



NCAT
NSW Civil &
Administrative
Tribunal

NCAT

Annual Report

2020-2021



NCAT
NSW Civil &
Administrative
Tribunal

The Hon Mark Speakman SC MP
Attorney General
Minister for Prevention of Domestic and Sexual Violence
GPO Box 5341
SYDNEY NSW 2001

Dear Attorney,

I am pleased to submit the 2020-2021 Annual Report for the NSW Civil and Administrative Tribunal.

The report summarises the Tribunal's performance and outcomes achieved during the period 1 July 2020 to 30 June 2021.

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.

Yours sincerely,

The Hon Justice Lea Armstrong
President
NSW Civil and Administrative Tribunal

Table of Contents

President’s Report	5
2020-2021 in Review	7
Independence	8
Legislative framework.....	8
Member appointments and tenure	8
Administrative support.....	9
Budget and funding sources	10
Leadership and effective management	11
Leadership group.....	11
Governance.....	12
Disclosure of information	13
Fair treatment	14
Member Code of Conduct.....	14
Internal appeals	14
Service Charter and service enhancement projects	15
Procedures and processes.....	15
Representation before the Tribunal.....	16
Interpreter services.....	16
Cultural issues.....	16
Accessibility	18
Accessing NCAT services including online.....	18
NCAT Registries	18
Website and social media.....	18
Resources and assistance.....	19
Hearing locations and times.....	19
Alternative access to hearings	20
Fees and charges.....	20
Legal assistance	20
Additional assistance	21
Procedural directions, guidelines and policies.....	21
Professionalism and integrity	23
Competency framework and performance appraisal	23

Member qualifications	23
Code of conduct.....	23
Professional development, appraisal and training	23
Appeals.....	24
Accountability.....	25
Hearings open to the public.....	25
Service charter.....	25
Complaint handling mechanism.....	25
Stakeholder engagement	26
Publication of reasons for decisions.....	26
Other engagement with the community.....	26
Efficiency.....	27
Performance standards and monitoring.....	27
Resolution processes.....	27
Cross-assignment.....	28
Flexibility of processes	28
Digitisation.....	28
Client needs and satisfaction	29
Use of NCAT website and social media.....	29
Feedback, surveys and newsletters.....	29
Stakeholder interaction	29
Internal appeals	30
Complaints data.....	30
Divisional and Appeal Panel Reports.....	31
Administrative and Equal Opportunity Division.....	32
Consumer and Commercial Division.....	36
Guardianship Division.....	40
Occupational Division.....	46
Appeal Panel	51
Appendices	55
Appendix 1 – Legislation.....	56
Appendix 2 – Major Legislative Change.....	60
Appendix 3 – Tribunal Members at 30 June 2021.....	63
Appendix 4 – NCAT Member Code of Conduct.....	88

Appendix 5 – NCAT Expenditure Report.....	93
Appendix 6 – Service Standards: Lodgement to Finalisation.....	94
Appendix 7 – Resolution Processes	96
Appendix 8 – Fees and charges as at 30 June 2021.....	100
Appendix 9 – NCAT Liaison Group and Divisional Consultative Forum Membership.....	102

NCAT Annual Report Structure

NCAT has structured the information in this annual report, in addition to the President’s Report and 2020-2021 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

The role of NCAT

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

NCAT deals with a broad range of matters. In its eighth year of operation, NCAT received 69,887 applications and finalised 70,744 applications, with a clearance ratio of 101.2%.

NCAT Leadership

In fulfilling my statutory functions set out in section 20 of the *Civil and Administrative Tribunal Act 2013* (NSW) (the NCAT Act) and in providing leadership to the Tribunal, I am assisted by the NCAT Executive Team which includes the Division Heads and the Principal Registrar/Executive Director.

In my third year as President of NCAT, my focus has been 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 this challenging year for the Tribunal.

Deputy President and Division Head Mr Malcolm Schyvens left NCAT in May 2021 to commence his appointment as the inaugural President of the Tasmanian Civil and Administrative Tribunal. From the establishment of NCAT in 2014, Mr Schyvens has served with distinction as one of its Deputy Presidents and Head of the Guardianship Division. He also led NCAT's Professional Development Committee and Accessibility Committee. Externally, Mr Schyvens contributed significantly to the advancement of the guardianship jurisdiction and

Tribunals generally in his roles as Chair of the Australian Guardianship and Administration Council (AGAC) and Secretary of the national branch of the Council of Australasian Tribunals (COAT). On behalf of NCAT, I wish Mr Schyvens well in his new role.

I would like to thank Ms Christine Fougere, Principal Member of the Guardianship Division, for stepping into the role of Acting Deputy President and Division Head for the remainder of the reporting period.

Member recruitment was undertaken throughout the reporting year, providing an opportunity to refresh the NCAT membership. Following a merit-based appointment process, the Attorney General appointed new Members across all Divisions. A number of experienced Members were reappointed for further terms.

COVID-19

The continuation of the COVID-19 pandemic made this reporting year a challenging one for NCAT, as it was for tribunals and courts throughout Australia and the Australian community. To ensure the safe delivery of services to NCAT users and to comply with government directions and health advice, several changes were made to NCAT's operations, including the way NCAT's hearings were conducted.

Most hearings were conducted by telephone or video conference, or were decided 'on the papers' without a hearing and based on the written material before the Tribunal. In-person hearings were only conducted in special circumstances.

During the reporting year there was an increase in the number of matters lodged with NCAT, as compared to the previous year. Nonetheless, NCAT achieved a clearance ratio of 101.2%. In addition, NCAT largely managed to clear the backlog of cases

from the previous year caused by COVID-19 disruptions. This was a great achievement given the challenges posed by the COVID-19 pandemic to the Tribunal's operations.

Members and staff went to extraordinary efforts to continue to provide high-level services across all Divisions and Appeals. I am very grateful to Members and staff for the commitment demonstrated and for adjusting to continuing changes to our operations as a result of the pandemic.

I would 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.

Parramatta

A major achievement during the reporting year was the opening of a new NCAT Registry and hearing rooms in Parramatta. The Attorney General opened the new premises in February 2021, increasing NCAT's capacity to hear matters in the region and to provide greater access to Tribunal services for residents in Western Sydney.

All types of NCAT matters are now heard in Parramatta. The premises are designed to accommodate multi-Member and single-Member tribunals, as well as to accommodate alternative dispute resolution processes.

Statutory review

Section 92 of the NCAT Act requires the Attorney General to undertake a review of that Act. The purpose of that 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. The statutory review is continuing, being managed by the Department of Communities and Justice.

Improved resources

NCAT launched a new website in August 2020, developed as part of the NSW Courts and Tribunals Digital Reform Program. The website was redesigned to make it easier and quicker for users to find the information they need. Features include improved search functionality and streamlined navigation. The new website was also designed to make it easier to use on a range of different devices.

Development of the NCAT Member Reference Manual was also a focus during the reporting period. The Manual is an internal information resource available to all NCAT Members. In the form of a 'bench book', the Manual provides a summary of relevant case law and legislation. Several judicial and senior Members with relevant subject matter expertise provided content for the Manual.

What's next

I anticipate that with increased vaccination rates and falling COVID-19 infections that NCAT should be able to return to a greater number of 'in-person' or hybrid hearings in 2022, including in regional areas. Hybrid hearings involve a combination of 'in person' and 'virtual' features through the use of technology, particularly audio-visual links.

NCAT will work with its users to ensure that our hearings can be conducted and our services accessed in a COVID safe way.

The Hon Justice Lea Armstrong
President

2020-2021 in Review

69,887 Applications lodged

- 63.7% of all applications lodged online.
- 82.9% of applications in the Consumer and Commercial Division lodged online.
- 795 appeals lodged.

88,431 Hearings held

- Hearings and other listing events were held in 9 locations across NSW.
- NCAT heard almost all matters virtually via telephone or video conference.

70,744 Applications finalised

- Achieved an overall clearance ratio of 101.2%.

105 Community consultations, stakeholder group meetings, Tribunal Member and staff training sessions

834,145 Website visits

- Top 10 terms searched on the NCAT website in 2020-2021: appeal, summons, financial statement, adjournment, warrant, set aside, tenancy, decisions, strata, fees.
- 1,535 followers on NCAT Twitter.
- 3,961 subscribers to NCAT online alerts and e-newsletters.

2020-2021 Applications

DIVISION	NUMBER	% OF TOTAL
Administrative and Equal Opportunity	820	1.2%
Consumer and Commercial	53,718	76.9%
Guardianship	14,290	20.4%
Occupational	259	0.4%
Appeal Panel	795	1.1%
Enforcement (Penalties and Contempt) *	5	0.01%
TOTAL	69,887	100.0%

* Enforcement (contempt and applications) under section 77 of the NCAT Act.

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.'³

Legislative framework

NCAT is an independent tribunal established by the *Civil and Administrative Tribunal Act 2013 (NSW)* (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 processes in place 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 170 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.

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

Top ten matter types by volume 2020-2021

- Residential tenancy and social housing matters
- Guardianship and financial management matters in relation to people with impaired decision-making capacity
- Consumer claims
- Home building matters
- Strata and community title, retirement village and similar matters
- Motor vehicles matters
- Other commercial matters (including retail lease, agricultural tenancy and agency disputes)
- Internal appeals
- Administrative reviews of government decisions including access to government information and privacy matters
- Professional disciplinary matters in respect of lawyers, medical practitioners and other professionals

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.

At 30 June 2021, the Tribunal had 265 Members, including the President, Deputy Presidents, Principal Members, Senior Members and General Members, who bring a range of qualifications, experience and 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 of new Members 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 to the Attorney General.

Member recruitment activity completed during the year refreshed the Tribunal's membership. A number of existing Members were reappointed for further terms.

Whether a Member is assigned to one Division, or cross-assigned to 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 2021, NCAT had 176 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 continues to offer 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 with a focus on strategic business planning. A number of Registry managers participated in formal leadership programs offered by the Department of Communities and Justice and external providers.

NCAT staff attended customised Aboriginal Cultural Awareness interactive workshops run by an NCAT Member and academic. These were conducted both

in person and with remote access to allow regionally based staff to participate.

The NCAT Staff Learning and Development Program provides Registry staff and managers with access to a range of eLearning and virtual 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 and inclusion training courses relevant to both staff and our work with NCAT's clients. Other focus areas this year have been on privacy compliance and the Department's code of ethical behaviour.

These workshops and training sessions complement 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
 - NSW Treasury in conjunction with the Small Business Commissioner which provides funding to NCAT to deliver effective services that support timely resolution of disputes under the *Retail Leases Act 1994*

- Health Professional Councils Authority, and the Australian Health Practitioner Regulation Agency (AHPRA).

NCAT's Expenditure Report for the 2020-2021 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.'⁴

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 2021, the Division Heads (full-time 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 up until 7 May 2021
- Ms Christine Fougere, Acting Head of the Guardianship Division from 8 May 2021
- Mr Mark Harrowell, Head of the Consumer and Commercial Division.

As at 30 June 2021 there were three part-time Deputy Presidents of the Tribunal: The Hon 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.

⁴ *Australia and New Zealand Tribunal Excellence Framework – 2nd 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.

As at 30 June 2021 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.

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 once 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.

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 and maintain 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 supported various training opportunities for NCAT Members. This included Member induction training, jurisdiction-specific training across all Divisions and Member attendance at the virtual NSW Council of Australasian Tribunals (COAT) Conference in November 2020, and the virtual National COAT Conference in June 2021. A number of Members from across all NCAT Divisions participated in Aboriginal cultural awareness training provided by Jennifer Newman, a Wiradjuri woman and Tribunal Member who sits in NCAT's Guardianship Division and Administrative and Equal Opportunity Division.

The Professional Development Committee is chaired by a Deputy President and comprises representatives from each Division.

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.'⁵

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.

The NCAT Member Code of Conduct outlines NCAT's recognition of 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 NCAT 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. There are some limitations that constrain appeals from decisions made by the Consumer and Commercial Division (under clause 12 of Schedule 4 to the NCAT Act).

