



NCAT  
NSW Civil &  
Administrative Tribunal

# NCAT

## Annual Report

### 2015-2016



**NCAT**  
NSW Civil &  
Administrative Tribunal

The Hon Gabrielle Upton, MP  
Attorney General  
52 Martin Place  
SYDNEY NSW 2000

Dear Attorney

I am pleased to submit the 2015-2016 Annual Report for the NSW Civil and Administrative Tribunal.

The report summarises the Tribunal's performance and outcomes achieved during the period 1 July 2015 to 30 June 2016.

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

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

Yours sincerely

*[signed]*

**The Hon Justice Robertson WRIGHT**

President  
Civil and Administrative Tribunal of New South Wales

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NOTE: Each section of this report commences with an extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

# President's Report

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## What does NCAT do?

The NSW Civil and Administrative Tribunal (NCAT) plays an integral role in the administration of civil justice in this State. In 2015-2016, the Tribunal has received over 69,400 applications and has finalised over 69,800 matters. Our website received 2.25+ million page hits over this period.

As its full name indicates, NCAT is not just an administrative tribunal whose sole function is reviewing administrative decisions of the Executive Government under the *Administrative Decisions Review Act 1997* (NSW). Although that work is important, it makes up only about 1% of the applications lodged in the Tribunal each year. In addition to its administrative review jurisdiction<sup>1</sup>, the Tribunal also exercises appeals jurisdiction (both internal and external)<sup>2</sup>, enforcement jurisdiction (both in relation to contempt of the Tribunal and the imposition of civil penalties)<sup>3</sup> and general jurisdiction<sup>4</sup>. Much of the Tribunal's work can actually be seen as involving the exercise of judicial power<sup>5</sup> not executive power. More specific information of what is done in each Division of the Tribunal and in the Appeal Panel is given in this report.

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<sup>1</sup> *Civil and Administrative Tribunal Act 2013* (NSW), s 30.

<sup>2</sup> *Civil and Administrative Tribunal Act 2013* (NSW), ss 31 and 32.

<sup>3</sup> *Civil and Administrative Tribunal Act 2013* (NSW), s 33.

<sup>4</sup> *Civil and Administrative Tribunal Act 2013* (NSW), s29.

<sup>5</sup> Applying the reasoning and conclusions of the Court of Appeal in *State Rail Authority v Consumer Claims Tribunal* (1988) 14 NSWLR 473 at 478-9 concerning one of the Tribunal's predecessors.

## How is NCAT doing it?

The simple answer to this question is that the Tribunal continues to achieve a clearance rate of slightly over 100% and delivers fair and just outcomes by the hard work and commitment of Members and registry staff.

I should, however, also note some particular occurrences and developments in the 2015-2016 year. On 29 October 2015, the Tribunal conducted its first all NCAT Member Conference which was successfully organised and conducted by Principal Member Jan Redfern PSM. The feedback received was that this had been a most informative and valuable professional development activity for Members. It is intended to hold such a conference bi-annually.

In April 2016, the Guardianship Division relocated from Balmain to join the Principal Registry, the Administrative and Equal Opportunity Division, the Occupational Division and the Appeal Panel in John Maddison Tower in the Central Business District of Sydney. This physical consolidation is conducive to the more integrated and efficient operation of both Member and registry functions. At the same time, however, the Tribunal continues to sit in over 70 locations around the State as well as making use of the updated audio-visual facilities installed in the Guardianship Division's new hearing rooms on level 6 of John Maddison Tower. The relocation was achieved with minimal disruption to the functioning of the Guardianship Division. This was due in large measure to the efforts of the Head of the Guardianship Division, Deputy President Malcolm Schyvens, and the Divisional Registrar, Ms Pauline Green, together with Ms Amanda Curtin, Deputy Registrar Operations and the Members and staff of the Division.

During the 2015-2016 year, a number of new Members have been appointed to each of the Divisions in addition to the existing Members who have been reappointed. These appointments and reappointments refreshed the membership of the Tribunal at the same time as retaining much accumulated experience and wisdom.

On 31 December 2015, the term of appointment of Magistrate Nancy Hennessy, Deputy President and Head of the Administrative and Equal Opportunity Division, was due to come to an end. In the latter half of 2015, the position as Deputy President and Head of Division was widely advertised and the Attorney General convened an appointment committee to select and interview candidates for appointment. As a result of that process, Magistrate Hennessy was reappointed by the Governor for a further term of five years. On behalf of the Tribunal as whole, I express our thanks to Nancy Hennessy for her previous service on the Tribunal and congratulate on her reappointment. There have been no other changes in the Deputy Presidents and Heads of Division this year.

The Members of the Tribunal continue to bring enormous experience, talent and dedication to their work and thereby make a substantial contribution to the administration of civil justice in New South Wales. May I express my appreciation for the support and encouragement that the Deputy Presidents and the Principal, Senior and General Members have provided during 2015-2016. The depth of the expertise of the Membership is demonstrated by the brief details provided in this report in respect of each Member.

I was also impressed during 2015-2016 with the hard work, co-operative attitude and willingness to help, displayed by registry staff of the Tribunal at all levels across all registry locations. At the beginning of this financial year, the Tribunal was without a Principal Registrar. After a nationwide search for suitable candidates, Ms Cathy Szczygielski was appointed, in August 2015, as the Principal Registrar

and Executive Director of the Tribunal. Cathy brings a keen mind, the ability to detect the flaws in a spreadsheet of numbers within seconds, a sense of humour and invaluable experience to her new role. The Tribunal is fortunate indeed that she was prepared to take up this position.

During 2015–2016, the NCAT-wide Liaison Group has met twice and the Divisional Consultative Forums have also continued to operate as a means of reaching out to those with a legitimate interest in the functioning of the Tribunal and its Divisions. Through these meetings and forums NCAT can keep stakeholders informed of developments, receive ideas for improving the functioning of the Tribunal and ensure that it remains responsive to the needs of those who come before the Tribunal. The Tribunal takes this communication and interaction very seriously and values the contributions made by stakeholders.

The Tribunal could not operate without support and funding from the Department of Justice. In this regard, the Secretary of the Department of Justice, Mr Andrew Cappie-Wood, and the Deputy Secretary, Courts and Tribunal Services, Mr Michael Talbot, have been tireless in providing an environment in which NCAT can dispose of its caseload without building up any backlog and take significant steps to integrate and update its case management system and introduce the online lodgement of documents and the making of orders in hearings digitally.

At the highest level, we have also benefitted from the interest, encouragement and practical help provided by the Attorney General, the Honourable Gabrielle Upton MP. In 2015–2016, the Attorney General delivered the keynote address at the first all NCAT Members' Conference, opened the Guardianship Division's new premises on Level 6 of John Maddison Tower and secured the appointment and re-appointment of a considerable number of Members. We appreciate all that the Attorney has done and look forward to working

with her on the further development of her civil justice strategy.

## What should NCAT be doing?

In my view, the Tribunal should be demonstrating that it is the most effective way to resolve disputes and administer justice in the diverse range of matters over which it has jurisdiction. Matters should be resolved as promptly as possible. Litigants who come before the Tribunal should feel they have had a real opportunity to be heard and have been listened to. The Tribunal's decisions should all be the result of a fair process and just, in the sense of being in accordance with law and rationally based on the evidence.

The coming year will no doubt present its own challenges and new opportunities for the Tribunal to find ways of doing what it does better, more effectively and more accessibly. In 2016-2017 I am looking forward to working with Members and registry staff to simplify our procedures and processes across the Tribunal so that people coming to the Tribunal no longer face a bewildering array of words with which they are not familiar, forms that are difficult to fill out or practices which inhibit their ability to put forward their cases and be heard. The Tribunal is in a good position to meet the challenges and take up the opportunities that 2016-2017 will present.

**The Hon Justice Robertson Wright**  
President

# 2015-2016 in Review

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## 69,456 Applications lodged

- 57.9% of all applications lodged online
- 70.1% of applications in the Consumer and Commercial Division lodged online
- 602 internal appeals lodged from final, ancillary and interlocutory decisions of the Tribunal

## 82,471 Hearings held

- Hearings were held in over 70 venues across NSW with 34% of hearings in regional areas

## 69,861 Applications finalised

- Achieved an overall clearance ratio of 100.6%

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

## 2.25+ million Website page views

- Top 10 terms searched on the NCAT website during 2015-2016: hearing notes, fees, appeal, costs, warrant, summons, forms, urgent, bond, tenancy
- 624 likes on NCAT Facebook
- 626 followers on NCAT Twitter
- 1,974 subscribers to NCAT online alerts and e-newsletters

## 2015-2016 Applications

DIVISION	NUMBER	% OF TOTAL
Administrative and Equal Opportunity	848	1.2%
Consumer and Commercial	57,299	82.5%
Guardianship	10,384	15.0%
Occupational	323	0.5%
Internal Appeals	602	0.9%
<b>Total</b>	<b>69,456</b>	<b>100%</b>

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

# Independence

“Independence is about the degree of separation from the Executive. A tribunal’s degree of independence will influence public perception about the extent of the tribunal’s impartiality. This is particularly important in tribunals which deal with disputes involving the citizen and the State. Impartiality is essential for the delivery of predictable, just decisions and the acceptance of those decisions by the public.”<sup>6</sup>

## Legislative framework

NCAT is an independent statutory body established by the *Civil and Administrative Tribunal Act 2013* (NSW) (the Act). The 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 Act include the establishment of NCAT as an independent Tribunal and 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, accessible, economical and effective and has in place processes to monitor and assess these aspects of its work. These objectives underlie the work of the Tribunal, its Members and staff, and inform the delivery of Tribunal services across NSW.

The independent decision making role of NCAT is confirmed by 156 separate Acts and subordinate legislation that confer broad and diverse powers on the Tribunal. A list of the enabling legislation is provided at Appendix 1. These powers are exercised by the four Divisions and the Internal Appeal Panel of NCAT.

Significant legislative amendments in 2015-2016 that affected NCAT’s jurisdiction included the introduction of new residential (land lease)

community laws replacing the former residential parks legislation. The *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015* commenced on 1 November 2015, and are designed to better meet the needs of both home owners and operators in residential communities (formerly called ‘residential parks’). The Act established procedures for resolving disputes involving residents, occupants and operators of residential communities. These disputes are dealt with in NCAT’s Consumer and Commercial Division, and changes were required to the Division’s systems, practices and procedures. Training in the new laws was provided to Tribunal Members and registry staff, and the NCAT website information and resources were updated.

Other legislative amendments that received assent in late June 2016 and commence at the start of the 2016-2017 financial year, introduce new jurisdiction in respect of reviews of government agency decisions in the Administrative and Equal Opportunity Division. Further information about these and other 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 Act (in Part 2 and in Schedule 2) establishes the requirements for appointment, qualifications, remuneration and other aspects of

<sup>6</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

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. Apart from the President who is 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 Members may be cross-assigned by the President to one or more other Divisions.

At 30 June 2016, the Tribunal had 244 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. Members are located in the Sydney metropolitan, regional and country areas to provide flexibility and to ensure NCAT services are available and accessible.

Member recruitment activity completed during the year refreshed the Tribunal's membership, and resulted in a number of reappointments as well as new Members being appointed and assigned to Divisions. Magistrate Nancy Hennessy was reappointed as Deputy President and Division Head of the Administrative and Equal Opportunity Division of NCAT.

In May 2016, a recruitment process was commenced in regard to the role of Deputy President and Division Head of the Guardianship Division, full-time Principal Members in the Consumer and Commercial Division, part-time Senior Members in the Occupational Division, and

part-time Senior Members (Legal and Professional) and part-time General Members (Community) in the Guardianship Division.

Members may at any time indicate their interest in being cross-assigned to other Divisions. Whether a Member is cross-assigned depends principally on the needs of the Division in question. Cross-assignment provides greater flexibility in allocating Members to hear matters, assists in developing the expertise of Members and ensures Members' skills and experience are available across NCAT where required in appropriate cases.

A list of Tribunal Members is provided at Appendix 3 with brief biographies that illustrate the depth of experience within the Tribunal's membership.

The *NCAT Member Code of Conduct*, at Appendix 4, applies to all Members of the Tribunal and provides guidance in the performance of their statutory functions. It also assists Members in identifying and resolving ethical issues if they arise. The Code is kept under review to ensure currency, and is published on the NCAT website.

## Staffing

Administrative support for the Tribunal and its Members is provided by staff who operate out of the eight NCAT Registries located in the Sydney CBD, metropolitan and regional areas. At 30 June 2016, NCAT had 184 staff.

During the year, work continued on implementing the requirements of the *Government Sector Employment Act 2013*. This included the development and approval of new role descriptions for all staff.

A range of staff learning and development activities are conducted at the Divisional level, including structured monthly briefing days and regular lunchtime sessions with presentations from internal and external speakers.

NCAT staff can also access a range of eLearning and face to face courses offered through the Department of Justice. This training complements activities and on-the-job training that reinforces and expands existing skill levels within registries.

## **Budget and funding sources**

Filing and other fees received by NCAT for its services are supplemented by funding from various sources, including recurrent funding from the NSW Treasury. NCAT also receives funds from the Public Purpose Fund, statutory sources including the Rental Bond Board and Motor Vehicle Repair Industry Fund, as well as cost recovery funding from the Health Professional Councils Authority, the Australian Health Practitioner Regulation Agency (AHPRA), and the Department of Education.

NCAT's Expenditure Report for the 2015-2016 financial year is attached at Appendix 5.

# Leadership and effective management

“Strong leadership requires the creation of a highly professional management group, the anticipation of changes in society (which can lead to changes in demand within a tribunal), as well as a focus on innovation and continuous improvement ... Excellent tribunals also encourage and support non-member tribunal administrators and the tribunal members in leadership roles to take part in courses to improve their management skills.”<sup>7</sup>

## Leadership group

### President

The inaugural and current President of NCAT is the Hon Justice Robertson Wright, who was sworn in as a Supreme Court Judge on 25 October 2013.

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 and exercises the statutory functions conferred by the Act as well as functions under delegation from the President. The five Deputy Presidents are:

- Magistrate Nancy Hennessy, Head of the Administrative and Equal Opportunity Division [reappointed from December 2015]
- Mr Stuart Westgarth, Head of the Consumer and Commercial Division
- Mr Malcolm Schyvens, Head of the Guardianship Division

- The Hon Acting Judge Jennifer Boland AM, Head of the Occupational Division
- Acting Judge Kevin O’Connor AM, Deputy President [appointed as a part time Deputy from December 2015].

### 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 Act. In August 2015, Ms Cathy Szczygielski commenced in the role of Executive Director and Principal Registrar.

### Deputy Registrar Operations

The Deputy Registrar Operations is responsible for managing a range of business and operational support functions for the Tribunal and assists the Principal Registrar. The substantive position holder, Mr Garry Wilson, was seconded to another role in the Department. Divisional Registrar Ms Amanda Curtin has acted in the Deputy Registrar Operations role since August 2015.

### Divisional Registrars

The Divisional Registries are responsible for providing specialised administrative and case management support in each of NCAT’s Division. The Divisional Registrar of each Division is

<sup>7</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

responsible for management of Divisional Registry staff and other functions as delegated by the Principal Registrar. At 30 June 2016, the three Divisional Registrars were:

- Ms Christine Skinner, Acting Divisional Registrar for the Administrative and Equal Opportunity Division and the Occupational Division
- Ms Vikki Hardwick, Divisional Registrar for the Consumer and Commercial Division
- Ms Pauline Green, Acting Divisional Registrar for the Guardianship Division.

## Governance

### Rule Committee

The Rule Committee of the Tribunal is established by section 24 of the Act and comprises the President and the Division Heads. The Principal Registrar was appointed 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 to resolve disputes consistently, economically and promptly while allowing flexibility to cater for different needs of particular parties.

During the year the Rules were amended by the Rule Committee to add a new Rule, r 38A, which commenced on 1 January 2016 for all internal appeals lodged after that date. The effect of this new rule is to require an Appeal Panel to apply the same costs provisions in an internal appeal as were applicable in the proceedings under appeal.

### Governance and Management Meetings

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

### Division Heads Meetings

Each of the Division Heads together with the President and the Principal Registrar meet formally on a monthly basis to review and make decisions concerning the operation and functioning of the Tribunal and the management of Members. Each quarterly meeting is combined with the NCAT Executive Meeting.

The Principal Member responsible for Member Professional Development, and managers responsible for specific projects or aspects of the Tribunal's work are invited to give presentations to the Division Heads Meetings, as required and appropriate.

### NCAT Executive Meetings

The Executive Group comprises the President, Division Heads, the Principal Registrar, Deputy Registrar (Operations) and each of the Divisional Registrars.

The Group meets formally each month to discuss the performance and management of the Tribunal and issues regarding the resourcing, service delivery and the functioning of the registries. From time to time, managers of various areas and projects are invited to address these meetings to keep the Executive up to date with the many endeavours being undertaken throughout the Tribunal.

### Additional Committees

In addition to the Division Head Meetings and the Executive Group, the President has established a number of committees to deal with specific aspects of the work of the Tribunal.

### *Practice and Procedure Committee*

The Practice and Procedure Committee provides advice and makes recommendations to the Rule Committee and Executive Group on the processes, legislation and practice and procedure relevant to the operation of NCAT. Acting Judge Jennifer Boland, Head of the Occupational Division, chairs this Committee which also comprises Deputy

Divisional Registrars and Tribunal Members from across the four NCAT Divisions.

The Committee has reviewed existing Procedural Directions and Guidelines and discussed whether amendments are required. The Committee has also identified areas where new Procedural Directions and Guidelines would facilitate the Tribunal's processes.

The Committee met six times during the reporting period and has recommended to the President guidelines on costs for each of NCAT's four Divisions.

#### ***Member Reference Manual Committee***

The Member Reference Manual Committee is chaired by Deputy President Stuart Westgarth, Head of the Consumer and Commercial Division. A working group, established to contribute to the work of the Committee, involves Division Heads, a Member of the Consumer and Commercial Division and its Divisional Registrar, and a representative from the Principal Registry.

During the year, the Committee met to discuss the proposed structure and content for the Manual. Committee Members also identified external manuals that would be of assistance to Tribunal Members. Approval was obtained from the Council on Australasian Tribunals (COAT) to provide direct access to the COAT Practice Manual for Tribunals from the NCAT Intranet. The Health Professional Councils Authority also agreed to its Bench Book being accessible to Tribunal Members from the NCAT Intranet. The work of the Committee is ongoing.

#### ***Accessibility Committee***

The Accessibility Committee was established at the start of 2015-2016 to advise and make recommendations to the President, Division Heads and the Principal Registrar on how NCAT might deliver its services in a way that assists all users and potential users recognising the diversity resulting from their races, cultures and languages, sexual

orientations, disabilities, religions or beliefs, socio-economic circumstances or geographic locations.

The Committee is chaired by Deputy President Malcolm Schyvens and met four times during the reporting period. The Committee includes Members from each Division, Divisional Registrars and staff representatives from the Principal Registry and the NCAT Divisions.

Information about the work of this Committee during the year is included at Appendix 6 to this report.

#### ***Professional Development Committee***

The Professional Development Committee was established in November 2015 to advise and make recommendations to the President and NCAT Division Heads regarding Member professional development and to co-ordinate professional development activities across the Tribunal. Magistrate Nancy Hennessy chairs the Committee, which includes Division Heads, Tribunal Members and the Manager Business and Communication Services. During the year the Committee met on three occasions to discuss the range of professional development activities for Members, including mentoring, Member induction, and the availability of online resources.

The establishment of this Committee is one element of the Tribunal Member Professional Development Plan that was endorsed by the NCAT President in September 2015.

## **NCAT Strategic Plan 2014-2018**

The NCAT Strategic Plan 2014-2018, launched in June 2014 and available on the NCAT website, identifies four priority areas that provide the framework for NCAT's development over the next five years:

**Integrate** | Complete the effective integration of the 22 former tribunals that make up NCAT.

**Influence** | Deliver quality decisions and efficient dispute resolution processes.

**Engage** | Actively engage our people, stakeholders and the broader community to promote awareness about NCAT and its services.

**Innovate** | Improve our services and processes to support a user-friendly environment.

Business plan priorities were identified under each of the priority areas to ensure NCAT continues to deliver high quality, cost-effective and prompt dispute resolution and registry services. Examples of significant activities that progressed or were commenced during the reporting year are included at Appendix 6.

# Fair treatment

“The provision of a fair hearing is at the very heart of a tribunal's obligations to the parties who appear before it. An important element of the obligation to provide a fair hearing is the duty to provide assistance to parties and, in particular, self-represented parties.”<sup>8</sup>

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## Customer service charter and service enhancement projects

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

Outcomes from current initiatives mentioned elsewhere in this report, in particular the Transformation Project and the Accessibility Project, as well as the continuing work of the Principal Registry and the Divisions, will contribute to NCAT implementing its commitment to timely, fair, consistent and high quality services by:

- providing simple processes that can be understood and used by all, regardless of their education, language, experience in a legal environment or familiarity with court or Tribunal proceedings
- being accessible to all, regardless of factors such as age, disability, cultural background, sex 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, and
- receiving and responding to feedback, including comments, complaints and concerns.

## Procedures and processes

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 deploys 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 during this reporting year is set out in Appendix 7.

## Internal appeals

One of the most significant and effective ways in which the Tribunal ensures the fairness, consistency and quality of its decisions is through the internal appeal process.

Under sections 32 and 80 of the Act, parties generally have a right to appeal to the Internal Appeal Panel from:

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<sup>8</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

- 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. Questions of law that may be raised on appeal include not only errors in the identification and application of legal principles but failure to accord procedural fairness and failure to provide adequate reasons for decision.

The Appeal Panel usually comprises two or three Members. Appeal Panel Members are drawn from across NCAT's membership but the presiding Member is usually a presidential or Principal Member or another senior legal practitioner Member. As at 30 June 2016, there were 46 Members from all NCAT Divisions sitting on the Appeal Panel. Staff in the Internal Appeals Unit provide support to the Members who hear internal appeals.

The internal appeals process permits decisions at first instance to be scrutinised and, where necessary, corrected without the expense or time involved in bringing proceedings in the District Court or the Supreme Court. This scrutiny also improves the standard and 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 2015-2016, 602 appeals were lodged with the Tribunal, 1,244 appeal panel hearings were held, and 709 appeals finalised.

*NCAT Guideline 1 - Internal Appeals* was updated during the year. The *Notice of Appeal* and *Reply to Appeal* forms were also reviewed and updated. In addition, a new *Application for stay of original*

*decision pending appeal* form was released for appellants seeking a stay of orders when lodging a notice of appeal. These forms are available on the NCAT website in easy to complete PDF-fillable and Word accessible formats.

The *NCAT Appeal Panel Decisions Digest*, available on the website, provides keyword summaries of NCAT Internal Appeal decisions. A subscription service to the *Digest* was introduced in May 2016.

## NCAT procedural directions, guidelines and policies

Section 26 of the 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.

During 2015-2016, *NCAT Guideline 1 – Internal Appeals* was updated with new information about leave to appeal and stays. In addition, in the first half of 2016, NCAT Policies 1, 2 and 3 were substantially revised, and *NCAT Policy 4 – Access to and Publication of Information Derived from Proceedings* and *NCAT Policy 5 – Member Participation in External Engagements* were published. These policies set out the legislative provisions, protocol and procedures that apply where persons who are not parties to proceedings wish to gain access to, or publish, information derived from proceedings in the Tribunal and the circumstances in which it may be appropriate for Members to participate in external engagements.

