section are:

- undertaking research and preparing advice, correspondence and papers relating to matters affecting the Tribunal;
- monitoring appeals from Tribunal decisions;
- producing and maintaining resource materials, including the Tribunal's jurisdiction list and procedure manuals;
- coordinating reporting on Tribunal performance, including producing statistical information on the Tribunal's workload;
- managing projects and providing support to Tribunal committees; and
- assisting with the delivery of training for Tribunal staff.

Key achievements for the reporting year included:

- coordinating the preparation and distribution of the Guide to the Social Security Jurisdiction;
- coordinating the review of the Tribunal's communication products;
- assisting with the conduct of the user survey;
- assisting with the ongoing development of the functionality and reporting capacity of the Tribunal's electronic case management system, TRACS;
- providing training to staff on practice and procedure developments;
- coordinating the Administrative Appeals Tribunal Mooting Competition.

The section comprises five staff: the Manager, the Senior Legal and Policy Officer, two Legal and Policy Officers and the Communications Project Officer.



Policy and Research Section: Chantal Bostock; Chris Matthies; Jason Cabarrús; Keelyann Thomson.  
Absent: Rocelle Ago.



# Financial Statements

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4 September 2008

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

Dear Mr Humphreys

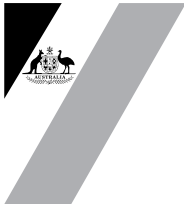
**ADMINISTRATIVE APPEALS TRIBUNAL**  
**Financial Statements for the year ended 30 June 2008**

Our audit of the financial statements for the year ended 30 June 2008 of the Administrative Appeals Tribunal has now been completed. In accordance with section 57 of the *Financial Management and Accountability Act 1997*, I have the pleasure in attaching for your information the unqualified auditor's report together with the associated financial statements.

Yours sincerely

Puspa Dash  
Acting Executive Director

GPO Box 707 CANBERRA ACT 2601  
19 National Circuit BARTON ACT 2600  
Phone (02) 6203 7300 Fax (02) 6203 7777



## 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 2008, which comprise: a Statement by the Chief Executive and Chief Financial Officer; Income Statement; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Schedule of Contingencies; Schedule of Administered Items and Notes to and forming part of the Financial Statements, including a Summary of Significant Accounting Policies.

### *The Responsibility of the Chief Executive for the Financial Statements*

The Administrative Appeals Tribunal's Chief Executive 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 control 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. My audit has been conducted 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

GPO Box 707 CANBERRA ACT 2601  
19 National Circuit BARTON ACT 2600  
Phone (02) 6203 7300 Fax (02) 6203 7777

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 Administrative Appeals Tribunal's Chief Executive, 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 2008 and its financial performance and cash flows for the year then ended.

Australian National Audit Office



Puspa Dash  
Acting Executive Director

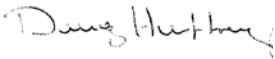
Delegate of the Auditor-General

Canberra  
4 September 2008



**STATEMENT BY THE CHIEF EXECUTIVE AND  
(CHIEF FINANCIAL OFFICER)**

In our opinion, the attached financial statements for the year ended 30 June 2008 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.



DOUGLAS HUMPHREYS  
Chief Executive

3 September 2008



STEPHEN WISE  
Chief Financial Officer

3 September 2008

## INCOME STATEMENT

for the period ended 30 June 2008

	Notes	2008 \$'000	2007 \$'000
<b>INCOME</b>			
<b>Revenue</b>			
Revenue from Government	3A	32,215	31,475
Sale of goods and rendering of services	3B	1,121	1,063
<b>Total revenue</b>		<b>33,336</b>	<b>32,538</b>
<b>Gains</b>			
Other gains	3C	330	205
<b>Total gains</b>		<b>330</b>	<b>205</b>
<b>Total Income</b>		<b>33,666</b>	<b>32,743</b>
<b>EXPENSES</b>			
Employee benefits	4A	20,088	18,936
Suppliers	4B	11,928	12,302
Depreciation and amortisation	4C	1,226	989
Write-down and impairment of assets	4D	224	34
Losses from assets sales	4E	2	15
<b>Total Expenses</b>		<b>33,468</b>	<b>32,276</b>
<b>Surplus (Deficit)</b>		<b>198</b>	<b>467</b>
<b>Surplus (Deficit) attributable to the Australian Government</b>		<b>198</b>	<b>467</b>

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

## BALANCE SHEET

as at 30 June 2008

	Notes	2008 \$'000	2007 \$'000
<b>ASSETS</b>			
<b>Financial Assets</b>			
Cash and cash equivalents	5A	466	692
Trade and other receivables	5B	8,305	7,399
<b>Total financial assets</b>		<b>8,771</b>	<b>8,091</b>
<b>Non-Financial Assets</b>			
Leasehold improvements	6A,C	7,617	6,637
Plant and equipment	6B,C	1,302	1,700
Intangibles	6D	402	409
Other non-financial assets	6E	1,885	1,881
<b>Total non-financial assets</b>		<b>11,206</b>	<b>10,627</b>
<b>Total Assets</b>		<b>19,977</b>	<b>18,718</b>
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	7A	906	860
<b>Total payables</b>		<b>906</b>	<b>860</b>
<b>Non-Interest Bearing Liabilities</b>			
Other	8	1,102	1,119
<b>Total Non-Interest Bearing Liabilities</b>		<b>1,102</b>	<b>1,119</b>
<b>Provisions</b>			
Employee provisions	9A	5,201	4,796
Other provisions	9B	385	385
<b>Total provisions</b>		<b>5,586</b>	<b>5,181</b>
<b>Total Liabilities</b>		<b>7,594</b>	<b>7,160</b>
<b>Net Assets</b>		<b>12,383</b>	<b>11,558</b>
<b>EQUITY</b>			
Contributed equity		2,568	2,275
Reserves		3,170	2,836
Retained surplus (accumulated deficit)		6,645	6,447
<b>Total Equity</b>		<b>12,383</b>	<b>11,558</b>
<b>Current Assets</b>		<b>10,656</b>	<b>9,972</b>
<b>Non-Current Assets</b>		<b>9,321</b>	<b>8,746</b>
<b>Current Liabilities</b>		<b>5,774</b>	<b>5,305</b>
<b>Non-Current Liabilities</b>		<b>1,820</b>	<b>1,855</b>

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

## STATEMENT OF CHANGES IN EQUITY

for the period ended 30 June 2008

	Retained Earnings		Asset Revaluation Reserves		Contributed Equity/Capital		Total Equity	
	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000
<b>Opening balance</b>								
Balance carried forward from previous period	6,447	5,980	2,836	2,996	2,275	2,133	11,558	11,109
Adjustment for errors	-	-	-	-	-	-	-	-
Adjustment for changes in accounting policy	-	-	-	-	-	-	-	-
<b>Adjusted opening balance</b>	<b>6,447</b>	<b>5,980</b>	<b>2,836</b>	<b>2,996</b>	<b>2,275</b>	<b>2,133</b>	<b>11,558</b>	<b>11,109</b>
<b>Income and expense</b>								
Revaluation adjustment	-	-	334	(160)	-	-	334	(160)
Revaluation	-	-	334	(160)	-	-	334	(160)
Surplus (Deficit) for the period	198	467	-	-	-	-	198	467
<b>Total income and expenses</b>	<b>198</b>	<b>467</b>	<b>334</b>	<b>(160)</b>	<b>-</b>	<b>-</b>	<b>532</b>	<b>307</b>
<b>Transactions with owners</b>								
<i>Contribution by owners</i>								
Appropriation (equity injection)	-	-	-	-	293	142	293	142
<b>Sub-total transactions with owners</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>293</b>	<b>142</b>	<b>293</b>	<b>142</b>
Transfer between equity components	-	-	-	-	-	-	-	-
<b>Closing balance as at 30 June</b>	<b>6,645</b>	<b>6,447</b>	<b>3,170</b>	<b>2,836</b>	<b>2,568</b>	<b>2,275</b>	<b>12,383</b>	<b>11,558</b>
<b>Closing balance attributable to the Australian Government</b>	<b>6,645</b>	<b>6,447</b>	<b>3,170</b>	<b>2,836</b>	<b>2,568</b>	<b>2,275</b>	<b>12,383</b>	<b>11,558</b>

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

## CASH FLOW STATEMENT

for the period ended 30 June 2008

	Notes	2008 \$'000	2007 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Goods and services		1,075	1,077
Appropriations		31,355	31,035
Net GST received		1,368	1,382
<b>Total cash received</b>		<b>33,798</b>	<b>33,494</b>
<b>Cash used</b>			
Employees		(19,389)	(18,204)
Suppliers		(13,235)	(12,970)
<b>Total cash used</b>		<b>(32,624)</b>	<b>(31,174)</b>
<b>Net cash from (used by) operating activities</b>	10	<b>1,174</b>	<b>2,320</b>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of property, plant and equipment		(1,603)	(2,005)
Purchase of intangibles		(90)	(303)
<b>Total cash used</b>		<b>(1,693)</b>	<b>(2,308)</b>
<b>Net cash from (used by) investing activities</b>		<b>(1,693)</b>	<b>(2,308)</b>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations – contributed equity		293	142
<b>Total cash received</b>		<b>293</b>	<b>142</b>
<b>Net cash from (used by) financing activities</b>		<b>293</b>	<b>142</b>
<b>Net increase or (decrease) in cash held</b>		<b>(226)</b>	<b>154</b>
Cash and cash equivalents at the beginning of the reporting period		692	538
<b>Cash and cash equivalents at the end of the reporting period</b>	5A	<b>466</b>	<b>692</b>

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

## SCHEDULE OF COMMITMENTS

as at 30 June 2008

	2008 \$'000	2007 \$'000
<b>BY TYPE</b>		
<b>Commitments receivable</b>		
GST recoverable on commitments	(3,906)	(4,109)
<b>Total commitments receivable</b>	<b>(3,906)</b>	<b>(4,109)</b>
<b>Other commitments</b>		
Operating leases <sup>1,2</sup>	42,798	45,205
Other commitments	164	
<b>Total other commitments</b>	<b>42,962</b>	<b>45,205</b>
<b>Net commitments by type</b>	<b>39,056</b>	<b>41,096</b>
<b>BY MATURITY</b>		
<b>Commitments receivable</b>		
One year or less	(556)	(513)
From one to five years	(2,649)	(2,479)
Over five years	(701)	(1,117)
<b>Total commitments receivable</b>	<b>(3,906)</b>	<b>(4,109)</b>
<b>Operating lease commitments</b>		
One year or less	5,951	5,646
From one to five years	29,133	27,271
Over five years	7,714	12,288
<b>Total operating lease commitments</b>	<b>42,798</b>	<b>45,205</b>
<b>Other commitments</b>		
One year or less	164	-
From one to five years	-	-
Over five years	-	-
<b>Total other commitments</b>	<b>164</b>	<b>-</b>
<b>Net commitments by maturity</b>	<b>39,056</b>	<b>41,096</b>

NB: Commitments are GST inclusive where relevant.

<sup>1</sup> These commitments comprise leases of hearing rooms and office accommodation for the Tribunal.

<sup>2</sup> 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.

## SCHEDULE OF CONTINGENCIES

as at 30 June 2008

There are no quantifiable contingent assets or liabilities (2007: Nil). Refer to Note 11 for details of any unquantifiable or remote contingent assets or contingent liabilities.

SCHEDULE OF ADMINISTERED ITEMS			
	Notes	2008 \$'000	2007 \$'000
<b>Income administered on behalf of Government</b>			
<i>for the period ended 30 June 2008</i>			
<b>Non-taxation revenue</b>			
Filing fees	15	627	822
<b>Total revenues administered on behalf of Government</b>		627	822
<b>Total income administered on behalf of Government</b>		627	822
<b>Expenses administered on behalf of Government</b>			
<i>for the period ended 30 June 2008</i>			
Refund of filing fees	16	460	483
<b>Total expenses administered on behalf of Government</b>		460	483

There were no administered assets or liabilities as at 30 June 2008, (2007: Nil).

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

SCHEDULE OF ADMINISTERED ITEMS			
	Notes	2008 \$'000	2007 \$'000
<b>Administered Cash Flows</b>			
<i>for the period ended 30 June 2008</i>			
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Filing fees		627	822
<b>Total cash received</b>		<b>627</b>	<b>822</b>
<b>Cash used</b>			
Refund of filing fees		(460)	(483)
<b>Total cash used</b>		<b>(460)</b>	<b>(483)</b>
<b>Net cash flows from (used by) operating activities</b>	19	<b>167</b>	<b>339</b>
<b>Net Increase (Decrease) in Cash Held</b>		<b>167</b>	<b>339</b>
Cash and cash equivalents at the beginning of the reporting period		-	-
Cash from Official Public Account for: – Appropriations		460	483
Cash to Official Public Account for: – Appropriations		(627)	(822)
<b>Cash and cash equivalents at the end of reporting period</b>		<b>-</b>	<b>-</b>

There were no administered commitments or contingencies as at 30 June 2008, (2007: Nil).

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



## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

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## 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 these outcomes 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 of the Tribunal's administration and programs.

#### 1.2 Basis of Preparation of the Financial Report

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

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

- Finance Minister's Orders (FMOs) for reporting periods ending on or after 1 July 2007: 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 is in accordance with historical cost convention, except for certain assets and liabilities which, as noted, are 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 FMOs, assets and liabilities are recognised in the Balance Sheet when and only when it is probable that future economic benefits will flow to the Entity a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under agreements equally proportionately unperformed are not recognised unless required by an Accounting Standard. Liabilities and assets which are unrealised are reported in the Schedule of Commitments and the Schedule of Contingencies (other than unquantifiable or remote contingencies, which are reported at Note 11).

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

Administered revenues, expenses, assets and liabilities and cash flows reported in the Schedule of Administered Items and related notes are accounted for on the same basis and using the same policies as for departmental items except where otherwise stated at Note 1.22.

#### 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.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

### 1.4 Statement of Compliance

#### **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 are applicable to the current reporting period:

#### **Financial instrument disclosure**

AASB 7 *Financial Instruments: Disclosures* is effective for reporting periods beginning on or after 1 January 2007 (the 2007–08 financial year) and amends the disclosure requirements for financial instruments. In general AASB 7 requires greater disclosure than that previously required. Associated with the introduction of AASB 7 a number of accounting standards were amended to reference the new standard or remove the present disclosure requirements through 2005-10 Amendments to Australian Accounting Standards [AASB 132, AASB 101, AASB 114, AASB 117, AASB 133, AASB 139, AASB 1, AASB 4, AASB 1023 & AASB 1038]. These changes have no financial impact but will affect the disclosure presented in future financial statements.

The following new standards, amendments to standards or interpretations for the current financial year have no material financial impact on the Tribunal.

*2007-4 Amendments to Australian Accounting Standards arising from ED 151 and Other Amendments and Erratum: Proportionate Consolidation*

*2007-7 Amendments to Australian Accounting Standards*

*UIG Interpretation 11 AASB 2 – Group and Treasury Share Transactions and 2007-1 Amendments to Australian Accounting Standards arising from AASB Interpretation 11*

#### **Future Australian Accounting Standard requirements**

The following new standards, amendments to standards or interpretations have been issued by the Australian Accounting Standards Board but are effective for future reporting periods. It is estimated that the impact of adopting these pronouncements when effective will have no material financial impact on future reporting periods.

*AASB Interpretation 12 Service Concession Arrangements and 2007-2 Amendments to Australian Accounting Standards arising from AASB Interpretation 12*

*AASB 8 Operating Segments and 2007-3 Amendments to Australian Accounting Standards arising from AASB 8*

*2007-6 Amendments to Australian Accounting Standards arising from AASB 123*

*AASB Interpretation 13 Customer Loyalty Programmes*

*AASB Interpretation 14 AASB 119 – The Limit on a Defined Benefit Asset, Minimum Funding Requirements and their Interaction*

#### **Other**

The following standards and interpretations have been issued but are not applicable to the operations of the Tribunal.

#### **AASB 1049 Financial Reporting of General Government Sectors by Governments**

AASB 1049 specifies the reporting requirements for the General Government Sector. The FMOs do not apply to this reporting or the consolidated financial statements of the Australian Government.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

### 1.5 Revenue

#### *Revenue from Government*

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

Appropriations receivable are recognised at their nominal amounts.

#### *Other 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 with the transaction will flow to the entity.

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

### 1.6 Gains

#### *Other Resources Received Free of Charge*

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

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

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

#### *Sale of Assets*

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

### 1.7 Transactions with the Government as Owner

#### *Equity injections*

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

#### *Restructuring of Administrative Arrangements*

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

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

### *Other distributions to owners*

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

### **1.8 Employee Benefits**

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

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

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

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

### *Leave*

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

The leave liabilities are calculated on the basis of employees' remuneration, 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 at the present value of the estimated future cash flows to be made in respect of all employees at 30 June 2008. In determining the present value of the liability, the Tribunal has taken into account attrition rates and pay increases through promotion and inflation.

### *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 Scheme 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.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

### 1.9 Leases

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

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

Lease incentives taking the form of 'free' leasehold improvements and rent holidays are recognised as liabilities. These liabilities are reduced by allocating lease payments between rental expense and reduction of the liability over the term of the related lease (refer Note 7).

### 1.10 Borrowing Costs

All borrowing costs are expensed as incurred.

### 1.11 Cash

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

### 1.12 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'.

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

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

### 1.13 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, including borrowings, 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.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

### *Supplier and other payables*

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).

### **1.14 Contingent Liabilities and Contingent Assets**

Contingent liabilities and contingent assets are not recognised in the Balance Sheet but are reported in the related schedules and notes. They may arise from uncertainty as to the existence of a liability or asset, or represent an existing liability or asset in respect of which settlement is not probable or the amount cannot be reliably measured. Contingent assets are reported when settlement is probable, and contingent liabilities are recognised when settlement is greater than remote.

### **1.15 Financial Guarantee Contracts**

Financial guarantee contracts are accounted for in accordance with AASB139. They are not treated as a contingent liability, as they are regarded as financial instruments outside the scope of AASB137. The Tribunal currently has no financial guarantee contracts.

### **1.16 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.

### **1.17 Property, Plant and Equipment**

#### *Asset Recognition Threshold*

Purchases of property, 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 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:

<b>Asset class</b>	<b>Fair value measured at</b>
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 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.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

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

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

### *Depreciation*

Depreciable property, 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:

	2008	2007
Leasehold improvements (fitout)	<b>Lease term</b>	Lease term
Plant and equipment	<b>3–20 years</b>	3–20 years

### *Impairment*

All assets were assessed for impairment at 30 June 2008. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

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

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

### **1.18 Intangibles**

The Tribunal's intangibles comprise externally purchased software for internal use. These assets are carried at cost. Software is amortised on a straight-line basis over their anticipated useful lives. The useful lives of the Tribunal's software is 3-5 years (2007: 3–5 years).

All software assets were assessed for indications of impairment as at 30 June 2008. No indications of impairment were found for intangible assets.

### **1.19 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.



## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

### 1.20 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.

### 1.21 Insurance

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

### 1.22 Reporting of Administered Activities

The 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 Tribunal 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 16. Thus the Schedule of Administered Items largely reflects the Government's transactions, through the Tribunal, with parties outside the Government.

#### *Administered Revenue and Expenditure*

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

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

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

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

**Note 2: Events after the Balance Sheet Date**

There were no significant events occurring after the balance date.

**Note 3: Income**

	2008 \$'000	2007 \$'000
<b>Revenue</b>		
<b>Note 3A: Revenue from Government</b>		
Appropriations:		
Departmental outputs	32,215	31,475
<b>Total revenue from government</b>	<b>32,215</b>	<b>31,475</b>
<b>Note 3B: Sale of goods and rendering of services</b>		
Rendering of services – related entities	621	722
Rendering of services – external entities	500	341
<b>Total sale of goods and rendering of services</b>	<b>1,121</b>	<b>1,063</b>
<b>Gains</b>		
<b>Note 3C: Other gains</b>		
Resources received free of charge	36	35
Liabilities assumed by other departments	294	170
<b>Total other gains</b>	<b>330</b>	<b>205</b>
<b>Note 4: Expenses</b>		
<b>Note 4A: Employee benefits</b>		
Wages and salaries	15,440	14,852
Superannuation		
Defined contribution plans	2,377	1,895
Defined benefit plans	585	466
Leave and other entitlements	1,055	981
Separation and redundancies	60	217
Other employee expenses	571	525
<b>Total employee benefits</b>	<b>20,088</b>	<b>18,936</b>
<b>Note 4B: Suppliers</b>		
Provision of goods – related entities	-	-
Provision of goods – external entities	400	572
Rendering of services – related entities	301	274
Rendering of services – external entities	6,073	6,410
Operating lease rentals:		
Minimum lease payments	5,025	4,940
Workers compensation premiums	129	106
<b>Total supplier expenses</b>	<b>11,928</b>	<b>12,302</b>

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2008 \$'000	2007 \$'000
<b>Note 4C: Depreciation and amortisation</b>		
Depreciation:		
Infrastructure, plant and equipment	1,129	962
<b>Total depreciation</b>	<b>1,129</b>	<b>962</b>
Amortisation:		
Computer software	97	27
<b>Total amortisation</b>	<b>97</b>	<b>27</b>
<b>Total depreciation and amortisation</b>	<b>1,226</b>	<b>989</b>
<b>Note 4D: Write down and impairment of assets</b>		
Revaluation decrements – non-financial assets	224	34
<b>Total write-down of assets</b>	<b>224</b>	<b>34</b>
<b>Note 4E: Losses from assets sales</b>		
Infrastructure, plant and equipment		
Proceeds from sale	-	-
Carrying value of assets sold	2	15
Selling expense	-	-
<b>Total losses from assets sales</b>	<b>2</b>	<b>15</b>
<b>Note 5: Financial Assets</b>		
<b>Note 5A: Cash and cash equivalents</b>		
Cash on hand or on deposit	466	692
<b>Total cash and cash equivalents</b>	<b>466</b>	<b>692</b>

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2008 \$'000	2007 \$'000
<b>Note 5B: Trade and other receivables</b>		
Goods and services	175	86
Appropriations receivable: for existing outputs	8,000	7,140
GST receivable from the Australian Taxation Office	130	173
<b>Total trade and other receivables (net)</b>	<b>8,305</b>	<b>7,399</b>
Receivables are represented by:		
Current	8,305	7,399
Non-current	-	-
<b>Total trade and other receivables (net)</b>	<b>8,305</b>	<b>7,399</b>
Receivables are aged as follows:		
Not overdue	8,291	7,385
Overdue by:		
Less than 30 days	7	11
30 to 60 days	4	3
60 to 90 days	3	-
More than 90 days	-	-
	14	14
<b>Total receivables (net)</b>	<b>8,305</b>	<b>7,399</b>
<b>Note 6: Non-Financial Assets</b>		
<b>Note 6A: Leasehold improvements</b>		
– at fair value	7,617	6,637
– accumulated depreciation	-	-
<b>Total leasehold improvements</b>	<b>7,617</b>	<b>6,637</b>
<b>Note 6B: Plant and equipment</b>		
– at fair value	1,302	1,700
– accumulated depreciation	-	-
<b>Total plant and equipment</b>	<b>1,302</b>	<b>1,700</b>

All revaluations are in accordance with the revaluation policy stated in Note 1.17. In 2007–08 an independent valuer, the Australian Valuation Office, conducted the valuations.