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 Senior Legal Member. As at 30 June 2021, there were 60 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

⁵ *Australia and New Zealand Tribunal Excellence Framework – 2nd 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 2020-2021, 795 appeals were lodged with the Tribunal and 765 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 basis of written materials commonly described as 'on the papers'.

Due to the COVID-19 restrictions, the majority of NCAT hearings in 2020-2021 were conducted by video conference, telephone or on the papers. Face-to-face hearings were limited, and up until May 2021, were only conducted with prior approval by the President.

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 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.

In April 2021, the President issued a new NCAT Guideline *Representatives for people who cannot represent themselves (GALs)*. The Guideline amalgamated the previous Divisional guidelines and updated the process to be followed when the Tribunal appoints a Guardian ad Litem.

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. In September 2020, NCAT launched a new form for clients to request language support services to make it easier and ensure client confidentiality.

During 2020-2021, approximately 4,300 parties requested interpreter services for their hearings. The top languages requested were Mandarin, Arabic, Cantonese, Korean, Vietnamese, Greek, Persian, Spanish, Italian, and Thai.

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, NCAT was represented by a Deputy President at the Cultural Diversity

Justice Network organised by the Judicial Council on Cultural Diversity. NCAT is also represented on the Department of Communities and Justice Multicultural Plan Working Group and facilitates input to the plan from NCAT's stakeholders.

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.'⁶

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

'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.'⁸

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 2020-2021, 82.9% of all applications received in that Division were lodged online.

NCAT Registries

There are NCAT Registries in seven 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.

NCAT Registries are usually open during business hours. The Guardianship Division provides an after-hours service where urgent hearings are required.

In February 2021, the Attorney General officially opened a new registry and hearing venue for NCAT in Parramatta. The NCAT Parramatta venue includes four hearing rooms equipped with high-definition video conferencing technology, five conciliation rooms, a registry, a service counter and a waiting room.

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.

NCAT launched its new website in August 2020. Features of the new NCAT website included a fresh new look and feel, improved search functionality and easy navigation. The website was carefully redesigned to make it easier and more efficient for users to find the information they need. Feedback was sought from both staff and NCAT clients during the design phase and post go-live. This allowed NCAT to make improvements to both the website functionality and content to ensure an improved user experience.

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

⁷ *Ibid.* p 19

⁸ *Ibid.* p 20

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.

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 updated throughout the reporting period. The key messages on this page detailed temporary procedural changes implemented by the President. The page also provided information on social distancing, practising good hygiene, and other requirements when attending NCAT to ensure compliance with the public health orders.
- Three additional webpages were translated into 9 community languages: *What is NCAT?*, *Services for people with disability* and *Security at NCAT hearings* webpages. This added to the existing *Interpreters and translators* information available in community languages on the website. All translated material is available for download from the NCAT website.

NCAT operates four 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 Appeal Panel decisions published on the NSW Caselaw website.

In 2020 NCAT launched a new subscription service, *Guardianship Division Case Digest*. The Case Digest provides summaries of relevant and interesting case law of significance to the work of NCAT's Guardianship Division. This initiative ensures that these publications, previously issued only to consultative forum members, are available to the general public.

During 2020-2021, 20 *What's New* alerts were issued to 1,669 subscribers, 10 issues of the *NCAT Legal Bulletin* were distributed to 1,573 subscribers, and 12 issues of the *Appeal Panel Decisions Digest* were distributed to 652 subscribers. 4 issues of the *Guardianship Division Case Digest* were distributed to 67 subscribers.

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 usually conducted in hearing rooms co-located with NCAT Registries and in a range of court houses and other venues located in metropolitan and regional areas. Due to COVID-19 restrictions during the reporting period, NCAT held almost all hearings in regional locations by video conference or telephone.

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-

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

In 2020-2021, there were 88,431 NCAT hearings held across NSW. Almost all matters were heard remotely via telephone or video conference due 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 continued its successful use of video conferencing software which allows parties and Members to participate in live video conference hearings from any location where internet access is available.

During 2020-2021 NCAT installed new and upgraded video conferencing in a number of hearing rooms located in the John Maddison Tower in Sydney. The continued investment in video conferencing allowed NCAT to conduct hearings across the state and with limited disruption or delays to parties. This was particularly important, while in-person hearings were not possible due to COVID-19 restrictions.

Telephone hearings

Prior to the COVID-19 pandemic, Tribunal hearings by telephone were available primarily 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.

Since the start of the pandemic and throughout 2020-2021, NCAT expanded its use of telephone hearings due to the restriction of in-person hearings. The increased use of telephone hearings, in addition to video conferencing, allowed NCAT to maintain a 101.2% clearance ratio for all matters over the year.

Fees and charges

NCAT's schedule of fees and charges for the filing of applications, appeals and other services as at 30 June 2021 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.

On 1 July 2020 a general 0.8% increase was applied to all NCAT fees and charges. In addition, the strata interim fee was reinstated for parties lodging an application for a strata interim order with a substantive strata application.

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 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. This fact sheet is regularly reviewed and updated to ensure the most relevant services are included.

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 (COVID-19 restrictions permitting)
- 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.

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

NCAT Guidelines

Internal Appeals

Representatives for people who cannot represent themselves

Administrative and Equal Opportunity Division Guidelines

Adjournments
Confidentiality, privacy and publication
Costs
Resolution processes

Consumer and Commercial Division Guidelines

Adjournments
Conciliation and hearing by the same Member
Confidentiality, privacy and publication
Costs
Home building applications
Online applications
Representation
Use of electronic evidence in Tribunal proceedings

Guardianship Division Guidelines

Adjournments
Confidentiality, privacy and publication
Costs
Representation

Occupational Division Guidelines

Adjournments
Confidentiality, privacy and publication
Costs
Health Professionals Registration Appeals
Professional Discipline Matters
Resolution processes

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.'⁹

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.

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

A list of Tribunal Members as at 30 June 2021, 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 2020-2021 there were 45 professional development sessions for Members and staff on a range of topics relevant to the work of the Tribunal and Registry operations.

Tribunal Members

The NCAT Member Professional Development Committee supports professional development activities throughout the year.

Member professional development activities were held on a Divisional basis with a focus on topics relevant to the work of each Division. This was in addition to NCAT Member learning and development events on topics of interest to all members including Aboriginal cultural awareness training. Other Member professional development activities included Member network groups, mentoring, briefing sessions, seminars and external conferences. Throughout the reporting period most Member professional development activities were conducted remotely with the exception of Member Induction training which was conducted with a combination of in-person and remote learning.

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 participated in professional development activities provided by the Department of Communities and Justice and those outlined in the annual NCAT Staff Learning and Development Program. The program is reviewed and refreshed each year to ensure staff training is relevant to the work of the Tribunal and to support the needs of

staff and Tribunal clients. This year NCAT Registry staff participated in Aboriginal cultural training and a series of cross-divisional information sessions aimed at increasing Registry staff knowledge of the work across all areas of NCAT.

The *NCAT Learning and Development Program 2021* includes mandatory training for staff managers in the Registry leading change, and several courses for all Registry staff about diversity and inclusivity.

Appeals

The decisions of the Appeal Panel provide useful information and feedback to Members concerning legal and procedural 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, in substantive proceedings 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.'¹⁰

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 2020-2021, NCAT received 425 complaints. This equates to a complaint in 0.61% 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 used the feedback tool, *Feedback Assist*, during the reporting year which provides customers with a direct feedback tool located on all NSW Government customer-facing websites. In 2020-2021, NCAT received 17 identified requests through the feedback tool, including compliments, complaints 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.

¹⁰ *Australia and New Zealand Tribunal Excellence Framework – 2nd 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 was unable to meet during the year. A scheduled meeting was postponed due to COVID-19 restrictions.

There are also Divisional Consultative Forums that focus on issues concerning practice and procedure. During 2020-2021 the Guardianship Division's Consultative Forum met twice, and the Consumer and Commercial Division held two Tenancy Consultative Forums and two non-tenancy consultative forums including a Home Building Consultative Forum.

The number of consultation forums held during the reporting period was less than usual due to COVID-19 restrictions. Telephone conferences were conducted with stakeholders where issues arose.

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 2020-2021, selected senior Registry staff and Members attended meetings of the NSW Law Society, Australian Healthcare

Associates (AHA) Review of the Restraints Principles consultation, NSW Law Society Elder Law, Capacity and Succession Committee, Cultural Diversity Justice Network and Judicial Council on Cultural Diversity.

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 2020-2021 Tribunal Members and staff participated in 20 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. Some of these included the Tenancy Advice and Advocacy Services (TAAS) Annual Conference, Blue Mountains Law Society Succession Conference, NSW TAFE Law Week Expo and the Vital Information Series (for parliamentary and electoral staff).

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.'¹¹

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 1 overleaf details the annual clearance ratios for each Division.

There was a 0.2% increase in the overall number of applications received by the Tribunal in 2020-2021 compared to the previous year.

During the reporting period, increases were experienced in the Guardianship Division (11.2%) and the Administrative and Equal Opportunity Division (5.3%). Other Divisions experienced a reduction in the number of applications in the reporting year with a 2.6% decrease (from 55,143 to 53,718) in the Consumer and Commercial Division and a 16.7% decrease in the Occupational Division. There was a significant increase of 23.6% in the number of Internal Appeals.

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 they are finalised as quickly 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.

¹¹ *Australia and New Zealand Tribunal Excellence Framework – 2nd 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.

Digitisation

NCAT commenced a Digitisation program to improve the efficiency of its service delivery. This program will take place over time. Two new digital services launched in 2020-2021; the digitisation of warrants for possession and an expansion of real-time hearing lists.

The digitisation of warrants for possession was a collaboration between the Office of the Sheriff and NCAT. When a warrant for possession is issued, NCAT can automatically send a copy of the warrant for possession to the Office of the Sheriff. Landlords can email or telephone the Office of the Sheriff to arrange and pay for the eviction booking process.

In November 2020, a new searchable online hearing list service for the Administrative and Equal Opportunity Division, Occupational Division and the Appeal Panel became available on the NCAT website.

The new online hearing lists display real-time information from NCAT's case management system. These include listing details for administrative review, anti-discrimination and professional discipline cases. Parties can also search for hearings held in the previous 7 days, and 3 weeks into the future.

Table 2 - Number of applications received and finalised by Division 2020-2021

DIVISION	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Administrative and Equal Opportunity	820	791	96.5%
Consumer and Commercial	53,718	54,979	102.3%
Guardianship	14,290	13,971	97.8%
Occupational	259	231	89.2%
Appeal Panel	795	765	96.2%
Enforcement (Penalties and Contempt)	5	7	140.0%
TOTAL	69,887	70,744	101.2%

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.'¹²

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 834,145 visits and over 2.6 million pageviews during 2020-2021. 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. This feedback, website analytics and user testing informed the design for NCAT's new website which was launched in August 2020. The new website has improved search functionality and easy navigation.

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*, the *Appeal Panel Decisions Digest* and the new *Guardianship Division Case 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 2021, there were 3,961 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.

Stakeholder interaction

The NCAT Liaison Group and Divisional Consultative Forums provide the opportunity for the direct

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

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, Community Services List, Equal Opportunity List and Revenue 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 2 –2020-2021 Administrative and Equal Opportunity Division workload and performance

LIST	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Administrative Review	554	499	90.1%
Community Services	73	76	104.1%
Equal Opportunity	139	150	107.9%
Revenue	54	66	122.2%
TOTAL	820	791	96.5%

Prior to the COVID-19 pandemic, most matters in the Division were heard in Sydney, but hearings were convened in regional NSW whenever that was the most convenient location for the parties. During 2020-2021, the majority of matters were heard via video conference or telephone, with a small number of in-person hearings conducted with the President's prior approval.

Workload

The Division received 820 applications this year and finalised 791 giving a clearance ratio across the whole Division of 96.5%.