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 Witnesses
- NCAT Procedural Direction 4 – Registrar’s Powers Directions

## Divisional Procedural Directions

### Administrative and Equal Opportunity Division

- Interim Continuation of Administrative Decisions Tribunal’s Practice Directions and Guidelines
- Revenue Matters
- Anti-Discrimination Matters
- Appointing a Guardian Ad Litem
- Government Information Public Access Act Matters
- Audio-Visual Link (AVL) for Hearings
- Mediation
- Publication, Anonymisation and Suppression

### Consumer and Commercial Division

- Adjournments
- Acceptance of Building Claims
- Conciliation and Hearing by Same Member
- Home Building Disputes
- Online Lodgement
- Personal Identifiers
- Electronic Evidence

### Guardianship Division

- Costs
- Representation

### Occupational Division

- Interim Continuation of Administrative Decisions Tribunal’s Practice Directions and Guidelines
- Audio-Visual Link (AVL) for hearings
- Health Professionals Registration Appeals
- Professional Discipline Matters

## NCAT Guideline

NCAT Guideline 1 – Internal Appeals

## Divisional Guidelines

### Consumer and Commercial Division

- Representation of Parties
- Suspension of Operation of Termination Order
- Termination for Non-Payment of Rent

## 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

## Other documents

- NCAT Member Code of Conduct
- NCAT Service Charter
- NCAT Strategic Plan 2014-2018
- NCAT Communications Strategy 2015-2018.

## Representation before the Tribunal

Parties may wish to be represented in the Tribunal, but depending on the particular Division or legislation under which the proceedings are brought, leave of the Tribunal may be required.

Leave to be represented is generally required in most matters in the Consumer and Commercial Division and the Guardianship Division. This is not the case in the Administrative and Equal Opportunity Division or the Occupational Division. Notwithstanding these differences, NCAT aims to conduct proceedings so that parties are able to represent themselves during all stages of the Tribunal process including at hearing.

NCAT provides an accessible and efficient means of resolving disputes in an environment which is not inappropriately adversarial or confrontational. The Guardianship Division has a Procedural Direction dealing with representation and the Consumer and Commercial Division has a Guideline on this topic.

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. By 30 June 2016, work was nearing completion on 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 featuring dramatised scenarios and presented in English and four community languages, will be released early in 2016-2017 to supplement the online information already available to parties.

### **Guardian ad Litem and separate representation**

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

## **Interpreter services**

Interpreter services are provided for parties at NCAT hearings, upon request. Requests for interpreters can be made on the application form, in writing or by contacting the NCAT Registry as soon as practicable before the hearing date. During 2015-2016, approximately 3,000 parties requested interpreter services for their hearings. The top interpreter language requested was Mandarin, followed by Arabic, Vietnamese, Cantonese, Korean, Greek, Italian, Spanish, Farsi and Serbian.

## **Cultural issues**

NCAT takes part in events helping people from culturally and linguistically diverse (CALD) communities to understand the role of the Tribunal and its services. In 2015-2016, NCAT participated in an information session at the Liverpool Migrant Resource Centre, the SydWest Community Program for the Arabic Community in Mt Druitt, an Auburn workshop that focused on improving knowledge about resolving consumer disputes, and also at Law Week events in Cabramatta and Wollongong that attracted a range of community and service providers.

During the year, information about the use of interpreters and translation services was published on the NCAT website in Arabic, Chinese, Greek, Hindi, Italian, Korean, Spanish and Vietnamese. Educational videos presented in English, Mandarin, Arabic, Greek and Vietnamese, and captioned in each of these languages, will be released by NCAT at the start of 2016-2017. This translated information will help parties from CALD communities to access NCAT's services and participate effectively in Tribunal proceedings.

## **Resources and assistance**

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

- *What to expect at a hearing* Easy Read fact sheet – developed for people with cognitive disability and people who have difficulty reading; this fact sheet uses pictures and information in easy English to describe what happens during a Guardianship Division hearing.
- *Telephone Hearings* fact sheet – provides information on how to request a Consumer and Commercial Division hearing by telephone and tips on how to participate in a telephone hearing.
- *Complaints about NCAT* fact sheet – explains how complaints are managed by NCAT.

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

- Changes in the consumer claims jurisdiction, the residential tenancy laws relating to public housing, and the introduction of new residential communities laws (replacing residential parks) resulted in updated or new Consumer and Commercial Division application forms, fact sheets and website information.
- The Guardianship Division's move from Balmain into the Sydney CBD in April 2016 resulted in updates of its forms, fact sheets and information on the NCAT website, and
- The *Enforcing Orders* and *Getting Help* fact sheets were also updated and published on the website.

NCAT operates three email subscription services that deliver regular alerts and an e-newsletter to subscribers. *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 highlights interesting case law from NCAT's jurisdiction, and other useful information and updates that are of significance to the Tribunal's work. A new subscription service for the *NCAT Appeal Panel Decisions Digest* was

introduced in May 2016. The *Digest* provides keyword summaries of NCAT Internal Appeal decisions, and past issues are available on the NCAT website. During 2015-2016, 10 *What's New* alerts were issued to 871 subscribers, five issues of the *NCAT Legal Bulletin* were distributed to 1,000 subscribers, and 103 subscribers received two issues of the *NCAT Appeal Panel Decisions Digest*.

# Accessibility

“Access to justice is a fundamental human right. Tribunals have an obligation to provide the community they serve with access to a fair hearing ... Tribunal fees, forms and processes have an important impact on access to justice as does the extent of information and assistance provided to parties... The place and time at which a tribunal sits to hear disputes also directly impacts on access to justice. Those living in regional and remote locations should have the same level of access to the tribunal as those who live in metropolitan areas.”<sup>9</sup>

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## Accessing NCAT services

NCAT offers a wide range of services for parties with differing needs. These services have been designed so people can readily access the Tribunal and conduct a significant proportion of cases without legal representation.

The Tribunal offers 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 centres, by post, or via NCAT Online for applications to the Consumer and Commercial Division. During 2015-2016, 70 per cent of all applications received in that Division were lodged online. This facility will be extended to most applications in other NCAT Divisions in the coming year.

A number of activities were undertaken or commenced during the reporting year to enhance access to NCAT and its services. They included a pilot of new audio visual technology which offers remote access to Tribunal hearings, progress with the Accessibility Project, and the NCAT Transformation Project. Information about these activities is included in Appendix 6 to this report.

## NCAT Registries

The Principal Registry is located in the Sydney CBD and provides support services for all Divisions of the Tribunal. There are seven other registries located in the Sydney CBD, metropolitan and regional areas. The Guardianship Division provides an additional after-hours service where emergency hearings are required.

In April 2016, the Guardianship Division Registry moved from Balmain to John Maddison Tower in the Sydney CBD. Care was taken in designing the new Registry premises to accommodate the needs of Guardianship Division clients who represent a broad cross-section of the community and include people with dementia, intellectual disability, brain injury, or mental illness. Consultation with disability stakeholders and the involvement of a consultant experienced in designing accessible facilities has resulted in a Registry environment that makes people coming to the Tribunal feel at ease, and also ensures the premises are functional for Tribunal Members and staff.

## Hearing locations

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

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<sup>9</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

During the year, NCAT's Consumer and Commercial Division continued regular sittings in a number of Local Courts around the State to provide a more efficient service to the people of NSW and to increase the use of purpose-built venues.

In 2015-2016 there were 82,471 NCAT hearings held across NSW, and 34% of these hearings took place in regional locations.

**Table 1 – NCAT Regional Hearings 2015-2016**

REGIONS	VENUE SUBURBS	AEOD & OD	CCD	GD	AP	NCAT TOTAL	% REGIONAL HEARINGS	% ALL NCAT HEARINGS
Hunter / New England / Central Coast	Armidale, Central Coast, Glen Innes, Gosford, Inverell, Kurri Kurri, Maitland, Morisset, Newcastle, Singleton, Tamworth, Tenterfield	20	11,141	621	1	11,783	42%	14%
Illawarra / Shoalhaven	Bomaderry, Moruya, Nowra, Wollongong, Ulladulla	3	3,751	271	-	4,025	15%	5%
Mid North Coast	Coffs Harbour, Grafton, Kempsey, Port Macquarie, Taree	10	2,891	176	-	3,077	11%	4%
Northern NSW	Ballina, Bourke, Brewarrina, Cobar, Coonabarabran, Coonamble, Gilgandra, Gunnedah, Lismore, Moree, Narrabri, Nyngan, Tweed Heads, Walgett, Warren	4	2,694	94	-	2,792	10%	3%
Western NSW	Bathurst, Broken Hill, Condobolin, Cowra, Dubbo, Forbes, Mudgee, Orange, Parkes, Wentworth, Young	11	2,526	105	-	2,642	10%	3%
Murray / Riverina	Albury, Deniliquin, Griffith, Jerilderie, Leeton, Tumut, Wagga Wagga	1	1,677	85	2	1,765	6%	2%
Southern NSW	Batemans Bay, Bega, Bowral, Cooma, Goulburn, Merimbula, Mittagong, Moss Vale, Queanbeyan, Yass	-	1,586	58	-	1,644	6%	2%
<b>NCAT Total Regional Hearings</b>		<b>49</b>	<b>26,266</b>	<b>1,410</b>	<b>3</b>	<b>27,728</b>	<b>100%</b>	<b>34%</b>
						All NCAT Hearings	<b>82,471</b>	<b>34%</b>

## Alternative access to hearings

### Telephone

Tribunal hearings by telephone are available for parties who are unable to attend in person due to disability or health reasons, or those who, because of their location, would need to travel a significant distance and incur substantial travel costs. A new *Telephone Hearings* fact sheet, available on the NCAT website, provides information about how to request and participate in this type of hearing.

### Video Conferencing

In certain circumstances, NCAT provides video conferencing to facilitate participation in the hearing process for individuals in locations who otherwise would not have been able to attend in person. Video conferencing is a free service that increases access and allows participation of people who may otherwise be unable to participate due to location, disability or illness.

Planning for a pilot of new audio visual technology in NCAT's Tamworth Registry and Sydney hearing venues commenced towards the end of the reporting year. The pilot will use enhanced technology that allows the presiding Member to hear a Consumer and Commercial Division matter from a Sydney hearing room while the parties participate in the hearing via Audio-Visual Link (AVL) from a Tamworth hearing room.

## Fees and charges

NCAT's schedule of fees and charges for the filing of applications, appeals and other services as at 30 June 2016 is included at Appendix 8. Payment options include cash, cheque, credit card and EFTPOS. A Credit Card Payment Authority Form on the NCAT website extends the convenience of this payment option to parties who lodge applications by post.

Eligible pensioners or people in receipt of a grant of legal aid or assistance from a community legal centre may be eligible to pay a concession fee or a reduced fee.

In special circumstances NCAT will consider requests for the fee payment for applications to be waived wholly or in part. Fee waiver requests are considered under clause 6 of the *Civil and Administrative Tribunal Regulation 2013* (or clause 20 *Strata Schemes Management Regulation 2010* and clause 21 *Community Land Management Regulation 2007* for strata and community schemes matters). 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 NCAT. The NCAT website offers information about a number of services and organisations that offer free or low-cost legal information, advice and assistance, including those that operate referral services to lawyers who may provide pro bono legal services. Many of these organisations and services, including aged-care and disability services that provide information and help to parties involved in guardianship matters, are listed on the *Getting Help* fact sheet available on the NCAT website.

Legal Aid provides a duty lawyer scheme for NCAT parties who bring discrimination disputes under the *Anti-Discrimination Act 1977* in the Administrative and Equal Opportunity Division. Legal Aid also assisted people with consumer claims in the Consumer and Commercial Division during the year.

NCAT may refer parties 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 reasonably necessary assistance such as:

- making documents available in different formats to meet the needs of the client
- providing flexible hearing rooms with varying degrees of formality appropriate to the jurisdiction
- providing hearing loops in Tribunal hearing venues
- using the National Relay Service (NRS) for parties with hearing or speech impairments
- providing interpreters for people from non-English speaking backgrounds, and
- ensuring that Tribunal premises and hearing rooms and facilities are accessible to all users.

## NCAT Communications Strategy 2015-2018

The NCAT Communications Strategy 2015-2018, available on the NCAT website, provides a framework to guide internal and external communications activities over the next three years. Its objectives are:

- to raise awareness and understanding about NCAT and to promote and maintain confidence in its role in the NSW civil justice system
- to equip one-time users and frequent users with information that empowers them to participate effectively in the Tribunal's processes, and
- to facilitate the consistent and timely delivery of information to NCAT Members and staff, and external stakeholders.

One communication project initiated and completed during the year was the publication of an Easy Read version of the NCAT Guardianship Division's fact sheet *What to expect at a Hearing* for people with cognitive disability and people who

have difficulty reading. NCAT continues to participate in events and speaking engagements involving a range of community groups across the State. For example, NCAT was involved in a program run by one of the Tribunal's stakeholders in partnership with a TAFE college to equip a group of seniors with information so they can assist others living in retirement villages or other similar facilities.

The availability of information in languages other than English also progressed during the year, with the interpreters and translators webpage now available in English, Arabic, Chinese (simplified), Greek, Hindi, Italian, Korean, Spanish and Vietnamese. Four educational videos based on divisional case studies and presented in English, Mandarin, Arabic, Greek and Vietnamese, are due for release early in 2016-2017. The videos will also be captioned in each language.

Communication across NCAT and access to information and online resources were enhanced through the release of a NCAT Intranet for staff and a new Member Centre website for Tribunal Members. The *Monthly Staff Update* e-newsletter was introduced during the year, and distribution of the *NCAT News* e-newsletter to Tribunal Members and staff ensured they were kept up to date on all aspects of NCAT operations and projects. Cross-divisional working groups, like the Business Improvement Group mentioned in Appendix 6, were also established to promote staff and Member collaboration on projects aimed at streamlining processes and identifying efficiencies.

The NCAT website is the primary source of online information for the public and users of the Tribunal's services. It reaches a broad audience and in the twelve months to 30 June 2016, the website received more than 2.25 million views. Other ways that NCAT delivers information include social media, e-newsletters, and presentations at conferences and information sessions. For more information about NCAT's communication activities see the 'Client needs and satisfaction' section of this report and Appendix 6.

# Professionalism and integrity

“Tribunal members and staff are central to achieving tribunal excellence. The expectations of all members and staff must be clearly communicated and understood.”<sup>10</sup>

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## Competency framework and performance appraisal

The NCAT Member Competency Framework identifies the critical competencies, abilities and qualities required to be an effective Tribunal Member. This Framework provides the basis for appraisals to be conducted in all Divisions of the Tribunal to assist Members understand and improve their performance. It forms part of the assessment and recommendation of candidates for appointment and reappointment.

## 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 Act. A list of Tribunal Members as at 30 June 2016, along with brief biographical information with qualifications and relevant experience, is provided at Appendix 3.

## Code of Conduct

The *Member Code of Conduct*, approved 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 them 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, prepared in August 2014, is published on the NCAT website and is included at Appendix 4 to this Report.

## Professional development

During 2015-2016, there were 75 professional development sessions for Members and staff on a range of topics relevant to the work of the Tribunal and Registry operations.

## Tribunal Members

Implementation of the Tribunal Member Professional Development Plan, endorsed by the NCAT President in September 2015, included the establishment of the Professional Development Committee which discussed the current Member mentoring arrangements and other professional development activities. The Committee was consulted during the development of the new Member Centre which was launched during the year as a secure, Members-only website offering Members online access to information and resources.

The Hon Gabrielle Upton MP, Attorney General, opened the inaugural All-Member NCAT Conference in Sydney at the end of October 2015. More than 200 Tribunal Members attended the Conference that was themed ‘Building One NCAT’. The keynote address was delivered by the Hon Justice Margaret Beazley AO, President of the Court of Appeal, and the Conference agenda included a workshop where Tribunal Members had the opportunity to discuss aspects of their work.

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<sup>10</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

A number of other professional development activities across NCAT Divisions during the year included Member network groups, mentoring, briefing sessions, seminars and external conferences. All Members participate in regular performance appraisal processes.

All new Members participate in an Induction Program which involves training, information sessions and observing hearings. New Members may be partnered initially with an experienced Member who provides insights into the conduct of hearings in the Tribunal and related matters.

## **NCAT Staff**

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

During 2015-2016, there was an increase in the number and range of development opportunities for NCAT staff. A program was piloted where staff could self-nominate for temporary, at-grade role swaps within NCAT. The program aims to increase knowledge sharing and expertise across NCAT and to assist staff in building networks. By the end of June 2016, four staff members had temporarily 'swapped' roles and were working in other NCAT Divisions for up to six months. Several staff expressed an interest in being considered for future rounds of the Program.

Other staff professional development activities included information sessions on the NSW Public Sector Capability Framework and Role Descriptions, mandatory Security Awareness Training, and eLearning modules on a range of topics. These NCAT-wide activities were supplemented by division-specific briefing sessions and training conducted by external providers on various topics, including Plain English writing skills.

# 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 being met. Regular stakeholder/community engagement and reporting tribunal performance are also part of ensuring that the tribunal is accountable to the public.”<sup>11</sup>

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## Hearings open to the public

The Tribunal sits and hears most cases in public. Hearing lists for a number of the Tribunal’s Divisions are published on the NCAT website.

In any proceedings in which 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. That happens most often in the Guardianship and Administrative and Equal Opportunity Divisions.

## 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 and improve processes and service delivery. Online forms are available on the website to assist people in providing this feedback.

The NCAT Complaint Policy explains the approach taken when responding to a user’s dissatisfaction with the delivery of a service provided by NCAT or the conduct of NCAT staff, a conciliator/mediator or Member. This Policy was reviewed and updated during the year, and a new *Complaints about NCAT*

fact sheet was developed. Both the Policy and the fact sheet are available on the NCAT website.

In 2015-2016, NCAT received 314 complaints. This equates to a complaint in 0.45% of all matters lodged with the Tribunal. Categories of complaints received during the year included policy and procedure, and decision dissatisfaction. 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.

## Stakeholder engagement

NCAT recognises that to be accountable and responsive to the needs of those who use its services, it must maintain an external orientation that is open and receptive and allows the needs and concerns of the public, parties, their representatives and relevant professional or industry bodies to be freely communicated.

There are two levels of formal stakeholder engagement across NCAT.

The NCAT Liaison Group, chaired by the President, is the overarching consultation mechanism involving key stakeholders. The role of the Group is to provide feedback and suggestions on operational and policy issues relating to service provision across NCAT. This Group meets every six months. Two meetings were held during the year and minutes were distributed regarding the issues raised and the Tribunal’s response.

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<sup>11</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

There are also Divisional Consultative Forums that focus on issues concerning practice and procedure. During 2015-2016, the Occupational Division's Professional Discipline Group Consultative Forum for stakeholders in the health and legal professions met twice, the Administrative and Equal Opportunity Division's Consultation Forum met on two occasions, and there were two meetings of the Guardianship Division's Consultative Forum. There were seven meetings of Consumer and Commercial Division Consultative Forums. The long-standing Tenancy and Aboriginal Forums were amalgamated and the General, Commercial and Motor Vehicle Forums were combined in order to reduce overlap of stakeholder membership and to enhance information exchange. During the year, the Consumer and Commercial Division also conducted regional consultative forum meetings in Lismore and Wagga Wagga.

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

NCAT participates in a number of Department of Justice and external forums and committees. During 2015-2016, senior NCAT staff attended meetings of the Justice National Disability Insurance Scheme (NDIS) steering committee and related groups, the Civil Justice Forum, the Rental Bond Board, the Ombudsman Complaint Handling Practitioner Forum, the NSW Right to Information and Privacy Practitioners Forum and Law Society of NSW Litigation Law and Practice Committee.

# Efficiency

“Tribunals should provide an efficient dispute resolution service in the sense that the tribunal is affordable and resolves disputes in an appropriate and timely way.”<sup>12</sup>

## Performance standards and monitoring

NCAT has measures in place to monitor its 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 which indicates the capacity of the Tribunal to manage its workload within its current resources and systems. The following table includes clearance rates for each Division during the year.

There was a 0.8% decrease in the overall number of applications received by NCAT in 2015-2016 compared to the previous year. The decrease can, however, be attributed to a substantial fall in the number of social housing applications. The number of social housing applications can vary depending on the enforcement policies and mechanisms of social housing providers. If those applications are excluded from the total number of applications received, the number of applications received in NCAT Divisions actually increased in comparison to the 2014-2015 period. This type of comparison indicates a 31.8% increase in applications to the Occupational Division; 8.9% increase in applications to the Administrative and Equal Opportunity Division; 3.8% increase in applications to the Guardianship Division; 1.9% increase in applications to the Consumer and Commercial Division (excluding social housing applications); and 1% decrease in Internal Appeals.

The Tribunal’s 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.

NCAT has implemented a number of strategies to identify and address matters which were delayed in progressing to hearing or finalisation. Initiatives commenced in the previous year in the Consumer and Commercial Division continued to produce excellent results, and by 30 June 2016 the outstanding matters older than 12 months had reduced by 50%.

All applications in the Guardianship Division are reviewed on receipt to determine whether the application identifies the immediacy or severity of any risk to the person who is the subject of the application. The time taken for an application to be heard depends on a range of factors, including the risk to the person and the time required to gather the necessary evidence to prepare the application for hearing.

The Occupational Division and Administrative and Equal Opportunity Division Registry and Tribunal members have implemented new case management processes over the last twelve months to identify matters older than twelve months. Changes to listing practices have resulted in a 61% reduction in Occupational Division matters that fall within this category, and 69% reduction in these matters in the Administrative and Equal Opportunity Division.

<sup>12</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

**Table 2 - Number of applications received and finalised by Division 2015-2016**

DIVISION	NUMBER RECEIVED	NUMBER FINALISED	CLEARANCE RATIO%
Administrative and Equal Opportunity	848	760	89.6%
Consumer and Commercial	57,299	57,852	101.0%
Guardianship	10,384	10,273	98.9%
Occupational	323	267	82.7%
Internal Appeals	602	709	117.8%
<b>TOTAL</b>	<b>69,456</b>	<b>69,861</b>	<b>100.6%</b>

## Resolution processes

A variety of resolution processes are used by NCAT 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 so that a hearing is not required. Applications managed in this way reduce the number of hearings required and their attendant costs, while at the same time achieving outcomes to which parties have consented. 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 Occupational Division.

For information about NCAT resolution processes see Appendix 7.

# Client needs and satisfaction

“Public trust and confidence in a tribunal is central to its effectiveness. In addition to measuring the results of various actions to improve tribunal performances, user satisfaction should be measured.”<sup>13</sup>

Information concerning Tribunal users, their needs and their level of satisfaction can be obtained in a number of ways:

- Rates of use of NCAT’s website and social media platforms.
- Feedback, surveys and e-newsletters.
- 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

The NCAT website is the primary information point for people interested in bringing a matter to the Tribunal, or finding out more about NCAT operations and projects. The importance of the website is evidenced by the fact that it received more than 2.25 million views in 2015-2016. The website is mobile device friendly and people can use assistive technologies to access online information. An ongoing program of website maintenance ensures the accuracy of information and identifies where improvements might be needed. NCAT uses feedback from a website feedback form and popular search terms by website visitors for continuous improvement purposes.

During the year, the number of fact sheets available for download from the website increased and information in languages other than English was added to the website. See the ‘Accessibility’ section of this report for more about these and other communication initiatives.