No indicators of impairment were found for plant and equipment.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

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

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

	Leasehold Improvements \$'000	Plant and Equipment \$'000	TOTAL \$'000
<b>As at 1 July 2007</b>			
Gross book value	6,637	1,700	8,337
Accumulated depreciation/amortisation	-	-	-
<b>Net book value 1 July 2007</b>	<b>6,637</b>	<b>1,700</b>	<b>8,337</b>
Additions:			
by purchase	1,452	109	1,561
by purchase (partially complete)	42	-	42
Revaluation and impairments through equity	334	(224)	110
Revaluation of makegood	-	-	-
Depreciation/amortisation expense	(848)	(281)	(1,129)
Impairment recognised in the operating result	-	-	-
Disposals:			
other disposals	-	(2)	(2)
<b>Net book value 30 June 2008</b>	<b>7,617</b>	<b>1,302</b>	<b>8,919</b>
<b>Net book value as at 30 June 2008 represented by:</b>			
Gross book value	7,617	1,302	8,919
Accumulated depreciation/amortisation and impairment	-	-	-
	7,617	1,302	8,919

*TABLE A – Reconciliation of the opening and closing balances of property, plant and equipment (2006–07)*

	Leasehold Improvements \$'000	Plant and Equipment \$'000	TOTAL \$'000
<b>As at 1 July 2006</b>			
Gross book value	6,161	1,342	7,503
Accumulated depreciation/amortisation	-	-	-
<b>Net book value 1 July 2006</b>	<b>6,161</b>	<b>1,342</b>	<b>7,503</b>
Additions:			
by purchase	1,331	674	2,005
Revaluation and impairments through equity	(159)	(34)	(193)
Revaluation of makegood	-	-	-
Depreciation/amortisation expense	(696)	(266)	(962)
Impairment recognised in the operating result	-	-	-
Disposals:			
other disposals	-	(16)	(16)
<b>Net book value 30 June 2007</b>	<b>6,637</b>	<b>1,700</b>	<b>8,337</b>
<b>Net book value as at 30 June 2007 represented by:</b>			
Gross book value	6,637	1,700	8,337
Accumulated depreciation/amortisation and impairment	-	-	-
	6,637	1,700	8,337

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2008 \$'000	2007 \$'000
<b>Note 6D: Intangibles</b>		
Computer software at cost	1,407	1,317
Accumulated amortisation	(1,005)	(908)
<b>Total intangibles (non-current)</b>	<b>402</b>	<b>409</b>

No indicators of impairment were found for intangible assets.

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

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

**TABLE B – Reconciliation of the opening and closing balances of intangibles (2006-07).**

Item	Computer software purchased \$'000	Total \$'000
<b>As at 1 July 2006</b>		
Gross book value	1,079	1,079
Accumulated depreciation/amortisation and impairment	(946)	(946)
<b>Net book value 1 July 2006</b>	<b>133</b>	<b>133</b>
Additions:		
by purchase (partially complete)	303	303
Amortisation	(27)	(27)
<b>Net book value 30 June 2007</b>	<b>409</b>	<b>409</b>
<b>Net book value as of 30 June 2007 represented by:</b>		
Gross book value	1,317	1,317
Accumulated depreciation/amortisation and impairment	(908)	(908)
	409	409

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2008 \$'000	2007 \$'000
<b>Note 6E: Other non-financial assets</b>		
Prepayments	1,885	1,881
<b>Total other non-financial assets</b>	<b>1,885</b>	<b>1,881</b>

All other non-financial assets are current assets.

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

### Note 7: Payables

#### Note 7A: Suppliers

Trade creditors	906	860
<b>Total supplier payables</b>	<b>906</b>	<b>860</b>

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

### Note 8: Non-Interest Bearing Liabilities

Lease incentives	1,102	1,119
<b>Total non-interest bearing liabilities</b>	<b>1,102</b>	<b>1,119</b>
Current	200	85
Non-current	902	1,034
<b>Total non-interest bearing liabilities</b>	<b>1,102</b>	<b>1,119</b>

### Note 9: Provisions

#### Note 9A: Employee provisions

Salaries and wages	535	449
Leave	4,007	3,764
Superannuation	628	547
Separation and redundancies	-	-
Other	31	36
<b>Total employee provisions</b>	<b>5,201</b>	<b>4,796</b>

Employee provisions are represented by:

Current	4,668	4,360
Non-current	533	436
<b>Total employee provisions</b>	<b>5,201</b>	<b>4,796</b>

The classification of current employee provisions includes amounts for which there is not an unconditional right to defer settlement by one year, hence in the case of employee provisions the above classification does not represent the amount expected to be settled within one year of reporting date. Employee provisions expected to be settled in twelve months from the reporting date is \$1,781,604 (2007: \$1,808,626), in excess of one year \$3,419,546 (2007: \$2,987,785).

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

2008	2007
\$'000	\$'000

### Note 9B: Other provisions

Restoration obligations	385	385
<i>Total other provisions</i>	<u>385</u>	<u>385</u>

All other provisions are non-current liabilities.

	Provision for restoration \$'000	Total \$'000
<b>Carrying amount 1 July 2007</b>	<u>385</u>	<u>385</u>
Additional provisions made	-	-
Amount used	-	-
Amounts reversed	-	-
Unwinding of discount or change in the discount rate	-	-
<b>Closing balance 2008</b>	<u>385</u>	<u>385</u>

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

### Note 10: Cash Flow Reconciliation

#### Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement

##### Report cash and cash equivalents as per:

Cash Flow Statement	466	692
Balance Sheet	<u>466</u>	<u>692</u>
Difference	<u>-</u>	<u>-</u>

##### Reconciliation of operating result to net cash from operating activities:

Operating result	198	467
Depreciation/amortisation	1,226	989
Net write-down of non-financial assets	224	34
Loss on disposal of assets	2	15
(Increase)/decrease in net receivables	(906)	(426)
(Increase)/decrease in prepayments	(4)	161
Increase/(decrease) in employee provisions	405	562
Increase/(decrease) in supplier payables	46	105
Increase/(decrease) in other liabilities	(17)	413
<b>Net cash from/(used by) operating activities</b>	<u>1,174</u>	<u>2,320</u>



## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

### Note 11: Contingent Liabilities and Assets

#### Quantifiable Contingencies

At 30 June 2008 the Tribunal has no quantifiable contingent liabilities (2007: Nil).

#### Unquantifiable or Remote Contingencies

At 30 June 2008, the Tribunal has not identified any unquantifiable or remote contingencies (2007: Nil).

### Note 12: Senior Executive Remuneration

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

	2008	2007
\$145,000 to \$159,999	1	-
\$160,000 to \$174,999	-	1
\$205,000 to \$219,999	-	-
\$220,000 to \$234,999	-	1
\$250,000 to \$264,999	1	-
<b>Total</b>	<b>2</b>	<b>2</b>

The aggregate amount of total remuneration of executives shown above.	<b>\$405,038</b>	\$403,585
---	------------------	-----------

The aggregate amount of separation and redundancy/termination benefit payments during the year to executives shown above.	-	-
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### Note 13: Remuneration of Auditors

	2008 \$'000	2007 \$'000
Financial statement audit services are provided free of charge to the Tribunal.		
The fair value of the audit services provided to the Tribunal was:	<b>36</b>	35
	<b>36</b>	35

No other services were provided by the Auditor-General.

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

### Note 14: Financial Instruments

	2008 \$'000	2007 \$'000
<b>Note 14A: Categories of financial instruments</b>		
<b>Financial assets</b>		
Loans and receivables		
Cash and cash equivalents	466	692
Trade receivables	175	86
<b>Carrying amount of financial assets</b>	<b>641</b>	<b>778</b>
<b>Financial liabilities</b>		
Other liabilities		
Payables – suppliers	906	860
<b>Carrying amount of financial liabilities</b>	<b>906</b>	<b>860</b>

### 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 2008 (2007: 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 2008 (2007: 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 (2008: \$175,000 and 2007: \$86,000). The Tribunal has assessed the risk of the default on payment and has allocated nil in 2008 (2007: nil) to an allowance for doubtful debts account.

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

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

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

	Not Past Due Nor Impaired 2008 \$'000	Not Past Due Nor Impaired 2007 \$'000	Past Due or Impaired 2008 \$'000	Past Due or Impaired 2007 \$'000
<b>Loans and receivables</b>				
Cash and cash equivalents	466	692	-	-
Trade receivables	161	72	14	14
<b>Total</b>	<b>627</b>	<b>764</b>	<b>14</b>	<b>14</b>

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

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

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

Ageing of financial assets that are past due but not impaired for 2007

	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	11	3	-	-	14
<b>Total</b>	<b>11</b>	<b>3</b>	<b>-</b>	<b>-</b>	<b>14</b>

### Note 14E: Liquidity risk

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

The following tables illustrates the maturities for financial liabilities

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

	On demand 2007 \$'000	Within 1 year 2007 \$'000	1 to 5 years 2007 \$'000	> 5 Years 2007 \$'000	Total 2007 \$'000
<b>Other liabilities</b>					
Suppliers	-	860	-	-	860
<b>Total</b>	<b>-</b>	<b>860</b>	<b>-</b>	<b>-</b>	<b>860</b>

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

**Note 14F: Market risk**

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

**Note 15: Income Administered on Behalf of the Government**

	2008 \$'000	2007 \$'000
<b>Revenue</b>		
Filing fees	627	822
<b>Total revenue</b>	<u>627</u>	<u>822</u>

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

	2008 \$'000	2007 \$'000
<b>Expenses</b>		
Refund of filing fees	460	483
<b>Total expenses</b>	<u>460</u>	<u>483</u>

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

There were no administered assets as at 30 June 2008, (2007: Nil).

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

There were no administered liabilities as at 30 June 2008, (2007: Nil)

**Note 19: Administered Reconciliation Table**

	2008 \$'000	2007 \$'000
<b>Opening administered assets less administered liabilities as at 1 July</b>	-	-
Plus: Administered income	627	822
Less: Administered refunds	(460)	(483)
Administered transfers to/from Australian Government:		
Appropriation transfers from OPA	460	483
Transfers to OPA	(627)	(822)
<b>Closing administered assets less administered liabilities as at 30 June</b>	-	-

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

### Note 20: Appropriations

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

Particulars	Departmental Outputs		Total	
	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000
Balance carried from previous period	7,832	7,238	7,832	7,238
Appropriation Act:				
Appropriation Act (No.1)	31,766	30,820	31,766	30,820
Appropriation Act (No.3)	449	655	449	655
Comcover receipts (Appropriation Act s12)	-	-	-	-
FMA Act:				
Refunds credited (FMA s30)	116	174	116	174
Appropriations to take account of recoverable GST (FMA s30A)	1,339	1,368	1,339	1,368
Annotations to 'net appropriations' (FMA s31)	1,075	1,077	1,075	1,077
Total appropriations available for payments	42,577	41,332	42,577	41,332
Cash payments made during the year (GST inclusive)	(34,111)	(33,500)	(34,111)	(33,500)
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:	8,466	7,832	8,466	7,832
Cash at bank and on hand	466	692	466	692
Departmental appropriations receivable	8,000	7,140	8,000	7,140
<b>Total</b>	<b>8,466</b>	<b>7,832</b>	<b>8,466</b>	<b>7,832</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

**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	
	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000
Balance carried from previous period (Appropriation Acts)	-	-	-	-
Appropriation Act:				
Appropriation Act (No.2)	293	142	293	142
FMA Act:				
Refunds credited (FMA s30)	-	-	-	-
Appropriations to take account of recoverable GST (FMA s30A)	29	14	29	14
Total appropriations available for payments	322	156	322	156
Cash payments made during the year (GST inclusive)	(322)	(156)	(322)	(156)
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	2008 \$'000	2007 \$'000
Cash payments made during the year	460	483
Estimated actual	600	600

**Note 21: Special Accounts**

The Administrative Appeals Tribunal has not recorded any transaction through any Special Accounts for the year ended 30 June 2008 (2007: Nil).

**Note 22: Compensation and Debt Relief**

	2008 \$	2007 \$
<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. (2007: 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. (2007: nil)	Nil	Nil

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

### Note 23: Reporting of Outcomes

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

#### Note 23A: Net Cost of Outcome Delivery

	Total	
	2008 \$'000	2007 \$'000
Expenses		
Administered	460	483
Departmental	33,468	32,276
<b>Total expenses</b>	<b>33,928</b>	<b>32,759</b>
Costs recovered from provision of goods and services to the non-government sector		
Administered	-	-
Departmental	500	341
<b>Total costs recovered</b>	<b>500</b>	<b>341</b>
Other external revenues		
Administered	627	822
Departmental	621	722
<b>Total other external revenues</b>	<b>1,248</b>	<b>1,544</b>
<b>Net cost/(contribution) of outcome</b>	<b>32,180</b>	<b>30,874</b>

#### Note 23B: Major Classes of Departmental Revenues and Expenses by Output Group and Outputs

The Tribunal has only one output group.

	Total	
	2008 \$'000	2007 \$'000
<b>Departmental expenses</b>		
Employees	20,088	18,936
Suppliers	11,928	12,302
Depreciation and amortisation	1,226	989
Other expenses	226	49
<b>Total departmental expenses</b>	<b>33,468</b>	<b>32,276</b>
<b>Funded by:</b>		
Revenues from government	32,215	31,475
Sale of goods and services	1,121	1,063
Other gains	330	205
<b>Total departmental revenues</b>	<b>33,666</b>	<b>32,743</b>

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

### Note 23C: 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	
	2008 \$'000	2007 \$'000
<b>Administered Income</b>		
Fees & fines	627	822
<b>Total Administered Income</b>	<b>627</b>	<b>822</b>
<b>Administered Expenses</b>		
Refund of fees and fines	(460)	(483)
<b>Total Administered Expenses</b>	<b>(460)</b>	<b>(483)</b>



# Appendixes

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## APPENDIX 1: MEMBERS OF THE TRIBUNAL

### Tribunal members as at 30 June 2008

President The Honourable Justice GK Downes AM

#### *New South Wales*

##### **Presidential members**

Federal Court The Honourable Justice BJM Tamberlin  
The Honourable Justice RV Gyles AO  
The Honourable Justice ACB Bennett AO  
The Honourable Justice RF Edmonds

Deputy Presidents Deputy President J Block  
Deputy President GDdeQ Walker

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

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

Members Dr IS Alexander (G,V)  
Dr TM Baker (G,V)  
Dr JD Campbell (G,V)  
Mr DM Connolly AM (G,V,S)  
Mr SE Frost (G,V,T)  
Dr TJ Hawcroft (G,V)  
Rear Admiral AR Horton AO RAN (Rtd) (G,V)  
Mr TC Jenkins (G,V,T)  
Professor GAR Johnston (G,V)  
Professor TM Sourdin (G,V)  
Dr MEC Thorpe (G,V)  
Dr SH Toh (G,V)

#### *Victoria*

##### **Presidential members**

Federal Court The Honourable Justice PRA Gray  
The Honourable Justice PC Heerey

Family Court The Honourable Justice N Mushin

Deputy Presidents Deputy President SA Forgie  
Deputy President GL McDonald

## Non-presidential members

Senior Members	Senior Member JR Handley (G,V,T) Senior Member BH Pascoe (G,V,T) Senior Member GD Friedman (G,V,S)
Members	Dr KJ Breen AM (G,V) Brigadier C Ermert (Rtd) (G,V) Mr E Fice (G,V,T) Dr GL Hughes (G,V,T) Dr RJ McRae (G,V) Ms RL Perton (G,V,S) Miss EA Shanahan (G,V)

## Queensland

### Presidential members

Federal Court	The Honourable Justice JEJ Spender The Honourable Justice AP Greenwood
Family Court	The Honourable Justice JPO Barry
Deputy President	Deputy President PE Hack SC Deputy President B McPherson CBE

### Non-presidential members

Senior Members	Senior Member BJ McCabe (G,V,T) Senior Member PM McDermott RFD (G,V,T) Senior Member MJ Carstairs (G,V,T) Senior Member KStC Levy RFD (G,V,T) Senior Member S A Karas AO (G,V,S)
Members	Dr ML Denovan (G,V) Associate Professor SC Fisher (G,V,T) Mr RG Kenny (G,V,T) Dr GJ Maynard, Brigadier (Rtd) (G,V) Associate Professor JB Morley RFD (G,V)

## South Australia

### Presidential members

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

**Non-presidential members**

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

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

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

**Non-presidential members**

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

***Tasmania*****Presidential members**

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

**Non-presidential members**

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

## *Australian Capital Territory*

### **Presidential members**

Family Court                      The Honourable Justice MM Finn

### **Non-presidential members**

Senior Member                      Senior Member JW Constance (G,V,T,S)

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

### ***Additional information***

1. Presidential members and Senior Members are listed according to their date of appointment, while Members are listed alphabetically.
2. 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
3. New appointments during the year to 30 June 2008 were:
  - Mr SA Karas AO, Part-time Senior Member
  - The Honourable Dr B McPherson CBE, Part-time Deputy President
  - The Honourable RD Nicholson AO, Part-time Deputy President
4. The following persons ceased to be members during the reporting year:
  - Dr EK Christie, Part-time Member
  - Associate Professor BW Davis AM, Part-time Member
  - Mr M Griffin, Part-time Member
  - The Honourable HW Olney AM QC, Part-time Deputy President
  - The Honourable Dr RNJ Purvis AM QC, Part-time Deputy President
  - Emeritus Professor IA Shearer AM RFD, Part-time Senior Member
  - Brigadier IR Way (Rtd), Part-time Member

## MEMBER PROFILES

### The Honourable Justice Garry Downes AM

BA LLB FCIArb

*President*

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

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

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

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

### Dr Ion Alexander

MBBS (Hons) LLB MRACMA FRACP FJFICM

*Part-time Member, NSW*

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

### Mason Allen RFD

Barrister-at-Law

*Full-time Senior Member, NSW*

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

### Dr Teresa Baker

*Part-time Member, NSW*

Teresa Baker has been a member of the AAT since August 2006. She is the Director of Pharmedica Consulting Pty Ltd, a company she established in 2001 which specialises in providing advice on pharmaceutical regulation. Dr Baker has a PhD in Chemistry from the University of Western Australia and thirteen years' experience in the pharmaceutical industry, including as a consultant to, and a regulatory and medical affairs manager with, several large pharmaceutical companies.

### Narelle Bell

BA LLB

*Full-time Senior Member, NSW*

Narelle Bell was appointed to the AAT as a full-time Member in 2001 and was appointed as a full-time Senior Member from 1 July 2004. She is a former legal member of the Social Security Appeals Tribunal (1994–2001), Judicial Member/Mediator with the New South Wales Administrative Decisions Tribunal (1994–2001), Consultant Reviewer with the Office of the Legal Services Commissioner (1995–2001), member of the Professional Standards Council of New South Wales and Western Australia and legal policy consultant. She

worked as a corporate counsel and legal adviser (part-time) for the New South Wales State Rail Authority during 1994–95. From 1988 until 1994, she worked as a policy officer and assistant director in the Legislation and Policy Division of the New South Wales Attorney-General's Department. Prior to this, she worked as a solicitor at the Anti-Discrimination Board (1986–88), the Redfern Legal Centre (1983–86) and for a private law firm (1982–83).

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

### **Julian Block**

**HDIPLaw HDIPTax LLM MTax**

*Part-time Deputy President, NSW*

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

Deputy President Block is a managing member for taxation schemes.

### **Dr Kerry Breen AM**

**MBBS MD FRACP**

*Part-time Member, Vic*

Kerry Breen is a consultant physician in gastroenterology and has been a Member of the AAT since 2006. He has served as President of the Australian Medical Council and President of the Medical Practitioners

Board of Victoria. From 2000 to 2006, he chaired the Australian Health Ethics Committee of the National Health and Medical Research Council.

### **Dr John Campbell**

**MBBS DTM&H MHA LLB LLM FRACMA FAICD FAIM**

*Part-time Member, NSW*

John Campbell has been a Member of the AAT since 1991. He served in the Australian Army between 1962 and 1980 and as a senior executive in NSW Health between 1980 and 1998. In subsequent years, John 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 is a member of the AAT's Professional Development Committee.

