



NCAT  
NSW Civil &  
Administrative  
Tribunal

# NCAT

## Annual Report

### 2019-2020



**NCAT**  
NSW Civil &  
Administrative  
Tribunal

The Hon Mark Speakman SC MP  
Attorney General  
GPO Box 5341  
SYDNEY NSW 2001

Dear Attorney,

I am pleased to submit the 2019-2020 Annual Report for the NSW Civil and Administrative Tribunal.

The report summarises the Tribunal's performance and outcomes achieved during the period 1 July 2019 to 30 June 2020.

The report has been prepared in accordance with section 91 of the *Civil and Administrative Tribunal Act 2013* (NSW).

Following the tabling of the report in Parliament, it will be available for public access on the Tribunal's website at [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au).

Yours sincerely,

**The Hon Justice Lea Armstrong**  
President  
NSW Civil and Administrative Tribunal

# Table of Contents

<b>President’s Report</b> .....	<b>5</b>
<b>2019-2020 in Review</b> .....	<b>8</b>
<b>Independence</b> .....	<b>9</b>
Legislative framework.....	9
Member appointments and tenure .....	9
Administrative support.....	10
Budget and funding sources .....	10
<b>Leadership and effective management</b> .....	<b>12</b>
Leadership group.....	12
Governance.....	13
Disclosure of information .....	14
<b>Fair treatment</b> .....	<b>15</b>
Member Code of Conduct.....	15
Internal appeals .....	15
Service Charter and service enhancement projects .....	16
Procedures and processes.....	16
Representation before the Tribunal.....	17
Interpreter services.....	17
Cultural issues.....	17
<b>Accessibility</b> .....	<b>19</b>
Accessing NCAT services including online.....	19
NCAT Registries .....	19
Website and social media.....	19
Resources and assistance.....	20
Hearing locations and times.....	20
Alternative access to hearings .....	21
Fees and charges.....	22
Legal assistance .....	22
Additional assistance .....	22
Procedural directions, guidelines and policies.....	23
<b>Professionalism and integrity</b> .....	<b>25</b>
Competency framework and performance appraisal .....	25

Member qualifications .....	25
Code of conduct.....	25
Professional development, appraisal and training .....	25
Appeals.....	26
<b>Accountability.....</b>	<b>27</b>
Hearings open to the public.....	27
Service charter.....	27
Complaint handling mechanism.....	27
Stakeholder engagement .....	28
Publication of reasons for decisions.....	28
Other engagement with the community.....	28
<b>Efficiency.....</b>	<b>29</b>
Performance standards and monitoring.....	29
Resolution processes.....	29
Cross-assignment.....	30
Flexibility of processes .....	30
<b>Client needs and satisfaction .....</b>	<b>31</b>
Use of NCAT website and social media.....	31
Feedback, surveys and newsletters.....	31
Stakeholder interaction .....	32
Internal appeals .....	32
Complaints data.....	32
<b>Divisional and Appeal Panel Reports.....</b>	<b>33</b>
Administrative and Equal Opportunity Division.....	34
Consumer and Commercial Division .....	39
Guardianship Division.....	43
Occupational Division.....	49
Appeal Panel .....	54
<b>Appendices .....</b>	<b>58</b>
Appendix 1 – Legislation.....	59
Appendix 2 – Major Legislative Change.....	62
Appendix 3 – Tribunal Members at 30 June 2020.....	65
Appendix 4 – NCAT Member Code of Conduct.....	90
Appendix 5 – NCAT Expenditure Report.....	95

Appendix 6 – Service Standards: Lodgement to Finalisation.....	96
Appendix 7 – Resolution Processes.....	98
Appendix 8 – Fees and charges as at 30 June 2020.....	102
Appendix 9 – NCAT Liaison Group and Divisional Consultative Forum Membership.....	104

## NCAT Annual Report Structure

NCAT has structured the information in this annual report, in addition to the President’s Report and 2019-2020 in Review, in three parts. First, general information concerning the Tribunal as a whole is provided by reference to the eight areas of Tribunal excellence set out in the Australia and New Zealand Tribunal Excellence Framework (June 2017) published by the Council of Australasian Tribunals. The eight areas are:

- Independence
- Leadership and Effective Management
- Fair Treatment
- Accessibility
- Professionalism and Integrity
- Accountability
- Efficiency
- Client needs and satisfaction

Next, more specific information concerning each Division of the Tribunal and the Appeal Panel is contained in the Divisional and Appeal Panel Reports.

Finally, detailed information concerning certain aspects of the Tribunal’s functions and operations is provided in the appendices, as referred to in the other two parts.

# President's Report

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## The role of NCAT

The NSW Civil and Administrative Tribunal (NCAT) facilitates access to justice, dispute resolution for ordinary citizens, and enables government decision-making to be challenged in areas of significance to the public.

In its seventh year of operation, NCAT received 69,735 applications and finalised 66,688 with a clearance ratio of 95.6%.

NCAT deals with a wide range of matters. The top ten matter types by volume in descending order are:

1. Residential tenancy and social housing
2. Guardianship and financial management matters in relation to people with impaired decision-making capacity
3. Consumer claims
4. Home building matters
5. Strata and community title, retirement village and similar matters
6. Motor vehicles
7. Other commercial matters (including retail lease, agricultural tenancy and agency disputes)
8. Administrative reviews of government decisions including access to government information and privacy matters
9. Professional disciplinary matters in respect of lawyers, medical practitioners and other professionals
10. Anti-discrimination matters.

## NCAT Leadership

In my second year as President of NCAT, my focus has been to ensure the continued delivery of high-

quality decisions and processes to ensure the Tribunal continues to be accessible and responsive to the needs of its users. The assistance of the NCAT Executive Team was critical to meeting this aim during a challenging year for the Tribunal.

A number of changes were made to the NCAT Executive Team during the reporting period. The term of Mr Stuart Westgarth as Deputy President and Division Head of the Consumer and Commercial Division came to an end in August 2019, and he did not seek reappointment to that full-time role. He continues instead as a Deputy President of the Tribunal on a part-time basis. NCAT is fortunate to retain Mr Westgarth's skills and experience as a presidential Tribunal Member.

After publicly-advertised recruitment action, Mr Mark Harrowell was appointed to fill the full-time role of Deputy President and Division Head of the Consumer and Commercial Division. Mr Harrowell brings a depth of relevant expertise and experience to the role of Deputy President and Division Head. He was formerly NCAT Principal Member in Appeals, and prior to that Principal Member of the Consumer and Commercial Division, as well as being List Manager of that Division. Prior to the establishment of NCAT, Mr Harrowell was a Deputy Chairperson (Determinations) of the Consumer, Trader and Tenancy Tribunal. He has also been a managing partner at a large Sydney law firm, with commercial litigation his main area of practice.

Member recruitment was also undertaken in the early part of the reporting year in all Divisions, providing an opportunity to refresh the NCAT membership, as well as reappoint many experienced Members for a further term.

## COVID-19

The COVID-19 pandemic presented a number of challenges for NCAT during the reporting period. To ensure the safe delivery of services to NCAT users, and to comply with Commonwealth and State Government directions and health advice relating to COVID-19, a number of changes were made to the way NCAT delivered its hearings across the State.

The primary aim of the changes has been to remove the need for parties to physically come to the Tribunal. In-person hearings during COVID-19 are only conducted in special circumstances and require Presidential pre-approval. All other hearings have been conducted by telephone or video conference, or decided 'on the papers' where the matter is decided without a hearing and on the basis of the written material before the Tribunal.

Changes were also made to the way NCAT Registry services are provided. Initial COVID-19 changes included parties being permitted to file documents via email, instead of having to post applications or other documents, or lodge documents in person. Cases have been prioritised in each Division, dependent on the critical nature of the matter and the hearing method. The Tribunal also made changes to expand the circumstances under which it would consider adjournment requests. The changes to the way NCAT delivers its services were supported through legislative amendments.

Due to the impact of COVID-19, the Tribunal has not met its 100% clearance ratio target, however it was able to clear 95.6% of its matters. In order to protect parties, Members and staff, NCAT had to change the way it listed matters. This meant the Tribunal was unable to meet all of its usual time standards. Priority was given to ensure the most urgent matters were listed as soon as possible. This included tenancy and guardianship matters.

During this time the Tribunal continued to provide high level services across all Divisions and Appeals. I would like to take this opportunity to acknowledge

the extraordinary efforts of Members and staff. As the landscape in which we were working changed almost daily in the early stages of the pandemic, the willingness of all those involved to try new ways of operating and to trial technology solutions to ensure the continued delivery of services to NCAT users is to be commended. This of course was against the backdrop of each person's concerns for their own health and safety and that of their families. I would also like to acknowledge the invaluable assistance NCAT received from the Department of Communities and Justice, particularly in relation to the rapid and responsive provision of technology solutions allowing NCAT to have some staff and Members work from home, and for virtual hearings to be conducted.

## Member Conference

On 21 October 2019 NCAT held its biennial all Member Conference. The conference was held in Sydney and opened by The Hon Mark Speakman, NSW Attorney General and Minister for the Prevention of Domestic Violence.

Approximately 200 Members from all NCAT Divisions attended the conference with a keynote address by The Hon Justice Andrew Bell, President of the New South Wales Court of Appeal. A broad range of topics relevant to all Members were covered at the conference by experienced NCAT Members and distinguished guest presenters from a variety of jurisdictions and professional backgrounds. Topics included: Maintaining Impartiality in the Tribunal Environment; Working with Interpreters and Procedural Fairness; Concurrent Evidence; Reading NSW Legislation; Dealing with Confronting Issues in a Hearing Environment; and Proportionate Justice: applying the guiding principle in section 36 of the *Civil and Administrative Tribunal Act 2013*.

## Code of Conduct

In June 2020 the NCAT Member Code of Conduct was revised in light of the events arising from the High Court of Australia's enquiry into allegations of sexual misconduct and harassment of staff by a former judge of that court. I wrote to all Members and staff to make clear the Tribunal's expectations of their right to work in a safe environment along with details of who they can speak to should they have any concerns or witness any inappropriate behaviour.

As a result of the review, changes were made to the NCAT Member Code of Conduct to emphasise further the importance of fairness, dignity and respect for others in the Tribunal. Specifically, that NCAT does not tolerate inappropriate workplace behaviour, which includes bullying, harassment, sexual harassment, other forms of unlawful discrimination, vilification and violence.

## What's next

The *Civil and Administrative Tribunal Act 2013* (the NCAT Act) commenced on 1 January 2014. Section 92 requires the Attorney General to undertake a review of the NCAT Act after five years. The purpose of the review is to determine whether the policy objectives of the NCAT Act remain valid and whether the terms of the NCAT Act remain appropriate for securing those objectives. The review is also an opportunity for NCAT to reflect on what can be improved.

This statutory review is currently underway and is being managed by the Department of Communities and Justice. Over 90 submissions have been received by the Department. A report was scheduled to be tabled in Parliament by the Attorney General in the current year and has been delayed.

**The Hon Justice Lea Armstrong**  
President

# 2019-2020 in Review

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## 69,735 Applications lodged

- 64.4% of all applications lodged online
- 81.5% of applications in the Consumer and Commercial Division lodged online
- 643 internal appeals lodged

## 79,645 Hearings held

- From July 2019 to February 2020, hearings were held in 70 locations across NSW with 30% of hearings in regional areas
- From March 2020, NCAT transitioned to almost 100% of matters being held virtually via telephone or video conference

## 66,688 Applications finalised

- Achieved an overall clearance ratio of 95.6%

## 76 Community consultations, stakeholder group meetings, Tribunal Member and staff training

## 4.6+ million Website page views

- Top 10 terms searched on the NCAT website in 2019-2020: adjournment, hearing notes, summons, appeal, set aside, fees, warrant, reinstatement, appeals and forms.
- 1,370 followers on NCAT Twitter
- 3,675 subscribers to NCAT online alerts and e-newsletters

## 2019-2020 Applications

DIVISION	NUMBER	% OF TOTAL
Administrative and Equal Opportunity	779	1.1%
Consumer and Commercial	55,143	79.1%
Guardianship	12,850	18.4%
Occupational	311	0.4%
Internal Appeals	643	0.9%
Enforcement (Penalties and Contempt)*	9	0.01%
<b>Total</b>	<b>69,735</b>	<b>100.0%</b>

\* Enforcement (Penalties & Contempt) matters were not reported separately in 2018-2019.

Further statistical information is included in the Divisional and Appeal Panel Reports section of this Report.

# Independence

'A tribunal's degree of independence will influence public perception about the extent of the impartiality of the decision-making within the tribunal. This is particularly important in tribunals which deal with disputes involving the citizen and the State. Impartiality is essential for the delivery of predictable, just decisions and the acceptance of those decisions by the public.'<sup>3</sup>

## Legislative framework

NCAT is an independent tribunal established by the NCAT Act. The NCAT Act contains provisions related to the establishment of the Tribunal, its jurisdiction, powers and procedures, and the appointment and removal of Members.

The objects specified in sections 3(a) and (g) of the NCAT Act include the establishment of NCAT as an independent Tribunal, the promotion of public confidence in Tribunal decision-making, and in the conduct of Tribunal Members. To fulfil its objectives, NCAT aims to deliver Tribunal services that are just, prompt and accessible and has in place processes to monitor and assess these aspects of its work. These objectives underlie the work of the Tribunal, its Members and staff, and inform the delivery of NCAT's services across NSW.

In their decision-making functions, Members are independent of, and not subject to the direction of the Executive and have the same protections and immunity from suit as a Judge of the Supreme Court of New South Wales.

The independent decision-making role of the Tribunal is engaged by more than 160 separate Acts and subordinate legislation that confer broad and diverse powers on the Tribunal. These powers are exercised by the four Divisions and the Appeal Panel of NCAT. A list of the enabling legislation is provided at Appendix 1. Information about

legislative changes during the year is provided at Appendix 2.

## Member appointments and tenure

The Tribunal's membership is structurally separate from the legislative and executive branches of government. The NCAT Act (in Part 2 and in Schedule 2) establishes the requirements for appointment, qualifications, remuneration and other aspects of tenure applying to presidential and non-presidential Members of the Tribunal.

The President, who must be a Supreme Court Judge, is appointed to the Tribunal by the Governor of New South Wales. The Governor also appoints the Deputy Presidents of the Tribunal. Principal Members, Senior Members and General Members are appointed by the Attorney General. Aside from the President who must be full-time, Members may be appointed on a full-time or a part-time basis.

All appointments are for terms of up to five years and Members may be reappointed on the expiration of their terms. Apart from the President, Members may be removed from office by the Governor for incapacity, incompetence or misbehaviour. Members must be assigned by the President to a Division of the Tribunal and may be cross-assigned by the President to one or more Divisions.

As at 30 June 2020, the Tribunal had 272 Members, including the President, Deputy Presidents, Principal Members, Senior Members and General Members, who bring a range of qualifications, experience and

<sup>3</sup> *Australia and New Zealand Tribunal Excellence Framework – 2<sup>nd</sup> Edition 2017* p 11

expertise to Tribunal decision-making. They are located in the Sydney metropolitan and regional areas to provide flexibility and to ensure NCAT's services are available and accessible.

Apart from the appointment of current and former senior Judicial Officers as Members of the Tribunal, appointment to the Tribunal by the Governor or the Attorney General generally follows a merit-based recruitment process approved by the Attorney General. The process involves widespread advertising seeking expressions of interest in appointment and the convening of an appointment committee (including a nominee or nominees of the Attorney General) which assesses applications, interviews candidates and carries out reference checks. The committee reports to the President whose duty under the NCAT Act is to provide advice concerning appointments and reappointments to the Attorney General. Member recruitment activity completed during the year refreshed the Tribunal's membership, and resulted in a number of reappointments as well as new Members being appointed and assigned to Divisions.

Whether a Member is assigned to one Division, or cross-assigned to one or more other Divisions, depends on the needs of the Divisions in question at the particular time, as well as the expertise of the particular Member. Cross-assignment provides greater flexibility in allocating Members to hear cases, assists in developing the expertise of Members, and ensures Members' skills and experience are available where required in appropriate cases.

## Administrative support

Administrative support for the Tribunal and its Members is provided by staff, under the direction of the Executive Director and Principal Registrar.

Staff operate out of NCAT Registries located in the Sydney CBD, metropolitan and regional areas. At 30 June 2020, NCAT had 192.2 full-time equivalent (FTE) staff.

A range of staff learning and development activities are conducted across NCAT. In 2020 the NCAT Staff Learning and Development Program was reviewed and published. The program included a staff Hearing Observation Program. This provides staff with the opportunity to view hearings across all NCAT Divisions. Staff gain a greater understanding of how their work supports Members during hearings and the NCAT customer experience.

NCAT Registry managers attended workshops as part of the NCAT leadership program. A number of Registry managers participated in formal leadership programs offered by the Department of Communities and Justice and external providers.

The NCAT Staff Learning and Development Program also provides Registry staff and managers with access to a range of eLearning and face-to-face courses offered by NCAT and through the Department of Communities and Justice. Staff are directed to complete monthly training in particular focus areas. This year these included a range of disability training programs offered by several sources including the Department of Premier and Cabinet and SBS. Other topics focused on work health and safety for staff working from home and more generally in the COVID-19 environment. This training complements activities and on-the-job training that reinforce and expand existing skill levels within Registries.

## Budget and funding sources

NCAT's budget is made up of:

- Filing and other fees received by NCAT for its services allowed for under the *Civil and Administrative Tribunal Regulation 2013*
- Recurrent funding through the NSW Treasury.
- Funds from various agencies for cost recovery of work performed. Examples include:
  - NSW Public Purpose Fund which provides funding relating to professional discipline matters against legal practitioners in

accordance with the *Legal Profession Uniform Law Application Act 2014*

- NSW Department of Customer Service derived from statutory sources including the Property Services Statutory Interest Account, Rental Bond Board, and the Home Building Administration Fund
- Independent Liquor and Gaming Authority (ILGA)
- Health Professional Councils Authority, and the Australian Health Practitioner Regulation Agency (AHPRA).

NCAT's Expenditure Report for the 2019-2020 financial year is attached at Appendix 5.

# Leadership and effective management

'Strong leadership within a tribunal requires the creation of a highly professional management group which is able to focus on innovation and continuous improvement as well as anticipate changes in society which may influence demands within the tribunal.

... Excellent tribunals encourage and support the head, senior decision makers, non-member tribunal administrators and tribunal members (with leadership roles) to take part in courses to improve their management skills.'<sup>4</sup>

## Leadership group

### President

The current President of NCAT is The Hon Justice Lea Armstrong, whose five-year term commenced on 31 October 2018 and at which time she was also sworn in as a Judge of the NSW Supreme Court.

The President's functions include directing the business of the Tribunal, facilitating the adoption of good administrative practices for the conduct of the Tribunal's business, managing Members and advising the Attorney General about appointments, reappointments and removal of Members.

### Division Heads/Deputy Presidents

Each of NCAT's four Divisions is headed by a Deputy President. The Division Head is responsible for the management of matters within that Division (subject to the direction of the President), and exercises the statutory functions conferred by the NCAT Act as well as functions under delegation from the President.

As at 30 June 2020, the Division Heads (all Deputy Presidents) were:

- Judge Susanne Cole, Head of the Administrative

and Equal Opportunity Division and Occupational Division

- Mr Malcolm Schyvens, Head of the Guardianship Division
- Mr Mark Harrowell, Head of the Consumer and Commercial Division.

As at 30 June 2020 the other Deputy Presidents of the Tribunal were The Hon Acting District Court Judge Jennifer Boland AM, Acting District Court Judge Nancy Hennessy, and Mr Stuart Westgarth.

### Executive Director and Principal Registrar

The Executive Director and Principal Registrar assists the President in the leadership and management of NCAT and undertakes statutory and other functions conferred by the NCAT Act and other legislation.

Ms Cathy Szczygielski is the Executive Director and Principal Registrar.

### Director and Registrar Principal Registry

The Director and Registrar Principal Registry is responsible for managing a range of business and operational support functions for the Tribunal and assists the Principal Registrar.

<sup>4</sup> *Australia and New Zealand Tribunal Excellence Framework – 2<sup>nd</sup> Edition 2017* p 14

Ms Amanda Curtin is the Director and Registrar Principal Registry.

## Director and Registrars

In each Division of NCAT, a Director and Registrar or Registrar is responsible for the management of Divisional Registry staff and other functions as delegated by the Principal Registrar.

At 30 June 2020, the two Directors and Registrars, and one Registrar, were:

- Ms Pauline Green, Director and Registrar for the Consumer and Commercial Division
- Ms Jane Pritchard, Director and Registrar for the Guardianship Division
- Ms Louise Clegg, Registrar for the Administrative and Equal Opportunity Division, Occupational Division, Appeals and Enforcement.

## Governance

### Rule Committee

The Rule Committee of the Tribunal is established by section 24 of the NCAT Act and comprises the President and the Division Heads, and any person appointed by the President. The Principal Registrar was appointed as a voting member of the committee in 2019 and is the Secretary of the Rule Committee. Its function is to make rules for the Tribunal and to ensure that the rules are as flexible and informal as possible.

The *Civil and Administrative Tribunal Rules 2014* apply to proceedings in the Tribunal. The Rules ensure matters are dealt with in a way that is accessible, fair and just. They also help the Tribunal and parties resolve disputes consistently, economically and promptly while allowing flexibility to cater for different needs of particular parties.

The Rule Committee met three times during the reporting period, as well as voting during the COVID-19 restrictions.

## Management meetings

The following meetings are held regularly to manage and guide the operations of NCAT to ensure it achieves its legislative objectives.

### NCAT Executive

The NCAT Executive comprises the President, Division Heads, and the Executive Director and Principal Registrar. The Group meets formally on a regular basis to review the performance and management of the Tribunal.

### Extended Leadership Group

The Extended Leadership Group comprises the NCAT Executive, the Deputy President Appeals, the Principal Member Appeals, Director and Registrar Principal Registry, the Director and Registrars and Registrar of each Division. The Extended Leadership Group meets as required.

## Additional committees

In addition to the NCAT Executive and Extended Leadership Group Meetings, the President supports a number of committees to encourage innovation and improvement in specific aspects of the work of the Tribunal.

### Practice and Procedure Committee

The Practice and Procedure Committee provides advice and makes recommendations to the President, the Rule Committee and the NCAT Executive on the processes, legislation and practice and procedure relevant to the operation of NCAT.

The Practice and Procedure Committee meets as required and met twice during the reporting period.

### Accessibility Committee

The Accessibility Committee provides advice and makes recommendations to the President, Division Heads and the Executive Director and Principal Registrar on how the Tribunal might deliver its services in a way that assists all users. The focus of the committee is to recognise the diversity of all Tribunal users including race, culture and language,

sexual orientation, gender, disability, religion or beliefs, socio-economic circumstances or geographic location.

The Accessibility Committee includes Members from each Division, Directors and Registrars from the Divisions and staff representatives from the Principal Registry and NCAT Divisions. The committee members have a range of lived experiences and personal and professional backgrounds with interests in accessibility. The Committee met twice during the reporting period.

### **Professional Development Committee**

The Member Professional Development Committee provides advice and makes recommendations to the President and Division Heads about the professional development of Members. The Committee also co-ordinates the preparation, delivery and assessment of professional development activities for Members across the Tribunal.

The principal tasks of the Committee have been to facilitate Divisional and NCAT-wide Member training, maintain an induction program for new Members and develop a Tribunal-specific Member feedback and appraisal framework. The Committee also makes recommendations to the President about the annual budget for professional development of Members.

During the reporting period, the Committee was responsible for the organisation of the biennial NCAT Member Conference held in Sydney in October 2019. This was in addition to supporting Member induction training, jurisdiction-specific training across all Divisions and sending some Members from each division to the NSW Council of Australasian Tribunals (COAT) Conference.

The Professional Development Committee is chaired by a Deputy President and comprises representatives from each Division, and the Manager Professional Services. The Committee met three times during the reporting period.

## **Disclosure of information**

In addition to its annual reports, NCAT regularly discloses selected information on the performance of the Tribunal and the Divisions at the meetings of the NCAT Liaison Group and the Divisional Consultative Forums. The Liaison Group and the Consultative Forums are detailed in Appendix 9.

In addition, the Tribunal makes available collated, de-identified information concerning the caseload and performance of the Tribunal on request, in accordance with *NCAT Policy 3 – Provision of Statistical Data*.

# Fair treatment

'A central obligation of a tribunal is the provision of a fair hearing.

A fair hearing involves the opportunity for each party to put their case – the right to be heard – and have the case determined impartially and according to law. It involves identifying the difficulties experienced by any party, whether due to lack of representation, unfamiliarity with the law, language, culture, disability or any other matter, and finding ways to assist parties through the tribunal process.'<sup>5</sup>

## Member Code of Conduct

NCAT's Member Code of Conduct, issued by the President under section 20 of the NCAT Act, is set out in full at Appendix 4. The Code requires all Members, among other things:

- to provide a fair hearing to all parties
- to avoid circumstances that might give rise to a conflict of interest and to advise the parties of any potential conflicts that have arisen or may arise
- to conduct proceedings in a manner that is patient, courteous and respectful of all parties, representatives, witnesses, staff and others with whom the Members have to deal.

In June 2020 a review of the Member Code of Conduct resulted in the inclusion of the following additional clause:

'The Tribunal recognises the importance of fairness, dignity and respect for others in the workplace. Each person in the workplace, including staff and Members, should have a safe and secure place in which to work. The Tribunal does not tolerate inappropriate workplace behaviour, which includes bullying, harassment, sexual harassment, other forms of unlawful discrimination, vilification and violence.'

## Internal appeals

One of the most significant and effective ways in which the Tribunal ensures the fairness, as well as the consistency and quality, of its decisions is

through the internal appeal process. Under sections 32 and 80 of the NCAT Act, parties generally have a right to appeal to the Appeal Panel from:

- any decision made by the Tribunal in proceedings for a general decision or an administrative review decision
- any decision made by a registrar of a kind that is internally appealable.

The vast majority of first instance decisions made by the Tribunal can be appealed to the Appeal Panel. Appeals can be made as of right on a question of law and, by leave of the Appeal Panel, on any other grounds.

The Appeal Panel hears appeals, usually by two or three Members. Appeal Panel Members are drawn from across NCAT's membership, but the presiding Member is usually a Presidential or Principal Member or another senior legal Member. As at 30 June 2020, there were 70 Members from all NCAT Divisions sitting on the Appeal Panel. Registry staff provide administrative support to the Members who hear internal appeals.

The internal appeals process permits decisions at first instance to be scrutinised and, where appropriate, corrected without the expense or time involved in bringing proceedings in the Supreme Court. This scrutiny also improves the standard and

<sup>5</sup> *Australia and New Zealand Tribunal Excellence Framework – 2<sup>nd</sup> Edition 2017 p 16*

quality of decision-making and writing throughout the Tribunal. It provides Tribunal users with a cost-effective and efficient appeal mechanism. More information about the internal appeals process is included at Appendix 7.

During 2019-2020, 643 appeals were lodged with the Tribunal and 612 appeals were finalised.

The *Appeal Panel Decisions Digest* is a regular publication which provides keyword summaries of all internal appeal decisions and more detailed summaries of significant decisions.

## Service Charter and service enhancement projects

The *NCAT Service Charter* aims to give practical expression to the legislative object in section 3(e) of the NCAT Act by ensuring decisions and other resolution services provided by the Tribunal are timely, fair, consistent, and of a high quality.

Outcomes from current initiatives mentioned elsewhere in this report, including the work of the Accessibility Committee, and the continuing work of the Principal Registry and the Divisions, will contribute to NCAT maintaining its commitment to timely, fair, consistent and high quality services by:

- providing simple processes that should be readily understood and used by all, regardless of their education, language, experience in a legal environment or familiarity with court or Tribunal proceedings
- being accessible regardless of factors such as age, disability, cultural background, gender or geographical location
- being attentive and responsive to the needs of all, including those from multicultural communities
- communicating effectively with relevant people and organisations
- responding promptly to suggestions about practice and procedures

- receiving and responding to feedback, including comments, complaints and concerns.

## Procedures and processes

Hearings in the Tribunal are, except in very limited cases, oral hearings in which parties generally participate in person or through a representative present at the hearing. In appropriate cases, parties, representatives or witnesses participate by telephone or video conference. Under section 50 of the NCAT Act, the Tribunal can decide to determine a matter without an oral hearing, but only if the Tribunal has given the parties an opportunity to make submissions on dispensing with an oral hearing, taken those submissions into account, and is satisfied that the issues for determination can be adequately determined in the absence of the parties on the papers.

Due to the COVID-19 restrictions, from 30 March 2020 the majority of NCAT hearings were conducted by telephone, video conference or 'on the papers'. No face-to-face hearings were conducted without prior approval by the President.

Any hearing by the Tribunal is required by section 49 of the NCAT Act to be open to the public unless the Tribunal orders otherwise.

All NCAT hearings are sound recorded. A copy of the sound recording of the hearing is made available, for a fee, to parties or their representatives upon request. Mediations, conciliations and other resolution processes apart from formal hearings are generally not sound recorded.

NCAT embraces a culture that supports and encourages the use of innovative and effective dispute resolution techniques.

Where a matter is not appropriate for a negotiated outcome, NCAT assists parties to focus on identifying the 'real issues' in dispute, to support an efficient hearing process and more timely resolution of the matter.

NCAT uses a range of resolution processes depending upon the nature and volume of proceedings, the requirements of the enabling legislation and the differing roles of each Division. Information about the resolution processes employed across NCAT's broad jurisdiction is at Appendix 7.

## Representation before the Tribunal

Parties may wish to be represented in the Tribunal but, depending on the particular Division or legislation under which the proceedings are brought, leave of the Tribunal may be required. Leave to be represented is generally required in most matters in the Consumer and Commercial Division and the Guardianship Division. This is not the case in the Administrative and Equal Opportunity Division or the Occupational Division.

The Tribunal is sensitive to the need to provide an accessible and efficient means of resolving disputes in an environment which is not inappropriately adversarial or confrontational. As a consequence, a large proportion of the parties who appear before the Tribunal are self-represented. Many parties may only need to use NCAT's services once, so it is essential that information on the nature and conduct of proceedings in the Tribunal is available to assist them to understand their role and how to prepare their evidence.

### Guardian ad Litem and Separate Representation

The Tribunal may appoint a Guardian ad Litem (GAL) or a Separate Representative to represent a person who is under the age of 18 or who is totally or partially incapable of representing himself or herself. Incapacity may result from an intellectual, psychological or physical disability, physical or mental illness or advanced age.

A party may apply to the Tribunal for the appointment of a GAL or the Tribunal may appoint a GAL on its own initiative.

GALs are most often appointed in matters before the Administrative and Equal Opportunity Division of NCAT, or in Guardianship Division matters before the Appeal Panel.

Separate Representatives, who are lawyers, are most often appointed in the Guardianship Division to represent the interests of the person who is the subject of the application.

## Interpreter services

Interpreter services are provided for parties at NCAT hearings upon request. Requests for interpreters can be made on the application form, in writing or by contacting the NCAT Registry as soon as practicable before the hearing date.

During 2019-2020, approximately 3,200 parties requested interpreter services for their hearings. The top languages requested were Mandarin, Arabic, Cantonese, Korean, Vietnamese, Greek, Spanish, Persian, Italian, and Macedonian.

## Cultural issues

NCAT takes part in events to assist people from culturally and linguistically diverse (CALD) communities to understand the role of the Tribunal and its services.

During the reporting period, a Deputy President was a member of the Cultural Diversity Justice Network organised by the Judicial Council on Cultural Diversity.

NCAT's focus on working with interpreters continued in the 2019-2020 reporting year with one of the sessions offered at the NCAT all Member conference focusing on the topic of 'working with interpreters and procedural fairness'.

Throughout 2019-2020, NCAT promoted its educational videos which are available in English, Mandarin, Arabic, Greek and Vietnamese, and captioned in each of these languages. This translated information helps parties from CALD communities to access NCAT's services and participate effectively in Tribunal proceedings.

# Accessibility

'Access to justice is a fundamental human right and a core principle of the rule of law. Tribunals as well as courts have an obligation to provide the community they serve with access to a fair hearing.'<sup>6</sup>

'Tribunal fees, forms and processes have an important impact on access to justice, as does the extent of information and assistance provided to parties.'<sup>7</sup>

'The location and time that a tribunal hears disputes also directly affects access to justice. Those living in regional and remote locations should have the same level of access to the tribunal as those who live in metropolitan areas.'<sup>8</sup>

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## Accessing NCAT services including online

NCAT offers a wide range of services for parties with differing needs. These services have been designed so self-represented litigants can readily access the Tribunal's services. As a result, parties conduct their cases without legal representation in a significant proportion of cases.

The Tribunal offers some online services to allow more people to transact their business over the internet. Information about our services is also available from Service NSW and the NCAT website.

Applications can be lodged in person at NCAT Registries and Service NSW, by post, or using *NCAT Online* for certain applications to the Consumer and Commercial Division. During 2019-2020, 81.5% of all applications received in that Division were lodged online.

## NCAT Registries

There are NCAT Registries in six locations across the State. The Principal Registry is located in the Sydney CBD and provides support services for all Divisions of the Tribunal as well as the Appeal Panel and

Enforcement. Other NCAT Registries are located in metropolitan and regional areas. These Registries are usually open during business hours. The Guardianship Division provides an after-hours service where urgent hearings are required.

## Website and social media

The NCAT website is the primary information point for people interested in bringing a matter to the Tribunal, or finding out more about NCAT's role and operations. The importance of the website is evidenced by the fact it received more than 4.6 million views in 2019-2020.

The website is mobile friendly, and people can use assistive technologies to access online information. An ongoing program of website maintenance ensures the accuracy of information and identifies where improvements might be needed. Feedback received through NCAT's online feedback form and website analytics are used to inform improvements to the website.

Social media is also used by NCAT to extend its reach to online audiences. NCAT's social media featured posts and comments about new and updated resources and forms, service news, and topical NCAT information. By 30 June 2020, the NCAT Twitter account had 1,370 followers. This is an increase in the number of social media followers from the previous reporting year.

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<sup>6</sup> *Australia and New Zealand Tribunal Excellence Framework – 2<sup>nd</sup> Edition* 2017 p 17

<sup>7</sup> *Ibid.* p 19

<sup>8</sup> *Ibid.* p 20

## Resources and assistance

A variety of online resources, including fact sheets and forms, are available on the NCAT website. The following new information was added to the website during the year.

- The Coronavirus (COVID-19) information page was added to the NCAT website in March 2020 and updated as changes were made to the way NCAT provided services. The key message on this page detailed temporary procedural changes implemented by the President. The page also provided information on practising good hygiene etiquette to help prevent the spread of COVID-19.
- A special webpage about the residential tenancy changes due to COVID-19 was developed. The page contained information for both tenants and landlords. In addition to this a special financial statement (COVID-19) form was developed for parties to demonstrate to NCAT the impact COVID-19 had on their financial position.
- The Guardianship Division's *Restrictive Practices Fact Sheet* was published in Easy Read format.

In addition, various fact sheets and application forms were updated following legislative change or to improve and clarify the information and guidance they contain:

- The Consumer and Commercial Division updated its strata schemes application forms and developed a new fact sheet. Applicants in strata schemes disputes are no longer required to provide a copy of the strata roll to NCAT. This change was introduced to make it easier and cheaper for parties to resolve their strata dispute.
- A new tenancy and social housing fact sheet was developed to assist parties when applying to NCAT to resolve a tenancy dispute. The fact sheet explains NCAT's application process and includes the full list of orders that may be

applied for under the *Residential Tenancies Act 2010*.

NCAT operates three subscription services that deliver regular alerts and e-newsletters to subscribers by email. *What's New* email alerts offer regular updates about publications and Tribunal operations. People can also subscribe to the *NCAT Legal Bulletin* e-newsletter which provides a summary of relevant and interesting case law of significance to the work of the Tribunal.