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

From time to time throughout the year, hearings in the Division were able to be convened in person. However, for much of the year, matters have been heard via video conference or telephone. The Members' ability to hear matters by video conference was considerably enhanced in 2021 by the installation of Audio-Visual Link (AVL) facilities in three more hearing rooms in Sydney. The opening of the Tribunal's Parramatta Registry, which has four AVL equipped hearing rooms, also made it possible to list and hear more matters by video conference.

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 and one Principal Member 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.

Recruitment for part-time Senior Members was held in the first half of 2021.

New Members receive induction training and all Members participate in a program of professional development. This year that program included three twilight seminars. The program is designed to improve the knowledge and skills of Members. Members' performance is regularly appraised and feedback is given.

The Division has a group of eight 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:

- *Charitable Fundraising Amendment Act 2018*
- *Community Gaming (Amendment) Act 2018*
- *Design and Building Practitioners Act 2020.*

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

Consultation with stakeholders

The Division Head had telephone conferences with some external stakeholders on specific issues this year. Formal stakeholder meetings were not scheduled due to the pandemic.

Significant decisions

***Yelda v Sydney Water Corporation; Yelda v Vitality Works Australia Pty Ltd* [2021] NSWCATAD 107**

The applicant was employed by Sydney Water. As part of a work safety campaign provided by Vitality Works, a poster of Ms Yelda was displayed in Sydney Water workplaces. The poster showed a photograph of Ms Yelda under the words "Feel great – lubricate". In a previous decision (the liability decision), the Tribunal had determined that the display of the poster was a breach of the *Anti-Discrimination Act 1977* (NSW). In this decision, the Tribunal assessed the applicant's damages at \$70,000 for injury to feelings and psychiatric injury, \$243,280.08 for past economic loss and \$5,000 for aggravated damages. The total, \$318,280 exceeded the statutory cap of \$100,000 per respondent, so each respondent was ordered to pay Ms Yelda \$100,000.

Vitality Works lodged an internal appeal from the liability decision; in October 2020 the Appeal Panel dismissed the appeal and made comments on the application of the relevant provisions of the *Anti-Discrimination Act* (see summary in Appeal Panel Report). The Court of Appeal affirmed the decisions of the Tribunal and Appeal Panel in July 2021, upon appeal by Vitality Works.

***Kids Belong Family Day Care Pty Ltd v Department of Education* [2021] NSWCATAD 112**

The applicant operated a family day care served under a provider approval granted under section 15 Children (Education and Care Services) National Law (NSW). The provider approval was cancelled in 2020 on the grounds that the conditions of the approval had been breached. The applicant sought external review of the cancellation by the Tribunal. The Tribunal found that the applicant had been in breach of its conditions. The applicant's records were inadequate, it had no written policies and procedures and ongoing training, monitoring and

regulation of the educators it employed was lacking. The Tribunal found that the failures had the potential to pose an unacceptable risk if they were not addressed. However, the Tribunal concluded that the failures arose from an inadequate understanding of what the conditions required. Following the cancellation, the applicant had sought expert help to ensure future compliance. The Tribunal determined that the correct and preferable decision was not to cancel the provider approval, but to suspend it for 6 months to give the applicant an opportunity to demonstrate that it has the ability to comply with the conditions of the provider approval and the legislation.

***Noble v Chief Commissioner of State Revenue* [2021] NSWCATAD 159**

The respondent assessed Mr and Mrs Noble as liable to duty on a Declaration of Trust executed by them concerning the purchase of a parcel of land, on the basis that the concession under section 55 of the *Duties Act 1997* was not applicable to the transaction. The applicants sought the administrative review of that decision. The Declaration of Trust acknowledged that the applicants purchased the property in their names for the benefit of their son. In the Tribunal's decision, the documentation relating to the transaction, and the payments made, are discussed. The Tribunal concluded that all of the money for the purchase of the property is deemed to have been provided by the applicant's son, who is bound by an agreement to repay to the applicants the purchase price advanced. The Notice of Assessment was set aside because section 55 of the *Duties Act 1997* was satisfied.

***EFJ v Commissioner of Victims Rights* [2021] NSWCATAD 168**

EFJ made five claims under the *Victims Rights and Support Act 2013*. The claims related to alleged sexual assaults by unnamed males on five separate occasions, a number of years earlier. The initial decision maker rejected the claims on the basis that there was insufficient evidence of a crime. Upon

internal review, the claims were rejected again, for the same reason. An application of administrative review was made to the Tribunal in relation to all five claims. Taking into account all of the relevant records, including medical records and police reports, the Tribunal found that there was sufficient cogent and consistent evidence to support one of the five claims, and a \$10,000 recognition payment was ordered to be made in relation to that claim. The decision of the respondent was affirmed in relation to the other four claims.

***Brazel v Sydney Water* [2020] NSWCATAD 188**

The applicant applied for a review of the respondent's refusal to grant him access to the responses received by the respondent from third parties in relation to a previous application under the *Government Information (Public Access) Act 2009* (GIPA Act). The Tribunal considered the question of what constitutes personal information and the scope of the public interest considerations against disclosure, in the context of the purpose of the GIPA Act. The Tribunal set aside the respondent's decision and ordered the release of the documents withheld in a redacted form, with the personal information of the authors removed.

The NCAT Appeal Panel refused leave to appeal and dismissed the appeal from this decision. The Appeal Panel affirmed the Tribunal's reasoning.

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 53,718 applications this year and finalised 54,979 giving a clearance ratio across the whole Division of 102.3%.

Due to the COVID-19 pandemic, the Division conducted hearings at its Registries and also with Members working remotely. Hearings were held by telephone and video conferencing. Face-to-face hearings were not generally possible, particularly for Group Lists where most tenancy and small claims are initially listed for conciliation and directions.

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

COVID-19

The operations of the Division continue to be significantly impacted by the COVID-19 pandemic.

Table 3 – 2020-2021 Consumer and Commercial Division workload and performance

LIST	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Tenancy	31,722	32,279	101.8%
Social Housing	9,682	10,284	106.2%
General	4,894	5,090	104.0%
Home Building	2,875	2,965	103.1%
Residential Communities	312	360	115.4%
Strata and Community Schemes	43	42	97.7%
Strata Schemes	1,609	1,347	83.7%
Motor Vehicles	1,585	1,634	103.1%
Commercial	933	925	99.1%
• <i>Dividing Fences</i>	426	474	111.3%
• <i>Retail Leases</i>	284	228	80.3%
• <i>Other</i>	223	223	100%
Retirement Villages	63	53	84.1%
TOTAL	53,718	54,979	102.3%

Table 4 – Consumer and Commercial Division workload by Registry 2020-2021

LIST	LIVERPOOL	NEWCASTLE	PENRITH	SYDNEY	TAMWORTH	WOLLONGONG	TOTAL
Commercial	107	114	107	476	49	80	933
General	527	652	704	2,042	529	440	4,894
Home Building	383	431	424	1,204	138	295	2,875
Motor Vehicles	308	249	326	498	104	100	1,585
Residential Communities	9	81	21	36	81	84	312
Retirement Villages	6	20	5	18	6	8	63
Social Housing	1,287	1,620	1,518	2,036	1,637	1,584	9,682
Community Schemes	3	12	5	15	4	4	43
Strata Schemes	134	147	69	1,140	53	66	1,609
Tenancy	5,851	4,247	5,190	12,178	2,027	2,229	31,722
GRAND TOTAL	8,615	7,573	8,369	19,643	4,628	4,890	53,718
%	16.0%	14.1%	15.6%	36.6%	8.6%	9.1%	100%

Except for a short period before the Delta variant of the COVID-19 virus disrupted NSW, almost all hearings were conducted by telephone or video conference. The Division's processes introduced at the commencement of the pandemic about how matters are listed, conciliated and heard, how evidence is filed and where the Tribunal sits have enabled the Division to continue to operate. The Division has seen total finalisations increase by 5.2% and an overall clearance rate of 102.3%.

Last year it was anticipated that with further process modifications, a progressive reduction of unresolved applications would be achieved and times to hearing and final resolution will be shortened to more normal levels. At 1 July 2020, unresolved cases (work on hand) totalled 9,667 applications. At 30 June 2021 work on hand had reduced to 8,681 applications.

Continued improvement is expected in the 2021-2022 financial year, subject to the number of applications filed in the future, Member availability and any ongoing effects from the COVID-19 pandemic.

Members

During the year, five new Members were appointed to the Division. The number of full-time and part-

time Members hearing cases in the Division during the year was 93. Approximately 36 Members of the Division sit on Appeal Panels.

During the year a recruitment process for part-time General Members commenced and was completed in the first quarter of 2021. Recruitment for part-time and full-time Senior Members also commenced in June 2021 and is expected to be completed in the second half of 2021.

Legislation

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

- *Strata Schemes Management Amendment (Sustainability Infrastructure) Act 2021*
- *Motor Dealers and Repairers Act 2013*
- *Residential Tenancies Amendment (COVID-19) Regulation 2020*
- *Retirement Villages Amendment Act 2020*
- *Retirement Villages Amendment (Exit Entitlement) Regulation 2021*
- *Boarding Houses Act 2012.*

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

COVID-19 legislation continued to have a number of impacts on the Division, in particular in the resolution of residential tenancy and retail lease disputes. Legislation was modified throughout the year when the Government ended moratorium periods. However further changes were introduced, including extensions to moratorium periods, following further disruption caused by the COVID-19 pandemic.

Consultation with stakeholders

The annual consultative forums took place in December 2020. The different forums were conducted online and combined into two events. Due to technical limitations, there were limits on participation.

A mid-year Consultative Forum took place on 28 June 2021 with stakeholder representatives attending online.

Consultative forum meetings are valuable as they enable the Tribunal to convey to interested stakeholders 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 at Legalwise Conferences.

Significant decisions

***Aboriginal Housing Office v Harrison* [2021] NSWCATAP 97**

The Appeal Panel dismissed an appeal against consent orders made in residential tenancy proceedings. The landlord claimed it was induced to enter the consent orders based on a misstatement of the law made by the Tribunal. The Appeal Panel considered when orders might be set aside based on the conduct of the Tribunal. The Appeal Panel also determined that section 59 of the *Civil and Administrative Tribunal Act 2013* (NCAT Act) did not require any agreement to be reduced to writing

where consent orders were sought in a hearing before the Tribunal and that the Tribunal's order making powers at a hearing were not confined by that section.

***The Owners – Strata Plan No 80412 v Vickery* [2021] NSWCATAP 98**

On remittal from the Court of Appeal, the Appeal Panel determined that the entitlement to claim damages under section 106(5) of the *Strata Schemes Management Act 2015* (NSW) (2015 Act) arising from an Owners Corporation's failure to repair and maintain common property, first accrued upon commencement of that Act, even though the Owners Corporation had breached a statutory duty in the same terms arising under section 62 of the *Strata Schemes Management Act 1996* (NSW) (repealed).

The Appeal Panel determined that "[b]ecause the statutory duty imposes a continuing obligation on the Owners Corporation, it was in breach of the statutory duty when the 2015 Act commenced. However, no cause of action existed or was available before that date". Consequently, time ran from the commencement of the 2015 Act.

In obiter dicta, the Appeal Panel also said that even though there was a continuing obligation to repair, that did not mean that a cause of action for economic loss arose on each and every day that obligation was breached. In doing so, the Appeal Panel disagreed on that point with an earlier decision of the Appeal Panel in *The Owners – Strata Plan No 30621 v Shum* [2018] NSWCATAP 15.

***Dixonbuild Pty Ltd v Adams* [2020] NSWCATAP 190**

In this appeal, the Appeal Panel considered the nature and extent of the power to amend a decision or reasons for error as permitted by section 63 of the NCAT Act.