Social media is also used by NCAT to extend its reach to online audiences. Social media posts and comments about new and updated resources and forms, service news, and topical Divisional information feature on NCAT Facebook and Twitter accounts. By 30 June 2016, NCAT Facebook had 624 likes and the Twitter account had 626 followers, which was close to double the number of likes and followers of NCAT social media in the previous reporting year.

## Feedback, surveys and e-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 surveys external and internal audiences. Examples include seeking comments from NCAT Members and staff, and promoting professional development opportunities.

Subscription services for the *What’s New* email alert and a *Legal Bulletin* are available to keep people updated on the latest news from NCAT. A new subscription service was introduced for the Appeal Panel Decisions Digest. It provides keyword summaries of NCAT Internal Appeal Panel decisions. By 30 June 2016, there were 1,974 subscribers to these online alerts and e-newsletters.

<sup>13</sup> Extract from the *International Framework for Tribunal Excellence* (April 2014) Council of Australasian Tribunals

In September 2015, the *Monthly Staff Update* was introduced to inform staff about issues relevant to their employment and day to day operations. The *Update* is emailed to all staff and is designed to be used by supervisors in staff meetings to promote discussion about the topics. *NCAT News* is another regular e-newsletter distributed to NCAT Members and staff.

Suggestions and feedback gathered from staff and Members at cross-divisional working groups are used to improve NCAT processes and systems. For example, the Business Improvement Group discussed in Appendix 6 to this Report.

Feedback from Members and staff obtained through the Transformation Project, also discussed at Appendix 6, will assist in identifying user needs and in gauging satisfaction with the Tribunal's systems. This information will inform improvements to systems and, ultimately, the delivery of Tribunal services across all NCAT Divisions.

# Divisional reports

**Administrative and Equal Opportunity Division**

**Consumer and Commercial Division**

**Guardianship Division**

**Occupational Division**

# Administrative and Equal Opportunity Division

## What the Division does

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

The 'administrative' part of this Division's name reflects the fact that the Division reviews decisions made by government administrators that affect the rights and interests of the people of NSW. Two statutory aims of external review of government decisions are to enhance the delivery of government services and programs and to promote compliance by administrators with legislation enacted by parliament.

Close to 100 statutes give this Division power to review decisions made by government agencies.

The term 'equal opportunity' is used to describe the other major function of this Division which is to resolve discrimination complaints made under the *Anti-Discrimination Act 1977*. That Act seeks to promote equality of opportunity and give a remedy to people who have been discriminated against, harassed, vilified or victimised on certain grounds. The Division continues to assist parties to resolve those complaints without a hearing wherever that is appropriate.

## Work within the Division

The Division allocates matters to four Lists, three dealing with administrative review decisions and one dealing with anti-discrimination matters.

The biggest list is the Administrative Review List. That List comprises decisions made by administrators in areas such as access to

government information, breaches of privacy and compensation for victims of crime. For a full list of the legislation which confers power on the Division see Appendix 1.

Administrative decisions about occupational and professional licences come under the Occupational Division.

The Community Services List covers decisions about whether a person charged with or convicted of certain crimes can work with children and whether an authorised carer should lose their accreditation.

Decisions about State taxes, such as land tax and payroll tax are part of the Revenue List.

Complaints referred by the President of the Anti-Discrimination Board under the *Anti-Discrimination Act 1977* are in the Equal Opportunity List. Complaints can be about discrimination, harassment, victimisation or vilification on grounds such as race, sex, transgender status, age, disability, homosexuality and carer's responsibilities.

The legislation gives this Division the flexibility to assign one or more Members to hear matters. That flexibility helps ensure that community perspectives are reflected in the decision making process and specialist expertise is brought to bear where necessary.

The Division conducts hearings in regional NSW whenever that is the most convenient location for the parties.

**Table 3 – 2015-2016 Administrative & Equal Opportunity Division applications by List**

LIST	APPLICATIONS LODGED	FINALISED	CLEARANCE RATIO
Administrative Review	381 (44.9%)	347	91.1%
Community Services	225 (26.5%)	187	83.1%
Revenue	100 (11.8%)	116	116%
Equal Opportunity	142 (16.7%)	110	77.5%
<b>Total</b>	<b>848</b>	<b>760</b>	<b>89.6%</b>

\*Does not include interlocutory applications

## Workload

The Division received 848 applications this year and finalised 760, giving a clearance ratio across the whole Division of 89.6%. 516 matters were pending at the end of the 2015-2016 financial year.

The number of applications from people convicted of a disqualifying offence or seeking a review of a decision of the Children’s Guardian under the *Child Protection (Working with Children) Act 2012* has continued to rise. This year there were 171 applications, whereas in the previous year there were 142.

Another category of business which attracts a high number of applications is those under the *Government Information (Public Access) Act 2009*. In total there were 151 applications made for the review of a decision about access to government information.

Significant achievements during the year include a decline in the number of matters that had not been finalised within 12 months, from 72 at the end of June 2015 to 50 at the end of June 2016.

## Members, mediators and staff

The Division comprises Principal Members, Senior Members and General Members, all of whom work part-time. Principal and Senior Members are lawyers. General Members have specialist skills in areas such as child protection, Aboriginal culture, disability and finance.

New Members receive induction training and have the opportunity to attend internal and external conferences, seminars and workshops. Members’ performance is regularly appraised and feedback is given. During the year, the Administrative and Equal Opportunity Division has welcomed several members who have been cross-assigned from other Divisions. I am grateful for the professionalism and dedication of all the Members and for their support for one another.

The Tribunal may use dispute resolution processes other than hearings to resolve matters. The Division has a dedicated group of six mediators who assist parties to resolve disputes. Mediations may be conducted in any matter but are most common in the discrimination, access to government information and privacy areas. Approximately two-thirds of matters that go to mediation are resolved prior to hearing.

Under the able leadership of Christine Skinner and Linda Sengstock, registry staff have worked extremely hard to support the Members of the Division and provide case management and client services. This year, staff from the Internal Appeals Registry joined registry officers who manage matters in the Occupational Division and the Administrative and Equal Opportunity Division. The amalgamation has led to increased efficiencies. I commend all registry staff for their co-operation and good humour throughout this process.

## Consultation with stakeholders

To ensure that our practices and procedures remain relevant and responsive to the needs of Tribunal users, we conducted two consultative forums for external stakeholders this year; one on 4 November 2015 and the other on 27 April 2016. These bi-annual forums give clients an opportunity to raise issues and provide feedback to the Head of the Division and the Divisional Registrar. They also allow the Division to update stakeholders on current projects and changes to practice and procedure.

## Significant decisions

Appeals from decisions relating to Working with Children Check Clearances are appealable to the Supreme Court. The Court dismissed two appeals this year – one from the Children’s Guardian and one from an applicant.

### **Children’s Guardian v BQJ [2016] NSWSC 869**

The Children’s Guardian appealed from an order granting a working with children check clearance to a man who had been convicted, as a juvenile, of the manslaughter of a child. The Supreme Court dismissed the appeal.

The Court accepted that one must be cautious before permitting a person who has committed a “horribly violent homicide upon a child to have ongoing contact with children, whatever the countervailing circumstances.” But the Court found that “there was extremely powerful countervailing evidence before the Tribunal: that the respondent had refrained from any violent or sexual offence against any person, whether child or adult, for a period of well over three decades; that he had moved forward to live a productive, settled and contributive life since that time; that he was very highly thought of by members of the community, some of whose children he had had extended contact with; and, finally, the cogent evidence of a highly qualified forensic psychiatrist that he regarded the risk of the respondent offending again against a child as very low.”

### **CJT v Office of the Children’s Guardian [2016] NSWSC 738**

CJT appealed from an order refusing him a working with children check clearance.

The Tribunal did not make a positive finding that the applicant had committed the offences for which he was charged, but was still satisfied that the plaintiff posed a “real and appreciable risk” to the safety of children. The Court upheld that approach and dismissed the appeal.

## Looking ahead

I anticipate that we will start receiving more applications to review decisions made by the Independent Liquor and Gaming Authority. These include restrictions on poker machine entitlements and the rejection of licence applications. The number of applications for access to government information and for breaches of privacy is also likely to increase. Applications for enabling orders and review of refusals for working with children check clearances are also likely to remain high.

With the increasing number of applications, the challenge is to resolve matters quickly and cheaply but, most importantly, justly.

### **Magistrate Nancy Hennessy**

Deputy President and Division Head  
Administrative and Equal Opportunity Division

# Consumer and Commercial Division

NCAT's Consumer and Commercial Division resolves a wide range of everyday disputes such as tenancy and other issues relating to residential property, retail and agricultural leases and disputes about the supply of goods and services.

## Workload

The number of new applications of the Consumer and Commercial Division fell slightly during 2015-2016. The number of new applications during this year was 57,299 compared with 58,360 last year.

The Division has nine Lists. The table below provides a comparison of the number of applications in each list for 2015-2016, compared with the year before.

**Table 4 – Consumer and Commercial Division applications by List**

LIST	2014-2015	2015-2016
Tenancy	29,180	30,178
Social Housing	15,713	13,830
General	5,255	5,746
Home Building	3,105	2,976
Residential Parks* / Residential Communities**	1,458	644
Strata and Community Schemes	1,352	1,526
Motor Vehicles	1,487	1,564
Commercial	756	779
Retirement Villages	54	56
<b>Total</b>	<b>58,360</b>	<b>57,299</b>

\* Residential Parks List ceased on 31 October 2015

\*\* Residential Communities List commenced on 1 November 2015

The Tenancy list deals with disputes between landlords and tenants who have entered into a residential tenancy agreement. This is the largest list. The social housing list deals with disputes that relate to social housing premises where the landlord is one of the following: NSW Land and Housing, Housing NSW, Office of Community Housing, Aboriginal Housing.

The table below provides information about tenancy and social housing applications by applicant type as a percentage of overall numbers.

**Table 5 – Tenancy and Social Housing applications in 2015-2016**

APPLICANT TYPE	%
Landlord/Housing Provider	82.6%
Tenant/Co-Tenant	16.8%
Other (includes occupant, prospective tenant, other person)	0.5%
<b>Total %</b>	<b>100%</b>

The Division maintained its service standards during the year and the number of unfinalised matters decreased. The Division's clearance ratio was 101.0%.

During the year there were 522 appeals from Division decisions. In other words, less than 1% of Division decisions were the subject of an appeal to the NCAT Appeal Panel.

The Division conducts hearings throughout NSW and in the 2015-2016 year heard proceedings in the locations identified earlier in this report.

**Table 6 – 2015-2016 Consumer and Commercial Division workload by Registry**

LIST	LIVERPOOL	NEWCASTLE	PENRITH	SYDNEY	TAMWORTH	WOLLONGONG	TOTAL
Commercial	53	115	93	392	59	67	<b>779</b>
General	639	766	982	2,484	338	537	<b>5,746</b>
Home Building	338	428	529	1,138	221	322	<b>2,976</b>
Motor Vehicles	286	218	322	473	105	160	<b>1,564</b>
Residential Communities	5	139	13	15	85	14	<b>271</b>
Residential Parks	17	279	3	0	13	61	<b>373</b>
Retirement Villages	3	12	3	26	4	8	<b>56</b>
Social Housing	2,330	3,005	2,466	2,227	1,874	1,928	<b>13,830</b>
Strata & Community Schemes	112	132	78	1,034	79	91	<b>1526</b>
Tenancy	5241	5428	5434	8,570	2,656	2,849	<b>30,178</b>
<b>GRAND TOTAL</b>	<b>9,024</b>	<b>10,522</b>	<b>9,923</b>	<b>16,359</b>	<b>5,434</b>	<b>6,037</b>	<b>57,299</b>
%	16%	18%	17%	29%	9%	11%	<b>100%</b>

The Consumer and Commercial Division has six Registries located in metropolitan and rural locations including: Liverpool, Newcastle, Penrith, Sydney (CBD), Tamworth and Wollongong.

The total number of applications and percentage of the Division's total workload which each Registry managed in the past twelve months is shown in the above table.

## Members

During the year a number of new Members were appointed to the Consumer and Commercial Division or assigned to that Division from other Divisions of the Tribunal. There were also a number of retirements. The number of new Members appointed to the Division during the year was 4 and the number of Members who retired was 5.

Approximately 19 Members of the Division sit on Appeal Panels.

## Legislation

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

- On 1 November 2015 the *Residential Parks Act 1998* was repealed and replaced by the *Residential (Land Lease) Communities Act 2013*.
- The *Residential Tenancies and Housing Legislation Amendment (Public Housing – Antisocial Behaviour) Act 2015* came into effect on 18 December 2015.

For a full list of the legislation which confers power on the Division see Appendix 1.

## Consultation with stakeholders

During the year the following meetings took place with stakeholder representatives.

- Lismore Regional Consultative Forum - 14 July 2016
- Wagga Wagga Regional Consultative Forum - 6 November 2016
- End of Year Consultative Forum - 18 February 2016
- Home Building Consultative Forum - 17 May 2016
- Strata and Community Schemes Consultative Forum - 24 May 2016

- Retirement Villages Consultative Forum - 31 May 2016
- Residential Communities Consultative Forum - 7 June 2016
- Tenancy, Social Housing and Aboriginal Consultative Forum - 14 June 2016
- General, Commercial and Motor Vehicle Consultative Forum - 21 June 2016.

These meetings are a valuable method by which the Tribunal conveys, to interested stakeholders, procedural developments which are being considered or have been made. They are also a very valuable method by which stakeholders convey to the Tribunal issues or concerns that their constituent Members have experienced with the Tribunal.

Tribunal Members have also delivered presentations to stakeholder groups and to various professional bodies. Examples of these are listed below:

- Strata Community Australia
- Seniors Rights Services
- FACS Housing Services and Housing and Tenant Liaison Group
- UNSW Continuing Legal Education (CLE)
- Master Builders Association.

## Home Building Project

Last year we reported upon a project concerning the management of Home Building cases. Essentially that project was designed to ensure that such cases (particularly the large and more complex cases) are closely case managed so that the issues are identified early, and also that there are early opportunities for the parties to resolve the dispute by conciliation, a meeting of experts or by mediation. This process has resulted in a reduction in cases going to a final hearing and a reduction in the

time it generally takes to resolve the more complex cases.

## Looking ahead

A new *Strata Schemes Management Act* will take effect from 30 November 2016. The range of orders which the Tribunal may make will increase. In addition, the adjudication process will come to an end. It is anticipated that there will be an increase in the workload of the Division by reason of these changes.

## Conclusion

Once again I wish to particularly thank the Principal Member and List Manager, Mark Harrowell for ensuring that the Division's case management practices and procedures are not only appropriate, but under constant review so that the Tribunal is able to achieve its service standards. He and I are very conscious of our responsibility, under the legislation which has established the Tribunal, to ensure that all disputes are resolved justly, cheaply and quickly. I also thank the Members generally for their dedicated contribution and professionalism. The workload of the Division is diverse and aspects of the legislation for which the Tribunal has responsibility can be complex. It is a pleasure to work with such a highly committed and well trained group of Members. Finally, I thank the Registry staff (very ably led by Divisional Registrar Vikki Hardwick) for their tireless and consistently reliable contribution.

### Stuart Westgarth

Deputy President and Division Head  
Consumer and Commercial Division

# Guardianship Division

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In April 2016 the Guardianship Division relocated from its premises in Balmain to John Maddison Tower. Consultation with peak stakeholders and liaison with staff, Tribunal Members and other government departments made for a smooth transition. The primary focus in the development of our new premises was accessibility. Architects and design consultants have delivered a calming environment for people to wait for hearings to commence and hearing rooms with state of the art technology. The new premises were officially opened by the Attorney General, the Hon Gabrielle Upton MP on 26 May 2016.

During the reporting period:

- the NSW Law Reform Commission began a review of the *Guardianship Act 1987* with a report to be compiled on the desirability of changes to the Act
- the Australian Law Reform Commission commenced an inquiry into elder abuse - "Protecting the rights of older Australians from abuse", and
- the Legislative Council asked the General Purpose Standing Committee No. 2 to inquire into and report on matters relating to elder abuse. Submissions were called for, hearings held and a report was issued.

Each of these inquiries and reviews illustrate the growing significance and awareness of the ramifications that decision making impairments can have on a person's autonomy, and there is momentum for the development of legal frameworks which promote and enhance the autonomy of those affected. At the same time, a light is being shone on the prevalence of elder abuse in our community and there are calls for the implementation of improved protection

mechanisms. Autonomy and protection; these are often difficult ideals to balance. A balancing analysis is engaged daily in by the Guardianship Division in determining applications. We await with interest the outcomes of these reform and review processes.

The rollout in NSW of the National Disability Insurance Scheme (NDIS) continues to gain pace. So far, it has resulted in scores of applications being made to the Division, particularly for the appointment of a guardian in relation to potential changes in accommodation options and service delivery for people who have become part of the scheme. There is potential for the implementation of the NDIS in NSW to be a driver of significant workload growth in the Division over the forthcoming period which we are monitoring closely.

For successive years, the number of applications lodged with the Guardianship Division, and its predecessor the Guardianship Tribunal, has continued to increase. Much of this workload growth can be attributed to the fact that our society is ageing. This has meant that there are an increasing number of people who, due to cognitive disability affecting their capacity to make financial, lifestyle and medical decisions, require the appointment of a substitute decision maker.

As has been the case for many years, this means the Division continues to develop strategies which facilitate the just, quick and economical resolution of proceedings whilst also ensuring that our service is appropriately responsive to, and focussed upon, the needs of people with disabilities, their families, friends and carers.

## What the Division does

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

While most of its work involves decisions about guardianship and financial management, the Tribunal also has jurisdiction to:

- Review the guardianship and financial management orders it makes
- Provide consent for medical and dental treatment
- Review enduring powers of attorney and enduring guardianship appointments, and
- Approve a clinical trial so that people with decision making disabilities may participate.

Proceedings in the Guardianship Division are about a person's right to make his or her own decisions. Section 4 of the *Guardianship Act 1987* sets out principles which must be observed by Tribunal Members and staff of the Division and guides case management practice and procedure in the Division. The principles make clear the duty of any person exercising functions under the Act to:

- Give the person's welfare and interests paramount consideration
- Restrict the person's freedom of decision and freedom of action as little as possible
- Encourage the person, as far as possible, to live a normal life in the community
- Take the person's views into consideration

- Recognise the importance of preserving family relationships and cultural and linguistic environments
- Encourage the person, as far as possible, to be self-reliant in matters relating to their personal, domestic and financial affairs
- Protect the person from abuse, neglect and exploitation, and
- Encourage the community to apply and promote these principles.

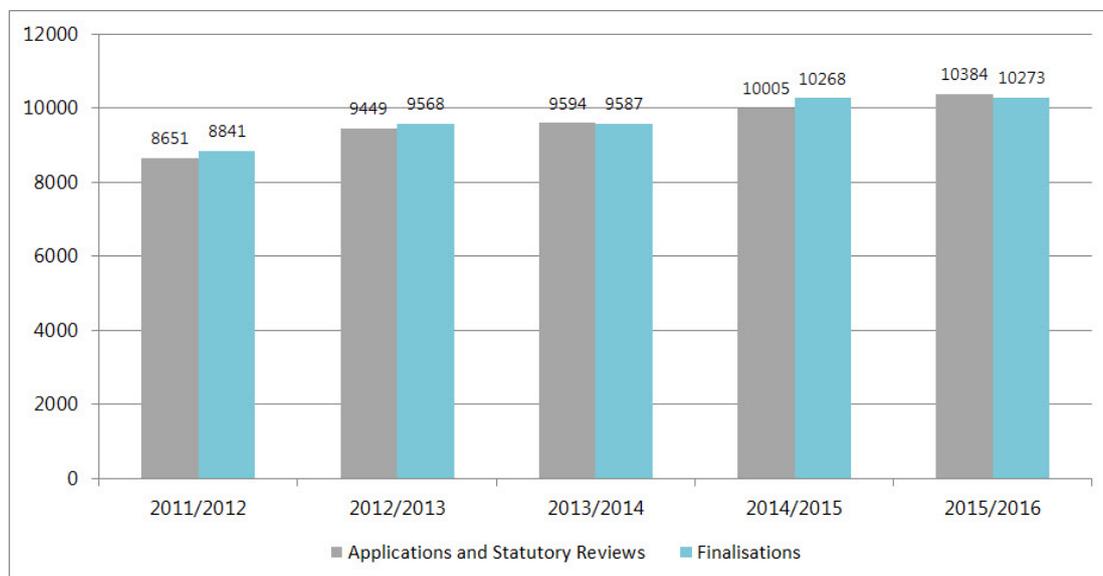
## Workload

In 2015-2016 the Guardianship Division continued to experience a growth in its workload. This is consistent with an established pattern of demand, which has seen the application rate grow by approximately 17% over the five years from 2011-2016. Over this period, there has been a 30% increase in end of term or order review hearings, a 16% increase in matters finalised and an 18% increase in hearings conducted.

The Guardianship Division hears a range of matters from straightforward applications where there is little dispute, urgent applications where significant risk has been identified, and complex or highly conflicted matters involving multiple parties. The Division promotes the participation of the person who is the subject of the application in hearings and flexible arrangements are used to facilitate this.

The Guardianship Division conducts hearings in regional areas as well as metropolitan Sydney and the CBD. The Guardianship Division uses video and teleconferencing for the convenience of the parties and the Tribunal which, in accordance with the guiding principle of the *Civil and Administrative Tribunal Act 2013*, facilitates the just, quick and economical resolution of proceedings.

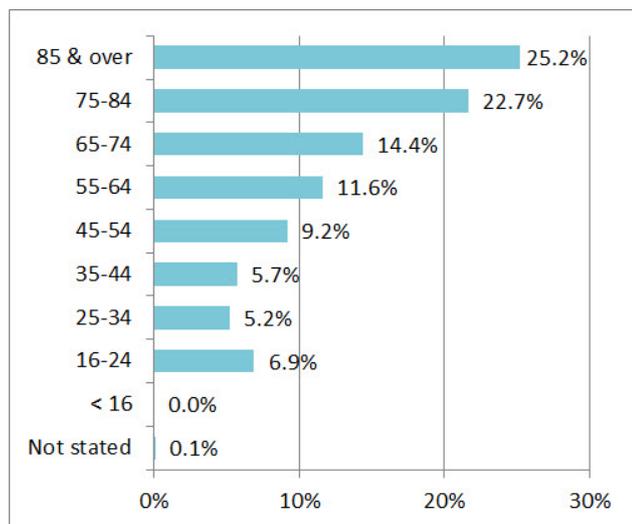
**Graph 1 – Five year comparison - new applications received and finalised from 2011-2012 to 2015-2016**



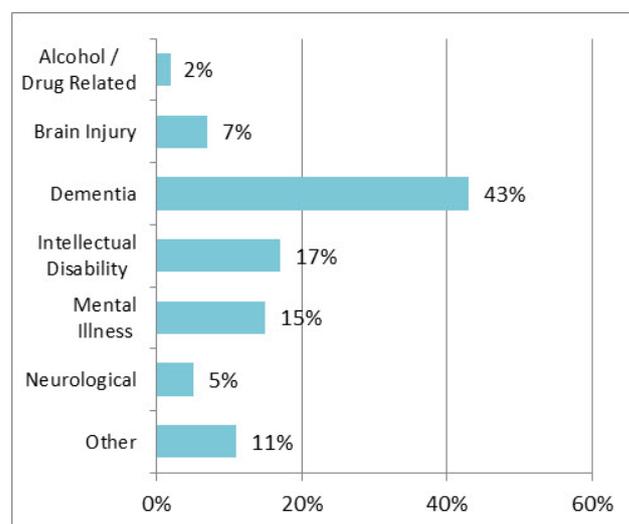
The workload of the Guardianship Division is directly impacted by the ageing of the population. In 2015-2016, 25% of applications were for people over the age of 85 years and approximately 61% of applications were made concerning people over the age of 65 years.