### **Margaret Carstairs**

**BA (Hons) LLB**

*Full-time Senior Member, Qld*

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

### **Dr Edward Christie**

**BAgrSc MAgrSc PhD Barrister-at-Law**

*Part-time Member, Qld*

Edward Christie is a barrister and mediator and was appointed a Member of the AAT in 1991. In 1990–91, he was the Principal Adviser to the Commission Chairman (Tony Fitzgerald QC) in the State of Queensland Commission of Inquiry into Fraser Island and

the Great Sandy Region. In 1993–94, he was a Commissioner in the Commonwealth Commission of Inquiry into Shoalwater Bay. He held a Fulbright Award (for practising lawyers) to the United States of America in 1994 in the subject area of the precautionary principle, risk assessment and legal decision-making. He was associated with the Commonwealth Scientific and Industrial Research Organisation over the period 1994–2000 in various advisory committees providing strategic research planning advice, including a period as Chair of the Meat, Dairy and Aquaculture Sector Advisory Committee. Since 2000, he has been the Chair of the Ministerial Advisory Committee (Vegetation Management), a Queensland Government committee advising on regulatory and policy issues associated with tree clearing and soil salinity. He was a major author of a chapter on environmental law in *Halsbury's Laws of Australia*. He was awarded a Centenary Medal in 2003 for long and distinguished services to the law and education.

Dr Christie resigned from the Tribunal in January 2008.

### **David Connolly AM**

*Part-time Member, NSW*

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

### **James Constance**

**BA LLB (Hons)**

*Full-time Senior Member, ACT*

James Constance was appointed to the AAT in August 2004. He practised as a barrister and solicitor in the Australian Capital Territory and New South Wales from 1970 as an employed solicitor, sole practitioner and, for more than 22 years, as a partner in legal firms. Senior Member Constance graduated from the Australian National University with a Bachelor of Arts degree, a Bachelor of Laws with First Class Honours and the University Prize in Law in 1968. His legal experience encompasses administrative law, taxation law, employment law, family law, personal injury compensation, discrimination, wills and estates, mortgages and property, veterans' affairs, defamation, contracts, statutory interpretation, criminal law and coronial inquests.

Senior Member Constance is the Coordinator for the Australian Capital Territory Registry. He is a member of the AAT's Library Committee, the Practice and Procedure Committee and the State and Territory Coordinators Committee.

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

*Part-time Member, ACT*

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

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

Air Vice Marshal Cox is a member of the AAT's Alternative Dispute Resolution Committee.



## **Ann Cunningham**

**LLB (Hons)**

*Part-time Senior Member, Tas*

Ann Cunningham was appointed as a part-time Member of the AAT in 1995 and became a Senior Member on 1 July 2006. She is a Presiding Member of the Resource Management and Planning Appeal Tribunal and Chairperson of the Board of the Public Trustee. Ms Cunningham is an accredited mediator and arbitrator and has worked as a mediator for the Supreme Court of Tasmania and the Magistrates Court. She worked as a barrister and solicitor in private practice for a number of years. Between 1984 and 1999, she was a Deputy Registrar of the Family Court of Australia.

Senior Member Cunningham is a member of the AAT's Alternative Dispute Resolution Committee.

## **Associate Professor Bruce Davis AM**

**DipStrEng DipPubAdmin BEc (Hons) PhD**

*Part-time Member, Tas*

Bruce Davis was appointed as a Member of the AAT in 1992. He is a retired academic with ongoing affiliations with the University of Tasmania and one of its residential colleges, Jane Franklin Hall. In addition to earlier experience in civil engineering and project management, he has served at senior executive level in both state and federal governments, including service as Chairman of the Heritage Commission, Chairman of the Rural Industries Research and Development Corporation and Commissioner of Tasmania's Resource Planning and Development Commission. His research specialisations are natural resources policy and environmental management.

Associate Professor Davis's appointment as a member of the Tribunal ended in January 2008.

## **Dr Marella Denovan**

**BSc MBBS FRACGP JD**

*Part-time Member, Qld*

Marella Denovan was appointed to the AAT in December 2005. She was a part-time

medical adviser with the Department of Veterans' Affairs between 2000 and 2001 and a general practitioner in private practice between 1992 and 2001.

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

## **Rodney (Rod) Dunne**

**LLB FCPA**

*Part-time Senior Member, SA*

Rod Dunne was admitted as a barrister and solicitor of the Supreme Court of South Australia in October 1982 and is a qualified accountant. He was appointed to the AAT in June 2005. Senior Member Dunne continues to practise part time as a partner in the Adelaide commercial law firm, Donaldson Walsh, where he specialises in taxation and revenue law, superannuation and estate planning. He is a member of the Specialist Taxation Committee of the Business Law Section of the Law Council of Australia, a member of the South Australian Tax Technical Liaison Group with the Australian Taxation Office representing the Law Society of South Australia and a member of the State Taxes Accountants and Solicitors Consulting Group with RevenueSA.

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 managing member for taxation schemes in 2007–08.

## **Stuart Ellis AM**

**BA Grad Dip Mgt Stud Grad Dip Strtgc Stud**

*Part-time Member, SA*

Stuart Ellis was appointed as a Member of the AAT in 2006. He served with the Australian Army from 1975 to 1996. He was involved in a number of overseas

deployments including to Somalia in 1994. He was subsequently appointed CEO of the Country Fire Service in South Australia before establishing his own consultancy business in 2002. Mr Ellis consults nationally on operational leadership and emergency management, including to the Australian Defence Force.

**Dr Erik Eriksen**

**MBBS FRCS FRACS**

*Part-time Member, SA*

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

**Brigadier Conrad Ermert (Rtd)**

**MSc FIEAust CPEng**

*Part-time Member, Vic*

Conrad Ermert has been a Member of the AAT since 1991. He is a practising engineering consultant. He had 31 years' service in the Australian Army, his last appointments being Director General Electrical and Mechanical Engineering and Director General Logistics in the rank of Brigadier. From 1990 to 1995, he was Director of Facilities and Supply at the Alfred Group of Hospitals before establishing his consultancy practice. He is the Chairman of AMOG Holdings, Chairman of the AIF Malayan Nursing Scholarship, a past Chairman of the Victoria Division, Institution of Engineers, Australia and the current Chairman of Judges of the Institution's Excellence Awards.

**Geri Ettinger**

**BA (Economics) LLB**

*Part-time Senior Member, NSW*

Geri Ettinger was first appointed to the AAT in June 1991. She has worked both in the

private and public sectors. She was Chief Executive of the Australian Consumers' Association, publisher of CHOICE Magazine for more than 10 years and was for a long period, until mid 2002, a member of the Board of St George Bank.

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

Senior Member Ettinger sits as a member of the Medical Tribunal and chairs Professional Standards Committees on behalf of the New South Wales Medical Board in relation to disciplinary action regarding medical practitioners. She is an Arbitrator and Mediator of the New South Wales Workers Compensation Commission. For many years since the 1980s, Senior Member Ettinger held an appointment as a part-time member of the New South Wales Consumer, Trader and Tenancy Tribunal (formerly the Consumer Claims Tribunal, Building Disputes Tribunal and Fair Trading Tribunal).

Senior Member Ettinger participates in the work of various committees and advisory bodies, including the Dispute Resolution Committee of the New South Wales Law Society. She is also Chair of the Specialist Accreditation Committee of the Law Society of New South Wales. She is the Deputy Chair of the AAT's Alternative Dispute Resolution Committee and is a coordinator of the professional development program for members in Sydney. She was a managing member for taxation schemes and is a Tribunal mentor and an appraiser in the Tribunal's appraisal program.

## Warren Evans psc

Grad Dip Logistics Mngt Cert Business Studies FAIM

*Part-time Member, WA*

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

After establishing his own company in 1996, Mr Evans has concentrated on corporate forensic intelligence work which has led to work with the federal and State governments on major projects, interspersed with private sector activity. From 1997 to 2000, he was on the supervisory staff of Curtin University with responsibility for students undertaking PhD studies in logistics management. He was also a member of the Western Australian Government's Aviation Training Advisory Committee, a member of the Western Australian Department of Main Roads Consultative Committee, a member of the Jandakot Airport Chamber of Commerce and a member of several flying clubs. From 2001 to 2005, Mr Evans held a senior appointment with the Defence Materiel Office, associated with the \$6 billion ANZAC Ship Project. In 2006, he was involved in the retention of Jandakot Airport at its present site. In January 2007, Mr Evans was appointed Honorary Colonel of the Royal Australian Army Ordnance Corps — Western Region. He is an experienced company director, company secretary and business consultant. He has been a Fellow of the Australian Institute of Management since 1995.

## Egon Fice

BBus (Bachelor of Business) LLB (Hons) LLM

*Full-time Member, Vic*

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

Mr Fice is a member of the AAT's Alternative Dispute Resolution Committee.

## Simon Fisher

LLB (Hons) LLM

*Part-time Member, Qld*

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

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

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

Mr Fisher was a member of the Corporations Law Committee of the Law Council of Australia and a board member of several not-for-profit enterprises. He has published widely in the area of contracts, personal property, commercial, company and associations law and the law of obligations. He has authored and co-authored a number of books, including one entitled *Churches, Clergy and the Law*. He is enrolled in the degree of Doctor of Juridical Science (SJD) at the Queensland University of Technology.

### **Stephanie Forgie**

**LLB (Hons)**

*Full-time Deputy President, Vic*

Stephanie Forgie has been a full-time Deputy President with the AAT since 1988. Prior to joining the AAT, she was in private practice, lectured and tutored in contract law and held various statutory positions as Deputy Master of the Supreme Court of the Northern Territory. She worked in various positions in the Attorney-General's Department in Canberra on matters such as the policy development and implementation of various pieces of legislation, including the *Freedom of Information Act 1982* and the *Insurance Contracts Act 1984*. She worked on policy issues relating to international trade law and private international law and represented Australia at international meetings. Subsequently, she became the Departmental Senior Adviser to the Attorney-General before being appointed as Registrar of the Tribunal.

During her time with the AAT, Deputy President Forgie has also held part-time positions as Deputy Chairperson of the Land Tribunal (Queensland) and Member, Land Court (Queensland). Over the years, she has held various positions with professional associations and arts councils and with a charitable organisation.

Deputy President Forgie is a member of the AAT's Library Committee.

### **Graham Friedman**

**BEC LLB GradDipAdmin**

*Full-time Senior Member, Vic*

Graham Friedman has been a member of the AAT since July 2001 and was appointed as a

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

### **Stephen Frost**

**BA (Hons) Dip Law (BAB)**

*Part-time Member, NSW*

Stephen Frost was appointed to the AAT in August 2006. He was a tax practitioner in the private sector for almost 20 years, and from 1995 to 2008 he was a tax partner at KPMG. From 1977 to 1989, he was employed by the Australian Taxation Office in Sydney and Canberra. Mr Frost was admitted as a legal practitioner in New South Wales in 1989. He is a Fellow of the Taxation Institute of Australia, a Member of the Australian Institute of Administrative Law and an accredited mediator member of the Institute of Arbitrators & Mediators Australia.

### **Michael Griffin**

**LLB LLM**

*Part-time Member, NSW*

Michael Griffin was appointed to the AAT in July 2001. Prior to that, he was a Senior Member of the Migration Review Tribunal and a Member of the Refugee Review Tribunal. In June 2007, Mr Griffin was appointed as the Principal Member of the Veterans' Review Board.

Prior to his appointment to the Veterans' Review Board, Mr Griffin was a solicitor in private practice and a Colonel in the Army Reserve. He was the Subject Matter Expert in Administrative Law for the Australian Defence Force and the Senior Competency Officer

Assessor in Administrative Law for legal officers. During 2004–05, he was engaged by the Senate Foreign Affairs, Defence and Trade References Committee as an expert adviser on the inquiry into the military justice system. He was also appointed as Foreign Attorney Consultant for Mr David Hicks before the United States Military Commission in Guantanamo Bay, Cuba. During 2006, he was appointed as Counsel Assisting the Warrant Officer Nary and Private Kovco Boards of Inquiry.

Michael Griffin resigned from the Tribunal in July 2007.

### **The Honourable Raymond Groom** LLB

*Part-time Deputy President, Tas*

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

Deputy President Groom is the Coordinator for Tasmania. He is a member of the AAT's Practice and Procedure Committee and the State and Territory Coordinators Committee.

### **Philip Hack SC**

*Full-time Deputy President, Qld*

Philip Hack took office as a Deputy President on 9 January 2006 after a career as a barrister in private practice extending over some 23 years. He was admitted to practice as a barrister in 1981 and commenced private practice the following year. He was appointed Senior Counsel in and for the

State of Queensland on 1 December 2000. Deputy President Hack had a broad practice at the Bar, successfully undertaking both criminal and criminal appellate work, as well as general civil, commercial, insolvency, revenue and public law cases at both trial and appellate level.

Deputy President Hack served on the Committee (later the Council) of the Bar Association of Queensland for more than 16 years until his appointment to the AAT. He was, for a number of years, the Honorary Treasurer of the Queensland Bar Association and the Australian Bar Association. More recently, he was the inaugural Chair of the Bar's Practising Certificate Committee.

Deputy President Hack is the Coordinator for Queensland. He is a member of the AAT's Practice and Procedure Committee, Professional Development Committee and the State and Territory Coordinators Committee. He is also a managing member for taxation schemes.

### **John Handley**

*Full-time Senior Member, Vic*

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

Senior Member Handley is a member of the AAT's Alternative Dispute Resolution Committee.

**Lesley Hastwell**

LLB LLM

*Part-time Senior Member, SA*

Lesley Hastwell was admitted as a barrister and solicitor of the Supreme Court of South Australia in March 1976. She has been in private legal practice since that time apart from a period of five years when she worked on a full-time basis as a tutor and lecturer in the Law School at the University of Adelaide. Senior Member Hastwell continued to have academic involvement after ceasing full-time academic work. For a number of years, she continued to present courses for the Law School in the field of family property law.

Senior Member Hastwell is currently in practice as a partner in the Adelaide law firm Norman Waterhouse. Her particular speciality in private practice is in family law and all associated areas.

Senior Member Hastwell was appointed to the AAT in July 2004. She has previously held appointments as a Deputy President of the South Australian Guardianship Board (1994–2004), as a legal member of the Social Security Appeals Tribunal (1987–96) and as a legal member of the South Australian Dental Board (1992–99). She was recently appointed to the position of Deputy Chair of the South Australian Psychological Board. She holds a Masters Degree in Law from the University of Adelaide.

Senior Member Hastwell was a member of the Organising Committee for the 2007 AAT National Conference. She is a member of the Committee of the South Australian Chapter of the Council of Australasian Tribunals.

**Dr Timothy Hawcroft**

BVSc (Hons), MACVSc

*Part-time Member, NSW*

Tim Hawcroft was appointed to the AAT in July 2006. He graduated with a Bachelor of Veterinary Science (Hons) from the University of Sydney in 1969. He established and was principal of the Gordon Veterinary Hospital from 1971 to 2002. He was Honorary Veterinarian for the Royal Agricultural Society of New South Wales from 1975 until 1986

and a part-time consultant for the University Veterinary Centre, Sydney, during 2003. He is an accredited veterinarian with the Australian Quarantine Inspection Service.

Dr Hawcroft is the author of a number of books on veterinary science and animal care. He participated in the NSW Department of Primary Industries Emergency Animal Disease response to eradicate Equine Influenza within NSW. He is a life member of the Australian Veterinary Association and the Australian College of Veterinary Scientists.

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

BA

*Part-time Member, NSW*

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

Rear Admiral Horton was a member of the Organising Committee for the 2007 AAT National Conference.

**Stanley Hotop**

BA LLB LLM

*Full-time Deputy President, WA*

Stan Hotop has been a member of the AAT since 1991. He was appointed as a part-time Deputy President in March 2002 and became a full-time Deputy President in June 2005. He was an Associate Professor of Law at the University of Sydney from 1980 to 1988 and at the University of Western Australia from 1989 to 2005. He was Dean and Head of the Law School at the University of Western Australia from 1990 to 1993 and was President of the Australasian Law

Teachers' Association from 1990 to 1991. He taught administrative law in university law schools from 1971, first at the University of Sydney (1971–88) and subsequently at the University of Western Australia (1989–2005). He is the author of several textbooks in the area of administrative law.

Deputy President Hotop is the Coordinator for Western Australia. He is a member of the AAT's Library Committee, the Practice and Procedure Committee, and the State and Territory Coordinators Committee. He is also a managing member for taxation schemes.

### **Dr Gordon Hughes**

**LLB (Hons) LLM PhD**

*Part-time Member, Vic*

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

### **Robin Hunt**

**BA LLM**

*Full-time Senior Member, NSW*

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

Between 1996 and 2001, Senior Member Hunt undertook work as a technical tax writer

with Computer Law Services and Thomson Legal (Law Book Company). She has tutored and lectured in tax, corporations and business law at Macquarie University and has been an occasional lecturer in law at the University of Technology Sydney. She has a Bachelor and Master of Laws from the University of Sydney.

### **Naida Isenberg**

**LLB**

*Part-time Senior Member, NSW*

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

Senior Member Isenberg is a member of the AAT's Alternative Dispute Resolution Committee.

### **Deane Jarvis**

**LLB (Hons), FAICD**

*Full-time Deputy President, SA*

Deane Jarvis was admitted as a barrister and solicitor of the Supreme Court of South Australia in March 1964. He was engaged in private practice until his appointment to the AAT from 1 July 2003, and was previously the senior partner and chair of a prominent Adelaide commercial law firm. He is a former chair of Bridgestone Australia Ltd and an Adelaide radio station, and a former Director of Macquarie Broadcasting Holdings Limited. He served on the Council of the Law Society of South Australia for 10 years and is a former chair of the Costs, Property and

Planning Environment and Administrative Law Committees of that Society. He was the Honorary Consul-General of Japan for South Australia from 2002 to 2003. He was formerly an examiner in administrative law and a part-time tutor in Australian constitutional law at the University of Adelaide.

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

Deputy President Jarvis is the Coordinator for South Australia and Coordinator of the Members' Appraisal Scheme. He is the Convenor of the AAT's Professional Development Committee and a member of the Practice and Procedure Committee and the State and Territory Coordinators Committee. He was also a member of the Organising Committee for the 2007 AAT National Conference.

### **Timothy Jenkins**

**FIA FIAA**

*Part-time Member, NSW*

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

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

Institute of Actuaries (London) in 1965.

### **Professor Graham Johnston AM**

**BSc MSc PhD DPharm FRACI FTSE**

*Part-time Member, NSW*

Graham Johnston has been a member of the AAT since 1991. He is Professor of Pharmacology at the University of Sydney and trained as an organic chemist at the universities of Cambridge and Sydney. He brings expertise in chemistry, pharmacology and toxicology to the Tribunal. His scientific research is directed to the discovery of drugs to treat Alzheimer's disease, amnesia, anxiety, epilepsy and schizophrenia.

### **Steve Karas AO**

**BA (HONS), LLB**

*Part-time Senior Member, Qld*

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

Mr Karas had previously worked in the Australian Government Attorney-General's Department and was in private practice as a legal practitioner for a number of years. He has had extensive community involvement including with the Federation of Ethnic Communities' Councils of Australia and the Ethnic Communities Council of Queensland.

Mr Karas has been a member of the Migration Agents Registration Board, the Board of the National Accreditation Authority for Translators and Interpreters and Chairman of the Special Broadcasting Service's Community Advisory Committee.

### **Josephine Kelly**

**BA LLB**

*Full-time Senior Member, NSW*

Josephine Kelly was in practice at the New South Wales Bar from 1986 until her appointment to the AAT in 2004. Her practice



included administrative law and areas related to public law. She specialised in local government, environmental law and related areas such as property and common law. She was statutory counsel for the New South Wales Environment Protection Authority from 1996 and has appeared in various courts, tribunals and inquiries. She was a member of Professional Conduct Committees of the New South Wales Bar Association from 2001 until 2004 and has been a committee member of various legally-related associations and a trustee of a not-for-profit organisation. She edited *Environmental Law News* from 1989 to 2004. Before going to the Bar, she worked as an associate to a judge in administration and politics.

Senior Member Kelly is a member of the AAT's Library Committee.

### **Graham Kenny**

**BA LLB (Hons) LLM**

*Part-time Member, Qld*

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

### **Dr Kenneth Levy RFD**

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

*Part-time Senior Member, Qld*

Kenneth Levy was appointed as a part-time Member of the AAT in July 2004 and appointed as a part-time Senior Member in September 2006. Prior to his appointment to

the AAT, he worked in the Queensland Public Service for approximately 36 years, retiring as Director-General of the Department of Justice in Queensland in December 2003. Dr Levy was National President of the professional accounting body CPA Australia in 2004–05. He has also been a Fulbright scholar at the University of California at Irvine.

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

Dr Levy also serves as a Director of the Accounting Professional and Ethical Standards Board. In the past year, he has been involved in a review of the Auditor General's legislation in the Solomon Islands.

Senior Member Levy is a member of the AAT's Library Committee.

### **Bernard McCabe**

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

*Full-time Senior Member, Qld*

Bernard McCabe was appointed as a part-time Member of the AAT in July 2001 and as a full-time Senior Member in November 2003. He was a member of the Faculty of Law at Bond University from 1992 until 2006 and is now an Adjunct Professor of Law. From 1998 to 2001, he served as a member of the legal committee of the Companies and Securities Advisory Committee, the federal government's peak corporate law advisory body. He continues to edit the consumer protection section of the *Trade Practices Law Journal* and publish in the areas of trade practices and company law.

Senior Member McCabe is a member of the AAT's Professional Development Committee.

**Associate Professor Peter McDermott RFD**

LLB (Hons) LLM PhD

*Part-time Senior Member, Qld*

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

Since 1978, Senior Member McDermott has been a barrister of the Supreme Court 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 has served on a number of Queensland State tribunals. From 2002 until 2006, he was a member of the South Queensland Regional Community Corrections Board. He has 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*.