TianyD Beauty & Hairdressing Australia Pty Ltd v Fasako Pty Ltd [2020] NSWCATAP 184

In a retail lease claim, the Appeal Panel determined deficiencies in a fire safety system of a building constituted a breach of the landlord's obligation to keep the premises in a structurally sound condition entitling the tenant to terminate the lease and that the tenant had not breached the lease in failing to fit out the premises and modify the existing fire safety system for the tenant's intended use.

Maygood Australia Pty Ltd v The Owners – Strata Plan No 85338 [2020] NSWCATAP 237

The Appeal Panel determined that the failure to comply with section 48J of the *Home Building Act 1989* (NSW) did not deprive the Tribunal of jurisdiction to determine a home building claim under that Act.

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.

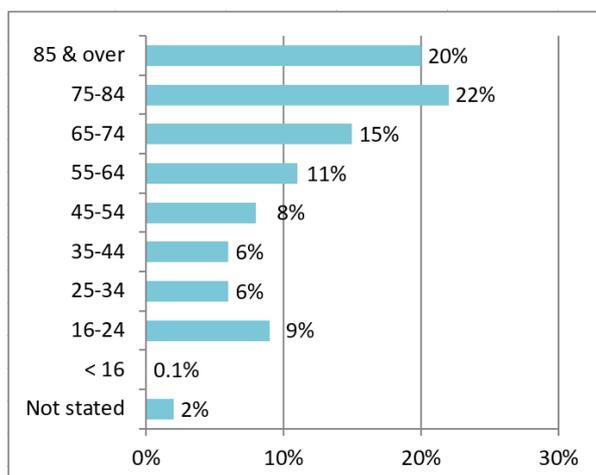
Work within the Division

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 5 – 2020-2021 Guardianship Division workload and performance

APPLICATION TYPE	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Guardianship	4,569	4,422	96.8%
Requested Review of Guardianship	645	619	96.0%
Financial Management	3,525	3,485	98.9%
Requested Review of Financial Management	716	654	91.3%
Enduring Power of Attorney	292	265	90.8%
Enduring Guardianship	158	158	100.0%
Review/Revocation of an Enduring Power of Attorney	30	30	100.0%
Medical/Dental Consent	564	545	96.6%
Recognition of Interstate Appointment	47	48	102.1%
Clinical Trial	30	27	90.0%
Rehearing – Remittal	1	0	0.0%
Set Aside/Vary Decisions	1	1	100.0%
Statutory Reviews (falling due in the period)	3,712	3,717	100.1%
TOTAL	14,290	13,971	97.8%

Graph 1 – Age demographic of the people the subject of application 2020-2021



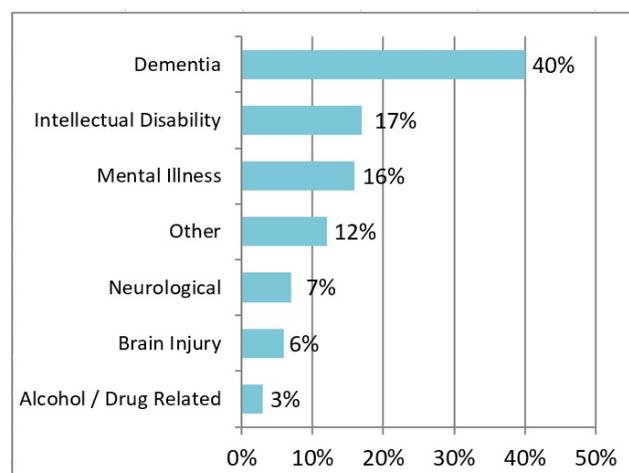
The Division recognises the urgent nature of many applications, and provides an after-hours service, enabling applications to be determined 24 hours a day, 365 days a year.

Accessibility

The Division is committed to ensuring that the subject person is supported to participate in proceedings to the greatest extent possible. 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).

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. To further facilitate the accessibility of hearings, in normal circumstances, the Division regularly sits in regional areas throughout NSW. However, due to the COVID-19 pandemic, nearly all hearings during the reporting period took place by video conference or telephone and regional hearings were not able to take place. Reflective of the Tribunal’s ongoing commitment to ensuring active participation, people who were the subject of applications to the Division were nevertheless still encouraged to participate in

Graph 2 – Disability identified in applications 2020-2021



hearings. As a result, the subject person has participated in 82% of substantive hearings since 1 July 2020 (56% by telephone and 26% by video conference).

Workload

The Division continued to experience significant growth in its workload, increasing by 11.2% during the year. A two-year comparison has seen the workload of the Division increase by 22%. Despite this increase, and the intervention of COVID-19, the Division still achieved a clearance ratio of 98%.

In the reporting period the number of applications made to the Guardianship Division grew to over 10,500 for substantive orders and the Division conducted **more than** 3,700 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: increased awareness as a result of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and the Royal Commission into Aged Care Quality and Safety; greater understanding 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 2020-2021, the Guardianship Division:

- received 4,569 applications for guardianship orders and finalised 4,422 applications. Of the appointments made 44% were private guardians, 54% the Public Guardian and 2% a joint appointment of a private and the Public Guardian
- received 3,525 applications for financial management orders and finalised 3,485 applications. Of the appointments made, 46% were private financial managers, and 54% the NSW Trustee and Guardian
- granted 222 requests for legal representation and appointed 601 separate representatives meaning one or more parties were legally represented in 6% of applications
- arranged for the attendance at hearings of 953 interpreters in 57 languages.

COVID-19

Along with all facets of our society, the Division has been significantly impacted by 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 at the onset of the pandemic in March/April 2020. It did not return to in-person hearings during the reporting period other than one-off approvals given by the President in limited circumstances. Many of the Division's Members and staff adjusted to working from home.

The Division has increased 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 on 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 feasible.

Despite the challenges posed by COVID-19 and the adjustments that had to be made to practice and procedure, all urgent hearings were punctually attended to and even with the growth in workload compared to last year.

The Division does, however, look forward to the return of in-person hearings given the fundamental importance of the subject person being able to participate in hearings to the greatest possible extent.

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 and social work. 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 focused on topics which are pertinent to the jurisdiction. A wide range of issues were covered including how to conduct tribunal proceedings in a trauma informed manner and training from specialists in areas relevant to the work of the Division.

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 meets at least twice a year and was able to do so by

way of videoconference on two occasions during the reporting 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 was represented on the Australian Guardianship and Administration Council, and the NSW Law Society Elder Law and Succession Committee.

Significant decisions

VZM [2020] NSWCATGD 25

In the context of an application for guardianship, the Tribunal considered amendments made on 29 November 2019 to Part 4A of the Quality of Care Principles (made under the *Aged Care Act 1997* (Cth)). These Commonwealth provisions set out new regulatory obligations placed on approved providers of aged care when using physical and chemical restraints on residents. The Commonwealth provisions also included a consent pathway (the "consumer representative" provisions) in the event that a resident was unable to give their own informed consent to the use of the restraint. The definition of "consumer representative" included, but was not limited to, an appointed guardian. The existence of the consumer representative provisions raised the question as to whether a guardian under the *Guardianship Act 1987* (NSW) needs to be appointed in order for consent to be given for the use of restraints in aged care services.

The Tribunal noted (at [47]) that "it has been long recognised in the jurisprudence developed by the Tribunal that the use of restrictive practices for a

person who is unable to provide their own informed consent potentially leads to some of the most serious infringement of rights to personal autonomy and freedom of movement”.

The Tribunal concluded that despite the consumer representative provisions, a guardian does need to be appointed if the person is incapable of giving their own consent. This is because only a guardian appointed with the appropriate authority can make lawful that which would otherwise be unlawful (at [60(4)]). Unless the person’s consumer representative was also the person’s appointed guardian with appropriate authority, consent given by a consumer representative to the use of a restrictive practice on a person was unlikely to amount to a defence under the common law applied in NSW to actions that could amount to assault, battery and unlawful imprisonment.

JFL [2020] NSWCATGD 32

The Tribunal considered the situation of a woman living in a dementia specific unit within an aged care facility. JFL requires high level care due to the effect of Alzheimer’s dementia that has resulted in her experiencing severe cognitive impairment. The dementia specific unit in which JFL lives is a secure unit, locked by a coded keypad, that is separated from the general area of the facility. JFL has not been given the passcode and would be unlikely to be able to use it in any event due to the extent of her cognitive impairment and may only leave the unit under the supervision of a staff member. JFL was placed in the dementia specific unit “due to her tendency to wander and the potential for her to be aggressive towards other residents and staff” (at [68]). The manager of the aged care facility in which JFL lives applied for a guardian to be appointed on the basis that JFL was being restrained by the use of the coded keypads.

Following consideration of the written and oral submissions made on behalf of the Public Guardian, the applicant and the separate representative for JFL, and after undertaking an analysis of the common

law authorities relevant to the tort of false imprisonment, the Tribunal concluded that the conditions under which JFL lives in the dementia specific unit involve a total restraint on her freedom of movement. This is because JFL is unable to unlock the front door of the dementia specific unit, is unable to leave the unit unless she is accompanied and must be returned to the unit if she leaves.

The Tribunal went on to consider whether to appoint a guardian for JFL having regard to the principles set out in section 4 of the *Guardianship Act* and ultimately determined to do so. As JFL does not have any family or friends involved in her life the Public Guardian was appointed to give or withhold consent to this restrictive practice.

LZN [2021] NSWCATGD 12

The decision relates to the first known application to the Tribunal about consent for administration of a COVID-19 vaccine to someone in NSW who was unable to give their own consent to the administration of the vaccine. It was decided within two months of the first vaccines being available in Australia.

LZN is a 76-year-old woman who is a permanent resident of an aged care facility in NSW. She had various diagnosed physical and mental health conditions. The Tribunal was satisfied that, as a result, LZN was unable to make some decisions about her health care.

The Tribunal appointed a guardian for LZN because of her objection to being vaccinated and the competing views of her daughters about the vaccination, where they both could have been considered to be her person responsible under the *Guardianship Act*.

In doing so, however, the Tribunal noted that it would not usually be necessary for a guardian to be appointed so that someone unable to give their own informed consent can be vaccinated from COVID-19. This is because for most people, a COVID-19 vaccination will be “minor” treatment as defined by

the Act. For those people, consent to vaccination can be given by a person responsible, so long as the patient does not object.

If, however, the patient does not have a person responsible (or the person responsible cannot be contacted or is unable or unwilling to make a decision about whether the patient should be vaccinated), a patient can still be vaccinated against COVID-19, as long as: the vaccination is, in the patient's circumstances, minor treatment; the patient does not object; and the medical practitioner or the person giving the vaccination under the medical practitioner's supervision is satisfied that the vaccination is necessary and that it is the form of treatment that will most successfully promote the patient's health and well-being.

The medical practitioner must certify these factors in the patient's record. Other provisions apply if the medical practitioner believes that the giving of the vaccine amounts to "major" treatment.

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 codes of conduct

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 6 – 2020-2021 Occupational Division workload and performance

LIST	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Administrative Review	101	86	85.1%
Health Practitioner	137	117	85.4%
Legal Practitioner and Other Professionals	21	28	133.3%
TOTAL	259	231	89.2%

Workload

During 2020-2021, the Occupational Division received 259 applications and finalised 231, giving a clearance ratio across the whole Division of 89.2%. 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

The Division continued to hear matters by means of video conference or telephone when conditions arising on account of the pandemic required.

Members

The Division comprises the Deputy President and Division Head, as well as Members in the Division who 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 involving disciplinary applications brought under the Legal Profession Uniform Law (NSW), 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 (barrister or solicitor) and a General Member. Constitution of the Tribunal to hear other types of matters involving legal practitioners differs depending on the type of proceeding.

Composition of the Tribunal to hear other professional disciplinary matters is fixed by the governing legislation, and typically 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 when 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.

Legislation

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

- *Better Regulation Legislative Amendment Act 2020*
- *Building and Development Certifiers Act 2018*
- *Design and Building Practitioners Act 2020*

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

Consultation with stakeholders

Formal stakeholder meetings were not scheduled this year due to the pandemic. General issues arising have been dealt with by telephone conferences.