Consistent with this demographic influence, approximately 44% of applications made concerned people with dementia. Approximately 16% of applications were made for people with mental illness, 16% for people with intellectual disability and 13% for people with brain injury or neurological conditions affecting their decision making.

**Graph 2 – Age demographic of the people the subject of applications in 2015-2016**



**Graph 3 - Disability identified in the applications received in 2015-2016**



## Members

Members of the Guardianship Division are appointed on the basis of their significant professional and personal experience with people who have disabilities or their legal skills and experience. In most cases a panel of three Tribunal Members including a Senior (Legal) Member, a Senior (Professional) Member and a General (Community) Member will hear an application. The Legal Member is a lawyer of at least seven years standing. The Professional Member is a person such as a doctor, psychologist or social worker who has experience in the assessment or treatment of adults with disabilities. The Community Member has experience, often as a disability advocate or family member of a person with a disability. The expertise of this multi-disciplinary panel ensures that while focussed on determining the legal issues presented in the application, the Tribunal brings a wealth of specialist knowledge, expertise and experience to enable it to also focus on the physical, psychological, social and emotional needs of the person the hearing is about.

Guardianship Division members participate in NCAT-wide member professional development events. The Division delivers a member professional development program of seminars, workshops and discussions which provide legislative and case law updates and information on clinical and disability issues relevant to the Tribunal's protective jurisdiction.

After an open merit selection process, 24 members were appointed or reappointed to the Tribunal and assigned to the Guardianship Division in August 2015.

It was with great sadness that we received the news of the sudden passing of Faye Druett OAM on 4 February 2016. Faye was a much respected, valued and loved general (community) member of NCAT and the former Guardianship Tribunal since she was first appointed in 2001. All of us who had the privilege of working with Faye were well aware of her deep commitment to people with disabilities and her

very personal understanding of the challenges faced by those who must navigate the disability sector. At the official opening of the Guardianship Division's new premises an artwork dedicated to the memory of Faye was unveiled.

## Staff

In addition to undertaking a range of Tribunal administrative functions, staff in the Guardianship Division undertake specialist case management functions to prepare applications for hearing. Many people with decision making disabilities are supported to make their own decisions or, where this is not possible, may have a range of decisions made on their behalf by their family members and friends. Staff provide a specialist enquiry service to assist people to identify informal solutions to address a person's decision making needs and which may mean that an application to the Tribunal is not required. In 2015-2016 the Division responded to 13,668 enquiries.

A triage risk scale based on the immediacy and severity of possible risk to the person the subject of the application is used to assess and inform the timeframe to hearing and the application preparation process. In preparing applications for hearing Tribunal staff have as a primary focus the person who is the subject of the application. They assist the person to understand the Tribunal's role and procedures and identify how they may best participate in proceedings. Where necessary staff seek information about the capacity and decision making needs of the person, and where appropriate, assist with the informal resolution of matters which may result in an application being withdrawn with the consent of the Tribunal before hearing.

The staff of the Guardianship Division are highly skilled and committed to providing excellent client service. They participate in a range of learning and development opportunities conducted by the Department of Justice, the NCAT Principal Registry and the Guardianship Division. Many of the training activities promote good communication with people

with disabilities, their families, networks and care providers. The practical training also covers developments in the health and disability sectors and changes to practice and procedure. The Guardianship Division includes internal and external speakers in its training.

This year, staff in the Guardianship Division participated in a job swap program that saw them swap with their counterparts in other Divisions of NCAT for a period of time. The program is designed to broaden staff's understanding of the work of the other Divisions of NCAT and allow them to further develop their skills and expertise.

## Consultation with stakeholders

The Division held Consultative Forums in September 2015 and June 2016. They were attended by 25 representatives from organisations which are important stakeholders of the Guardianship Division (see Appendix 9). This forum has proved an excellent means for the Guardianship Division to obtain objective and direct feedback from important user groups to assess the quality of the service that is provided and has resulted in tangible and practical suggestions for improvement. During this period members of the forum provided useful input into the development of the Guardianship Division's new premises to assist in ensuring that accessibility was enhanced. The Guardianship Division has commenced regularly publishing an "e-bulletin" which is provided to the members of the Consultative Forum. The bulletin provides news about recent developments and useful summaries of the published decisions of the Guardianship Division.

## Projects and developments

The Guardianship Division has continued to streamline its processes to cater for the sustained increase in workload. A pilot of desktop video conferencing software is underway which promotes easy access by the parties attending hearings. A simple matters stream of work has been created for some of the more straightforward applications.

Practices that refine the case management processes have been implemented with a clear commitment to retaining as a focus the interests of the person with a disability, the principles of the Guardianship Act, and obligations under Articles 12 and 13 of the UN Convention on the Rights of Persons with Disabilities. The Guardianship Division's Practice and Procedure Committee which is made up of member and staff representatives has been instrumental in assisting the Guardianship Division to achieve this aim. The Committee members have been responsible for reviewing practice and procedure, providing strategic guidance to case management projects and ensuring appropriate processes for evaluation and feedback are established.

The Guardianship Division is working on a guideline for confidentiality as there are strict protections in place governing proceedings. The Guardianship Division regularly publishes decisions which are carefully anonymised to provide members of the community and users of the Guardianship Division an understanding of the work undertaken by the Guardianship Division and to illustrate the principles that are applied when members exercise decision-making functions. The decisions that are published include matters that are notable because they involve novel or complex applications, or because they deal with frequently arising issues.

## Looking ahead

In the year ahead, the Guardianship Division looks forward to the implementation of a single case management system for the Tribunal which incorporates online elements. This will greatly enhance the capacity of the Guardianship Division to meet its workload increase, allowing staff to focus on supporting the Guardianship Division in its important work in the community.

The ongoing discussions about policy and legislative reforms that are currently taking place will shape the way people with disabilities exercise their rights and we look forward to playing our part in any reform initiatives.

I take this opportunity to thank the President of NCAT, the Hon Justice R Wright, and Principal Registrar, Cathy Szczygielski, for their support of the Division and for their leadership. Similarly I express my gratitude to Principal Member Christine Fougere, Principal Member Jan Redfern, (who was appointed as a Deputy President to the Administrative Appeals Tribunal in early 2016) and welcome Principal Member Anne Britton. I also thank Divisional Registrars Amanda Curtin and Pauline Green, and Deputy Registrars Linda Sengstock and Esther Cho for their assistance and management of the Guardianship Division's registry.

Finally, I continue to be both grateful to, and proud of, the members and staff of the Guardianship Division. The level of change our jurisdiction has experienced over recent years has not been without its challenges. But the calibre and commitment of our members and staff has meant the vast majority of these challenges have proved anything but insurmountable, and in fact, have improved the quality of service that we provide.

The work of the Guardianship Division can often be onerous and emotionally charged. However, it remains a great privilege for all in the Guardianship Division to be part of a jurisdiction where the core daily endeavour is to empower and protect people with disabilities.

**Malcolm Schyvens**

Deputy President and Division Head  
Guardianship Division

# Occupational Division

## Overview of the Division

2015-2016 was a period of consolidation of the work conducted in the Occupational Division from the inception of NCAT in 2014. This was when the Division took on the work previously conducted by a number of small disparate tribunals, and in the case of the medical practitioners, that of the Medical Tribunal of NSW formerly conducted in the District Court of NSW.

The Division deals with a much smaller numerical caseload than the other three divisions of the Tribunal. But the matters heard 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 ensure public safety by ensuring only those professionals, including doctors, other health professionals and lawyers, competent and appropriate to practise, do so. Thus, it provides a valuable service to ensure the health and safety of the citizens of NSW, and enhances the operation of the law by maintaining the highest standards in the legal and other professions.

In 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 and provide specialist knowledge and skill to the issues requiring determination. I take this opportunity to acknowledge the very significant contribution made by the Occasional Members to the Division's workload as well as that of the Division's own Members.

## What the Division does

The Occupational Division of NCAT hears and determines two broad categories of matters:

- Professional discipline of professionals, and
- Administrative review of decisions relating to specified occupations.

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 the code of conduct applicable to local government councillors under the *Local Government Act 1993* (NSW).

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 drivers and security agents.

## Workload

In 2015-2016 the Occupational Division heard and determined the following matters in its various lists.

**Table 7 – 2015-2016 Occupational Division applications by List**

LIST	APPLICATIONS LODGED	FINALISED	CLEARANCE RATIO
Administrative review	140 (43.3%)	131	93.6%
Health practitioner	119 (36.8%)	90	75.6%
Legal practitioners and other professionals	56 (17.3%)	39	69.6%
Local Government	8 (2.5%)	7	87.5%
<b>Total</b>	<b>323</b>	<b>267</b>	<b>82.7%</b>

\*Does not include interlocutory applications

## Members

The Division's Members include Judges, Principal and Senior Members, Professional Members who are appointed as Occasional Members of the Tribunal for a particular matter because of their professional expertise, and General or Community Members. The Members are highly qualified and experienced. The Professional Members' expertise is recognised by appellate courts as a significant feature of the Tribunal's decision making capacity (*Qasim v Health Care Complaints Commission* [2015] NSWCA 282).

In medical and health matters, the Tribunal consists of a four-member panel; a Judge (in a case involving a medical practitioner) or a Principal or Senior Legal Member (in the case of other health matters), two professionals from the same profession as the practitioner, and a Community Member. The Professional and Community Members are recommended by the relevant health practitioner council and appointed by the President, or his delegate, as Occasional Members. A Judge, who is not a Member of NCAT, is appointed by the President, or his delegate, on the basis of need and with the concurrence of the head of that Judge's court under s 15(2) of the *Civil and Administrative Tribunal Act*. Currently, in addition to the President, there are five Acting District Court Judges who are Members of NCAT and two Acting District Court Judges who may be appointed in the case of need.

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

Disciplinary proceedings against local government councillors may be heard, by consent of the parties, on the papers, or by way of an oral hearing. The matters are heard by a single Member.

Administrative review matters involving taxi drivers, truck operations and security agents are heard by a single Legal Member.

Retirements in 2015-2016 saw the departure from the Tribunal of three highly experienced and valuable Members of the Division and the Tribunal's predecessor tribunals. Emeritus Professor Michael Chesterman, Mr David Patten QC, a former District Court and Acting Supreme Court Judge, and Ms Sandra Hale, solicitor, gave outstanding service to the Tribunal and will be greatly missed. Professor Ross Fitzgerald AM, a Community Member of the Tribunal also resigned and his contribution too is acknowledged with gratitude.

The terms of a number of Principal and Senior Members who sit regularly in the Health List expired in February 2016 and the Division has been fortunate to have the ongoing expertise of those members who were re-appointed. Each of these members has carried out their functions with diligence and professional commitment. I take this opportunity to acknowledge their significant contributions during the year in review.

An open recruitment process commencing in June 2016 was undertaken to appoint new members to the Division with a focus to appoint members with suitable qualifications and experience to sit on matters in the Legal Services List. The calibre of applicants was extremely high, and 12 new appointments have been made by the Attorney General. I look forward to working with the new Members as they take up their terms of office.

During 2015-2016 four professional development sessions were held to enhance Members' skills and to keep up to date with legislative changes. The majority of Members of the Division attended the Tribunal's first NCAT professional development day. The Division was fortunate to have several external presentations including presentations by Dr Michael Diamond, Consultant Psychiatrist, Mr Iain Martin, Assistant Director Legal, Health Professional Councils Authority, Ms Linda Muston, Office of the Legal Services Commissioner and Ms Gaby Carney, Director, Policy and Practice, Law Society of NSW. Additionally, a number of continuing professional development sessions have been conducted jointly with the Administrative and Equal Opportunity Division.

## Staff

The Division shares a registry with the Administrative and Equal Opportunity Division, and the Appeal Panel registry. The registry staff provide services to the public involved with these aspects of the Tribunal's work. The staff also provide administrative support to the Division's Members and Occasional Members.

During the second half of this financial year, the Division's Registrar, Ms Pauline Green, was seconded to the Guardianship Division. I take this opportunity to thank Ms Green for all the assistance she provided to me personally and to the Division. The Deputy Registrar, Ms Christine Skinner, assumed the role of Acting Divisional Registrar and has made an exemplary contribution in that role. I also sincerely thank her, her deputy Ms Linda Sengstock and all the devoted staff of the registry. During this financial year Deputy President Hennessy and I have been fortunate enough to have had the assistance of Ms Victoria Brady. She has been invaluable in providing day to day support to each of us and the members.

## Venues for hearings and case conferences

As in 2014-2015, the Division's matters were heard either at John Maddison Tower (JMT), or occasionally in a court provided by the Chief Judge of the District Court. A number of health matters were heard in the Health Professional Councils Authority's hearing rooms at 477 Pitt Street Sydney. In the latter half of this financial year a number of health matters (which involve a four person panel) have been accommodated in the new hearing room on level 9 John Maddison Tower. This hearing room provides excellent facilities for larger panels sitting with a significant amount of documentary material.

On several occasions the Tribunal has used audio-visual equipment to conduct hearings, including hearings involving incarcerated respondents. Separate hearing room facilities have been employed for victims of alleged sexual abuse by health professionals.

The Tribunal frequently takes evidence by telephone particularly at directions hearings to reduce costs and to assist practitioners and others participating from outside the CBD.

The case conferencing implemented in 2014-2015 has been successfully continued. The conference is

designed to narrow issues in dispute and to reduce hearing time and costs.

As in the past, the Division has embraced, to the fullest extent possible given the Division's finite resources, available technology including provision of documents to members on USB devices, and use of Skype, telephone or Audio-Visual Link (AVL).

## Appellate review

No appeal lies to the Appeal Panel of NCAT in respect of the professional discipline matters heard in the Division. An appeal from a decision of the Division is, in the case of a medical practitioner, to the NSW Court of Appeal, and in other matters, generally to a single judge of the Supreme Court of NSW or the Land and Environment Court.

A number of the decisions of the Division have been upheld in whole or part by the NSW Court of Appeal or the Supreme Court including *Quach v Health Care Complaints Commission* [2015] NSWCA 187, *Ibrahim v Medical Board of Australia* [2015] NSWCA 207, *Qasim v Health Care Complaints Commission* [2015] NSWCS 282, *Bahramy v Medical Council of NSW* [2015] NSWCA 384, *Fraser v Health Care Complaints Commission* [2015] NSWCA 421, *Quach v Health Care Complaints Commission* [2015] NSWCA 10. Appeals have been allowed in some matters including *Donaghy v Council of the Law Society of NSW* [2015] NSWCA 224.

## Consultation with stakeholders

The Division has participated in the NCAT Liaison Group attended by representatives of the professional bodies who regularly appear in the Tribunal as well as consultative forums for regular Tribunal users in the professional discipline lists.

In May 2016 the President and I met with Mr Dale Boucher, Chief Executive Officer, Legal Services Council and amongst matters discussed was how the Tribunal may best assist the Legal Services Council's role in drafting rules under the Legal Profession

Uniform Law (NSW) including provision of statistics from the Legal Services List. Consultation with the Registrar and a board member of the Architects Board also occurred during the financial year.

Two Professional Discipline Group Consultative forums were held in the financial year. These forums provide an opportunity for exchange of information, and an opportunity for those regularly appearing in the Division to raise any matters of concern or suggestions for improved practice.

Submissions were provided to the Health Department in response to its discussion paper on review of the Health Practitioner Regulation National Law. It was pleasing to see a number of recommendations made by the Tribunal were included in the legislative reforms made by the *Health Practitioner Regulation National Law (NSW) Amendment (Review) Act 2016* (NSW).

## Projects and developments

The Division Head and the Registrar participate in stakeholder consultations and the Tribunal's user consultative forums that are held bi-annually. Members of the Division participate in the Tribunal's Practice and Procedure Committee, the Professional Development Committee and the Accessibility Committee. This Division, together with the Administrative and Equal Opportunity Division, will during the forthcoming financial year implement part of the Tribunal's new case management system by recording orders made in directions hearings directly onto the system. In conclusion, I record my thanks to the President, the Hon Justice Robertson Wright, the Registrar and Principal Registry staff for their unfailing support and assistance to me and members of the Division to facilitate its efficient running and that of NCAT generally.

**Acting Judge Jennifer Boland AM**  
Deputy President and Division Head  
Occupational Division

# Appendices

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# Appendix 1

## Legislation

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

The following Acts and subordinate legislation confer jurisdiction on the Tribunal as at 30 June 2016.

### 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
- Apiaries Act 1985
- Apprenticeship and Traineeship Act 2001
- Associations Incorporation Act 2009
- Australian Oil Refining Agreements Act 1954
- Betting Tax Act 2001
- Births, Deaths and Marriages Registration Act 1995
- Boarding Houses Act 2012
- Building and Construction Industry Security of Payment Act 1999
- Charitable Fundraising Act 1991
- Child Protection (International Measures) Act 2006
- Child Protection (Offenders Registration) Act 2000
- Child Protection (Working with Children) Act 2012
- Child Protection (Working with Children) Regulation 2013
- Children (Education and Care Services National Law Application) Act 2010
- Children and Young Persons (Care and Protection) Act 1998
- Children and Young Persons (Care and Protection) Regulation 2012
- Coal Industry Act 2001
- Combat Sports Act 2013
- Commons Management Act 1989
- Community Justice Centres Act 1983
- Community Services (Complaints, Reviews and Monitoring) Act 1993
- Community Services (Complaints, Reviews and Monitoring) Regulation 2004
- Co-operative Housing and Starr-Bowkett Societies Act 1998
- Crown Lands Act 1989
- Crown Lands (Continued Tenures) Act 1989
- Deer Act 2006
- Disability Inclusion Act 2014
- Dormant Funds Act 1942
- Duties Act 1997
- Education Act 1990
- Electricity (Consumer Safety) Act 2004
- Electricity Supply Act 1995
- Exhibited Animals Protection Act 1986
- Explosives Act 2003
- Firearms Act 1996
- Firearms Regulation 2006
- First Home Owner Grant (New Homes) Act 2000
- Fisheries Management Act 1994
- Food Act 2003
- Food Regulation 2010
- Forestry Act 2012

- Game and Feral Animal Control Act 2002
- Gaming and Liquor Administration Act 2007
- Gaming Machine Tax Act 2001
- Gas Supply Act 1996
- Government Information (Public Access) Act 2009
- Guardianship Act 1987
- Hay Irrigation Act 1902
- Health Insurance Levies Act 1982
- Health Records and Information Privacy Act 2002
- Hemp Industry Act 2008
- Higher Education Act 2001
- Housing Act 2001
- Hunter Water Act 1991
- Impounding Act 1993
- Insurance Protection Tax Act 2001
- Land Tax Act 1956
- Land Tax Management Act 1956
- Licensing and Registration (Uniform Procedures) Act 2002
- Liquor Act 2007
- Local Land Services Act 2013
- Lotteries and Art Unions Act 1901
- Marine Safety Act 1998
- 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
- Non-Indigenous Animals Act 1987
- NSW Trustee and Guardian Act 2009
- Ombudsman Act 1974
- Parking Space Levy Act 2009
- Payroll Tax Act 2007
- Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011
- Pesticides Act 1999
- Photo Card Act 2005
- Plant Diseases Act 1924
- Police Act 1990
- 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
- Regional Relocation Grants Act 2011
- Registered Clubs Act 1976
- Retail Trading Act 2008
- Rice Marketing Act 1983
- 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
- Water Act 1912
- Water NSW Act 2014
- Weapons Prohibition Act 1998
- Wentworth Irrigation Act 1890
- Western Lands Act 1901
- Work Health and Safety Regulation 2011
- Workplace Injury Management and Workers Compensation Act 1998

## **Consumer and Commercial Division**

- Agricultural Tenancies Act 1990
- Australian Consumer Law (NSW)
- Boarding Houses Act 2012
- 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, Stock and Business 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 1996
- Sydney Water Act 1994

## **Guardianship Division**

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

## **Occupational Division**

- Aboriginal Land Rights Act 1983
- Architects Act 2003
- Building Professionals Act 2005
- Commercial Agents and Private Inquiry Agents Act 2004
- Conveyancers Licensing Act 2003
- Fair Trading Act 1987
- Health Care Complaints Act 1993
- Health Practitioner Regulation National Law (NSW)
- Home Building Act 1989
- Legal Profession Uniform Law Application Act 2014
- Local Government Act 1993
- Motor Dealers and Repairers Act 2013
- Occupational Licensing National Law (NSW)
- Passenger Transport Act 1990
- Pawnbrokers and Second-hand Dealers Act 1996
- Property, Stock and Business Agents Act 2002
- Public Notaries Act 1997
- Security Industry Act 1997
- Surveying and Spatial Information Act 2002
- Tow Truck Industry Act 1998
- Veterinary Practice Act 2003
- Wool, Hide and Skin Dealers Act 2004
- Workplace Injury Management and Workers Compensation Act 1998

# Appendix 2

## Legislative change 2015-2016

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### **Fair Trading Legislation (Repeal and Amendment) Act 2015**

The *Fair Trading Legislation (Repeal and Amendment) Act 2015* repealed the *Consumer Claims Act 1998* effective from 1 October 2015 as part of the NSW's Government reduction of red tape and regulation. The Act amended the *Fair Trading Act 1987* by transferring the provisions of the former *Consumer Claims Act 1998*, and NCAT's consumer claims jurisdiction, into the *Fair Trading Act 1987* with minor amendments. Under Part 6A of the *Fair Trading Act*, consumers can continue to apply to NCAT for a determination of a consumer claim. The amendments also increased NCAT's jurisdiction for all consumer claims to \$40,000, with the exception of claims concerning new motor vehicles substantially used for private purposes and claims regarding commission fees charged by agents under the *Property, Stock and Business Agents Act 2002*.

### **Gaming and Liquor Administration Act 2007**

#### **Gaming and Liquor Administration Amendment (Reviewable Decisions) Regulation 2016**

New regulations commenced on 1 March 2016 to support the introduction of reforms under the *Gaming and Liquor Administration Act 2007* as part of the Government's liquor and gaming structural reforms. The *Gaming and Liquor Administration Amendment (Reviewable Decisions) Regulation 2016* prescribes the licensing decisions made by the Independent Liquor and Gaming Authority that are reviewable by NCAT. Applicants have 28 days to apply to NCAT for an administrative review of the Authority's decision from the date it is published on the Liquor & Gaming NSW website.

### **Marine Legislation Amendment Act 2016**

This Amendment Act was assented to on 28 June 2016 and will commence on proclamation. The Act amends the *Ports and Maritime Administration Act 1995* by inserting a new section 85H under Part 6A to provide for regulations to be made to enable a person to apply to NCAT for the administrative review of a decision on a mooring licence issued by the Roads and Maritime Services.

### **Marine Safety Regulation 2016**

The *Marine Safety (General) Regulation 2009* is repealed by the *Marine Safety Regulation 2016* which commences on 1 July 2016. The new Regulation provides for the holder of a suspended boat driving licence to apply to NCAT for an administrative review of the suspension under the *Administrative Decisions Review Act 1997*.