**Graham McDonald**

LLB

*Full-time Deputy President, Vic*

Graham McDonald has been a legal practitioner since 1972. In addition to establishing a legal firm, he has been involved in a number of public positions, including the inaugural solicitor at the Western Australian Aboriginal Legal Service and subsequently its Principal Legal Officer, Western Australian Commissioner for

Corporate Affairs, Principal Member of the Social Security Appeals Tribunal in Western Australia, Chairman of the Western Australian Legal Costs Committee, executive officer for a project examining the establishment of an international insurance exchange for Australia and Pacific rim countries, inaugural Australian Banking Industry Ombudsman and Chairman of the Superannuation Complaints Tribunal. Deputy President McDonald has 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 AAT work, Deputy President McDonald is currently involved in the establishment of an employment and training scheme in financial services for Indigenous Australians. He has been a presidential member of the AAT since 1988.

Deputy President McDonald is the Coordinator for Victoria. He is a member of the Practice and Procedure Committee and the State and Territory Coordinators Committee.

**The Honourable Dr B McPherson CBE**

BA LLB PhD Hon LLD

*Part-time Deputy President, Qld*

Bruce McPherson was appointed to the AAT in September 2007. He was educated at the Universities of Natal, Cambridge and Queensland where he completed his PhD in 1967. In 2004, he was awarded an honorary LLD from the University of Queensland.

Deputy President McPherson commenced practice at the Queensland Bar in 1965 and took Silk in 1975. In 1982, he was appointed to the Supreme Court of Queensland, in 1990 as Senior Puisne Judge and in 1991 to the Court of Appeal. He retired from the bench in 2006. He remains a Judge of Appeal of the Solomon Islands and a Judge of the Fiji Court of Appeal. 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 1st English edition — and *The History of the Supreme Court of Queensland 1861–1960: history, jurisdiction and procedure* (1989), as well as numerous journal articles and papers.

### **Dr Roderick McRae**

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

*Part-time Member, Vic*

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

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

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

**MBBS MSc (OCC MED) DIH DTM&H**

*Part-time Member, Qld*

Graham Maynard was appointed as a Member of the AAT in July 2004. After graduating in Queensland in 1965, he spent 27 years as an Australian Army medical officer commencing with duties as an Infantry Battalion Medical Officer in SVN and finishing

as Director of Medical Services for the Army in 1990. His career included postings in clinical positions, hospital command, malaria research and senior command. His specialist training was in tropical medicine and occupational medicine. From 1990 to 2002, he was employed as a senior medical officer in the federal Department of Health with responsibilities at various times in food safety, Australian Government Health Services management, Creutzfeldt-Jacob disease matters and finally as Chief Medical Adviser for Medical Devices at the Therapeutic Goods Administration.

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

**MBBS FRANZCOG FRCOG FAFPHM**

*Part-time Member, ACT*

Michael Miller was appointed to the AAT in August 1995. He had a specialist medical practice in Brisbane from 1964 to 1968 and became an officer in the Royal Australian Air Force (RAAF) in 1968. His appointments included Senior Medical Officer in Vietnam (1970–71), Commanding Officer 4 RAAF Hospital Butterworth in Malaysia (1974–75) and exchange duty with the United States Air Force (1977–79). His various staff appointments included Director of Medical Plans and Deputy Director General Air Force Health Services. He was appointed Director General Air Force Health Services in 1987 with rank of Air Vice Marshal and Surgeon General Australian Defence Force in 1990. He retired in September 1992.

### **Associate Professor Barrie Morley RFD**

**MBBS FRACP FRCP**

*Part-time Member, Qld*

Barrie Morley, a consultant neurologist since 1965, has been a Member of the AAT since November 1985. He was consultant neurologist to the Royal Australian Air Force Specialist Medical Reserve from 1969 until 1989. Initially appointed in 1972 as a medical member of the War Pensions Assessment Appeals Tribunal, Associate Professor Morley served on the Repatriation Review Tribunal and then on the Veterans' Review Board. He was formerly Dean of the Clinical School and Head of Medicine of the (now) Monash Medical Centre. He moved to Queensland in

1992 and is now Associate Professor of Medicine in the South West Division of the Rural Clinical School of the University of Queensland.

**The Honourable Robert David Nicholson AO**

BA LLB LLM MA

*Part-time Deputy President, WA*

Robert Nicholson was appointed as a part-time Deputy President of the AAT in September 2007. He was a Judge of the Federal Court of Australia from 1995 to 2007 and before that a Judge of the Supreme Court of Western Australia for six and a half years. During part of his time as a member of the Supreme Court, he was also Chair of the Guardianship and Administration Board of Western Australia. From 1996 to 1998, he was a full-time Deputy President of the Administrative Appeals Tribunal. Prior to 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.

**The Honourable Howard Olney AM QC**

LLB

*Part-time Deputy President, Vic*

Howard Olney was appointed to the AAT in June 2005. In 2007, he was appointed as the Aboriginal Land Commissioner in the Northern Territory, a position he has held on an acting basis since 2003. Prior to this, Deputy President Olney was a Judge of the Federal Court of Australia, Additional Judge of the Supreme Court of the Northern Territory and presidential member of the Administrative Appeals Tribunal (1988–2003). He is a former Deputy President of the Federal Police Disciplinary Tribunal (1991–2001) and Deputy President of the National Native Title Tribunal (1994–99). He was a Judge of the Family Court of Australia (1988–90) and the Supreme Court of Western Australia (1982–88) and is a former member of the Legislative Council of Western Australia (1980–82).

Deputy President Olney has extensive administrative law experience at the highest level throughout Australia. He graduated with a Bachelor of Laws from the University of Western Australia and was admitted as a barrister and solicitor to the Supreme Court of Western Australia in 1957. Mr Olney was appointed Queen's Counsel in 1980. He was awarded a member of the Order of Australia in 2005 for service to the law and the judiciary, particularly in relation to Indigenous land issues.

Deputy President Olney resigned from the Tribunal in August 2007.

**Bruce Pascoe**

FCA FTIA MIAMA

*Part-time Senior Member, Vic*

Bruce Pascoe was appointed as a part-time Member of the AAT in December 1991 and

has been a Senior Member since April 1995. Until 1991, he was a senior partner of Ernst & Young, Chartered Accountants, where he specialised in taxation and corporate finance. He is a former President of the Taxation Institute of Australia, former National Treasurer of the Institute of Arbitrators and Mediators Australia and a Grade 1 Arbitrator and Accredited Mediator with that Institute. He was Chair of the Tax Agents' Board of Victoria until 1997 and is a director of several companies.

Senior Member Pascoe is a managing member for taxation schemes.

### **Steven Penglis**

**BJuris LLB**

*Part-time Senior Member, WA*

Steven Penglis was appointed to the AAT in June 2005. He is a senior commercial litigator with the national law firm Freehills which he joined in 1983, becoming a partner in 1987. He has been an elected member of the Legal Practice Board of Western Australia since 1996 and 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 Perton**

**BA LLB Dip Ed**

*Full-time Member, Vic*

Regina Perton has been a full-time Member of the AAT since August 2004. Prior to her appointment to the AAT, she was a Senior Member of the Migration Review Tribunal. She has also been a Member of the Refugee Review Tribunal and the Immigration Review Tribunal. She was a member of the Victorian Equal Opportunity Commission and a Commissioner of the Victorian Multicultural Commission. Ms Perton has held management positions in several dispute resolution bodies, including Registrar of the Victorian Residential Tenancies Tribunal and Small Claims Tribunal. Other roles have included working for the Parole Board, in real estate and as a secondary teacher. She has

been a member of various boards and committees of professional, health and community organisations, including the Austin & Repatriation Medical Centre and the Turning Point Alcohol & Drug Centre. Ms Perton was awarded a Centenary Medal in 2001 for services to equal opportunity, immigration, ethnic affairs and the law.

Ms Perton is Convenor of the Victorian Chapter of the Council of Australasian Tribunals and a member of the national Executive of COAT. Ms Perton is also a member of the committee of the Victorian Chapter of the Australian Institute of Administrative Law.

### **The Honourable Dr Rodney Purvis AM QC**

**BA DipLaw DipCrim MLitt PhD FCA**

*Part-time Deputy President, NSW*

Rodney Purvis was a presidential member of the AAT from June 1986 to September 2007. He has professional expertise in the areas of law, accounting and criminology and specific experience in the areas of corporations, securities and insurance law, family law, mediation, international and domestic arbitration as well as private and public international law. In 1998, he retired as a judge of the Family Court of Australia. He was Chair of the Trade Practices Committee of the Law Council of Australia, Member of the Council and Treasurer of the NSW Bar Association and has served as a member, chairman or president of various committees and organisations.

Dr Purvis's appointment as a member of the Tribunal ended in September 2007.

### **Professor Peter Lawrence Reilly AO**

*Part-time Member, SA*

Peter Reilly was appointed to the AAT in July 2006. He has been a practising neurosurgeon since 1976. From 1994 until 2005, he was head of the Department of Neurosurgery at the Royal Adelaide Hospital. He has also been a visiting staff specialist at Flinders Medical Centre and the Women's and Children's Hospital. Since 2004, he has been clinical professor of neurosurgery in the Department of Surgery at the University of

Adelaide. He is currently a visiting neurosurgeon at the Royal Adelaide Hospital.

Professor Reilly is an executive member and secretary of the Neurosurgical Research Foundation Inc. He has recently completed a term as president of the International Neurotrauma Society. 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. He 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.

### **Elizabeth Anne Shanahan**

**BSC MBBS FRACS LLB**

*Part-time Member, Vic*

Anne Shanahan has been a part-time Member of the AAT since 1991. She is a cardiothoracic surgeon (now retired) who has 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).

### **Emeritus Professor Ivan Shearer AM RFD LLB LLM SJD**

*Part-time Senior Member, NSW*

Ivan Shearer was appointed as a Senior Member of the AAT in September 2004. He retired as Challis Professor of International Law at the University of Sydney on 31 December 2003. He is a former Professor of Law (1975–92) and Dean of the Faculty of Law (1984–90) at the University of New South Wales.

In 2000, Senior Member Shearer was elected as a member of the United Nations Human Rights Committee for a four-year term and was re-elected to a second term in 2004. He retired from the Royal Australian Navy Reserve, with the rank of Captain, in 2000. His appointments have included member of the Panel of Arbitrators of the Permanent Court of Arbitration, The Hague, President of the Australian Branch of the International Law Association and elected member of the International Institute of Humanitarian Law. In 1999, and again in 2002, Professor Shearer served as a judge ad hoc on the International Tribunal for the Law of the Sea.

Senior Member Shearer has been a special consultant to UN development programs and the Australian Government and has published widely and presented lectures and seminars both nationally and internationally on a broad range of international law matters. During December 2006, Senior Member Shearer was appointed to serve as a member of the International Independent Group of Eminent Persons to monitor the Sri Lankan Government's Commission of Inquiry into certain alleged violations of human rights and international humanitarian law.

Senior Member Shearer was made a member of the Order of Australia in 1995. He resigned from the Tribunal in January 2008.

### **John Short**

**LLB**

*Part-time Member, SA*

John Short was appointed to the AAT in 2004. Prior to this, he was a part-time

member of the Social Security Appeals Tribunal in Adelaide (1989–2004), a part-time member of the Veterans' Review Board (1993–97) and a part-time member of the South Australian Residential Tenancies Tribunal (2001–04). Mr Short was a legal practitioner in general practice from 1984 until 1992. He lectured in contract law on a part-time basis at the Douglas Mawson Institute (SA) between 1989 and 1992. He was also a part-time Child Support Review Officer from 1992. Mr Short completed a LEADR mediation course in 1997 and maintains a strong interest in alternative dispute resolution.

Mr Short is a member of the AAT's Alternative Dispute Resolution Committee.

### **Professor Tania Sourdin**

**BA LLB LLM PhD**

*Part-time Member, NSW*

Tania Sourdin has been a part-time Member of the AAT since 2001. She is a Professor of Peace and Conflict Resolution at the Australian Centre for Peace and Conflict Studies 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 and in 2007 was a part-time Senior Member with the New South Wales Consumer, Trader and Tenancy Tribunal and was a part-time member of predecessor tribunals for more than ten years. She has published many papers and books in the area of alternative dispute resolution, litigation and research into dispute resolution processes. 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.

Professor Sourdin is a member of the AAT's Alternative Dispute Resolution Committee.

### **Dr Peter Staer**

**MBBS DObst (RCOG) FRCS (Eng) FRACS**

*Part-time Member, WA*

Peter Staer has been a member of the AAT since 1985 and was previously a member of the Repatriation Review Tribunal and Veterans' Review Board. He has practised medicine for 45 years, primarily as a surgeon/gynaecologist. He has served on the Nurses' Examination Board and various medical advisory committees. He is a qualified mediator. He spends two to three months per year in voluntary work in developing countries.

### **Andre Sweidan**

**BComm LLB H Dip Tax Law Grad Cert Arbitration and Mediation**

*Part-time Senior Member, WA*

Andre Sweidan was appointed as a Senior Member of the AAT in 2005. He has practised in various fields of law in Australia and overseas for more than 35 years. He is currently a Consultant at Anchor Legal, a firm which he co-founded, in Perth. He has had an extensive legal career in the areas of taxation, revenue, intellectual property and administrative law. He has also had extensive experience representing clients before the AAT, the Federal Court and the Supreme Court of Western Australia. In 1998, he commenced practice as a Senior Partner with KPMG Legal in Perth. From 1993 to 1998, he worked in sole practice and from 1983 was a partner at Stone James & Co, which subsequently became Mallesons Stephen Jaques in Perth. Before immigrating to Australia from South Africa, Senior Member Sweidan was a Partner in the law firm Trakman & Sweidan for a period of 12 years.

Senior Member Sweidan is a member of the AAT's Professional Development Committee and is a managing member for taxation schemes.

### **Mr Peter Taylor SC**

*Part-time Senior Member, NSW*

Peter Taylor was appointed to the AAT in August 2006. He is a barrister in private

practice in New South Wales. He graduated from the University of Adelaide in 1974 with a Bachelor of Laws (Honours) and was made Senior Counsel in New South Wales in 1993. Senior Member Taylor practises in the areas of commercial, building and construction, insurance, professional liability, equity and trusts and public authority tort law. He was the Chair of the New South Wales Bar Association Advocacy Committee from 1996 to 2000, Convenor of the New South Wales Bar Association Bar Practice Course Working Party in 2006 and has been a member of the Legal Practitioners Admission Board of New South Wales since 1994.

### **Dr Maxwell Thorpe**

**MBBS MD FRACP**

*Part-time Member, NSW*

Max Thorpe has been a member of the AAT since November 1985 and was previously a member of the Repatriation Review Tribunal. For 28 years, he was a consultant physician in private practice and Visiting Medical Officer, Prince of Wales Hospital, where he was Warden of the Clinical School, University of New South Wales. Dr Thorpe was an Honorary Consultant Medical Officer at the Prince of Wales Hospital. He was also Chairman of the Appeals Committee, Overseas Doctors, Australian Medical Council. He was previously a World Health Organisation Consultant in Cambodia advising on postgraduate education. Dr Thorpe was a Guest Professor at Harbin Medical University, China and director of an exchange of medical specialists from Harbin Medical University with teaching hospitals of the University of New South Wales. He has extensive involvement in insurance and reinsurance medicine. Dr Thorpe's interests include rugby union, forestry and horse breeding.

### **Dr Saw Hooi Toh**

**MBBS FRACGP**

*Part-time Member, NSW*

Saw Hooi Toh was appointed to the AAT in August 2006. Dr Toh is a general practitioner and a medical educator at the Institute of General Practice Education. She sits as a member of the Medical Tribunal and of

Professional Standards Committees of the New South Wales Medical Board. Dr Toh is also Senior Examiner for the Australian Medical Council Board of Examiners.

### **Lisa Tovey**

**BJuris LLB LLM (Dist)**

*Part-time Member, WA*

Lisa Tovey was appointed as a part-time Member of the AAT in June 2005. She has been a barrister at John Toohey Chambers in Perth since 2003. She is also a part-time senior lecturer at the University of Notre Dame Australia.

Ms Tovey was admitted as a barrister and solicitor of the Supreme Court of Western Australia and High Court of Australia in 1992. She commenced practice with Corrs Chambers Westgarth and then worked as Associate to the Honourable Justice Rowland at the Supreme Court of Western Australia. Ms Tovey was a Crown Prosecutor within the Office of the Director of Public Prosecutions for Western Australia between 1996 and 2001. As well as lecturer and senior lecturer, Ms Tovey has been the Course Controller for both the law of evidence and administrative law courses at the University of Notre Dame Australia.

Ms Tovey is currently the presiding member of the Osteopaths Registration Board of Western Australia, having served as the deputy presiding member between 2003 and 2004. She is also a member of the Legal Aid Western Australia Review Committee. Ms Tovey was a Lieutenant in the Royal Australian Naval Reserves between 1994 and 2001 and has completed a Practitioner's Certificate in Mediation. Ms Tovey is also a member of the Western Australia Bar Association Equal Opportunity Committee and the Law Society of Western Australia Human Rights Committee.

### **Professor Emeritus Geoffrey Walker**

**LLD**

*Full-time Deputy President, NSW*

Geoffrey Walker was appointed to the AAT in 2004. He was admitted to the Bar in 1965 and subsequently gained extensive legal



experience in private practice, industry and government. In 1978, he joined the academic staff of the Australian National University and has also taught law at the universities of Sydney, Queensland and Pennsylvania. For 11 years, until returning to the Bar in 1997, he was Dean of Law at the University of Queensland. He has been appointed Adjunct Professor of Law at Murdoch University.

Deputy President Walker is the author of four books, including *The Rule of Law: Foundation of Constitutional Democracy* (1988), and approximately 100 articles in legal and related journals.

Deputy President Walker is the Coordinator for New South Wales. He is a member of the AAT's Practice and Procedure Committee and the State and Territory Coordinators Committee.

#### **Dr Robert Walters**

*Part-time Member, Tas*

Dr Rob Walters was appointed to the AAT in November 2006. He is a General Practitioner in Hobart. He is the immediate past Chair of the then 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 and, 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 overseas in East Timor in 2002.

Dr Walters is the Medical Director on the Tasmanian WorkCover Board and a past

Chair of the Cancer Council of Tasmania. He also has regular national media commitments on both television and radio.

#### **Brigadier Anthony Gerard (Gerry) Warner AM LVO (Rtd)**

**BSc (Hons) DipMilStud FAICD**

*Part-time Member, WA*

Gerry Warner was appointed to the AAT in June 2005. His military career, following graduation from the Royal Military College Duntroon, included extensive command experience, tours on the personal staff of Governors-General, pivotal operations and personnel staff appointments and UN peacekeeping on the Golan Heights and in Southern Lebanon. He was the Senior Defence representative in Western Australia in 1996–97 and in his final posting was Chief of Staff Land Headquarters in Sydney during a period of intense operational tempo, including the East Timor campaign and support to the Olympic Games. After separation from the Army in 2003, he was appointed to the independent committee convened by the Board of Western Power to report on the power supply crisis of February 2004. He is a sessional Senior Member of the State Administrative Tribunal, a member of the Mental Health Review Board of Western Australia and is CEO of the RAAF Association (WA Div) Inc.

#### **Brigadier Ian Way (Rtd)**

**BEng MBA FIEAust CPEng**

*Part-time Member, NSW*

Ian Way was first appointed to the AAT in 1992. He had extensive Army service in the Corps of Royal Australian Engineers, including operational service in Korea, Japan, Singapore and Vietnam. He has also held various senior administrative positions in the University of New South Wales including University Registrar and Deputy Principal (Administration) until his retirement in 1992. He was an Honorary Aide-de-Camp to the Governor-General between 1981 and 1984 and a Director of the National Institute of Dramatic Arts between 1988 and 1990.

Brigadier Way's appointment with the Tribunal ended in September 2007.

**Simon Webb***Full-time Member, ACT*

Simon Webb was appointed to the AAT in July 2001. From 1997 to 2001, he held the office of Deputy Director of the Commonwealth Classification Board with extensive periods acting in the office of Director. During this period, he was Secretary of the Commonwealth, State and Territory Censorship Ministers' Council. From 1994, Mr Webb worked with federal, state and territory ministers and officials to implement revised censorship laws in a cooperative national legislative classification scheme. He was involved in establishing the Classification Board and the Classification Review Board in 1996 and worked with the Australian Customs Service reviewing prohibited import and export regulations and related administrative procedures. Prior to that, Mr Webb conducted a management consultancy and was General Manager of the Arts Council of Australia. He has over 25 years senior management and public administration experience and is an accredited mediator.

Mr Webb is a member of the AAT's Professional Development Committee.

**Dr David Weerasooriya****MBBS, MRCP (Lond) MRCP (Edin) MRCP (Glas) DCH***Part-time Member, WA*

David Weerasooriya has been a part-time Member of the AAT since 1996. He is a part-time Tutor in Problem Based Learning for year two medical students at the University of Notre Dame — School of Medicine. Prior to his appointment to the AAT, he was a medical member of the Social Security Appeals Tribunal from 1994 until 1996. Dr Weerasooriya practised as a specialist physician, paediatrician and vocationally registered general practitioner in Kalgoorlie from 1972 to 1976 and in Perth thereafter. He was a visiting specialist physician to Wanneroo Hospital from 1989 until 1996. He was a senior lecturer in paediatrics at the University of Ceylon, Colombo. Dr Weerasooriya undertook his postgraduate training in the United Kingdom between 1959 and 1964. He was the author of a textbook

on health science for GCE 'O' level students in Sri Lanka. Dr Weerasooriya is a qualified mediator.

Dr Weerasooriya is a member of the AAT's Library Committee.

**Dr Peter Wilkins****MBE BA MBBS MHP MLitt GradDipHum***Part-time Member, ACT*

Peter Wilkins was appointed to the AAT in August 2006. He served full-time in the Royal Australian Air Force for 22 years and remains a member of its Specialist Reserve. Dr Wilkins has held senior management positions with the Federal Australian Medical Association, NSW Health and as Director of Aviation Medicine for the Civil Aviation Safety Authority. His main current work is consultant practice in occupational medicine.