Significant decisions

Council of the Law Society of New South Wales v Fisher [2021] NSWCATOD 73

The Council brought an application for disciplinary findings and orders against the respondent based upon a complaint that the respondent was guilty of professional misconduct, in that she breached a condition of her practising certificate and failed to comply with an undertaking she gave to the Law Society. In 2015, the respondent sought to resume legal practice (as a principal sole practitioner) after 5 years during which she did not practise law. She was

issued with a practising certificate which authorised her to practise law unsupervised. The practising certificate was subject to a condition which required her to complete a practice management course. She also provided an undertaking to the Law Society that she would complete “the next applicable Practice Management Course where there is a position available”.

The respondent did not complete a practice management course. The Law Society sent her several reminder letters. She renewed her practising certificate for 2016/2017. In November 2016, the Law Society received a letter from her saying that she had been unable to secure a place in the November 2016 course. A complaint was initiated against her by the Law Society. She did not renew her practising certificate for the 2017/2018 year.

The Tribunal considered the question of whether the issues for determination in a disciplinary application brought against a legal practitioner under the Uniform Law could be decided by the Tribunal without a hearing and ‘on the papers’. The Tribunal also considered the time period within which a complaint may be brought under the Uniform Law and determined that the complaint was not out of time.

On the evidence, the Tribunal found that, if the respondent had made reasonably diligent enquiries, she would have had ample opportunity to enrol in a practice management course by mid-2016. The Tribunal found that it was not “impossible” for the respondent to comply with the undertaking, and practising certificate condition, by enrolling and completing a relevant practice management course.

The Tribunal found that the respondent was guilty of professional misconduct.

Health Care Complaints Commission v Blackstock [2020] NSWCATOD 110

Dr Blackstock was a registered medical practitioner. His practice involved the carrying out of cosmetic surgery, principally breast augmentation surgery, in

a clinic known as “Enhance Clinic” which was located in Emu Plains, Sydney.

The Health Care Complaints Commission filed two complaints against the practitioner in the Tribunal.

The first complaint alleged that the practitioner had been convicted of a number of criminal offences for carrying out surgery on nine patients in an unlicensed private health facility. The first complaint also alleged unsatisfactory professional conduct under the Health Practitioner Regulation National Law (the National Law) in respect of 11 patients. The unsatisfactory conduct alleged included:

- failure to conduct appropriate pre-operative assessments of patients
- failure to obtain proper informed consent from patients
- inappropriately sitting sedated patients up during surgery to comment on or consent to a breast implant
- failing to provide adequate post-operative care for his patients
- inviting friends and relatives to come into the operating room to obtain their opinion about a patient’s breast implants
- a failure to keep appropriate records, and
- in one instance, conducting a labiaplasty at the same time as breast augmentation.

The second complaint alleged that the practitioner undertook three breast augmentation surgeries on a patient in premises which he knew were unlicensed premises. It was also alleged that the practitioner was guilty of unsatisfactory professional conduct and professional misconduct by, on three occasions, failing to conduct appropriate pre-operative assessments of a patient. It was also asserted the practitioner failed to obtain informed consent from that patient within a reasonable time before surgery on four occasions, inappropriately woke her up during surgery to discuss the outcome of the surgery and failed to provide adequate post-operative care for the patient. It was alleged that the practitioner’s

surgical plans for the patient on two occasions were wholly inadequate.

On the evidence, the Tribunal was satisfied that the complaints were established to the required standard of proof and that the practitioner was guilty of professional misconduct. An order was made cancelling his registration. The practitioner was precluded from seeking to review the cancellation of his registration for a period of seven years.

Deputy Secretary, Local Government, Planning and Policy v Byrne [2021] NSWCATOD 53

The Deputy Secretary referred a report in relation to the conduct of Mr Byrne to the Tribunal under section 440J(3) of the *Local Government Act 1993*. Six allegations of misconduct were made, arising out of one set of circumstances. The Tribunal conducted proceedings into the matter.

The conduct the subject of the report related to a dispute between Councillor Byrne and two other councillors. Those two councillors posted comments on Facebook to which Councillor Byrne took exception. Councillor Byrne's lawyers, on his instructions, wrote to those two councillors and, in the letter, stated that the letter was to be treated as a concerns notice for the purposes of the *Defamation Act 2005*. Subsequently, Councillor Byrne chaired two meetings and participated in debate relating to the issue between him and the two councillors. At a further meeting where issues related to the dispute were debated, the two councillors declared a pecuniary interest and did not participate in the meeting as that item was dealt with. Councillor Byrne, however, participated in the debate and did not declare an interest.

The Tribunal considered the evidence and the Code of Conduct, in detail. Four of the allegations were found to have been established, and the other two allegations had been established in part. The allegations amounted to misconduct.

Deputy Secretary, Local Government Planning and Policy v Garrard [2021] NSWCATOD 75

The Deputy Secretary referred a report in relation to alleged conduct on the part of Councillor Garrard under section 440J(2)(b) of the *Local Government Act 1993*. Under section 470A, the Tribunal is required to decide, on the basis of the report referred to it, whether to conduct proceedings into the matter.

The Tribunal decided, having regard to the strong presumption that the rules of procedural fairness apply, that the better view is that it was not intended that the rules of procedural fairness be implicitly excluded in the Tribunal's process leading up to the decision provided for in section 470A of the Act, and that it was, therefore, necessary to give the subject of the report and the Deputy Secretary an opportunity to be heard in relation to the question of whether the Tribunal ought to conduct proceedings into the matter.

On the basis of the evidence adduced, the Tribunal decided to conduct proceedings.

Hunt v Transport for New South Wales [2020] NSWCATOD 124

The applicant held a bus driver authority. The respondent refused to renew it. On receipt of the application, the respondent had examined the applicant's criminal history and had identified an offence against him. On 26 September 2019, he had been convicted at Camden Local Court of the offence of assault occasioning actual bodily harm which resulted in a community correction order against him for 18 months commencing on 26 September 2019 and concluding on 25 March 2021. The application for renewal was rejected by the respondent on the ground that the respondent could not attest either to the applicant's good repute or that he is a fit and proper person to be the driver of a public passenger vehicle in accordance with law and custom, in accordance with section 11(2) of the *Passenger Transport Act 1990*. The applicant applied for an internal review, which was dismissed on or about 28 April 2020 on the same

grounds. The applicant then applied to the Tribunal for review of that decision.

The charges arose out of a single incident involving the applicant and his partner, in which the applicant pushed his partner to the ground and placed his forearm on her upper chest, believing that she was holding his mobile phone and that he was attempting to wrest it from her. His partner sustained red marks on her upper chest and arms. The applicant had no history of similar offences.

The Tribunal considered the meaning of "good repute" and "fit and proper person". The Tribunal also considered the objects of the *Passenger Transport Act 1990*. The Tribunal noted that the holder of a bus driver authority could drive a bus carrying children and adolescents. The Tribunal took into account the applicant's failure to inform the respondent of the charges laid against him until he came to apply for renewal of his authority.

The Tribunal determined that the respondent's decision should be affirmed. It was noted that the applicant could apply again when the community corrections order ceased to be in force.

Health Care Complaints Commission v Grygiel [2021] NSWCATOD 28

Disciplinary proceedings were commenced in the Tribunal by the Health Care Complaints Commission (HCCC) pursuant to the Health Practitioner Regulation National Law against Dr John Grygiel, an oncologist of over thirty years' experience. By the conclusion of the proceedings Dr Grygiel had surrendered his registration as a medical practitioner.

The proceedings concerned the treatment prescribed by the doctor for patients he treated in western NSW, at Macquarie University Hospital and St Vincent's Hospital, Darlinghurst. The majority of the patients treated at St Vincent's suffered from head and neck squamous cell cancer (HNSCC). Although the proceedings were originally vigorously defended by Dr Grygiel, after an adjournment

necessitated by the COVID-19 pandemic and the filing of an Amended complaint by the HCCC, he conceded his conduct constituted both unsatisfactory professional conduct and professional misconduct.

The Tribunal concluded it was independently satisfied that the following matters were proved in respect of the doctor's treatment of his patients namely that:

(i) he failed to provide adequate care and treatment for 11 (non HNSCC) patients undergoing chemoradiotherapy for various cancers;

(ii) he failed to provide adequate information to 52 patients in order that those patients could give informed consent;

(iii) he failed to make and keep adequate records for 52 of the 53 patients; and

(iv) he adopted a "standard practice" of prescribing a flat dose of a chemotherapy drug for 33 patients and this demonstrated a firmly held view in relation to treatment of HNSCC resulting in a risk these patients did not receive chemotherapy they were otherwise eligible to receive, and which treatment was supported by published trials or meta-analysis; and that they received insufficient information to give an informed consent to their treatment.

The Tribunal decided the proved complaints were of sufficient seriousness to warrant the cancellation of Dr Grygiel's registration and constituted professional misconduct. The Tribunal decided that if Dr Grygiel had still been registered it would have cancelled his registration. The Tribunal imposed a disqualification period of 2 years during which period Dr Grygiel may not seek a reinstatement to the register of medical practitioners.

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 for in the NCAT Act or the enabling legislation.

Workload

There was an increase in the number of appeals filed in the 2020-2021 reporting period. The Appeal Panel received 795 appeals for the year ending 30 June 2021. In the previous year, a total of 643 appeals were received. This is an increase of 23.6%.

Despite this significant increase, the overall clearance ratio for the year was 96.2%. A breakdown of statistics by Division is set out in Table 7.

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 8 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, 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 the parties and a final hearing date is allocated. Parties can usually expect a hearing date six 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 determined at the call over.

Table 7 – 2020-2021 Appeal Panel workload and performance

DIVISION	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Administrative and Equal Opportunity Division	49	55	112.2%
Occupational Division	6	4	66.7%
Consumer and Commercial Division	696	658	94.5%
Guardianship Division	43	47	109.3%
Designated External Appeals	1	1	100.0%
TOTAL	795	765	96.2%

Table 8 – 2020-2021 Appeals finalised by Division list/order type

LIST / ORDER TYPE	2020-2021
Administrative and Equal Opportunity	
• Administrative Review List	43
• Community Services List	3
• Discrimination List	6
• Revenue List	3
Occupational	
• Administrative Review List	4
• Health Practitioner List	0
• Legal Practitioner and Other Professionals List	0
Consumer and Commercial	
• Tenancy List	289
• Social Housing List	48
• General List	66
• Home Building List	112
• Residential Communities List	9
• Strata and Community Schemes List	8
• Strata Schemes List	52
• Motor Vehicles List	37
• Commercial List	34
• Retirement Villages List	3
Guardianship	
• Initial Order	15
• Review of Order	32
Designated External Appeals	1
TOTAL	765

Table 9 – 2020-2021 Final orders made by the Appeal Panel

FINAL ORDERS MADE	2020-2021	%
Allowed	162	21.2%
Dismissal	464	60.7%
Withdrawal	134	17.5%
Other	5	0.7%
TOTAL	765	100%

Table 10 – 2020-2021 Appeals/applications to Supreme Court from Appeal Panel decisions

APPEAL RESULT	2020-2021	%
Allowed	4	20%
Dismissal	16	80%
TOTAL	20	100%

For the 2020-2021 year, 94% 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 lodgement.

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.

Subject to the nature of the issues raised on appeal, and whether the NCAT Act or enabling legislation makes special provision for the constitution of the Appeal Panel, the Appeal Panel (except in the case of appeals from the Guardianship Division) is usually constituted by two Members, or three Members in the most complex of matters.

Internal NCAT appeals from the Guardianship Division are constituted by three Members (two Legal Members, and one non-legal Senior or General Member) in accordance with clause 13 of Schedule 6 to the NCAT Act.

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 9 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 10 sets out the number of appeals and applications finalised by the Supreme Court for the period 2020-2021 and the result of those appeals.

