



Administrative  
Appeals Tribunal

# AAT Bulletin

**Issue No. 29/2016**

**18 July 2016**

The *AAT Bulletin* is a weekly publication containing information about recently published decisions and appeals against decisions in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Taxation & Commercial and Veterans' Appeals Divisions. The Bulletin also regularly includes information about decisions of interest recently published in the AAT's Migration & Refugee Division. It occasionally includes information on legislative changes that affect the AAT.

It is recommended that the Bulletin be read on-line. This has the advantage of allowing the reader to use hyperlinks to access the full text of cases and other internet sites mentioned in the Bulletin.

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Enquiries regarding this publication may be directed to [aatweb@aat.gov.au](mailto:aatweb@aat.gov.au).

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# AAT Recent Decisions

This section of the Bulletin provides information about all decisions recently published in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Taxation & Commercial and Veterans' Appeals Divisions as well as about select decisions recently published in the Migration & Refugee Division. Only AAT decisions that have been published on [AustLII](#) have been included. Full copies of the decisions can be accessed through the hyperlinks provided below.

## Citizenship

[FLMJ and Minister for Immigration and Border Protection](#) (Citizenship) [2016] AATA 454 (30 June 2016); Dr L Bygrave, Member

Citizenship – conferral of Australian Citizenship – whether applicant of good character – domestic violence offences – driving offences – insufficient time has passed – decision under review affirmed

[Ozturk and Minister for Immigration and Border Protection](#) (Citizenship) [2016] AATA 489 (13 July 2016); Deputy President JW Constance

Citizenship by conferral – good character – whether the Applicant satisfies the legislative requirement to be shown to be of good character – where applicant has previously resided unlawfully in Australia – where applicant has previous traffic offences – whether any mitigating factors or explanations outweigh the behaviour in question – decision set aside and remitted

## Compensation

[Devlin and Australian Postal Corporation](#) (Compensation) [2016] AATA 487 (7 June 2016); Senior Member E Fice

Workers' compensation – interlocutory application – extension of time to lodge application for review – explanation for delay – prejudice – reasonable prospects of success – application refused

[Talevski and K & S Freighters Pty Ltd](#) (Compensation) [2016] AATA 492 (13 July 2016); Senior Member Ms N Isenberg

Incapacity to work – whether offer of suitable employment made – return to work plan – whether unreasonable failure to take up offer of suitable employment – decision under review set aside and substituted

## Migration

[Tera Euna and Minister for Immigration and Border Protection](#) (Migration) [2016] AATA 301 (11 May 2016); Senior Member Mrs JC Kelly

Class TY Subclass 444 Special Category (Temporary) visa – criminal offences – cancellation of visa – Direction 65 – character test – protection of Australian community – best interests of minor children – whether risk of future harm to Australian community unacceptable – history of violent criminal conduct – significant risk of reoffending – decision affirmed

[Toelau Hohua and Minister for Immigration and Border Protection](#) (Migration) [2016] AATA 486 (12 July 2016); Senior Member CR Walsh

Decision to not revoke a mandatory cancellation of Applicant's Class TY Subclass 444 Special Category (Temporary) visa – Applicant not of “good character” – Applicant has a “substantial criminal record” – Applicant sentenced to a term of imprisonment of 12 months or more – whether there is any other reason why mandatory visa cancellation decision should be revoked – decision under review affirmed

## **National Disability Insurance Scheme**

[McGarrigle and National Disability Insurance Agency](#) [2016] AATA 498 (15 July 2016); Senior Member JF Toohey

Applicant a participant in the NDIS – autism spectrum disorder – intellectual disability – reasonable and necessary supports – transport costs – taxis – whether total cost should be funded – what is reasonable to expect families, carers, informal networks and the community to provide – decision under review affirmed

## **Social Security**

[Ellis and Secretary, Department of Social Services](#) (Social services second review) [2016] AATA 490 (13 July 2016); Deputy President Dr C Kendall

Mobility Allowance – travel test – handicap – inability to use public transport without substantial assistance due to disability – gainful employment – vocational training – volunteer work – vocational rehabilitation program – decision under review affirmed

## **Veterans' Affairs**

[Kidd and Repatriation Commission](#) (Veterans' entitlements) [2016] AATA 485 (8 July 2016); Senior Member JF Toohey

Whether morbid obesity related to service – whether hypertension related to service – whether veteran entitled to special rate – whether veteran prevented from continuing in remunerative employment by accepted disabilities alone – decision under review affirmed

[Watson and Repatriation Commission](#) (Veterans' entitlements) [2016] AATA 408 (20 June 2016); Senior Member PW Taylor SC

Application for disability pension – post traumatic stress disorder – depressive disorder – whether disorders were “war caused” – diagnosis of disorders – whether the veteran experienced a life threatening event – “exposure to a traumatic event” – “intense fear, helplessness or horror” – “experiencing a severe stressor” – “experienced, witness or was confronted with” – “confronted with” – Tribunal not satisfied that the Veteran has post-traumatic stress disorder – Tribunal not satisfied that the veteran has major depression – decision affirmed

# Appeals

This section of the Bulletin provides information about appeals that have been lodged or finalised against decisions in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Taxation & Commercial and Veterans' Appeals Divisions. Information is only included about appeals relating to AAT decisions that have been published on [AustLII](#). Full copies of the decisions can be accessed through the hyperlinks provided below.

## Appeals lodged

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CASE NAME

AAT REFERENCE

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**Comcare v MMYB**

[\[2016\] AATA 405](#)

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## Appeals finalised

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CASE NAME

AAT REFERENCE

COURT REFERENCE

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**None finalised**

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