A subscription service for the *Appeal Panel Decisions Digest* provides keyword summaries of all NCAT Internal Appeal decisions published on the NSW Caselaw website.

During 2019-2020, 18 *What's New* alerts were issued to 1,489 subscribers, 9 issues of the *NCAT Legal Bulletin* were distributed to 1,554 subscribers, and 632 subscribers received 8 issues of the *Appeal Panel Decisions Digest*.

## Videos in community languages

In addition to written information provided in a number of languages, NCAT has a series of educational videos that offer a practical understanding of the way in which a range of matters are dealt with before the Tribunal. The videos feature dramatised scenarios about each of the Divisions and are presented in English and four community languages.

## Hearing locations and times

Tribunal hearings are conducted in hearing rooms co-located with NCAT Registries and in a range of court houses and other venues in 70 locations in metropolitan and regional areas.

NCAT's principal hearing venues have been designed, where possible, to accommodate the needs of persons with disabilities (including physical disabilities, dementia, intellectual disability, brain injury or mental illness), and to provide purpose-

**Table 1 – NCAT Regional Hearings 2019-2020**

REGION	AEOD	CCD	GD	OD	AP	NCAT TOTAL	% OF ALL REGIONAL HEARINGS HELD IN THIS REGION	% ALL NCAT HEARINGS (TO END FEBRUARY) HELD IN THIS REGION*
Hunter / New England / Central Coast	10	7,282	904	0	1	8,197	46%	14%
Illawarra / Shoalhaven	8	2,458	282	0	0	2,748	16%	5%
Mid North Coast	4	1,472	228	0	0	1,704	10%	3%
Northern NSW	5	1,345	149	0	0	1,499	8%	3%
Western NSW	7	1,311	224	0	0	1,542	9%	3%
Murray / Riverina	7	966	125	1	0	1,099	6%	2%
Southern NSW	1	832	103	0	0	936	5%	2%
<b>Total Regional Hearings</b>	<b>42</b>	<b>15,666</b>	<b>2,015</b>	<b>1</b>	<b>1</b>	<b>17,725</b>	<b>100%</b>	<b>30.4%</b>
All NCAT Hearings						<b>58,224</b>		

\*From July 2019 to the end of February 2020, 30.4% of listing events were held in regional locations. From March 2020, NCAT transitioned to almost 100% of matters being heard remotely via telephone or video conference.

built hearing rooms and adequate security, waiting and conference facilities.

In 2019-2020, there were 79,645 NCAT hearings held across NSW. From July 2019 to the end of February 2020, 30.4 % of these hearings took place in regional locations. From March 2020, NCAT transitioned to almost 100% of matters being heard remotely via telephone or video conference in response to the COVID-19 pandemic.

Sittings usually occur within normal business hours in all locations. Urgent hearings can be held outside those hours if required. In particular, the Guardianship Division operates an after-hours service for urgent applications that need to be heard outside normal business hours. These hearings are often conducted by telephone and can be held within hours of receiving the application.

## Alternative access to hearings

### Video conferencing

This year NCAT worked with the Department of Communities and Justice to successfully launch new

video conferencing software which allows parties and Members to participate in live video conference hearings from any location where internet access is available.

The new software has allowed parties to participate in video conference hearings from their homes and offices using their own laptops or personal computers. The software also allows access via telephone.

NCAT's use of video conferencing is of particular benefit to regional residents who are sometimes required to travel long distances to attend hearings. It can be used when the party to the proceedings is in hospital or unable to travel to the hearing location. Video conferencing technology also allows greater flexibility for Members based in Sydney who have special expertise to hear matters where the parties are located elsewhere.

The new video conferencing software became a significant part of NCAT's response to the COVID-19 pandemic, enabling hearings to continue without requiring parties and Members to attend physical

locations. This allowed NCAT to maintain a 95.6% clearance ratio for all matters over the year.

## Telephone hearings

Tribunal hearings by telephone may be available for parties who are unable to travel, or who, because of their location, would need to travel a significant distance to the closest hearing venue and would incur substantial travel costs. The *Telephone Hearings* fact sheet provides information about how to request and participate in this type of hearing.

Increased use of telephone hearings also occurred this year due to COVID-19.

## Fees and charges

NCAT's schedule of fees and charges for the filing of applications, appeals and other services as at 30 June 2020 is included at Appendix 8. The payment options available include cash, cheque, credit card and eftpos. A credit card payment authority form extends the convenience of this payment option to parties who lodge applications by post.

Pensioners or students receiving an allowance or people receiving a grant of legal aid or assistance from a community legal centre may be eligible to pay a reduced fee.

In special circumstances NCAT will consider requests for the fee payment for applications to be postponed, waived wholly or in part. Fee waiver requests are considered under clause 6 of the *Civil and Administrative Tribunal Regulation 2014*. Information about fees, including how to apply for a fee waiver, is available on the NCAT website.

## Legal assistance

A variety of support services across NSW can assist people in bringing their disputes to the Tribunal.

The NCAT website offers information about a number of services and organisations that offer free or low-cost legal information, advice and assistance, including those that operate referral services to

lawyers who may provide pro bono legal services. Many of these organisations and services, including aged-care and disability services that provide information and help to parties involved in guardianship matters, are listed on the *Getting Help* fact sheet.

Legal Aid NSW provides a duty lawyer scheme for NCAT parties involved in anti-discrimination disputes and Working with Children Check matters in the Administrative and Equal Opportunity Division. Legal Aid NSW also provides legal assistance to parties appearing in residential tenancy appeals.

NCAT may refer parties to anti-discrimination matters to the NSW Bar Association's Legal Assistance Referral Scheme (LARS). LARS tries to match a request for legal assistance with a barrister who may be able to give advice, appear for the party or help a party settle a case.

## Additional assistance

NCAT aims to ensure that parties and others involved in the Tribunal's processes receive any reasonably necessary assistance such as:

- making documents available in different formats to meet the needs of the client
- providing flexible hearing rooms with varying degrees of formality appropriate to the jurisdiction
- providing assistive listening devices or hearing loops in Tribunal hearing venues
- using the National Relay Service (NRS) for parties with hearing or speech impairments
- allowing additional time for people who use Augmentative and Alternative Communication (AAC)
- providing interpreters for people from non-English speaking backgrounds, and Auslan interpreters for deaf people.

Member and staff training in the provision of such assistance is included in their respective

development and training programs, as appropriate.

Members also have obligations under section 38(5) of the NCAT Act to take reasonable steps to ensure parties understand the nature of the proceedings and, if requested, to explain any procedural aspect of the Tribunal.

## Procedural directions, guidelines and policies

Section 26 of the NCAT Act makes provision for the President to give binding procedural directions and, in addition, the Tribunal issues guidelines and policies that provide further guidance to parties about how matters are to be dealt with at the Tribunal. Procedural directions, guidelines and policies may apply across NCAT or at the Divisional level and are prepared in consultation with the Practice and Procedure Committee.

In March 2020, *NCAT Procedural Direction 6 – Filing of documents* was issued by the President to allow alternatives to the usual filing methods during the COVID-19 pandemic.

The following procedural directions, guidelines, policies and other documents are current and available on the NCAT website.

### NCAT Procedural Directions

NCAT Procedural Direction 1 – Service and Giving Notice

NCAT Procedural Direction 2 – Summonses

NCAT Procedural Direction 3 – Expert Evidence

NCAT Procedural Direction 4 – Registrars’ Powers Directions

NCAT Procedural Direction 5 – Acceptance of Home Building Claims

NCAT Procedural Direction 6 – Filing of documents

## Guidelines

### Administrative and Equal Opportunity Division

Adjournments

Confidentiality, privacy and publication

Costs

Resolution processes

Representatives – Guardian ad litem (GAL)

### Consumer and Commercial Division

Adjournments

Conciliation and hearing by the same Member

Confidentiality, privacy and publication

Costs

Home building applications

Online applications

Representation

Representatives - Guardian ad litem (GAL)

Use of electronic evidence in Tribunal proceedings

### Guardianship Division

Adjournments

Confidentiality, privacy and publication

Costs

Representation

### Occupational Division

Adjournments

Confidentiality, privacy and publication

Costs

Health Professionals Registration Appeals

Professional Discipline Matters

Representatives – Guardian ad litem (GAL)

Resolution processes

### Appeal Panel

Internal Appeals

## NCAT Policies

NCAT Policy 1 – Complaints

NCAT Policy 2 – Publishing Reasons for Decisions

NCAT Policy 3 – Provision of Statistical Data

NCAT Policy 4 – Access to and Publication of  
Information Derived from Proceedings

NCAT Policy 5 – Member Participation in External  
Engagements

NCAT Policy 6 - Communicating with the Tribunal  
and Members

### **Other documents**

NCAT Domestic Violence Protocol

NCAT Member Code of Conduct

NCAT Member Terms and Conditions Handbook

NCAT Service Charter

# Professionalism and integrity

'The core competencies [for Tribunal Members] include:

- knowledge and technical skills;
- communication (including cultural competency and working with interpreters);
- decision-making;
- professionalism and integrity;
- efficiency; and
- leadership and management.'<sup>9</sup>

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## Competency framework and performance appraisal

The *NCAT Member Competency Framework* is based on the Council of Australasian Tribunals (COAT) Tribunal Competency Framework and identifies the critical competencies, abilities and qualities required to be an effective Tribunal Member. NCAT uses its framework to provide the basis for Member appraisals conducted in all Divisions of the Tribunal to assist Members to understand and improve their performance. It also forms part of the assessment and basis of recommendation of candidates for appointment and reappointment.

The *NCAT Member Competency Framework* identifies seven essential areas of competence: knowledge and technical skills, fair treatment, communication, conduct of hearings, evidence, decision-making, and professionalism and efficiency.

## Member qualifications

Members bring legal expertise or other specialist knowledge to Tribunal decision-making. The required qualifications for Members in each category are specified in section 13 of the NCAT Act.

A list of Tribunal Members as at 30 June 2020, along with brief biographical information with qualifications and relevant experience, is provided at Appendix 3.

## Code of conduct

The *Member Code of Conduct*, issued by the President, applies to all Members of the Tribunal. The Code provides guidance to Members in the performance of their statutory functions and assists Members in identifying and resolving ethical issues. Before they are appointed, Members are required to agree to abide by the Code of Conduct.

The *Member Code of Conduct* is kept under review to ensure currency. The latest version is published on the NCAT website and is included at Appendix 4 of this report.

## Professional development, appraisal and training

During 2019-2020, there were 29 professional development sessions for Members and staff on a range of topics relevant to the work of the Tribunal and Registry operations. This included the biennial NCAT Member Conference.

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<sup>9</sup> *Australia and New Zealand Tribunal Excellence Framework – 2<sup>nd</sup> Edition* 2017 p 20

## Tribunal Members

The NCAT Member Professional Development Committee coordinates professional development activities throughout the year. This year the Committee's focus was the all Member Conference prior to the restrictions placed on in-person training by COVID-19.

The NCAT Member Conference was held in October 2019 and brought approximately 200 Tribunal Members together in Sydney. The conference program provided an opportunity for Members to hear guest speakers and participate in training sessions across a broad range of relevant topics.

In addition to the NCAT Member Conference, a number of professional development activities were held on a Divisional basis during the year including an all-day Consumer and Commercial Division Member Training event, Member network groups, mentoring, briefing sessions, seminars and external conferences.

Members participate in regular performance appraisal processes under the supervision of the Division Head of the Member's primary Division, or the President. The process varies from Division to Division, reflecting the different composition and work of each Division, but generally involves the completion of a self-assessment form, peer review, observation of a hearing conducted by the Member or review of a sound recording of a hearing and consideration of the Member's decision writing.

All new Members receive an Induction Manual and participate in an Induction Program which involves attendance at training and information sessions and observing hearings.

## Registry staff

Performance Management and Development Plans are in place for all Registry staff. The development component of these plans encourages managers and staff to identify and discuss relevant professional development opportunities.

NCAT Registry staff were offered other professional development activities within the NCAT Staff Learning and Development Plan and the refreshed annual learning and development program. The *NCAT Learning and Development Program 2020* includes mandatory training for staff managers in the Registry leading change, and several courses for all Registry staff about working with clients with disability and from diverse backgrounds. The NCAT Leadership Program continued in 2019 with staff managers in the Registries attending a leadership day with a focus on performance management. Planned leadership days in 2020 have been deferred due to COVID-19 restrictions.

## Appeals

The decisions of the Appeal Panel provide useful information and feedback to Members concerning legal and other issues that arise in proceedings, and provide guidance to Members sitting at the Divisional level.

It is the practice of the Tribunal to provide a copy of the Appeal Panel's decision on an appeal to the Member or Members who sat on the original matter, when the decision is published. A report is regularly produced which sets out which decisions have been appealed to the Appeal Panel and the outcome of the appeal. In addition, substantive decisions of the Appeal Panel are generally made publicly available on the NSW Caselaw website, and a digest of recent Appeal Panel decisions is published on the NCAT website.

# Accountability

'Tribunals serve the public through the provision of accessible, fair and efficient dispute resolution services. In delivering that service they are accountable to the public. An effective complaints mechanism is an important means of ensuring that the public's expectations of members and staff are met.

Regular stakeholder and community engagement and reporting tribunal performance helps ensure that the tribunal is accountable to the public it serves.'<sup>10</sup>

## Hearings open to the public

The Tribunal is required to sit and hear cases in public, unless the Tribunal otherwise orders.

In proceedings where sensitive or other legitimately confidential matters may be disclosed, the Tribunal may determine that proceedings should be conducted wholly or partly in the absence of the public. This happens most often in the Guardianship Division, Administrative and Equal Opportunity Division, and Occupational Division because of the nature of functions exercised by those Divisions.

## Service charter

The *NCAT Service Charter* aims to give practical expression to the legislative object in section 3(e) of the NCAT Act of ensuring that the decisions and other resolution services provided by the Tribunal are timely, fair, consistent, and of a high quality.

## Complaint handling mechanism

NCAT's integrated complaint and feedback processes provide a consistent and co-ordinated approach to responding to complaints and gathering and using feedback to inform processes and service delivery. Online forms are available on

the NCAT website to assist people in providing this feedback.

*NCAT Policy 1 - Complaints* explains the approach taken when responding to a user's dissatisfaction with the delivery of a service provided by NCAT or the conduct of Registry staff, a conciliator/mediator or Member.

In 2019-2020, NCAT received 365 complaints. This equates to a complaint in 0.52% of all matters lodged with the Tribunal. The most common categories of complaints received during the year were decision dissatisfaction, Member conduct, and policies and procedures. Responses to complaints include clarification about NCAT policies and procedures, providing information about avenues of appeal, and contact details for support services such as LawAccess NSW.

NCAT also uses the feedback tool, *Feedback Assist*, which provides customers with a direct feedback tool located on all NSW Government customer-facing websites. In 2019-2020, NCAT received 23 identified requests through the feedback tool, including complaints, compliments and suggestions.

The NCAT Executive considers reported information concerning complaints at its monthly meetings. Information on complaints may also be provided, where appropriate, to the NCAT Accessibility Committee, NCAT Liaison Group or Divisional Consultative Forums.

<sup>10</sup> *Australia and New Zealand Tribunal Excellence Framework – 2<sup>nd</sup> Edition 2017* p 22

## Stakeholder engagement

NCAT recognises that regular stakeholder engagement helps ensure the Tribunal is responsive to the needs and concerns of those who use its services including the public, parties, their representatives and relevant professional or industry bodies.

### NCAT Liaison Group and Divisional Consultative Forums

The NCAT Liaison Group, chaired by the President, is the overarching consultation mechanism involving key stakeholders. The role of the NCAT Liaison Group is to provide feedback and suggestions on operational and policy issues relating to service provision across NCAT. This group usually meets every six months. The NCAT Liaison Group met once during the year.

There are also Divisional Consultative Forums that focus on issues concerning practice and procedure. During 2019-2020, the Occupational Division's Professional Discipline Group Consultative Forum for stakeholders in the health and legal professions met once. The Administrative and Equal Opportunity Division held two stakeholder events during the reporting year, one with the NSW Bar Association and a meeting with its Consultative Forum. There was one meeting of the Guardianship Division's Consultative Forum, and one meeting of the Consumer and Commercial Division's Consultative Forum groups.

The number of consultation forums held during the reporting period was less than usual due to COVID-19 restrictions.

See Appendix 9 for a list of organisations represented on the NCAT Liaison Group and the Divisional Consultative Forums.

### External forums and committees

NCAT participates in a number of Department of Communities and Justice and external forums and committees. During 2019-2020, senior Registry staff

attended meetings of the Justice NDIS Steering Committee and related groups, the Rental Bond Board, the NSW Right to Information and Privacy Practitioners Forum and Law Society of New South Wales Litigation Law and Practice Committee.

## Publication of reasons for decisions

NCAT publishes many of its reasons for decisions on the NSW Caselaw website. The Tribunal's approach to publication of reasons for decisions is set out in *NCAT Policy 2 – Publishing Reasons for Decisions*.

## Other engagement with the community

During 2019-2020, Tribunal Members and staff participated in eight community education and information programs, including NCAT's involvement as guest speakers at functions and events organised by the Tribunal's key stakeholders and various community groups.

# Efficiency

'Tribunals should provide an efficient dispute resolution service in the sense that the tribunal is affordable and resolves disputes in an appropriate and timely way.'<sup>11</sup>

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## Performance standards and monitoring

NCAT has measures in place to monitor efficiency in dealing with its workload. The Tribunal's efficiency and effectiveness is measured in part by the number of matters lodged and the Tribunal's case clearance ratio. This indicates the capacity of the Tribunal to manage its workload within its current resources and systems. Table 2 overleaf details the annual clearance ratios for each Division.

There was a 2% increase in the overall number of applications received by the Tribunal in 2019-2020 compared to the previous year.

Most Divisions of NCAT experienced increases in the number of applications received in the reporting year. Significant increases were experienced in the Occupational Division with an 18.7% increase, and the Guardianship Division with a 9.7% increase. NCAT's largest Division, the Consumer and Commercial Division, had an overall increase of 0.3% (from 54,976 to 55,143). There was a small decrease of 1.8% in the number of Internal Appeals received.

The NCAT Extended Leadership Group actively monitors lodgement volumes and trends, finalisations and the timeliness of hearings so that resources can be adjusted to maintain service delivery standards.

Standards in relation to the time to first listing and the time to finalisation are set and monitored for the various types of matters in each Division. All

applications in the Guardianship Division are assessed on receipt to determine the degree of urgency and severity of risk to the person who is the subject of the application. Applications are then allocated into risk categories based on that assessment. The risk category determines the time within which the application is to be heard and determined.

In addition, the NCAT Extended Leadership Group receives a monthly report on all unresolved matters lodged before a certain date. These matters are actively managed by each Division to ensure that they are finalised in as timely a fashion as possible.

## Resolution processes

A variety of resolution processes are used by the Tribunal to enhance the efficiency of its operations and to provide services that meet the needs of its users. These processes assist parties to resolve or narrow the issues in dispute so matters proceed more efficiently at hearing, or to reach an agreement meaning that a hearing is not required.

When applications are managed in this way, it reduces the number of hearings required and the costs arising from attendance. At the same time outcomes are achieved which the parties to the proceedings have been included in and have consented to. Examples include group lists in the Consumer and Commercial Division, mediations in the Administrative and Equal Opportunity Division, and directions to narrow issues in the Administrative and Equal Opportunity Division, the Occupational Division, and home building matters in the Consumer and Commercial Division.

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<sup>11</sup> *Australia and New Zealand Tribunal Excellence Framework – 2<sup>nd</sup> Edition 2017 p 24*

In the Consumer and Commercial Division, experienced Members and staff act as conciliators in group lists and other Members act as facilitators for experts' conclaves.

## Cross-assignment

Under the NCAT Act, Members must be assigned to a Division. The efficiency of the Tribunal is enhanced by the President's ability to cross-assign appropriately experienced Members to one or more Divisions when required.

## Flexibility of processes

Under section 38(1) of the NCAT Act, the Tribunal may determine its own procedure in relation to any matter for which the Act or the Tribunal's procedural rules do not otherwise make provision. This flexibility allows the Tribunal to act efficiently and promptly to resolve urgent matters or matters otherwise out of the ordinary. Parties with urgent or unusual matters can request assistance from the Tribunal in having their matter heard urgently or in some other appropriate way.

**Table 2 - Number of applications received and finalised by Division 2019-2020**

DIVISION	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Administrative and Equal Opportunity	779	798	102.4%
Consumer and Commercial	55,143	52,240	94.7%
Guardianship	12,850	12,716	99.0%
Occupational	311	316	101.6%
Internal Appeals	643	612	95.2%
Enforcement (Penalties and Contempt)*	9	6	66.7%
<b>TOTAL</b>	<b>69,735</b>	<b>66,688</b>	<b>95.6%</b>

\* Enforcement (Penalties & Contempt) matters were not reported separately in 2018-2019.

# Client needs and satisfaction

'Public trust and confidence in the administration of justice are essential for the acceptance by users of an individual decision that affect them. Therefore for a tribunal to be effective its users have to be satisfied that the procedures and processes adopted by the tribunal are fair.'<sup>12</sup>

NCAT obtains information concerning Tribunal users, their needs and their level of satisfaction in a number of ways, including:

- feedback, surveys and e-newsletter subscriber numbers
- stakeholder interaction at meetings of NCAT's Liaison Group and Consultative Forums, and external engagement at conferences and meetings
- internal appeals to the Appeal Panel
- complaints data
- NCAT website and social media analytics.

## Use of NCAT website and social media

The NCAT website received more than 4.6 million views in 2019-2020. The website is mobile friendly and people can use assistive technologies to access online information. Feedback received through NCAT's online feedback form and website analytics are used to inform improvements to the website.

During the reporting year NCAT commenced a project to redesign its existing website to coincide with a broader project to move the site onto a new platform. The aim of the redesign was to make it easier and more efficient for users to find the information they need. User analytics and customer and staff feedback were used to inform the redesign process. The new website was launched in August 2020.

Social media posts and comments about new and updated resources and forms, service news, and topical Tribunal information feature on NCAT's

Twitter account. This allows NCAT to provide information and alerts to clients and stakeholders quickly, keeping them informed and up-to-date on legislative and procedural changes.

## Feedback, surveys and newsletters

Online feedback forms are available on the NCAT website to enable people who use the Tribunal's services to provide comments and suggestions for improvement.

NCAT also conducts surveys from time to time to gather feedback and information. Suggestions and feedback received from staff and Members at cross-divisional working groups are used to improve NCAT processes and systems.

Subscription services for the *What's New* email alert, *NCAT Legal Bulletin* and the *Appeal Panel Decisions Digest* are available to keep people updated on the latest news from NCAT, and decisions relevant to the work of the Tribunal. By 30 June 2020, there were 3,675 subscribers to these online alerts and e-newsletters.

The *NCAT Staff Monthly Update* is a regular newsletter that informs staff about issues relevant to their roles and day-to-day operations. The newsletter is emailed to all staff and is designed to be used by supervisors in staff meetings to promote discussion about the topics.

<sup>12</sup> *Australia and New Zealand Tribunal Excellence Framework – 2<sup>nd</sup> Edition 2017* p 26

## Stakeholder interaction

The NCAT Liaison Group and Divisional Consultative Forums provide the opportunity for the direct provision of feedback to the Tribunal. The participation of Members and staff at conferences and meetings also allows the Tribunal to receive comments and other feedback (both positive and negative) on its performance.

## Internal appeals

Parties dissatisfied with a decision of the Tribunal can, in many cases, appeal to the Appeal Panel. The number of appeals, the grounds of appeal and consideration of the reasons for decision of the Tribunal at first instance, provide valuable insights into the quality of the Tribunal's first instance decisions and the legitimacy of the parties' dissatisfaction. Appeal Panel decisions are an effective means of providing guidance to improve the quality of decision-making and writing throughout the Tribunal.

## Complaints data

NCAT considers and responds to complaints in accordance with the *NCAT Policy 1 – Complaints*. Complaints data also assists to develop and improve the Tribunal's processes and provision of information.

# Divisional and Appeal Panel Reports

**Administrative and Equal Opportunity Division**

**Consumer and Commercial Division**

**Guardianship Division**

**Occupational Division**

**Appeal Panel**

# Administrative and Equal Opportunity Division

## What the Division does

The Administrative and Equal Opportunity Division reviews government decisions affecting individuals and resolves complaints under the *Anti-Discrimination Act 1977*.

Nearly 100 statutes give jurisdiction to the Division to review various decisions made by government administrators. The two statutory aims of external review of government decisions are to enhance the delivery of government services and programs, and to promote compliance by government administrators with legislation when making decisions.

The term 'equal opportunity' is used to describe the other major function of this Division which is to resolve complaints made under the *Anti-Discrimination Act*. This Act gives a remedy to people who have been discriminated against, harassed, vilified or victimised on certain grounds.

## Work within the Division

The Division allocates matters to four Lists – the Administrative Review List, the Community Services List, the Revenue List and the Equal Opportunity List.

The Administrative Review List involves the review of decisions made by administrators in areas such as access to government information, breaches of privacy, and reviews of decisions by the NSW Trustee and Guardian. Administrative decisions about occupational and professional licences and registration are dealt with in the Occupational Division.

The Community Services List includes matters concerning the review of decisions about whether a person should be allowed to work with children and whether an authorised carer (foster carer) should lose their accreditation.

The Revenue List includes the review of decisions about State taxes, such as land tax and payroll tax.

Complaints referred to the Tribunal by the President of the Anti-Discrimination Board under the *Anti-Discrimination Act* are managed in the Equal Opportunity List. Complaints may be about discrimination, harassment, vilification or victimisation on grounds such as race, sex, transgender status, age, disability, homosexuality and carer's responsibilities.

**Table 3 – 2019-2020 Administrative and Equal Opportunity Division workload and performance**

LIST	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Administrative Review	437	458	104.8%
Community Services	115	123	107.0%
Equal Opportunity	147	148	100.7%
Revenue	80	69	86.3%
<b>TOTAL</b>	<b>779</b>	<b>798</b>	<b>102.4%</b>

Prior to the COVID-19 pandemic, most matters heard in the Division were heard in Sydney, but hearings were convened in regional NSW whenever that was the most convenient location for the parties.

## Workload

The Division received 779 applications this year and finalised 798 giving a clearance ratio across the whole Division of 102.4%.

The Division continues to encourage self-represented parties to obtain legal advice and representation in appropriate cases. Both Legal Aid NSW and the Bar Association's Legal Assistance Referral Scheme (LARS) have provided much needed legal assistance to parties who meet their guidelines.

In most kinds of proceedings, parties are offered the opportunity to resolve their dispute through case conference or mediation. In suitable matters, the Division provides an experienced mediator at no cost to the parties. Those matters include anti-discrimination complaints, revenue applications, applications for access to government information and privacy breaches.

## COVID-19

On 17 March 2020 the Division ceased to conduct in-person hearings and began to conduct both directions hearings and substantive hearings by telephone. All of the matters in the Division which had been assigned a hearing date were called over. With the agreement of the parties, arrangements were made to determine some of the matters 'on the papers', in accordance with section 50 of the NCAT Act. It was agreed that other matters could be heard by telephone. There was a large group of matters which were adjourned because they were unsuitable to be heard by telephone or determined on the papers.

In April 2020, the Division was given the capacity to convene 'virtual hearing rooms' by telephone or

video conference. The virtual hearing rooms are particularly suitable for Division matters, and many of the matters originally adjourned have been heard and determined using the technology.

## Members and mediators

The Division comprises the Deputy President and Division Head, Principal Members, Senior Members and General Members. All of the Members apart from the Division Head work part-time. Principal and Senior Members are lawyers. General Members represent community perspectives and provide knowledge and expertise relating to their area of work.

New Members receive induction training and all Members participate in a program of professional development. This year that program included two training days and two twilight seminars. The program is designed to improve the knowledge and skills of Members. Further sessions planned for dates after 21 March 2020 were postponed on account of the COVID-19 pandemic. These will be held in the later months of 2020 by virtual means. Members' performance is regularly appraised and feedback is given.

The Division has a group of nine expert mediators, some of whom are also Members. They conduct mediations across several Lists in the Division.

## Legislation

Changes to legislation relating to the work of the Division during the year included the introduction of the following:

- *COVID-19 Legislation Amendment (Emergency Measures) Act 2020*
- *Children's Guardian Act 2019.*

A full list of the legislation which confers power on the Division is attached at Appendix 1.

## Consultation with stakeholders

The Division Head met with external stakeholders on two occasions this year. Two further meetings were scheduled but deferred on account of the COVID-19 pandemic.

## Significant decisions

### ***Walsh v Hunter New England Local Health District [2020] NSWCATAD 134***

The applicant, Ms Walsh, is a Registered Nurse and employee of the Hunter New England Local Health District (the LHD). Ms Walsh lodged two complaints with the Anti-Discrimination Board, alleging that the LHD discriminated against her on the ground of her disability, and victimised her in contravention of sections 49B and 50 of the *Anti-Discrimination Act*. It was not disputed that Ms Walsh has a significant hearing impediment which amounts to a 'disability' within the meaning of the *Anti-Discrimination Act*.

The Tribunal held: that LHD required that Ms Walsh 'work any shift as rostered' at Tamworth Hospital, including morning and night shifts; that this was a 'condition or requirement' within the meaning of section 49B(1)(b) of the *Anti-Discrimination Act*; that it was a 'term of her employment' within the meaning of section 49D(2)(a) of the *Anti-Discrimination Act*; that Ms Walsh was not able to comply with the requirement, because the higher level of noise during morning shifts causes her communication difficulties, and she has trouble maintaining balance at night time; and that it had caused her 'detriment' within the meaning of section 49D(2)(d) of the *Anti-Discrimination Act*.

In making these findings, the Tribunal noted that, while Ms Walsh was able to cope 'up to a point' with working morning shifts, 'coping' is a sub-optimal way for a person to work. It was clear that it was significantly harder for Ms Walsh to work morning shifts than a person with normal hearing, and the exhaustion caused by her efforts to do so 'must have a cumulative detrimental effect on her'.

Further, the Tribunal found that, as required by section 49B(1)(b), a 'substantially higher' proportion of nurses without Ms Walsh's disability were able to comply with the requirement, compared to those with her disability. Finally, it found that the requirement was not 'reasonable' in all the circumstances, noting that there was no evidence that the LHD had trouble staffing morning or night shifts when Ms Walsh was rostered to work only evening shifts.

Accordingly, the Tribunal was satisfied that Ms Walsh had been discriminated against on the grounds of her disability within the meaning of section 49B of the *Anti-Discrimination Act*. However, it dismissed Ms Walsh's claim that she had also been subjected to 'victimisation' within the meaning of section 50 because of her complaint to the Anti-Discrimination Board, or her previous allegations of discrimination by LHD.

The Tribunal proposed an order that LHD refrain from rostering Ms Walsh to work morning and night shifts, invited the parties to file consent orders as to the amount of compensation payable, and declined to make an order that LHD apologise to Ms Walsh.

### ***Masters v Reserve Hotels Pty Ltd atf the NBF Trust [2020] NSWCATAD 115***

The applicants, Mr Masters and Mr Clothier, lodged a complaint with the Anti-Discrimination Board against the owner of Mr B's, a hotel and restaurant in the Sydney CBD, and the company which supplies security guards to those premises. The complaint alleged that Mr Masters and Mr Clothier were refused entry to Mr B's by a security guard, who told them the hotel was 'not mixing crowds', and that 'it's Asian night'. The applicants also witnessed other people of Asian appearance being admitted to the premises at the time. Mr Masters is a Wiradjuri man, and Mr Collier is of Caucasian ethnicity. The complaint was subsequently referred to the Tribunal.

The Tribunal found that the complaint was substantiated. In its decision, it stated that Mr Masters was a credible witness, and rejected submissions by the respondent that he was pursuing the claim for 'financial reward'. The Tribunal was satisfied that the security guard (whose identity was unknown) treated the applicants less favourably than he would have treated a person of a different race, being a person of Asian appearance. Accordingly, it was satisfied that the security guard contravened section 19 of the *Anti-Discrimination Act*. Further, the Tribunal held that the respondents were vicariously liable for the security guard's conduct, and that none of the defences in section 53 of the *Anti-Discrimination Act* were made out.

The Tribunal held that the incident could not be 'regarded as a trivial or insignificant case of race discrimination' and ordered that both applicants be awarded \$7,500 in compensation. The Tribunal was also of the view that Mr B's should be required to make an apology, and invited submissions as to what form it should take.

#### ***ECJ v Children's Guardian* [2020] NSWCATAD 28**

The applicant was a teacher whose working with children clearance check was cancelled by the respondent in October 2015 after it was found that the applicant had accessed internet sites to view 'young person pornography'. The applicant sought administrative review of that decision.

The Tribunal affirmed the respondent's decision to cancel the applicant's clearance. That decision was upheld by the Supreme Court on appeal.

In November 2019, the applicant applied to the Tribunal for an 'enabling order' under section 28 of the *Child Protection (Working with Children) Act 2012* (the CPWC Act), less than five years after the date of notice of cancellation.

Section 28(2) of the CPWC Act permits an application for an enabling order to be made only

by an applicant 'who is not eligible to apply for a clearance because the person has been previously refused a clearance'. The Tribunal determined that the word 'refused' refers to a person whose application for a clearance has been declined, and does not include a person whose clearance has been cancelled. As a person whose clearance had been cancelled, the applicant was not entitled to make an application for an enabling order.

The Tribunal dismissed the application on the basis that it was frivolous or vexatious or otherwise misconceived or lacking substance within section 55 of the NCAT Act.

#### ***Brown v Wingecarribee Shire Council* [2020] NSWCATAD 102**

In September 2019, the applicant applied for access to two reports from the respondent under the *Government Information (Public Access) Act 2009* (the GIPA Act) containing information on a property he and his wife had purchased.

The respondent granted partial access to the reports and decided that the form of access should be by way of inspection only and not involve the provision of physical or electronic copies because to do so would involve an infringement of copyright under section 72(2)(c) of the GIPA Act. The applicant sought administrative review of the respondent's decision in the Tribunal as to the form of access only. He submitted that they should be allowed a copy of the reports under the 'fair dealing provisions' within Part III of the *Copyright Act 1968* (Cth).

The Tribunal affirmed the decision under review, concluding that (a) all requirements under section 36(1) of the *Copyright Act* were satisfied and that copyright subsisted in the reports; and (b) the provision of physical or electronic copies of the reports by the respondent to the applicant would constitute an infringement of copyright pursuant to section 36 of the *Copyright Act*.

The Tribunal considered the fair dealing provisions which provide that certain acts are to be treated as not constituting an infringement of copyright if the dealing with a work is fair and for a particular purpose, such as 'judicial proceedings' or 'giving professional advice'. The Tribunal found that neither of these purposes were established, as the applicant had not yet commenced proceedings against the respondent, and the reports were not being sought for the purpose of giving legal advice.

***Malek Fahd Islamic School Limited v Non-Government Schools Not-For-Profit Advisory Committee [2020] NSWCATAP 19***

The Appeal Panel allowed an appeal from a decision of the Administrative and Equal Opportunity Division on the basis that the Non-Government Schools Not-for-profit Advisory Committee lacked power under section 83F of the *Education Act 1990* to recommend that the Minister for Education recoup debts owed by a non-government school by reducing future financial assistance.

The Tribunal had affirmed the finding of the Advisory Committee that Malek Fahd Islamic School Limited, a non-government school in Sydney, had been operating 'for profit' in the years 2014 and 2015. It had affirmed the Advisory Committee's recommendations that the Minister should make 'noncompliance declarations' under section 83F of the *Education Act*; that the Schools' financial assistance should be suspended until it provided evidence of various matters; that it should repay the financial assistance it received in 2014 and 2015; and that either repayment should be made by 'reducing the amount that would otherwise be payable to the school by 50% until the amount is fully recovered', or if the suspension was not removed by March 2020, repayment should be made in full before financial assistance was resumed.