**The Honourable Christopher Wright QC****BBL***Part-time Deputy President, Tas*

Christopher Wright has been a part-time Deputy President of the AAT since February 2001. From 1986 until 2000, he was a judge of the Supreme Court of Tasmania, having been Solicitor General from 1984 until 1986. He practised at the Tasmanian Bar from 1977 until 1983 and was a magistrate in Hobart from 1972 until 1977. Between 1959 and 1972, he was a partner in the Hobart law firm Crisp Wright and Brown. Other appointments he has held include Chairperson of the Retirements Benefits Fund Investment Trust (1984–86), the Social Security Appeals Tribunal (1979–83) and the Tenancy Law Review Committee in Tasmania (1979) and President of the Bar Association of Tasmania (1977–79). He was appointed as Chairman of the Tasmanian Police Review Board in 2004. He was appointed Queen's Counsel in 1984.

## APPENDIX 2: STAFF OF THE TRIBUNAL

This appendix sets out summary information in relation to the staff of the Tribunal.

**Table A2.1 Employment by Registry – ongoing full-time, ongoing part-time and non-ongoing staff as at 30 June 2008**

Salary range	Registries								Total
	NSW	Vic	Qld	SA	WA	ACT	Tas	Principal Registry <sup>a</sup>	
\$35,215 – 38,918	–	–	–	–	–	–	–	–	–
\$39,853 – 44,832	–	1	4	–	3	1	–	–	9
\$47,191 – 54,929	28	17	15	8	8	6	1	8	91
\$56,425 – 59,834	1	1	1	–	–	–	–	7	10
\$60,942 – 70,006	3	3	1	2	2	1	–	6	18
\$76,094 – 91,126	–	–	–	–	–	–	–	9	9
\$92,704 – 105,932	5	5	3	2	3	2	–	3	23
\$95,682 – 120,000	–	–	–	–	–	–	–	1	1
<b>Total</b>	<b>37</b>	<b>27</b>	<b>24</b>	<b>12</b>	<b>16</b>	<b>10</b>	<b>1</b>	<b>34</b>	<b>161</b>

a Principal Registry staff are based in Brisbane (16), Sydney (17) and Melbourne (1) and include Information Technology staff outposted to the District Registries.

The figures in Table A2.1 include 18 non-ongoing staff employed at various locations for duties that are irregular or intermittent.

Staff on long-term unpaid leave of absence or long-term temporary transfer to another agency are not included in these figures. If these staff have been replaced, the replacement staff are included.

**Table A2.2 Equal employment opportunity statistics – ongoing full-time, ongoing part-time and non-ongoing staff as at 30 June 2008**

Class	Salary range	Total staff	Women	Men	ATSI	NESB	PWD
APS 1	\$35,215 – 38,918	–	–	–	–	–	–
APS 2	\$39,853 – 44,832	9	6	3	–	1	–
AAT 3/4	\$47,191 – 54,929	91	67	24	1	32	2
APS 5	\$56,425 – 59,834	10	5	5	–	4	–
APS 6	\$60,942 – 70,006	18	13	5	–	4	–
Exec 1	\$76,094 – 91,126	9	4	5	–	1	–
Exec 2	\$92,704 – 105,932	23	16	7	–	7	1
SES 1	\$95,682 – 120,000	1	1	–	–	–	–
<b>Total</b>		<b>161</b>	<b>112</b>	<b>49</b>	<b>1</b>	<b>49</b>	<b>3</b>

ATSI = Aboriginal and Torres Strait Islanders; NESB = people of non-English-speaking background; PWD = people with disabilities

Note: The data in this table are based in part on information provided by staff on a voluntary basis.

Table A2.3 Employment status statistics as at 30 June 2008

Class	Salary range	Full time	Part time	Irregular/ Intermittent	Total staff	AWAs	Agency Agreement
APS 1	\$35,215 – 38,918	–	–	–	–	–	–
APS 2	\$39,853 – 44,832	–	–	9	9	–	9
AAT 3/4	\$47,191 – 54,929	78	4	9	91	–	91
APS 5	\$56,425 – 59,834	10	–	–	10	–	10
APS 6	\$60,942 – 70,006	14	4	–	18	–	18
Exec 1	\$76,094 – 91,126	7	2	–	9	3	6
Exec 2	\$92,704 – 105,932	14	9	–	23	4	19
SES 1	\$95,682 – 120,000	1	–	–	1	1	–
<b>Total</b>		<b>124</b>	<b>19</b>	<b>18</b>	<b>161</b>	<b>8</b>	<b>153</b>

## APPENDIX 3: STATISTICS FOR THE YEAR ENDED 30 JUNE 2008

This appendix contains statistical information on different aspects of the Tribunal's workload during 2007–08. In some areas, information relating to previous years has been provided for the purposes of comparison.

The information contained in this appendix is summarised below.

<b>Table/chart reference</b>	<b>Overview of information contained in table or chart</b>
A3.1	Applications lodged and finalised in 2007–08
A3.2	Applications lodged in each Registry
A3.3	Applications finalised in each Registry
A3.4	Percentage of applications finalised without a hearing
A3.5	Outcomes of applications for review of decisions finalised in 2007–08
A3.6	Applications current in each Registry as at 30 June
A3.7	Case events, including conferences and other alternative dispute resolution processes, interlocutory hearings and hearings
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

Table A3.1 provides more detailed information on the subject matter of applications lodged with the Tribunal and finalised by the Tribunal in 2007–08. Information relating to the Tribunal's major jurisdictions is set out first. This is followed by information on other applications grouped by Australian Government portfolio.

**Table A3.1 Applications lodged and finalised in 2007–08**

	Applications lodged		Applications finalised	
	No	%	No	%
<b>APPLICATIONS FOR REVIEW OF A DECISION</b>				
<b>Compensation</b>				
<i>Safety, Rehabilitation and Compensation Act 1988:</i> Australian Postal Corporation	383		309	
<i>Safety, Rehabilitation and Compensation Act 1988:</i> Comcare	619		459	
<i>Safety, Rehabilitation and Compensation Act 1988:</i> Linfox Armaguard Pty Limited/Linfox Australia Pty Limited	12		5	
<i>Safety, Rehabilitation and Compensation Act 1988:</i> Military Rehabilitation and Compensation Commission	189		256	
<i>Safety, Rehabilitation and Compensation Act 1988:</i> Optus Administration Pty Limited	16		12	
<i>Safety, Rehabilitation and Compensation Act 1988:</i> Other decision-makers	30		19	
<i>Safety, Rehabilitation and Compensation Act 1988:</i> Telstra Corporation Limited	178		178	
Seafarers' compensation	29		36	
<i>Subtotal</i>	1,456	23	1,274	18
<b>Social security</b>				
Age pension/Pension bonus scheme	175		148	
Austudy payment	11		12	
Baby bonus	17		25	
Carer allowance/carers payment	75		85	
Compensation preclusion period	43		41	
Disability support pension	502		527	
Disaster recovery payment	17		6	
Family tax benefit	77		84	
Farm household support	15		11	
Newstart allowance	228		183	
Other	60		51	
Overpayments and debt recovery	462		537	
Parenting payment	53		67	
Rent assistance	16		13	
Special benefit	10		7	
Youth allowance	43		39	
<i>Subtotal</i>	1,804	29	1,836	25

	Applications lodged		Applications finalised	
	No	%	No	%
<b>Veterans' affairs</b>				
<i>Military Rehabilitation and Compensation Act 2004</i>	32		26	
Other	24		25	
<i>Veterans' Entitlements Act 1986: Disability pension</i>	440		570	
<i>Veterans' Entitlements Act 1986: Service pension/Income support supplement/Pension bonus</i>	45		44	
<i>Veterans' Entitlements Act 1986: Widows pension</i>	130		144	
Veterans' Review Board: Procedural decisions	3		2	
<i>Subtotal</i>	674	11	811	11
<b>Taxation Appeals Division</b>				
Australian Business Number	23		24	
Fringe benefits tax	14		53	
Goods and services tax	182		246	
Income tax (other than taxation schemes)	667		963	
Income tax (taxation schemes)	201		739	
Other	126		71	
Self-managed superannuation fund regulation	17		4	
Superannuation guarantee charge	41		49	
Taxation administration	10		25	
<i>Subtotal</i>	1,281	20	2,174	30
<b>Small Taxation Claims Tribunal</b>				
Fringe benefits tax	1		1	
Goods and services tax	6		4	
Income tax	47		49	
Other	3		16	
Refusal of extension of time to lodge objection	17		33	
Release from taxation liabilities	13		9	
Superannuation guarantee charge	7		3	
<i>Subtotal</i>	94	1	115	2
<b>Agriculture, Fisheries and Forestry Portfolio</b>				
Agricultural and veterinary chemicals	1		1	
Export control	1		1	
Fisheries	1		–	
<i>Subtotal</i>	3	<1	2	<1
<b>Attorney-General's Portfolio</b>				
AusCheck decisions	15		8	
Bankruptcy	19		20	
Customs	18		23	

	Applications lodged		Applications finalised	
	No	%	No	%
Marriage celebrants	4		2	
Waiver of fees in courts	2		2	
<i>Subtotal</i>	58	<1	55	<1
<b>Broadband, Communications and the Digital Economy Portfolio</b>				
Communications and media	3		2	
<i>Subtotal</i>	3	<1	2	<1
<b>Defence Portfolio</b>				
Defence Force retirement and death benefits	7		9	
Employer support payments	3		4	
Other	-		1	
<i>Subtotal</i>	10	<1	14	<1
<b>Education, Employment and Workplace Relations Portfolio</b>				
Disability services	1		2	
Education services for overseas students	3		3	
Higher education funding	21		18	
Mutual recognition of occupations	3		4	
<i>Subtotal</i>	28	<1	27	<1
<b>Environment, Water, Heritage and the Arts Portfolio</b>				
Environment protection and biodiversity	4		3	
Great Barrier Reef Marine Park	-		1	
Protection of movable cultural heritage	1		1	
<i>Subtotal</i>	5	<1	5	<1
<b>Finance and Deregulation Portfolio</b>				
Electoral matters	6		5	
Superannuation Acts	1		1	
<i>Subtotal</i>	7	<1	6	<1
<b>Foreign Affairs and Trade Portfolio</b>				
Export market development grants	1		6	
Passports	11		18	
<i>Subtotal</i>	12	<1	24	<1
<b>Health and Ageing Portfolio</b>				
Aged care	12		20	
Food standards	1		1	
Human embryo research	1		1	
Other	10		10	
Pharmacists	21		19	
Sport anti-doping matters	-		2	
Therapeutic goods	5		1	
<i>Subtotal</i>	50	<1	54	<1



	Applications lodged		Applications finalised	
	No	%	No	%
<b>Human Services Portfolio</b>				
Child support	25		22	
<i>Subtotal</i>	25	<1	22	<1
<b>Immigration and Citizenship Portfolio</b>				
Business visa cancellation	127		164	
Citizenship	191		153	
Migration agent registration	3		9	
Protection visa cancellation or refusal	1		2	
Visa cancellation or refusal on character grounds: Visa applicant or holder in Australia	41		36	
Visa refusal on character grounds: Visa applicant outside Australia	12		36	
<i>Subtotal</i>	375	6	400	6
<b>Innovation, Industry, Science and Research Portfolio</b>				
Automotive industry	1		1	
Industry research and development	6		2	
Patents, designs and trademarks	3		4	
Textiles, clothing and footwear	1		2	
<i>Subtotal</i>	11	<1	9	<1
<b>Infrastructure, Transport, Regional Development and Local Government</b>				
Airports	1		3	
Aviation and maritime transport security	9		14	
Civil aviation	30		26	
Motor vehicle standards	14		22	
<i>Subtotal</i>	54	<1	65	<1
<b>Prime Minister and Cabinet Portfolio (including Climate Change)</b>				
Renewable energy	1		2	
<i>Subtotal</i>	1	<1	2	<1
<b>Treasury Portfolio</b>				
Auditors and liquidators registration	–		3	
Corporations	35		32	
Insurance and superannuation regulation	10		5	
Tax agent registration	22		30	
<i>Subtotal</i>	67	1	70	<1
<b>Security Appeals</b>				
ASIO assessments	–		3	
Decisions of National Archives of Australia relating to ASIO records	4		1	
<i>Subtotal</i>	4	<1	4	<1

	Applications lodged		Applications finalised	
	No	%	No	%
<b>Whole of Government</b>				
<i>Archives Act 1983</i>	4		2	
<i>Freedom of Information Act 1982</i>	142		125	
<i>Subtotal</i>	146	2	127	2
<b>Case Management and Tribunal Decisions</b>				
No jurisdiction/Uncertain jurisdiction	83		80	
Review of taxation of costs	–		1	
<i>Subtotal</i>	83	1	81	1
<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	58		55	
Application for stay of a primary decision	3		3	
<i>Subtotal</i>	61	<1	58	<1
<b>Total<sup>a</sup></b>	<b>6,312</b>	<b>100</b>	<b>7,237</b>	<b>100</b>

a Percentages do not total 100% due to rounding.

Chart A3.2 Applications lodged in each Registry

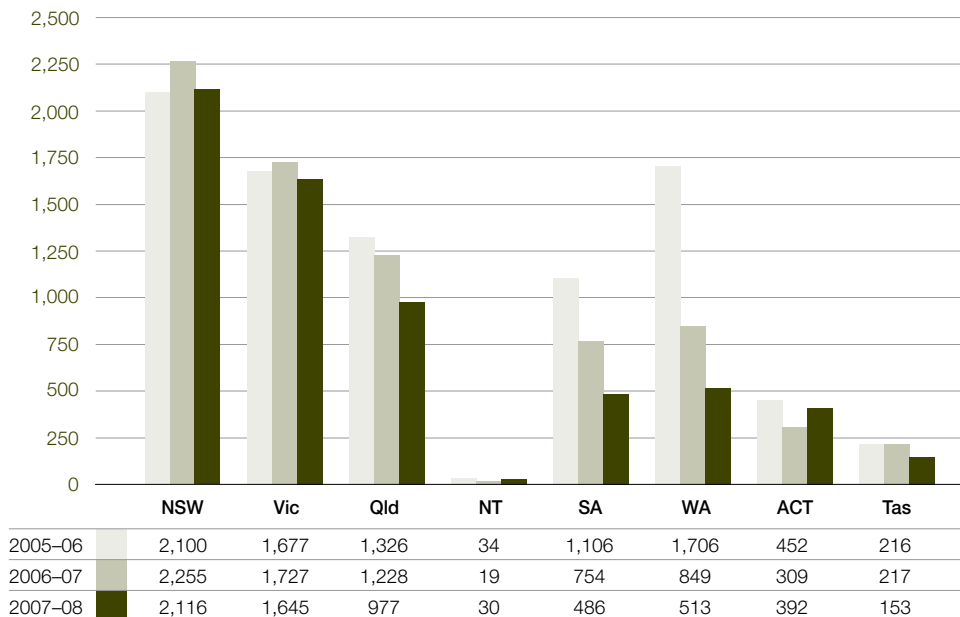


Chart A3.3 Applications finalised in each Registry

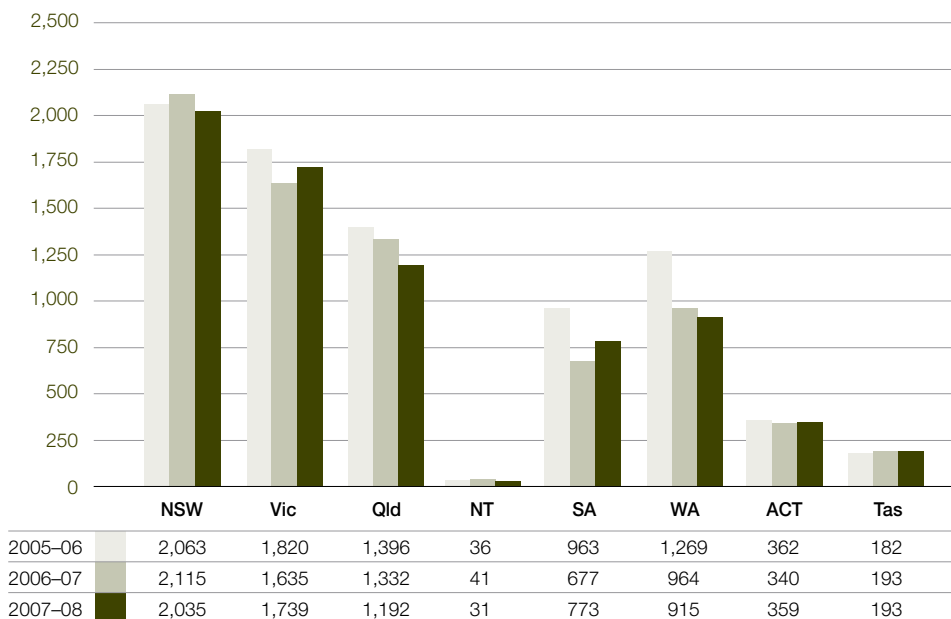


Table A3.4 Percentage of applications finalised without a hearing

Jurisdiction	2005-06 %	2006-07 %	2007-08 %
All applications	81	81	79
Compensation	85	85	85
Social security	68	72	70
Veterans' affairs	72	78	75
Taxation Appeals Division	94	92	91
Small Taxation Claims Tribunal	78	77	72

**Note:** Applications finalised without a hearing are applications that were finalised otherwise than by a Tribunal decision under section 43 of the *Administrative Appeals Tribunal Act 1975*. This includes applications finalised in accordance with terms of agreement lodged by the parties pursuant to sections 34D or 42C of the Act, applications withdrawn by the applicant under subsection 42A(1A) and applications dismissed by the Tribunal under sections 42A and 42B.

Table A3.5 Outcomes of applications for review of a decision finalised in 2007–08

Outcome	All applications		Compensation		Social security		Veterans' affairs		Taxation Appeals Division		Small Taxation Claims Tribunal	
	No	%	No	%	No	%	No	%	No	%	No	%
<b>By consent/withdrawn</b>												
Decision affirmed under section 34D or 42C	318	4	232	18	22	1	17	2	37	2	3	3
Decision varied under section 34D or 42C	906	13	65	5	43	2	112	14	649	30	26	23
Decision set aside under section 34D or 42C	1,575	22	374	29	264	14	204	25	579	27	21	18
Dismissed by consent under subsection 42A(1)	125	2	11	<1	18	<1	6	<1	57	3	–	–
Dismissed by operation of law <sup>a</sup>	277	4	N/A	–	277	15	N/A	–	N/A	–	N/A	–
Withdrawn by applicant	1,919	27	362	28	539	29	259	32	457	21	17	15
<b>By decision under section 43 of the Administrative Appeals Tribunal Act 1975</b>												
Decision affirmed	913	13	110	9	359	20	118	15	113	5	22	19
Decision varied	70	<1	1	<1	20	1	12	1	32	1	–	–
Decision set aside	506	7	84	7	172	9	73	9	61	3	10	9
<b>Other</b>												
Dismissed by Tribunal <sup>b</sup>	241	3	12	<1	81	4	7	<1	107	5	2	2
No jurisdiction <sup>c</sup>	153	2	14	1	15	<1	2	<1	35	2	10	9
Extension of time refused	45	<1	5	<1	19	1	–	–	12	<1	–	–
No application fee paid	84	1	N/A	–	N/A	–	N/A	–	23	1	2	2
Other <sup>d</sup>	47	<1	4	–	7	<1	1	<1	12	<1	2	2
<b>Total<sup>e</sup></b>	<b>7,179</b>	<b>100</b>	<b>1,274</b>	<b>100</b>	<b>1,836</b>	<b>100</b>	<b>811</b>	<b>100</b>	<b>2,174</b>	<b>100</b>	<b>115</b>	<b>100</b>

- a Where 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* and section 146 of the *A New Tax System (Family Assistance) (Administration) Act 1999*.
- b These figures refer to applications dismissed under subsection 42A(2) of the *Administrative Appeals Tribunal Act 1975* (non-appearance at a case event), subsection 42A(5) (failure to proceed with an application or to comply with a direction of the Tribunal) and subsection 42B(1) (application is frivolous or vexatious).
- c These figures refer to applications in relation to which the Tribunal has determined that it does not have jurisdiction and applications dismissed under subsection 42A(4) of the *Administrative Appeals Tribunal Act 1975* on the basis that the applicant has failed to demonstrate that the decision is reviewable.
- d These figures include 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.
- e Percentages do not total 100% due to rounding.