### **Point to Point Transport (Taxis and Hire Vehicles) Act 2016**

Assented to on 28 June 2016, this new Act will commence on 8 July 2016. It provides for NCAT to review decisions made in regard to the refusal of an application, the suspension or cancellation, or the varying or revoking of a condition of an authorisation or a taxi licence.

### **Residential Tenancies and Housing Legislation Amendment (Public Housing – Antisocial Behaviour) Act 2015**

The *Residential Tenancies and Housing Legislation Amendment (Public Housing – Antisocial Behaviour) Act 2015* amended the *Residential Tenancies Act 2010* from 18 December 2015 to allow for the termination of a social housing tenancy for illegal, fraudulent and antisocial behaviour.

The legislative changes:

- Allow for a '3 strikes' policy to enable a Notice of Termination to be issued if a tenant has received three strike notices within a 12 month period, that taken together justify termination.
- Require NCAT, on application of a social housing provider, to make a termination order for breach of a social housing agreement involving premises being used for certain serious offences including drug manufacture or supply, or storing a firearm where no licence or permit is held.
- Introduce a scheme for the submission of neighbourhood impact statements to assist NCAT understand the effect the tenancy has had on neighbouring residents or other persons.

### **Residential (Land Lease) Communities Act 2013**

### **Residential (Land Lease) Communities Regulation 2015**

The *Residential (Land Lease) Communities Act 2013* and the Residential (Land Lease) Communities Regulation 2015 commenced on 1 November 2015, replacing the former residential parks laws. The objects of the Act included the establishment of procedures for resolving disputes between residential community operators and home owners.

The new laws introduced major changes to the type and nature of applications brought to NCAT's Consumer and Commercial Division by home owners and operators in residential communities (previously called 'residential parks').

Under the *Residential (Land Lease) Communities Act 2013*, NCAT can hear and determine a wide range of residential community disputes, including:

- Entering into a site agreement and provision of disclosure statement
- Maintenance of common areas
- Dilapidated site or home
- Access to community or residential site

- Alterations and additions
- Additional occupants and sub-letting
- Mail facilities and tree maintenance
- Retaliatory conduct
- Payment of utility and other charges
- Compliance with community rules
- Termination and possession
- Abandoned site and goods.

The Act also introduced provisions enabling home owners (i.e. persons who own homes on a residential site in the residential community) to make a collective application to NCAT about an increase in site fees by notice. A collective application can only be made if at least 25% of the affected home owners who received the notice participate in a compulsory mediation process run by NSW Fair Trading.

### **Strata Schemes Management Act 2015**

In late 2015 Parliament passed new strata laws that are due to commence on 30 November 2016. The building defect bond scheme is scheduled to commence on 1 July 2017. The new strata laws will:

- Strengthen the accountability of strata managers
- Allow owners to adopt modern technology to conduct meetings, vote, communicate and administer their scheme
- Require owners to review by-laws (strata community rules) within 12 months, which can be customised to suit their lifestyle - such as whether to allow owners to keep a pet by giving notice to the owners corporation
- Provide a process for the collective sale and renewal of a strata scheme
- Provide a simpler, clearer process for dealing with disputes
- Broaden tenant participation in meetings.

# Appendix 3

## Tribunal Members at 30 June 2016

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### President

**The Hon Justice Robertson Wright** BA LLB (Syd)  
LLB (Cantab)

The Hon Justice Robertson Wright is a Judge of the Supreme Court of NSW, having been appointed on 25 October 2013. Prior to his appointment, Justice Wright practiced as a barrister for 30 years and was a Judicial Member of the Administrative Decisions Tribunal from 2007.

### Deputy Presidents

**The Hon A/Judge Jennifer Boland AM**

Deputy President and Division Head (Occupational Division)

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.

Jennifer is presently an Acting Judge of the District Court of NSW, Deputy President and head of the Occupational Division of the NSW Civil and Administrative Tribunal. Before her judicial appointment to the Family Court, Jennifer 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 two charitable foundations. In 2012 Jennifer was admitted as a Member of the Order of Australia.

**Magistrate Nancy Hennessy**

Deputy President and Division Head (Administrative and Equal Opportunity Division)

Nancy Hennessy was appointed as a New South Wales Magistrate in 2002 and is currently a Deputy President and Head of the Administrative and Equal Opportunity Division of the NSW Civil and Administrative Tribunal.

Prior to her appointment to NCAT, Magistrate Hennessy was the Deputy President of the former Administrative Decisions Tribunal and President of the former Community Services Appeals Tribunal. Her areas of expertise include administrative law, human

rights and protective jurisdictions involving children and people with disabilities.

**Mr Malcolm Schyvens**

Deputy President and Division Head (Guardianship Division)

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

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

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

He is currently the Convenor of the Council of Australian Tribunals (NSW Chapter) and Chair of the Australian Guardianship and Administration Council (AGAC).

**Mr Stuart Westgarth** BA LLB

Deputy President and Division Head (Consumer and Commercial Division)

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. He 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 to 1999. He was a partner at HWL Ebsworth from 2008 to 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

### Alexander, Peter

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

### Anderson, Jane Elizabeth LLB (Hons) LLM

Solicitor with extensive experience in criminal and administrative law. Current member of the Veterans' Review Board. Formerly a deputy president of the Guardianship Board of SA and a senior lawyer with the Commonwealth Director of Public Prosecutions. Previously a board member of a mental health advocacy and support NGO.

### Anderson, Mark BA LLB

Since admission as a solicitor in 1985 and as a Barrister in 1990, Mark has built a strong family law practice with a special emphasis on appellate and prerogative relief advocacy. Many of those matters involve child protection issues, property settlement and Hague Convention (on International Child Abduction) matters also occupy a significant place in the practice. Awarded Bachelor of Arts and Bachelor of Laws degrees from the University of New South Wales. Member of Frederick Jordan Chambers in Sydney during his entire career at the Bar. Mark appears as a Barrister at an appellate level in the High Court, Appellate Division of the Family Court, and New South Wales Court of Appeal. Mark also appears regularly in the Family Court, Federal Circuit Court, Supreme Court of New South Wales, District Court, Children's Court of New South Wales. Mark has appeared in the past in the Land and Environment Court and Administrative Tribunals. In July 2014 Mark was appointed as a Senior Member (part-time) of the NSW Civil and Administrative Tribunal.

### Antonios, Zita Rose BSocStud (Hons 1)

Ms Antonios is a consultant mediator and inquirer who specialises in conflict resolution in the workplace. Her last full time statutory appointment was as the federal Race Discrimination Commissioner at the Australian Human Rights Commission. Over the past 15 years, in addition to managing her consultancy she has held statutory appointments as a member of the Veterans Review Board and as a Ministerial advisor reviewing failed asylum seeker applications.

### Bailey, Robyn Louise BA LLB LLM

Solicitor and Nationally Accredited Mediator. She is the Director of Exploresolutions Pty Ltd, national ADR consultants and a Facilitator with the Defence Abuse Response Taskforce (DART). An Accredited specialist in personal injury law (NSW Law Society) She has over 20 years' experience acting for people with acquired psychological and/or brain injury, including victims of professional negligence. Ms Bailey is a Mediator with the NSW Workers Compensation Commission, and a member of the NSW Law

Society's panel of mediators. Former Deputy Chair of the Board of Directors of the Brown Nurses, a charity serving primarily those with mental illness.

### Barker, David

Mr Barker is a social worker, with post grad counselling qualifications. He is a Member of the Tasmanian Mental Health Tribunal, a past Member of the Social Security Appeals Tribunal and was appointed to the Migration and Refugee Division of the Administrative Appeals Tribunal in 2015.

### Barnetson, Diane

With a B.Leg S from Macquarie University and a Masters in Industrial Relations from Wollongong University, Diane has worked in the Consumer Claims Tribunal and its subsequent Tribunals since 1982. She has also worked as an Industrial Advocate, as a member of the Mental Health Review Tribunal, the Social Security Appeals Tribunal, the Migration and Refugee Review Tribunal and as a conciliator at HREOC. Diane has taught legal studies at TAFE and at Wollongong University.

### Beale, Dr Ivan Leslie MSc PhD

Visiting Senior Research Fellow, School of Psychology, UNSW. Extensive experience in behaviour and health research, intervention and assessment in learning disabilities. Member, NSW Mental Health Review Tribunal. Member, Board of Directors, Aftercare.

### Beckett, Angela Therese

Solicitor and clinical psychologist. Extensive background in service provision to persons with a disability. Qualifications and experience in alternative dispute resolution. Member of the Administrative Appeals Tribunal. Formerly Member of the Consumer Trader and Tenancy Tribunal and Mental Health Review Tribunal.

### Bliim, Steven DipLaw (SAB)

First admitted as a solicitor in November 1984 and later as a barrister in 1991. Have served a period as Solicitor General of the Republic of Nauru. Currently working as the Principal Solicitor of a Community Legal Centre.

### Bluth, Dennis Raymond BA LLB (Syd)

Partner of HWL Ebsworth Lawyers in the Sydney office and has a wide property based practice. Also a member of the Property Law Committee and chair of the Legal Practice Section of the Law Council of Australia.

### Bolt, Mary Elizabeth

Mary Bolt has a longstanding interest in administrative law review and has worked on a number of statutory tribunals and multi member panels. She has a special interest in the welfare of children and people with disabilities.

**Booby, Rhonda Helen** BA, LLB (Hons 1) MA  
EMPA Dip Ed Dip Leg Prac

Solicitor with extensive public service experience, including as a psychologist and administrator responsible for offender rehabilitation. Established restorative justice program in NSW Corrections. Also a member of the Mental Health Review Tribunal and a recent part time NSW Law Reform Commissioner.

**Boxall, Andrew Ross** BA LLB (Sydney) DSU  
(Paris)

Solicitor with over 30 years' Australian and international experience in corporate, commercial, financial and insolvency law.

**Boyce, Philip Leslie** DipLaw (SAB), LLM

Solicitor since 1977. Private legal practice with extensive experience in real and personal property, consumer and administrative law; dispute resolution practitioner. Non presidential judicial member of former Administrative Decisions Tribunal, Senior Chairperson of former Local Land Boards.

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

Consulting Architect, Arbitrator, Mediator, Court Referee. Former director of Architectural, Structural and Civil Engineering practice. Chair Senior Counsellors NSW Chapter RAI, Examiner in Architectural practice, co-author of bi annual practice examination papers Involvement in home building disputes since appointed to the Board of the Builders Licensing Board, served on BSC, Consumer Claims Tribunal Building, Disputes Tribunal, Fair Trading Tribunal, CTTT and NCAT.

**Britton, Anne** BA LLB

A principal member of NCAT, Anne has extensive tribunal experience including as a Senior Member of the Commonwealth AAT and a Deputy President of the Administrative Decisions Tribunal. Anne has significant experience in governance roles including as a former director of the NSW Legal Aid Commission and the Communication Law Centre. Anne is the Convenor of the Council of Australasian Tribunals.

**Brophy, Moira** DipLaw GradDipLP

Previously a member of the Fair Trading Tribunal, the Consumer Trader and Tenancy Tribunal, the Social Security Appeals Tribunal and the Veterans' Review Board. Experienced in alternative dispute resolution and a trained mediator. Admitted to practice as a solicitor in NSW.

**Bryant, Kenneth Garry** BA (ANU) LLB (ANU)  
ProfCertArb (Adel) GradCertBM (SCU)

Solicitor for over 30 years. Initially general practice but ultimately an accredited specialist in family law. Appointed as an Independent Children's Lawyer. A Local Court arbitrator for 17

years and acted as a mediator for 19 years. Member of group which established the Albury Legal Referral Centre.

**Burke, Mary Ellen**

Mary Ellen Burke is a clinical psychologist with over 30 years' experience in the provision of clinical services to support individuals, systems and agencies to effectively address the needs of people with complex and challenging behaviours. After a long career in the public service she moved to independent consulting in 2000. Her focus has been working with young people in Out of Home Care, people with intellectual disabilities and dual disabilities. Improving outcomes for individuals and their families through service improvement and accountability is a passion.

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

Solicitor with over 30 years of experience in civil litigation as a partner and special counsel. Former lecturer at the College of Law. Currently undertaking training to become an accredited mediator. Strong interest in advocating for the rights of persons with a disability.

**Butler, Rex**

Barrister, Commercial Disputes Mediator, Criminology Tribunal Member and Conciliator NSW Consumer, Trader and Tenancy Tribunal; Victims Compensation Tribunal. Magistrate NSW Local Court including Civil Claims, Residential Tenancies. Instructing Solicitor/Acting Crown Prosecutor – Parramatta District Court Moot Court Magistrate – College of Law Local Government Conciliator – Pittwater Council NSW.

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

Took Silk 1994. Practices principally in construction law and general commercial law. Has sat as an acting District Court Judge and regularly adjudicates as an arbitrator or Court referee, and mediates, particularly in construction industry cases. On a part time basis, formerly, a Naval Judge Advocate and Deputy President of NSW Administrative Decisions Tribunal and currently Principal Member of NSW Civil and Administrative Tribunal. Chairman of NSW Chapter of Institute of Arbitrators and Mediators Australia 2003-2011.

**Campbell, Cathy**

Cathy Therese Campbell, General Member (Part Time) since February 2010. Educated Monte Saint Angelo, North Sydney and Law Extension Committee, University of Sydney. Awarded Dip. Law (LPAB). After a successful career on the production side of commercial television, Member Campbell obtained employment with well-known insurance litigation law firm Max Connery & Co while studying law part-time. After graduation she practised as a solicitor with a varied practice in civil work generally, with a particular emphasis on legal professional negligence. She was called to the NSW Bar in 1998, practising from Wardell Chambers. Her practice extended to a wide range of civil work with particular

expertise in insurance and personal injury litigation in the higher NSW Courts including the NSW Court of Appeal. Since her appointment Member Campbell has concentrated on her work on NCAT, and previously the Consumer Trader and Tenancy Tribunal. She has a wide range of interests outside of work including, cooking, reading, craft and golf. Member Campbell has been involved with the young persons' charity Stepping Stone House, Sydney since its foundation 25 years ago, and has served on its Board.

**Carter, Dr Tanya Lorraine BVSc MANZCVS**  
(Animal Welfare)

Veterinary practitioner for many years with experience in research and particular interest and qualifications in animal welfare and professional ethics. Member of three animal ethics committees, former member of the NSW VSB and ADT.

**Charles, David Graham BA LLM (Syd)**

Legal practitioner with over 30 years' experience in commercial law and equity. Engaged in private practice; initially as a solicitor and later as a member of the Sydney Bar. Member of the former Consumer Trader and Tenancy Tribunal.

**Chesterman, Emeritus Professor Michael Rainsford**

Academic lawyer since 1966. Professor of Law at UNSW for 21 years, including 5 years as Dean, and Emeritus Professor since 2001. Former positions as Commissioner of the ALRC and NSWLRC, as Acting Judge of the District Court and as Deputy President of the Administrative Decisions Tribunal.

**Churchill, Dr Robert**

Rural Veterinary Practitioner in NSW for over 40 years. Experience in health and welfare of animals of many species including dogs, cats, sheep, cattle, horses and alpaca. Practice Principal for over 35 years. Continuing involvement in training of undergraduate veterinary students from several universities.

**Cohen, Mark James**

Mark J Cohen is an Australian Lawyer, with 20 years' practice at the NSW private Bar, and before that in investment banking. His area of expertise in practice was in corporations matters, and in equity practice, appearing regularly in the Supreme Court of NSW. He has been a Senior Member of the Consumer and Commercial Division of the Tribunal since August 2014.

**Coleman SC, Andrew Philip**

Senior Counsel at NSW Bar with over 28 years' experience as a solicitor and counsel in commercial and general litigation and dispute resolution.

**Conley, Jennifer**

Solicitor with experience in civil and administrative law with Legal Aid and community legal centres. Prior to the commencement of NCAT was appointed to the Guardianship Tribunal and the Administrative Decisions Tribunal. Currently also appointed to the Mental Health Review Tribunal.

**Connelly, Janice BA LLB LLM**

Solicitor with 25 years' experience. Experienced arbitrator, conciliator and mediator. Expertise in civil, disability and mental health law. Currently a member of Mental Health Review Tribunal, Assessor for the Local Court and a mediator with Workers Compensation Commission.

**Connor, Elaine McNair BA (Hons) MPsych LLB (Hons)**

Lawyer and clinical psychologist with extensive experience in the guardianship jurisdiction in Victoria and NSW. Prior experience advocating for people with disabilities and in a variety of legal roles.

**Cootes, Janene**

Janene Cootes is a social worker by training and has worked with people with disabilities for over 35 years, mostly in advocacy. Ms Cootes is currently the Executive Officer of the Intellectual Disability Rights Service, a specialist legal advocacy service. Janene is a Board Member of Disability Advocacy Network of Australia.

**Corley, Susan LLB LLM BSc PhD**

Solicitor with over 25 years' experience in commercial and consumer law. Broad experience in private practice, as in-house counsel for a major corporation and as a Member of NSW consumer tribunals over the past two decades. A doctorate in science equips her to understand matters of a technical, scientific and medical nature.

**Cowdroy OAM AC, The Hon Dennis Antill**

Former Judge of the Federal Court of Australia, and former Presidential Member of the Administrative Appeal Tribunal and member of the Defence Force Discipline Appeal Tribunal; former judge of the Land and Environment Court of New South Wales. Currently holding commissions as Acting Justice of the Supreme Court of the ACT; Judge Advocate of the Australian Defence Force; Appellate member of NSW Civil and Administrative Tribunal; Acting District Court Judge; Chairman of the Australian Electoral Commission. Nationally accredited mediator.

**Crawford, Dr Julia Rosemary**

Small animal veterinarian with 33 years' experience based in a four person general practice. Past President of the NSW Division of the Australian Veterinary Association, the Chair of the Vet Nursing Group NIAG and a Director of the AVA.

### **Creasey AM, Dr Helen**

Geriatrician background training in neurology with particular interest in geriatric neurology especially dementia research, clinical care and service development, including working with carer organisations such as Alzheimer's NSW. Also involved in geriatric medicine training and practice within formal geriatric consultant practice and to broader range of involved health professionals.

### **Crowley, Brett**

Solicitor with practice focused on public companies, capital raising and commercial litigation. Chartered Accountant (Partner) with Ernst & Young and KPMG Australia and Hong Kong, specialising in taxation law. Chairman and non-executive of a number of ASX companies.

### **Curran, Roslyn Mary BSW (Hons) MAASW (Acc)**

Roslyn Curran holds an honours degree in Social Work and is an accredited member of the Australian Association of Social Workers. She has spent most of her career in the field of Health. She has particular interest and expertise in Dementia, Advanced Old Age, Huntington Disease and Carer Issues.

### **Currie, John Sydney BA LLB (Syd) LLM (London) NMAS**

Solicitor of 40 years' standing and nationally accredited mediator. Formerly senior partner at a major Sydney firm, Adjunct Professor of Law at University of Sydney, member of Council of the Law Society of NSW and Member of the Administrative Decisions Tribunal. Author of articles and submissions on disability law and powers of attorney.

### **D'Arcy, Jennifer**

Solicitor with experience in private legal practice, particularly in family law and community legal centres. Extensive Tribunal experience. Currently also a member of the Social Services and Child Support Division of the AAT, the Mental Health Review Tribunal and a senior member of the Veterans' Review Board.

### **Daly, Sonja Adriana Fya BA LLB**

Sonja is a solicitor in private practice with over 22 years' experience in litigation and all alternative forms of Alternative Dispute Resolution. Sonja is also an appointed Local Court arbitrator. Sonja has been a volunteer with ASPECT and has a keen interest in assisting young people with Autism Spectrum Disorders to reach their full potential.

### **Davidson, Patricia**

Experience working with people with Disabilities for over 40 years both as an educator and in the community. Previously worked for the Public Guardian as a guardian and Assistant Director over the last 14 years.

### **Davison, Steven**

Executive with qualifications in psychology and public health. Over 20 years' experience in state-federal government (legal/health/welfare) and private practice (forensic/occupational).

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

Solicitor with over 46 years' experience, with particular expertise in Administrative, Local Government and Planning Law. Former Councillor of Law Society of NSW and former Chairman of various committees; former member of Board Of Governors of College of Law; former member of Legal Practitioners Admission Board.

### **De Jersey, Sancia**

Sancia de Jersey has an Arts-Law degree (Tas) and a Masters in Business Administration (AGSM, UNSW). She also 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. She was appointed a member of the Consumer Trader and Tenancy Tribunal in 2012, and then appointed to NCAT.

### **Deutsch, Professor Robert Leslie BEc LLB (Hons) (Syd) LLM (Hons) (Cambridge)**

Robert Deutsch is currently serving as Deputy President with the Administrative Appeals Tribunal; Senior Member with NCAT and Professor, School of Taxation and Business Law Faculty of Business UNSW. He has extensive experience both as an academic and in practice in the fields of taxation, business law and accounting and has written widely in these and related areas. He is a member of the Tax Institute and has spoken often at their conferences.

### **Djoneski, Vanco**

Advocate for people from non-English speaking backgrounds with all types of disability. Personal experience of accessing the human and disability service system. 12 years of experience in assessing needs for people with disability and networking with relevant services for solutions to their issues. Member of the Board of Directors of Macarthur Disability Services.

### **Drake, Peta Suzanne LLM**

Graduated with a Masters in Law from the University of Sydney in 1984. After some years of practice with one of Sydney's pre-eminent law firms and as an in-house counsel in the oil and gas industry, Peta relocated to London where she worked for the Australian Government in its foreign capital investment attraction program and then Singapore where she developed a range of home textiles. On returning to Sydney, Peta built a successful business as an independent retailer. Her experience as a retail tenant lead to her appointment as a non-judicial member in the retail leases division of the Administrative Decisions Tribunal. Peta was appointed as a general member of NCAT in 2014.

**Duffy, Francis** BSW (Hons) MSW

Lecturer in Social Work and Policy Studies at the University of Sydney and was a senior social worker for 10 years at St. Vincent's Hospital, Sydney. Currently undertaking PhD research on an intergenerational perspective on ageing in Australia. Was a board director for 9 years at Charingfield Residential Aged Care Facility, Waverley and a board director of Abbeyfield Australia Community Housing.

**Durack SC, Philip**

Barrister with over 30 years in legal practice, including 24 years as a barrister, in a diverse range of areas.

**Eftimiou, Maritsa**

Maritsa Eftimiou has a legal career that spans 30 years in which she has represented clients in criminal, civil and administrative law matters as both a solicitor and a barrister. Ms Eftimiou has a long history of working with and advocating on behalf of people from a culturally diverse background Ms Eftimiou was a former member of the Refugee Resettlement Council of Australia. Over the past 15 years Ms Eftimiou has developed expertise as a decision maker, with previous appointments to the Migration Review Tribunal, Refugee Review Tribunal, Consumer Trader and Tenancy Tribunal and the NSW State Parole Authority.

**Epstein-Frisch AM, Belinda Ruth**

Social worker with 30 years' experience in disability advocacy, policy and management including State & National Ministerial Councils on disability reform and education. Currently adviser to the Independent Advisory Council of the NDIS and mentor to NGOs in contemporary capacity building.

**Esdale, Lynden** BSW, MSC Public Policy

Social welfare professional with long experience in social policy, public and community housing and homelessness. Formerly Executive Chairperson of the NSW Housing Appeals Committee.