On appeal, the Appeal Panel held that the Advisory Committee did not have the power to make any of the recommendations about repayment. Under the *Education Act*, only the Minister is empowered

under section 83J to recover financial assistance given to a school. Although the Advisory Committee had power under section 83F to recommend that financial assistance be reduced, it did not have power to do this for the purpose of debt recovery. Accordingly, the repayment recommendations were beyond the Advisory Committee's recommendation-making powers, and it was an error of law for the Tribunal to affirm them on its administrative review.

***DRJ v Commissioner of Victims Rights; DRK v Commissioner of Victims Rights; DRL v Commissioner of Victims Rights; DRM v Commissioner of Victims Rights; DRN v Commissioner of Victims Rights [2019] NSWCATAD 195***

The applicants in this case were five women of Yazidi ethnicity who allege that in 2014 they were each subjected to a series of acts of violence at the hands of an Australian man in Syria and Northern Iraq. The women now live in countries which have accepted them as refugees. There are unconfirmed reports that the man involved has since been killed.

In July 2018, the women applied for recognition payments and counselling under the *Victims Rights and Support Act 2013*. The application, and subsequent internal review, was dismissed on the basis that none of the acts occurred in New South Wales.

The applicants sought administrative review of the dismissal in the Tribunal under section 51 of the *Victims Rights and Support Act*.

The Tribunal dismissed the application for administrative review. It held that the correct and preferable decision was that the applicants had no entitlement to support from the Victims Support Scheme under the *Victims Rights and Support Act*, because they were not the victims of an act of violence in and of New South Wales. *The Victims Rights and Support Act* did not apply to them in their circumstances.

# Consumer and Commercial Division

## What the Division does

The Consumer and Commercial Division resolves disputes in a broad range of contexts. These include disputes under the *Residential Tenancies Act 2010*, the *Fair Trading Act 1987*, the *Retail Leases Act 1994*, the *Agricultural Tenancies Act 1990*, the *Home Building Act 1989*, the *Strata Schemes Management Act 2015*, the *Retirement Villages Act 1999*, the *Residential (Land Lease) Communities Act 2013* and the *Holiday Parks (Long-term Casual Occupation) Act 2002*.

## Workload

The Division received 55,143 applications this year and finalised 52,240 giving a clearance ratio across the whole Division of 94.7%. As at 30 June 2020,

there were only 130 matters pending that were more than 12 months old.

The great bulk of applications were resolved within weeks of lodgement in the first 8 months of the year. However, the period of March 2020 to June 2020 was significantly impacted by the COVID-19 pandemic. This had an effect on the clearance ratio and the time taken to list and finalise applications.

The Division conducted hearings throughout NSW and in the 2019-2020 year heard proceedings in the locations set out in Table 5.

The management of the Division's caseload is conducted in the following Registries: Sydney, Penrith, Liverpool, Tamworth, Newcastle, and Wollongong.

**Table 4 – 2019-2020 Consumer and Commercial Division workload and performance**

LIST	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Tenancy	31,000	29,305	94.5%
Social Housing	12,394	12,381	99.9%
General	4,081	3,631	89.0%
Home Building	2,969	2,628	88.5%
Residential Communities	888	908	102.3%
Strata and Community Schemes	42	43	102.4%
Strata Schemes	1,465	1,276	87.1%
Motor Vehicles	1,531	1,368	89.4%
Commercial	727	657	90.4%
• <i>Dividing Fences</i>	384	326	84.9%
• <i>Retail Leases</i>	140	157	112.1%
• <i>Other</i>	203	174	85.7%
Retirement Villages	46	43	93.5%
<b>TOTAL</b>	<b>55,143</b>	<b>52,240</b>	<b>94.7%</b>

**Table 5 – Consumer and Commercial Division Hearing Venues 2019-2020**

Albury	Cooma	Grafton	Liverpool	Orange	Tamworth
Armidale	Cootamundra	Griffith	Moree	Parkes	Taree
Batemans Bay	Deniliquin	Inverell	Moss Vale	Parramatta	Tweed Heads
Bathurst	Dubbo	Katoomba	Mudgee	Penrith	Wagga Wagga
Bega	Forbes	Kempsey	Murwillumbah	Port Macquarie	Wollongong
Bourke	Gilgandra	Kogarah	Muswellbrook	Queanbeyan	Yass
Broken Hill	Glen Innes	Kurri Kurri	Narrabri	Singleton	Young
Campbelltown	Gosford	Leeton	Newcastle	Sutherland	
Coffs Harbour	Goulburn	Lismore	Nowra	Sydney	

**Table 6 – Consumer and Commercial Division workload by Registry 2019-2020**

LIST	LIVERPOOL	NEWCASTLE	PENRITH	SYDNEY	TAMWORTH	WOLLONGONG	TOTAL
Commercial	66	119	89	314	58	81	<b>727</b>
General	530	551	698	1,662	247	393	<b>4,081</b>
Home Building	419	446	486	1,178	146	294	<b>2,969</b>
Motor Vehicles	290	207	352	477	100	105	<b>1,531</b>
Residential Communities	19	471	24	36	221	117	<b>888</b>
Retirement Villages	3	17	6	10	5	5	<b>46</b>
Social Housing	1,969	2,227	2,343	2,291	1,638	1,926	<b>12,394</b>
Strata and Community Schemes	4	11	5	16	3	3	<b>42</b>
Strata Schemes	110	110	81	1,054	41	69	<b>1,465</b>
Tenancy	6,311	3,979	6,348	10,171	1,976	2,215	<b>31,000</b>
<b>GRAND TOTAL</b>	<b>9,721</b>	<b>8,138</b>	<b>10,432</b>	<b>17,209</b>	<b>4,435</b>	<b>5,208</b>	<b>55,143</b>
%	<b>17.6%</b>	<b>14.8%</b>	<b>18.9%</b>	<b>31.2%</b>	<b>8.0%</b>	<b>9.4%</b>	<b>100.0%</b>

## COVID-19

The operations of the Division have been significantly impacted by the COVID-19 pandemic.

Almost all hearings are now conducted by telephone or video conference following face-to-face hearings being cancelled in March 2020. Processes have been modified to facilitate this altered hearing format including how matters are listed, conciliated and heard, how evidence is filed and where the Tribunal sits.

Reorganising lists and changing processes has resulted in an extended time before cases can be listed for both initial hearing / conciliation and for

final hearing. Consequently, there has been a build up of unresolved applications of approximately 44%.

However, this is not expected to continue through the 2020–2021 financial year. It is anticipated that with further process modifications, a progressive reduction of unresolved applications will be achieved in the next 12 months and times to hearing and final resolution will be shortened to more normal levels.

Of course, this is subject to the number of applications filed in the future, member availability and factors arising from the COVID-19 pandemic.

## Members

During the year, one new Member was appointed to the Division. The number of full-time and part-time

Members hearing cases in the Division during the year was 92.

Approximately 14 Members of the Division sit on Appeal Panels.

During the year a recruitment process for part-time Senior Members was commenced but was suspended due to the COVID-19 pandemic. It is expected this process will be completed by the first quarter of 2020.

## Legislation

Changes to legislation affecting the work of the Division during the year included the introduction of the following:

- *COVID-19 Legislation Amendment (Emergency Measures) Act 2020*
- *COVID-19 Legislation Amendment (Emergency Measures - Miscellaneous) Act 2020*
- *Fair Trading Amendment (Short-term Rental Accommodation) Act 2018*
- *Residential Tenancies Amendment (COVID-19) Regulation 2020*
- *Retail Leases Act 1994*
- *Retirement Villages Amendment Act 2018*.

A full list of the legislation which confers power on the Division is attached at Appendix 1.

The COVID-19 legislation had a number of impacts on the Division, in particular in the resolution of residential tenancy disputes. Parties had to adjust to the changed processes and requirements to show any relevant effect the pandemic has had on them and their tenancies. The Tribunal developed new procedures, trained Members, and conducted hearings, primarily by telephone, which significantly increased the resources required to finalise applications in this area of work.

## Consultation with stakeholders

During the reporting period, the End of Year Consultative Forum took place on 19 November 2019 with stakeholder representatives.

Consultative forum meetings are valuable as they enable the Tribunal to convey to interested stakeholders procedural developments which are being considered or have been made. They also enable stakeholders to raise issues or concerns which their constituent members have experienced in the Tribunal.

Tribunal Members have also delivered presentations to stakeholder groups and to various professional bodies, including the Women Lawyers Association NSW, and Strata Community Association NSW.

## Significant decisions

***The Owners – Strata Plan No 74835 v Pullicin; The Owners – Strata Plan No 80412 v Vickery [2020] NSWCATAP 5 (Vickery)***

This decision concerns the ability of the Tribunal to make an award for damages brought by a lot owner against an Owners Corporation in consequence of the failure of the Owners Corporation to comply with its statutory duty under s 106 of the *Strata Schemes Management Act 2015* (SSMA).

An earlier decision of a differently constituted Appeal Panel in *The Owners Strata Plan No 30621 v Shum* [2018] NSWCATAP 15 (*Shum*) had determined the Tribunal was able to determine such a claim and make an award for damages. A second earlier decision of *Shih v The Owners - Strata Plan No 87879* [2019] NSWCATAP 263, made by a differently constituted Appeal Panel to that in *Vickery* and *Shum*, disagreed with the views expressed in *Shum* although suggested there may be some ability to make an order for compensation under the SSMA.

The Appeal Panel in *Pullicin* determined that both *Shum* and *Shih* were wrongly decided and that the Tribunal had no power to make an order for

damages arising from breach of the statutory duty of an Owners Corporation found in s 106.

The *Vickery* decision was the subject of an application for leave to appeal to the New South Wales Court of Appeal.

***Taylor Construction Group Pty Ltd v The Owners - Strata Plan No 92888 [2020] NSWCATAP 163***

This case was a home building claim against the builder of premises that formed part of a strata scheme. The proceedings were for breach of the statutory warranties under the *Home Building Act 1989* (NSW). The dispute concerned whether the cladding of the building complied with relevant fire safety requirements.

The Tribunal at first instance determined the cladding did not comply with relevant fire safety standards. The Tribunal ordered its removal and replacement.

The appeal against this decision was dismissed. The Appeal Panel concluded there was no error concerning the cladding and whether it complied with relevant fire safety standards. In doing so the Appeal Panel rejected the contention that an interim occupation certificate issued under the *Environmental Planning & Assessment Act 1979* (NSW) gave rise to an irrebutable presumption that the building works complied with such standards.

***Dyldam Developments Pty Ltd v The Owners – Strata Plan No 85305 [2019] NSWCATAP 229***

This case was a home building claim against a company which had carried out construction work on a residential apartment building. The appeal involved a question of whether the Tribunal had jurisdiction to consider whether two occupation certificates in respect of the building had been validly issued under the *Environmental Planning and Assessment Act 1979* (NSW).

The Appeal Panel said that the Tribunal did have authority to engage in ‘collateral review’ of the validity of the certificates, in circumstances where the invalidity was apparent on the face of the documents and required no further evidence, and the question was central to the Tribunal’s jurisdiction – namely, whether the home building claim had been brought within the limitation period under the *Home Building Act 1989* (NSW). Further, the Appeal Panel determined that the Tribunal had not erred in finding that the occupation certificates issued in respect of the building were not valid, and so the respondent was not out of time to file its home building application.

This decision has since been the subject of an application for leave to appeal to the New South Wales Court of Appeal.

# Guardianship Division

## What the Division does

The Guardianship Division exercises the Tribunal's protective jurisdiction and promotes the rights of people living with decision-making disabilities. It facilitates substitute decision-making by considering and determining applications for the appointment of guardians and financial managers.

In addition, the Division reviews guardianship and financial management orders, provides consent for medical and dental treatment, reviews enduring powers of attorney and enduring guardianship appointments, and approves clinical trials to enable people with decision-making disabilities to participate.

Many decisions made by the Division have a profound effect on an individual's autonomy and ability to make decisions about critical aspects of their life.

Section 4 of the *Guardianship Act 1987* requires Members of the Division when exercising their powers under that Act to observe a number of principles. These include taking into account the views of people with a disability, restricting their freedom of decision-making and freedom of action as little as possible and protecting them from abuse, neglect and exploitation. At all times, the welfare and interests of people with disabilities is the paramount consideration.

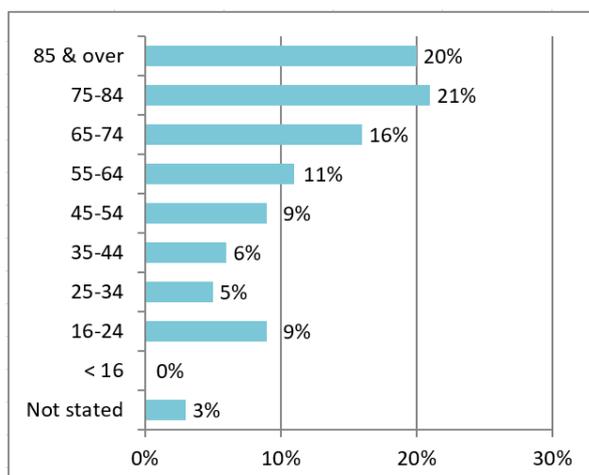
## Work within the Division

The Division uses a triage system to assess applications based on the apparent risk posed to the person the subject of the application (the subject person) or their estate. Listing priority is given to applications where the subject person is assessed at being at immediate risk (Risk Category 1).

**Table 7 – 2019-2020 Guardianship Division workload and performance**

APPLICATION TYPE	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Guardianship	4,014	3,936	98.1%
Requested Review of Guardianship	502	481	95.8%
Financial Management	3,335	3,265	97.9%
Requested Review of Financial Management	700	707	101.0%
Enduring Power of Attorney	239	258	107.9%
Enduring Guardianship	174	172	98.9%
Review/Revocation of an Enduring Power of Attorney	26	31	119.2%
Medical/Dental Consent	461	465	100.9%
Recognition of Interstate Appointment	66	64	97.0%
Clinical Trial	20	22	110.0%
Set Aside/Vary Decisions	3	3	100.0%
Statutory Reviews (falling due in the period)	3,310	3,312	100.1%
<b>TOTAL</b>	<b>12,850</b>	<b>12,716</b>	<b>99.0%</b>

**Graph 1 – Age demographic of the people the subject of application 2019-2020**



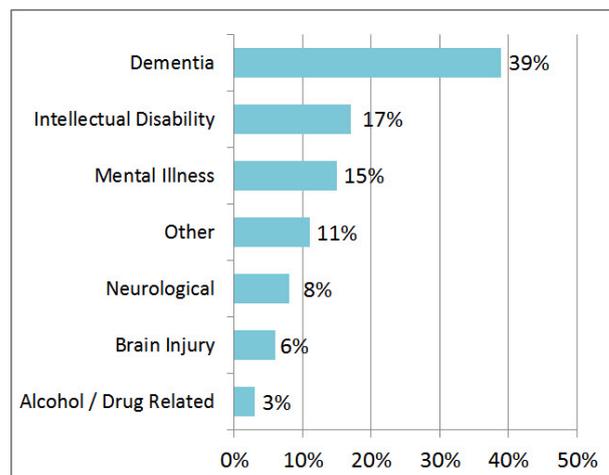
The Division recognises the urgent nature of many applications, and provides an after-hours service, enabling applications to be determined 24 hours a day, 365 days a year.

### Accessibility

The Division is committed to maximising the participation of the subject person in proceedings. Where feasible, the Division endeavours to comply with the Guidelines established by the Australian Guardianship and Administration Council in 2019 which promotes the maximisation of the subject person’s participation in guardianship proceedings (refer to [www.agac.org.au](http://www.agac.org.au)).

The Division’s staff endeavour to contact the subject person to encourage them to attend the hearing and to provide their views about the application. Reflective of the Tribunal’s ongoing commitment to ensuring active participation, during the reporting period prior to the onset of COVID-19, the subject person participated in 79% of substantive hearings (30% in person, 30% by telephone and 19% by video conference). Due to COVID-19, all participation is currently by video conference or telephone, but despite this, the subject person has participated in 80% of substantive hearings since 1 April 2020.

**Graph 2 – Disability identified in applications 2019-2020**



To further facilitate the accessibility of our hearings, in normal circumstances, the Division regularly sits in regional areas throughout NSW. Prior to COVID-19, 22% of hearings or listing events of the Division were conducted in regional NSW.

### Workload

Last year the Division reported unprecedented growth in workload of 13.7%. The trend has continued. A two-year comparison has seen the workload of the Division increase by 25%. Overall, growth in the Division’s work increased by 9.7% this year. Despite this increase, and the intervention of COVID-19, the Division still achieved a clearance ratio of 99%.

In the reporting period the number of applications made to the Guardianship Division grew to over 9,500 for substantive orders and the Division conducted 3,300 statutory reviews of guardianship and financial management orders. There is little doubt that the primary driver of the growth continues to be the ageing demographic of the NSW (and Australian) population. Other likely reasons for the growth include: greater awareness of elder abuse within the community; the ongoing structural changes within the disability sector due to the implementation of the NDIS; and the

implementation of safeguards to reduce the use of restrictive practices in residential aged care facilities in response to the Royal Commission into Aged Care Quality and Safety.

Guardianship orders are time-limited. The Act requires that they be periodically reviewed by the Tribunal, generally every 12 months. While not time-limited, financial management orders must be reviewed if determined by the Tribunal or on application.

During 2019-2020, the Guardianship Division:

- received 4,014 applications for guardianship orders and finalised 3,936 applications. Of the appointments made 41% were private guardians, 57% the Public Guardian and 2% a joint appointment of a private and the Public Guardian
- received 3,335 applications for financial management orders and finalised 3,265 applications. Of the appointments made, 48% were private financial managers, and 52% the NSW Trustee and Guardian
- granted 163 requests for legal representation and appointed 477 separate representatives meaning one or more parties were legally represented in 5% of applications
- arranged for the attendance at hearings of 922 interpreters in 50 languages.

## COVID-19

Along with all facets of our society, the Division was significantly impacted in March/April 2020 by the onset of the COVID-19 pandemic. Given the particular vulnerabilities of many of the people who take part in the Division's hearings, the Division swiftly ceased conducting in-person hearings. Many (at times, the majority) of the Division's Members and staff adjusted to working from home.

The dedication and collaboration of the Division's people resulted in necessary adaptations being made to practice and procedure, and they were

made with haste, yet relatively smoothly considering the changes required. Many 'workarounds' had to be developed daily. The collective efforts were highly successful. All urgent hearings were punctually attended to, and despite continual growth in the number of applications during this period at around 10% compared to last year, the Division has maintained close to a 100% clearance ratio since adjusting to living with COVID-19.

Whilst looking forward to the return of in-person hearings, the Division has been gradually increasing its capacity to conduct hearings where all participants are invited to join via video conference through the simple click on a link sent to them in an email by Registry staff. At least one positive legacy of COVID-19 upon the Division, which is already identifiable, is that continuing into the future the Division will be able to offer video conference hearings for matters, rather than simply a hearing by telephone where an in-person hearing is not possible.

## Members and staff

In most cases, hearings are conducted by a three-Member panel: a Senior (Legal) Member, a Senior (Professional) Member, and a General (Community) Member.

Members of the Division are appointed on the basis of their professional and personal experience with people with disabilities and/or their legal skills and experience. Senior (Professional) Members hold professional qualifications in areas such as medicine, psychiatry, psychology, social work and pharmacology. General (Community) Members have direct personal and/or professional experience with people with a decision-making disability.

The multi-member panel model has a number of advantages. First, it enables the Tribunal to draw on the collective knowledge, skill and experience of its Members. This assists the Tribunal to evaluate the available evidence and to discharge its statutory obligation to ensure all relevant material is disclosed

to the Tribunal (section 38(6)(a) of the NCAT Act). Second, the Tribunal's ability to draw on its own expertise contributes significantly to the quality of its decisions. Third, in circumstances where the parties and/or other participants are in conflict and the subject matter of the application is contentious, a three-member Tribunal enables the task of managing hearings to be shared.

The Division's professional development for all Members focuses on topics which are pertinent to the jurisdiction throughout the year. Topics covered include professional development relating to Tribunal craft, such as ensuring procedural fairness and writing 'plain English' reasons for decisions. They also involve external speakers with relevant expertise, such as behavioural specialists, geriatricians and the like.

Staff provide a specialist enquiry service and give information to the subject person, their family and anyone with a genuine concern for their welfare, about the Division's procedures and the type of information likely to be required to support an application. In appropriate cases, staff assist people to identify informal solutions where problems arise with a person's decision-making capacity. This often results in an application not being made to the Tribunal and, instead, the person being supported to make their own decisions by their family and friends.

Assisting the subject person to understand the Tribunal's role and its procedures is a focus of the Division's enquiry service. Staff encourage the participation of the subject person by exploring with them, their families and friends, options to facilitate their participation in the hearing process. In addition, where appropriate, staff seek information about the subject person's capacity to make decisions, the support available to assist them to make decisions and the type of decisions that are likely to be required to be made in the foreseeable future.

## Consultation with stakeholders

The NCAT Guardianship Division Consultative Forum usually meets at least twice a year. Due to the COVID-19 pandemic, only one meeting was held during the period.

Members of the forum include representatives from advocacy groups, such as the Seniors Rights Service, Alzheimer's Australia NSW, the Intellectual Disability Rights Service, and the NSW Council for Intellectual Disability, and key government agencies, including the NSW Public Guardian, the NSW Trustee and Guardian and the National Disability Insurance Agency. The forum provides the Division with an invaluable opportunity to engage with the disability sector and other stakeholders and to receive feedback about our practices and procedures.

In addition, the Division is represented on the Australian Guardianship and Administration Council, and the NSW Law Society Elder Law and Succession Committee.

## Significant decisions

### **HZC [2019] NSWCATGD 8**

HZC was a 21 year old woman with severe intellectual disability, living in supported accommodation, and a participant in the National Disability Insurance Scheme (NDIS). Her service providers were authorised NDIS service providers under the *National Disability Insurance Scheme Act 2013* (Cth) (the NDIS Act). At times HZC engaged in behaviour which caused, or had the potential to cause, harm to herself or others. HZC's parents were previously appointed as her guardians with functions of accommodation, services, health care, medical and dental consent, advocacy, and restrictive practices. At an end-of-term review of that previous order, given the circumstances involved consideration of the NDIS services being provided to HZC, and in particular, the use of restrictive practices, the Tribunal considered the relevance of the NDIS Act to the exercise of its power to make and review guardianship orders.

The Tribunal decided that, in the absence of legislated definitions of restrictive practices in NSW, the categorisation of restrictive practices in the NDIS Act and the Rules was appropriate to be adopted in NSW. In coming to this conclusion, the Tribunal examined each category of restrictive practice contained in the Rules, explained why it was appropriate that it be adopted in the NSW system, and relevantly, why it was necessary for HZC's guardians to be given the power to authorise those practices.

HZC was being given both Seroquel and Diazepam on a regular and PRN or 'as needed' basis, to stabilise and modify her behaviour. The Tribunal held this use was a restrictive practice.

The Tribunal observed that the approach of treating the use of drugs such as Seroquel and Diazepam as a form of restrictive practice, namely chemical restraint, was not universal across the Tribunal. Some Tribunals had treated chemical restraint as 'medical treatment' as defined by s 33A of the Act. The Tribunal reasoned that it was preferable to characterise the use of drugs such as Seroquel and Diazepam, to stabilise and modify behaviour, as chemical restraint rather than medical treatment under Part 5 of the Act.

The Tribunal renewed the order, with the same functions, for a further three years.

### **UZX [2020] NSWCATGD 3**

This matter was heard 3 April 2020, only days after the NSW Minister for Health made a public health ministerial direction on 30 March 2020, restricting everyone in NSW, except for the homeless, from leaving their place of residence without reasonable excuse, and prohibited gatherings of more than two.

UZX was a 69-year-old Aboriginal woman, living in Housing NSW accommodation in regional NSW. An application for review of her current guardianship order was brought, seeking a variation to the current order to add authority to authorise others to enforce accommodation decisions.

It was reported that UZX, though currently stable, had a history of paranoid schizophrenia. She was also a smoker, and suffered from respiratory health issues. She was described by the applicant as vulnerable, and at high risk of contracting and potentially spreading COVID-19, because she could sometimes be found wandering the street, allowing strangers into her home, and did not understand the need to self-isolate because she was cognitively impaired. In-home support services were withdrawn on 30 March 2020 because the service provider was concerned about the risk of spreading COVID-19. The applicant described UZX as resistant to respite or permanent placement.

NSW Health's submissions were that the power under section 62 of the *Public Health Act* was not available because UZX had neither been confirmed as having COVID-19, or been exposed to a confirmed case: [33]. The submissions also argued that s 62 of the *Public Health Act* was intended for exceptional circumstances, and that a guardianship order was more appropriate in the circumstances where the primary concern was the risks to the person's own health: [33].

The Public Guardian disagreed with NSW Health that an order under section 62 of the *Public Health Act* should be reserved for 'exceptional circumstances', but otherwise agreed with the variation to the order.

The separate representative for UZX agreed that the variation to the guardianship order was warranted.

The Tribunal noted that the application was primarily concerned with UZX's incapacity to understand the importance of self-isolation and compliance with public health directions. The evidence before the Tribunal was sufficient for it to conclude that UZX's health was at heightened risk if she were to contract COVID-19, and those risks were compounded by the withdrawal of services by the service provider. The Tribunal also accepted that there was a risk that UZX's non-compliance with public health directions could come to the attention of police, and penalties may apply.

Without determining the issue, the Tribunal noted that it did not appear that 'exceptional' or 'extreme' circumstances were needed in order for a section 62 order to be made. The Tribunal also noted that without evidence UZX was exposed to COVID-19, the section 62 power is not engaged. There was, the Tribunal found, no other practicable way for UZX's welfare and interests to be promoted in light of her inability to understand the need to self-isolate, and no other practicable way for services to be provided, other than by way of varying the order as requested. The Tribunal varied the order to include the power to authorise others to enforce accommodation decisions of the guardian.

### **GMI [2020] NSWCATGD 6**

GMI contracted COVID-19 while working as a crew member on the Ruby Princess cruise ship.

At the time of the hearing, GMI was sedated in an induced coma to facilitate his intubation. While attempts were made to reduce GMI's sedation, each time an attempt was made GMI would become distressed and attempt to remove the breathing tube himself. GMI had been ventilated for 30 days.

The Tribunal was assisted by medical staff at the hospital at which GMI was admitted, along with Mr Y, a Senior Executive of GMI's employer, P&O Cruises, who was at the time of the hearing on board the Ruby Princess assisting in its departure from Australia.

The Tribunal attempted to make contact with GMI's wife, who resided overseas, but was unsuccessful.

The applicant sought the Tribunal's consent to carry out a percutaneous tracheostomy under general anaesthetic and any other necessary associated treatment.

The reason for the proposed treatment was 'to endeavour to liberate the patient from sedation safely and to gradually wean him from ventilation to aid his recovery' and was it was proposed that the

treatment, if consented to, would occur within in the subsequent 24-48 hours.

The Tribunal accepted uncontradicted evidence that given the length of time under sedation and ventilation, it was advisable and preferable that GMI be safely weaned from it, and the proposed procedure offered the greatest prospect of achieving that result.

The ongoing risks of continued ventilation in the current manner were evident in the fact that an emergency replacement of the breathing tube the night before the hearing was required because part of it had burst, placing both the patient and the intubators at risk. There was also a risk to GMI's life if he was not weaned from this kind of ventilation.

The Tribunal decided that despite the risks, the proposed treatment was the preferred course in the current circumstances, to promote GMI's health and well-being: [21]. The Tribunal was satisfied that granting consent in GMI's current circumstances would promote the objects of Part 5 of the *Guardianship Act*: [22].

The Tribunal gave its consent for the treatment to be carried out on GMI.

# Occupational Division

## What the Division does

The Occupational Division hears and determines occupational matters in two broad categories:

- Professional discipline of health practitioners, architects, veterinary practitioners, registered certifiers, lawyers and public notaries, and
- Administrative review of decisions relating to the licensing of specified occupations.

The Division also deals with matters involving the possible non-compliance by local government councillors with their code of conduct and pecuniary interest provisions under the *Local Government Act 1993*.

## Work within the Division

The Division principally deals with professional disciplinary matters brought by statutory authorities and other professional associations against architects, health practitioners, lawyers and public notaries, veterinary practitioners, and registered certifiers.

It also hears and determines matters involving local government councillors for asserted breaches of the pecuniary interest provisions and code of conducts

applicable to local government councillors under the *Local Government Act 1993* as well as challenges to election of councillors.

In addition, the Tribunal hears and determines matters involving Aboriginal land councillors for asserted breaches of pecuniary interest provisions and codes of conduct applicable to those councillors under the *Aboriginal Land Rights Act 1983*.

The Division exercises an appellate function in hearing appeals under the Health Practitioner Regulation National Law against decisions of the various health professional councils and national boards. The Division also exercises an administrative review jurisdiction in respect of a number of occupations including builders, taxi services and security agents.

The matters heard in this Division are frequently of significant complexity and generally require longer hearing times than in other Divisions. One of the primary functions of the Division is to protect the public by ensuring only those professionals, including doctors, other health professionals and lawyers, competent and appropriate to practise, do so.

**Table 8 – 2019-2020 Occupational Division workload and performance**

LIST	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Administrative Review	106	114	107.5%
Health Practitioner	165	143	86.7%
Legal Practitioner and Other Professionals	40	59	147.5%
<b>TOTAL</b>	<b>311</b>	<b>316</b>	<b>101.6%</b>

## Workload

During 2019-2020, the Occupational Division received 311 applications and finalised 316, giving a clearance ratio across the whole Division of 101.6%. The predominant applications in the Division are professional disciplinary proceedings.

In health professional disciplinary matters, the ability of the Tribunal to dispose of its caseload is enhanced by the appointment of Members from the relevant professions who sit as Occasional Members. These Members provide specialist knowledge and skill to the issues requiring determination. The Tribunal panel also includes a Lay Member, whose contribution is also valuable.

Case conferencing is used to narrow issues in dispute and to reduce hearing time and costs.

## COVID-19

On 17 March 2020 the Tribunal ceased to conduct in-person hearings and began to conduct both directions hearings and substantive hearings by telephone. All of the matters in the Division which had been assigned a hearing date were called over. With the agreement of the parties, arrangements were made to determine some of the matters 'on the papers', in accordance with section 50 of the NCAT Act. It was agreed that other matters could be heard by telephone. There was a large group of matters which were adjourned because they were unsuitable to be heard by telephone or determined on the papers. In April 2020, the Division was given the capacity to convene 'virtual hearing rooms' by telephone or video conference. The virtual hearing rooms are particularly suitable for Division matters, and many of the matters originally adjourned have been heard and determined using this technology.

## Members

The Division comprises the Deputy President and Division Head. Members in the Division include Judges, Principal and Senior Members and Professional Members who are appointed as

Occasional Members for a particular matter because of their professional expertise, and General and Lay Members.

In legal services matters, the Tribunal is constituted by a three Member panel comprising a senior judicial officer, or a Legal Member (barrister or solicitor depending on the discipline of the practitioner), another Legal Member and a General Member. Composition of the panel to hear other professional disciplinary matters is fixed by the governing legislation, but in all cases includes a professional from the appropriate discipline.

Disciplinary proceedings against local government councillors are heard by a single Member except in the case of a challenge to a councillor's election whereby the panel comprises three Members.

Administrative review matters involving numerous occupations including builders, taxi services and security agents are heard by a single Legal Member.

Since April 2020, Members have been required to undertake individual training to equip them to use the telephone and virtual hearing rooms. Many matters have now been heard and determined using this technology, and its use is continuing.

## Legislation

Changes to legislation relating to the work of the Division during the year included the introduction of the following:

- *Building and Development Certifiers Act 2018* which commenced on 2 July 2020.

A full list of the legislation which confers power on the Division is attached at Appendix 1.

## Consultation with stakeholders

A Professional Discipline Group consultative forum was held in the financial year to facilitate the community between the Division and those regularly involved in its proceedings.

## Significant decisions

### ***Council of the Law Society of New South Wales v DXW* [2019] NSWCATOD 101**

The Council of the Law Society of New South Wales filed disciplinary proceedings against a solicitor in the Tribunal.

The respondent challenged the validity of the process which led to the filing of the proceedings.

The Council submitted that it was able to commence the proceedings pursuant to an Instrument of Delegation which, in June 2015, delegated certain powers, functions and duties of the Legal Services Commissioner under the Legal Profession Uniform Law to the Council. However, the Tribunal held that it lacked jurisdiction to determine the proceedings, as the Council did not have authority to commence the proceedings under that instrument in the circumstances of the case. First, the Tribunal found that there was no evidence that any 'complaint', as defined in section 265 of the Uniform Law, had been made to or by the Commissioner, as required by section 267 of the Uniform Law. Accordingly, there could be no 'disciplinary matter' as defined in section 270 of the Uniform Law, and no basis for the 'initiation and prosecution of proceeding' in the Tribunal under section 300. Second, there was no evidence that the Commissioner had 'decided not to deal with or continue to deal with' the complaint, such that the authority to do so was delegated to the Council under the 2015 Instrument. Accordingly, the proceedings were dismissed.

### ***Registrar, Aboriginal Land Rights Act 1983 v Boota* [2020] NSWCATOD 69**

The Registrar referred a matter to the Tribunal under section 181K(1)(c) of the *Aboriginal Land Rights Act 1983*, alleging misconduct by a former officer of the Jana Ngalee Local Aboriginal Land Council, and seeking orders under section 211A of the Act that she be reprimanded and required to pay a pecuniary penalty. The Tribunal found that the former officer was guilty of misconduct as defined in section 181A(1) of the Act, based on various breaches of the

model code of conduct in Schedule 3 to the *Aboriginal Land Rights Regulation 2014*. However, the Tribunal held that it did not have jurisdiction, as a matter of construction of section 211A, to impose sanctions on a former officer of an Aboriginal Land Council. The word used in section 211A(2) is 'officer', and to read that term as including a former officer would be an impermissible attempt to fill a gap in the legislation.

### ***Health Care Complaints Commission v Grygiel (Termination Application)* [2020] NSWCATOD 53**

In February 2018, the Health Care Complaints Commission (HCCC) commenced disciplinary proceedings in the Tribunal against Dr Grygiel, based on a number of complaints relating to chemotherapy drug prescribing practices that allegedly did not follow protocols compiled by the Cancer Institute of NSW.

In March 2020, the hearing was adjourned, and has since been unable to be completed due to the COVID-19 pandemic.

Dr Grygiel applied for the proceedings to be 'terminated' under clause 12(1)(b) of Schedule 5D to the Health Practitioner Regulation National Law, or 'dismissed' under section 55(1)(b) of the NCAT Act. The Tribunal dismissed the application for termination. Although it was accepted that Dr Grygiel was not likely to pose a direct risk to public safety by practicing medicine in the future, factors supporting the resolution of the proceedings included general and specific deterrence, and the upholding of the standards of the medical profession and public confidence in it. The complaints raised serious issues for determination, including issues relating to informed consent and the recording of consent. While the matters for and against termination were 'finely balanced', the Tribunal concluded it was in the public interest for the proceedings to continue to finality.

The Tribunal also dismissed the application for 'dismissal' under section 55 of the NCAT Act, determining that s 55 does not apply concurrently

with clause 12 of Schedule 5D to the National Law, except in specified circumstances. In any case, the Tribunal was not satisfied that the proceedings were frivolous, vexatious, misconceived or lacking in substance, in the sense that they were being 'pursued inappropriately' by the HCCC or 'doomed to fail'.

### ***Boyce v Building Professionals Board (No 2)*** **[2020] NSWCATOD 14**

Mr Boyce commenced proceedings in the Tribunal seeking review of the Building Professionals Board's decision to cancel his accreditation, reprimand him, and prohibit him from re-applying for accreditation within a two-year period.