Chart A3.6 Applications current in each Registry as at 30 June

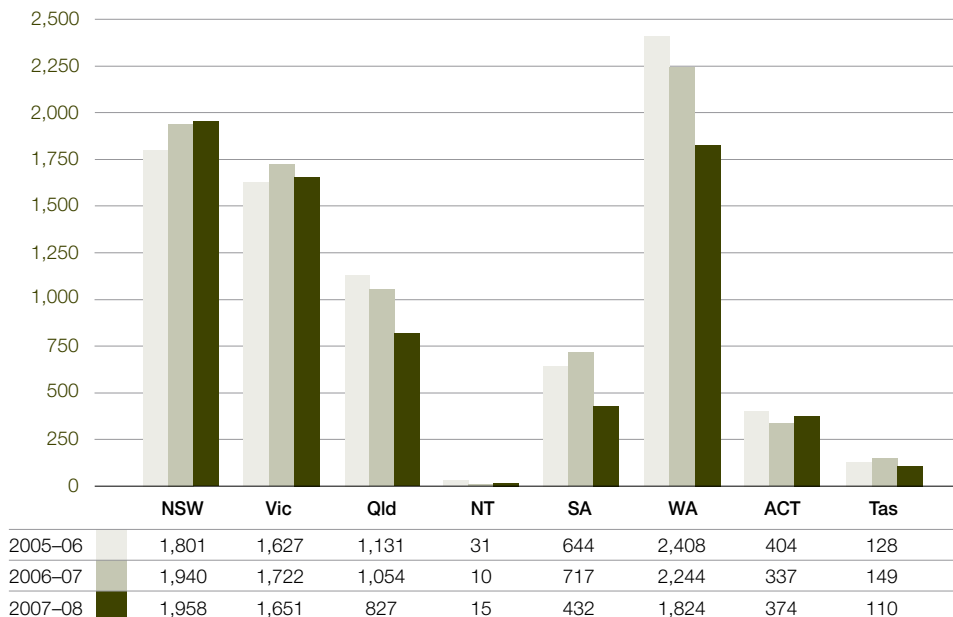


Table A3.7 Number of alternative dispute resolution processes, interlocutory hearings and hearings

Event Type	2007-08
Conferences	9,668
Case appraisal	10
Conciliation	504
Mediation	56
Neutral evaluation	24
Interlocutory hearings <sup>a</sup>	470
Hearings	1,413

a Includes hearings relating to the jurisdiction of the Tribunal and hearings relating to applications for orders of the following kind:

- an extension of time to lodge an application for review;
- to be joined as a party to a proceeding;
- a confidentiality order under section 35 of the *Administrative Appeals Tribunal Act 1975*;
- an order staying 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	
	No.	%
Judge alone	7	<1
Judge with 1 other member	7	<1
Judge with 2 other members	3	<1
Deputy President alone	158	11
Deputy President with 1 other member	53	4
Deputy President with 2 other members	5	<1
Senior Member alone	651	46
Senior Member with 1 other member	131	9
Senior Member with 2 other members	6	<1
Member alone	358	25
Two Members	33	2
Three Members	1	<1
<b>Total<sup>a</sup></b>	<b>1,413</b>	<b>100</b>
Total multi-member tribunals	239	17

a Percentages do not total 100% due to rounding.

Table A3.9 provides information in relation to appeals from decisions of the Tribunal that were lodged in 2007–08 and in the two previous years. The table distinguishes between appeals lodged in the Federal Court under section 44 of the *Administrative Appeals Tribunal Act 1975* and 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 A3.9 Appeals from decisions of the Tribunal by jurisdiction

Jurisdiction	2005–06		2006–07		2007–08	
	Section 44	Other	Section 44	Other	Section 44	Other
Compensation	22	4	21	1	15	–
Social security	29	4	39	–	25	–
Veterans' affairs	27	–	24	–	24	2
Taxation Division	19	–	18	–	25	2
Small Taxation Claims Tribunal	3	–	–	–	–	–
Other	42	15	25	6	32	17
<b>Total</b>	<b>142</b>	<b>23</b>	<b>127</b>	<b>7</b>	<b>121</b>	<b>21</b>

**Note:** In some circumstances, a party may lodge an application seeking relief under section 44 of the *Administrative Appeals Tribunal Act 1975* and under another enactment. These applications are treated as section 44 appeals for statistical purposes.

Tables A3.10 and A3.11 provide information on the outcomes of appeals from decisions of the Tribunal that were finally determined in 2007–08 and in the two previous years.

**Table A3.10 Appeals from decisions of the Tribunal — outcomes of appeals determined**

Outcome	2005–06		2006–07		2007–08	
	Section 44	Other	Section 44	Other	Section 44	Other
Allowed/Remitted	32	6	52	3	44	4
Dismissed	67	11	59	7	62	12
Discontinued	21	9	26	1	21	2
<b>Total</b>	<b>120</b>	<b>26</b>	<b>137</b>	<b>11</b>	<b>127</b>	<b>18</b>

**Note:** 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.

During the reporting year, six appeals under section 44 of the *Administrative Appeals Tribunal Act 1975* were finally determined in the Federal Magistrates Court following transfer of the appeal from the Federal Court pursuant to section 44AA of the *Administrative Appeals Tribunal Act 1975*.

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

Outcome	2005–06		2006–07		2007–08	
	Section 44	Other	Section 44	Other	Section 44	Other
<b>Compensation</b>						
Allowed/Remitted	5	2	10	1	10	–
Dismissed	16	–	10	1	11	2
Discontinued	4	–	2	–	4	–
<i>Subtotal</i>	25	2	22	2	25	2
<b>Social security</b>						
Allowed/Remitted	4	–	7	–	6	–
Dismissed	9	1	14	–	17	–
Discontinued	8	3	10	–	5	–
<i>Subtotal</i>	21	4	31	–	28	–
<b>Veterans' affairs</b>						
Allowed/Remitted	9	–	14	–	12	–
Dismissed	12	–	9	–	9	2
Discontinued	1	–	3	–	2	–



Outcome	2005-06		2006-07		2007-08	
	Section 44	Other	Section 44	Other	Section 44	Other
<i>Subtotal</i>	22	-	26	-	23	2
<b>Taxation Appeals Division</b>						
Allowed/Remitted	4	-	9	-	9	-
Dismissed	11	1	6	-	11	-
Discontinued	5	-	5	-	4	1
<i>Subtotal</i>	20	1	20	-	24	1
<b>Small Taxation Claims Tribunal</b>						
Allowed/Remitted	1	-	-	-	-	-
Dismissed	-	-	3	-	-	-
Discontinued	-	-	-	-	-	-
<i>Subtotal</i>	1	-	3	-	-	-
<b>Other</b>						
Allowed/Remitted	9	4	12	2	7	4
Dismissed	19	9	17	6	14	8
Discontinued	3	6	6	1	6	1
<i>Subtotal</i>	31	19	35	9	27	13
<b>Total</b>	<b>120</b>	<b>26</b>	<b>137</b>	<b>11</b>	<b>127</b>	<b>18</b>

## APPENDIX 4: TRIBUNAL APPLICATION FEES

This appendix sets out information in relation to fees that are payable to lodge applications with the Tribunal.

### Rules relating to the payment and refund of application fees

An application to the Tribunal is not taken to be made unless the prescribed fee is paid: section 29A of the *Administrative Appeals Tribunal Act 1975*. The rules relating to the payment and refund of fees are set out in regulations 19 and 19AA of the *Administrative Appeals Tribunal Regulations 1976*.

Subject to a number of exceptions, an application fee is payable for lodging:

- an application for review of a decision;
- an application for a decision on whether a person was entitled to be given a statement of reasons for a decision under subsection 28(1) of the *Administrative Appeals Tribunal Act 1975*; and
- an application for a declaration under subsection 62(2) of the *Freedom of Information Act 1982* that a statement of reasons for a decision is not adequate.

The standard application fee during 2007–08 was \$639. The lower application fee payable for lodging an application that will be dealt with in the Small Taxation Claims Tribunal was \$64.

### ***Circumstances in which an application fee is not payable***

Applications for review of certain types of decisions do not attract a fee: regulation 19(1). The relevant decisions are:

- any decision specified in Schedule 3 to the *Administrative Appeals Tribunal Regulations 1976*; and
- any decision under the *Freedom of Information Act 1982* concerning a document that relates to a decision specified in Schedule 3 to the *Administrative Appeals Tribunal Regulations 1976*.

Decisions specified in Schedule 3 include decisions in the areas of family assistance and social security, veterans' affairs and workers' compensation.

If two or more applications relate to the same applicant and may be conveniently heard before the Tribunal at the same time, the Tribunal may order that only one fee is payable for those applications: subregulations 19(5) and 19AA(5).

Certain types of applicants are exempt from the requirement to pay a fee. An application fee is not payable where:

- the person liable to pay the fee is granted legal aid for the matter to which the application relates: paragraphs 19(6)(a) and 19AA(6)(a); or
- the person liable to pay the fee is:
  - the holder of a health care card, a health benefit card, a pensioner concession card, a Commonwealth seniors health card or any other card that certifies entitlement to Commonwealth health concessions;
  - an inmate of a prison, in immigration detention or otherwise lawfully detained in a public institution;
  - a child under the age of 18 years;
  - 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.

**Information relating to application fees in 2007–08**

In 2007–08, the Tribunal received \$627,456.00 in application fees.

Table A4.1 sets out the number of applications lodged during the reporting year in relation to which no fee was paid where an application fee would otherwise have been payable for the type of decision under review.

In relation to fees that were not paid pursuant to subregulations 19(5), 19(6), 19AA(5) and 19AA(6), the total revenue foregone was \$574,208.00

During the reporting year, the Tribunal refused six applications to waive the application fee on financial hardship grounds under paragraph 19(6)(c). No applications were refused under paragraph 19AA(6)(c).

Regulation 20 provides that an applicant can apply to the Tribunal for review of a decision not to waive payment of an application fee. There were no such applications for review lodged during 2007–08.

In 2007–08, the Tribunal refunded application fees in the amount of \$459,504.00.

**Table A4.1 Applications where no fee paid**

Category	Number of applications
One fee paid in relation to two or more applications relating to the same applicant	599
Applicant exempt from paying fee	237
Application fee waived by Tribunal	86
<b>Total</b>	<b>922</b>

## APPENDIX 5: 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 2007 to 30 June 2008.

The appendix includes enactments that were assented to or made prior to 1 July 2007 but which commenced during the reporting period. It does not include enactments that were assented to or made in the reporting period but had not commenced as at 30 June 2008.

The appendix is divided into three different sections: new jurisdiction conferred; existing jurisdiction that has been altered; and jurisdiction removed.

### New jurisdiction conferred

The enactments listed in the left column conferred new jurisdiction on the Tribunal to review decisions made under that enactment or under the enactment listed in the right column.

Conferring enactment	Affected enactment
<i>AusCheck Regulations 2007</i>	
<i>Australian Citizenship Act 2007</i>	
<i>Australian Meat and Live-stock (Beef Export to the USA — Quota Year 2008) Order 2007</i>	
<i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i>	
<i>Family Assistance Legislation Amendment (Child Care Budget and Other Measures) Act 2008</i>	
<i>Federal Magistrates Amendment (Disability and Death Benefits) Act 2007</i>	<i>Federal Magistrates Act 1999</i>
<i>Financial Sector Legislation Amendment (Review of Prudential Decisions) Act 2008</i>	<i>Financial Sector (Collection of Data) Act 2001</i>
<i>First Home Saver Accounts Act 2008</i>	
<i>Health Insurance (Eligible Collection Centres) Approval Principles 2007</i>	
Marine Orders Part 18 — Issue 3	
Marine Orders Part 97 — Issue 1	
<i>National Greenhouse and Energy Reporting Act 2007</i>	
<i>Water Act 2007</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.

Amending enactment	Affected enactment
<i>Aged Care Amendment (2008 Measures No 1) Act 2008</i>	<i>Aged Care Act 1997</i>
<i>Aged Care Amendment (Residential Care) Act 2007</i>	<i>Aged Care Act 1997</i>
<i>Aviation Transport Security Amendment Regulations 2007 (No 2)</i>	<i>Aviation Transport Security Regulations 2005</i>
<i>Bankruptcy Amendment Regulations 2007 (No 2)</i>	<i>Bankruptcy Regulations 1996</i>
<i>Bankruptcy Legislation Amendment (Debt Agreements) Act 2007</i>	<i>Bankruptcy Act 1966</i>
<i>Bankruptcy Legislation Amendment (Superannuation Contributions) Act 2007</i>	<i>Bankruptcy Act 1966</i>
<i>Child Support Reform (New Formula and Other Measures) Regulations 2007</i>	<i>Child Support (Assessment) Act 1989</i>
<i>Classification (Publications, Films and Computer Games) Amendment Act 2007</i>	<i>Classification (Publications, Films and Computer Games) Act 1995</i>
<i>Commercial Television Conversion Scheme Variation 2007 (No 1)</i>	<i>Commercial Television Conversion Scheme 1999</i>
<i>Communications Legislation Amendment (Content Services) Act 2007</i>	<i>Broadcasting Services Act 1992</i>
<i>Defence (Employer Support Payments) Amendment Determination 2007 (No 1)</i>	<i>Defence (Employer Support Payments) Determination 2005</i>
<i>Export Market Development Grants Amendment Act 2008</i>	<i>Export Market Development Grants Act 1997</i>
<i>Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Act 2007</i>	<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>
<i>Financial Sector Legislation Amendment (Review of Prudential Decisions) Act 2008</i>	<i>Banking Act 1959</i> <i>Insurance Act 1973</i> <i>Life Insurance Act 1995</i> <i>Retirement Savings Accounts Act 1997</i> <i>Superannuation Industry (Supervision) Act 1993</i>
<i>Financial Sector Legislation Amendment (Simplifying Regulation and Review) Act 2007</i>	<i>Insurance Act 1973</i> <i>Life Insurance Act 1995</i> <i>Superannuation Industry (Supervision) Act 1993</i>
<i>Food Standards Australia New Zealand Amendment Act 2007</i>	<i>Food Standards Australia New Zealand Act 1991</i>
<i>Gene Technology Amendment Act 2007</i>	<i>Gene Technology Act 2000</i>

Amending enactment	Affected enactment
<i>Gene Technology Amendment Regulations 2007 (No 1)</i>	<i>Gene Technology Regulations 2001</i>
<i>Health Insurance Amendment (Inappropriate and Prohibited Practices and Other Measures) Act 2007</i>	<i>Health Insurance Act 1973</i>
<i>Hearing Services Amendment Rules of Conduct 2007 (No 1)</i>	<i>Hearing Services Rules of Conduct 2005</i>
<i>Higher Education Legislation Amendment (2007 Measures No 1) Act 2007</i>	<i>Higher Education Support Act 2003</i>
<i>Higher Education Support Amendment (2008 Budget Measures) Act 2008</i>	<i>Higher Education Support Act 2003</i>
<i>Higher Education Support Amendment (Extending FEE-HELP for VET Diploma, Advanced Diploma, Graduate Diploma and Graduate Certificate Courses) Act 2007</i>	<i>Higher Education Support Act 2003</i>
<i>Law and Justice Legislation Amendment (Marking of Plastic Explosives) Act 2007</i>	<i>Criminal Code Act 1995</i>
<i>Liquid Fuel Emergency Amendment Act 2007</i>	<i>Liquid Fuel Emergency Act 1984</i>
<i>Maritime Legislation Amendment (Prevention of Air Pollution from Ships) Act 2007</i>	<i>Navigation Act 1912</i>
<i>Maritime Transport and Offshore Facilities Security Amendment Regulations 2007 (No 2)</i>	<i>Maritime Transport and Offshore Facilities Security Regulations 2003</i>
<i>National Health Amendment (Pharmaceutical Benefits) Act 2007</i>	<i>National Health Act 1953</i>
<i>Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulations 2007 (No 1)</i>	<i>Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995</i>
<i>Primary Industries Levies and Charges Collection Amendment Regulations 2007 (No 8)</i>	<i>Primary Industries Levies and Charges Collection Amendment Regulations 1991</i>
<i>Residential Care Subsidy Amendment Principles 2007 (No 1)</i>	<i>Residential Care Subsidy Principles 1997</i>
<i>Superannuation Industry (Supervision) Amendment Regulations 2007 (No 5)</i>	<i>Superannuation Industry (Supervision) Regulations 1994</i>
<i>Tax Laws Amendment (2007 Measures No 4) Act 2007</i>	<i>Income Tax Assessment Act 1936</i>
<i>Tax Laws Amendment (2007 Measures No 5) Act 2007</i>	<i>Income Tax Assessment Act 1997</i> <i>Industry Research and Development Act 1986</i>
<i>Tax Laws Amendment (2008 Measures No 2) Act 2008</i>	<i>Income Tax Assessment Act 1997</i>
<i>Telecommunications Service Provider (Mobile Premium Services) Determination 2005 (No 1) Amendment Determination 2007 (No 1)</i>	<i>Telecommunications Service Provider (Mobile Premium Services) Determination 2005 (No 1)</i>

## Jurisdiction removed

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

Repealing enactment	Affected enactment
<i>Air Navigation (Checked Baggage) Repeal Regulations 2008</i>	<i>Air Navigation (Checked Baggage) Regulations 2000</i>
<i>Australian Citizenship (Transitional and Consequential) Act 2007</i>	<i>Australian Citizenship Act 1948</i>
<i>Australian Citizenship Regulations 2007</i>	<i>Australian Citizenship Regulations 1960</i>
<i>Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Act 2006</i>	<i>Aboriginal Councils and Associations Act 1976</i>
<i>Export Control (Mung Beans) Repeal Orders 2007</i>	<i>Export Control (Mung Beans) Orders</i>
<i>Food Standards Australia New Zealand Amendment Regulations 2007 (No 1)</i>	<i>Food Standards Australia New Zealand Regulations 1994</i>
<i>Fuel Tax (Consequential and Transitional Provisions) Act 2006</i>	<i>States Grants (Petroleum Products) Act 1965</i>
<i>Health Insurance (Eligible Collection Centres) Approval Principles 2007</i>	<i>Health Insurance (Eligible Collection Centres) Approval Principles 2005</i>
<i>Income Tax Amendment Regulations 2007 (No 1)</i>	<i>Income Tax Regulations 1936</i>
<i>Marine Orders Part 18 — Issue 3</i>	<i>Marine Orders Part 18 — Issue 2</i>

## APPENDIX 6: DECISIONS OF INTEREST

This appendix contains summaries of a number of Tribunal decisions that were published during 2007–08. They reflect the different types of matters dealt with by the Tribunal and include some of the more important or interesting decisions delivered during the reporting year.

### Environment

#### ***Re Nature Conservation Council of New South Wales Inc and Minister for the Environment and Water Resources & Ors***

[2007] AATA 1876; 18 October 2007

Justice GK Downes, President; Associate Professor BW Davis, Member

*Whether a fishery should be declared an approved wildlife trade operation — Whether the operation would be detrimental to the survival of grey nurse sharks*

This application concerned the operation of the Ocean Trap and Line Fishery, an extensive fishery regulated by the New South Wales Government. Fish and other sea life taken from the fishery could be exported only if the fishery had been declared to be an “approved wildlife trade operation” under section 303FN of the *Environment Protection and Biodiversity Conservation Act 1999*. On 27 July 2006, the then Minister for the Environment and Water Resources made such a declaration, subject to certain conditions.

In making the declaration, the Minister had to be satisfied that the operation would “not be detrimental to ... the survival of a taxon to which the operation relates”. The Minister also had to be satisfied that certain other environmental objects were met, including that the operation would not be likely to threaten “any relevant ecosystem including (but not limited to) any habitat or biodiversity”.

The Nature Conservation Council of New South Wales (the Council) sought review of the Minister’s decision on the basis that the approved wildlife trade operation would be detrimental to the survival of the east coast population of grey nurse sharks. The Council primarily sought a variation of the conditions that had been imposed by the Minister. In particular, it sought to increase the number, size and extent of protection at certain critical habitat sites and more extensive bans on certain fishing practices.

There was no fishing for grey nurse sharks in the fishery. However, the Tribunal was satisfied that they were a taxon to which the operation related within the meaning of section 303FN of the Act. While noting that the population of grey nurse sharks is critically endangered, the Tribunal emphasised that its task was not to determine whether more or less protection of the sharks was a desirable object in itself. Rather, its task was to decide whether the operations of the fishery would be detrimental to the survival of grey nurse sharks or inconsistent with the other environmental objects.

The Tribunal considered evidence relating to the size of the grey nurse shark population and their habitats. It also received evidence about the decline of the population and the risks of injury and death associated with particular types of fishing hooks and line.

The Tribunal found that grey nurse sharks may well have reached the point of inevitable extinction, even if accidental deaths were eliminated. The threats to their survival are the consequence of their biology, the fact that they are already critically endangered and the fact that there are sufficient deaths from causes outside the fishery to threaten their existence. While deaths caused by the fishery would have an adverse impact on the sharks, this would not add to the detriment which would continue whatever action was taken. The Tribunal was not persuaded on the evidence that the additional protections proposed by the Council would have any measurable impact.



The Tribunal concluded that the operation of the fishery in accordance with the Minister's conditions would not be detrimental to the survival of grey nurse sharks when compared with the position they would otherwise be in. The Tribunal was also satisfied that the other environmental objects were met. The Tribunal affirmed the decision of the Minister.

### Financial services regulation

#### ***Re Howarth and Australian Securities and Investments Commission***

[2008] AATA 278; 8 April 2008

Deputy President SA Forgie; Dr GL Hughes, Member

*Participant in the financial services industry — Whether a banning order should be imposed and for what period*

Mr Howarth, who was the sole director and secretary of Presidential Financial Services Pty Limited (PFS), was the subject of a banning order made by the Australian Securities and Investments Commission (ASIC) under the *Corporations Act 2001* (Corporations Act). This meant that he could no longer hold certain roles in the financial services industry. In particular, he could not be an Authorised Representative (AR) of two companies holding Australian financial services licences. He had been an AR from 2003 until 2006 when the banning order was made.

On behalf of some of PFS's clients, Mr Howarth arranged short term loans, or 'premium funding', so that they could pay domestic insurance premiums. He would give details of the funding required and relevant details to a finance company that specialised in short term loans and that also acted as an intermediary between insurance brokers and premium funding firms. The finance company would direct the details to a premium funder which would then send PFS an application for the loan. Premium funders required the completed application form and evidence of the insurance policy as it provided the security for the loan.

Of relevance were 19 loans Mr Howarth had arranged for PFS clients and three he had arranged for himself. Together they totalled \$1,442,974.45. Among the documents Mr Howarth gave the premium funders in support of the applications for these loans were false tax invoices, false insurance policies and insurance policies that he had altered to show a premium higher than the premium in fact payable. All 22 loans were repaid and nobody incurred any financial loss.

Mr Howarth pleaded guilty, and was convicted of certain offences, including obtaining financial advantage by deception contrary to the Victorian *Crimes Act 1958*.

ASIC may make a banning order under section 920A of the Corporations Act if a person has been 'convicted of fraud'. A banning order may be permanent or for a specified period.

The Tribunal considered the meaning of 'fraud' and decided that it should give the word a meaning consistent with the common law. The common law requires that two elements be established: i) that the person has deceived or had the intention to deceive; and ii) that there has been some loss of property or of an advantage. The Tribunal found that the offences of which Mr Howarth had been convicted contained these elements. Accordingly Mr Howarth had been 'convicted of fraud' and ASIC had power to make a banning order.