**Fairlie, David Graham** BA (Hons) LLB LLM (LSE)

Solicitor with 40 years' experience, principally in civil litigation in private practice and currently as corporate counsel. Former President of the NSW Law Society. Accredited mediator. Former Member of the Administrative Decisions Tribunal.

**Fenwick, Susan**

Over 30 years' experience in social housing, law, local government and public service in the UK and Australia. Extensive management and leadership experience and was responsible for a public audit and inspection service in the UK. A Presiding Member of the NSW Housing Appeals Committee.

**Ferreira, Ingrid**

A working mother raising a child with an intellectual disability now 23 years of age, and with over thirty years' experience in business

administration, customer service and middle management, has since early 2013 worked concurrently for the Intellectual Disabilities Rights Service and the Community Justice and Support Network. These latter positions put her in regular contact with people with intellectual disabilities, many of whom are incapable of making essential life decisions. Long involvement with the Down Syndrome Association and Special Olympics has delivered valuable insights in effectively dealing with individuals with disabilities, their parents and carers. Volunteers as a sports swimming coordinator with Special Olympics and has done so since 2004. Ingrid Ferreira has the intelligence, empathy and emotional capacity to act in a person's best interests who appears before the Guardianship Tribunal with related disabilities.

**Field, Dr Barbara Ruth**

Barbara Field is a physician working with physically and intellectually disabled adults and children. Her long term interests are Philosophy, Ethics and Human Rights which are outlined in her research thesis "Intellectual Disability and Society."

**Fitzgerald AM, Emeritus Professor Ross Andrew Edward**

Ross Fitzgerald AM is Emeritus Professor of History and Politics at Griffith University. Professor Fitzgerald is a regular columnist at The Weekend Australian and is the author of 38 books, including his memoir "My Name is Ross: An Alcoholic's Journey".

**Flanagan, Sharon**

Clinical Neuropsychologist: 25+ years' experience in assessment, rehabilitation and research of neurological disorders (including stroke, dementia and traumatic brain injury). Assisting individuals and families to deal with the effects of disability due to cognitive impairment.

**Fogg, Sarah**

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 Keith** BEc MBA (Macquarie) MGSM

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 Jack**

Emeritus Professor of Education, University of Newcastle, formerly Dean of Education. Life Member of the Royal Institute for Deaf and Blind Children and of the Australian College of Educators; Fellow of the Australian Psychological Society. Member of Administrative Decisions Tribunal 2007-2013; NCAT from 2014. Appointed Member of the Order of Australia 2013.

### **Fougere, Christine Peta**

Principal Member of Guardianship Division. Previously Deputy President of the former Guardianship Tribunal and legal member since 2006. Solicitor with over 21 years' experience in administrative, discrimination and human rights law. Also member of Mental Health Review Tribunal.

### **French, Philip**

Solicitor with extensive experience in the provision of community legal services, particularly to persons with disability and mental illness.

### **Frost, Stephen Edward**

Lawyer with over 35 years' experience in Commonwealth and State taxation. Partner of KPMG from 1995 to 2008. Member of the former Administrative Decisions Tribunal from 2010. Deputy President of the Commonwealth Administrative Appeals Tribunal since 2012.

### **Gardner, Michelle LLB Grad Dip Legal Practice**

Solicitor. Previously worked in human rights law and Aboriginal community legal services. Extensive experience in Aboriginal policy and programs. Accredited mediator. Former Member, Social Security Appeals Tribunal. Current Member of the Mental Health Review Tribunal.

### **Gerloff, Catherine**

Mother and carer of an adult daughter with Downs Syndrome, community activist, foundation member Downs Syndrome Association NSW, past president and long-serving Board member Macarthur District Services; 25 years' experience in NSW Public Service in a range of senior management positions.

### **Gilson, Mark BCom BLegS**

Experience in excess of 35 years in consumer and civil law as a public servant and a legal tribunal member. Been a member of various civil law tribunals since 1988. Extensive experience in conciliation and has been a licensed builder for 27 years.

### **Giurissevich, Anthony Thomas**

Solicitor with over 30 years' experience in civil litigation. Continuing to represent and advocate for disadvantaged people. Member of various statutory tribunals since 1991. Current member of MHRT. From NESB. Fluent in Italian and conversant in French.

### **Given, Fiona Nicole**

Fiona Given was appointed to the Guardianship Division in 2012. She was cross appointed to the Administrative and Equal Opportunity Division in 2015. Fiona serves on the boards of the Independent Living Centre of NSW, Side by Side Advocacy and AAC Voice.

### **Goldstein, David**

David has extensive experience in drafting and advising on building and engineering contracts. He also has experience in advising on contract administration and risk management issues that arise during the course of a construction project. David has acted for owners and contractors in a range of building disputes in arbitration and court processes including at the appellate level.

### **Goodman-Delahunty, Professor Jane PhD (Washington) JD (Seattle U School of Law)**

An experimental psychologist and lawyer, Jane Goodman-Delahunty is a Research Professor at Charles Sturt University. She was editor of Psychology, Public Policy and Law, and is a Fellow of the American Psychological Association. Her research promotes evidence-based policies to enhance justice.

### **Grant, Yvonne BA/LLB LLM**

Ms Yvonne Grant, who is a Member of the Mental Health Review Tribunal and has been a Local Court Magistrate, a Judicial Member of the Administrative Decisions Tribunal, a Member of the Fair Trading Tribunal and various health professional committees as well as having been Legal Counsel for Comalco and holding a number of other commercial and professional advisor positions.

### **Green, Dr Jennifer McLeod BEd MA PhD MAICD**

Academic at the University of Technology Sydney Business School in the not-for-profit sector and social enterprises. Extensive professional experience in not-for-profit community services particularly in the area of disability. Member of the former Administrative Decisions Tribunal.

### **Hale, Sandra Neryl**

Sandra has been in practice since 1985 both as a sole practitioner and as a partner of a medium size firm. Her various appointments have included costs assessor, member of costs assessor's rules committee, district court arbitrator and panel mediator for Law Society NSW, she holds specialist accreditation in the areas of family law and mediation. She is a past president of St George/Sutherland Law Society and a board member of an area health service. She holds two community service awards.

### **Halstead, Nathan Dale**

Managing Director of AED Group, a leading Sydney Building Regulations company in NSW. Building Surveyor, Accredited Certifier and Fire Engineer with more than 18 years' experience in both Public and Private Sector work. Member of Australian Institute of Building Surveyors.

### **Hanstein, Sharon BA/LLB LLM**

Solicitor since 1994, including in private practice with a top tier firm and for government. Member of former Consumer, Trader and Tenancy Tribunal since 2012. Extensive experience and skills

in dispute resolution including commercial and consumer protection litigation.

### **Harris, Philip Peter**

Philip Harris is originally from Brewarrina in Western NSW. He is the principal of a private legal practice in Tamworth. He holds a Masters degree in commercial law from UNSW. He is a Colonel in the Army Reserve and a farmer with his wife Elena at Dungowan where they live with their 4 children.

### **Harris, Ronald Graham LLB**

Member Harris was first admitted as a solicitor over 40 years ago and has extensive experience having practised in Sydney for many years before moving to the north coast where he has practised for over 30 years. Member Harris has a law degree from Sydney University and Mediation qualifications from Bond University and has been a nationally accredited mediator for many years.

### **Harrowell, Mark Alfred Killen**

Principal Member and List Manager of the Consumer and Commercial Division- NCAT. 2012- part time Senior Member- Consumer Trader and Tenancy Tribunal. 2013- Deputy Chairperson (Determinations) - Consumer Trader and Tenancy Tribunal. Formerly a lawyer in private practice and a partner and managing partner at a large Sydney law firm. Admitted to practice in 1982. Main area of practice- commercial litigation. Degrees in Law and Commerce.

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

Obtained a Bachelor of Arts (Hons) at the University of Toronto, Canada and a Bachelor of Laws at the University of NSW in 1992. Worked in community legal centres in the Hunter and Illawarra regions of NSW from 1993 to 2003. In 1999 obtained accreditation as a mediator through Lawyers Engaged in Alternative Dispute Resolution (LEADR). Appointed to the Consumer, Trader and Tenancy Tribunal between 2002 and 2013. Appointed to the Mental Health Review Tribunal from 2005 to 2008. Currently appointed as Assessor in the Small Claims Division of the Local Court since 2003 and to the Consumer and Commercial Division of the NSW Civil and Administrative Tribunal since 2014.

### **Hayes, Elayne**

Social welfare background; mediation qualifications and has worked as a Director of Human Resources and HR Consultant for 20 years. Part-time Member of the Veterans' Review Board and does voluntary work with the Western Sydney University assisting disadvantaged students.

### **Hayes, Simon Robert**

Management consultant. Previously Non-Judicial Member, NSW Administrative Decisions Tribunal; previously Lay Member, NSW

Bar Association Professional Conduct Committee. Current Member, Sydney Region Council, UnitingCare.

### **Hennings, Simon Brockwell**

Admitted as a solicitor in 1989. General practitioner with experience across a broad range legal matters. Appointed Full Time Member in current role since 2006. Extensive experience in retail business and farming enterprise. 20 year committee member of Local Show Society. Member of the local AGL Community Consultative Committee.

### **Hiffernan, Noel Arthur**

Noel has worked for the union movement and the community sector and has been involved in the disability rights movement for the last 34 years. Over this time he has served on numerous state and federal government boards and committees that have dealt with a range of topics such as access to the built environment, employment, health care, advocacy and employment. He is Chair of Mountains Youth Services Team, vice-president of SydWest Multicultural Services Blacktown, board member of Connect Child and Family Services, Director and founder of The Greystanes Foundation and president of Central Blue Mountains Rotary Club.

### **Higgins, Sigrid**

Sigrid is a Principal Member assigned to all Divisions and List Manager of the Community Services matters in the AEO Division. Sigrid is also a barrister and accredited mediator. She has had senior legal management experience in Australia and overseas and a former member of the Patent and Trade Marks Attorneys Disciplinary Tribunal and the Defence Honours and Awards Appeals Tribunal.

### **Hilson, Freda Elaine**

Freda Hilson has worked in the disability sector for 38 years, providing services and advocacy support to people with physical and intellectual disabilities and people with acquired brain injury and their families. She has occupied the position of Executive Director of the NSW Brain Injury Association and the National Disability Abuse and Neglect Hotline. She has also worked as a Regional Manager in the Office of the Public Guardian and as an Official Community Visitor as well as managing services in a number of non-government disability organisations.

### **Hitter, Monique**

Solicitor with over 15 years' experience in civil law. Prior to that 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, Francis Dominic Logue**

Frank Holles has over 30 years' experience in legal practice, he has extensive experience in trials in the District Court and the Supreme Court and has worked for both Legal Aid and the Crown.

He has conducted enquiries for the Department of Defence. He has been with the Consumer Trader and Tenancy Tribunal, and then NCAT since 2012. He is a member of the NSW Bar.

**Hollis, Dr Jean Margaret** MBBS (Hons) FRANZCP  
FPOA MPhil

Old Age Psychiatrist, currently working as a Senior Lecturer for the University of Sydney at the Concord Centre for Cardiometabolic Health in Psychosis.

**Holwell, Kim Joseph** BA LLB (Syd) LLM (QUT)

Retired barrister after 37 years' experience predominantly in civil law. Local Court Arbitrator and experience in mediation for 20 years. Formerly Member Consumer Trader and Tenancy Tribunal since 2002.

**Hughes, Barbara Louise**

Admitted as solicitor in 1998. Employed as a criminal lawyer with the Legal Aid Commission prior to appointment to Mental Health Review Tribunal in 2009. Appointed as a senior member ( legal) to former Guardianship Tribunal in 2012. Cross-appointed to Consumer and Commercial Division in 2015.

**Hunter, Penelope**

Solicitor of over 19 years' experience in civil and criminal law. Former member of Consumer Trader and Tenancy Tribunal, Social Security Appeals Tribunal. Current member of the Administrative Appeals Tribunal.

**Isenberg RFD, Norman Saul**

Member of former Administrative Decisions Tribunal. Solicitor in private practice for over 30 years, including Accredited Specialist Business Law and Public Notary. Former Colonel in Army Reserve, Fellow Taxation Institute of Australia, Chartered Tax Adviser, Fellow Australian Institute of Company Directors.

**Isenberg, Naida**

Naida Isenberg is currently a Senior Member of NCAT and the Administrative Appeals Tribunal and a Member of the Defence Honours and Awards Appeals Tribunal. She formerly served on the Veterans' Review Board and the Migration and Refugee Review Tribunals. She has a long legal background at a senior level in both the Commonwealth and NSW governments, as well as in the private sector. She holds the rank of Lieutenant-Colonel in the Australian Army Legal Corps. She serves on the boards of two charities, one of which is the War Widows Guild.

**Jamieson, Dr Gail** MBBS FRACP

Specialist geriatrician with 13 years' experience in both public and private practice. Special interest in dementia, psychogeriatrics, and community care.

**Johnston, Susan** BSocStud MPH

Social Worker with over 35 years' experience in mental health, alcohol and other drug disorders, HIV/AIDS, squalor and hoarding, homelessness and supported housing services. Member of Mental Health Review Tribunal and Board Director of Evergreen Life Care, a not for profit aged care facility.

**Jones, Amanda** BSW

Social worker with over 15 years' experience in Child Protection and Out of Home care. Currently in private practice focusing on Fostering and Adoption. Also is employed as a Social Work Manager in a health setting. Presented at the 2014 National Out of Home Care Summit.

**Kelleghan, Dinoo**

Communicator, tribunal member and researcher in non-profit, journalism, tribunal (NCAT and Refugee Review Tribunal) and union fields over 35 years. Expertise in capturing and analysing information from people who are disadvantaged or have disabilities.

**Kelly, Josephine**

Barrister specialising in administrative and public law generally and part-time member of the Administrative Appeals Tribunal.

**Kennedy, Claudia Muriel** MA (Syd) BA (Flinders)  
Dip Rehab Couns (Syd) DipEd (Flinders) MASRC

Claudia is an experienced rehabilitation counsellor who has worked and taught in the area of disability for 35 years. Claudia has worked for CRS, WorkCover NSW, and Ageing, Disability and Home Care (ADHC), FACS. Claudia has a special interest in psychiatric rehabilitation, and ageing and disability issues. Claudia is a Member of the Housing Appeals Committee. The Committee provides for an external merits review for social housing applicants and tenants where they believe a social housing provider made an incorrect decision. Claudia was appointed as a part time professional member of the Guardianship Tribunal in August 2012.

**Kinross, Julie**

Barrister, Adjunct Professor, UQ School of Journalism and Communication, member of the Australian Press Council, former Information Commissioner and Commissioner for Fair Trading.

**Kinsey, Graham Anthony**

Solicitor with 34 years' experience working for both government and in private practice. Sole practitioner for 27 years in busy suburban practice specialising in conveyancing, civil litigation, consumer law, estates and leasing. Recently sold practice and now employed as a solicitor on a part time basis. Member of the former Consumer Trader and Tenancy Tribunal.

**Knight, Dr Peter Kenneth** BVSc PhD MBA

Head of Discipline of Biomedical Sciences, University of Sydney; Deputy Chair, University of Sydney Animal Ethics Committee; Official Veterinarian Racing NSW and Australian Turf Club; Editor International Group of Specialist Racing Veterinarians.

**Koussa, Janet**

Registered psychologist with over 25 years' experience working with people who have an intellectual disability and mental illness. Past facilitator of eating disorders groups. Previous involvement in advocacy organisations and carer for person with dementia.

**Laurence, Kerrie**

Extensive experience in disability education and as aged care quality assessor. Was carer for both parents with dementia. Currently manager with Family and Community Services with responsibility for investigation of abuse in out of home care. Has been a member of two Federal Tribunals.

**Le Breton, John Vincent**

Many years' experience managing government and non-government services supporting people with disabilities. Former Member of Administrative Decisions Tribunal and Mental Health Review Tribunal. Former Director of the NSW Office of the Public Guardian and former Director of Victim's Services NSW.

**Leal, Suzanne Maree**

Suzanne Leal has been a senior member of the Occupational Division and the Administrative and Equal Opportunity Division of the NCAT since its inception. Prior to this, Suzanne was a judicial member of the Administrative Decisions Tribunal and a member of the Migration Review Tribunal and the Refugee Review Tribunal. She is a judge for the NSW Premier's Literary Awards and has worked both as a criminal lawyer and mediator with the Legal Aid Commission of NSW and as a policy adviser at the Criminal Law Review Division of the NSW Attorney General's Department.

**Lennard, Jann** BA LLB (Hons) (ANU)

Nationally Accredited Mediator, Senior Member ACT Civil and Administrative Tribunal.

**Levingston, John** BA LLB (ANU)

Graduate of the ANU. In private practice in Sydney for over 35 years as a solicitor and a Barrister at the NSW Bar practising principally in commercial law; admitted to the High Court and Supreme Courts of the ACT, NSW and Victoria; many years experience as an Arbitrator on the NSW Court Panels and privately appointed in commercial disputes; previously appointed to the Commonwealth Working Group on the Carriage of Goods by Sea; Accredited Mediator (NMAS); and appointed as a Costs Assessor and Review Panellist in NSW. Part-time Member of the NSW Consumer Trader and Tenancy Tribunal and NCAT since February 2010. Previous honorary appointments as an Adjunct

Professor of Law at the University of Canberra and Conjoint Professor of Law at the University of Newcastle. Speaker at many domestic and international conferences on international law and arbitration. Author of "The law of affidavits" The Federation Press 2013, and "The law of tribunals" Federation Press 2016.

**Limbury, Ashley**

Mediator with over 12 years' experience in discrimination, workplace, retail tenancy and family law matters. Mediator of the former Administrative Decisions Tribunal Previous Human Resources experience with discrimination, performance issues, and experience as a Guardian ad Litem, FDRP, Child Consultant.

**Longley, Wendy** BSc (Hons) MSc MA

A clinical neuropsychologist with over 28 years of experience providing assessment, interventions and education to people affected by acquired brain impairment. Has published international scientific articles on improving the quality of life of people with cognitive impairment. Is also a caregiver. Member of the Australian Psychological Society's College of Clinical Neuropsychologists.

**Lowe, Anthea Elizabeth**

Workplace management consultant with over 25 years' practical experience in the prevention of discrimination and harassment. Member of Australian Human Resources Institute and the Management Committee of Refugee Advice and Casework Service. Previously worked at Anti-Discrimination Board of NSW.

**Lucy, Dr Juliet**

Dr Juliet Lucy is a part-time senior member of the Tribunal and a barrister practising mainly in administrative and commercial law. She is a former academic and the editor, author or co-author of a number of books, including one about the seventeenth-century poet John Milton, one about water law and one about the practice and procedure of NCAT. She has been the editor of the privacy section of NSW Administrative Law since 2004.

**Lynch, Joanne** BA LLB (Syd)

Joanne Lynch has been a Member of NCAT and before that Consumer Trader and Tenancy Tribunal (CTTT) since its inception in 2002. Her background is as a solicitor in regional practice for 15 years. She is currently a Registrar in the Children's Court of NSW and lectures at Charles Sturt University and Riverina Institute of TAFE.

**Manga, Dr Robert Zoa**

Has a background in medicine (Bachelor of Medicine, Bachelor of Surgery), public health (Master of Public Health) and also qualifications in management (Master of Health Services Management). Dr Robert Manga's professional background is in medicine, medical research as well as teaching. He has published in the field of medical research, public health, international health

and health promotion. Since 2010, he has worked as a part-time member of the Guardianship Tribunal now known as the Guardianship Division of NCAT. He is also the Co-Owner and Director of a company called My Voice. Other current professional involvements include being a member of the World Health Organisation International Classification Functioning Reference Group, as well as also having co-authored a book, *New Directions in Rehabilitation Counselling*. He has a lived experience of a person with disability, having sustained a permanent spinal cord injury following a motor accident and is the president of Spinal Talk, a support group for people with spinal cord injuries in Australia, and is also a chair-elect of the Australian Catholic Disability Council.

### **Manns, Leonie**

Leonie Manns is a long serving community member of NCAT's Guardianship Division (previously Guardianship Tribunal). Her areas of expertise are mental health and disability. Leonie also supports and mentors people with mental illness in the workforce and she is a long term member of the Mental Health Review Tribunal.

### **Marks, The Hon Acting Judge Francis LLM**

After almost 30 years as a solicitor, appointed in 1992 a Deputy President and Judicial Member of the Industrial Relations Commission of NSW and a Judge of the Industrial Court of NSW, retiring in June 2012. Currently an Acting Judge in the District Court of NSW, and a mediator, as well as a Principal member of NCAT.

### **Martin, Dr Meredith Anne**

Consultant in disability, welfare, criminal justice. P/T Lecturer at Sydney University. Member of the Mental Health Review Tribunal and BOSTES. Extensive experience in direct service, training and evaluations with complex service situations.

### **Martin, Katherine Elizabeth BSc MSc MAPS MCCN**

Clinical Neuropsychologist with 20 years' experience in rehabilitation, geriatrics and mental health. Currently working as a clinician and researcher in psychogeriatrics, with focus on dementia, brain injury, chronic mental health conditions, decision making capacity and end of life planning.

### **Marzilli, Claudio BA (UNE) BCom LLB MCom (UNSW) GCDR (UTS)**

Part-time general member of NCAT (Consumer and Commercial Division) since its establishment. Previously he was: a part-time member of the SSAT, MHRT, RTT, FTT and CTTT; legal practitioner; accountant (FCPA & FCA); and, Senior Lecturer in accounting and law.

### **Matheson, Alice Marie BA (Hons) Clin Psych MA (Hons) Clinical Neuro MAPS CCN**

Nine years' experience as a Clinical Psychologist in both in-patient units and community mental health followed by extensive experience as a Clinical Neuropsychologist within hospital setting. Established "Headway" community support group for patients and families of the brain impaired in northern region of Sydney. Churchill Fellowship for further study of cognitive rehabilitation and management of the traumatically brain impaired. Training in mediation and conciliation.

### **Matthews AM, Dr Richard John**

Director Neuroscience Research Institute, Alzheimer's Aust (NSW) and Calvary Healthcare. Advisory Board Centre for Healthy Brain Ageing. Formally Deputy Director General NSW Health (2003-2011).

### **McAlpine, Ethel**

Community member with more than 30 years' experience working in the disability services area in both government and NGO sectors.

### **McAteer, John Anthony BA BLegS MA Grad Dip LP**

Solicitor with over 15 years' experience in civil and criminal law. Extensive experience in advocacy, government law, administrative law, compensation law (including workers and victims compensation) and law relating to children and young persons. 10 years' experience in privacy law as regulator, advocate, and adjudicator. Senior Member of NCAT 2014 to present. Over 25 years' legal experience in New South Wales. Director not for profit social housing delivery entity.

### **McAuliffe, Dr Jane**

Dr Jane McAuliffe is a Clinical Neuropsychologist with over 25 years' experience in acute, rehabilitation and aged care neuropsychology across both private and public settings. She is currently working in aged care and adult rehabilitation and is involved in dementia treatment clinical trials.

### **McCalman, Maralean**

Joined the Guardianship Division of NCAT in August 2014 as a Community Member. Background in managing services in the non-government sector and in executive and policy positions in government working across the human services fields including disability, housing, mental health and aging. Soon to complete a Law Degree and have a strong interest in human rights law.

### **McCarthy, Shaun Gerard**

Shaun McCarthy is a solicitor and Director of the University of Newcastle Legal Centre and Program Convenor of the Practice Program at the Newcastle Law School. He is an Investigator in a

current NHMRC grant regarding Personally Controlled Electronic Health Records for persons with a disability.