The Tribunal affirmed the Board's decision but varied the date of cancellation to a month after publication of its orders. The Tribunal found that Mr Boyce had engaged in unsatisfactory professional conduct and professional misconduct in relation to a range of complaints, involving breaches of the *Building Professionals Act 2005*, the Building Professionals Board Code of Conduct for Accredited Certifiers, the *Environmental Planning and Assessment Act 1979* and associated regulation, and the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. The Tribunal found that a variety of complaints were established about Mr Boyce issuing 'complying development certificates' (CDCs) containing confusing, conflicting and misleading information; issuing 'interim occupation certificates' that were inconsistent with CDCs; issuing 'construction certificates' that were inconsistent with development consent conditions; and failing to properly respond and take action in regard to complaints about non-compliance.

The Tribunal held that the complaints against Mr Boyce 'traversed across the spectrum of certifier functions'; that his conduct had 'occasioned loss or damage'; that it demonstrated he 'was not careful in carrying out his functions as an accredited certifier'; that he had an 'extensive history' of disciplinary findings involving similar conduct; that the 'extent

and range of [his] actions demonstrate[d] a lack of understanding and/or sufficient application of a certifier's statutory role and public duties across multiple functions'; that some of his conduct demonstrated 'reckless carelessness'; and that he had 'failed to demonstrate consciousness of his obligations' under the *Building Professionals Act*. In this context, and without any evidence about steps taken to ensure his future compliance, Mr Boyce's 'assurances as to his future conduct' carried little weight.

The Tribunal held that both personal and general deterrence required that Mr Boyce's certificate of accreditation under the *Building Professionals Act* be cancelled.

### ***Health Care Complaints Commission v Kazeme*** **[2020] NSWCATOD 25**

In March 2019, the Health Care Complaints Commission applied to the Tribunal seeking disciplinary orders against Ms Kazeme, whose provisional registration as a pharmacist was cancelled by order of the Victorian Civil and Administrative Tribunal (VCAT) in November 2018. The VCAT proceedings related to allegations of theft which occurred in Victoria, while the subsequent NCAT proceedings related to Ms Kazeme's conduct in operating a 'wellness clinic' located in New South Wales. The Commission applied to the Tribunal to make orders declaring that if Ms Kazeme were still registered as a pharmacist, the Tribunal would have cancelled her registration; requiring the Pharmacy Board of Australia to record that declaration; permanently prohibiting Ms Kazeme from providing health services involving intravenous infusions; and requiring her to pay the Commissioner's costs of the proceedings.

The Tribunal held that Ms Kazeme was guilty of both unsatisfactory professional conduct and professional misconduct under section 139B(1) and section 139E of the National Law. This conduct included inadequate processes for obtaining patient consent; instructing the general practitioner at the clinic to

prescribe medicines for patients without consultation; and instructing the nurse at the clinic to administer medicines to patients which had been prescribed and dispensed in the names of other individuals.

In reaching its conclusions, the Tribunal found that Ms Kazeme's conduct at the clinic, although she was not working at a pharmacy at the time, still constituted conduct either 'in' the practice of pharmacy as required by section 139B(1)(a) of the National Law, or 'relating to' the practice of pharmacy as required by section 139B(1)(l). This was because Ms Kazeme had been permitted to operate the clinic on the understanding that she was a qualified pharmacist, and was entrusted with the safe custody and distribution of therapeutic products. The Tribunal did not accept her claim that her role was purely administrative.

The Tribunal also held that Ms Kazeme was not a 'suitable person' to hold registration as a pharmacist in the sense described in section 144(e) of the National Law.

The Tribunal was not satisfied of the other allegation advanced by the Commission, which were that Ms Kazeme was guilty of unsatisfactory professional misconduct because she had contravened the conditions of her provisional registration by working unsupervised at the clinic. Further, while the Tribunal accepted that a prohibition order should be made, it found that a permanent prohibition was not warranted, and the possibility of future reinstatement might encourage Ms Kazeme to 'demonstrate in insight into [her] misconduct'.

# Appeal Panel

## What the Appeal Panel does

The Appeal Panel is responsible for hearing internal appeals from decisions of each of the Divisions where there is a right of appeal to the Appeal Panel provided in the NCAT Act or in the enabling legislation.

The Appeal Panel is also responsible for hearing designated external appeals as provided in the NCAT Act or the enabling legislation.

## Workload

There was a small reduction in the number of appeals filed in the 2019-2020 reporting period.

The Appeal Panel received 643 appeals for the year ending 30 June 2020. In the previous year, a total of 655 appeals were received. This is a decrease of 1.8%.

The overall clearance ratio for the year was 95.2%. A breakdown of statistics by Division is set out in Table 9.

Appeals were received from decisions in all Divisions, the largest number being received from the Consumer and Commercial Division reflecting the high number of first instance decisions in that Division.

Each of the Divisions manages the work by lists or order types. Table 10 on the following page is a breakdown of the appeals by list or order type.

The Appeal Panel has a performance target to finalise 80% of all appeals within nine months from the date they are lodged. To achieve this goal, the Appeal Panel seeks to list all new appeals for callover within two weeks from when they are filed, urgent stay applications and other interlocutory applications being listed more quickly.

Usually, an appeal has only one callover, at which directions are made for the preparation of appeal papers and the provision of submissions by the parties. At the callover the appeal process is explained to parties and a final hearing date is allocated. Parties can usually expect a hearing date six weeks to ten weeks after the callover, with urgent appeals and interlocutory applications being dealt with more quickly.

Often the party appealing lodges an application to stay the operation of the orders under appeal so that the party can be relieved of the obligation to comply with the orders pending the appeal. These applications are typically dealt with at the call over.

**Table 9 – 2019-2020 Appeal Panel workload and performance**

DIVISION	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Administrative and Equal Opportunity Division	64	58	90.6%
Occupational Division	2	5	250.0%
Consumer and Commercial Division	539	515	95.5%
Guardianship Division	38	34	89.5%
<b>TOTAL</b>	<b>643</b>	<b>612</b>	<b>95.2%</b>

**Table 10 – 2019-2020 Appeals finalised by Division list/order type**

LIST / ORDER TYPE	2019-2020
<b>Administrative and Equal Opportunity</b>	
• Administrative Review List	36
• Community Services List	3
• Discrimination List	15
• Revenue List	4
<b>Occupational</b>	
• Administrative Review List	5
• Health Practitioner List	0
• Legal Practitioner and Other Professionals List	0
<b>Consumer and Commercial</b>	
• Tenancy List	136
• Social Housing List	47
• General List	74
• Home Building List	114
• Residential Communities List	14
• Strata and Community Schemes List	8
• Strata Schemes List	45
• Motor Vehicles List	43
• Commercial List	30
• Retirement Villages List	4
<b>Guardianship</b>	
• Initial Order	12
• Review of Order	22
<b>TOTAL</b>	<b>612</b>

For the 2019-2020 year, 96% of matters were finalised within nine months from when they were lodged, with more than 86% being finalised within six months from the date of filing.

Consistently with section 37 of the NCAT Act, where appropriate the Appeal Panel promotes the use of alternative resolution processes for the resolution of appeals. Conciliation at callovers, and mediations prior to the hearing of appeals, has resulted in consent orders being made to finalise a significant number of matters. The Appeal Panel also refers matters to the Community Justice Centres where appropriate.

**Table 11 – 2019-2020 Final orders made by the Appeal Panel**

FINAL ORDERS MADE	2019-2020	%
Allowed	125	20.4%
Dismissal	355	58.0%
Withdrawal	116	19.0%
Other	16	2.6%
<b>TOTAL</b>	<b>612</b>	<b>100%</b>

**Table 12 – 2019-2020 Appeals/applications to Supreme Court from Appeal Panel decisions**

APPEAL RESULT	2019-2020	%
Allowed	15	37.5%
Dismissal	25	62.5%
<b>TOTAL</b>	<b>40</b>	<b>100%</b>

More than 35% of all appeals are resolved at, or prior to, the first callover hearing.

Subject to the nature of the issues raised on appeal, and whether or not the NCAT Act or enabling legislation makes special provision for the constitution of the Appeal Panel, the Appeal Panel is usually constituted by two Members or three Members in the most complex of matters.

Orders and reasons for decisions of the Appeal Panel may be given on the day of the appeal. Otherwise, decisions are reserved. The service standard for publishing a decision and written reasons is 12 weeks from the date the decision is reserved, but usually decisions are published before this time. Table 11 provides a summary of the orders made.

Decisions of the Appeal Panel in its internal appeal jurisdiction may be appealed to the Supreme Court of NSW. Decisions may also be challenged by way of judicial review. These appeals and applications are assigned to the Supreme Court, or the Court of Appeal if the Appeal Panel was constituted by a Judicial Officer. Table 12 sets out the number of appeals and applications finalised by the Supreme Court for the period 2019-2020 and the result of those appeals.

## Members and staff

The Appeal Panel is constituted by Members at the direction of the President, in consultation with the Deputy President Appeals and the Principal Member Appeals.

Members of the Appeal Panel comprise the President, the Deputy Presidents, the Principal Members and selected Senior Members assigned by the President to the Appeal Panel.

The administrative support is provided by the Appeals Registry.

Beyond deciding the appeal in the particular matter, an important role of the Appeal Panel, through its decisions, is to provide guidance to those Members sitting in Divisions of the Tribunal concerning the conduct of hearings, the interpretation of legislation and the making of decisions.

Reserved decisions of the Appeal Panel are typically published on NSW Caselaw.

The *Appeal Panel Decisions Digest* is regularly published, updating Members on important decisions both within the Tribunal and decisions of various courts. The *Digest* is also published on the NCAT website and available as a subscription service.

## Significant decisions

In addition to other Appeal Panel decisions referenced in the report, the following decisions of interest were also published this year, which provided guidance to the Tribunal, including in relation to its practice and procedure.

### ***Plath v Snowy Monaro Regional Council* [2019] NSWCATAP 165**

The appellant owned a property in the local government area of the respondent council. The appellant sought to recover the sum of \$141 from the respondent which had been charged for 'waste management' and for 'onsite sewerage management system'. The appellant claims that the respondent

charged him for a service which they did not provide to him.

At first instance, the Tribunal only considered the issue of whether it had jurisdiction by virtue of the matter being a consumer claim under Part 6A of the *Fair Trading Act 1987*. The Tribunal considered that section 501(1) of the *Local Government Act 1993* permitted the provision of the activities charged by the respondent as a charge. The Tribunal also distinguished between a charge under section 501 and rates under section 497 of the *Local Government Act*. The Tribunal found that the services the respondent provided were done in the exercise of the respondent's functions as a local authority and not in the course of the carrying out of a business. On this basis, it held the claim was not a consumer claim.

The Appeal Panel dismissed the appeal, finding that the respondent did not supply the services in question whilst carrying on (or purporting to carry on) a business. The respondent was not, therefore, a 'supplier' within the meaning of section 79D of the *Fair Trading Act*. The onsite sewerage management system approval charge arose in relation to the council's obligation to consider applications for approval under section 68 of the *Local Government Act*, and the council's requirement to maintain a record under section 113 of that Act. The effect of these provisions is that the services are governmental or regulatory and are not performed in the carrying out of a business. Accordingly, it held that the Tribunal's decision to dismiss the appellant's application for want of jurisdiction was correct.

### ***Jannis v Ant-Hassa Pty Ltd* [2020] NSWCATAP 99**

The Appeal Panel allowed an appeal from a decision in the Consumer and Commercial Division on the basis that the appellants were denied procedural fairness at first instance when the Member did not invite or allow them to cross-examine the respondent. However, it was not a denial of procedural fairness for the Tribunal to refuse to

allow the appellants to examine their own expert witness at the hearing.

The appellants and the respondent had a verbal agreement for the respondent to construct a driveway at their residential property in Dural. It was agreed that the driveway would be constructed in two stages. There was significant dispute at first instance and on appeal as to what else the parties had agreed, particularly in relation to the texture and durability of the driveway. The appellants complained that the first stage of the driveway was not properly constructed, and brought a claim in the Tribunal seeking compensation.

The Tribunal considered the application as effectively alleging breaches of the *Home Building Act 1989* and of certain consumer guarantees under the Australian Consumer Law. The Tribunal dismissed the appellants' application.

The appellants appealed to the Appeal Panel. They submitted that the Tribunal had erred by not allowing their expert witness to give oral evidence at the hearing, and not allowing them to cross-examine the respondent's Director.

The Appeal Panel decided that where parties have been directed to provide expert evidence in written form, denying a party the opportunity to examine their own expert witness will not, as a matter of course, constitute a denial of procedural fairness. The Appeal Panel noted that cross-examination is not an essential element of an oral hearing, nor is there a rigid rule that fairness always requires cross-examination to be permitted in administrative hearings.

However, in the context of the dispute in this matter, the Tribunal failed to afford the appellants procedural fairness by not facilitating cross-examination in circumstances where determining what was agreed by the parties in respect of the work to be performed was crucial to determining the appellants' claim, and the respondent's Director was given an opportunity to cross-examine each of the

appellants but the appellants were not permitted to cross-examine the respondent's Director about the issues in dispute.

### ***Merrick v Zhu & Ye [2020] NSWCATAP 35***

The Appeal Panel allowed an appeal from the Consumer and Commercial Division on the basis that, although the appellant received notice of the first instance hearing by mail, that notice only pertained to a lesser claim than the amount awarded to the respondents at the hearing.

The appellant carried out a range of home building works for the respondents for a total price of \$10,000. Disagreements between the parties led the respondents to apply to the Tribunal seeking a full refund. Those proceedings resulted in consent orders, in which the appellant agreed to carry out rectification works and it was specified that the respondents could renew the proceedings if those works were not carried out.

A dispute followed about the extent of the rectification works the appellant had actually carried out in compliance with the consent orders. The respondents commenced renewal proceedings claiming \$4,268 for rectification of a leak.

Although the Tribunal sent a notice of hearing to the appellant's residential address, the appellant said he never received that notice. As a result, the appellant did not attend the hearing and the Tribunal proceeded to hear the matter in his absence.

On its own initiative, the Tribunal granted the respondents an award of \$10,000, much larger than the \$4,268 they sought.

The Appeal Panel decided that it was procedurally unfair for the Tribunal to hear and determine the matter in the appellant's absence when he was only notified of the renewal claim in respect of the lesser amount based on the cost of rectifying the leak, and not of the larger claim ultimately awarded at the hearing. The application was remitted for determination according to law.

# Appendices

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- 1**     **Legislation**
- 2**     **Major Legislative Change 2019-2020**
- 3**     **Tribunal Members at 30 June 2020**
- 4**     **NCAT Member Code of Conduct**
- 5**     **NCAT Expenditure Report**
- 6**     **Service Standards: Lodgement to Finalisation**
- 7**     **Resolution Processes**
- 8**     **Fees and charges as at 30 June 2020**
- 9**     **NCAT Liaison Group and Divisional Consultative Forum Membership**

# Appendix 1

## Legislation

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The *Civil and Administrative Tribunal Act 2013* sets out provisions related to establishing the Tribunal, how proceedings are commenced, procedures and powers of the Tribunal, and the appointment of Members.

The following Acts and subordinate legislation confer jurisdiction on the Tribunal as at 30 June 2020.

### NCAT Legislation

Civil and Administrative Tribunal Act 2013  
Civil and Administrative Tribunal Regulation 2013  
Civil and Administrative Tribunal Rules 2014

### Enabling Legislation

#### Administrative and Equal Opportunity Division

Administrative Decisions Review Act 1997  
Adoption Act 2000  
Agricultural Industry Services Act 1998  
Agricultural Livestock (Disease Control Funding) Act 1998  
Agricultural Tenancies Act 1990  
Air Transport Act 1964  
Animal Research Act 1985  
Anti-Discrimination Act 1977  
Apprenticeship and Traineeship Act 2001  
Apprenticeship and Traineeship Regulation 2017  
Associations Incorporation Act 2009  
Australian Oil Refining Agreements Act 1954  
Betting and Racing Act 1998  
Births, Deaths and Marriages Registration Act 1995  
Boarding Houses Act 2012  
Boarding Houses Regulation 2013  
Building and Construction Industry Security of Payment Act 1999  
Building Products (Safety) Act 2017

Business Names (Commonwealth Powers) Act 2011  
Casino Control Regulation 2009  
Cemeteries and Crematoria Act 2013  
Charitable Fundraising Act 1991  
Child Protection (International Measures) Act 2006  
Child Protection (Offenders Registration) Act 2000  
Child Protection (Working with Children) Act 2012  
Children (Detention Centres) Act 1987  
Children (Detention Centres) Regulation 2015  
Children (Education and Care Services) National Law (NSW)  
Children (Education and Care Services) Supplementary Provisions Act 2011  
Children and Young Persons (Care and Protection) Act 1998  
Children and Young Persons (Care and Protection) Regulation 2012  
Childrens Guardian Act 2019  
Coal Industry Act 2001  
Combat Sports Act 2013  
Commons Management Act 1989  
Community Housing Providers National Law (NSW)  
Community Services (Complaints, Reviews and Monitoring) Act 1993  
Cooperatives (Adoption of National Law) Act 2012  
Co-operative Housing and Starr-Bowkett Societies Act 1998  
Criminal Records Act 1991  
Crown Lands Management Act 2016

Disability Inclusion Act 2014  
 Dormant Funds Act 1942  
 Drug and Alcohol Treatment Act 2007  
 Education Act 1990  
 Education (School Administrative and Support Staff) Act 1987  
 Electoral Act 2017  
 Electricity (Consumer Safety) Act 2004  
 Electricity Supply Act 1995  
 Exhibited Animals Protection Act 1986  
 Explosives Act 2003  
 Fines Act 1996  
 Firearms Act 1996  
 First Home Owner Grant (New Homes) Act 2000  
 Fisheries Management Act 1994  
 Food Act 2003  
 Food Regulation 2015  
 Forestry Act 2012  
 Game and Feral Animal Control Act 2002  
 Gaming and Liquor Administration Act 2007  
 Gaming Machines Act 2001  
 Gas and Electricity (Consumer Safety) Act 2017  
 Gas Supply Act 1996  
 Government Information (Public Access) Act 2009  
 Guardianship Act 1987  
 Health Records and Information Privacy Act 2002  
 Hemp Industry Act 2008  
 Higher Education Act 2001  
 Home Building Act 1989  
 Hunter Water Act 1991  
 Impounding Act 1993  
 Licensing and Registration (Uniform Procedures) Act 2002  
 Liquor Act 2007  
 Local Land Services Act 2013  
 Lotteries and Art Unions Act 1901  
 Marine Pollution Act 2012  
 Marine Safety Act 1998  
 Motor Accident Injuries Act 2017  
 Motor Accidents Compensation Act 1999  
 Motor Vehicle Sports (Public Safety) Act 1985  
 Mount Panorama Motor Racing Act 1989  
 Native Title (New South Wales) Act 1994  
 NSW Trustee and Guardian Act 2009  
 Ombudsman Act 1974  
 Paintball Act 2018  
 Parking Space Levy Act 2009  
 Payroll Tax Act 2007  
 Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011  
 Personal Property Securities (Commonwealth Powers) Act 2009  
 Pesticides Act 1999  
 Photo Card Act 2005  
 Police Act 1990  
 Poppy Industry Act 2016  
 Port Kembla Inner Harbour Construction and Agreement Ratification Act 1955  
 Privacy and Personal Information Protection Act 1998  
 Private Health Facilities Act 2007  
 Public Health Act 2010  
 Public Lotteries Act 1996  
 Rail Safety National Law (NSW)  
 Registered Clubs Act 1976  
 Relationships Register Act 2010  
 Retail Trading Act 2008  
 Rice Marketing Act 1983  
 Small Business Grants (Employment Incentive) Act 2015  
 State Debt Recovery Act 2018  
 Sydney Water Act 1994  
 Tattoo Parlours Act 2012  
 Taxation Administration Act 1996  
 Teacher Accreditation Act 2004  
 Thoroughbred Racing Act 1996

Victims' Rights and Support Act 2013  
Waste Avoidance and Resource Recovery  
Amendment (Container Deposit Scheme) Act 2016  
Water Act 1912  
Water Industry Competition Act 2006  
Water NSW Act 2014  
Weapons Prohibition Act 1998  
Work Health and Safety Regulation 2017  
Workplace Injury Management and Workers  
Compensation Act 1998

### **Consumer and Commercial Division**

Agricultural Tenancies Act 1990  
Australian Consumer Law (NSW)  
Boarding Houses Act 2012  
Boarding Houses Regulation 2013  
Civil Procedure Act 2005  
Community Land Development Act 1989  
Community Land Management Act 1989  
Contracts Review Act 1980  
Conveyancers Licensing Act 2003 (but only in  
relation to Division 3 of Part 4 of that Act)  
Credit (Commonwealth Powers) Act 2010  
Dividing Fences Act 1991  
Fair Trading Act 1987  
Holiday Parks (Long-term Casual Occupation) Act  
2002  
Home Building Act 1989  
Motor Dealers and Repairers Act 2013  
Pawnbrokers and Second-hand Dealers Act 1996  
Property and Stock Agents Act 2002  
Residential (Land Lease) Communities Act 2013  
Residential Tenancies Act 2010  
Retail Leases Act 1994  
Retirement Villages Act 1999  
Strata Schemes Management Act 2015  
Strata Schemes Development Act 2015  
Sydney Water Act 1994 (Section 58)

### **Guardianship Division**

Children and Young Persons (Care and Protection)  
Act 1998  
Guardianship Act 1987  
NSW Trustee and Guardian Act 2009  
Powers of Attorney Act 2003

### **Occupational Division**

Aboriginal Land Rights Act 1983  
Architects Act 2003  
Building Professionals Act 2005  
Commercial Agents and Private Inquiry Agents Act  
2004  
Conveyancers Licensing Act 2003  
Fair Trading Act 1987  
Health Care Complaints Act 1993  
Health Practitioner Regulation National Law (NSW)  
Home Building Act 1989  
Legal Profession Uniform Law (NSW)  
Licensing and Regulation (Uniform Procedures) Act  
2002  
Local Government Act 1993  
Motor Dealers and Repairers Act 2013  
Passenger Transport Act 1990  
Pawnbrokers and Second-hand Dealers Act 1996  
Point to Point Transport (Taxi and Hire Vehicles) Act  
2016  
Property and Stock Agents Act 2002  
Public Notaries Act 1997  
Security Industry Act 1997  
Surveying and Spatial Information Act 2002  
Tow Truck Industry Act 1998  
Veterinary Practice Act 2003  
Wool, Hide and Skin Dealers Act 2004

# Appendix 2

## Major Legislative Change 2019-2020

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### **Building and Construction Industry Security of Payment Amendment Act 2018**

Assented to 28 November 2018. Amends the *Building and Construction Industry Security of Payment Act 1999*. The Act confers administrative review jurisdiction on NCAT. Commenced on 21 October 2019.

### **Building and Development Certifiers Act 2018**

Assented to 31 October 2018. The Act repealed the *Building Professionals Act 2005*, *Building Professionals Amendment Act 2008* and the *Building Professionals Regulation 2007*. The Act confers administrative review jurisdiction on NCAT. The Act commenced on 2 July 2020.

### **Charitable Fundraising Amendment Act 2018**

Assented to 31 October 2018. Amends the *Charitable Fundraising Act 1991* making further provision to the regulation of public fundraising for charitable purposes. The Act confers administrative review jurisdiction on NCAT. The Act is expected to commence late 2020.

### **Children's Guardian Act 2019**

A new Act consolidating the Children's Guardian key powers, functions and responsibilities in one Act. It extracts the Children's Guardian's adoption functions from the *Adoption Act 2000*, and the Children's Guardian's children employment functions and responsibilities regarding accreditation, monitoring and registration of out-of-home care from the *Children and Young Persons (Care and Protection) Act 1998*. The Act commenced on 1 March 2020.

### **Community Gaming (Amendment) Act 2018**

Assented to 28 October 2018. The Act repeals the *Lotteries and Art Unions Act 1901*. The Act provides a framework for the regulation of gaming activities for community charitable purposes and trade promotion purposes. The Act confers administrative review jurisdiction on NCAT. The Act commenced on 1 July 2020.

### **COVID-19 Legislation Amendment (Emergency Measures) Act 2020**

Commenced on 25 March 2020. Inserted new part into Schedule 1 to the *Civil and Administrative Tribunal Act 2013*.

#### **Part 5 - Provisions for COVID-19 pandemic**

- (a) to provide for special constitution requirements and practice and procedure in respect of functions of the Tribunal allocated to its Guardianship Division,
- (b) to provide for special constitution requirements in respect of the exercise by the Tribunal of functions under the *Public Health Act 2010*,
- (c) to enable regulations to be made that modify time periods for things done in connection with the Tribunal and the practice and procedure of the Tribunal
- (d) to enable the Tribunal and certain courts to extend periods for doing things in connection with the Tribunal.

### **COVID-19 Legislation Amendment (Emergency Measures—Miscellaneous) Act 2020**

Commenced on 14 May 2020. Amends the *Community Land Management Act 1989* by inserting

a temporary regulation-making power into the *Community Land Management Act 1989*, which will allow for regulations to be made to assist community land schemes to manage and fulfil their functions during the pandemic;

*Residential Tenancies Act 2010* to insert new sections 228A–228C for COVID-19 impacted tenants who are unable to negotiate a rent reduction with their landlord can seek to terminate their lease through NCAT (NSW Civil and Administrative Tribunal), which will limit compensation (break fees) to the landlord at no more than two weeks' rent;

*Retirement Villages Act 1999* to permit the Minister to issue orders exempting retirement villages, operators, residents or the Secretary of the NSW Department of Customer Service from certain requirements under that Act during the COVID-19 pandemic including rules about in-person meetings, votes conducted by written ballot at in-person meetings and various other requirements. There is also a further amendment to the *Retirement Villages Act* enabling the Minister for Better Regulation and Innovation to grant, by order published in the Gazette, exemptions from provisions of or under the *Retirement Villages Act 1999* that require non-compliance with an order under section 7 of the *Public Health Act 2010* relating to COVID-19;

*Strata Schemes Management Act 2015* by inserting a power to allow regulations to be made to assist strata schemes to manage and fulfil their functions during the pandemic. This will ensure that necessary provisions can be made for schemes to carry out essential functions during the pandemic in a way that is compliant with public health orders, such as allowing meetings and voting to be conducted remotely.

### **Design and Building Practitioners Act 2020.**

Commenced on 1 July 2020. Confers jurisdiction on NCAT to review decisions of the Secretary relating to registration of practitioners, disciplinary actions

against practitioners, information sharing arrangements.

### **Fair Trading Legislation Amendment (Miscellaneous) Act 2018**

Amends the *Uncollected Goods Act 1995* and other Acts to bring provisions relating to the disposal of abandoned and uncollected goods into a single Act (the *Uncollected Goods Act*) and to reform and simplify those provisions. The provisions commenced on 1 July 2020.

### **Fair Trading Amendment (Short – term Rental Accommodation) Act 2018**

Inserted new provision Section 137A Short-term rental accommodation into the *Strata Schemes Management Act 2015*. Commenced on 10 April 2020.

### **National Disability Insurance Scheme (Worker Checks) Act 2018**

Assented to 28 November 2018. The Act established worker screening arrangements for workers engaged in or associated with the provision of supports or services to people with a disability under the National Disability Insurance Scheme. Part 6 of the Act provides for administrative review of certain decisions made by the screening agency. The provisions of the Act relating to NCAT commenced on 1 July 2019.

### **Paintball Act 2018**

The Act recognises that paintball markers are not firearms and removes the regulation of paintball markers from the *Firearms Act 1996*. The Act confers administrative review jurisdiction on NCAT. The Act commenced on 1 July 2019.

### **Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020**

Commenced on 1 September 2020. Section 43 requires NCAT or any other court in proceedings relating to the building work the subject of the order

to consider a building work rectification order for the purposes of determining a building claim under Part 3A of the *Home Building Act 1989*. However, it also provides that nothing in that clause binds the Tribunal.

### **Residential Tenancies Amendment (COVID-19) Regulation 2020**

Commenced on 15 April 2020. Prohibitions on landlords from giving a termination notice to or applying to NCAT for termination orders due to rental arrears where tenants are financially impacted by COVID-19 for a period of six months from commencement.

### **Retail Leases Act 1994**

New Part 11 - COVID-19 regulation powers inserted into Act 25 March 2020 and regulation made 24 April 2020. NCAT is required to consider the leasing principles set out in the National Code of Conduct (SME commercial leasing principles during COVID-19) when making an order or decision relating to any of the following,

- (a) the recovery of possession of premises or land from a lessee,
- (b) the termination of a commercial lease by a lessor,
- (c) the exercise or enforcement of another right of a lessor of premises or land.

### **Retirement Villages Amendment Act 2018**

Commenced on 1 July 2019. Enables NCAT to make orders about compliance with emergency management requirements and giving residents' information about annual accounts and the appointment of the auditor.

### **Strata Schemes Management Amendment (Building Defects Scheme) Act 2018**

Amends the *Strata Schemes Management Act 2015* to make further provision with respect to the rectification of building defects in new strata schemes. The relevant provisions commenced on 1 July 2020.

# Appendix 3

## Tribunal Members at 30 June 2020

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### President

#### **The Hon Justice Lea Armstrong** BA(Hons) LLB(Hons) LLM

Justice Armstrong was appointed a Judge of the Supreme Court of New South Wales and President of the NSW Civil and Administrative Tribunal on 31 October 2018.

Prior to her judicial appointment, Justice Armstrong served for over three years as NSW's first female Crown Solicitor, with over 25 years' experience in government and commercial law.

Prior to being appointed as the NSW Crown Solicitor, Justice Armstrong worked as NSW Treasury's first General Counsel. Earlier in her career, Justice Armstrong served in a range of senior roles in the Crown Solicitor's Office, including as General Counsel and as an Assistant Crown Solicitor in commercial law and in administrative law. She also worked in a major Sydney commercial law firm, then Blake Dawson Waldron Solicitors.

Justice Armstrong holds a Masters of Law from the University of NSW, and a Bachelor of Laws (Honours) and a Bachelor of Arts (Honours) from the Australian National University.

### Deputy Presidents

#### **The Hon Acting Judge Jennifer Boland AM** DipLaw LLM (Syd)

Judge Boland was appointed as a Judge of the Family Court of Australia in October 1999. In July 2004 she was assigned as a Judge of the Appeal Division of the Court.

Judge Boland is presently an Acting Judge of the District Court of NSW, and Deputy President of the NSW Civil and Administrative Tribunal. Before her judicial appointment to the Family Court, her Honour was a litigation partner in the firm Corrs Chambers Westgarth, and practised in the diverse areas of product liability and family law.

She is a former member and Chairperson of several not-for-profit organisations and a current Foundation Chair of a charitable foundation. In 2012 Judge Boland was admitted as a Member of the Order of Australia.

#### **Judge Susanne Cole** LLM LLB(Hons) GDLP

Judge Cole was sworn in as a Judge of the District Court of NSW, and appointed as Deputy President of the NSW Civil and Administrative Tribunal and Division Head of the Administrative and Equal Opportunity Division and Occupational Division in February 2019.

Prior to her appointments in NSW, Judge Cole was a Judge of the District Court of South Australia for 16 years. She was the Senior Judge of the Environment Resources and Development Court of South Australia from 2010-2019, the Deputy President of the South Australian Civil and Administrative Tribunal from 2015-2017 and a Deputy President of the Equal Opportunity Tribunal of South Australia from 2002-2016.

Prior to her appointment to the bench, Judge Cole practised for 20 years as a solicitor and as counsel.

#### **Mr Mark Harrowell** BComm LLB

Mark Harrowell was admitted as a solicitor in New South Wales in 1982. He has degrees in Commerce and Law.

Presently, he is the Deputy President and Head of the Consumer and Commercial Division of the NSW Civil and Administrative Tribunal, having been appointed to that position in September 2019.

Previously, he worked in private practice having been a partner and managing partner of Abbot Tout from 1990-2007 and a partner at HWL Ebsworth from 2007-2012. He practised in the area of commercial litigation including construction law, contract and property disputes. His experience also extends to corporate law, insolvency and insurance as well as trade practices and consumer law.

In 2012 he was appointed as a part time Senior Member of the former Consumer Trader and Tenancy Tribunal of NSW, becoming the Deputy Chairperson (Determinations) in 2013.

Following the establishment of the the Tribunal in 2014 and until his appointment as Deputy President he held the position of Principal Member, initially as List Manager in the Consumer and Commercial Division, then as Principal Member Appeals.

### **Acting Judge Nancy Hennessy LLB (Hons) (ANU) LLM (Syd)**

Judge Hennessy was appointed as an Acting Judge of the District Court on 4 February 2019 and is currently a Deputy President of the NSW Civil and Administrative Tribunal. Before her appointment as an Acting Judge, Judge Hennessy was a NSW Magistrate and Head of the Administrative and Equal Opportunity Division of the Tribunal. Her areas of expertise include administrative law, human rights and protective jurisdictions involving children and people with disabilities.

### **Mr Malcolm Schyvens BComm LLB**

Malcolm Schyvens was admitted as a solicitor of the Supreme Court of Tasmania and holds degrees in law and commerce from the University of Tasmania.

Mr Schyvens is a past president of the Law Society Tasmania and was in private practice in Hobart for 11 years. He was also a part-time member of the Guardianship and Administration Board (Tas), the Forensic Tribunal (Tas) and a Director of the Centre for Legal Studies in Hobart. He also previously held the position of President of the Board of Cosmos Inc. (now Mosaic Support Services) Tasmania's largest provider of day services for persons with an intellectual disability.

He was appointed as the Deputy President of the NSW Guardianship Tribunal in October 2008 and was subsequently appointed as President of that Tribunal in September 2011. Upon the establishment of the NSW Civil and Administrative Tribunal (NCAT) on 1 January 2014 he was appointed as a Deputy President of NCAT and the Division Head of the Guardianship Division.

Mr Schyvens is currently the Chair of the Australian Guardianship and Administration Council (AGAC) and Secretary of the Council of Australasian Tribunals (COAT).

### **Mr Stuart Westgarth BA LLB**

Stuart Westgarth graduated in Arts and Law from the University of Sydney and has been in practice as a solicitor since 1975. He is a Fellow of the Australian Institute of Company Directors. Mr Westgarth was a Director of Legal Super Pty Ltd until April 2016. He was a partner in Corrs Chambers Westgarth from 1980 to 2007, and Managing Partner (Sydney) from 1995-1999. He was a partner at HWL Ebsworth from 2008-2012 and President of the Law Society of NSW in 2011. His main area of practice has been in commercial litigation, particularly banking, maritime and product liability litigation.

## **Members**

### **Adamovich, Barbara BA LLB LLM**

Senior Member. Admitted as a solicitor in 1998. From 2008 a Legal Member of the Mental Health Review Tribunal and, since 2012, a Senior Member (Legal) of the Guardianship Division of NCAT (formerly the Guardianship Tribunal).

### **Alamali, Nada BAEd LLB MA (TESOL)**

General Member. Since 2013, Children's Registrar, NSW Department of Justice; 2009-2012, Forum Facilitator (sessional), NSW Department of Justice. 2008-2013, Senior Family Dispute Resolution Practitioner, Bankstown Family Relationship Centre; 2007-2008, Family Dispute Resolution Practitioner, Fairfield Family Relationship Centre; 2001-2007 Principal Solicitor, Nada Alamali Solicitors; 1994-2001, solicitor at various firms.

### **Alder, Julia BA (Syd) DipLaw GradCertJourn (UTS)**

General Member. 1996-2015, litigation solicitor at various Sydney firms, including Corrs Chambers Westgarth. 2005-2012, a writer for publications including the *Law Society Journal*, *Workplace Review* and *SafetyCulture*. Currently Parish Administrator, St Michael's Anglican Church, Vaucluse.

### **Alexander, Dr Peter BVSc**

General Member. Country veterinarian with over 30 years' experience in both small and large animal medicine and surgery. He is an enthusiastic advocate for the NSW Animal Welfare League.