The Tribunal considered whether section 920A requires ASIC to make a banning order in these circumstances or whether it is discretionary. It concluded that the power is discretionary and proceeded to consider the factors affecting the exercise of that discretion. The Tribunal considered the Corporations Act and previous authorities that have considered those factors. It decided that, despite some *obiter dicta* to the contrary, it was bound to have regard to what is necessary to protect the public and is not permitted to have regard to matters such as punishment.

The Tribunal considered that Mr Howarth was, at heart, a good man who has made a considerable contribution to the community.

He lacked, however, an understanding of what is required of an AR and failed to accept responsibility for what he had done or to accept the shortcomings of his behaviour. Instead, he focused on the fact that all loans had been repaid, his clients were happy with the service he had provided and that there had been no financial loss to the lenders or borrowers. Mr Howarth had very little understanding of the risk to which he had exposed the premium funders.

Having regard to all of the evidence, the Tribunal was not satisfied that Mr Howarth had an appropriate understanding of what was required of him as an AR. The Tribunal concluded that his giving an enforceable undertaking would not protect the public and that he should be removed from the financial services industry under a permanent banning order. If he is able to rehabilitate himself, Mr Howarth could apply for variation or cancellation of the banning order in due course.

### Immigration and Citizenship

#### ***Re Darwich and Minister for Immigration and Citizenship***

[2007] AATA 2106; 24 December 2007  
Senior Member PW Taylor SC

*Application for Australian citizenship — Whether the applicant was a person of good character*

Mr Darwich applied for Australian citizenship. A delegate of the Minister for Immigration and Citizenship rejected his application on the basis that he was not a person of good character. Mr Darwich applied to the Tribunal for review of the decision.

Between April and August 1998, Mr Darwich committed a number of offences. He pleaded guilty and was sentenced to a minimum term of imprisonment of three years and three months. The sentencing judge characterised the offences as serious but made favourable findings about Mr Darwich's expressions of contrition. The judge expressly found that, apart from the offences, Mr Darwich had an unblemished record.

The Tribunal noted that the delegate's decision appeared to have been influenced

in part by an overstatement of the period during which the offences had occurred. However, the Minister maintained before the Tribunal that the nature of the offences and the significant period of imprisonment were indicative of Mr Darwich's lack of good character. Mr Darwich could not establish that he had become a person of good character when only a relatively short amount of time had passed since he was released from prison.

Mr Darwich presented evidence that he had completed education programs while in prison and participated in the work release program, a privilege only earned by good behaviour. Following his release from prison in 2003, he established a car repair business. He had obtained and maintained the licence required to conduct such a business under the *Motor Vehicle Repairs Act 1980* (NSW).

A number of referees, aware of both the nature of his past convictions and his period of imprisonment, vouched for Mr Darwich's good reputation and character. Evidence from his wife also attested to his good character.

The Tribunal referred to the Australian Citizenship Instructions which set out considerations relevant to the assessment of character under the *Australian Citizenship Act 1948*. It was noted in the Instructions that the term 'good character' has no statutory definition and bears the meaning it would convey in ordinary usage. The Instructions also specified that the significance of past criminal behaviour may be diminished where it is demonstrably aberrant by comparison with the general pattern of the applicant's conduct. While it is often prudent to require a reasonable amount of time to have passed in order to justify a conclusion that a person is currently of good character, other relevant factors include the applicant's contemporary status, employment and community reputation.

The Tribunal noted that the ultimate assessment as to whether a person is of good character is concerned with their enduring or intrinsic moral qualities. It is not necessary to be satisfied that the person meets, or has always met, the highest standards of integrity.

The Tribunal found that Mr Darwich's criminal conduct could be regarded as aberrant. His relatively prompt contrition indicated a public and unequivocal acknowledgement of wrongdoing. He had severed all contact with his former associates and his prison behaviour and educational achievements indicated a commitment to self-improvement. The issue of a licence to Mr Darwich in a regulatory environment where lack of good character is a disqualifying consideration demonstrated that he was, at least implicitly, regarded by a relevant State Government authority as being a person of good character. The evidence of Mr Darwich's wife corroborated the other evidence of his good character.

Notwithstanding the seriousness of the offences committed, the Tribunal concluded that Mr Darwich was a person of good character. It set aside the decision under review and remitted the application to the Minister for reconsideration.

### Practice and procedure

#### ***Re Farnaby and Military Rehabilitation and Compensation Commission***

[2007] AATA 1792; 21 September 2007

Justice GK Downes, President; Deputy President RJ Groom

*Whether the limb of legal professional privilege known as litigation privilege applies to proceedings in the Tribunal*

This case raised the question whether the limb of legal professional privilege called 'litigation privilege' applies to proceedings in the Tribunal. In *Ingot Capital Investments Pty Ltd v Macquarie Equity Capital Markets Ltd* (2006) 67 NSWLR 91, the Supreme Court of New South Wales had held that 'litigation privilege' does not apply in the Tribunal.

Mr Farnaby applied to the Tribunal for review of a decision refusing his claim for compensation under the *Safety, Rehabilitation and Compensation Act 1988*. He engaged a firm of solicitors to represent him in the proceedings.

Mr Farnaby's lawyers subsequently wrote to two doctors requesting advice and information relating to issues concerning the proceedings. The doctors replied providing such information and advice. The correspondence was produced to the Tribunal in answer to a summons and pursuant to a direction given by the Tribunal. The Military Rehabilitation and Compensation Commission sought access to it. Mr Farnaby's representatives claimed the correspondence was protected from disclosure because the circumstances in which it was written gave rise to a claim for legal professional privilege.

The Tribunal noted that common law legal professional privilege has two branches. It is attracted by:

- communications between a client and lawyer for the dominant purpose of seeking and receiving legal advice (the so-called 'advice privilege');
- communications between a lawyer and client or third party for the dominant purpose of providing legal services in connection with pending or anticipated proceedings (the so-called 'litigation privilege').

Justice Downes inspected the correspondence and confirmed the nature of the contents. The hearing proceeded on the basis that the letters were communications between a lawyer and a third party for the dominant purpose of providing legal services in connection with the proceedings.

The Tribunal observed that, if the correspondence had related to proceedings before a court, privilege would apply. It considered that the appropriate course was to look at the nature of Tribunal proceedings and see whether they have characteristics sufficiently analogous to court proceedings to compel a conclusion that the proceedings attract privilege.

The Tribunal outlined some of the statutory characteristics of review in the Tribunal. It was noted that there are at least two parties to proceedings and that parties have the right to representation. The proceedings must generally be determined through a public

hearing and the Tribunal has power to take evidence on oath or affirmation and summons persons to give evidence or produce documents. These mandatory characteristics parallel litigation in the courts. The Tribunal must proceed in accordance with law and must ascertain and apply the law in making a binding decision.

The Tribunal concluded that litigation privilege does apply generally in the Administrative Appeals Tribunal unless it is abrogated by statute. The Tribunal considered that this conclusion was required by the decision of the High Court of Australia in *Waterford v The Commonwealth* (1987) 163 CLR 54 but that it would have come to the same conclusion as a matter of principle. The Tribunal noted that the rationale for the principle appears to be found in considerations such as the public interest in enhancing the administration of justice and in protecting freedom of communication. Given the nature of proceedings in the Tribunal, the Tribunal saw no basis upon which the rationale could sustain privilege in court proceedings but not in proceedings before the Tribunal.

The Tribunal concluded that Mr Farnaby was entitled to claim legal professional privilege in relation to the communications between his solicitors and the two doctors.

### Social security

#### ***Re Secretary, Department of Families, Housing, Community Services and Indigenous Affairs and S & Anor***

[2008] AATA 104; 8 February 2008

Justice BJ Tamberlin; Deputy President PE Hack SC; Senior Member MJ Carstairs

*Whether a pre-operative male to female transsexual was a member of a couple for the purpose of determining the rate of payment of a pension*

Ms S, a pre-operative male to female transsexual, was living in a relationship with a woman. Centrelink determined that Ms S should be paid a pension at the 'partnered' rate because she was a member of a couple. This decision was set aside by the Social Security Appeals Tribunal.

The *Social Security Act 1991* provided that Ms S was to be treated as a member of a couple if she was in a relationship with a person of the opposite sex and their relationship was a marriage-like relationship. The Act set out a number of matters that had to be taken into account in determining whether or not a marriage-like relationship existed. These included the financial aspects of the relationship, the nature of the household, the social aspects of the relationship, any sexual relationship between the people and the nature of their commitment to each other.

The first issue considered by the Tribunal was whether Ms S is a person of the opposite sex. The evidence was that Ms S has been taking hormone replacement therapy since 1997 but is unable, for medical reasons, to have gender realignment surgery. The Tribunal found that Ms S is psychologically, socially and culturally a woman and can no longer function sexually or reproductively as a man. She has taken all of the physiological steps that she can take to become a woman.

The Tribunal referred to the decision of the Full Court of the Federal Court in *Secretary, Department of Social Security v SRA* (1993) 43 FCR 299 in which it was held that a completed surgical reassignment is necessary for an alteration of gender. Despite its factual findings, the Tribunal considered it was bound by that case. It found that Ms S was to be treated as a male for the purposes of the Act. The Tribunal did observe, however, that it may be appropriate for a court to consider whether the decisive weight given in SRA to anatomy as the essential and determinative factor of a person's gender should be revisited. Fifteen years have elapsed since SRA was decided and there may be further medical, psychological and other advances which may be taken into account in an appropriate case.

The second issue to be considered was whether Ms S was in a marriage-like relationship. The Tribunal noted that the Parliament used the descriptor 'marriage-like' in the Act and must have intended the adjective to perform some work. The language of the Act excluded same-sex

relationships and the Tribunal did not believe the Australian community would regard Ms S's relationship as one resembling marriage. The perception of Ms S and her partner and of their friends and associates was that it was a lesbian relationship, not a marriage-like relationship.

The Tribunal concluded that, as a matter of statutory construction, a same-sex marriage could not amount to a marriage-like relationship under the Act. Nor was the Tribunal satisfied on the facts of the case that Ms S's relationship was a marriage-like relationship. The Tribunal concluded that Ms S was entitled to the pension at the single rate. The decision of the Social Security Appeals Tribunal was affirmed.

***Re Secretary, Department of Families, Community Services and Indigenous Affairs and Walshe & Anor***

[2007] AATA 1861; 16 October 2007

Justice Downes, President; Senior Member JW Constance

*Whether letters sent by Centrelink to Mr and Mrs Walshe were valid notices of changes to their age pension entitlements*

Mr and Mrs Walshe first received the age pension in 1999 after Mr Walshe retired from full-time employment. Mr Walshe continued to work part-time and his income varied, both in amount and frequency of payment. From time to time, as required by law, Mr Walshe advised Centrelink of the various income amounts he earned and Centrelink determined the pension payable. Between 1999 and 2005, a number of determinations were made which altered the amounts of pension payable based on the reported income amounts.

In 2005, Mr and Mrs Walshe sought review of a number of the determinations made by Centrelink. A Centrelink Authorised Review Officer noted that the review applications had been made more than 13 weeks after Mr and Mrs Walshe had been notified of the decisions. While the original determinations may have been incorrect, section 109 of the *Social Security (Administration) Act 1999* provided that a favourable determination

could only take effect from the date of the application for review, not the dates of the original decision. The Social Security Appeals Tribunal set aside Centrelink's decisions.

Mr and Mrs Walshe submitted that they had not been given valid notice of the original determinations for the purposes of section 109 of the Act.

The Tribunal considered several matters in deciding whether Mr and Mrs Walshe had been properly notified of the original decisions. It looked firstly at the provisions of the Act pursuant to which those decisions were made and identified the elements of those decisions. The Tribunal noted the statement made by Justice Cooper in *Secretary, Department of Family and Community Services v Rogers* (2000) 104 FCR 272 that the matter to be communicated by a notice of this kind involves two elements: the fact that a decision has been made and the content of the decision.

The Tribunal observed that, in deciding whether a particular letter effectively conveys the information required, it is appropriate to consider how the letter would be read by ordinary or reasonable persons within the group of persons to whom the information is directed. It is also appropriate to consider the purposes of the notice. The main purpose must be to inform the pensioner of whether he or she will receive further pension payments and what those payments will be. A further purpose will be to advise of change. However, the pensioner will also know what pension he or she has been receiving. In many cases, the change in the pension payment amount will be in response to a notified change of circumstances.

The Tribunal considered seven different letters which were representative of the various letters sent by Centrelink to Mr and Mrs Walshe. The Tribunal found that each of the seven letters met the notice requirements of the Act and set aside the decisions of the Social Security Appeals Tribunal. However, the Tribunal also expressed the view that such notices should be drafted more clearly and consistently. They should at least inform

benefit recipients of the following matters:

- that a decision has been made to change the person's pension entitlement;
- the nature of the change, whether it is an increase, decrease, suspension or cancellation;
- when the change takes effect;
- the amount of the old entitlement; and
- the amount of the new entitlement.

## Taxation

### *Re Food Supplier and Commissioner of Taxation*

[2007] AATA 1550; 16 July 2007

Justice GK Downes, President

*Whether promotion items supplied 'free' with food attracted GST*

The Food Supplier was a supplier of food products like instant coffee. From time to time, it supplied promotion items that were packaged with the food, such as alarm clocks, radios and cricket balls. They were branded with the Food Supplier's name and marked as 'free'. The combined packages were sold for the same price as the food alone.

The supply of the promotion items to the Food Supplier attracted GST. The Food Supplier claimed input tax credits. It argued that the further supply of the promotion items to retailers was not for consideration. As the supply of the food was GST-free, no GST was payable.

For the supply of a product to be a "taxable supply" attracting GST under the *A New Tax System (Goods and Services Tax) Act 1999*, it must be made for consideration. Consideration is defined widely under the Act to include "any payment, or any act of forbearance, in connection with a supply" or "in response to or for the inducement of a supply".

The primary issue before the Tribunal was whether the promotion items were supplied for consideration.

The Food Supplier emphasised that the promotion item was labelled 'free' and that this

carried the implication there was no consideration for its supply. The Tribunal cautioned against equating modern use of the word 'free' with the absence of consideration. Even if calling the promotion items 'free' was not misleading, it did not follow that, as a component of an overall package, they were provided without consideration.

The Tribunal noted that the promotion items could only be acquired in packages with the food products. The Food Supplier would not supply them free of charge alone. This case differed from a case where promotion items are given away separately without requiring purchase of a product. In such a case, the promotion items may induce someone to purchase a product, but there is no obligation to buy the product.

The Tribunal held that there was consideration in this case for the supply of the packaged products as a whole, including the promotion items. The consideration for the supply of the two items was the single price paid for the two items.

In relation to the calculation of the tax payable, the Tribunal held that, where there is a supply which is partly taxable and partly GST-free, the Act requires an apportionment. As the food products were GST free, the taxed component was confined to each part of the supply that was taxable, namely the promotion items.

### *Re F and Commissioner of Taxation*

[2008] AATA 462; 3 June 2008

Deputy President J Block

*Whether expenses incurred by a person with a disability in employing a personal assistant were tax deductible*

Ms F is confined to a motorised chair and has limited motor skills. She was studying law and obtained work as a legal summer clerk. During that time, Ms F employed an administrative assistant to perform tasks including typing, writing notes and papers, moving files and arranging her desk. The assistant worked for eight hours per day, assisting Ms F with office duties for seven

hours. She also assisted Ms F for one hour per day with personal functions such as dressing and eating.

Ms F sought a private ruling from the Commissioner of Taxation as to whether she was entitled to deductions for expenses incurred in advertising for, training and paying wages to the assistant, and for associated workers' compensation and superannuation expenses incurred in employing the assistant. The Commissioner of Taxation ruled that she was not entitled to such deductions.

The *Income Tax Assessment Act 1997* provides that a loss or outgoing can be deducted from assessable income if it is incurred in gaining or producing the income. However, a loss or outgoing cannot be deducted if it is of a private or domestic nature.

The Tribunal accepted that the expenses incurred by Ms F were incurred for the purpose of producing the assessable income. However, it noted that this was not sufficient. The expenses must have been incurred 'in' gaining or producing the income. They must have been incidental and relevant to that end.

The Tribunal observed that this was not a case in which the expense was incurred in order to enable Ms F to take up the employment or incurred prior to commencement of the income-earning activity such as travel or child care expenses. The services provided by Ms F's assistant were furnished in the office during the course of each working day. The Tribunal was satisfied that the non-personal services constituted an expense incurred in order to enable Ms F to carry out her duties and thus incurred in producing the income.

The Tribunal accepted that an expense incurred to overcome a physical disability will usually be private or domestic and therefore non-deductible. For example, items such as spectacles, hearing aids, wheelchairs and crutches may be used both at work and at home. However, by contrast, the seven hours per day of non-personal services provided by Ms F's assistant were required only at and for work, and could not be aptly

described as personal or domestic. The one hour per day of personal services, on the other hand, was clearly a private expense.

The Commissioner of Taxation contended that an employee does not have the power to delegate the performance of his or her functions and, as such, any expense incurred in doing so would not be deductible. The Tribunal found, however, that Ms F was not delegating her work to the assistant. The assistant merely performed the physical tasks that Ms F needed done in order to fulfil her obligations as a law clerk.

The Tribunal noted that the case was argued, in the main, as to whether the deductions should be denied because the expenses were private or domestic in nature in order to overcome her physical disability. The Tribunal considered it arguable, however, that the 'essential character' of the expenses was no more nor less than the payment of wages for services needed in order to enable Ms F to derive her income. If this approach were correct, the fact that Ms F suffered from a disability was irrelevant. The expenses would be deductible regardless of why the services were obtained.

The Tribunal concluded that Ms F was entitled to a deduction for seven-eighths of her expenditure in employing the assistant.

## Veterans' affairs

### *Re Brinkworth and Repatriation Commission*

[2008] AATA 174; 29 February 2008

Deputy President DG Jarvis; Mr S Ellis AM, Member

*Whether a veteran who was servicing and maintaining aircraft during the British nuclear test program was a 'nuclear test participant' for the purposes of the Australian Participants in British Nuclear Tests (Treatment) Act 2006*

Between 1958 and 1961, Mr Brinkworth was an engine fitter with the Royal Australian Air Force (RAAF) and served at the Edinburgh base in South Australia. His responsibilities included maintaining the engines of Valiant and Canberra bombers that belonged to the

Royal Air Force (RAF). These aircraft had flown to Maralinga in the south west of South Australia, being an area where Britain had carried out atomic testing in Australia in the 1950s and 1960s.

In 2001, the Department of Veterans' Affairs produced a book entitled *Preliminary Nominal Roll of Australian Participants in the British Atomic Tests in Australia* (the Roll). Mr Brinkworth's name was included in that Roll. The introduction to the Roll records that the British atomic testing program involved the detonation of twelve nuclear devices from October 1952 to October 1957. The last seven of those explosions occurred at Maralinga. The Roll also records that a series of 'minor' nuclear trials were conducted at Maralinga between 1957 and 1963.

The issue for the Tribunal was whether Mr Brinkworth was a 'nuclear test participant' within the meaning of section 5(2) of the Act, on the grounds that he was involved in the maintenance or cleaning of aircraft that were contaminated as a result of use in the Maralinga nuclear test area.

Mr Brinkworth gave evidence that, although he could not prove that any of the aircraft that he cleaned or maintained during his service at Edinburgh were contaminated, special measures were taken in connection with the cleaning and maintenance of the aircraft that did not apply to other aircraft. These included:

- (i) the establishment of an area on a remote part of the Edinburgh Airfield for the servicing and cleaning of the Canberra aircraft;
- (ii) he had been issued with different overalls before servicing the aircraft, and the overalls were deposited in a special bin once the service had been completed;
- (iii) the aircraft were hosed down with high pressure hoses, and the water was channelled into a pit especially dug to receive that waste water;
- (iv) the crew involved in the servicing and cleaning of the aircraft were required to have a shower before leaving the area; and

- (v) the aircraft had air monitoring devices fitted to their wings before flights to Maralinga (the records of which were likely to have been kept by the RAF and not the Australian government).

The Tribunal took into account that Mr Brinkworth experienced difficulties in obtaining evidence in support of his claim. This was partly due to the passage of time and also due to the fact that the tests in question were highly secret and were being conducted by the British government.

The Tribunal found that, although there was no evidence that the aircraft in question were in fact contaminated, there was evidence that steps were taken on a regular basis to decontaminate the aircraft that had returned to the Edinburgh base from flights to Maralinga. Further, there was some documentary evidence that indicated that the minor trials entailed radioactive contamination, and the use of air monitoring devices suggested that there must have been a level of contamination to be measured.

The Repatriation Commission contended that the decontamination procedures adopted at Edinburgh during Mr Brinkworth's service were merely 'fail-safe' procedures, but did not adduce any evidence to that effect.

The Tribunal considered the circumstances in which it was permissible to draw inferences from the evidence before it. The Tribunal decided that it could infer from the evidence before it that the aircraft that Mr Brinkworth serviced and maintained were contaminated. The Tribunal accordingly set aside the decision under review and decided instead that Mr Brinkworth was a 'nuclear test participant' and a person eligible to be provided with treatment under the Act.

### Workers' compensation

#### *Re Ledwidge and Optus Administration Pty Ltd*

[2008] AATA 58; 22 January 2008

Ms R Pertone, Member

*Whether the applicant was entitled to compensation for an injury sustained outside of normal working hours*



Mr Ledwidge worked as a technician with Optus between 1996 and 2006. He claimed that he injured his back on a Sunday in January 2006 while organising the interior of his work van. Optus refused Mr Ledwidge's claim for compensation. It determined that, as the injury occurred on a Sunday, it did not arise in the course of his employment.

The issue for the Tribunal was whether Mr Ledwidge suffered an injury arising out of, or in the course of, his employment and was entitled to compensation.