**McCue, Margaret Mary** LLM (UNSW)

Margaret is a commercial lawyer practising in Macquarie Street Sydney. She is a local court arbitrator and nationally accredited mediator. Margaret has appointments on a number of boards, including the board of a private school.

**McIlhatton, Susan**

Sue has been a Deputy President of the Guardianship Tribunal and a member of the Consumer Trader and Tenancy Tribunal. She was a Deputy District Registrar of the Federal Court of Australia and also a Judicial Registrar of both that Court and the Federal Circuit Court. She was appointed as a Member to the Refugee Review Tribunal at its inception and subsequently became a Senior Member of that Tribunal. Prior to these appointments Sue held a range of positions as a solicitor at the Legal Aid Commission.

**McMillan, Jennifer Margaret** BA LLB Acc Spec (Wills & Estates) TEP

Jennifer McMillan is a Law Society of NSW accredited specialist in wills and estates, a member of the NSW Law Society Elder Law and Succession Committee, and of the Society of Trust and Estate Practitioners. She is the Practice Leader – Wills and Estates in the College of Law's LLM (Applied Law) program.

**McMurran, Alan Malcolm** BA (RMC /UNSW) LLB (UNSW) GAICD

Graduated in Arts / Law from UNSW in 1976; practiced as solicitor in Sydney since 1977, principally in litigation; commercial mediator and former Philadelphia arbitrator in the District Court; solicitor advocate in civil jurisdictions with principal practice in commercial and securities law; former Councillor Law Society of NSW and Chair civil litigation committee and member professional conduct committee and costs' committee.

**McPhee, Dr Brenda**

General Practitioner for 30 years with special interest in women's health. Experienced assessing and managing mental health problems in the community and in working with people with dementia, brain injury and intellectual disability. Formerly a member of the Social Security Appeals Tribunal.

**McSwiggan, Dr Sally Ann**

Dr McSwiggan is a Clinical Neuropsychologist with over 15 years' experience in geriatrics. Currently a member of the Mental Health Review Tribunal (Civil and Forensic divisions) and a Research Fellow in biomedical ethics. Dr McSwiggan's published work is in the area of decision-making capacity.

**Meadows, Geoffrey** BA BSocStud MT&CP LLB

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 in Consumer Trader and Tenancy Tribunal.

**Millbank, Prof Jenni** BA LLB (Hons) (Syd) LLM (UBC) PhD (Kent) Barrister of the Supreme Court of NSW and Solicitor of the High Court of Australia

Jenni Millbank is Professor of Law at UTS. She is an established socio-legal researcher with a wide range of expertise in health law, in particular in the area of assisted reproduction and health regulation.

**Moin, Gregory Robert** LLM (Syd) BA (UNE) Dip Ed (STC)

Solicitor with over 20 years' experience in private general practice and accredited mediator. Experience of working with persons with disabilities as a lawyer and as a director of not-for-profit service provider.

**Moir, Jillian** BA(Hons) LLB BSc (Psych)

Ms Moir has a background in mediation and has worked in tribunals for over 10 years. She has current appointments as a Senior Member (legal) and mediator at the NCAT, Member of the Administrative Appeals Tribunal, and Senior Member at the Veterans Review Board.

**Molony, Peter Henry**

Peter Molony is a barrister who for the past 30 years has been a member of diverse federal and state tribunals. He was a Senior Member of the Fair Trading Tribunal (heading up the home building division). He has held appointments as a member of VCAT, the SSAT, the Refugee Review Tribunal, and the Guardianship Tribunal, as well as an arbitrator and appeal panel convener of the Workers Compensation Commission.

**Montgomery, Stephen Henry**

Qualifications: Bachelor of Laws (Hons); Graduate Diploma in Legal Practice; Bachelor of Science in Agriculture/ Diploma of Education, 1990 - Awarded the Office of Public Management Traveling Fellowship in Public Sector Management. Admitted as a Barrister in July 1992, and holds a current unrestricted Solicitor practising certificate. Senior Member NCAT (2014 to present). Over 20 years' experience in Tribunals having previously held appointments as a member of the Administrative Decisions Tribunal, Consumer Trader and Tenancy Tribunal and the Fair Trading Tribunal.

**Morgan, Richard** MA FRSA JP

Director in Local Government in regional NSW and former Principal of The Pittwater House Schools in Sydney.

**Morris, Athol LLB BEc**

Barrister and Solicitor with over 20 years' experience in Family Law mediation and former Registrar and Referee of the ACT Magistrates Court, conducting mediations and hearings in civil claims and domestic violence mediation.

**Moss, Deborah**

Barrister with over 21 years' experience in civil and criminal law.

**Mullane A/DCJ, The Hon Graham R BA LLM  
MJS**

Family Court Judge 1986/08; Conjoint Prof, Newcastle University since 2009; Judicial Member, Administrative Decisions Tribunal 2009/13; Deputy Chair(p/t), Health Professions Tribunals 2012/13; Principal Member (p/t) and appeal panel member NCAT since March 2014; Acting District Court Judge since Sept 2014.

**Mulock, Mark Joseph**

Solicitor with more than 33 years' experience in private legal practice in suburban Sydney specialising in criminal and civil litigation. Member of the former Consumer Trader and Tenancy Tribunal. Has undertaken extensive pro bono work in his local community.

**Mulvey, Craig Anthony**

Mr Craig Mulvey was admitted to practice as a solicitor in 2001 and as a barrister in 2005. He was appointed as a Legal Member to the then Guardianship Tribunal in 2012. Mr Mulvey has practised in the insurance and injury compensation claims areas, as well as commercial litigation, family law, equity and anti-discrimination. Mr Mulvey is a duty barrister at the Downing Centre and participates in the Pro Bono Assistance Scheme in the District and Supreme Courts. He is also a volunteer barrister at the Inner City Legal Centre.

**Murray, Dr Maree Kathleen**

Maree Murray has academic experience, lecturing and researching in Industrial Relations, including Gender and Work. She was formerly National Manager Research and Evaluation at a large not for profit organisation focussing on the educational achievement and labour market patterns of children and youth from equity target groups, Presently she works in Equity and Diversity Strategy at the University of Sydney.

**Newman, Jennifer Lee**

Wiradjuri, worked with A & TSI adult learners in TAFE and university; designed and delivered Aboriginal studies courses in Australia and overseas; PhD candidate at the Institute for Social Justice, ACU, critiquing movements toward constitutional recognition of A & TSI peoples through an indigenous discourse analysis.

**O'Carrigan, Patrick John FRAIA AIAMA**

Registered Architect and urban designer with 25+ years' experience in private and public sectors. Qualified as an arbitrator, former Member of Administrative Decisions Tribunal with an interest in ethics and governance.

**O'Connor AM, A/DCJ Kevin Patrick**

Judge since 1998. President, Administrative Decisions Tribunal (1998-2013), Chairperson, Fair Trading Tribunal and Commercial Tribunal (5 yrs). Founding Australian Privacy Commissioner; Hearing Commissioner, Human Rights Commission (1989-96). Also, legislation director, barrister, law teacher.

**O'Halloran AM, Maree BA/DipEd BLegS/GDLP  
LLM GAICD**

Experienced industrial relations practitioner who has also worked in education and social welfare sectors. Current member of the NSW Public Services Advisory Commission and a Director of Teachers Mutual Bank.

**Organ, Lynne LLB (Syd)**

Solicitor with extensive experience in private practice and government agencies including acting in catastrophic injury claims and at Inquests. Specialised in health and government law. Current volunteer at Matthew Talbot Hostel and previous volunteer at Women's Legal Resources Centre and Redfern Legal Centre.

**Ovadia, Fortune Tony**

Clinical psychologist with over 40 years' experience in public and private sectors as a clinician, administrator and policy worker. Member of the Mental Health Review Tribunal, former Chair of the Disability Council, former Member of the then Medical Tribunal and of many boards of community NGOs.

**Oxenham, Melanie Ann**

Involved in the disability and aged care sectors as a social worker, community educator and TAFE teacher. Interested in decision making for adults including promoting planning ahead instruments and the development of supported decision making.

**Patten, David Louthean LLB**

Sydney solicitor 1956 to 1992, District Court judge 1992 to 2004, Acting Supreme Court judge 2004 to 2009, Deputy President Administrative Decisions Tribunal 2009 to 2013, Chairman Management Committee NSW Crime Commission since 2012.

**Paull, Christine**

Senior Member, NCAT Consumer and Commercial Division. A solicitor of 30 years standing, working in private practice, the Corporate, Federal and State sectors. A Senior Tribunal Member with managerial and legislative drafting experience and an

extensive background in Home Building, Consumer and Residential law, mediation and dispute resolution.

**Perrignon, Richard John** BA (Hons) (Syd) LLB (Syd)

Mr Perrignon was admitted as a solicitor of the Supreme Court of NSW in 1987 and as a barrister-at-law in 2002. From 2008 to 2014, he sat as a judicial member of the Administrative Decisions Tribunal while practising at the Bar. Since 2010, he has also been a member of the Workers Compensation Commission. He was appointed a senior member of NCAT on 1 January 2014, and sits in its Administrative and Equal Opportunity Division.

**Pheils, Johanna**

Has been practising as a solicitor since 1988 in the areas of litigation and criminal law, and has been a member of this Tribunal since 1997.

**Pickering, Edwina Anne**

Social Worker with 30 years' experience in the health and community sector. Extensive experience in accreditation systems and promoting organisational quality. Board member of disability advocacy and legal service.

**Porter, Lyn**

Qualifications in Social Science, many years' experience working in areas of child protection, sexual assault and domestic violence. Appointed as an Official Community Visitor for 11 years, promoting the rights of young people in care and people with disabilities who live in supported accommodation.

**Priestley, William** LLB BA

Barrister and mediator with over 25 years' litigation experience.

**Rayner, Robyn** BSW (UNSW)

Social Worker with 40+ years' extensive experience in Australia and England. Aged Care, Palliative Care, Neurology, Rehabilitation, Crisis Intervention, with adults and adolescents in Community, Acute and Rehabilitation Settings.

**Renwick SC, Dr James George**

Senior Counsel, first admitted as a legal practitioner in 1985, Adjunct Professor Australian National University, Former Fulbright Scholar (The Johns Hopkins University) and Parsons Scholar (Sydney University), Captain RANR and Head Sydney Naval Legal Panel, Associate, Sydney Centre for International Law.

**Rickards, Kim Beresford**

Private legal practice in Sydney and rural NSW for 39 years. Undergraduate degrees in Commerce and Law, and 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 of Consumer Trader and Tenancy Tribunal in 2008.

**Ringrose, John**

Barrister with 45 years' experience in many areas of law. Accredited mediator currently appointed to the Supreme Court and District Court mediator panels. Previously appointed as a part time member of NSW Consumer Trader and Tenancy Tribunal.

**Riordan, Michelle Anne**

Solicitor with over 30 years' experience in private practice. Areas of practice have included personal injury, workers compensation, commercial litigation, family law and criminal law. Judicial Member of the Administrative Decisions Tribunal from 2004 to 2012 and Senior Member of NCAT since 1 January 2014.

**Robberds QC, Lionel Philip**

Barrister with 49 years' experience covering civil, criminal, Royal Commission and commissions of inquiry areas. Appointed QC in 1982. Member of former Administrative Decisions Tribunal (Legal Services Division) and previous similar bodies from 1994 .

**Roberts, Susan Mary** BA LLB (Hons)

Solicitor with over 25 years' experience in government, not-for-profit and private sectors as a senior executive, lawyer, consultant and board member. Ms Roberts was previously the Executive Director of the Australian Human Rights Commission and has a particular interest in the areas of disability rights, human rights and social justice.

**Robertson, David** LLB BEc BCL

Barrister with 25 years' experience mainly in commercial law but also Commissions of Inquiry, sports law and anti-discrimination law.

**Robinson, Diane** BA LLB(Hons) LLM(Hons)

Lawyer with extensive Tribunal experience. Former President NSW Guardianship Tribunal and Deputy President NSW Mental Health Review Tribunal. Former Legal Member, NSW Medical Board and Chair, Psychology Tribunal. Associate Professor, Faculty of Law UNSW.

**Ross, Katherine Ann** BA BLegS

A solicitor in private practice for 24 years, and part time member of the Consumer Trader and Tenancy Tribunal for 12 years, Katherine has held a fulltime appointment to the Tribunal since 2012. She was also a past president of Disability Advocacy.

**Rosser, Kim**

Kim Rosser was admitted as a solicitor in 1988. She has worked in and been a Member of Tribunals at both the Commonwealth and State level since 1993. Prior to appointment to the NSW Civil and Administrative Tribunal in January 2014, Kim was a full time

Member and then Senior Member of the Consumer Trader and Tenancy Tribunal for a period of eight years.

### **Royer, Rosemary**

Social Worker with extensive experience in working with vulnerable families and children and young people across health and disability services both in the government and non-government sectors. Also worked at a senior level in state wide policy development and administration. Current board member of an overseas aid organisation.

### **Rylands, Sandra**

Bachelor of Arts majoring in Sociology. Senior Investigation and Liaison Officer at Guardianship Tribunal. Worked in child protection with Department of Community Services 10 years. Taught for 14 years Illawarra Institute of TAFE in Community Services, Disabilities and Aged Care. Care planner Commonwealth Respite Care Centre, Queanbeyan. Client Manager Community Support Program Mission Australia Goulburn.

### **Sarginson, Gregory John**

Barrister for 12 years specialising in commercial litigation, insurance litigation, administrative law and criminal law. Prior to admission at the Bar, a Solicitor for 9 years specialising in insurance litigation. Since 2004 lecturer at the Law Extension Committee (University of Sydney) and adjunct lecturer College of Law.

### **Scahill, Anne Maria BA (Hons 1) LLB GradCert Management GAICD**

Has worked in a range of legal roles in the private, government and non-government organisation sectors. Has also held management roles at the NSW Medical Board and most recently the University of Sydney. Anne has been a member of the NSW Mental Health Review Tribunal since 2005.

### **Schneeweiss AM, Dr Joachim**

Consultant Physician with teaching hospital appointment for several decades. Part-time member of the Anti-Discrimination Board of NSW, 1984-1993. Member, Prime Minister's Advisory Council of Multicultural Affairs (ACMA) 1987-1992. Member, NSW Medical Board, 1996-2004. Non-judicial member of the former Administrative Decisions Tribunal, 2004-2015.

### **Schwager AO, Jane Louise**

Extensive experience in leading Government Departments and Non-profits. She is a nationally accredited Mediator and a Member of the former Administrative Decisions Tribunal.

### **Seiden SC, Rashelle Leah**

Rashelle was called to the Bar in 1996. She has maintained a diverse practice primarily focused upon tax litigation and was

appointed Senior Counsel for the State of New South Wales in 2013. Prior to being a barrister she was an investment banker.

### **Shipp, Bernard Martin**

Solicitor for 33 years. Past experience as a solicitor in legal aid and community legal centres, legal member of the Social Security Appeals Tribunal and as President of a large disability service. Senior Member (Legal) of NCAT since its inception, and past member of former Guardianship Tribunal and Consumer Trader and Tenancy Tribunal.

### **Shub, Oscar**

Solicitor with 45 years of experience as a litigator and partner in major law firms around the world. Is a recognized mediator having trained through LEADR and a former chair of LEADR. Oscar is a former Chair of the HPCA and now a Principal Member of NCAT in the Occupational Division and Appeals Division.

### **Simon, Theresa**

Theresa Simon has both an educational and legal background. She set up the Home Building Advocacy Service at Macquarie Legal Centre, which assists consumers with Home Building disputes. She was also part of a program developed by Legal Aid to encourage participation of Culturally and Linguistically Diverse Communities in family dispute resolution and is a registered family dispute resolution practitioner. She has lectured in law and sociology at the University of Western Sydney. Since 2012 she has been a full time Member with the Consumer, Trader and Tenancy Tribunal and in 2015 was appointed as a Senior Member with the Consumer and Commercial Division of NCAT.

### **Simpson, James Christopher Heaton BA LLB (Syd) LLM (Lond) GCDR (UTS)**

Lawyer who has worked in the disability field for 30 years as first Principal Solicitor of the Intellectual Disability Rights Services and now systemic advocate for NSW Council for Intellectual Disability. Recipient of the Justice Medal of the Law and Justice Foundation NSW.

### **Smith AM, Philippa Judith BEc**

Former Commonwealth Ombudsman. Member of the former Administrative Decisions Tribunal and Administrative Appeals Tribunal.

### **Smith OAM, Dr Margaret Ann FAPsS**

Dr Meg Smith is a community psychologist. She has been active in mental health services reform and is currently president of Way Ahead, a mental health promotion organisation. Meg has personal experience of mental illness and the development of family support networks.

**Smith, Jeffery** LLB BPharm

Admitted as barrister 1976. Post graduate training in alternate dispute resolution. Appointed Senior Member NCAT 2014 and appointed Senior Member/Member of all precursor Tribunals exercising civil jurisdiction from 1989. Acting Chairperson, Consumer Trader and Tenancy Tribunal 2013.

**Smith, Peter** DipLaw (BAB)

Court Registrar and Chamber Magistrate. Member of former Tribunals, Consumer Trader and Tenancy Tribunal and Residential Tribunal since 1999.

**Smith, Stephen** BA MHA (UNSW) LLM SJD (Syd)

Former member Fair Trading Tribunal, Consumer Trader and Tenancy Tribunal, and health professions tribunals. Doctoral thesis on professional misconduct, numerous journal articles on medical and general legal topics; broad 'hands on' experience with motor vehicles and home building. 30 years' litigation experience. Taught consumer law at LLB level.

**Sorensen, Dr Holger Ronald** CTA LLB LLM

(Hons) PhD

Barrister with over 25 years' experience as a taxation specialist briefed by revenue authorities and taxpayers. Adjunct Professor, University of Notre Dame, Sydney; Co-editor, Hill Duties Legislation; published articles in Taxation in Australia, the Law Society Journal and Australian Tax Review.

**Spencer, Dr Margaret** Cert. Nursing BTheol BSW PhD

Dr Margaret Spencer is a lecturer within the University of Sydney's Social Work and Policy Studies Program. Her particular research focus is on the rights of people with intellectual disability, sexual wellbeing and parenting. Margaret holds degrees in nursing, theology and social work. In 2007 Margaret was awarded a doctorate through University of Sydney for her research on parenting with intellectual disability. Margaret has over 30 years' experience working with individuals and families with unique support needs living in vulnerable contexts. For 25 years Margaret undertook caseworker with Brown Nurses Inner City Ministry. Prior to joining University of Sydney's Social Work and Policy Studies Program in 2014, Margaret coordinated the Parents Program at Intellectual Disability Rights Service. In addition to her position at the University of Sydney, Margaret sits on the Guardianship Division of the NSW Civil and Administrative Tribunal and is a member of the International Association for the Scientific Study of Intellectual Disabilities (IASSID) special interest research group on parenting with intellectual disabilities. Dr Spencer has received several awards including a Churchill Fellowship, the NSW Health Mental Health Best Practice Award and the NSW Premier's Women of the Year Award for her service to people living on the margins in the inner city of Sydney.

**Sponza, Walter Gregory**

Solicitor with over 25 years' experience in civil and criminal law. Extensive experience in the Attorney General's Department and the courts, legislation and policy, legal aid and private practice. Qualifications through LEADR as a Conciliator and Mediator. 8 years' experience as a lawyer conducting Dispute Resolution Conferences for the Children's Court. Part time member of the former Consumer Trader and Tenancy Tribunal.

**Stamatellis, Stamatia**

Solicitor. Experience as solicitor at the Intellectual Disability Rights Service and Legal Aid NSW. Former presiding chairperson of Housing Appeals Committee and former member of Consumer, Trader and Tenancy Tribunal.

**Staples, Melissa Joy**

Clinical Psychologist/Neuropsychologist with 25 years specialist experience working with adults gained through public sector employment and private consultancy work in a variety of clinical settings and clinical management roles.

**Stewart, Leanne** BSW (UNSW)

Social Worker with executive management experience in aged care, including the not for profit sector, Home Care Service of NSW and Department of Social Security. Consulting business in aged care with commercial and NGO clients involving managerial reviews, standards assessments, dispute resolution.

**Stone, Dr Suzanne**

Medical Practitioner with over 30 years of professional and personal experience working with people with a disability. Member of both the Guardianship Division and the Mental Health Review Tribunal.

**Suthers, Aaron** LLB

Solicitor and mediator in private practice. Former member of QCAT. Accredited specialist in family law in Queensland and New South Wales. Family Dispute Resolution Practitioner.

**Taylor, Susan Edith**

Social Worker. Extensive experience working in acute mental health services, and residential and community services for people with a mental illness. Experience managing services providing support and community services to people with multiple sclerosis. Former member, Social Security Appeals Tribunal and NSW Mental Health Review Tribunal.

**Tearle, William Joseph** LLB (Hons)

Admitted to legal practice 1970. Extensive experience of financial counselling and mental health issues. Former Deputy President of both the Guardianship and Mental Health Review Tribunals. Former Research Director, NSW Law Reform Commission. Guest lecturer at many universities, including Oxford.

### **Thode, Sabine**

Ms Sabine Thode was raised and educated in Germany before migrating to Australia in 1983. On graduating from Sydney University with a Bachelor of Economics she became a District Court Judge's Associate in 1995 while completing her law degree. She was admitted to the Bar in 1999 and joined Maurice Byers Chambers in 2000 practicing in commercial, construction and personal injury law. Ms Thode has appeared in the High Court, Court of Appeal, Federal, Supreme and District Courts in a broad variety of matters and practice areas including commercial and administrative law. After leaving the bar Ms Thode practiced as a solicitor in civil litigation and was appointed as a Senior Member of the Consumer Trader and Tenancy Tribunal in 2012 and to NCAT in 2014.

### **Thompson, Dr Susan Lynne** MBBS FRANZCP Certificate in Child and Adolescent Psychiatry (RANZCP), Graduate Diploma in Systemic Therapy (AIRS)

Child, adolescent, adult and family psychiatrist working for many years in inpatient and outpatient public mental health settings, private practice and for Relationships Australia. I am currently a professional member of the Guardianship Division and a psychiatrist member of the Mental Health Review Tribunal.

### **Thompson, John** BCom(Ec) LLB (UNSW)

Five years as an investigator with the Trade Practices Commission; eight years in total as a lawyer with the Corporate Affairs Commission, the NSW Department of Consumer Affairs and the Office of the NSW DPP; and extensive experience as a barrister; currently practising from a remote town in Western NSW. A part-time member of the Consumer Trader and Tenancy Tribunal and NCAT for 8 years.

### **Thomson, Bruce Geoffrey** BA Dip FP FIAA

Actuary with 25 years' experience in personal and group investments, superannuation, disability and life insurances, risk management, complaints mediation, anti-discrimination compliance. Past chair of a retirement village. Board member of local sporting and charity organisations.

### **Tibbey, Mandy** BJuris (UNSW) LLB (UNSW) LLM (UNSW)

Barrister since 2004, solicitor 1987-2004, extensive experience in civil and administrative law litigation including commercial, consumer, equity, discrimination and in mediation. Presently a member of a Professional Conduct Committee of NSW Bar Association, previously Chair of Women Barristers' Forum and member of Human Rights Committee, NSW Bar Association.