### **Anderson, Mark BA LLB**

Senior Member. Admitted as a solicitor in 1985 and as a barrister in 1990. Currently a barrister at the private Bar with over 30 years of advocacy experience and a part-time Senior Member of NCAT since 2014. Interests and experience in multicultural and Indigenous cultural issues; delivered a paper at the 6th World Congress on Family Law and Children's Rights 'Protecting the rights of indigenous and multicultural children and preserving their cultures in fostering and adoption' subsequently published in the *Family Court Review*: Vol 52 No 1, Jan 2014. Recently presented at the July 2019 Conference of The International Centre for Family Law Policy and Practice in London in relation to gender dysphoria and transgender issues. Presented on representing children at the AFCC Australian conference in Melbourne in 2017 and in Sydney August 2019. Worked as a counsellor and youth worker for the Association of Children with Learning Disabilities and with UNIFAM in his earlier years and subsequently trained and performed telephone counselling for Lifeline. Extensive work over the years in the care jurisdiction of the Children's Court and District Court, as well as regular appearances in *parens patriae*

and adoption matters in the Supreme Court and Court of Appeal, and in the *Federal Family Law Act 1975*(Cth) jurisdiction.

**Anthony, Lyn** BA MAppPsych MAPS

Senior Member. Registered Psychologist since 1996. Has worked in Forensic, Secondary and Tertiary education and in Private Practice. Member of the Mental Health Review Tribunal since 2008 (Civil and Forensic hearings). Appointed as Member to NCAT's Guardianship Division in 2016.

**Ash, David** BA LLM

General Member. Admitted as a barrister in 1998. Currently arbitrator, barrister and nationally accredited mediator. From 1991-1995, an Editor with HarperCollins Publishers and Law Book Co; 1996-1998, Research Officer with the Judicial Commission of NSW; 2006-2010, Council Member of the NSW Bar Association, NSW; 2008 to date, contributing author to the annual NSW Civil Procedure Handbook; 2018 to date, consulting Editor to the Federal Court Reports.

**Bailey AM SC FRSN, Ian** BArch DipLaw (BAB)

Senior Member. A practising architect from 1970-1980. Admitted to the Bar in 1983 and appointed Senior Counsel in 2004. Practiced in all states and territories as counsel in construction disputes. Arbitrator, mediator, construction lawyer and university lecturer. 2000-2014, Co-Director of Studies of Construction Law Masters University of Melbourne. 2004 to date Professorial Fellow Melbourne Law School.

**Bailey, Robyn** BA (Languages) LLB LLM NMAS Cert IV (Inv)

Senior Member (Guardianship, Consumer and Commercial, and Administrative and Equal Opportunity Divisions). Admitted to the Bar in 1988 and as a solicitor in 1989. Nationally accredited Mediator; Director - Exploresolutions Pty Ltd; Senior Member- Veterans' Review Board; Senior Member - ACT Civil and Administrative Tribunal; Assessor and Arbitrator; Former facilitator, Defence Abuse Response Taskforce; Regular Judge at the annual International Chamber of Commerce Mediation Competition (Paris).

**Baird, Dr Amee** BA

Senior Member. Worked as a clinical neuropsychologist for nearly 20 years in clinical and research positions in Australia and overseas in London and Paris. Currently based in Newcastle where she has a private practice and sees adults for diagnostic and medicolegal neuropsychological assessments. Her first books *Sex in the Brain* (NewSouth Publishing & Columbia University Press) and the co-edited *Music and Dementia: From Cognition to Therapy* (Oxford University Press) were both published in 2019. In 2020 she commenced a Juris Doctor at the University of Newcastle.

**Barnes, Susan** BA (Hons1) PhD Anthropology

General Member. Research interest in violence and abuse. Now retired. 2005-2010, Disability Advocate; 2010-2016, NSW Manager Disability Advocacy at People with Disability Australia (PWDA); 2015-2020, Community Member of NCAT in the Guardianship Division.

**Barnetson, Diane** BA BLegStud MIR

General Member. Since 1982 has worked in the Consumer Claims Tribunal and its subsequent Tribunals. She has also worked as an Industrial Advocate, as a Member Mental Health Review Tribunal, Social Security Appeals Tribunal, Migration Review Tribunal, Refugee Review Tribunal and as a conciliator at Human Rights and Equal Opportunity Commission. Has taught legal studies at TAFE and Wollongong University.

**Bartley, Glynis** LLB BSW GDLP

Senior Member. Admitted as a solicitor in 1996. Qualified as a social worker in 1986. From 1986-1988, District Officer, NSW Department of Family and Community Services. 2001-2004, Investigation Officer NSW Ombudsman. 2004-2014, Member and Senior Member of the Social Security Appeals Tribunal. 2014-2017, full-time Member of the Migration and Refugee Tribunals, then the Migration and Refugee Division of the Administrative Appeals Tribunal.

**Bartrop, John** BCom LLB (UNSW)

Appointed General Member of NCAT in January 2019. Admitted as a solicitor in 1978. Commercial Litigation Partner of a national law firm from 1984 to 2012. Practice included appearing in all Courts and Tribunals and undertaking mediations. Held various management positions including Managing Partner, Practice Group Coordinator and Board Member. Currently volunteer at a community legal centre.

**Bassett, Graham** BA DipEd MInfoTech LLB (Hons)

General Member. After being head of information technology at various Sydney schools, he was admitted as a barrister in both Queensland and NSW in 2002. He had a general practice in Byron Bay until 2014 in areas such as crime, intellectual property, family provision and contract. Lectures from time to time in Cyberlaw and Intellectual Property at Southern Cross University. 2007-2014, member of the Consumer Trader and Tenancy Tribunal and NCAT for the Northern River area of NSW. From 2014, director of the Bath (UK) based company, George Wood Movie Limited. Reappointed to NCAT in Sydney (and occasionally to do hearings in regional areas) in late 2017.

**Beale, Dr Ivan** MSc PhD

Senior Member. Adjunct Associate Professor, UNSW. Psychology Research Consultant. From 1990-1997, Associate Professor and Director, Professional Psychology Unit and Learning Assessment Centre, University of Auckland. 2005-2016, Aftercare board

member. Since 2005, Member of the Mental Health Review Tribunal. 2001-2014, Professional Member of the Guardianship Tribunal.

**Beckett, Angela** BA (Hons) MClinPsych Dip Child Psychiatry BLegS (Hons) DipLegPrac  
Senior Member. Admitted as a solicitor in 2003. Clinical psychologist, 1986. Member, Administrative Appeals Tribunal. From 1996-2000, solicitor Freehill Hollingdale & Page and Kingsford Community Legal Centre; 1983-1992, Service Manager Adult Developmental Disabilities Service, Illawarra. Former Member, Mental Health Review Tribunal, Social Security Appeals Tribunal, the Guardianship Tribunal and the Consumer Trader and Tenancy Tribunal NSW. Former board member Illawarra Disability Trust, Greenacres Association, Illawarra Housing Trust.

**Bell SC, Adam** FCIArb BA (Hons) LLB (Hons) BAppSc AssocDegAppSc  
Admitted as a solicitor in 1982 and admitted to the Bar in 1990. Appointed Senior Counsel in 2003. Nationally accredited mediator. Expertise in equity, commercial law, administrative law, arbitration and mediation.

**Berry, Dr Alexis** BSc (Hons) MBBS FAFRM  
Senior Member. Admitted as a Fellow of the Australasian Faculty of Rehabilitation Medicine, a faculty of the Royal Australasian College of Physicians in 2012. Currently a Staff Specialist in Rehabilitation Medicine in the Disability Assessment and Rehabilitation Team. From 2017, a professional Member of NCAT's Guardianship Division.

**Blake AM SC, Garth** BA (Syd) LLM (Syd)  
Senior Member. Barrister from 1984 to 2020, and in 2002 appointed Senior Counsel. Practised at trial and appellate levels in federal and state jurisdictions with a focus on commercial law and equity. 2002, Churchill Fellowship, to investigate church policy and practice in addressing child sexual abuse in Australian churches. 2018, Member of the Order of Australia, for significant service to the Anglican Church of Australia, particularly to child protection policy and professional standards, and to the law. Various roles in the Anglican Church of Australia since 1998, particularly relating to the protection of children and professional standards. International roles in the Anglican Communion since 2007; currently chair of the Anglican Communion Safe Church Commission.

**Blaxland, Wendy** BSW  
Senior Member. Qualified as a social worker in 1979. Currently Senior Social Worker, Western Sydney Local Health District (LHD) Aged Care Assessment Team (ACAT); Domiciliary Care Service, Westmead Hospital. Inaugural Honorary Secretary ADARDS (later called 'Alzheimer Association' then 'Dementia Australia'); 1994-2003, Court Visitor for Office of the Protective Commission (now

Trustee and Guardian); extensive experience in hospital and community settings, working with people living with dementia and other neurocognitive disorders, their families and carers.

**Bliim, Steven** DipLaw SAB  
General Member. Admitted as a solicitor in 1984. Most recently, three years as Principal Solicitor of a Community Legal Centre. 2012-2014, Solicitor General of the Republic of Nauru. 20 years at the Bar and 14 years as a solicitor.

**Bluth, Dennis** LLB LLM BA (Syd)  
Senior Member. Admitted as a solicitor in 1977. Partner HWL Ebsworth for over 25 years. Specialises in all areas of property law. Accredited property lawyer by the Law Society of NSW. Recognised in Doyle's Guide as a 'recommended' New South Wales property and real estate lawyer. Member, the Law Society Property Committee, and the General Practice Section of the Law Council of Australia. Former member, the Property Services Advisory Council. Named 'Lawyer of the Year' for Leasing Law in *Best LawyersTM Australia 2019 edition*. Former Chair General Practice Section, Law Council of Australia.

**Bolt, Mary** BA (Hons) (Syd) LLB (UNSW)  
General Member. 2003, College of Law Exemptee Program. 1999-2013, part-time member of the Administrative Decisions Tribunal sitting in the General Division, Equal Opportunity Division and Community Services Division. 2014 to date, General Member of NCAT in the Occupational Division and Administrative and Equal Opportunity Division. Also sits on appeal matters from the Guardianship Division.

**Booby, Rhonda** BA MPsyCh LLB (Hons) EMPA (Merit) DipEd DipLegPrac  
Senior Member. Admitted as a solicitor in NSW in 1999. Currently, Legal Member, Mental Health Review Tribunal; 2015, appointed to the State Parole Authority. 2014-2015, part-time Law Reform Commissioner.

**Boxall, Andrew** BA LLB (Syd) DSU (Paris II) MA (UNSW) GradDip Art History (Adelaide)  
Senior Member. Solicitor (NSW 1977, England & Wales 1982, WA 1987, Victoria 1989, Hong Kong 1989). Consultant, Allens Linklaters. Member, Superannuation Complaints Tribunal. From 1986-2016, Partner, Allens Linklaters; since 1995, Director, Waratah Receivables Group; 2004-2013, Director, UnitingCare Ageing, Western Region; 1996-2004, Director Transparency International; 2005 to date, Trustee, AMF Australia Foundation.

**Boyce, Philip** DipLaw (SAB) LLM  
Senior Member. Admitted as a solicitor in 1977. 1982-1997, Partner, Haille Paine Solicitors, Bowral and Moss Vale; 1997-2016, Principal, Philip Boyce & Associates, Bowral; 2014 to date, full-time Senior Member appointed to Consumer and Commercial

Division, Administrative and Equal Opportunity Division and Appeal Panel; 2006-2013, Senior Chairperson, Local Land Boards of NSW; 2003-2006, Judicial Member, Administrative Decisions Tribunal of NSW; 2006, Solicitor for Registrar General, Acting General Legal Counsel and Head of Legal Division, NSW Department of Lands.

### **Boyce, Stuart** MFireSafeEng MAIBS

General Member. JP, Grade A1 PCA and Grade A1 Accredited Certifier at the Buildings Professional Board since July 1998. Currently Founding Company Director at BCA Logic. Over 27 years' experience providing practical and innovative Building Code consultancy advice across numerous sectors and building types. Consultancy advice includes Building Code Compliance, Fire Engineering, Accessibility Compliance and other Building Legislative advice.

### **Briggs, Phillip** BArch (Hons1) PhD MDR FRAIA MIAMA

General Member. Chair NSW Chapter AIA Senior counsellors, Referee NSW District and Supreme Courts, Expert determiner, Arbitrator, Conciliator, Mediator. 1980 to date; Member of each NSW Tribunal having jurisdiction for resolution of building disputes to current membership of NCAT.

### **Britton, Anne** BA LLB (USyd)

Principal Member. Admitted as a lawyer in 1989. Currently, Principal Member of NCAT, Chair of Council of Australasian Tribunals (National) and Member of the Judicial Council on Cultural Diversity. 2009-2014, Senior Member, Administrative Appeals Tribunal; 2006-2009, Deputy President of the NSW Administrative Decisions Tribunal; 1999-2006, Judicial Member of the NSW Administrative Decisions Tribunal; 2006, board member of the NSW Legal Aid Commission.

### **Bullock, Suellen Mitchell** BSocStud (USyd)

General Member. Career is a mixture of social work, corporate management and administrative law review: Social Worker at Royal South Sydney Hospital and Rehabilitation Centre; Social Worker, NSW Legal Services Commission; Senior Social Worker QLD Legal Aid Office; Investigation Officer NSW Ombudsman's; Executive Officer, NSW Ombudsman's Office; Part-time Senior Member Veteran's Review Board; Deputy Principal Member Social Security Appeals Tribunal; Deputy Division Head Administrative Appeals Tribunal, Social Security and Child Support Division; Internal Ombudsman with the Internal Ombudsman Shared Service with Cumberland City, Inner West and City of Parramatta Councils.

### **Burke, Mary** MA (Special Education) (Macq) MPsychol (UNSW)

Senior Member. Registered Clinical Psychologist. Currently, an independent consultant in Disability Services. From 1995,

Professional Member of the NSW Guardianship Tribunal. Primary focus is the positive and effective management of complex challenging behaviour.

### **Burnet, Dr Heike** MBBS (Germany) AMC FRACP

Senior Member. Staff Specialist in Geriatric Medicine at Royal Prince Alfred and Balmain Hospital providing acute/subacute inpatient medical care.

### **Burns, Susan** BA (Qld) LLB (Syd)

Senior Member. Admitted as a solicitor in 1980, accredited mediator since December 2015. Presiding legal member in the Guardianship Division NCAT since 2012. Previously in private legal practice until 2012. Former part-time lecturer at College of Law 1989-1993.

### **Burton SC FCI Arb, Gregory** BA (Hons) LLB (Hons) (Syd) BCL (Oxon) FCI Arb FRI

Senior Member. Admitted to the NSW Bar in 1989 and appointed Senior Counsel in 2004. Senior Counsel in private practice. Arbitrator, mediator, expert determiner, court referee; auDA dispute resolution panel for domain names; 1990, founding and current editor, Journal of Banking and Finance Law and Practice; co-author, Banker and Customer in Australia; Procurator (church counsel) Presbyterian Church of Australia; 1980-1983, formerly solicitor Freehills (now HSF); 1984-1985, associate to Hon Justice Deane, High Court of Australia; 1987-1988, lecturer in law, Australian National University (ANU).

### **Butler, Rex**

General Member. Qualified in law, commercial dispute resolution, mediation and criminology. Previously a Member of the Consumer, Trader and Tenancy Tribunal and other similar Tribunals for 27 years.

### **Callaghan SC, Peter** LLM (Syd)

Principal Member. Took Silk in 1994. Practices principally in construction law and general commercial law. Sat as an Acting District Court Judge and regularly adjudicates as an arbitrator or Court referee, and mediates, particularly in construction industry cases. Formerly a Naval Judge Advocate, Deputy President of NSW Administrative Decisions Tribunal and Chairman of NSW Chapter of Institute of Arbitrators and Mediators Australia, 2003-2011.

### **Camden, Jodie** LLB (UNSW)

General Member. Graduated with a Bachelor of Laws from the University of NSW in October 1999. Holds a post-graduate certificate in Management from Macquarie Graduate School of Management 1998. Admitted to practice as a solicitor in February 2002. Practices as a Government Solicitor predominantly in employment law matters in NSW emergency services agencies. Currently appointed as a member of the Law Society of NSW

Government Solicitor's Committee and Employment Law Committee, with past appointments to the Legal Technology Committee and the Professional Conduct Committee. A long-term member of the Institute of Public Administration Australia (NSW). Appointed as a General Member of NCAT Consumer and Commercial Division in December 2018.

**Campbell, Cathy** DipLaw (LPAB)

General Member. Called to the NSW Bar in 1998. After a successful career on the production side of commercial television, obtained employment with insurance litigation law firm Max Connery and Co while studying law part-time. Practised as a solicitor with a varied practice in civil work generally, with a particular emphasis on legal professional negligence. Previously a Member of the Consumer Trader and Tenancy Tribunal. Involved with the young persons' charity Stepping Stone House, Sydney.

**Carter, Dr Tanya Lorraine** BVSc (USyd) MSc IAWEL (Edin) MANZCVS (Animal Welfare) FRCVS

General Member. An experienced small animal veterinarian who established her own veterinary practice in Haberfield, Sydney and is also a wildlife researcher. Published author and presenter on veterinary ethics. Master's degree in international animal Welfare Ethics and Law. Past President of the Animal Welfare Chapter of the Australian and New Zealand College of Veterinary Scientists (ANZCVS), President of the Welfare and Ethics Special Interest Group of the Australian Veterinary Association (AVA), Chair of the AVA's Animal Welfare Trust, member of a number of animal ethics committees. Former Member of NSW Veterinary Surgeons Board and Administrative Decisions Tribunal. Member of the NSW Kangaroo Management Advisory Panel and Chair of the NSW GWIC Animal Welfare Committee.

**Charles, David** BA LLM

Senior Member. Admitted as a solicitor in 1981. Admitted as a barrister in 1991. Over 35 years of experience in civil litigation as a practising solicitor and barrister. Appointed as Strata Schemes Adjudicator in 2012. Volunteered as a duty barrister from time to time at the Downing Centre, Local Court, under the NSW Bar Association Duty Barrister Scheme.

**Chenoweth, Bruce** MBBS (Monash) DPM RCS RCP (London) MRCPsych

Senior Member. Raised in Mackay, educated at Wesley College Melbourne, I was in the second intake of medical students at Monash Uni. Early experience as a GP in Mackay, then Psychiatry training in the UK. Returned as Deputy Director Psychiatry at Royal Brisbane Hospital then worked in the child abuse unit at the Mater Hospital Brisbane. 17 years in Adolescent Mental Health and the Early Psychosis Unit in Newcastle with an inexorable drift to Intellectual Disability Mental Health from 1991. Years of consulting to group homes, large residentials, and regional and

rural centres followed. 10 years with the Developmental Assessment Unit at St George Hospital and involvement with NSW Health and UNSW Dept of 3DN. Teaching and training of junior colleagues in Developmental Psychiatry has been a privilege and a joy.

**Christie, Alec** BA (Hons) LLB (Hons) GradDip European Union Law

Senior Member in the Administrative and Equal Opportunity Division. Admitted as a solicitor in 1989 in New South Wales and the Commonwealth. The founding partner of Digital Law (including Privacy) at Mills Oakley specialising in and recognised by peers for solutions in the areas of data privacy/cyber security, information (including in relation to Big Data analytics, AI, VR/AR and IoT), digital transformation, e-commerce (including online marketing), Blockchain, smart contracts and distributed ledgers, Cloud computing, sourcing and open source software across both the public and private sectors and a range of industries.

**Claridge, Julie** BA LLM

Senior Member. Admitted as a solicitor in 1988. 1990-2004 Special Counsel, Minter Ellison. Extensive experience in the community sector with particular interest in people with mental illness, intellectual disability or who are homeless.

**Clark, Katrina** BSc LLB

General Member. Admitted as a solicitor in 1985. Currently a Member of the Guardianship Division and Consumer and Commercial Division of NCAT. 1994-2003, General Counsel of Accenture (ANZ); 2008-2011, board member Carers NSW; 2002-2012, board member of the Association with Children with Disability NSW, serving as President 2007-2008.

**Cody, Christine** BA LLB LLM

Senior Member. Appointed in 2010 as a Member of the Migration and Refugee Review Tribunal (now Administrative Appeals Tribunal) and appointed in 2019 as a Senior Member (Legal) of the Guardianship Division of NCAT. Additional 16 years experience as a litigation solicitor in Sydney and London (including family law, discrimination, refugee, human rights law; Inquiry solicitor). Work with the NSW Ombudsman and in international organisations (Rwanda, Canberra, Sydney). Extensive experience working with vulnerable people.

**Coleman SC, Andrew**

Senior Member. Senior Counsel at the NSW Bar with 30 years' experience as a solicitor and counsel in commercial and general litigation and dispute resolution. Acted as mediator and expert determiner in commercial disputes. Major in the Australian Army Legal Corps (Reserve).

**Conley, Jennifer** BA LLB

Senior Member. Admitted as a solicitor in 1993. Previous experience as a solicitor in civil and administrative law with Legal Aid and community legal centres. Prior to the commencement of NCAT, appointed to the Guardianship Tribunal and the Administrative Decisions Tribunal. Currently also appointed to the Mental Health Review Tribunal.

**Connelly, Janice** BA LLB LLM

Senior Member. Admitted as a solicitor in 1989. Nationally accredited as a mediator in 2009. Extensive Court and Tribunal experience. Currently an assessor and arbitrator for the Local Court of NSW, a Senior Member (Legal) of the Guardianship Division of NCAT, a Presiding Legal Member of the Mental Health Review Tribunal and a mediator with the Workers Compensation Commission.

**Connolly, Denise** BA DipEd LLB (Hons)

Senior Member. Admitted as a solicitor in NSW in 2004. Former member Social Security Appeals Tribunal 1996-2006, Migration and Refugee Review Tribunals 2010-2015 and currently a member of the Administrative Appeals Tribunal in the Migration, Refugee and NDIS Divisions. Accredited Mediator. Also practised in family and child law.

**Connor, Elaine** BA (Hons) MPsy (Clin) LLB (Hons)

Senior Member. Qualified as a psychologist in 1979; Admitted as a solicitor in 1992. Extensive experience in guardianship jurisdictions in Victoria and NSW. Experience in a variety of legal roles and in advocating for people with disabilities. Currently also appointed as a Legal Member of the Mental Health Review Tribunal.

**Cootes AM, Janene** BSocStudies

General Member. Qualified as a social worker in 1977. Executive Officer, Intellectual Disability Rights Service. Appointed to the Guardianship Tribunal of NSW in 2002.

**Corley, Susan** LLB LLM BSc (Hons) PhD

General Member. Admitted as a solicitor in 1985. Currently also a Senior Research Associate at UNSW. From 1985-1992, solicitor with Mallesons, Stephen Jacques; 1994-2000, Legal Counsel and then Senior Legal Counsel with AMP Ltd; 1994-2013, part-time member of the Consumer Trader and Tenancy Tribunal and its predecessor tribunals.

**Corsaro SC, Franco**

Senior Member. Specialist construction lawyer and recognised leader in construction law with wide-ranging knowledge and experience in various areas. Currently listed as a Leading Senior Counsel in the 2018 Doyle's Guide. Began legal career with Henry Davis York in 1980 as a commercial litigation lawyer and appointed as Senior Associate in 1982. Called to the Bar in 1985

and took Silk in 2000. Has a keen interest and involvement in alternate dispute resolution and was a part-time lecturer in Commercial Arbitration at the University of Technology, Sydney between 2002 and 2005.

**Cowdroy OA QC, The Hon Acting Judge Dennis** LLB (Syd) LLM (KCL) Dip Air and Space Law (Lond)

Principal Member. Called to the Bar in 1971. Currently, Chair of the Australian Electoral Commission; Deputy President, Administrative Appeals Tribunal; Integrity Commissioner for the ACT Reporting Officers 154 Australian Defence Force. From 1971-1997, practising barrister; 1998-2006, Judge of the Land and Environment Court; 2006-2014 Judge of the Federal Court of Australia; 2013-2017 Judge Advocate to the Australian Defence Force.

**Craig QC, The Hon Acting Judge Malcolm** LLB

Principal Member. Admitted to the Bar in 1977. Appointed Queen's Counsel in 1989. Completed the CI Arb course in international arbitration and included in the list of BARADR Arbitrators in 2017. Currently serving as an Acting Judge of the District Court. From 2010-2016, served as a Judge of the NSW Land and Environment Court; 1992-1995, served as a Commissioner (part-time) of the NSW Law Reform Commission.

**Crawford, Dr Julia**

General Member. Small animal veterinarian with 33 years' experience. Past President of the NSW Division of the Australian Veterinary Association, Chair of the Veterinary Nursing Group National Industry Advisory Group and a Director of the Australian Veterinary Association.

**Crawley, Dr Karen** MBBS (USyd) FRACGP

Senior Member. 30 years' experience in the medical field. Currently a Cardiac Testing Supervisor, Surgical Assistant and Visiting Medical Officer. Most recently appointed as a Neurogenetics Research affiliate at the Kolling Institute of Medical Research, 2016 to present. Winner of the Cook Community Medal 2012, Paul Harris Fellow 2013, and Woman of the Year Award 2014 (Cronulla Electorate).

**Crowley, Debbie**

General Member. Since 1990, involved in community organisations that provide disability services or fund disability services. Experienced foster carer.

**Currie, John** BA LLB (Syd) LLM (Lond)

Senior Member. Admitted as a solicitor NSW in 1975; subsequently in other states, England and Wales. From 1990-1993, Member of Council and Committee Chairman Law Society of NSW; 1988-1993, Partner Corrs Chambers Westgarth; 1993-

2013, Partner and Head of Practice Henry Davis York; 2001-2013, Adjunct Professor of Law, University of Sydney; Since 1995, Deputy Chairman, Lawyers Assistance Program; 1993-2013, Judicial Member, Administrative Decisions Tribunal NSW; 2010-2013, Legal Member, Guardianship Tribunal.

### **Curtin SC, Greg BA LLB**

Senior Member. Admitted as a solicitor in 1987, a barrister in 1989 and appointed senior counsel in 2010. Experienced trial and appellate barrister whose practice includes a wide range of commercial and common law cases; has appeared for parties in various royal commissions, the NSW Independent Commission Against Corruption and coronial inquiries, as well as appearing as counsel assisting the NSW Independent Commission Against Corruption. He is entitled to practice in all Australian courts, in domestic and international arbitrations and as a mediator.

### **Daly, Sonja BA LLB**

General Member. Admitted to Supreme Court of NSW 1994. Admitted to the High Court of Australia 1994. Managing Partner of a law firm with 26 years practising in commercial and consumer litigation and dispute resolution.

### **D'Arcy, Jennifer BComm LLB (UNSW)**

Senior Member. Currently a Member of the Social Services and Child Support Division of the Administrative Appeals Tribunal, legal Member of the Mental Health Review Tribunal and a Senior Member in the Guardianship Division of NCAT from 2006. Experience working in private practice and in community legal centres.

### **Davidson, Patricia BEd (SpecEd) MSpecEd**

General Member. Qualified as a special education teacher in 1974. Over 40 years' experience working with people with disabilities in the fields of education and the community. 14 years' experience with the Public Guardian as a principal guardian, regional manager and assistant director.

### **Davison, Steven**

General Member. Qualified in psychology and public health with experience in community mental health services, forensic and occupational psychology, tribunals, state and federal public agencies and non-governmental organisations (NGOs).

### **Dawson, Rodney LLB (Syd)**

Senior Member. Admitted as attorney, solicitor and proctor of Supreme Court of NSW in 1970. Currently solicitor consultant. From 1970-2019; over 50 years' experience, with particular emphasis in administrative, local government and planning law. Former Councillor of Law Society of NSW and former Chair of various committees thereof; former Member, Board of Governors of College of Law and former Member, Legal Practitioners Admission Board.

### **De Jersey, Sancia**

General Member. Holds a mediation qualification from the Institute of Australian Mediators and Arbitrators. Her principal area in private practice of about 20 years was commercial litigation. Appointed a Member of the Consumer Trader and Tenancy Tribunal in 2012, and then appointed to NCAT.

### **Dinnen, Deborah BA LLB LLM**

Senior Member. Barrister practising in administrative law, employment and industrial law, discrimination law, and work health and safety prosecutions.

### **Douglas, Marshall BA LLB**

General Member. Currently a director and solicitor at O'Reilly Douglas & Co Pty Ltd, a nationally accredited mediator, part-time Member of the Administrative Appeals Tribunal and sessional arbitrator at the Workers Compensation Commission.

### **Drake, Peta LLM**

General Member. Graduated with a Masters of Law from the University of Sydney in 1984. Practiced with one of Sydney's pre-eminent law firms and as an in-house counsel in the oil and gas industry. Worked for the Australian Government in London in its foreign capital investment attraction program. Relocated to Singapore developing a range of home textiles. Built successful business as independent retailer in Sydney. Appointed as a non-judicial Member in the retail leasing division of the Administrative Decisions Tribunal. Appointed as a Member of NCAT in 2014.

### **Drennan, Jeniffer BA LLB (Hons)**

General Member. Formerly an NCAT conciliator. Nationally accredited mediator since 2007 (NMAS). Currently Chair of Resolution Institute Newcastle Professional Development Group - a group actively promoting the advancement of a diverse range of dispute resolution models in the wider community.

### **Dubler SC, Dr Robert LLB (Hons1) (Syd) BSc (Hons1) (Syd) LLM (Hons1) (Cantab) PhD (Syd)**

Senior Member. Admitted as a solicitor in 1986. Called to the bar in 1990. Appointed senior counsel in October 2004. LEADR accredited mediator, 2012.

### **Duffy, Dr Francis BSW (Hons) MSW PhD**

Senior Member. Lecturer in Social Work and Policy Studies, University of Sydney. Research areas include ageing, disability and social work practice. Previously a senior social worker and team leader at St Vincent's Hospital for 10 years. Board director with Charingfield Residential Aged Care Facility, Waverley for 9 years and previous board director of Abbeyfield Australia, community housing. In 2020, undertaking counselling/casework with men's behavioural change program at Relationships Australia.

**Durack SC, Philip** BJuris LLB BCL

Senior Member. Senior Counsel at the Sydney Bar with over 34 years' experience as a solicitor and counsel in commercial and general litigation.

**Dutra, Suhad** BA LLB

General Member. Admitted as a solicitor in NSW in 2000. Current Member of the Torture Claims Appeals Board (Hong Kong); Adjudicator of the Non-refoulement Claims Petition Office, Hong Kong. Previously a Member of the Administrative Appeals Tribunal (2015-2017); Member of the Refugee Review Tribunal and Migration Review Tribunal (2009-2015); Reviewer at the Independent Protection Assessment Office (2011-2012); 2017-2018; Reviewer at the Immigration Assessment Authority (2017-2018); Refugee Status Determination Officer for the Government of Nauru; Director/Principal Solicitor of the NSW Immigration Advice and Rights Centre (2003-2009); and co-author/editor of The Immigration Kit, 8th Edition.

**Easton, Michael** BEc (SocSc) MLLR LLB (Hons)

Senior Member. Admitted as a solicitor in 2000 and as a barrister in 2004. 30 years experience in industrial relations and employment law, including industrial disputes, restraints of trade, victimisation, unlawful and unfair dismissal proceedings.

**Eftimiou, Maritsa** BA LLB

General Member. Admitted as a barrister to the Supreme Court of NSW, 1983. From 1999-2007, Member of the Migration and Refugee Review Tribunal; 2003-2012, Member of the State Parole Authority of NSW.

**Eggleton, Dr Kylie** BA (Hons1) LLB BMed MD FRACGP

Senior Member. Works as a general practitioner in private practice with special interest in aged care and disability sectors. Admitted as a solicitor of the Supreme Court of NSW in 1999. Former local government and environmental lawyer and Associate to Justice RN Talbot.

**Ellis SC, Graham** BComm LLB FIAA FCPA

Senior Member. Holds the senior qualifications of an actuary, accountant and barrister. Admitted as a barrister in 1980. Served as a judge of the senior trial court and senior appellate court in Papua New Guinea 1990-1992 and 2009-2011.

**Epstein-Frisch AM, Belinda** BSW MSW

General Member. Adviser to the Independent Advisory Council of the National Disability Insurance Scheme; Consultant, National Support Agency, Disability Support Organisation Program; 2008-2013 Member, National People with Disability and Carer Council; 2006-2008, Deputy Chair, National Disability and Carer Ministerial Council; 1997-2007 Convenor, Disability Safeguards Coalition;

1994-2004, Senior Systemic Advocate, Institute for Family Advocacy and Leadership Development.

**Esdale, Lynden** BSocWk (UNSW) MSc Public Policy

General Member. Qualified as a social worker in 1976. Pursued a career primarily in social policy, social housing and homelessness in NSW Government agencies. Member and former board member of the Australasian Institute of Social Housing. Executive Chair of the NSW Housing Appeals Committee from 1996-2014.

**Fairlie, David** BA LLB LLM

Senior Member. 1975 as a Legal Practitioner. 2009-2020, General Counsel, Competitive Foods Australia Pty Limited. 1994, President, Law Society of NSW; Since 2016, chair, Disciplinary Tribunal of Chartered Accountants Australia and NZ. 2010-2013, Judicial Member, Administrative Decisions Tribunal; 2006-2019, Director, Australian Centre for International Commercial Arbitration.

**Fela, Richard Marcell** BA (Behavioural Science)

General Member. 2019, director, Dundaloo Foundation. From 2000-2003, Residential Support Worker for ADHC; 2003-2007, Child Protection Caseworker, Community Services; 2007-2016, Principal Guardian, NSW Public Guardian; 2016-2018, Community Visitor; 2016-2018, Community Member, NCAT's Guardianship Division.

**Fenwick, Susan** DipLaw DipBusAd

General Member. Currently, Presiding Chair, Housing Appeals Committee. From 1997-2010, Head of Operations at Audit Commission, UK, inspecting and reporting on service quality; 1985-1997, held a variety of operational and management roles in both social housing and local government in the UK.

**Ferreira, Ingrid**

General Member. Over 30 years' experience in business administration, customer service, middle management. Involved with Down Syndrome NSW and Special Olympics. Works for IDRS; this position puts her in contact with people with intellectual disability, many of whom are incapable of making essential life decisions.

**Field, Dr Barbara** MBBS MD FAFRM MPH BA MPhil

General Member. Currently teaching ethics in schools. Worked with physically and intellectually disabled children and adults and did genetic research at Sydney University.

**Flanagan, Sharon** BA (Hons) MPsy (Clinical)

Senior Member. Qualified as a clinical psychologist in 1989 and subsequently registered as a clinical neuropsychologist. Currently in private practice assessing and treating individuals with neurological and psychological disorders. From 1989-2020 in

private practice and in Sydney hospitals: Lidcombe Hospital (1989-1983), Royal Ryde Rehabilitation Hospital (locum 1994-1995, consultant 1998-2001), Prince of Wales Children Hospital (locum 1995), Calvary Hospital (2014-2017). Clinical supervisor of Clinical Psychology Masters students at UNSW (1995-2014) and University of Sydney (1996-1999). From 2002-2020 a professional Member of the Guardianship Tribunal (now Guardianship Division of NCAT).

### **Fogg, Sarah**

General Member. Community Member in the Guardianship Division with over 30 years' experience working for older people's advocacy organisations, services that support older people to live as independently as possible, and government.

### **Foldi, Matthew** BEc MBA (Macq) MGSM

General Member. Over 30 years' experience as business principal and Director of service related SME's (small to medium sized organisations) with specific expertise in lease and tenancy disputes and resolution.

### **Foreman AM, Emeritus Professor Philip** BA MLitt Med PhD FACE FAPS

General Member. Registered as psychologist in 1990. Currently, Emeritus Professor, University of Newcastle. Dean of Education at the University of Newcastle, 2001-2007. Life Member Royal Institute for Deaf and Blind Children and Australian College of Educators. Chair, NSW Institute of Teachers, 2007-2013. Member, Administrative Decisions Tribunal; 2007-2013, Member, NCAT since 2014. Publications include Education of Students with an Intellectual Disability: Research and Practice (2009) and Inclusion in Action (5th edition, 2017). Member, Order of Australia, 2013 for services to tertiary education and to people with a disability.