Members

The Appeal Panel is constituted by Members at the direction of the President, assisted by 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 allocated by the President to the Appeal Panel. For appeals from the Guardianship Division, a General Member (who has experience with persons to whom the *Guardianship Act 1987* relates) may be included on the Appeal Panel constituted in a particular matter.

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

***ZOF v NSW Trustee and Guardian (No 2)* [2020] NSWCATAP 254**

The Appeal Panel allowed an appeal from a decision in the Guardianship Division regarding a financial management order made for the appellant. In making the decision to allow the appeal, the Appeal Panel considered the personal and cultural impact of the financial management order on the appellant, who was a member of the Bandjalung and Ngunawal people and a member of the Stolen Generations. It also considered the utility of the order with regard to the extent of ZOF's estate, which predominantly consisted of Centrelink payments, which had been excluded from the order made by the Tribunal.

***Vitality Works Australia Pty Limited v Yelda; Sydney Water Corporation v Yelda* [2020] NSWCATAP 210**

The Appeal Panel dismissed the appeal of the appellant from a decision of the Tribunal at first instance that the respondent, Ms Yelda, had been subjected to sex discrimination by her employer, Sydney Water, and sexual harassment by Sydney Water and Vitality Works, which was contracted to provide a workplace health and safety campaign. The Appeal Panel affirmed the first instance decision that sexual harassment arose pursuant to the *Anti-Discrimination Act 1977* (NSW) by the publishing, printing, displaying and distributing of a poster with Ms Yelda's photograph under the words "Feel great – lubricate!" in the course of the workplace health and safety campaign conducted by Vitality Works, and by Sydney Water's approval of the layout and design of the poster and authorisation of its display. The Appeal Panel said that, under the Act, conduct need not be sexually explicit in order to constitute conduct of a sexual nature or sexual harassment, nor need it be the product of a conscious decision.

As to the issue of sex discrimination, the Appeal Panel affirmed that Ms Yelda was treated less favourably than male employees who had their photographs taken for posters. Further, Sydney

Water's conduct was engaged in on the ground of Ms Yelda's sex, for the reasons set out by the Tribunal at first instance.

The Appeal Panel's decision was upheld by the NSW Court of Appeal in *Vitality Works Australia Pty Ltd v Yelda (No 2)* [2021] NSWCA 147.

***Flight Centre Travel Group Limited t/a Aunt Betty v Goel* [2021] NSWCATAP 44**

The Appeal Panel allowed the appeal of Flight Centre Travel Group Limited against the decision of the Consumer and Commercial Division that found the respondent was entitled to a refund for flights purchased which were cancelled due to travel restrictions under the COVID-19 pandemic. The Appeal Panel found that the appellant had acted merely as an agent between the respondent and Malaysia Airlines, and the terms and conditions made this clear, and so the appellant was not liable to pay a refund to the respondent.

***Zhu v Aspinall* [2020] NSWCATAP 226**

In response to the COVID-19 pandemic, the NSW State Government introduced amendments to the residential tenancies scheme to provide protections from eviction to certain tenants, who could show that they had been affected by the pandemic. The Appeal Panel allowed an appeal from a decision in the Consumer and Commercial Division, largely on the basis that the Tribunal below had erred in finding that the appellant was not a COVID-19 "impacted tenant" as defined in section 228A of the *Residential Tenancies Act 2010* (NSW). In doing so, the Appeal Panel clarified the nature of the legislative amendments and protections available to impacted tenants.

***PR v MDM* [2020] NSWCATAP 151**

The Tribunal at first instance had determined to make orders to keep the name and identifying particulars of a party to proceedings before the Consumer and Commercial Division confidential. Other parties to the proceedings appealed that decision. The Appeal Panel decided to deal with the

appeal by way of a new hearing, on the basis that the "fresh evidence" adduced by both parties warranted a new hearing. In doing so, the Appeal Panel examined and clarified the difference between a "non-publication order" and a "non-disclosure order" under section 64(1) of the *Civil and Administrative Tribunal Act 2013* (NSW).

***Wojciechowska v Blue Mountains City Council* [2021] NSWCATAP 179**

The Appeal Panel dismissed an appeal against a finding of the Administrative and Equal Opportunity Division, in which the appellant, a resident of Tasmania, challenged the Tribunal's authority to determine her application for review of a decision by the respondent under the *Government Information (Public Access) Act 2009* (NSW) (GIPA Act). The Appeal Panel distinguished between the Tribunal's "original" jurisdiction, in which it carries out a statutory function that resembles the exercise of judicial power, and its "review" jurisdiction, in which the Tribunal is engaged in a purely administrative task. The principle in *Burns v Corbett* [2018] HCA 15 did not apply in this matter, because in administrative review proceedings under the GIPA Act the Tribunal is conducting a merits review of a decision of the executive government, and not exercising State judicial power. Consequently, the Tribunal has administrative review authority to determine applications under the GIPA Act even if one party is the State of NSW and the other party a resident of a different State.

Appendices

- 1 Legislation**
- 2 Major Legislative Change 2020-2021**
- 3 Tribunal Members as at 30 June 2021**
- 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 2021**
- 9 NCAT Liaison Group and Divisional Consultative Forum Membership**

Appendix 1

Legislation

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 2021.

NCAT Legislation

Civil and Administrative Tribunal Act 2013

Civil and Administrative Tribunal Regulation 2013

Civil and Administrative Tribunal Rules 2014

Court Security Act 2005

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 and Development Certifiers Act 2018

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 and Young Persons (Care and Protection) Act 1998

Children and Young Persons (Care and Protection) Regulation 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

Childrens Guardian Act 2019

Coal Industry Act 2001

Combat Sports Act 2013

Commons Management Act 1989

Community Gaming Act 2018

Community Housing Providers (Adoption of National Law) Act 2012 (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 Act 2001
Water Act 1912
Water Industry Competition Act 2006
Water NSW Act 2014
Weapons Prohibition Act 1998
Work Health and Safety Act 2011
Work Health and Safety (Mines and Petroleum Sites) Act 2013
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)
Uncollected Goods Act 1995

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
Design and Building Practitioners Act 2020 (to commence 30 July 2021)
Commercial Agents and Private Inquiry Agents Act 2004
Conveyancers Licensing Act 2003
Fair Trading Act 1987
Hair dressers Act 2003
Health Care Complaints Act 1993
Health Practitioner Regulation (Adoption of National Law) Act 2009
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 2014
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
Security Industry Amendment (Private Investigators)
Act 2016
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 2020-2021

Australian Consumer Law (ACL)

Changes commenced on 17 December 2020 and amended section 260 (goods) and section 268 (services) to clarify that multiple non-major failures to comply with consumer guarantees can amount to a major failure.

Better Regulation Legislation Amendment Act 2020

Various amendments to legislation including changes to licensing provisions under the *Motor Dealers and Repairers Act 2013* dealt with in NCAT's Occupational Division. Those changes commenced on 28 September 2020. Also, amendments to the *Residential Tenancies Act 2010* to require a landlord to disclose the jurisdiction in which they ordinarily reside. That change commenced on 1 December 2020.

Building and Development Certifiers Act 2018

The Act commenced on 2 July 2020 and 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.

Charitable Fundraising Amendment Act 2018

The Act commenced on 1 July 2021. 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.

Community Gaming (Amendment) Act 2018

The Act commenced on 1 July 2020 and repealed 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.

Community Land Development Act 2021

Passed by Parliament and assented to 26 March 2021. Repeals and replaces the *Community Land Development Act 1989* (NSW), for the purpose of facilitating the subdivision and development of land with shared property. The Act has not been proclaimed to commence.

Community Land Management Act 2021

Passed by Parliament and assented to 26 March 2021. Repeals and replaces the *Community Land Management Act 1989* (NSW), for the purpose of facilitating the subdivision and development of land with shared property. The Act has not been proclaimed to commence.

COVID-19 Legislation Amendment (Stronger Communities and Health) Act 2021

Commenced on 24 March 2021. Extends temporary provisions in the *Civil and Administrative Tribunal Act 2013* that were introduced because of the COVID-19 pandemic until 26 September 2021 and allow their further extension to a day not later than 26 March 2022 by regulation if necessary.

COVID-19 Recovery Act 2021

Commenced on the 25 March 2021 and extends the operation of provisions under the *Retirement Villages Act 1999* 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.

The legislation also extends provisions under the *Strata Schemes Management Act 2015* extending the operation of a provision that permits temporary regulations to be made to deal with the COVID-19 pandemic.

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, and information sharing arrangements.

Fair Trading Legislation Amendment (Miscellaneous) Act 2018

The provisions commenced on 1 July 2020. The Act 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.

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 Act 2010

Introduced transitional provisions to protect COVID-19 impacted tenants and landlords – to operate once moratorium period ends 26 March 2021. COVID-19 impacted tenants are permanently protected from being listed on tenancy databases for arrears accrued during the moratorium period. Landlords will be able to terminate any tenant under standard provisions for arrears accrued after the moratorium measures end on 26 March 2021. Those transitional measures will end on 26 September 2021.

Retirement Villages Amendment Act 2020

Changes to exit entitlements commenced on 1 January 2021 and introduced changes to exist entitlements and provisions around asset management plans. The asset management plans amendments to the *Retirement Villages Regulation 2017* commenced in February 2021. Further changes to asset management plans and entitlements commenced in May 2021.

Strata Schemes Management Amendment (Sustainability Infrastructure) Act 2020

Commenced on 24 February 2021 and amends the *Strata Schemes Management Act 2015*. Changes impacting NCAT to commence on 1 July 2021 include provisions that will enable the Tribunal to impose a monetary penalty for contravention of an NCAT order and a requirement that an owners corporation to serve all lot owners with copies of any application to NCAT concerning their scheme.

Stronger Communities Legislation Amendment (Courts and Civil) Act 2020

Commenced on 28 September 2020 and amends the *Court Security Act 2005* inserting new section 9B (Prohibition on unauthorised distribution of court recording). The change creates an offence of

transmitting or distributing a recording of court proceedings unless it is done for the purpose of transcribing court proceedings for the court or is otherwise permitted by a judicial officer or the regulations.

The Act amended the *Electronic Transactions Act 2000* transferring the provisions of Schedule 1 to the *Electronic Transactions Regulation 2017* as a pilot scheme to the *Electronic Transactions Act 2000*. The pilot scheme will have effect until the end of 2021.

Appendix 3

Tribunal Members as at 30 June 2021

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. Prior to her professional life as a solicitor, Her Honour was an Associate to Justice McHugh at the High Court of Australia.

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 Jennifer Boland AM DipLaw LLM (Syd)

The Hon Jennifer 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. She was appointed as an acting judge of the District Court of New South Wales until April 2021.

Jennifer Boland is presently a Deputy President of the NSW Civil and Administrative Tribunal. Before her judicial appointment to the Family Court, she 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 Jennifer 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 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 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*.

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 a 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 Ameer PhD MPsyCh (Clin Neuro) BA (Hons)

Senior Member. Clinical neuropsychologist with over 20 years' experience 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. Published over 40 scientific articles, book chapters and 2 books - *Sex in the Brain* (New South Publishing & Columbia University Press) and the co-edited *Music and Dementia: From Cognition to Therapy* (Oxford University Press). Currently undertaking a Juris Doctor/ Diploma of Legal Practice at the University of Newcastle. Appointed to the Mental Health Review Tribunal in 2021.

Barnes, Shenagh LLB (Hons) LLM (Hons)

Senior Member. Many years of experience in the law, including as a legal practitioner, academic, tribunal member and judge.

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.

Bell SC, Adam FCIArb BA (Hons) LLB (Hons) BAppSc AssocDegAppSc

Senior Member. 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 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 Lawyers™ 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 MA(Psych) LLB (Hons) EMPA (Merit) DipEd DipLegPrac

Senior Member. Admitted as a solicitor in NSW in 1999. Currently, Legal Member, Mental Health Review Tribunal; 2015-2017 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, 2016-

2020. 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.