The evidence presented to the Tribunal was that Optus provided their technicians with vans to get to the various work sites. Technicians were allowed to take their vans home. The technicians' usual working day was from 7.30 am to 3.30 pm Monday to Friday.

Mr Ledwidge told the Tribunal that, on the Friday before his injury, he had received a large delivery of stores which he had loaded into his van. On the Sunday, he decided to remove the stock and clean the van. Mr Ledwidge said that he usually spent time on a Sunday organising his vehicle for the next day. As he was bending, he twisted and experienced severe pain in his lower back.

Mr Ledwidge was hospitalised for a number of days and eventually returned to work in February 2006. An expert medical report indicated that Mr Ledwidge had suffered from a prolapsed disc and that work factors had materially contributed to it.

The Tribunal accepted Mr Ledwidge's evidence as to the circumstances in which the injury occurred. The Tribunal considered that he had aggravated a previous back injury.

Mr Ledwidge and other Optus staff gave evidence that Optus, through its team leaders, encouraged the technicians to keep their vehicles clean and tidy. It was not unusual for technicians to tidy up and wash their vans outside regular hours, often on the weekend.

The Tribunal reviewed a number of cases which concerned whether an employee qualified for compensation where an injury

occurred outside normal working hours. These included the decision of the High Court in *Humphrey Earl Limited v Speechley* (1951) 84 CLR 126. The Tribunal noted Justice Dixon's statement that the acts of an employee and whatever is incidental to the performance of the work are done in the course of employment. When an accident occurs in intervals between work, whether it occurs in the course of the employment will depend on whether the employee was doing something which he was reasonably required, expected or authorised to do in order to carry out his duties.

The Tribunal held that, on the day he injured his back, Mr Ledwidge was engaging in an activity he was reasonably expected to do in relation to his employment, namely organise his van so that he could work efficiently. There was no directive that employees were not to do so on the weekend. The evidence showed it was a common practice of field technicians to do so and that Optus team leaders were aware of this practice.

The Tribunal found that Mr Ledwidge's aggravation of his back injury arose out of, or in the course of, his employment. The Tribunal remitted the matter to Optus to calculate the amount of compensation payable.

## APPENDIX 7: FREEDOM OF INFORMATION

### Statement under section 8 of the *Freedom of Information Act 1982*

This statement is made for the purposes of section 8 of the *Freedom of Information Act 1982* (Freedom of Information Act) and is correct as at 30 June 2008.

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 the ways in which comments or complaints in relation to its operations may be made.

#### **Categories of documents maintained by the Tribunal**

The Tribunal maintains the following categories of documents:

- documents relating to applications made under the *Administrative Appeals Tribunal Act 1975*, 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 1975* and requests for examinations under the *Proceeds of Crime Act 2002*;
- Tribunal practice and procedure documents, including Practice Directions and forms;
- documents and other materials containing information on the Tribunal's processes, including jurisdictional guides, leaflets, the *Getting Decisions Right* video/DVD and the Tribunal's Service Charter;
- reference materials, including the Registry Procedures Manual and the Tribunal jurisdiction list;
- documents relating to the administration of the Tribunal, including annual reports on the Tribunal's operations, records relating to human and financial resource management, statistical information and other internal documents and correspondence.

#### **Facilities for access to documents**

A range of documents are available to the public free of charge on request.

They include:

- Tribunal practice and procedure documents, including Practice Directions and forms;
- documents containing information on the Tribunal's processes, including jurisdictional guides, leaflets and the Tribunal's Service Charter;
- the Tribunal jurisdiction list;
- 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 1975*;
- Tribunal decisions and reasons for decisions that are not subject to a confidentiality order under section 35 of the *Administrative Appeals Tribunal Act 1975*;
- *Getting Decisions Right* video/DVD;
- 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.

The Tribunal notes that 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 Queensland 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 in Principal Registry.

Contact officers, addresses and telephone numbers are set out at the end of this Annual Report.

## APPENDIX 8: SPEECHES, PAPERS AND OTHER ACTIVITIES

This appendix provides information on speeches and papers given by Tribunal members and staff during 2007–08. It also provides information on training and education activities involving Tribunal members and staff.

### Justice Garry Downes, President

*The Council of Australasian Tribunals:  
The National Perspective*  
General Meeting of the South Australian  
Chapter of the Council of Australasian Tribunals  
Adelaide, 14 August 2007

*Partenariat Public Privé / Public Private  
Partnerships [French]*  
51st Union Internationale des Avocats  
Congress  
Paris, 3 November 2007

*Good Decision-Making*  
Australian Public Service Commission Forum  
of Commonwealth Agencies Conference  
(Government Business Conference)  
Sydney, 7 March 2008

*Legal Professional Privilege: Re Farnaby and  
Military Rehabilitation and Compensation  
Commission [2007] AATA 1792*  
AAT Members Professional Development  
Session  
Sydney, 27 March 2008

*Alternative Dispute Resolution at the AAT*  
AAT Forum, New South Wales Law Week  
2008  
Sydney, 1–2 April 2008

Commentator on Keynote Address delivered  
by M P Frydman, President, Administrative  
Court of Appeal of Versailles on  
*Administrative Justice in France*

*Issues for Merits Review Tribunals*  
Australasian Institute of Judicial  
Administration/Council of Australasian  
Tribunals Tribunals Conference  
Gold Coast, 5–6 June 2008

### Senior Member Narelle Bell

Decision-writing seminar  
(with Professor James Raymond)

New South Wales Chapter of the Council of  
Australasian Tribunals  
Sydney, September 2007

Decision-writing seminar  
(with Professor James Raymond)  
Public Prosecutors and Public Defenders of  
Papua New Guinea  
Port Moresby, August 2007

Decision-writing seminar  
(with Professor James Raymond)  
Supreme Court of Singapore  
Singapore, November 2007

Decision-writing seminar  
(with Professor James Raymond)  
High Court and Sessions Court of Sabah and  
Sarawak  
Kota Kinabalu, Malaysia, November 2007

Court craft seminar  
Magistrates' Court, Sessions Court, High  
Court and Bar of Sarawak  
Kuching, Malaysia, May 2008

### District Registrar Catherine Cashen

Presentation with Commonwealth  
Ombudsman (Adelaide)  
Social workers and community leaders' network  
Adelaide, 19 March 2008

### Megan Cassidy, Assistant Registrar

*Learning from Each Other — A Co-Mentoring  
Program for Conference Registrars*  
Australian Court Educators' Conference  
Sydney, 2 May 2008

### Senior Member James Constance

*Administrative Law Update*  
Public Sector In-House Counsel Forum  
Canberra, 24–26 September 2007

Tribunal Advocacy Course, Department of  
Veterans' Affairs  
Canberra, 23 June 2008

### Senior Member Geri Ettinger

*Alternative Dispute Resolution at the AAT*  
AAT Forum, New South Wales Law

Week 2008  
Sydney, 1–2 April 2008

*Alternative Dispute Resolution in the Administrative Appeals Tribunal*  
Australian Taxation Office Litigation Forum  
Melbourne, 8–9 May 2008

#### **Deputy President Stephanie Forgie**

*The Role of Policy in Decision-Making*  
AGS Social Security Law Forum  
Canberra, 2 November 2007

*A Tribunal Member's Perspective on Advocacy in the AAT*  
Advocacy workshop for Centrelink  
Advocates including moots  
Canberra, 27–28 March 2008

*Decision-Makers and Review Bodies: Sharing a Common Path*  
AGS Workers' Compensation Forum  
Canberra, 16 May 2008

#### **Senior Member Graham Friedman**

Presentation  
Law Institute of Victoria Government Lawyers  
Conference  
Melbourne, 6 July 2007

#### **Member Stephen Frost**

*Alternative Dispute Resolution at the AAT*  
AAT Forum, New South Wales Law  
Week 2008  
Sydney, 1–2 April 2008

#### **Deputy President Philip Hack SC**

*The Importance of Flexibility*  
“Select perspectives on Practice and Procedure in the Administrative Appeals Tribunal — The View from the Bench”, LexisNexis Professional  
Development Seminar  
Brisbane, 19 July 2007

*An Appeal to the AAT*  
Taxation Institute of Australia — Breakfast Club  
Brisbane, 6 September 2007

#### **Athena Harris-Ingall, Learning and Development Officer**

*The Law and Its Role in Practice*  
Australian Catholic University Master of  
Nursing Students  
22 April 2008

#### **Doug Humphreys, Registrar**

*Designing and Implementing a Professional Development Program for Administrative Appeals Tribunal Members*  
Australian Court Educators' Conference  
Sydney, 2 May 2008

#### **Senior Member Robin Hunt**

*Migration Law and Administrative Review in the AAT*  
Conference of legal practitioners and  
migration agents  
October 2007

#### **District Registrar Barry Johnson**

Information Sessions on the AAT  
Law Week  
Perth, 6–9 May 2008.

#### **Professor Graham Johnston**

*View from the Bench*  
Science and the Expert Witness Seminar,  
Australian and New Zealand Association for  
the Advancement of Science (ANZAAS)  
and Expert Opinion Services University of  
New South Wales  
Sydney, November 2007

#### **Member Regina Perton**

*Administrative Review of Centrelink Decisions*  
Victoria Legal Aid Conference on *Social Security Law and Practice*  
Melbourne, 16 November 2007

#### **Conference Registrar Mary Rebehy**

*Alternative Dispute Resolution at the AAT*  
AAT Forum, New South Wales Law Week 2008  
Sydney, 1–2 April 2008

#### **Member Simon Webb**

Tribunal Advocacy Course, Department of  
Veterans' Affairs  
Canberra, 27 June 2008

## APPENDIX 9: COMMONWEALTH DISABILITY STRATEGY – TRIBUNAL PERFORMANCE

This appendix sets out information on the Tribunal's performance in implementing the Commonwealth Disability Strategy in relation to its role as a provider.

Performance indicator	Performance measures	Performance for 2007–08
Providers have established mechanisms for quality improvement and assurance.	Evidence of quality improvement and assurance systems in operation.	Regular liaison meetings were held with Tribunal users providing a forum for feedback on service provision. A user satisfaction survey was conducted in June 2008.
Providers have an established service charter that specifies the roles of the provider and consumer and service standards which address accessibility for people with disabilities.	Established service charter that adequately reflects the needs of people with disabilities in operation.	The Tribunal has a Service Charter which sets out its commitment to providing equitable access to all users. The Charter was available in leaflet form (including in large print) and on the Tribunal's website.
Complaints/grievance mechanism, including access to external mechanisms, in place to address issues and concerns raised about performance.	Established complaints/grievance mechanisms, including access to external mechanisms, in operation.	The Tribunal has complaint-handling procedures in place which are set out in the Service Charter. When responding to complaints, the Tribunal advises complainants of external mechanisms relevant to the issues raised, including the Ombudsman and the Human Rights and Equal Opportunity Commission.

## APPENDIX 10: CONSULTANCIES AND OTHER REPORTING REQUIREMENTS

This appendix provides more detailed information on certain consultancies let during the reporting year and information on a range of other matters that must be included in the Tribunal's Annual Report.

### Consultancies

Table A10.1 sets out information on consultancies that were let during 2007–08 where the value of the services is \$10,000 or more (inclusive of GST).

**Table A10.1 Consultancy services let during 2007–08 where value is \$10,000 or more (inclusive of GST)**

Name of Consultant	Description	Contract price	Selection process (1)	Justification (2)
Oakton Services	Review of ICT services	\$30,000	Direct Sourcing	C
Price Waterhouse Coopers	Review of corporate services	\$82,500	Direct Sourcing	C
Profmark Consulting Pty Limited	Conduct of user satisfaction survey	\$29,475	Select Tender	C
<b>Total</b>		<b>\$141,975</b>		

(1) Explanation of selection process terms drawn from the *Commonwealth Procurement Guidelines* (January 2005):

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 sought from the marketplace using national and major metropolitan newspaper advertising and the Australian Government AusTender internet site.

Select Tender: A procurement procedure in which the procuring agency selects which potential suppliers are invited to submit tenders. Tenders are invited from a short list of competent suppliers.

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, usually selected through a single procurement process, may each supply property or services to an agency as specified in the panel arrangements. Tenders 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 consultant offers to supply goods and services for a pre-determined length of time, usually at a pre-arranged price.

(2) Justification for decision to use consultancy:

- A — skills currently unavailable within agency
- B — need for specialised or professional skills
- C — need for independent research or assessment

Table A10.2 provides summary information on the number of consultancies let by the Tribunal in the three most recent reporting years where the value of the contract was \$10,000 or more (inclusive of GST). It sets out the number of consultancies and the total value of the contracts.

**Table A10.2 Summary of consultancies let in the three most recent reporting years where gross value is \$10,000 or more (inclusive of GST)**

Year	No of Consultancies	Total Contract Value (incl GST)
2005–06	4	\$120,916
2006–07	2	\$164,338
2007–08	3	\$141,975

### Other reporting requirements

#### *Advertising and market research*

Profmark Consulting Pty Limited, a market research organisation, was paid \$28,000 in 2007–08 for the conduct of a user satisfaction survey. Further details on the survey are set out in Chapter 4 of this Annual Report.

Non-campaign advertising expenditure of \$45,510 was paid to HMA Blaze Pty Ltd for advertising employment vacancies.

#### *Discretionary grants*

The Tribunal has no programs involving the payment of discretionary grants.

#### *Environmental performance*

Pursuant to section 516A of the *Environment Protection and Biodiversity Conservation Act 1999*, agencies are required to report on ecologically sustainable development and environmental matters. The Tribunal is a review body and, as such, does not administer policy that has any major effect on the environment.

The Tribunal attempts to limit its impact on the environment in day-to-day administrative functions by ensuring that energy usage and wastage of resources is minimised. Results to date are encouraging in that energy usage is moderate compared with usage by similar organisations. In addition, the landlord of the Tribunal's Registry in Sydney continues to actively promote energy and resource conservation within the building and seeks ongoing reduction in consumption of these items.

General energy consumption rose slightly by 0.27% per cent during the reporting year. Petrol consumption fell by 4 per cent, despite a small increase in the number of vehicles leased.



# Endmatter

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## GLOSSARY

<b>AASB</b>	Australian Accounting Standards Board
<b>AAT</b>	Administrative Appeals Tribunal
<b>ACSI 33</b>	Australian Communications Security Instructions 33 which form part of the Australian Government Protective Security Manual.
<b>ADR</b>	Alternative dispute resolution
<b>Affirm</b>	The AAT may affirm a decision under review. This means that the original decision still stands.
<b>Applicant</b>	This is the person, organisation, department or agency that has lodged an application with the AAT.
<b>Application for extension of time</b>	An application for review of a decision must be lodged with the AAT within a certain time limit. However, an application may be made to the AAT to extend the time for lodging an application.
<b>Case appraisal</b>	Case appraisal is an ADR process conducted by an AAT member or other person, chosen on the basis of their knowledge of the subject matter, who assists the parties to resolve the dispute by providing a non-binding opinion on the facts in dispute and likely outcomes.
<b>COAT</b>	Council of Australasian Tribunals
<b>Conciliation</b>	Conciliation is an ADR process in which an AAT member or Conference Registrar assists the parties to identify the issues in dispute and endeavour to reach an agreement. The conciliator has no determinative role but may advise on or determine the conciliation process, make suggestions on terms of settlement and actively encourage the parties to reach an agreement.
<b>Conference</b>	A conference is a meeting conducted by an AAT member or Conference Registrar with the parties and/or their representatives. Conferences provide an opportunity to discuss and define the issues in dispute, identify further evidence that may be gathered, explore whether the matter can be settled and discuss the future conduct of the matter.
<b>Confidentiality order</b>	The AAT may make an order directing that a hearing or part of a hearing be held in private. The AAT may also give directions prohibiting or restricting the publication of the names of a party or witnesses, evidence given before the AAT or matters contained in documents lodged with the AAT.
<b>CSS</b>	Commonwealth Superannuation Scheme
<b>Directions hearings</b>	Directions hearings are conducted by AAT members and may be held to deal with procedural matters such as the exchange of statements or documents or to clarify issues relating to the conduct of a hearing. They may also be held to progress a matter in which there has been delay by a party.

<b>Dismissal of application</b>	In certain circumstances, the AAT may dismiss an application without proceeding to review the decision. An application may be dismissed, for example, at the request of the parties, if the applicant fails to appear at an ADR process, directions hearing or hearing, or if the AAT is satisfied that the application is frivolous or vexatious.
<b>FMO</b>	Finance Minister's Order
<b>GST</b>	Goods and Services Tax
<b>Hearing</b>	A hearing is conducted by one, two or three AAT members. It is the opportunity for the parties to present to the AAT evidence and submissions in relation to the decision under review. Parties may call witnesses to give evidence.
<b>HSR</b>	Health and Safety Representative
<b>IASAJ</b>	International Association of Supreme Administrative Jurisdictions
<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>Mediation</b>	Mediation is an ADR process in which an AAT member or Conference Registrar assists the parties to identify the issues in dispute, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in relation to the content of the dispute but may advise on or determine the mediation process.
<b>MRT</b>	Migration Review Tribunal
<b>NAATI</b>	National Accreditation Authority for Translators and Interpreters
<b>Neutral evaluation</b>	Neutral evaluation is an ADR process in which an AAT member or other person, chosen on the basis of their knowledge of the subject matter, assists the parties to resolve the dispute by evaluating the facts and law at issue in the dispute and providing a non-binding opinion on the likely outcomes.
<b>OPA</b>	Official Public Account
<b>Outreach</b>	This is an AAT program that provides self-represented parties with information about AAT practices and procedures and other assistance in relation to the review process.
<b>Party</b>	Parties are the participants in the proceedings before the AAT. Parties include the person who makes the application to the AAT, the decision-maker or other respondent to the application and any other person joined to the proceedings.

<b>Party joined</b>	Where a person, department or agency has applied to the AAT for review of a decision, any other person, department or agency whose interests are affected by the decision may apply to be made a party to the proceeding, and the AAT may grant that application. This person, department, or agency is a party joined.
<b>Portfolio Budget Statements</b>	Statements prepared to explain the Budget appropriations for agencies within a portfolio in terms of outcomes and outputs.
<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 AAT may set aside a decision and send it back (remit it) to the original decision-maker to be reconsidered in accordance with any directions or recommendations of the AAT.
<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 AAT and the other party under section 37 of <i>Administrative Appeals Tribunal Act 1975</i> : known generally as the 'T Documents'. They include the reasons for the decision under review and all other relevant documents.
<b>Set aside</b>	The AAT may set aside a decision under review. The effect is that the AAT disagrees with the original decision and may make a new decision or remit the matter to the original decision-maker.
<b>SSAT</b>	Social Security Appeals Tribunal
<b>Stay order</b>	This is an order of the AAT to suspend the operation or implementation of the decision under review until the matter is determined or resolved.
<b>Summons</b>	This is a notice issued by the AAT calling a person to appear before it or to produce documents to it.
<b>T Documents</b>	See 'Section 37 Documents'.
<b>TRACS</b>	The AAT's electronic case management system.
<b>Vary</b>	The AAT may vary a decision under review. This means that the AAT changes or alters the original decision.
<b>VRB</b>	Veterans' Review Board

## CONTACTING THE TRIBUNAL

The Tribunal can be contacted in person, by telephone or in writing (by letter or fax). Office hours are 8.30 am to 5.00 pm, Monday to Friday.

If you are writing to the Tribunal, the letter should be addressed to:

The District Registrar  
AAT  
GPO Box 9955  
Your capital city

### REGISTRY LOCATIONS AND CONTACT NUMBERS

#### New South Wales

Level 7  
City Centre Tower  
55 Market Street  
SYDNEY NSW 2000  
Telephone: (02) 9391 2400  
Facsimile: (02) 9283 4881

#### Victoria

Level 16  
Southgate, HWT Tower  
40 City Road  
SOUTHBANK VIC 3006  
Telephone: (03) 9282 8444  
Facsimile: (03) 9282 8480

#### Queensland

Level 4  
Harry Gibbs Commonwealth  
Law Courts Building  
Cnr North Quay and Tank Street  
BRISBANE QLD 4000  
Telephone: (07) 3361 3000  
Facsimile: (07) 3361 3001

#### South Australia

11th Floor  
Chesser House  
91 Grenfell Street  
ADELAIDE SA 5000  
Telephone: (08) 8201 0600  
Facsimile: (08) 8201 0610

#### Western Australia

Level 5  
111 St Georges Terrace  
PERTH WA 6000  
Telephone: (08) 9327 7200  
Facsimile: (08) 9327 7299

#### Tasmania

Ground Floor  
Edward Braddon Commonwealth  
Law Courts Building  
39–41 Davey Street  
HOBART TAS 7000  
Telephone: (03) 6232 1712  
Facsimile: (03) 6232 1701

#### Australian Capital Territory

4th Floor  
Canberra House  
40 Marcus Clarke Street  
CANBERRA ACT 2601  
Telephone: (02) 6243 4611  
Facsimile: (02) 6243 4600

#### Northern Territory

Northern Territory residents should direct any enquiries to the Queensland Registry.

### NATIONAL TELEPHONE NUMBER

The Tribunal provides a national telephone number — 1300 366 700. You can use it to call the Tribunal's office, in the capital city of the state in which you live, for the cost of a local call. Those calling from the Northern Territory and the Northern Rivers area of New South Wales will be connected with Brisbane.

## SERVICES FOR PERSONS WITH A HEARING OR SPEECH IMPAIRMENT

If you have a hearing or speech impairment, the AAT has services you can use. TTY users can phone 133 677 then ask for 1300 366 700. Speak and Listen (speech-to-speech relay) users can phone 1300 555 727 then ask for 1300 366 700. Internet relay users can connect to the National Relay Service (see [www.relayservice.com.au](http://www.relayservice.com.au) for details) and then ask for 1300 366 700.

## TRIBUNAL WEBSITE

Further information about the Tribunal, including details about contacting the Tribunal, is available from the Tribunal's website: [www.aat.gov.au](http://www.aat.gov.au).

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