### **Fougere, Christine** LLB

Principal Member. Admitted as a solicitor in 1994. Currently a Principal Member of NCAT's Guardianship Division. Previously, Deputy President of the former Guardianship Tribunal and Legal Member since 2006. From 2012-2016, Legal Member of the Mental Health Review Tribunal. Extensive experience in administrative, discrimination and human rights law.

### **French, Philip** BA(Hons) LLB(Hons) GDLP

General Member. Admitted as a solicitor in 2007. Currently, also a Legal Member of the Mental Health Review Tribunal. Extensive experience in the provision of community legal services to persons with disability.

### **Frost, Stephen** BA (Hons) DipLaw (BAB) FTI

Senior Member. Admitted as a lawyer in 1989. From 1995 to 2008, a partner in the business advisory firm KPMG; 2006 to 2017, member of the Commonwealth Administrative Appeals Tribunal;

2010 to 2013, Judicial Member of the former NSW Administrative Decisions Tribunal.

### **Gardner, Michelle** LLB GDLP

Senior Member. Admitted as a solicitor in 2000. Extensive Tribunal experience. Currently, also a Legal Member of the Mental Health Review Tribunal and a Legal Member of the Victorian Civil and Administrative Tribunal. Previously a Senior Member of the Social Security Appeals Tribunal.

### **Giurissevich, Anthony** BA LLB (Syd)

Senior Member. Admitted to the Supreme Court NSW and High Court in 1976. Currently, consultant lawyer in Sydney mid-tier firm. Past Legal Member of Social Security Appeals Tribunal and Veterans' Review Board. Current Member of Mental Health Review Tribunal.

### **Given, Fiona** BA (Hons) LLB

General Member. Fiona Given has lived experience of disability and is a keen advocate for people who have little or no speech. Fiona runs her own training consultancy business, and serves on the boards of Side By Side Advocacy and Assistive Technology Australia.

### **Goldstein, David** BJuris LLB

Senior Member. Admitted as a barrister and solicitor in Western Australia, 1979. Admitted as a solicitor in NSW, 1983. Admitted as a solicitor in Hong Kong in 2006. Senior Member (part-time) Consumer Trader and Tenancy Tribunal and NCAT since 2012.

### **Goodman SC, Scott** BSc LLB (Hons) LLM

Senior Member. Solicitor from 1989-2001, including as a partner of a national law firm, specialising in commercial litigation including taxation litigation. Called to the bar in 2001 and appointed senior counsel in 2016. Mediator. Over 30 years' experience in a wide range of commercial litigation matters and in commissions of inquiry, including ICAC and the Banking Royal Commission.

### **Goodman-Delahunty, Prof Jane** BA TTHD JD PhD

General Member. Admitted to the bar in 1983, qualified as an Experimental Psychologist in 1986 (USA), as a registered psychologist in 2005 (Australia), and accredited as a mediator in 1994 (USA) and 2002 (Australia). Currently, Research Professor, Charles Sturt University, Manly. From 2002-2013, Commissioner, NSW Law Reform Commission; 2007-2013, mediator, NSW Department of Commerce; 1992-2001, administrative judge, US Equal Employment Opportunity Commission; From 2007, General Member of NCAT. Elected Fellow of the American Psychological Association.

**Gracie, Malcolm R** BA LLB (Hons1) FCI Arb

Senior Member. Barrister - admitted 1989. Arbitrator – Fellow CI Arb, Fellow ACICA, Grade 1 Arbitrator Resolution Institute. ACCC - NBNC National Arbitrator Pool; NSW Government - Mining and Petroleum Onshore Acts Arbitration Panels; Economic Regulation Authority of WA – Railway Access Arbitration Panel; Supreme and District Court Arbitration and Expert Determination Panels. Lieutenant Commander Royal Australian Navy (Reserve Legal Officer). Defence Force Registered Mediator. Memberships: NSW Bar Association; Honourable Society of Lincoln's Inn (UK).

**Grant, Christopher** BEc LLM GradDipEd

Senior Member. Admitted as a solicitor in 1989. Solicitor for over 25 years working in community legal centres, NSW Legal Aid and private firms. From 2014-2016, worked with the Royal Commission into Institutional Responses to Child Sexual Abuse. Main areas of practice are criminal law, family law and children's law.

**Grassi, Dr Tanya** MBBS (Hons) BSc Vet (Hons)

General Member. Currently a Lecturer at University of NSW. Long-term lived experience as a carer and advocate for people living with a disability. Deputy Editor of the Medical Journal of Australia over various periods between 1999-2013. Lecturer in Medicine at UNSW since 2011.

**Green, Dr Jenny** BEd MA PhD GradCert (Higher Education) MAICD

General Member. Chair of Macquarie Community College. Board member of the Australian Centre for Disability Law. Consultant and academic. An academic and practitioner with 30 years' experience in not-for-profit organisations and disability.

**Halbert, Jennifer** BA LLB

Senior Member. 1991 admitted as a solicitor of the Supreme Court of NSW and in the High Court of Australia. Nationally Accredited Mediator. From 1991 practised as a solicitor in private practice, as a Reviewer for the Office of the Legal Services Commissioner (OLSC), a solicitor and senior solicitor for the Women's Legal Resources Centre (WLRC). From 2003 to 2019, Registrar of the Family Court of Australia (FCOA) and the Federal Circuit Court (FCC). 2006-2016, Regional Appeal Registrar Eastern Region. Since 2016, appointed to the Guardianship Division and the Consumer and Commercial Division of NCAT in 2017.

**Halstead, Adam** MLLP AssocDegLaw

General Member. Part-time member of the Consumer and Commercial Division. Solicitor, Notary Public and part-time member of the Administrative Appeals Tribunal. Formerly member of the Social Security Appeals Tribunal, partner at Goldbergs Lawyers with a practice in commercial law, general legal practice as principal of Bradfield Mills Solicitors and solicitor-advocate at Legal Aid NSW.

**Halstead, Nathan** MBuildSurv (UWS) GradDip FireEng (VU) MTech Env Eng (UTS) JP

General Member. With more than 26 years of industry experience in building regulations and fire safety projects, Founded AED in 1999. Nationally accredited as a Building Surveyor and is a Grade A1 – Registered Building Surveyor within NSW, enabling him to provide certification and advice on all classes of building. Accredited Fire Engineer, accredited in NSW, Victoria and Queensland. Extensive experience in dealing with a wide range of projects, involving complex performance-based compliance solutions and fire safety engineering. Developed AED into a high-level consulting firm offering professional consulting and certification services to the construction industry.

**Hamilton SC, Roger** BA LLB LLM MTax

Senior Member. Formerly a barrister. From 1973-1977, Commonwealth Attorney-General's Department; 1977-1982, Australian National University; 1982-1987, Freehill, Hollingdale and Page; 1987-1988, Morgan Grenfell; 1988-1993, Minter Ellison; 1993-2006, barrister, NSW Bar; 2006 to present, Senior Counsel, NSW Bar.

**Hanstein, Sharon** BA LLB LLM

General Member. Admitted as a solicitor in 1994. From 2001 to 2010, a solicitor with Blake Dawson Waldron and the Australian Government Solicitor. From 2012, a Member of the Consumer, Trader and Tenancy Tribunal and NCAT.

**Harris SC, John**

Senior Member. Admitted as a solicitor in 1973 and called to the Bar in 1981. Appointed as Senior Counsel in both New South Wales and the Australian Capital Territory in 2002 before commencing duty as the Deputy Director of Military Prosecutions in 2013 and Acting Director of Military Prosecutions in 2015. Advised and appeared for a variety of NSW government instrumentalities including in the areas of fair trading and consumer protection as well as public law and administrative law. Assisting Counsel in a number of inquiries, including being personally chosen by the then Chief Justice of the ACT as senior counsel assisting in the Eastman Inquiry. Briefed regularly by the NSW Commissioner for Consumer Affairs and regularly appeared before the Commercial Tribunal. Experienced in landlord and tenant matters and commercial leasing disputes in relation to real estate and chattels, and has successfully participated in mediations and other forms of negotiations and alternative resolution processes.

**Harris, Philip** CSM RFD psc(r) BA LLM

General Member. Principal of a private legal practice in Tamworth specialising in property law and conveyancing, business and commercial law, and wills, deceased estates, powers of attorney and guardianship.

**Harvey, Danae BA (Hons) LLB**

General Member. Has worked in community legal centres in the Hunter and Illawarra regions of NSW from 1993-2003. In 1999 accredited as a mediator through Lawyers Engaged in ADR (LEADR). 2002-2013, appointed to the Consumer Trader and Tenancy Tribunal; 2005-2008, Mental Health Review Tribunal. Currently appointed as Assessor in the Small Claims Division of the Local Court since 2003, and to NCAT's Consumer and Commercial Division since 2014.

**Hausfeld, Dr Steven BA (Hons) PhD LLB**

General Member. Admitted as solicitor in 2001, called to the Bar in 2003. Practised at Bar in ACT and NSW until June 2019. 1975-1984, tutor and lecturer in psychology, Macquarie University; 1984-1998, Commonwealth public servant.

**Hayes, Elayne BA**

General Member. Qualified mediator through LEADR, 2013-2016. Voluntary work with University of Western Sydney Law School since 2011. 1983-1987, Social Security Appeals Tribunal Sydney; 1999-2000, Social Security Appeals Tribunal Canberra; 2006-2010 and 2013-2018, General Member, Veterans' Review Board; From 1998, a General Member of the Occupational Division of NCAT; since 2002 a General Member of the Equal Opportunity Division of NCAT; and since 2016, a General Member of the Childrens' Guardian area.

**Hennings, Simon BA LLB (Syd)**

General Member. Admitted as a solicitor 1989. Currently, full-time Member of NCAT. 2002-2005, part-time Member of Consumer, Trader and Tenancy Tribunal; 2006-2013, full-time Member of Consumer, Trader and Tenancy Tribunal; Since 1994, Committee Member Camden Show Society; Since 2001, Community Member for the Community Consultative Committee Camden Gas Project.

**Higgins, Sigrid BA LLM**

Senior Member. Admitted as a solicitor in 1983 and called to the NSW Bar in 1999. Graduate Certificate in Dispute Resolution 2000. Currently practising as a barrister. Part-time Judicial Member and Deputy President of the former NSW Administrative Decisions Tribunal until 2013; 2008-2013, Member, Defence Honours and Awards Appeals Tribunal; 2005-2012, Patent and Trade Marks Disciplinary Tribunal; 2002-2005, Legal Member of the NSW Chiropractors' Registration Board; 1995-1997, Executive Secretary of the International Commission of Jurists (Geneva, Switzerland); 1991-1993, Manager and Senior Lawyer, Commerce Commission (Wellington New Zealand), and Principal Legal Officer and Senior Assistant Director in the Office of the Commonwealth Director of Public Prosecutions; 1983-1987, Principal Legal Officer (Criminal Law Policy) Commonwealth Attorney General's Department.

**Hilson, Freda MSW MMgt (Community)**

General Member. 1979-2006, social worker and manager in a range of roles and services for people with physical disabilities, intellectual disabilities and Acquired Brain Injury. 2006-2012, Official Community Visitor with NSW Ombudsman. Since 2006, Community Member of the Guardianship Tribunal and NCAT's Guardianship Division.

**Hitter, Monique BSW DipLaw**

Senior Member. Solicitor with over 15 years' experience in civil law. Prior to that, she worked as a social worker in community health settings. Held legal positions in government, community and private sectors, with a particular focus on social justice.

**Holles RFD, Francis DipLaw SAB BLaw KI**

General Member. 1983, Solicitor (NSW); 1990, Barrister (NSW); 1996, Barrister (Ireland). NSW Private Bar. 1976-1989, NSW Legal Aid Commission; 1989, NSW DPP; 1990-2011, NSW, Crown Prosecutor; 2009-2018, Colonel Consultant Defence Legal Service.

**Houlahan, Lynn Mary BA Psych PGDipPsych MSpecEd DipWelfare JP**

Senior Member. Registered psychologist. Currently an Independent Decision Maker with the National Redress Scheme for victims of child sexual abuse; 1996 to date, NSW Mental Health Review Tribunal; 2013-2017, psychologist/commission officer with Royal Commission into Institutional Responses to Child Sexual Abuse; 1995-2013, deputy chairperson, NSW Housing Appeals Tribunal; 1996-2008, Professional Member, Administrative Decisions Tribunal. Formerly, regional co-ordinator and was previously an area manager, DOCS Disability and Child Protection Services.

**Hunter, Penelope BA LLB**

General Member. Admitted to the Supreme Court of NSW 1996. Holder of an unrestricted NSW practising certificate. Registered migration agent, 1994-1998, 2005-2007. Member of the Administrative Appeals Tribunal since June 2016. Former Member of the Consumer Trader and Tenancy Tribunal (2009-2013) and Social Security Appeals Tribunal (2009-2015); 2015 to 2016, Youth Justice Conference Convenor, Department of Juvenile Justice; 2010-2012, Independent Protection Assessment Officer, Independent Assessment Office; 1996-2010, senior associate/solicitor, various firms in Newcastle and Sydney including UTR Law, Tranter Lawyers, Turnbull Hill Lawyers, Uther Webster & Evans; 1995-1996, Tenants Advocacy Worker, South West Sydney Legal Centre.

**Isenberg RFD, Ret. COL Norman BA LLB DipEd**

Senior Member. Admitted as a solicitor in 1976. Consultant lawyer. Public Notary since 1993. Accredited Business Law Specialist for over 20 years. Officer Australian Army Reserve for over 30 years including Panel Leader, Army Reserve Lawyers Panel

NSW. Retired as Colonel, 2013. Formerly Chartered Tax Advisor, Fellow Australian Institute of Company Directors, Member Society of Trust and Estate Practitioners, Member Legal Consultative Committee to NSW Minister for Co-operatives. Member, Law Society NSW, Legal Education Committee.

### **Isenberg, Naida**

Senior Member. Formerly served on the Administrative Appeals Tribunal, Veterans' Review Board, the Migration and Refugee Review Tribunals and the Defence Honours and Awards Appeals Tribunal. Has a long legal background at a senior level in both the Commonwealth and NSW governments, as well as in the private sector. Holds the rank of Lieutenant-Colonel in the Australian Army Legal Corps. Served on the board of two charities, one of which is the War Widows Guild.

### **Jamieson, Dr Gail** MBBS FRACP

Senior Member. Geriatrician, gaining her specialist qualification in 2002. Over 10 years' experience in the public system, and now works in private practice, including providing a direct service to residential aged care facilities. Her interests lie in the field of dementia, psychogeriatrics and frailty.

### **Jarrett, Dr Mardi** MBBS (Hons) FRACGP MPHC DRANZCOG

Senior Member. General Practitioner, principal of a private medical practice, with special interests in community and residential aged care; women's health; palliative care and spinal cord injured patients. Since 2007 a hearing member and assessor for the Medical Council of NSW, conducting review processes for doctors following complaints. An occasional professional member of NCAT, Occupational Division for hearings regarding professional misconduct by doctors.

### **Jay, David** BSc (Hons) LLB (Hons)

Senior Member. Admitted to New South Wales Bar in 2004. Currently, practising barrister in commercial disputes, equity and tax law. Has presented papers for the Law Society's CLP programs on environmental law and family provision claims. Qualified mediator and acts as a Contributions Assessor for the Dust Diseases Tribunal. Before admission to the Bar, acted as a solicitor and in-house counsel for a private company. Member, Francis Forbes Society for Australian Legal history. Former tipstaff for Justice Peter Young.

### **Johnston, Susan** BSocStud MPH

General Member. Member of Australian Association of Social Workers from 1982. An 'Other Suitably Qualified' Member of NSW Mental Health Review Tribunal (forensic and civil panels) since 1994. 2008-2016, a Board Director of Evergreen Life Care (aged care facility).

### **Jones, Amanda** BSW

General Member. Accredited social worker with the Australian Association of Social Work. Currently in private practice with a focus on fostering, adoption and clinical supervision. Also employed as a social worker with NSW Health. Over 20 years' experience as a social worker. General Member since 2014.

### **Jones, Neil** BBus LLB ADipAg

Senior Member. Originally working in agriculture, admitted as a Solicitor of the Supreme Court of NSW and the High Court of Australia in 2002. Principal of a legal practice in Orange. Panel solicitor for Legal Aid NSW in areas of Mental Health advocacy, crime (duty, summary and indictable), family law and child care and protection (children and adult panels).

### **Kearney, James** BSc LLB (Hons1)

Senior Member. Pursued a career as a scientist before being admitted as a solicitor in 1985. Admitted as a barrister in 1986 and has practiced as a barrister at the private bar in NSW since then. Nationally Accredited Mediator and since 2009 a contributions assessor and mediator with Dust Diseases Tribunal of NSW; Chair of the MAIF Tribunal in 2017-19; in 2016 appointed Senior Legal Member of NCAT sitting in the Guardianship and Appeal Panel Divisions.

### **Kearney, Julie** LLB (Hons)

Senior Member. 1995 admitted as a solicitor of the Supreme Court of Queensland. 1996 admitted as a solicitor of the High Court of Australia. 2004 admitted as a solicitor of the Supreme Court of NSW. 2004 to 2014, Registrar of the Family Court of Australia and the Federal Circuit Court including secretary of the national Family Court Rules Committee 2010-2014. 2014 called to the Bar of NSW. Ongoing editor and contributing author to various legal publications including Australian Family Law and Family Law Reports. Since 2019, appointed to the Guardianship Division of NCAT.

### **Kennedy, Claudia** BA DipEd DipRC MA

Senior Member. Qualified as a rehabilitation counsellor in 1983, MASRC. Worked in disability practice, policy and education since 1980 at CRS, WorkCover, ADHC and University of Sydney.

### **Khadem, Atousa**

General Member. Principal consultant at Sapienti, a high-level legal consultancy services provider. Admitted as a solicitor of the High Court of Australia and Supreme Court of NSW in 1990 and has almost 30 years of experience working in a range of legal roles as a litigator, policy adviser, legal management consultant, and conflict resolution professional. Skilled and experienced in conflict management and conflict resolution practitioner; a Resolution Institute nationally accredited mediator and graduate of Harvard Law School in Advanced Negotiation. Certified Search

Inside Yourself teacher, a leadership program designed at Google. Facilitator at both Smiling Mind and the Resilient Leader.

### **Kinsey, Graham LLB**

General Member. Admitted as a barrister in 1976. Admitted as a solicitor in 1981. 1974-1977, legal clerk and legal officer with Corporate Affairs Commission; 1977-1986, legal officer and then manager of the Legal Services Branch, Department of Consumer Affairs. 1986, solicitor in private practice with John Orford & Associates; 1987-2014, sole practitioner; 2014-2017, Koutzoumis Lawyers. 2009-2013, part-time Member, Consumer Trader and Tenancy Tribunal. From 2014, part-time General Member of NCAT's Consumer and Commercial Division.

### **Koussa, Janet MCounsPsych**

General Member. Over 30 years' experience in intellectual disability, mental health and advocacy organisations. Past facilitator of eating disorders groups and panel member Mental Health Review Tribunal. Currently with neuroCare Clinic Sydney.

### **Laurence, Kerrie BA Educational Psychology**

General Member. Currently Manager, Reportable Conduct Unit, Department of Communities and Justice, 10 years. 16 years, child protection casework and management with Department of Family and Community Services and Barnardos. 2006-2007, Age Care Quality Assessor, Age Care Standards and Accreditation. 1990-2006, Member, Social Security Appeals Tribunal; 2001-2010, Member, Veteran's Review Board. 2002 to current, Community Member of the Guardianship Tribunal and Guardianship Division of NCAT. 10 years, teacher for adults and children with intellectual disabilities.

### **Le Breton, John Vincent**

General Member. Experience managing government and non-government services supporting people with disabilities. Community Member in Guardianship Division since 2007. Member Mental Health Review Tribunal since 2016. Former Director of the NSW Office of the Public Guardian and former Director of Victims Services NSW. Former Member Administrative Decisions Tribunal. Former member NSW Ministerial Reference Group on Person Centred Approaches and former Co-chair NSW Ombudsman's Committee on Community Living.

### **Le Poer Trench, The Hon Acting Judge Mark**

Principal Member. Appointed as a Judge to the Family Court of Australia in October 2001. Prior to his appointment, His Honour spent 20 years practising at the NSW Bar, predominately in family law, appellate advocacy, children's matters and de facto relationships. His Honour is currently a mediator and arbitrator for family law matters, and is a member of the Australian Institute of Family Law Arbitrators and Mediators. His Honour is a member of the Family Law Section of the Law Council of Australia.

### **Leal, Suzanne BA (Hons) LLB (Syd)**

Senior Member. Admitted as a solicitor in 1992. Currently, Senior Judge for the NSW Premier's Literary Awards. Former Member of the Migration Review Tribunal (2001-2015), Refugee Review Tribunal (2004-2015); and Judicial Member of the Administrative Decisions Tribunal (2004-2015).

### **Lennard, Jann BA LLB (Hons) (ANU)**

General Member. Barrister at Law NSW 1989. Solicitor and barrister ACT 1989. Nationally Accredited Mediator 2011. Currently, Senior Member ACT Civil and Administrative Tribunal. From 1988-2006, Lecturer in Law University of Canberra; 1998-2009, Member of the Residential Tenancies Tribunal ACT and Community Member Guardianship and Management of Property Tribunal ACT.

### **Levingston, John BA LLB (ANU)**

General Member of NCAT and previously CTTT for 10 years. Commonwealth Public Service 1977 to 1981: Coal, Uranium, International Trade Policy; Management Training Course 1978; NSW OIC - Consumer Protection 1980-81; Commonwealth Working Group on the Carriage of Goods by Sea. Admitted to the High Court and Supreme Courts of the ACT, NSW and Victoria. Private practice in Sydney as a Solicitor (15 years) and a Barrister (25 years) practising in commercial law; Accredited Mediator (NMAS); Arbitrator in domestic and international arbitrations and NSW Court Panels; Costs Assessor and Review Panellist NSW Supreme Court. Previously honorary positions as Adjunct Professor of Law at the University of Canberra; Conjoint Professor of Law at the University of Newcastle. Speaker at many domestic and international conferences; Author of numerous journal articles, The law of affidavits (2013), and The law of tribunals (2016).

### **Limbury, Ashley BEc(SocSc) (Hons) (Syd) MBA (UTS)**

General Member. Fellow of Resolution Institute and accredited since 2003. Accredited as a family dispute resolution practitioner in 2009. Currently, in private practice as a strategic facilitator and dispute resolution consultant with experience in discrimination, workplace, commercial and family law matters. Appointed as a Defence Force Restorative Engagement Facilitator 2017 and a Guardian ad Litem NSW in 2005. Mediator and General Member of the NCAT Administrative and Equal Opportunity Division.

### **Longley, Wendy BSc (Hons) MA MSc PhD**

Senior Member. Qualified as a clinical neuropsychologist in 1987. Fellow of the Australian Psychological Society's College of Clinical Neuropsychologists. Senior Member (Professional) of the Guardianship Division since 2014. Also working as a clinical neuropsychologist at the War Memorial Hospital, Waverley, since 2015. PhD completed successfully in mid-2019 in the area of

neuropsychological rehabilitation at Sydney University, Department of Medicine. 1987-1993, Clinical Neuropsychologist, Concord Hospital. 1993-2013, Senior Clinical Neuropsychologist, Multiple Sclerosis Australia (NSW). Ongoing, guest lecturer and/or clinical supervisor at Sydney University, Macquarie University, University of Technology Sydney, and the Australian National University.

### **Lonsdale, James** LLB LLM

Senior Member. Solicitor for over 20 years. Held a number of senior roles in government organisations including state owned statutory corporations as a lawyer and executive, as well as working as a solicitor in private practice. Has broad commercial, property, environmental and planning and administrative law experience.

### **Love, Elizabeth** BSW BA (Psychology and Sociology) MMHlth (Older Person)

Senior Member. Commenced employment as a social worker in 2002 and eligible for membership with the Australian Association of Social Workers (AASW). Since 2010, senior social worker at St Vincent's Hospital Sydney, in the Older Adult Mental Health Service. Acting social work professional educator at St Vincent's Hospital 2018. Casual academic at the University of Sydney, Faculty of Education and Social Work since 2013. Aged Care and Disability, Guy's and St Thomas' Hospital, NHS, London (2006-2009); social worker. Immunology and Infection Diseases, HIV, St Vincent's Hospital, Sydney (2002-2006); board member of Charingfield Limited, residential aged care facility (2015-May 2018).

### **Lucy, Dr Juliet** BA (Hons) LLB (Hons) PhD GDLP

Senior Member. Admitted as a legal practitioner in 2005; called to the bar 2012. Barrister, Six St James Hall Chambers. From 2008-2012, senior solicitor, NSW Crown Solicitor's Office. 2006-2007, solicitor, Clayton Utz (Brisbane). 2004-2006, research associate to President, Administrative Decisions Tribunal. 2000-2003, lecturer, Western Sydney University.

### **Ludlow, Christa** BA (Hons) LLB MA MSc (CoachPsych)

Senior Member. Admitted as a solicitor in 1994. Nationally Accredited Mediator. Certificate IV in Workplace Investigations. Principal Consultant, WEIR Consulting. Workplace investigator, coach and mediator. From 2006-2013, Assistant Crown Solicitor, Employment Law, NSW Crown Solicitor's Office.

### **Lynch, Anne** BA (Syd) LLB (UTS)

General Member. Admitted as a solicitor in 1994. Worked in private legal practice and with an insurance company in dispute resolution. Most recently employed as a conciliator at NCAT with employment primarily in Tribunals since 2001. Extensive experience in mediation and alternative dispute resolution.

### **Lynch, Joanne** BA LLB

General Member. Admitted as a solicitor in 1988. Registrar Children's Court of NSW 2015-current, Member Consumer Trader and Tenancy Tribunal (CTTT) 2002-2013, solicitor regional practice 1989-2002, trainer at Riverina Institute of TAFE 2002-2019, sessional lecturer Charles Sturt University 2013-2015, Chair Friends of Sunflower House Wagga Wagga 2017-2019.

### **Lyne, Elizabeth** BBus CPA GAICD

General Member. Currently, board director, Marathon Health Ltd; Trustee, NSW Responsible Gambling Fund. Past board director, Murrumbidgee Primary Health Network. Past board director, Murrumbidgee Medicare Local Ltd. Past board director, Riverina Division of General Practice and Primary Health Ltd.

### **Maclean, Dr Jennifer** BSc PhD LLB

General Member. Admitted as a solicitor in 2002. Currently a reviewer with the Immigration Assessment Authority. 2003-2006, legal officer, Legal Aid NSW; 2007 to date, held a number of senior legal roles in Federal and State government departments.

### **Marks, The Hon Francis** LLM

Principal Member. Admitted as a solicitor in 1963. Has extensive experience in insurance law, labour law, aviation law, and as a mediator. Author of several legal texts covering insurance law, employment law and work health and safety legislation. Previously Judicial Member, Industrial Relations Commission NSW and Justice of the Industrial Court of NSW.

### **Martin, Meredith** BA (Hons) DipEd MEd PhD

Senior Member. Currently consultant in disability, welfare, mental health, criminal justice sectors. Part-time lecturer, Sydney University. Member of Mental Health Review Tribunal. Professional Member of the Guardianship Tribunal. Ministerial Advisory Committee on Literacy and Numeracy (2012-2017) and NSW Board of Studies (2002-2017).

### **Marzilli, Claudio** BA (UNE) BCom LLB MCom (UNSW) GCDR (UTS)

General Member. FCPA to 2004 and FCA to 2009. Appointed as Member of NCAT's Consumer and Commercial Division since its establishment. Former Member of the Social Security Appeals Tribunal (1986-2002), Mental Health Review Tribunal (1995-1998), Residential Tribunal (1999-2002), Fair Trading Tribunal (2000-2002) and Consumer Trader and Tenancy Tribunal (2002-2013). Legal practitioner; accountant (audit inspector); and, senior lecturer in accounting and law.

### **Massey, Vaughan** DipLaw (SAB) PGDip Conflict Resolution

Senior Member. Admitted as a solicitor in 1979. Currently sole practitioner in private practice. Experience appearing as a separate representative before NCAT's Guardianship Division and in

matters before the Mental Health Review Tribunal over several years. Engaged in the study and practice of alternate dispute resolution since 1985. Ministerial appointment to the Council of the University of New England, 1984-1987. Volunteer solicitor and Member of the Management Committee of Macquarie Legal Centre, various times 1998-2004.

**Matheson, Marie** AEd BA (Hons) Clinical Psychology MA (Hons) Clinical Neuropsychology  
Senior Member. Nine years' experience as a clinical psychologist in the public sector. Qualified as a clinical neuropsychologist 1981. Extensive experience in the assessment of all forms of brain impairment and cognitive rehabilitation. Currently a Fellow of the Australian Psychological Society College of Clinical Neuropsychology (CCN), Senior Member of the Guardianship Division of NCAT, and Senior Member of the ACT Civil and Administrative Tribunal.

**Matkovich, Nicholas** BA LLB MBA  
Senior Member. Admitted as a Solicitor in the NSW Supreme Court in 1978, and subsequently admitted to practice in all States and Territories of Australia. Executive Certificate in Insurance, Fellow of ANZIIF and Fellow of ALUCA. Currently, Currently a Partner and an Insurance Practice Group Leader of the national law firm HWL Ebsworth. Notary Public.

**Matthews AM, Dr Richard John**  
Senior Member. Director, Neuroscience Research Institute, Alzheimer's Australia (NSW), Calvary Healthcare and Advisory Board, Centre for Healthy Brain Ageing. Former Deputy Director General, NSW Health, 2003-2011.

**McAlpine PSM, Ethel** DipT (Sec) BEd (ECE)  
GradDip (ECE) MEdStudies  
General Member. Consultant in Disability. 2004-2012, Deputy Director, General Ageing Disability and Home Care. Highly experienced social services professional with over 25 years' experience in direct service provision with people with disabilities, policy, strategy and operations. Has executive NSW Public Service experience in disability and education. Had executive oversight of the development of the NSW Disability Service Standards and completed her career in the NSW Public Service serving nine years as the Deputy Director-General of Operations. 2013 Australia Day Honours, awarded the Public Service Medal for services to people with a disability in NSW.

**McAteer, John** BA (Macq) MA (Macq) BLegS (Macq) GDLP (UTS)  
Senior Member. Legal practitioner (Australian Lawyer) admitted 2001 solicitor NSW and Commonwealth. Currently, solicitor in sole practice, board member, NFP social housing provider, Liveable Australia Foundation. From 2009-2011, NSW Privacy Commissioner; 2006-2009, Registrar Victims Compensation

Tribunal; 2002-2006, solicitor advocate, NSW Attorney General's; 1996-2002, senior investigator, NSW Ombudsman. Qualified mediator.

**McAuliffe, Jane** BA (Hons) MA DPsych (Clinical Neuropsychology)  
Senior Member. Qualified as a Clinical Neuropsychologist in 1987. Currently, a clinical neuropsychologist in both public and private rehabilitation and aged care services. Since 2008, engaged in clinical trials for the treatment of dementia within the Hornsby Ku-ring-gai Hospital Research Unit. A fellow of the Australian Psychological Society College of Clinical Neuropsychologists (CCN) and, from 2016-2018, Chair of the NSW CCN.

**McCalman, Maz** BA LLB  
General Member. Lawyer (volunteer) Hunter Community Legal Centre (Newcastle). Member of the Mental Health Review Tribunal since 2016. Board member Psychologist Board – Australian Health Professional Regulation Authority (AHPRA) since 2017. Past roles - CEO non-government community organisations. Senior Executive in Queensland and NSW – Housing and Disability.

**McCarthy, Shaun** BA LLB  
Senior Member. Admitted as a lawyer in the Supreme Court of NSW in 1988. Currently Director, University of Newcastle Legal Centre and Program Convenor of Practical Legal Training Program at the University of Newcastle. From 2005 a Legal Member of the NSW Guardianship Tribunal and NCAT's Guardianship Division.

**McCue, Margaret** LLM (UNSW)  
General Member. Admitted as a solicitor in 1988. Currently, a commercial lawyer practising in Macquarie Street Sydney. Nationally accredited mediator and a local court arbitrator. Executive board member of the Australian Dispute Resolution Association [ADRA]. Current non-executive board member of a local chamber of commerce, and a governor of a perpetual care entity. In May 2017, completed the Institute of Company Director's course conducted by the Broken Bay Institute. Former director of a co-educational school. Former chair of the board of strata scheme, the Oxley, Elizabeth Bay.

**McDonald, Scott** BA LLB FAICD  
Senior Member, Consumer and Commercial Division. Also commercial litigation partner and board member at Sparke Helmore Lawyers, specialising in complex corporate, insolvency and competition disputes as well as private international law, international commercial arbitration and pro bono disputes. Sits on and/or advises boards (including not for profits) and facilitates the legal education modules on directors' duties to members of the Australian Institute of Company Directors in the AICD Company Directors' Course. Also Deputy Chair of St John Ambulance Australia (NSW) since 2017.

**McIlhatton, Susan** BA LLB

Senior Member. Admitted as a Solicitor in 1983. From 2012-2013 Deputy President of the Guardianship Tribunal; 2007-2012 Member of the Consumer, Trader and Tenancy Tribunal; 2004-2006 Deputy District Registrar Federal Court of Australia.

**McMahon, Karen** BA LLB LLM

Senior Member. Admitted as a solicitor in 1992. Over 25 years' experience in litigation and dispute resolution in private practice, government and community sector. Specialised practice in health law between 2001-2016. Past Member of NSW Law Society Medico-Legal Liaison Committee. Legal Member with the Mental Health Review Tribunal and NCAT's Guardianship Division since 2016.

**McMurran, Alan** BA LLB (UNSW) GAICD

General Member. Admitted as a solicitor in 1977, Supreme Court of NSW. 2017, part-time Member, Administrative Appeals Tribunal; 2016, FLSS mediator; Principal Sydney Law Firm. From 1979-2018, private practice, solicitor and principal in law firm; Nationally accredited mediator since 1994; Arbitrator, District Court of NSW, 1996-2004; Councillor, Law Society of NSW, 2009-2012; Mediator, NSW, Law Society FLSS (Family Law Settlement Service).

**McPhee, Dr Brenda** MBBS (Syd)

Senior Member. Currently, General Practitioner at Macquarie Fields Women's Clinic and Leichhardt Women's and Community Health Centre. From 1994-2005 Professional Member, Social Security Appeals Tribunal; General Practitioner, Bankstown Women's Health Centre from 1992-2014 and at WILMA, Campbelltown Women's Health Centre from 2003-2018.

**Meadows, Geoffrey** BA BSocStud MTandCP LLB

Senior Member. Teacher, social worker, drug counsellor, parole officer and then solicitor with 27 years' experience in personal injury, insurance, employment and administrative law. Former Senior Member of the Consumer Trader and Tenancy Tribunal.

**Millbank, Prof Jenni** PhD (Kent) LLM (UBC) LLB (Hons) BA (Syd)

Senior Member. Admitted as a solicitor in 2001. Distinguished Professor of Law, University of Technology Sydney. An established socio-legal researcher with a wide range of expertise in health regulation as well as contract and consumer law.

**Moir, Jillian** BA (Hons) LLB GDLP BSc (Psychology)

Senior Member. Admitted as a solicitor in 1993. Currently, Senior Member, Veteran's Review Board. From 2006-2017, Member of the Social Security Appeals Tribunal/Administrative Appeals Tribunal. Many years' experience in mediation and conciliation.

**Molony, Peter**

Senior Member. Admitted as a barrister and solicitor of the Supreme Court of Victoria in 1980. Admitted as a barrister of the Supreme Court of NSW in 1986. From 1999-2002, Senior Member Fair Trading Tribunal; 2002-2013, Judicial Member Administrative Decisions Tribunal; 2002-2011 Senior Member Guardianship Tribunal; 2013-2016 Senior Member NCAT.