Boyd-Boland, Stephen LLM (Syd)

Senior Member. Solicitor for over 25 years. Extensive experience in commercial law, property law and estate planning. Previously a lawyer at Ashurst's (then Blake Dawson Waldron), an in-house lawyer at a large corporation and a lawyer at a mid-size law firm. Currently a solicitor/director in a boutique general practice. An accredited mediator with significant experience in dispute resolution. On the NSW Law Society panel of mediators, a Notary Public and also sits as a Member of the Personal Injury Commission.

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 (Syd)

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 (Syd)

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.

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 Bachelor of Laws University of NSW October 1999. Holds a post-graduate certificate in Management from Macquarie Graduate School of Management 1998. Admitted to practice as a solicitor February 2002. Practices as a Government Solicitor predominantly in employment law matters in NSW government agencies. Currently appointed as a member of the Law Society of NSW Government Solicitor's Committee and Diversity & Inclusion Committee, with past appointments to the Legal Technology Committee, Professional Conduct Committee and Employment Law Committee. A long-term member of the Institute of Public Administration Australia (NSW). Appointed as a General Member of NCAT's Consumer and Commercial Division in December 2018, with further appointment for a period of 5 years from December 2020.

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 (Syd) 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 General Practitioner 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. A partner of the Digital Law and Privacy & Cyber teams at Clyde & Co practicing in the areas of information technology (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. However, Alec specialises in (and is most recognised by his peers and a number of legal directories for) data privacy and cyber security 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. Assigned to 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.

Clayton, Dr Mark Dip Teach BEd MA (Special Education) PhD

Senior Member. Director, Behaviour Change Consulting and NDIS Registered Behaviour Clinician. Professional Member of the Guardianship Tribunal. Independent Specialist for Restrictive Practices, NSW Department of Communities and Justice (Contracted). Member of the Association for Applied Behaviour Analysis. Member of the Association for Positive Behaviour Support.

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, The Hon Acting Judge Ian BA LLB (Syd) MA (UWS) MSustAgric (Sydney)

Principal Member. Barrister at Law 1975-1991; Trial judge - Family Court 1991-1999; Judge Advocate - Australian Defence Force 1992-1997; Part-time commissioner, Australian Law Reform Commission 1993-2003; Appeal Division judge - Family Court 1999-2013; Barrister at Law (Australia and Fiji) 2013 to date; Adjunct Professor, School of Law Western Sydney University (2013-2017); Member South Katoomba RFS, Katoomba RSL, Blue Mountains Conservation Society, Wentworth Falls Golf Club.

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 Personal Injury Commission.

Connor, Elaine BA (Hons) MPsych (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.

Cook, Larissa Baker BA (Hons) LLB GAICD

Senior Legal Member (Guardianship Division) since December 2020. Admitted as a solicitor in 1993. Legal Principal of Baker Cook Advisory. Over 30 years' experience as a solicitor and advocate in-house and in private practice in Australia and internationally. Specialising in product liability litigation in relation to pharmaceuticals and medical devices, the defence of personal injury and professional negligence matters in healthcare and class actions, commissions of inquiry and Royal Commissions in relation to financial services. Graduate of the Australian Institute of Company Directors and an experienced Non-Executive Director.

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.

Cowdroy AO 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, Deputy President, Administrative Appeals Tribunal; formerly Chair of the Australian Electoral Commission; Inaugural Integrity Commissioner for the ACT; Reporting Officer Section 154 Australian Defence Force. From 1971 – 1997 practising barrister; appointed Queens Counsel 1989; Justice of the Land and Environment Court 1998 – 2006; Justice of the Federal Court of Australia 2006 – 2014; Presidential Member Administrative Appeals Tribunal 2010 – 2014; Additional Justice of the Supreme Court of the Australian Capital Territory 2007 – 2014; Acting Justice of the Supreme Court of the Territory 2014 – 2017; Judge Advocate to the Australian Defence Force and member of the Defence Force Discipline Appeal Tribunal; Acting District Court Judge 2017 – 2021.

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 (Syd) 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.

Deane, Megan BA LLB (UNSW) LLM (Melb)

Senior Member. Admitted as a solicitor in NSW in 1996. Former member of the Migration Review Tribunal 2000-2015, Refugee Review Tribunal 2005-2015 and Social Security Appeals Tribunal 2009-2011. Accredited Mediator.

Dinnen, Deborah BA LLB LLM

Senior Member. Barrister practising in administrative law, employment and industrial law, inquests and inquiries.

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) BEc (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. Part-time 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. Currently works 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. Appointed to the Fair Work Commission as a Deputy President in April 2021.

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 (2014 to current); Consultant, National Support Agency, Disability Support Organisation Program (2014-2017); Member, National People with Disability and Carer Council (2008-2013); Deputy Chair, National Disability and Carer Ministerial Council (2006-2008); Convenor, Disability Safeguards Coalition (1997-2007); Senior Systemic Advocate, Institute for Family Advocacy and Leadership Development(1994-2014).

Esdaile, 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; 1984-2008 partner, Mallesons Stephen Jaques; 2009-2020, General Counsel, Competitive Foods Australia Pty Limited. 1994, President, Law Society of NSW; 2016-2020 chair, Disciplinary Tribunal 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. 2000-2003, ADaHC Residential Support Worker. 2003-2007, Child Protection Case Worker, Community Services. 2007-2016, Principal Guardian NSW Public Guardian. 2016-2018 Community Visitor. 2016-2021, Community Member Guardianship Division NCAT. 2019-2021, Director Dundaloo Foundation.

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.

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. Dean of Education, University of Newcastle, 2001-2007. Life Member Royal Institute for Deaf and Blind Children; Life Member Australian College of Educators. Chair, NSW Institute of Teachers, 2007-2013. Member, Administrative Decisions Tribunal; 2007-2013, Member, NCAT 2014+. Publications include Education of Students with an Intellectual Disability: Research and Practice (2009) and Inclusion in Action (6th edition, 2021). Currently, Emeritus Professor, University of Newcastle. Appointed as 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

Senior 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.

Geikie, Neil LLB MA (Social Theory) GDLP

Senior Member, Guardianship Division; General Member Consumer and Commercial Division. Admitted as a solicitor in 1990. NSW Court Arbitrator (2001 to current). Member of the Professional Conduct Advisory Panel of The Law Society NSW (2010 to current). Nationally Accredited Mediator (2013 to current). Principal of ReSolution Mediation. Enduring interest in social equity, social equality and cultural evolution.

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 works as a Research Assistant at the University of Technology Sydney 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) Civil

and Administrative Tribunal, Consumer and Commercial Division and at 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 cognitive psychologist in 1986 (USA), as a registered psychologist in 2005 (Australia), and accredited as a mediator in 1994 (USA) and 2002 (Australia). Currently, Professor, Newcastle Law School, University of Newcastle. 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)

Senior Member. Barrister - admitted 1989. Arbitrator – (former) Fellow CIArb, Fellow ACICA, Grade 1 Arbitrator Resolution Institute. ACCC - NBNC National Arbitrator Pool; Minister for Industry and Resources - Mining and Petroleum Onshore Acts Arbitration Panels; Economic Regulation Authority of WA – Railway Access Arbitration Panel; NT Minister for Mining and Industry- Member of the Mediators Panel under the Petroleum Regulations 2020 (NT). 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 27 years of experience in building regulations and fire safety projects in the construction industry, Nathan has significant expertise in delivering large and complex projects across all sectors of industry, including complex performance-based compliance solutions and fire safety engineering. Nathan is registered as an Unrestricted Building Surveyor within NSW, which enables him to provide certification and advice on all classes of building. Nationally, he is also an Accredited Member of the Australian Institute of Building Surveyors. Nathan's fire safety credentials include being registered in NSW as a Certifier – Fire Safety; and as an Accredited Practitioner Fire Safety Assessment, enabling him to assess all 36 Fire Safety Measures as required by the Fire Protection Accreditation Scheme. Nathan is a Registered Professional Engineer - Fire Safety in three states: NSW, Queensland and Victoria. He is also registered in NSW as a Design Practitioner – Fire Safety Engineering. As Managing Director of the AED Group, Nathan ensures that the company he founded in 1999 is a leading building regulations, certification and fire engineering consultancy servicing Sydney and regional NSW.

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.

Handebo, Simon BBus LLB LLM (Applied Law) GradDipFDRP

Senior Member. Admitted as a solicitor in 2011. Has worked extensively in the areas of family law and child protection. Recently worked for the Children's Court of NSW and currently for the Federal Circuit and Family Court of Australia. Gained specialist accreditation in family law in 2017. Extensive experience in alternative dispute resolution.

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; 1993-1997, Director of Human Resources, Centrelink; 1999-2000, Social Security Appeals Tribunal Canberra; 2001-2006, Director of Human Resources and Communications, Department of Health and Ageing; 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.

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); 2015-2016, 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, 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.

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.

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.

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 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 Consumer Trader and Tenancy Tribunal 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.

Lo Surdo SC, Anthony BA LLM (Syd) FCIArb FACICA FRIArb1AdvMed

Senior Member. Legal practitioner since 1987. Called to the NSW Bar in 1996 and appointed Senior Counsel in 2011. A predominantly commercial silk in private practice with chambers in Sydney, Melbourne, Darwin, London, Abu Dhabi and Dubai. Regularly appointed as an arbitrator and mediator internationally and domestically. A member of leading world arbitral institutions including ACICA, AIAC, CAS, DIAC, DIFC-LCIA, QICCA, Sport Resolutions (UK), SIAC & THAC. A Grade 1 Arbitrator and Advanced Mediator (Resolution Institute). Registered in PNG as an international and domestic arbitrator and accredited as a mediator instructor and coach in PNG. Accredited as an international mediator by the International Mediation Institute and as a mediator by the Singapore International Mediation Institute. Specialist sports lawyer with experience in selection, anti-doping, disciplinary and governance disputes. Member of the Court of Arbitration for Sport, National Sports Tribunal (Cth), Racing Appeals Tribunal (NSW), Football Australia Judicial Bodies and Chair of the Football NSW Appeals Tribunal.

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, St Vincent's Hospital (2018). St Vincent's Hospital, Social Work Elder Abuse lead (2021). 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 1988, regional practitioner 1989-2002, Member Consumer Trader and Tenancy Tribunal 2002-2013, Riverina Institute of TAFE Trainer 2002-2019, Charles Sturt University Sessional Lecturer 2013-2015, Registrar Children's Court of NSW 2015-current.

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. 2003-2006, legal officer at Legal Aid NSW; 2007 to date, held a number of senior legal roles in Federal and State government departments, including the Federal Department of Human Services, and NSW Department of Justice.

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. 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. FCPA to 2004 and FCA to 2009.

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 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) previously with the 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, part-time, appointed to the former Consumer Trader and Tenancy Tribunal in 2011. Admitted as a solicitor in 1988. Currently, a commercial lawyer practising in Macquarie Street Sydney. Nationally accredited mediator appointed to the Personal Injury Commission in 2020, and the former Workers Compensation Commission since 2011. Current appointment as a Local Court Arbitrator and executive board member of the Australian Dispute Resolution Association (ADRA). Participated in a number of mentoring programs for the advancement of women in law at the University of NSW; University of Wollongong and Notre Dame University, Sydney. In May 2017, completed the Company Directors course conducted by the Broken Bay Institute. Has held the following appointments: Non-executive board member of local chamber of commerce; Governor of a perpetual

care entity; Director of a co-educational school; 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.

McGirr, Patrick Dip Teach (UNSW) MMgmt (UWS) MComm (Hons) (WSU)

General Member. Background in education and later senior management roles in human services spanning both government and private sector organisations. Experience in social research, identifying needs, and delivering service responses including aged/dementia care. 15 years' experience as an Associate Lecturer in Business (Western Sydney University). Key teaching/research areas were strategic/financial analysis and leadership development at MBA level. Lived experience (30+ yrs) formally supporting a person with a dual diagnosis of psychosocial and intellectual disability. Working knowledge of the role of a Private (Financial) Manager and current know-how in negotiating through NDIS processes.