**Montgomery, Stephen** BScAgr LLB (Hons) GDLP

Senior Member. Legal Practitioner since 1992. Currently a solicitor. From 1999-2002, Member, Fair Trading Tribunal of NSW; 2002-2007, Member, Consumer Trader and Tenancy Tribunal; 2001-2013, a Judicial Member of the Administrative Decisions Tribunal; 2014 to present, Senior Member NCAT.

**Moran, Peter** LLB

Senior Member. Admitted as a solicitor in 1983. Currently, a Partner in law firm Colin Biggers & Paisley with over 34 years' extensive experience in insurance, reinsurance and commercial litigation. Lawcover panel solicitor for 27 years. Regularly presents papers and seminars on risk management to the legal profession and conducts training sessions for regional legal practitioners throughout NSW. From 2016 to date, Senior Member NCAT.

**Morgan, Catherine Tracy** BA (Hons) LLB (Hons) LLM

Senior Member. Admitted as a solicitor in NSW in 1989. Many years' experience as a solicitor in a number of legal areas including corporate and commercial law and public law. Formerly General Counsel and Company Secretary of icare. Previously worked as Manager, Legislation and Advising, NSW WorkCover, and as Assistant Director Attorney General's Department. Member of Law Society of NSW and Association of Corporate Counsel Bar Association.

**Moss, Deborah** BLegStud

General Member. Admitted as a solicitor in 1987, as a barrister in 1995. From 2002-2014, Member, Consumer Trader and Tenancy Tribunal. Since 2014, General Member of NCAT's Consumer and Commercial Division.

**Mulvey, Craig** BCom DipLaw LLM

Senior Member. Admitted as a solicitor in 2001. Called to the bar in 2005. Currently, a practising barrister in New South Wales. 2010-2014, Board Member and Co-Chair of the Inner City Legal Centre; 2009 to 2014, lecturer in Law at the University of New England.

**Murray, Dr Maree**

General Member. Teaches Law at the University of Technology, Sydney. Expertise in Diversity and Inclusion. Previously she was Director of the Wingara Mura Leadership Program, and Deputy Director of Diversity and Inclusion, at the University of Sydney.

Experience as an Industrial Relations academic, in research and evaluation, and in conducting workplace arbitration and mediation.

**Newman, Jennifer** BA GradCert Indigenous Research

General Member. PhD candidate, Institute for Social Justice ACU; teaching Aboriginal Studies in a range of settings.

**Nightingale, Anna** BN LLB (Hons)

General Member. Admitted as a solicitor in NSW 2002. Since 2014, a panel member with the Australian Financial Complaints Authority in general insurance, life insurance, banking, investments and superannuation and Specialist Reserve Legal Officer with the Royal Australian Air Force. Since 2017, General Member of NCAT's Consumer and Commercial Division.

**O'Carrigan, Patrick** FRAIA AIAMA

Senior Member. Registered architect and urban designer with over 25 years' experience in private and public sectors. Qualified as an arbitrator. Former Member, Administrative Decisions Tribunal with an interest in ethics and governance.

**O'Dowd, Norman James** BA LLB MPA

Senior Member. Admitted as a legal practitioner in 1993. Gained specialist accreditation in family law in 1999. Worked for Legal Aid NSW, providing representation to children and young people in the family law courts. Extensive mediation experience. Recently worked at UTS and The College of Law, teaching in the areas of family law, ethics law and justice, foundations of law and legal and professional skills. Also employed as a research associate on projects related to cross border surrogacy arrangements, and family violence and self-representation in the family law system.

**O'Meally AM RFD, John** LLB

Principal Member. Admitted to the NSW and Australia Bars in 1964. Papua New Guinea Bar 1965, Western Pacific Bar 1970. From 1979-1984, Judge, Workers Compensation Commission of NSW; 1984-2003, Judge, Compensation Court of NSW; 1985-2003, Member, Standing Committee on Judicial Education, the Judicial Commission of NSW; 1995-1998, Senior Member, Dust Diseases Tribunal of NSW; 1998-2011, President, Dust Diseases Tribunal of NSW; 2001, Judge, Supreme Court of the Eastern Caribbean in the High Court of Antigua and Barbuda; 2002, Acting Judge, Supreme Court of NSW; 2004, Judge, District Court of NSW. Acting Judge National Court of Papua New Guinea 1977. Commissioner International Commission of Jurists Geneva since 2015. Chief Legal Officer 2nd Military District Australian Army Legal Corps 1979, Honorary Colonel Australian Army Legal Corps 1996-1999.

**Organ, Lynne** LLB

Senior Member. Admitted as a solicitor in 1985. Currently, Member, Mental Health Review Tribunal. From 1986-2001 worked in a Community Legal Centre, Legal Aid and private practice; 2001-2015 specialised in the area of health law at the Health Care Complaints Commission and in private practice including disciplinary work, medical negligence and inquests. From 2017 committee member Lawyers Assistance Program.

**Oxenham, Melanie** BSW

General Member. Member of Australian Association of Social Workers (AASW). Official Community Visitor; Employed by the Public Guardian 1997-2012. Project Officer, Planning Ahead Tools website 2011-2012. Policy Officer/Mentor- NSW Supported Decision-Making Pilot 2012-2017. Facilitator/trainer NDIS awareness 2015-2017.

**Paull, Christine** BA LLB LLM

Senior Member. Admitted as a solicitor in 1979. Currently a part-time Senior Member in the Consumer and Commercial Division of NCAT. From 2003-2013, Senior Member, Consumer Trader and Tenancy Tribunal.

**Pearson, Linda** BA LLM MPP

Principal Member. Admitted as a solicitor in 1981. From 2009-2016, a Commissioner of the Land and Environment Court of NSW; 2005-2009, Senior Lecturer Faculty of Law, University of NSW. Former Judicial Member of the Administrative Decisions Tribunal and Presiding Member of the Guardianship Tribunal. Currently, Adjunct Professor, Faculty of Law University of NSW.

**Perrignon, Richard** BA (Hons) LLB (Syd)

Senior Member. Admitted as a solicitor of the Supreme Court of NSW in 1987 and as a barrister-at-law in 2002. From 2008-2014, judicial member of the Administrative Decisions Tribunal while practising at the Bar. Since 2010, a Member of the Workers Compensation Commission. Appointed as Senior Member, NCAT 2014 in the Administrative and Equal Opportunity Division and Appeal Panel. He is a nationally accredited mediator, and mediates cases before the Appeal Panel and in other Divisions of the Tribunal. As a barrister, he appears as Crown Prosecutor for the Commonwealth of Australia in jury trials for offences under Commonwealth law.

**Pheils, Johanna** BA LLB

Senior Member. Admitted as a solicitor in 1986. Was first appointed to the Tribunal in 1997. Currently Deputy Solicitor, Office of the Director of Public Prosecutions. Has practised criminal law for over 30 years.

**Pickering, Edwina** BSW MIR

General Member. Previous employment with National Disability Services and NSW Ombudsman, and as a consultant in the health

and community sectors. Member of Guardianship Tribunal since 2014.

**Pirina, Christina** BSc (Macq) LLB (HonsII) (Syd)  
LLM (UNSW)

General Member. Admitted to practice in 2005, with experience in a range of government, not-for-profit and private sector roles. Principal Solicitor at Macarthur Legal Centre, since 2014. Accredited mediator and Family Dispute Resolution Practitioner (FDRP). Casual academic at Western Sydney University (2015-17) and mediation/FDR coach at the College of Law (since 2015).

**Porter, Lyn** GradDipSocSc (Community Services)

General Member. Currently appointed as an Official Community Visitor. Many years of experience working in the areas of domestic violence, child protection investigation and monitoring the conduct of service provision in the Disability and Out of Home Care Sectors.

**Pratten, Catherine** MBBS (UNSW) Dip Foreign Languages

Senior Member. Registered as a medical practitioner in 1985. Professional Member of NCAT's Guardianship Division since 2015. Currently working in part-time general practice and as a medical officer at Family planning NSW; 1987-2010, a volunteer worker with Youth With a Mission in Australia, the South Pacific and Kazakhstan.

**Priestley, William** BA LLB

General Member. Barrister and mediator with over 25 years' litigation experience, with expertise in building disputes, wills and estate matters, personal injury disputes, consumer disputes and employment disputes. Registered with Commonwealth Attorney-General's Department as an accredited Family Dispute Resolution Practitioner, and on the NSW Supreme Court's list of approved mediators. Member of Australian Mediators Association.

**Ransome, Kay** BA (Hons) LLB (Hons)

Senior Member. Admitted as a solicitor in NSW in 2008. Member, Torture Claims Appeals Board and Adjudicator, Non-refoulement Claims Petition Office, Hong Kong. Lawyer whose primary expertise is administrative law. Many years' experience in tribunals, including as Chairperson of the former Consumer Trader and Tenancy Tribunal for 10 years and as Principal Member, former Refugee Review Tribunal and Migration Review Tribunal.

**Renwick SC CSC, Dr James** LLB SJD

Senior Member. Admitted as a solicitor in 1985 and as a barrister in 1996. Senior Counsel since 2011. Independent National Security Legislation Monitor 2017-2020, Adjunct Professor, Australian National University, Captain, RANR.

**Rickards, Kim** BCom LLB

General Member. Has had a private legal practice in Sydney and rural NSW for 39 years. Undergraduate degrees in Commerce and Law, and a Masters Degree in Comparative Law. Local and District Court arbitrator. Appointed as Judicial Member, Retail Leases Division, Administrative Decisions Tribunal in 2003, and as Member, Consumer Trader and Tenancy Tribunal in 2008.

**Ringrose, John** DipLaw (Syd)

General Member. Barrister at Law admitted May 1970. Currently, practising as a barrister in Sydney, Nationally Accredited Mediator since 2007. District Court Arbitrator 1998-2007. Supreme Court Arbitrator 2001-2004.

**Riordan, Michelle** LLB

Senior Member. Currently, Manager of Legal Education, Office of the General Counsel, Workers Compensation Independent Review Office. Previously a solicitor in private practice from 1987-2013, including a lengthy period of partnership in a law firm based in Sydney; 2005-2013, a Judicial Member of the Administrative Decisions Tribunal.

**Robberds AM QC, Lionel** LLB (Syd)

Senior Member. Admitted as a solicitor in 1963 and as a barrister in 1966. Barrister, July 1966 to the present, including the period 1988-1989 as a Member of the National Crime Authority. Appointed Queen's Counsel, 1982. Awarded Member of the Order of Australia 2016. Member, New South Wales Bar Association. Currently, Senior Member NCAT since 2014. Member Legal Profession Standards Board, 1994-1995. Member Legal Services Tribunal, 1995-1999. Part-time non presidential judicial member of the Administrative Decisions Tribunal of NSW (Legal Services Division), 1999-2013.

**Roberts, Susan** BA LLB (Hons)

Senior Member. Admitted as a solicitor in 1989. Currently, a consultant in the management and governance of institutions and organisations in the human rights and social justice field. From 1994-2010, various roles at the Australian Human Rights Commission including Director, Legal Services and Executive Director.

**Robertson, David** LLB BEc BCL

Senior Member. Admitted as a solicitor in 1986 and as a barrister in 1991. Practices in all areas of commercial law with a focus on banking, insolvency and building and construction. Appeared in courts and tribunals at all levels, in both NSW and interstate, including numerous mediations and arbitrations. Rhodes Scholar. Awarded the Rupert Cross Prize at Oxford University.

**Rose, Jeffrey** BCom LLB (UNSW) GDLP (UTS)

General Member. Admitted as a solicitor in 1994. Appointed as a Notary Public in 2002. Called to the Bar in 2011. Currently, a barrister in private practice (since 2011) and Naval Officer, Royal Australian Naval Reserve (since 2012).

**Ross, Katherine** BA BLegS

Senior Member. Admitted as a solicitor of the Supreme Court of NSW in 1987. 1991-2009, partner, Dunn Ross Lawyers; 2010-2011, Special Counsel, Harris Wheeler Lawyers. Past President, Disability Advocacy (NSW). Past part-time lecturer and tutor, University of Newcastle.

**Rosser, Kim** MA LLB (UNSW) LLM (Hons) (UTS)

Principal Member. Admitted as a solicitor of the Supreme Court of NSW in 1988. Currently a Principal Member of the Tribunal, sitting in the Consumer and Commercial Division and on the Appeal Panel. 2006-2013, Member Consumer Trader and Tenancy Tribunal. Previously a Senior Member of the Refugee Review Tribunal and a Member of the Social Security Appeals Tribunal.

**Roushan, Shahyar** BA LLB GDLP

Senior Member. Admitted as a solicitor and barrister in 1997. Since 2015, Senior Member of the Commonwealth Administrative Appeals Tribunal. Previously, Member and then Senior Member of the Refugee Review Tribunal and the Migration Review Tribunal.

**Royer, Rosemary** BSocStud (Syd)  
GradCertEdStud (Disability) (Newc)

General Member. Qualified social worker. Has extensive experience at a senior level over many years in government and non-government organisations working with vulnerable families, children and young people. Developed state wide policy and implemented services across health and disability services. Appointed in 2014 to NCAT's Administrative and Equal Opportunity Division as a General Member, and to the Guardianship Division in 2016.

**Ruschen, Katherine** BA LLB (Hons)

General Member. Over 20 years' experience as a solicitor, including 10 years as a partner of both boutique and mid-tier law firms. Specialist commercial and insurance litigation and dispute resolution lawyer, with a focus on professional malpractice and professional misconduct. Has represented healthcare and legal professionals in several high-profile Coronial Inquests and Royal Commissions and before professional disciplinary bodies. Appointed as an External Merit Reviewer for the State Insurance Regulatory Authority (SIRA). Holds a mediation qualification from the Australian Disputes Centre.

**Safro, Dr Elina** MBBS BScMed (Hons)

Senior Member. Medical Practitioner at Family Planning NSW and Marie Stopes International Australia. Visiting Medical Officer at

the Royal Prince Alfred Hospital Sexual Assault Service. Board Director, Women's Plans Foundation and Australasian Menopause Society.

**Sarginson, Gregory** BA LLB LLM (Syd)

Senior Member. Admitted as a solicitor in 1994. Admitted to the NSW Bar 2003. Barrister; Lecturer, University of Sydney Law Extension Committee. From 2005-2015, reporter, NSW Council of Law Reporting; From 2005 to date, lecturer, University of Sydney Law Extension Committee; From 2014 to date, contributor, NSW Civil Procedure Handbook (Thomson Reuters).

**Scahill, Anne** BA (Hons1) LLB

Senior Member. Solicitor with 36 years' experience in private, community and government practice. Previously senior administrator in University and non-government organisations. Member of the Mental Health Review Tribunal. Graduate of the Australian Institute of Company Directors and holds Management qualifications from Flinders University.

**Scarlett OAM RFD, Stephen** BA LLM  
GradDipCrim DipSocSc

Senior Member. Admitted as a solicitor in 1971. Admitted to the NSW Bar in 2017. Accredited Mediator NMAS. Magistrate. 1998-1995, Local Court of NSW; 1995-2000, Senior Children's Magistrate Children's Court of NSW; 2000-2013, Judge of the Federal Magistrates Court of Australia; 2013-2016, Judge of the Federal Circuit Court of Australia; 2017 to date, Senior Member of NCAT in the Occupational and Administrative and Equal Opportunity Divisions; 2015, awarded the Medal of the Order of Australia; 1964-2006, served in the Army Reserve and retired with the rank of Colonel.

**Schwager AO, Jane**

General Member. Nationally accredited mediator and Member of the former Administrative Decisions Tribunal. Extensive experience in leading Government Departments and non-profits.

**Searson, Jean-Anne** BA (Hons) LLB (Hons) (Syd)  
GDLP (College of Law)

General Member. Admitted as a solicitor of the Supreme Court of NSW in 1999. Practiced as a solicitor in private practice in rural NSW and at Legal Aid NSW.

**Shipp, Bernie** BA LLM

Senior Member. Admitted as a solicitor of Supreme Court of NSW in 1983, nationally accredited mediator in 2011. Member of Council of Australian Tribunals and the Law Society of NSW. From 1998-2006, Member, Social Security Appeals Tribunal; 2000-2013, Member, Guardianship Tribunal; 2001-2011, Member, Consumer Trader and Tenancy Tribunal. Senior (Legal) Member of NCAT in the Guardianship Division and Commercial and Consumer Division since 2014.

**Shub, Oscar** BCom LLB

Senior Member. Solicitor with 45 years of experience as a litigator and partner in major law firms around the world. Recognised mediator having trained through LEADR and a former chair of LEADR. Former Chair, Health Practitioners Competence Assurance and now Principal Member, NCAT in the Occupational and Administrative and Equal Opportunity Divisions.

**Simon, Theresa** BA DipEd LLB

Principal Member. Admitted as a solicitor in 2002. Currently a Principal Member of the New South Wales Civil and Administrative Tribunal (NCAT). Primarily appointed to the Consumer and Commercial Division and cross appointed to the Appeals, Guardianship and Administrative and Equal Opportunity Divisions. Practised as a solicitor in private practice in Western Sydney and established the Home Building Advocacy service at Macquarie Legal Centre. From 2008-2011, lectured in Law at Western Sydney University; 2011-2013, appointed as a Family Dispute Resolution Practitioner with Legal Aid; Previously a secondary school teacher in Western Sydney.

**Simpson, James** BA LLB LLM GCDR

Senior Member. Admitted as a solicitor in 1977. Currently, Senior Advocate, Council for Intellectual Disability. From 1986-1991, principal solicitor, Intellectual Disability Rights Service; 1994-1997, Deputy President, Community Services Appeals Tribunal; 2002-2016, presiding Member, Mental Health Review Tribunal. Justice medal 2002 – Law and Justice Foundation of NSW.

**Sindler, Michelle** BA (Hons1) LLM

Senior Member. Admitted as a solicitor in New South Wales (1985) and in all other Australian states and territories (1990) and in England and Wales (2007). Currently, an independent arbitrator working in Australia, the Asia-Pacific and in Europe. From 1990-2001, partner at Minter Ellison in Sydney; 2001-2007 partner of a major law firm in Switzerland; 2008-2010, partner of a major law firm in the UK; 2010-2013, Chief Executive Officer of the Australian International Disputes Centre (now the ADC) and Secretary-General of ACICA, the Australian Centre for International Commercial Arbitration.

**Slack-Smith, Gemma** BSW LLB

Senior Member. Degrees in law, social work and frontline management and is a recipient of a Churchill Fellowship. Extensive experience in the area of child protection law and has specialised in this area of law in the non-government sector for more than a decade. Spent her legal career working with, and for, disadvantaged clients, with mental health, family violence and drug and alcohol challenges. Extensive experience acting for children and adults with physical disabilities.

**Smith, Holly** LLM

General Member. Admitted as a solicitor in 2005 with experience in community and government practice, working in various areas of law. Recent years have been working as Registrar of the Local Court.

**Smith OAM, Dr Margaret** BA (Hons) MPsychol PhD FAPsS

General Member. Qualified as a community psychologist in 1977, registered psychologist AHPRA Psychology Board of Australia and Fellow of the Australian Psychological Society. Currently, community psychologist working with non-government mental health advocacy groups and a part-time member of the Mental Health Review Tribunal. From 2000-2008 Associate Professor in criminology and social work at the University of Western Sydney. Advocacy and consultancy work in disability, mental health reform and women's health programs since 1980.

**Smith, Jeffery** LLB (UNSW) BPharm (Syd)

Senior Member. Admitted as barrister in Supreme Court of NSW 1976. Registered as a Pharmacist by Pharmacy Board of NSW 1966. 1982-1997, Member, Pharmacy Board of NSW; 1989-1999, Member, Consumer Claims Tribunal; 1995-1999, Member, Building Disputes Tribunal; 1997-2002, Member, Residential Tenancies Tribunal; 1999-2002, Member, Fair Trading Tribunal; 2002-2009, Member, Consumer Trader and Tenancy Tribunal (CTTT); 2012 July-December, Acting Chairperson, CTTT; 2009-2014, Senior Member, CTTT; 2014 to date, Senior Member, NCAT.

**Smith, Peter** DipLaw (BAB)

General Member. Admitted as barrister in 1988. From 1999 Member of Residential Tribunal; 2002, Member of Consumer, Trader and Tenancy Tribunal; 2014, Member of NCAT.

**Smith, Stephen** BA MHA (UNSW) LLM SJD (Syd)

General Member. First career was in hospital management and took up law as a mature age student. After some years as solicitor in private practice went into academic work and took early retirement as a tenured senior lecturer at a city law school. Major interests were law and the health professions, administrative law and consumer law. Was for some years head of the university student law service. Was a part-time Member of the Fair Trading Tribunal and Consumer Trader and Tenancy Tribunal before appointment to NCAT.

**Spencer, Dr Margaret** RN BTheol BSW PhD

General Member. Qualified as a social worker in 1996. Awarded doctorate in 2007. Lecturer & Director of Field Education, Social Work Program, Faculty of Arts and Social Sciences, University of Sydney.

**Staples, Melissa** BA (Hons) MPsychol

Senior Member. Registered psychologist with specialist endorsement in the areas of neuropsychology and clinical psychology. Qualified as a psychologist in 1990. Currently, a private consultant. Has been a Professional Member of the Guardianship Tribunal since 2006.

**Starke, Alana** LLB (Hons) Executive MBA GAICD

Senior Member. Admitted as a Solicitor in 1996. Worked in both the public and private sectors at an executive level and across a wide range of legal areas including litigation, child protection, GIPA, privacy, corporate governance and commercial law. Formerly General Counsel FACS, Sydney Water Corporation and Sydney Ferries (within Transport for NSW). Extensive previous experience at King & Wood Mallesons.

**Steer, Charlotte** BA LLB (Syd) GCULT (UNSW)

General Member. Consumer and Commercial Division and Guardianship Division. Nationally accredited mediator. Teaching Fellow, UNSW Law. Admitted as a solicitor in 1988. Previously, solicitor at Legal Aid in NSW and ACT, NSW Anti-Discrimination Board and Seniors Rights Service, and Conference Registrar at AAT. Tribunal Member since 1997.

**Stewart, Leanne** BSW (UNSW)

General Member. Currently, consultant in aged and community care. From 1982-1991, Department of Social Security, social worker Moree, Dee Why, then Deputy Area Manager Sydney; 1991-1993 Home Care Service of NSW, Regional Manager, Sydney Metropolitan; 1993-1996, Anglican Retirement Villages Operations Manager. Community Member of the Guardianship Division NCAT since 2001, and Appeals Panel since 2016.

**Sutherland, Stuart** LLB GDLP LLM

General Member. Admitted as a solicitor in 2003. Currently a Principal in a law firm based in Newtown. Worked extensively in private practice in commercial, consumer, conveyancing, mental health, family and criminal law. From 2005, Panel Member for Legal Aid NSW and co-author of 'Children Under the Family Law Act, Lawyers Practice Manual New South Wales', Redfern Legal Centre. 2013-2014, volunteer solicitor with the Intellectual Disability Rights Service. Previously a casual lecturer in criminal law at the University of Western Sydney.

**Suthers, Aaron** LLB

Principal Member. Accredited specialist (Family Law). Accredited mediator, NMAS - FDRP. 1995, admitted to legal practice. Formerly a Director of Cheney Suthers Lawyers, Orange. From 2006-2009, Member, Guardianship and Administration Tribunal (Qld); 2009-2014, Member, Queensland Civil and Administrative Tribunal; 2014-2018, Senior Legal Member, NCAT.

**Sword, Donald**

General Member. Extensive experience in the delivery of services to people experiencing homelessness, and expertise in mental health and drug and alcohol services. Served as an Official Community Visitor appointed by the Minister for Disability Services, and as an Official Visitor to the hospital at Long Bay Correctional Centre. Member of the NSW Legal Aid Review Committee, the Justice Disability Advisory Council, and the State Parole Authority.

**Symons, Linda** BA BLegS MAA LLM

Senior Member. Appointed to the Guardianship Division of NCAT in September 2019. Currently also a Member on the Administrative Appeals Tribunal. Previously worked as a Member on the Refugee Review Tribunal and the Migration Review Tribunal, as an Investigator and Conciliator at the Human Rights Commission, as a Registrar at the Federal Circuit Court, as a Registrar at the Family Court, as a lawyer reviewing legislation at the Department of Community Services, as a Family Lawyer in private practice and as a Family Lawyer at the Legal Aid Commission of NSW.

**Taylor, Susan** BSocStud

Senior Member. Qualified as a social worker in 1973. 1992-2015, worked on Marrickville and Canterbury Acute Care Mental Health Teams; 1988-1992, manager of service providing support for people with multiple sclerosis; 1996-2011, Member of the Social Security Appeals Tribunal; 2002-2006, Member of the Mental Health Review Tribunal; 1992 to date, Professional Member of the Guardianship Tribunal.

**Thew, Penelope** BA LLB (UNSW) GDLP MLLR (Syd) Advanced Advocacy Course (Oxford)

General Member. Admitted to the New South Wales Bar, 2005. Admitted as a solicitor of the Supreme Court of New South Wales, 2000. Currently practising at the New South Wales Bar. From 2000-2005 worked as a solicitor in private practice and performed an Internship with the International Labour Organisation in Geneva, Switzerland; 1997-1999, worked with the former Human Rights and Equal Opportunity Commission.

**Thode, Sabine** BEc (Syd) DipLaw BSAB

Senior Member. Called to the Bar in 1999. A full-time Senior Member of the Consumer and Commercial Division, Member of the Appeal Panel, cross-appointed to the Administrative and Equal Opportunity and Guardianship Divisions.

**Thompson, Dr Liz** MBBS FAFRM

Senior Member. Rehabilitation medicine specialist with an interest in working with children and adults with intellectual disability.

**Thompson, Dr Susan** MBBS FRANZCP RANZCP  
AIRS

Senior Member. Child, adolescent, adult and family psychiatrist working for many years in inpatient and outpatient public mental health settings, private practice and for Relationships Australia. Currently, Professional Member of NCAT's Guardianship Division and a Psychiatrist Member, Mental Health Review Tribunal.

**Thompson, John** BComm (Ec) LLB

General Member. Solicitor and Public Notary. 1975-1980, investigator with Trade Practices Commission; 1980-1988, lawyer with NSW government agencies; 1984, Private Secretary to Attorney General of NSW; 1988-2018, barrister; 2018-present, solicitor and public notary.

**Thomson, Bruce** BA Dip FP FIAA

General Member. A self-employed independent consulting actuary with experience in risk management, investment, insurance and complaint mediation. Board and Committee member of charitable and local sporting associations. Former chair of a retirement village.

**Tibbey, Amanda** BJuris LLB LLM (UNSW) Grad  
Cert in Management (UWS)

Senior Member. Admitted as solicitor in 1987, called to the Bar in 2004. 2014 to date, Senior Legal Member, NCAT Guardianship Division; 2015 to date, cross appointed to Administrative and Equal Opportunity and Commercial and Consumer Divisions. Barrister, practising in equity, commercial and administrative law, nationally accredited mediator, appointed to Supreme and District Court panels of Mediators; Contributing author, Thomsons Civil Practice and Procedure, 2012 to date. 2013-2014, Chair, Women Barrister's Forum; 2014-2016, Member, NSW Bar Association Professional Conduct Committee; 2007-2008, Member, NSW Bar Association Human Rights Committee; 2008 to date, visitor, Australian College of Theology; 2012 to date, Executive Member, NSW Ecumenical Council.

**Tong AM, Dr Lizbeth** BA (Hons) (UNSW) MA  
DipPsychol PhD (Med) (USyd)

Senior Member. A/Fellow British Psychological Society, Member International Neuropsychological Society, Member EuroPsy European Psychological Society, Fellow Clinical College & Fellow Forensic College Australian Psychological Society, Principal Clinical Psychologist NSW Health Sydney Local Health District 2007-2020, Family Consultant Federal Circuit Court and Family Court of Australia, Child Protection Consultant to Office of NSW Crown Solicitor, Authorised Clinician NSW Children Court, Member Psychology Council of NSW since 2015, Appointed to List of Experts International Criminal Court, The Hague Netherlands since 2011.

**Toohey, Daniel** BSc LLB (Hons1)

General Member. Admitted as a solicitor in 1999. Currently, a solicitor and clinical teacher within the University of Newcastle Legal Centre, University of Newcastle.

**Toohey, Jill** BJuris LLB

Senior Member. Admitted as a solicitor and barrister in WA, 1981. Former member and Registrar of the Refugee Review Tribunal; Senior Member, Human Rights, State Administrative Tribunal (WA); Senior Member, General Division, Administrative Appeals Tribunal with responsibility for NDIS Division. Currently sessional arbitrator, Workers Compensation Commission; Deputy Principal Member, Nauru Refugee Status Review Tribunal; member, Australian Federation of Travel Agents Complaints Appeals Committee.

**Topolinsky, Vadim** BE (Structural) (UTS) FIEAust  
(NPER) FNIFI

General Member. Structural engineer and consultant with over 25 years' experience in structural, civil, forensic and remedial engineering. Engineering practitioner of many years with experience in residential, commercial and industrial projects. He was a past accredited mediator with the Department of Fair Trading and LEADR, an Accredited Certifier (Structural and Civil) *Environmental Planning and Assessment Act 1979* and a Member of the Accreditation Committee, Building Professionals Board (2009).

**Towney, Gina** BA LLB

General Member. Admitted as a solicitor in 2001. Currently a Member of the Hong Kong Torture Claims Appeal Board, hearing matters in relation to refugee claims. 2012-2017, Member of Administrative Appeals Tribunal; 2010-2012, Member of the Independent Protection Assessment Office; 2008-2011, Member of the Social Security Appeals Tribunal; 2017, lecturer in Administrative Law, University of NSW; 2001-2008, worked as a solicitor, including at the Women's Legal Centre, Legal Aid and Law Access NSW.

**Ulman, Gary** LLB LLM MA

Senior Member. Admitted as a solicitor in 1975. Currently a solicitor and nationally accredited mediator. Former Chair of Resolution Institute and former President, The Law Society of NSW.

**von Kolpakow, Michael**

General Member. Town planner with 35 years in local and state government and the private sector. He has extensive experience in project management specifically relating to major infrastructure provision, stakeholder and community engagement.

**Vrabac, Nick** BA LLB

Senior Member. 10 years' experience as a solicitor with the government and private practice. 2002-2010, Deputy Chairperson, Consumer Trader and Tenancy Tribunal. Volunteer with the Sydney Olympics and the World Youth Day. Secretary/Vice President of a National League Soccer Club for seven years.

**Wakefield FCIArB FACICA, Alexander** LLM (UNSW) MPhil (Cantab)

Senior Member. Admitted as a solicitor in 1990. Currently in private practice as a solicitor and chair of the Australian Disputes Centre. Accredited specialist in commercial litigation and former Court appointed arbitrator. Former President of the Chartered Institute of Arbitrators Australia. Former member of the Law Society Professional Conduct Committee. Former Judicial Member of the Administrative Decisions Tribunal.

**Walker, Professor Emeritus Geoffrey** LLB (Hons2) (Syd) LLM SJD (Penn) LLD (Qld)

Senior Member. Admitted to the Bar, 1965. From 2004-2009, Executive Deputy President, Administrative Appeals Tribunal; 2012-2014, Judicial Member, Administrative Decisions Tribunal; 2015 to date, Senior Member, NCAT. His translations of five major French historical works on Australia have been catalogued by the State Library of New South Wales and are available online for public use.

**Wall, Michael** BA LLB

Senior Member. Admitted as a solicitor in NSW in 1988. 2005-2019, District Registrar (NSW and the ACT) and National Judicial Registrar, Federal Court of Australia (and accredited mediator); 1995-2005, Senior Executive at ASIC in the Regulation, Financial Services and Managed Investment Teams. 1988-1995, solicitor employed in commercial legal practice.

**Wannan, Alison** BSW (Hons) MSW PhD

General Member. Currently a lecturer in social work and social policy at the University of New South Wales. Previously managed disability and community service programs and researched community led initiatives involving people with mental health issues as well as frail older people living in disadvantaged communities. Since 2014, a community member of NCAT's Guardianship Division.

**Watson, Margaret** BA (Welfare Studies) Cert Somatic Psychotherapy

General Member. Counsellor, Post Adoption Resource – the Benevolent Society. From 1975-1972 Welfare Manager, The Smith Family; 1982-1994 Member, Social Security Appeals Tribunal; 1990-2018 NSW Guardianship Tribunal full and part-time staff member; 2002-2010, Part-time Member, Guardianship and Administration Tribunal (Qld)/Queensland

Civil and Administrative Tribunal 2002-2010. 2008-date, Member of Guardianship Tribunal/NCAT.

**West AM, Dr Carolyn** MBBS (Hons) DCH

Senior Member. Qualified as a medical practitioner in 1969. VMO Spina Bifida Service, RPAH, 1982-2018. Staff Specialist, The Children's Hospital at Westmead, Director, Spina Bifida Service, 1979 to 2011. Medical Advisory Committee, Allowah Children's Hospital, 1990 to 2016. Guardianship Tribunal, 1989 to 2019. Member of Order of Australia for services to disability especially Spina Bifida, 2007.

**Willcox, Chris** BSc(Psych) (Hons) MPsych (Clinical) GCPSM

Senior Member of the Guardianship Division. Chair of the NSW Board of the Psychology Board of Australia and President of the Psychology Council of New South Wales. Clinical psychologist having worked in mental health for over 30 years and the Head of Psychology for Hunter New England Mental Health and co-chair of the NSW Health Psychology Advisory Network. A Conjoint Associate Professor in the School of Psychology at the University of Newcastle where he teaches in the under and post graduate psychology programs.

**Williams, Dr Sidney** MBBS FRANZCP

Senior Member. Qualified as medical practitioner in 1966 and psychiatrist in 1972. Member Faculty of Psychiatry of Old Age (RANZCP) 1999. Associate Professor, Psychiatry, University of Sydney 1989-1991. Ian Simpson Award (RANZCP) 2014 for 'outstanding service to the community, his patients and his colleagues'. A pioneer in developing services and education supporting people with dementia, their families and other carers particularly in South Western Sydney, regional and rural NSW. Also a member of the Mental Health Review Tribunal.

**Williams, Marcelle** BA (UNSW) GradDip School Counselling (USW)

General Member of NCAT's Guardianship Division since 2014. Currently working at the NSW Ombudsman in the area of reviewable disability deaths and reportable incidents. Previously worked as a guardian at the Public Guardian for over eight years and has held other roles in disability advocacy, case management and child protection.

**Wilson, Lucinda** BCom (Hons) LLB (Hons)

Senior Member. Barrister for 10 years before being appointed full-time Consumer and Commercial Division Senior Member. Had a civil and criminal practice at the Bar and conducted jury trials as both Crown Prosecutor and defence counsel. Previously on the Equal Opportunity Committee of the Bar Association and on the board of various non-profit organisations and CLCs.

**Wortley, Janice** BA(Ed) BA(Psych) MA  
(Counselling) Post Grad SpEd

Senior Member. Professional since 2001. Qualified psychologist (1986). 2001 Accredited Mental Health First Aid (MHFA) Melbourne University. 2014 Accredited Trainer; Certified accredited workplace trainer and assessor (TAE) ASQA. Currently contracted independent disability consultant/ intellectual and psychiatric disability. Accredited tertiary lecturer in disability, community services, including mental health, aged care and complex concerning behaviours. 1995-2001, NSW state manager, Department of Education and Training/TAFE Disability Services; Winner Premier's Award for Excellence Boarding Housing Reform.

**Wroth, Dr Melanie** MBBS (Syd) FRACP

Senior Member. Senior Staff Specialist Geriatrician at RPA Hospital managing acute inpatient medical care and providing a geriatrics consultation service throughout the hospital. Chief Clinical Advisor to Aged Care Quality and Safety Commission since May 2019. Member of the Medical Council of NSW for hearings resulting from complaints about medical practitioners 2000-2019.

**Yuvarajan, Dr Rasiah** MBBS FRANZP FPOA  
MRCPsych MBA

Senior Member. Senior specialist psychiatrist, Sydney West LHD. Senior psychiatrist, Raymond Tint Way & Associates. Specialist psychogeriatrician. Specialist transcultural psychiatrist.

**Ziegler, Deborah** BA LLB

Senior Member. Admitted as a solicitor in 1996. Currently a nationally accredited mediator. From 1996-1997, Associate to the late Hon Justice Burchett, Federal Court of Australia; 1997-2011, solicitor and senior associate at Freehills (now Herbert Smith Freehills); 2011-2012, forum facilitator, forum sentencing NSW; 2011-2012, Member, Consumer Trader and Tenancy Tribunal.

**Zoa Manga, Robert** MBBS MPH MHlthServMgmt

General Member. Background in medicine and medical research as well as teaching. Published in the field of medical research, public health, international health and health promotion. Member of the World Health Organisation International Classification Functioning Reference Group. Co-owner and Director of 'My Voice' and co-author of 'New Directions in Rehabilitation Counselling'. President of Spinal Talk, a support group for people with spinal cord injuries in Australia; Chair-Elect, Australian Catholic Disability Council. Dr Manga has a lived experience of a person with disability, having sustained a permanent spinal cord injury following a motor accident.

# Appendix 4

## NCAT Member Code of Conduct

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1. This Code of Conduct is issued by the President of the NSW Civil and Administrative Tribunal pursuant to section 20 of the *Civil and Administrative Tribunal Act 2013* (the NCAT Act). It applies to all Members of the Tribunal, including occasional Members. The Code may be reviewed from time to time to ensure its relevance.

### Purpose

2. This Code seeks to provide guidance to Members in the performance of their statutory functions as Members of the Tribunal and to assist Members in identifying and resolving ethical issues as they may arise.
3. A further purpose of this Code is to provide Tribunal users with information by reference to which to assess Members' conduct.

### Upholding the Objects of the NCAT Act

4. The objects of the NCAT Act include:
  - ensuring that the Tribunal is accessible and responsive to the needs of all of its users;
  - enabling the Tribunal to resolve the real issues in proceedings justly, quickly, cheaply and with as little formality as possible;
  - ensuring that the decisions of the Tribunal are timely, fair, consistent and of a high quality;
  - ensuring that the Tribunal is accountable and its processes are transparent and open;
  - promoting public confidence in Tribunal decision-making and the conduct of Tribunal Members.
5. Members are to perform their duties and conduct themselves consistently with these objects.

### General Responsibilities

6. Tribunal Members have the following general responsibilities both in their activities as a Member and in their personal activities:
  - to uphold the law, including being aware of and complying with legislation dealing with privacy, discrimination and corruption;
  - to uphold the highest standards of integrity, truthfulness, and honesty.

### Tribunal Values

7. In performing their duties, Members should at all times strive to give effect to the following values (derived from 'A Guide to Standards of Conduct for Tribunal Members' issued by the Administrative Review Council).

### Respect for the Law

8. Members should, while acting as a Tribunal Member and while performing functions associated with membership, demonstrate respect for all aspects of the law.

9. In particular, Members should:

- at all times while performing Tribunal duties comply with the law in relation to the conduct of hearings, the determination of matters and interactions with other Members, Tribunal staff and Tribunal users;
- ensure that all decisions and determinations are legally well founded.

## **Fairness**

10. Fairness requires a Tribunal Member to make unbiased, impartial decisions and to give all parties the opportunity to put forward their positions.

11. More specifically, Members are to:

- apply the law equally, and act in an impartial manner in the performance of their decision making functions, so that their actions do not give rise to a legitimate apprehension of bias or amount to actual bias;
- advise the parties of any matter or circumstance which might give rise to bias or conflict of interest or a perception of bias or conflict of interest and determine whether in the circumstances it is appropriate to continue to conduct or determine the proceedings;
- refrain, other than during a hearing or in exceptional circumstances, from any communication (either oral or in writing) or association during the course of proceedings with a party, legal representative or witness in the absence of the other party or parties or their representatives;
- abide by the principles of procedural fairness, in particular, by ensuring that parties have a reasonable opportunity to present their case and to answer the case against them;
- be aware of and address appropriately barriers such as language, cultural background, lack of literacy or disability which are likely to impede parties in presenting their case.

12. In addition, Members should:

- if engaged in another profession, occupation or business, take care to ensure that those activities do not conflict with or undermine the discharge of their responsibilities as Members;
- refrain from partisan political activity which is directly related to the work of the Tribunal or which may impinge upon the perception of impartiality of the Member or the Tribunal (including, for example, being a member of a registered political party).

## **Independence**

13. Tribunal Members are to perform their duties independently, free from external influence and free from the fear of adverse consequences.

14. Members should not allow themselves to be put in a position where their independence may be compromised or be perceived to be compromised.

15. Where part-time Members have a professional practice in addition to being Members of the Tribunal, they:

- cannot appear before the Tribunal as a representative of a party or other person;
- cannot advise individuals or bodies concerning Tribunal proceedings or potential proceedings involving those individuals or bodies; and
- cannot act for or against or provide services to individuals or bodies who are litigants before them in the Tribunal.

## Respect for Persons

16. Members are to conduct proceedings in a manner that is patient, courteous and respectful of all parties, witnesses, representatives, staff and others with whom Members have to deal.
17. In particular, Members are to:
  - demonstrate patience, courtesy and respect in their own conduct and demeanour;
  - communicate in a clear, plain manner so as to be understood by the parties;
  - control the proceedings in such a way as to create an environment in which participants can and are encouraged to treat other participants courteously and respectfully;
  - be aware of and responsive to cultural and other sensitivities in relation to forms of address, conduct and dress.
18. The Tribunal recognises the importance of fairness, dignity and respect for others in the workplace. Each person in the workplace, including staff and Members, should have a safe and secure place in which to work. The Tribunal does not tolerate inappropriate workplace behaviour, which includes bullying, harassment, sexual harassment, other forms of unlawful discrimination, vilification and violence.

## Diligence and Efficiency

19. Members are to be diligent and timely in the performance of their duties. They should take reasonable steps to maintain and enhance the knowledge, skills and personal qualities necessary to the performance of their duties.
20. In particular, Members should:
  - conduct proceedings and make decisions with due rigour, diligence and intellectual honesty;
  - perform their duties in the Tribunal so as to resolve matters in a timely and appropriate manner with a view to ensuring that the Tribunal's proceedings are efficient, effective and inexpensive;
  - provide oral reasons for decision where appropriate and deliver reserved decisions within the NCAT Divisional standards, except where the complexity or difficulty of the matter requires otherwise;
  - undertake and participate in professional development and training programs to enhance relevant knowledge and skills;
  - keep informed of developments in substantive and procedural matters within the jurisdiction of the Tribunal relevant to their duties;
  - support and encourage, where possible, the professional development of colleagues;
  - become proficient in the use of technology including the Tribunal's computerised case management system, digital provision of documents, the Tribunal's intranet, digital sound recording facilities, and other technological developments implemented by the Tribunal.
21. In order to promote the efficient conduct of proceedings, Members should:
  - clearly identify the issues and orders in dispute;
  - facilitate the resolution or narrowing of issues in dispute, where appropriate;
  - adjourn proceedings only when necessary in the interests of justice and fairness;
  - ensure that any interlocutory orders and applications do not unnecessarily delay the final determination of proceedings;

- ensure that evidence is confined by reference to the issues in dispute, and that it is given as concisely as is reasonably possible.

## **Integrity**

22. Members, in carrying out their duties as Members, are to act honestly and truthfully.

23. In particular, Members must:

- not knowingly take advantage of or benefit from information, not publicly available, obtained in the course of performing their Tribunal functions;
- not use their position as a Member improperly to gain or seek to gain any advantage or benefit for themselves or any other person;
- be scrupulous in the use of Tribunal resources;
- not disclose any confidential information otherwise than as permitted by law;
- refrain from conduct which would bring the Tribunal into disrepute.

## **Accountability and Transparency**

24. Members are accountable for their decisions and actions taken as Members and have a responsibility to be open and frank about their decisions, actions and inaction in relation to their duties.

25. In particular, Members are to:

- participate in performance evaluations conducted by the Tribunal;
- co-operate fully in complaint investigations carried out by the Tribunal.

## **Responsibility of the Tribunal Head and Heads of Divisions**

26. It is the responsibility of the President together with the Heads of each of the Divisions to assist Members to comply with the Code of Conduct and to perform their responsibilities as Tribunal Members through the provision of appropriate training, leadership and support.

## **Particular Issues**

### **Gifts, Benefits and Hospitality**

27. Where gifts or benefits are offered, or social invitations extended, by parties or representatives in Tribunal proceedings, to Members in their capacity as such, these should, as a general rule, be declined.
28. If a gift is proffered to a Member, in his or her capacity as a Member, in circumstances where it cannot be or it is inappropriate for it to be declined, it should be handed to the Principal Registrar for inclusion in the Tribunal's gift register and appropriate disposition. Donating the gift to a charity, using the gift for the benefit of Members or staff generally or publicly displaying the gift in the Tribunal's premises may be appropriate, depending on the circumstances.

### **Corrupt Conduct**

29. If a Member becomes aware of an instance of behaviour that could be corrupt conduct, maladministration, or criminal conduct, relating to the Tribunal, the Member should report it promptly to the Principal Registrar or the President, and also, if appropriate, to the Independent Commission Against Corruption.

## **Post Service Conduct**

30. After ceasing to be a Member of the Tribunal it is expected that a former Member:
- would continue to behave in a way that upholds the integrity and good reputation of the Tribunal;
  - would not appear before the Tribunal as a representative where to do so would contravene the Barristers' Rules, the Solicitors' Rules or any other similar applicable professional rules;
  - would not use or take advantage of confidential information obtained in the course of his or her duties as a Member.

## **Complaints**

31. Complaints in relation to Members will be dealt with as outlined in NCAT Policy 1 - Complaints.

## **Compliance with the Code**

32. If a Member does not comply with the Code, the President may direct the Member to take specified action to rectify his or her conduct or determine that further work not be allocated to the Member until the breach is rectified. In cases of serious breach the President may refer a matter to the Attorney General or recommend that the Member not be reappointed at the expiration of their term. Whether such action will be taken will depend on factors such as the seriousness of the conduct in question, whether there is a pattern of such conduct, the intent of the Member concerned and the effect of the conduct upon the Tribunal or others.
33. The Code of Conduct does not stand alone but forms part of the accountability framework within which both the Tribunal and the Members operate. It is complementary to the Tribunal's procedures and policies, including the Member professional development framework and the Tribunal's complaints process.

# Appendix 5

## NCAT Expenditure Report

The following NCAT Expenditure Report applies to the period of 1 July 2019 to 30 June 2020.

<b>SALARY AND RELATED PAYMENTS</b>	<b>\$'000</b>
Salaries (staff and full-time members)	14,949
Statutory appointees (part-time members)	17,001
Contractors (agency temporary staff)	739
Annual leave and sick leave	2,591
Overtime	1
Long service leave	1,886
Superannuation	3,016
Workers compensation	240
Payroll tax	1,968
Fringe benefit tax	10
Other	26
<b>Subtotal</b>	<b>42,427</b>

<b>OPERATIONAL EXPENSES</b>	<b>\$'000</b>
Office accommodation	6,425
Postage and couriers	608
Telephones	498
Electricity gas	170
Minor computer purchases and consumables	103
Fees	297
Training and development fees	54
Travel expenses	299
Printing	208
Interpreters	667
Publication	108
Insurance	320
Maintenance	308
Minor miscellaneous	69
<b>Subtotal</b>	<b>10,134</b>
Depreciation	2,939
Ex-Gratia payments	0
Impairment on receivables – JusticeLink	0
<b>Total operational expenses</b>	<b>55,500</b>

\* Note that travel expenses were lower comparing to 2018/19 due to restrictions in place regarding travel to contain the spread of COVID-19.

**Note:** This appendix is based on information supplied by Strategic Finance, Department of Communities and Justice. The Audit Office had not completed the audit of the Department's financial statements when this information was supplied.

# Appendix 6

## Service Standards: Lodgement to Finalisation

The following tables show the service standards for the resolution of matters by each NCAT Division, as indicated from lodgement to finalisation, during the period of 1 July 2019 to 30 June 2020.

### Administrative and Equal Opportunity Division

LIST	SERVICE STANDARD	TARGET	MET TARGET%	TOTAL VOLUME	VARIATION TO TARGET
Administrative Review List	9 mths	80%	<b>78%</b>	<b>458</b>	-2%
Community Services List	9 mths	80%	<b>75%</b>	<b>123</b>	-5%
Equal Opportunity List	9 mths	80%	<b>72%</b>	<b>148</b>	-8%
Revenue List	9 mths	80%	<b>75%</b>	<b>69</b>	-5%

### Consumer and Commercial Division

LIST	SERVICE STANDARD	TARGET	MET TARGET%	TOTAL VOLUME	VARIATION TO TARGET
Tenancy List					
<i>Termination</i>	4 wks	80%	<b>65%</b>	<b>17,072</b>	-15%
<i>Non-termination</i>	8 wks	80%	<b>73%</b>	<b>12,233</b>	-7%
Social Housing List					
<i>Termination</i>	4 wks	80%	<b>57%</b>	<b>8,437</b>	-23%
<i>Non-termination</i>	8 wks	80%	<b>78%</b>	<b>3,944</b>	-2%
General List	12 wks	80%	<b>70%</b>	<b>3,631</b>	-10%
Home Building List					
<=\$30,000	16 wks	80%	<b>73%</b>	<b>1,624</b>	-7%
>\$30,000	18 mths	80%	<b>88%</b>	<b>834</b>	8%
<i>Other</i>	16 wks	80%	<b>70%</b>	<b>170</b>	-10%
Residential Communities List					
<i>Termination</i>	6 wks	80%	<b>67%</b>	<b>33</b>	-13%
<i>Non-termination</i>	20 wks	80%	<b>80%</b>	<b>875</b>	0%
Strata and Community Schemes List					
<i>Adjudication</i>	16 wks	80%	<b>50%</b>	<b>14</b>	-30%
<i>Hearing</i>	16 wks	80%	<b>52%</b>	<b>29</b>	-28%
Strata Schemes List					
<i>Group</i>	16 wks	80%	<b>88%</b>	<b>182</b>	8%
<i>Special</i>	24 wks	80%	<b>83%</b>	<b>1,094</b>	3%
Motor Vehicles List	16 wks	80%	<b>78%</b>	<b>1,368</b>	-2%
Commercial List	16 wks	80%	<b>72%</b>	<b>657</b>	-8%
Retirement Villages List	16 wks	80%	<b>58%</b>	<b>43</b>	-22%

## Guardianship Division

LIST	SERVICE STANDARD	TARGET	MET TARGET%	TOTAL VOLUME	VARIATION TO TARGET
Risk Category 1	3 days	80%	<b>97%</b>	<b>272</b>	17%
Risk Category 2	20 days	80%	<b>98%</b>	<b>644</b>	18%
Risk Category 3	60 days	80%	<b>95%</b>	<b>7,314</b>	15%
Risk Category 4	100 days	80%	<b>94%</b>	<b>4,486</b>	14%

## Occupational Division

LIST	SERVICE STANDARD	TARGET	MET TARGET%	TOTAL VOLUME	VARIATION TO TARGET
Administrative Review List	9 mths	80%	<b>85%</b>	<b>114</b>	5%
Health Practitioner List	12 mths	80%	<b>77%</b>	<b>143</b>	-3%
Legal Practitioner and Other Professionals List	12 mths	80%	<b>61%</b>	<b>59</b>	-19%

## Appeals

LIST	SERVICE STANDARD	TARGET	MET TARGET%	TOTAL VOLUME	VARIATION TO TARGET
Appeals	9 mths	80%	<b>96%</b>	<b>612</b>	16%

## Enforcement (Penalties and Contempt)

LIST	SERVICE STANDARD	TARGET	MET TARGET%	TOTAL VOLUME	VARIATION TO TARGET
Enforcement (Penalties and Contempt)	9 mths	80%	<b>83%</b>	<b>6</b>	3%

# Appendix 7

## Resolution Processes

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The Tribunal has a wide and flexible power to resolve disputes other than by adjudication. These processes are referred to in the legislation as 'resolution processes'. A resolution process is any process in which the parties to proceedings are assisted to resolve or narrow the issues between them. This is achieved through the application of appropriate dispute resolution strategies, which reflect the differing nature of disputes and the varying skills and knowledge of the parties.

In the Occupational Division, where the focus is on professional discipline, there is little scope for the use of resolution processes other than narrowing the issues in dispute. While resolution processes other than adjudication have been trialled in the Guardianship Division, the protective nature of proceedings in that Division means that special care must be taken. There is more scope for resolution processes to be used in the Administrative and Equal Opportunity Division where mediation is routinely used to assist parties resolve their issue.

Resolution processes such as expert conclaves, negotiation and conciliation are used extensively in the Consumer and Commercial Division.

### Conciliation

Conciliation is routinely used to resolve disputes in the Consumer and Commercial Division. It is a confidential process which brings parties together to discuss the issues in an informal manner and explore options to settle the dispute.

Conciliation is closely linked to the hearing process. Agreements reached by parties during conciliation can be turned into enforceable consent agreements by the Tribunal.

### Mediation

Schedule 1 to the *Civil and Administrative Tribunal Regulation 2013* defines mediation as a structured negotiation process in which the mediator, as a neutral and independent party, assists the parties to a dispute to achieve their own resolution of the dispute.

Mediation is offered for suitable anti-discrimination matters, and applications to review government decisions in relation to access to information, privacy, and state revenue matters. It is a confidential, informal problem-solving process managed by an independent mediator. The mediator manages the process but does not take sides or give an opinion about the case.

The Community Justice Centre (CJC) can provide mediation for parties to proceedings before the Tribunal. Parties can refer themselves directly to the CJC and in some instances Members and/or Tribunal staff can suggest that parties consider accessing mediation services offered by the CJC.

### Conclave

A conclave is a joint meeting between experts engaged by the applicant and the respondent. This resolution method is usually used in the Home Building List of the Consumer and Commercial Division. During a conclave, the experts discuss the issues on which they have prepared reports with a view to clarifying matters in dispute, reaching agreement where possible and narrowing the issues to be determined. The conclave is usually held on-site and is facilitated by a Tribunal Member.

## Case conference

In the Administrative and Equal Opportunity Division, some matters are listed for a preliminary session where the Tribunal Member explores ways to resolve the proceedings or narrow the issues in dispute. These preliminary sessions are called 'case conferences' and are used in reviews of government decisions about access to information, privacy, and in anti-discrimination matters.

## Directions hearings

Matters may be listed for directions hearings to prepare for the substantive hearing. They are usually short in duration and may be used if there is a need to establish jurisdiction, identify issues in dispute, set a timeframe for the hearing or make directions for the exchange of evidence. All parties are required to attend directions hearings and to comply with procedural directions.

## Types of hearings

Matters are listed for hearing according to the type of application and nature of the dispute. Notices of Hearing are issued to parties in advance of their hearing. They provide information such as the type of hearing event they will be attending and what they need to do to prepare for their hearing.

### Group lists

A group list is where a number of Consumer and Commercial Division cases are listed together before a Tribunal Member.

When both parties appear at the hearing they are encouraged to resolve their dispute through conciliation. If only one party appears, ex-parte orders (i.e. orders made where the other party is not in attendance) may be made or the application may be dismissed by the Tribunal Member. If conciliation is unsuccessful the case proceeds to hearing.

Sometimes, if the parties need to obtain further evidence, or the hearing will take further time, the

matter can be adjourned to a hearing on a later date.

## Hearings

Hearings are listed for a specific length of time where the issues in dispute will be finally determined and a decision made. These hearings can run for an hour or several days, depending on the complexity, the nature of the jurisdiction and the issues in dispute.

Matters are listed for hearing according to the type of application and nature of the dispute. Notices of Hearing are issued to parties in advance of their hearing. They provide information such as the type of hearing event they will be attending and what they need to do to prepare for their hearing.

The number of Tribunal Members hearing a matter depends on the Division in which the application was lodged. Hearings in the Consumer and Commercial Division are conducted before a single Tribunal Member while the majority of applications in the Guardianship Division are before a panel of three Members. Some Tribunal Members are Community Members who represent community perspectives and provide knowledge and expertise relating to their area of work.

NCAT's hearings are open to the public unless a specific order is made closing the hearing. Public hearings ensure that the Tribunal's processes are transparent. NCAT's hearing lists are published on the NCAT website, with the exception of matters heard in the Guardianship Division.

## Internal appeals

This process permits decisions at first instance to be scrutinised and, where necessary, corrected without the expense or delay involved in bringing proceedings in the District Court or the Supreme Court. This scrutiny also improves the standard of decision-making and writing throughout the Tribunal.

Under section 32 of the *Civil and Administrative Tribunal Act 2013* (NCAT Act), parties have a right to lodge an internal appeal from:

- Any decision made by the Tribunal in proceedings for a general decision or an administrative review decision
- Any decision made by a registrar of a kind that is internally appealable.

In most cases, internal appeals can be lodged as of right on any question of law. An appeal on other grounds can be lodged if the Appeal Panel grants leave.

The Appeal Panel which hears any internal appeal will in most cases be made up of two or three Members from across the Divisions. At least one of the Members will be a lawyer.

Not all Tribunal decisions are internally appealable. Some matters NCAT's internal appeal jurisdiction does not extend to include:

- Decisions made in the Occupational Division relating to the following professions: medical practitioners, health professionals (nurses, psychologists, physiotherapists and similar professions), legal practitioners, veterinary practitioners, architects, registered surveyors, accredited certifiers
- Decisions made in the Occupational Division in relation to applications for dismissal of councillors from civic office
- Decisions in proceedings for the exercise of the Tribunal's enforcement jurisdiction
- Decisions of the Tribunal in proceedings for the imposition of a civil penalty in exercise of its general jurisdiction
- Decisions made by an Adjudicator under the *Strata Schemes Management Act 1996* or *Community Land Management Act 1989*

- Decisions of an Appeal Panel
- Decisions of the Tribunal under the *Child Protection (Working with Children) Act 2012*.

Exclusions to appeal are set out in the Divisional Schedules to the NCAT Act and in some of the specific laws giving jurisdiction to NCAT.

Some Divisional decisions that are not subject to an internal appeal may be appealed to the Land and Environment Court, the Supreme Court or the Court of Appeal. A decision of the Guardianship Division may be appealed either to the Appeal Panel or the Supreme Court, but not to both.

Information about lodging an appeal is provided in *NCAT Guideline 1 – Internal Appeals*. This Guideline and the application forms are available on the NCAT website. NCAT appeal decisions are published to the NSW Caselaw website and a selection are published in NCAT's *Legal Bulletin*.

The *Appeal Panel Decisions Digest* can be subscribed to for monthly keyword summaries of Appeal Panel decisions.

## Set aside or vary Tribunal Decision

In some instances, a party to proceedings may apply to NCAT to set aside or vary a Tribunal decision after the matter is finalised. The grounds for an application to set aside or vary Tribunal decisions are contained in Part 3 of the *Civil and Administrative Tribunal Regulation 2013*. Dissatisfaction with the decision is not a sufficient reason to request that the Tribunal decision be set aside or varied.

Applications to set aside or vary a Tribunal decision may be decided 'on the papers', that is in the absence of the parties and based on the information provided on the application form and any written submissions provided by the parties. The Tribunal may refuse the application or call for submissions from the other party before determining the application.

The Tribunal will not grant an application to set aside or vary a decision unless the other party has been notified and given a copy of the application, and has been given a reasonable opportunity to respond. The Tribunal will consider all responses before making a decision.

# Appendix 8

## Fees and charges as at 30 June 2020

### Administrative and Equal Opportunity Division and Occupational Division

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
<b>Administrative review application</b>	\$104	\$208	\$26
<ul style="list-style-type: none"> <li>to be determined by 2 or more Members*</li> </ul>	\$218	\$435	\$55
<ul style="list-style-type: none"> <li>under the Apprenticeship and Traineeship Act 2001</li> </ul>	No fee	No fee	No fee
<ul style="list-style-type: none"> <li>under the Community Services (Complaints, Reviews and Monitoring) Act 1993</li> </ul>	No fee	No fee	No fee
<b>General application or external appeal</b>	\$104	\$208	\$26
<ul style="list-style-type: none"> <li>to be determined by 2 or more Members*</li> </ul>	\$218	\$435	\$55
<ul style="list-style-type: none"> <li>to be determined by Appeal Panel</li> </ul>	\$429	\$859	\$107
<ul style="list-style-type: none"> <li>under the <i>Aboriginal Land Rights Act 1983, Anti-Discrimination Act 1977, Local Government Act 1993, Legal Profession Uniform Application Act 2014, Public Notaries Act 1997 or Dormant Funds Act 1942</i></li> </ul>	No fee	No fee	No fee
<b>Health Practitioner List matters</b>	No fee	No fee	No fee

\* Refer to section 27 and relevant Divisional Schedules of the *Civil and Administrative Tribunal Act 2013*.

### Consumer and Commercial Division

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
<b>Residential proceedings</b>	\$51	\$102	\$13
<b>General consumer or commercial proceedings</b>			
<ul style="list-style-type: none"> <li>Claims not more than \$10,000 (or no amount)</li> </ul>	\$51	\$102	\$13
<ul style="list-style-type: none"> <li>Claims over \$10,000 to \$30,000</li> </ul>	\$105	\$210	\$26
<ul style="list-style-type: none"> <li>More than \$30,000</li> </ul>	\$273	\$545	\$68
<b>Strata schemes</b>			
<ul style="list-style-type: none"> <li>Strata application</li> </ul>	\$105	\$210	\$26
<ul style="list-style-type: none"> <li>External appeal against order of Adjudicator under the <i>Strata Schemes Management Act 1996</i></li> </ul>	\$104	\$208	\$26
<b>Community schemes</b>			
<ul style="list-style-type: none"> <li>Application for Adjudicator's orders</li> </ul>	\$89	\$177	\$22
<ul style="list-style-type: none"> <li>Application for Adjudicator orders and interim orders when lodged at same time</li> </ul>	\$177	\$354	\$44
<ul style="list-style-type: none"> <li>Application for Tribunal orders</li> </ul>			
<ul style="list-style-type: none"> <li>General application for orders under Division 4 of the <i>Community Land Management Act 1989</i></li> </ul>	\$89	\$177	\$22
<ul style="list-style-type: none"> <li>External appeal against order of Adjudicator</li> </ul>	\$104	\$208	\$26
<b>Retail leases</b>	\$104	\$208	\$26

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
<b>Renewal of proceedings</b>	Same as original application	Same as original application	Same as original application

## Guardianship Division

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
<b>Guardianship proceedings</b>	No fee	No fee	No fee

## Other application fees (all Divisions)

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
<b>Internal appeal</b>	\$429	\$859	\$107
<b>Set aside application</b>	\$105	\$210	\$26
<b>Reinstatement application</b>	Same as original application	Same as original application	Same as original application

## Explanatory notes

**Corporation fee** – applies to all organisations defined as a *corporation* by section 57A of the *Corporations Act 2001*. Corporations that lodge an application with the incorrect fee will be contacted and will be required to pay the correct fee.

**Reduced or concession fee** – applies to eligible pensioners or individuals in receipt of a grant of legal aid or assistance from a community legal centre. The concession rate is set at 25% of the full fee (round up or down to the nearest whole dollar amount).

**Residential proceedings** – matters about tenancy, social housing, residential communities, retirement villages and boarding houses.

**General consumer or commercial proceedings** – matters about agent commissions and fees, agricultural tenancy, consumer claims, conveyancing costs, dividing fences, holiday parks, home building, motor vehicles, pawnbrokers and second-hand dealers.

## Other services

SERVICE	FEE
Copy of sound recording (for each hearing event)	\$44
Application for issue of a summons (for production of or to give evidence, or both)	\$47
Request for the production to Tribunal of documents held by court	\$54
Retrieval of any document or file from archives	\$83
Copy or certified copy of decision or written reasons	\$83
Request by a non-party to inspect public access documents	\$44 <sup>#</sup>
Photocopying of documents where requesting party makes the copies	\$0.50 per sheet
Photocopying of documents where a Tribunal staff member makes the copies	\$2 per sheet

<sup>#</sup> Payment of fee is applicable per finalised matter. Fee is for inspection only and is payable in addition to any charges for the photocopying of documents.

# Appendix 9

## NCAT Liaison Group and Divisional Consultative Forum Membership

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### NCAT Liaison Group

Community Legal Centres Group NSW  
Health Care Complaints Commission  
Health Professional Councils Authority  
Law Society of NSW  
Legal Aid NSW  
NSW Bar Association  
Real Estate Institute of NSW  
Redfern Legal Centre  
Synapse (formerly Brain Injury Association NSW)  
Tenants' Union of NSW

### Administrative and Equal Opportunity Division

Aboriginal Legal Service (NSW/ACT) Limited  
Anti-Discrimination Board of NSW  
Association of Children's Welfare Agencies (ACWA)  
Australian Taxi Drivers Association  
Firearms Registry  
Independent Liquor & Gaming Authority  
Information and Privacy Commission NSW  
Kingsford Legal Centre, UNSW Law - Community Legal Centres NSW  
Law Society of NSW  
Legal Aid NSW  
Liquor and Gaming NSW  
Local Government NSW  
NSW Bar Association  
NSW Crown Solicitor's Office  
NSW Department of Communities and Justice  
NSW Department of Education  
NSW Fair Trading  
NSW Office of the Children's Guardian  
NSW Police Force  
NSW Trustee and Guardian  
Point to Point Transport Commission  
Public Interest Advocacy Centre Ltd

Revenue NSW  
Transport for NSW  
Barristers from Selborne and Wentworth Chambers

### Consumer and Commercial Division

#### Tenancy Consultative Forum / Aboriginal Consultative Forum

Aboriginal Affairs NSW  
Aboriginal Housing Office  
Aboriginal Legal Services  
Anaiwan Local Aboriginal Land Council  
Argyle Community Housing  
Bungree Aboriginal Association  
CHOICE  
Civil Law Service for Aboriginal Communities  
Common Equity NSW  
Community Housing  
Community Housing Industry Association NSW  
Department of Communities and Justice  
Department of Customer Service  
Dtarawarra Aboriginal Resource Unit  
Estate Agents Co-operative  
Gandangara Local Lands  
Homelessness NSW  
Housing NSW  
Inner Sydney Tenants' Advice & Advocacy Service, Redfern Legal Centre  
Jemmeson Fisher  
Law Society of NSW  
LawAccess NSW  
Legal Aid NSW  
Mission Australia  
Murra Mia Tenant Advocacy Service  
NSW Aboriginal Land Council  
NSW Bar Association  
NSW Fair Trading  
NSW Federation of Housing Associations Inc.

Property Owners Association of NSW  
Public Interest Advocacy Centre  
Public Tenants Council (Central Sydney)  
Real Estate Institute of NSW  
Redfern Legal Centre  
Southern Sydney Tenants Advice and Advocacy Service  
Western Sydney Community Legal Centre  
Western Sydney Tenants Service

### **Commercial / General / Motor Vehicles Consultative Forum**

Australian Consumers Association  
Australian Manufacturing Workers Union  
Community Relations Commission  
Consumer Credit Legal Centre  
Department of Finance and Services  
Financial Counsellors Association of NSW  
Homelessness NSW  
Institute of Automotive Mechanical Engineers  
Jemmeson Fisher  
Law Society of NSW  
LawAccess NSW  
Legal Aid NSW  
Motor Traders Association  
NSW Bar Association  
NSW Fair Trading  
Redfern Legal Centre

### **Home Building Consultative Forum**

Australian Institute of Building  
Bannermans  
Civil Contractors Federation  
Department of Communities and Justice  
Department of Customer Service  
Housing Industry Association  
Institute of Building Consultants NSW  
Institution of Engineers Australia  
Law Society of NSW  
LawAccess NSW  
Macquarie Legal Centre  
Master Builders Association  
Master Painters Association  
Master Plumbers Association of NSW  
National Electrical & Communications Association of NSW  
NSW Bar Association  
NSW Fair Trading

Owners Corporation Network  
Property Owners Association of NSW  
Royal Australian Institute of Architects  
Russo and Partners  
Strata Community Australia (NSW)  
Suncorp  
Swaab Attorneys  
Swimming Pool and Spa Association of NSW

### **Residential Communities Consultative Forum**

Affiliated Residential Park Residents Association (ARPPRA)  
ARPPRA Central Coast Residents Association  
Caravan and Camping Industry Association NSW  
Combined Pensioners and Superannuants Association of NSW Inc.  
Department of Customer Service  
Independent Park Residents Action Group of NSW  
Land Lease Living Industry Association NSW  
LawAccess NSW  
Law Society of New South Wales  
Park and Village Service  
Port Stephens Park Residents Association  
Senior Rights Service  
Tenants Union of NSW  
Tweed Residential Parks Homeowners Association  
Western Sydney Community Legal Centre  
Western Sydney Tenants Service

### **Retirement Villages Consultative Forum**

Aged and Community Services NSW and ACT  
Aged Care Association Australia (NSW)  
Bougainvillea Retirement  
Council on the Ageing NSW  
Department of Customer Service  
LawAccess NSW  
Law Society of NSW  
Leading Age Services Australia NSW-ACT  
NSW Fair Trading  
Older Persons Tenancy Service – Combined Pensioners and Superannuants Association of NSW  
Public Interest Advocacy Centre  
Retirement Villages Residents Association  
Seniors Rights Service  
The Aged-Care Rights Service  
Wesley Mission

## **Strata Consultative Forum**

Australian College of Community Association Lawyers  
Australian Resident Accommodation Managers Association (ARAMA)  
Bannermans Lawyers  
Department of Customer Service  
Housing Industry Australia  
LawAccess NSW  
Law Society of NSW  
NSW Fair Trading  
Older Persons Tenants Services – Combined Pensioners and Superannuants Association  
Owners Corporation Network  
Property Council of Australia  
Property Owners Association of NSW  
Strata Community Australia (NSW)

## **Guardianship Division**

Aboriginal Legal Services (NSW/ACT)  
Dementia Australia  
Department of Communities and Justice  
Disability Advocacy Service, NSW Trustee and Guardian  
Disability Council NSW  
DCJ Legal - Child Protection Law  
First Peoples Disability Network (Australia)  
Intellectual Disability Rights Service  
Law Society of NSW  
Leading Age Services Australia  
Legal Aid NSW  
Mental Health Coordinating Council  
Mental Health Review Tribunal  
Multicultural Disability Advocacy Association of NSW (MDAA)/NSW Network of Women With Disability  
National Disability Insurance Agency  
National Disability Services  
NSW Bar Association  
NSW Carers Advisory Council  
NSW Council for Intellectual Disability  
NSW Ministry of Health  
Office of the Public Guardian  
People With Disability - PWD Australia  
Seniors Rights Service  
Synapse  
The Benevolent Society

## **Occupational Division**

Australian Medical Association (NSW) Limited  
Australian Health Practitioner Regulation Agency (AHPRA)  
Avant Mutual Group Limited  
Building Professionals Board  
Bartier Perry Lawyers  
Health Professional Councils Authority (HPCA)  
Hicksons Lawyers  
HWL Ebsworth Lawyers  
Law Society of NSW  
MDA National  
Medical Indemnity Protection Society (MIPS)  
Medical Insurance Group (MIGA)  
Meridian Lawyers  
NSW Architects Registration Board  
NSW Bar Association  
Health Care Complaints Commission  
NSW Nurses and Midwives Association  
Office of Local Government  
Office of the Legal Services Commissioner  
Veterinary Practitioners Board of NSW  
Barristers from Culwulla, Denman, Level 22, Maurice Byers, New, St James Hall, Wardell and Wentworth Selborne Chambers