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.

McIvor, Kirsty BComms (Journalism) Cert IV Workplace Training and Assessment

Communication professional having worked as a journalist, producer and foreign correspondent for the ABC and Chief Communication UNICEF in Bangladesh and Indonesia. Runs own communication consultancy. Over 19 years' experience, knowledge and insight into the needs of a person with disability. Alumni Sydney Leadership 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.

McMurrin, 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.

Moir, Jillian BA (Hons) LLB GDLP BSc (Psychology)

Senior Member. Admitted as a solicitor in 1993. Former Senior Member, Veteran's Review Board and 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.

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 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; Current Board Member and Chair of the Intellectual Disability Rights Service.

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.

Notley, Ralph BCom LLB (Hons1) LLM

Senior Member. Currently a barrister specialising in commercial litigation, having been called to the Bar in 2010. Previously a solicitor between 2005 and 2009. Part-time Senior Member of NCAT since 2021.

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). Former 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.

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.

Pinto, Susan Marie BA (Hons) LLB MA
(Criminology)

Senior Member. Admitted as a legal practitioner in 1999. Previous experience in criminal intelligence and as a legal officer in refugee law. First appointed as a Tribunal member on the Administrative Appeals Tribunal in 2003 and reappointed until 2017, specialising in migration and refugee law. Appointed to the Hong Kong Torture Claims Appeal Board in mid 2017 and reappointed until September 2022 assessing applications for asylum in Hong Kong. Appointed to the Nauru Refugee Status Review Tribunal in 2018 and reappointed until December 2021, undertaking applications for persons seeking asylum. Appointed as a senior legal member of Guardianship Division of NCAT in March 2021.

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.

Rickards, Kim BCom LLB LLM

General Member. Has conducted private legal practice in Sydney and rural NSW for 42 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 a Legal Officer with the Royal Australian Navy (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).

Sarofim, Elizabeth LLB (Hons1) BSc (Molecular Biology) GAICD

Senior Member. Held senior roles in state and federal government agencies prior to moving to commercial legal practice and ultimately becoming a Partner. Practiced at Ashurst, Baker McKenzie and Dentons where she was Head of the Competition practice. She sits on various Boards, is an adjunct senior lecturer, and head of Competition and Regulation editorial at 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.

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. Also a Legal Member of the NSW Mental Health Review Tribunal. Practiced as a solicitor in private practice in rural NSW and at Legal Aid NSW.

Sheahan AO, Terence William BA LLB FRSN

Principal Member. Served in the NSW Parliament 1973-1988, including as a Cabinet Minister 1980-1988, in a range of portfolios including Attorney General 1984-1987. Later served as a Judge of the NSW Land and Environment Court 1997-2019, and President of the NSW Workers Compensation Commission 2001-2007. Appointed as an Officer in the General Division of the Order of Australia in 2002. The citation referred to his service to the law, especially in the area of ADR, to the Parliament of NSW, and to organisations involved in health and aged care, education, human rights, and the environment.

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 a Churchill Fellowship recipient. Admitted as a solicitor in 2006. Extensive experience in child protection law. Significant experience working with, and for, disadvantaged clients with mental health, family violence and drug and alcohol challenges. Extensive litigation experience representing children and adults with physical, mental and intellectual disabilities. Member of the NSW Children's Legal Issues Committee. Legal Member with the Guardianship Division of NCAT since 2016.

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, 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. 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. Nationally accredited mediator. Teaching Fellow, UNSW Law, since 1996. 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.

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 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 Division and Commercial and Consumer Division. 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.

Titterton OAM, Robert BComm LLB MArtsMgt

Senior Member. Former Principal Member. Admitted as a solicitor in 1988 and barrister in 1992. Sits in the Occupational Division and Consumer and Commercial Division as well as the Appeal Panel. Former member of the Administrative Appeals Tribunal (Cth) and NSW Consumer Trader and Tenancy Tribunal.

Tong AM, Dr Lizabeth BA (Hons) (UNSW) MA DipPsychol PhD (Med) (Syd)

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. Queen's Birthday (2019) Member of Order of Australia for Significant Services to Medicine and in particular for the Mental Health of Children.

Toohy, 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 member Personal Injury Commission; Deputy Principal Member, Nauru Refugee Status Review Tribunal.

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.

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.

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 the present. 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 Deputy 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 postgraduate 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.

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 Community Legal Centres.

Woods, Harry BA (Syd) Dip Law (SAB)

Senior Member. Admitted to practise as a Solicitor of the Supreme Court of New South Wales in 1994. Practised as Barrister in New South Wales since 2000, regularly representing clients across a broad spectrum of commercial law matters, including general commercial disputes, building and construction, administrative law, employment and industrial law, consumer law and trade practices disputes, as well insolvency and bankruptcy matters.

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. 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 at 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

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 2020 to 30 June 2021.

SALARY AND RELATED PAYMENTS	\$'000
Salaries (staff and full-time members)	15,523
Statutory appointees (part-time members)	19,112
Contractors (agency temporary staff)	406
Annual leave and sick leave	2,423
Overtime	1
Long service leave	828
Superannuation	3,176
Workers compensation	392
Payroll tax	1,858
Fringe benefit tax	5
Other	1
Subtotal	43,725

OPERATIONAL EXPENSES	\$'000
Office accommodation	6,440
Postage and couriers	477
Telephones	515
Electricity gas	255
Minor computer purchases and consumables	83
Fees	295
Training and development fees	24
Travel expenses*	11
Printing	254
Interpreters	630
Publication	111
Insurance	224
Maintenance	255
Minor miscellaneous	64
Subtotal	9,638
Depreciation	2,797
Ex-Gratia payments	1
Impairment on receivables – JusticeLink	0
Total operational expenses	56,161

* Travel expenses for 2020/21 and 2019/20 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 2020 to 30 June 2021.

Administrative and Equal Opportunity Division

LIST	SERVICE STANDARD	TARGET	MET TARGET%	TOTAL VOLUME	VARIATION TO TARGET
Administrative Review List	9 mths	80%	82%	499	2%
Community Services List	9 mths	80%	71%	76	-9%
Equal Opportunity List	9 mths	80%	88%	150	8%
Revenue List	9 mths	80%	73%	66	-7%

Consumer and Commercial Division

LIST	SERVICE STANDARD	TARGET	MET TARGET%	TOTAL VOLUME	VARIATION TO TARGET
Tenancy List					
<i>Termination</i>	4 wks	80%	29%	17,077	-51%
<i>Non-termination</i>	8 wks	80%	62%	15,202	-18%
Social Housing List					
<i>Termination</i>	4 wks	80%	23%	6,657	-57%
<i>Non-termination</i>	8 wks	80%	69%	3,627	-11%
General List	12 wks	80%	65%	5,090	-15%
Home Building List					
<=\$30,000	16 wks	80%	56%	1,829	-24%
>\$30,000	18 mths	80%	89%	942	9%
<i>Other</i>	16 wks	80%	63%	194	-17%
Residential Communities List					
<i>Termination</i>	6 wks	80%	30%	47	-50%
<i>Non-termination</i>	20 wks	80%	51%	313	-29%
Strata and Community Schemes List					
<i>Adjudication</i>	16 wks	80%	54%	24	-26%
<i>Hearing</i>	16 wks	80%	33%	18	-47%
Strata Schemes List					
<i>Group</i>	16 wks	80%	77%	302	-3%
<i>Special</i>	24 wks	80%	79%	1,045	-1%
Motor Vehicles List	16 wks	80%	62%	1,634	-18%
Commercial List	16 wks	80%	62%	925	-18%
Retirement Villages List	16 wks	80%	53%	53	-27%

Guardianship Division

LIST	SERVICE STANDARD	TARGET	MET TARGET%	TOTAL VOLUME	VARIATION TO TARGET
Risk Category 1	3 days	80%	98%	311	18%
Risk Category 2	20 days	80%	98%	537	18%
Risk Category 3	60 days	80%	96%	8,587	16%
Risk Category 4	100 days	80%	95%	4,536	15%

Occupational Division

LIST	SERVICE STANDARD	TARGET	MET TARGET%	TOTAL VOLUME	VARIATION TO TARGET
Administrative Review List	9 mths	80%	95%	86	15%
Health Practitioner List	12 mths	80%	79%	117	-1%
Legal Practitioner and Other Professionals List	12 mths	80%	75%	28	-5%

Appeals

LIST	SERVICE STANDARD	TARGET	MET TARGET%	TOTAL VOLUME	VARIATION TO TARGET
Appeals	9 mths	80%	94%	765	14%

Enforcement (Penalties and Contempt)

LIST	SERVICE STANDARD	TARGET	MET TARGET%	TOTAL VOLUME	VARIATION TO TARGET
Enforcement (Penalties and Contempt)	9 mths	80%	71%	7	-9%

Appendix 7

Resolution Processes

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

In the Consumer and Commercial Division, 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. 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 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, subject to the limitations on internal appeals against decisions of the Consumer and Commercial Division in clause 12 of Schedule 4 to the Act.

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 internal 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, received a copy of the application and 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 2021

Administrative and Equal Opportunity Division and Occupational Division

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
Administrative review application	\$106	\$212	\$27
<ul style="list-style-type: none"> to be determined by 2 or more Members* 	\$221	\$442	\$55
<ul style="list-style-type: none"> under the <i>Apprenticeship and Traineeship Act 2001</i> 	No fee	No fee	No fee
<ul style="list-style-type: none"> under the <i>Community Services (Complaints, Reviews and Monitoring) Act 1993</i> 	No fee	No fee	No fee
General application or external appeal	\$106	\$212	\$27
<ul style="list-style-type: none"> to be determined by 2 or more Members* 	\$221	\$442	\$55
<ul style="list-style-type: none"> to be determined by Appeal Panel 	\$435	\$870	\$109
<ul style="list-style-type: none"> 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> 	No fee	No fee	No fee
Health Practitioner List matters	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
Residential proceedings	\$52	\$104	\$13
General consumer or commercial proceedings			
<ul style="list-style-type: none"> Claims not more than \$10,000 (or no amount) 	\$52	\$104	\$13
<ul style="list-style-type: none"> Claims over \$10,000 to \$30,000 	\$107	\$214	\$27
<ul style="list-style-type: none"> More than \$30,000 	\$277	\$554	\$69
Strata schemes			
<ul style="list-style-type: none"> General application in strata proceedings 	\$107	\$214	\$27
<ul style="list-style-type: none"> General application for orders in strata proceedings and interim orders when lodged at the same time 	\$214	\$418	\$54
Community schemes			
<ul style="list-style-type: none"> Application for Adjudicator's orders 	\$90	\$180	\$23
<ul style="list-style-type: none"> Application for Adjudicator orders and interim orders when lodged at same time 	\$180	\$360	\$45
<ul style="list-style-type: none"> Application for Tribunal orders 			
<ul style="list-style-type: none"> General application for orders under Division 4 of the <i>Community Land Management Act 1989</i> 	\$90	\$180	\$23
<ul style="list-style-type: none"> External appeal against order of Adjudicator 	\$106	\$212	\$27

Retail leases	\$106	\$212	\$27
Renewal of proceedings	Same as original application	Same as original application	Same as original application

Guardianship Division

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
Guardianship proceedings	No fee	No fee	No fee

Other application fees (all Divisions)

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
Internal appeal	\$435	\$870	\$109
Set aside application	\$107	\$214	\$27
Reinstatement application	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, and uncollected goods.

Other services

SERVICE	FEE
Copy of sound recording (for each hearing event)	\$45
Application for issue of a summons (for production of or to give evidence, or both)	\$48
Request for the production to Tribunal of documents held by court	\$55
Retrieval of any document or file from archives	\$84
Copy or certified copy of decision or written reasons	\$84
Request by a non-party to inspect public access documents	\$45 [#]
Photocopying of documents where a Tribunal staff member makes the copies	\$2 per sheet

[#] 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

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