### **Titterton, Robert** BComm LLB MArtsMgt

Robert is currently a part-time Senior Member of NCAT, where he sits in the Guardianship, Occupational, and Consumer and

Commercial Divisions, as well as the Appeal Panel. He is also a part-time member of the Commonwealth Administrative Appeals Tribunal, where he sits in the Migration and Refugee Division. He has previously served as a full-time member of the NSW Consumer and Commercial Tribunal, and been a part-time Deputy Chair of nine NSW health disciplinary tribunals. He was a barrister for 14 years, and has also worked as a Senior Specialist and Specialist Assistant Director at the Australian Securities and Investment Commission.

### **Tong, Dr Lizabeth**

Principal Psychologist Sydney Local Health District; Clinical Consultant, NSW Crown Solicitor's Office; Member, Clinical & Forensic Colleges Australian Psychological Society, NSW Psychology Council, Chartered Clinical & A/Fellow, British Psychological Society, WHO Global Clinical Practice Network Field Studies Revision of the International Classification of Mental and Behavioural Disorders (ICD-11), List of Experts, International Criminal Court, The Hague. Netherlands.

### **Toohy, Daniel** LLB (Hons 1) BSc GCert (Arbitration)

Experienced adjudicator and mediator, and qualified arbitrator. Over 15 years of broad commercial experience in private legal practice and government positions.

### **Topolinsky, Vadim** BE (Structural) (UTS) MIEAust (NPER) FNIFI

Structural engineer and consultant with over 25 years' experience in structural, civil, forensic and remedial engineering. Former Member Consumer Claims Tribunal (CTTT). Engineering practitioner of many years with experience in residential, commercial and industrial projects. Past Accredited Mediator with the Department of Fair Trading and L.E.A.D.R. Accredited Certifier (Structural and Civil) Environmental Planning and Assessment Act 1979. Member of the Accreditation Committee, Building Professionals Board (2009).

### **Verick, Amarjit Singh**

Judicial Member of the Administrative Decisions Tribunal from 1 July 2001 - 31 December 2013 and Senior Member of NCAT from 1 January 2014. Since 2000, Specialist Taxation Consultant. Overseas assignments include legal adviser to Tonga to implement consumption tax, consultant to Revenue Office of South Africa to assist in drafting their anti-avoidance tax legislation and May 2012 - June 2012 was invited by Adam Smith International (UK) to provide specialist advice in Kabul (Afghanistan) to introduce Value Added Tax. Previously, Assistant Commissioner of Tax with ATO attending to litigation.

### **von Kolpakow, Michael**

Town planner with 35 years in local and state government and the private sector. Extensive experience in project management

specifically relating to major infrastructure provision, stakeholder and community engagement.

### **Vrabac, Nick**

Nick has had 10 years' experience as a solicitor with the government and private practice, and was Deputy Chairperson of the Consumer, Trader and Tenancy Tribunal for 8 years, 2002-2010. He volunteered with the Sydney Olympics, World Youth Day and was a Secretary/Vice President of a National League Soccer Club for 7 years.

### **Wakefield, Alexander John Stevens FCI Arb FACICA LLM(UNSW) MPhil (Cantab)**

Solicitor since 1990. Accredited specialist in commercial litigation. Accredited arbitrator and mediator. Former court appointed arbitrator. Former president CI Arb Australia. Vice chair Australian Disputes Centre. Former member Law Society professional conduct committee. Former member Administrative Decisions Tribunal.

### **Walker, Professor Emeritus Geoffrey Dennis de Quincey LLB (Syd) LLM, SJD (Penn.) LLD (Qld)**

Barrister since 1965. Former Dean, University of Queensland Law School. Former Executive Deputy President, federal Administrative Appeals Tribunal. Council member, Rule of Law Institute.

### **Wannan, Alison Diane BSW (Hons) MSW**

Social worker with extensive management experience in community services - disability, child protection and social housing. Most recently completed community research (UNSW and Sydney University) with people with mental health issues, older people and Aboriginal families living in social housing.

### **Watson, Margaret E BA (Welfare Studies) Certificate in Experiential Psychotherapy**

Social welfare/community worker with 40 years' experience in community development work, disability services, aged care services, acquired brain injury, counselling in trauma informed practices, past member of Social Security Appeals Tribunal and QLD QCAT, staff member of Guardianship Board /Tribunal for 18 years.

### **West AM, Dr Carolyn Mary**

Medical Practitioner, Director Spina Bifida Service, Children's Hospital at Westmead, 32 years retiring 2011. Visiting Medical Officer, Royal Prince Alfred Hospital, Spina Bifida Service 1982 - 2018, Member Guardianship Tribunal 1989-2016.

### **Wheatley, Marie BSocS (UNE) MPSMgt (UTS)**

Worked as a practitioner in Health for many years and Department of Community Services as Director for 9 years. Currently the Director of Out of Home Care services for the Benevolent Society.

**Williams, Dr Phoebe Catherine May MSc**  
(Oxon) MBBS (Hons) (Syd) BSc/BCom (ANU) DCH  
Medical Doctor with psychology qualifications and extensive experience working with people with disabilities and psychiatric illness. Founder of the international NGO [www.handsofhelp.org](http://www.handsofhelp.org); one of the 2014 Financial Review '100 Women of Influence'. Current PhD candidate with The University of Oxford.

### **Williams, Louise LLM**

Member of Tribunals since 1999, including the former Fair Trading Tribunal and Consumer, Trader and Tenancy Tribunal. Admitted as a solicitor for 25 years, with past experience in Courts, and in private practice. Accredited mediator.

### **Williams, Marcelle**

More than 20 years' experience in the disability sector in areas of substitute decision making, advocacy, complaint handling, review work and investigations. Parent of an adult person with a disability.

### **Wilson, Graham Hood**

Lawyer with experience in legislative drafting and subsequent 35 years in commercial practice including 25 years as a partner in a Dubbo legal firm. Part time General Member of former Consumer Trader and Tenancy Tribunal and current NCAT since 2009.

### **Wortley, Janice Margaret**

Special Educator and Consultant Psychologist with 25 years' experience in developing and implementing person centred planning and positive behavioural strategies for people with dual diagnosis and challenging behaviours in community and incarcerated settings. Accredited Lecturer in Disability Studies and Community Services, qualified workplace trainer and accredited mental health first aid instructor. Extensive experience working with and advocating for people with intellectual disabilities, psychiatric disabilities and acquired brain injuries in community and educational settings. Recipient of the Premier's Award for Excellence in Working with People in Boarding Houses. Former State Manager DET & TAFE NSW Disability Services. Extensive experience in reviewing and crafting anti-discrimination and disability legislation.

### **Wroth, Dr Melanie Jane MBBS FRACP**

Clinical consultant geriatrician working at RPA Hospital. Teacher and examiner for medical students and doctors in specialist training. Hearing Member with Medical Council NSW for doctors' performance assessment and disciplinary matters. Volunteer with Gondwana Children's Choirs as tour doctor.

### **Xuereb, Charles Richard**

General legal practitioner with over 37 years' experience in most areas of the law, mainly as a sole practitioner. Coordinator of the Lawyers Assistance Program since 2008. Former councillor of the

Law Society. Served on many committees of the Law Society, including as former chairperson of Property Law Committee. Treasurer of the Law Society (2006). Former director of LawCover.

### **Yuvarajan, Dr Rasiah**

Specialist Psychiatrist and Psychogeriatrician with over 35 years of clinical and teaching experience, spanning across Asia, Africa, UK, New Zealand and Australia. Also a part time member of Mental Health Review Tribunal and specialist panel of HCCC.

### **Ziegler, Deborah BA LLB**

Deborah is a solicitor of over 17 years' standing. She has extensive experience in private legal practice with particular focus on corporate and commercial law. She has advised a range of leading Australian and international companies on mergers and acquisitions, joint ventures, capital raisings, corporate advisory, foreign investments and private equity transactions. Prior to commencing legal practice she worked as a judge's associate in the Federal Court of Australia. She is a nationally accredited mediator with extensive experience in conciliation. She has worked as a facilitator with Forum Sentencing NSW and previously held an appointment as Member of the Consumer, Trader and Tenancy Tribunal. She has been a Member of NCAT since its inception.

### **Also NCAT members as at 30 June 2016**

Andrews, Ms Munya; Awad, Dr Magdoline; Barnes, Susan; Boyce, Stuart Anthony; Dicker SC, Matthew; Glynn, Wal; Hardy, Rex; Harris SC, John; Jerram, Mary Stella; Kearney, James; Lim, Prof Danform; Murray, Craig; O'Connell, Dr Irene; Pratten, Dr Catherine; Sword, Donald; Wilson, Lucinda.

# Appendix 4

## NCAT Member Code of Conduct

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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) and applies to all Members of the Tribunal, including occasional Members.

### Purpose

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.

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

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.

Members are to perform their duties and conduct themselves consistently with these objects.

### General Responsibilities

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

In performing their duties, Members should at all times strive to give effect to the following values (which are derived from 'A Guide to Standards of Conduct for Tribunal Members' (Revised August 2009) of the Administrative Review Council).

#### Respect for the Law

Members should while acting as a Tribunal Member and while performing functions associated with membership demonstrate respect for the law in all its aspects.

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

Fairness requires a Tribunal Member to make unbiased, impartial decisions and to give all parties the opportunity to put forward their positions.

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.

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 a Member
- refrain from engaging in 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.

### **Independence**

Tribunal Members are to perform their duties independently, free from external influence and free from the fear of adverse consequences.

Members should not allow themselves to be put in a position where their independence may be compromised or be perceived to be compromised.

Where part time Members have a professional practice in addition to being Members of the Tribunal, they will not be able to act for or against or provide services to individuals or bodies who are litigants before them in the Tribunal.

### **Respect for Persons**

Members are to conduct proceedings in a manner that is patient, courteous and respectful of all parties, witnesses, representatives, staff and others with whom the Members has to deal.

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.

### **Diligence and Efficiency**

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.

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 aimed at enhancing knowledge and skills relevant to their duties
- 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, and use where appropriate, 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.

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 is given as concisely as reasonably possible.

### **Integrity**

Members, in carrying out their duties as Members, are to act honestly and truthfully.

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**

Members are accountable for their decisions and actions taken as Members and have a responsibility to be open and frank about their decisions, action and inaction in relation to their duties.

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**

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**

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.

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, such as for a charitable purpose or for public display in the Tribunal's premises.

### **Corrupt Conduct**

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**

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**

Complaints in relation to Members will be dealt with as outlined in the Tribunal's Complaints protocol.

### **Compliance with the Code**

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 upon the Tribunal or others of the conduct.

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. The Code may be reviewed from time to time to ensure its relevance.

**The Hon Justice Robertson Wright**  
President

# Appendix 5

## NCAT Expenditure Report

The following NCAT Expenditure Report applies to the period of 1 July 2015 to 30 June 2016.

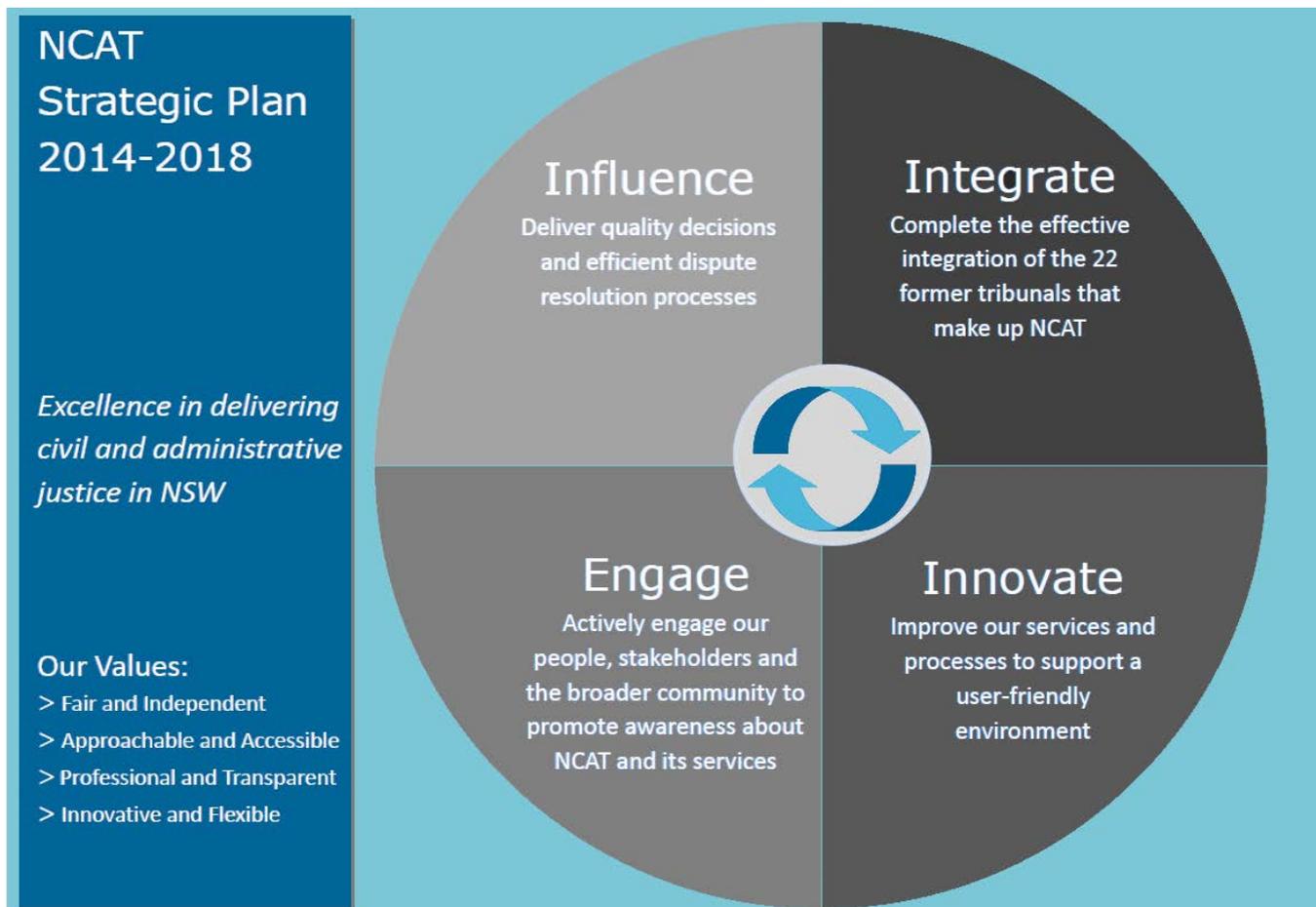
<b>SALARY AND RELATED PAYMENTS</b>	<b>\$'000</b>
Salaries	15,632
Statutory appointees	12,522
Annual leave	1,635
Overtime	5
Long service leave	1,756
Superannuation	3,039
Workers compensation	141
Payroll tax	1,866
Fringe benefit tax	15
<b>Subtotal</b>	<b>36,611</b>

<b>OPERATIONAL EXPENSES</b>	<b>\$'000</b>
Contractors	982
Office accommodation	6,360
Postage and couriers	624
Telephones	611
Minor computer purchases and consumables	284
Fees	296
Security services	614
Training and development fees	32
Motor vehicle expenses	23
Travel expenses	526
Printing and stores	221
Interpreters	494
Publications	136
Insurance	131
Minor miscellaneous	256
<b>Subtotal</b>	<b>11,590</b>
Depreciation	1,300
Ex-Gratia payments	1
<b>Total operational expenses</b>	<b>49,503</b>

**Note:** This appendix is based on information supplied by Finance, Department of Justice. The Audit Office had not completed the audit of the Department's financial statements when this information was supplied.

# Appendix 6

## NCAT Strategic Plan 2014-2018



### Key initiatives 2015-2016

#### **INNOVATE: Business Improvement Group**

This Group was one of three cross-divisional working groups established during the year to promote collaboration on projects that improve NCAT services and processes. The NCAT President and the Principal Registrar established the Committee which involves Divisional Registrars, the Deputy Registrar Operations, senior officers in the Principal Registry, and other officers where required. The Manager

Reporting and Quality Assurance is also a member and provides secretariat services for the Group.

An online Process Improvement Ideas Log was established to enable and encourage NCAT staff to put forward suggestions about process and system change. Team leaders in the Registries regularly review the Log and discuss the suggestions at team meetings or with the person putting forward the idea. Once sufficient information is available, the ideas are referred to the Group for consideration.

By June 2016, a number of improvements had been successfully implemented across a range of processes including information for clients, clearer

hearing notices and results sheets, remote monitoring, reports, forms and staff job swaps. Further ideas relating to the case management system (CMS) had been referred to the Transformation Project Team for assessment during the development of the new CMS.

## **INTEGRATE / INNOVATE / INFLUENCE: Transformation Project**

The NCAT Transformation Project commenced in 2014 with the scope including a holistic view of NCAT's service delivery mechanisms, and the potential redesign of these services from the ground up. The first stage was a technology consolidation and standardisation initiative, aimed at reducing the diversity of network, IT infrastructure, email, and telephony within NCAT Divisions, to a single instance of each platform within the environment. This stage was completed by October 2015.

The second stage, currently underway, includes the delivery of a single NCAT Case Management System (CMS), an InHearing Orders system (IHO) that provides functionality to allow all NCAT Members to record and issue orders electronically when hearing proceedings and a new Online Lodgement service for NCAT clients.

Members and Division Heads have been consulted to provide input and requirements to the Project team for the development of the InHearing Orders system. End Users nominated by the Divisional Registrars have been participating in workshops with the Project Team to assist in the development of the concept and flow for Online Lodgement, and to provide feedback on design and content.

A staged implementation approach is being taken. The first release will be to the Administrative and Equal Opportunity and the Occupational Divisions and development work commenced during the reporting year. The second release in early 2017 will be to the Guardianship Division.

Full implementation of the single NCAT CMS, InHearing Orders and Online Lodgement is on track for completion in 2017.

Change management is an important part of the Transformation Project and is aimed at enhancing member and staff awareness about the impact of the changes on how they work and how they deliver services to Tribunal users. The President, Division Heads, Divisional Registrars and staff have been closely involved in the design of system improvements and other Transformation Project activities crucial to its success.

The consultation process utilised in this Project provides for discussion across NCAT to identify opportunities for harmonising practices and procedures to aid the delivery of quality decisions and efficient dispute resolution processes.

## **ENGAGE: Accessibility Project**

This project emphasises a commitment to being accessible and responsive to the needs of all Tribunal users. Accessibility is a theme that is embedded in consultations with members and staff, discussions with stakeholder groups, and is fundamental to NCAT's communication activities.

It is also the focus for NCAT's Accessibility Committee discussions and activities. Since its inception the Committee has focused its attention on the Tribunal's communications with users and potential users. The Committee recommended an NCAT-wide accessibility audit in stages. This led to an audit of information on the NCAT website, a recommendation to engage the services of a plain English organisation to evaluate information available on the website, and the publication of an Easy Read version of the Guardianship Division's fact sheet *What to expect at a hearing* for people with cognitive disability and people who have difficulty reading. A representative from the Diversity Services section of the Department of Justice attended one of the Committee's meetings and future opportunities

to leverage off the work of that section will be considered by the Committee.

The Committee has recently commenced an analysis of the accessibility of venues at which the Tribunal sits across NSW and the accessibility of NCAT's services generally to those in regional or remote NSW. This analysis and resultant recommendations will be a major focus for the Committee in 2016-2017.

Accessibility was a key consideration in the relocation of the NCAT Guardianship Division from Balmain to the Sydney CBD in April 2016. Many of the Division's external stakeholders were consulted during the planning phase for the move, and a consultant experienced in designing accessible facilities was engaged.

By the end of the reporting year, plans were being finalised for a pilot of new video technology in NCAT's Consumer and Commercial Division's Tamworth and Sydney hearing venues. The pilot will use enhanced technology to allow the presiding member to hear a matter from a Sydney hearing room and for the parties to participate from a Tamworth hearing room via video. This technology offers the potential of more flexible service delivery options in this regional area. The outcome of the pilot will be taken into consideration when determining the next phase of this flexible service approach.

# Appendix 7

## Resolution Processes

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The Tribunal has a wide and flexible power to resolve disputes other than by adjudication. These processes are referred to in the legislation as resolution processes. A resolution process is any process in which the parties to proceedings are assisted to resolve or narrow the issues between them. The more common term is 'alternative dispute resolution' or ADR. However, in NCAT, resolution other than by adjudication should be considered as mainstream rather than an alternative.

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. It is routine in that Division for discrimination complaints to be resolved by mediation. Resolution processes such as expert conclaves, negotiation and conciliation are used extensively in the Consumer and Commercial Division.

Following is the range of resolution processes offered by the Tribunal.

### Conciliation

Conciliation is a technique that is routinely used to resolve disputes in the Consumer and Commercial Division. It brings people in dispute together to talk about their issues in an informal, private meeting and try to reach an agreement. Conciliation is closely linked to the hearing process. Agreements reached by parties during conciliation can be turned into

enforceable consent agreements by a Tribunal Member.

The Guardianship Division also uses conciliation to assist parties to resolve aspects of their matter outside the Tribunal hearing process.

### Mediation

Schedule 37 of the Act 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 cases such as in the Equal Opportunity List of the Administrative and Equal Opportunity Division and in *Government Information (Public Access) Act 2009* and *Privacy and Personal Information Protection Act 1998* review applications. 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.

### Conclave

Conclave is a joint meeting between experts engaged by the applicant and the respondent. This resolution method is usually used in the Home Building List of the Consumer and Commercial Division with the purpose of limiting or eliminating the need for expert evidence, or the issues to be determined, at hearing. The conclave is usually held on-site and is facilitated by a Tribunal Member.

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 reducing the issues to be determined.

## Preliminary sessions

In the Administrative and Equal Opportunity Division, case conferences are sessions that parties must participate in before a hearing. At these sessions a Member explores avenues to resolve the proceedings or reduce the issues in dispute. These preliminary sessions are called case conferences in government information access, discrimination and privacy cases.

## Directions hearings

Directions hearings are a case management tool used to prepare for the substantive hearing. They are usually short in duration and are used in matters where there may be 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 must 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. Following are the hearing types conducted by this Tribunal.

### Group Lists

A group list is where a number of Consumer and Commercial Division cases are listed together before a Tribunal Member on a particular day. The majority of applications are listed for first hearing in a group list.

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.

The number of Tribunal Members hearing an individual matter will depend on the Division in which the application was lodged. For example, 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.

NCAT's hearings are open to the public unless a specific order is made closing the hearing. Hearing lists are published on the NCAT website except for Guardianship Division lists. Public hearings ensure that the Tribunal's processes are transparent. In the Guardianship Division this is balanced with right to privacy of the person who is the subject of the proceedings.

## Adjudication on the papers

The Tribunal may dispense with a hearing if the issues for determination can be adequately determined on the basis of written submissions and other material. Dispensing with an oral hearing may be appropriate for example where there are no factual issues in dispute.

In the Strata and Community Schemes List of the Consumer and Commercial Division, adjudications are generally determined 'on the papers'. Parties make written submissions which are considered by an Adjudicator, who is usually also a Tribunal Member. The adjudicator makes a written determination on the basis of those submissions.

Hearing on the papers is also used on occasion in the Administrative and Equal Opportunity Division, in the Occupational Division and for internal appeals.

## Internal Appeals

This process permits decisions at first instance to be scrutinised and, where necessary, corrected without the expense or delay involved in bringing proceedings in the District Court or the Supreme Court. This scrutiny also improves the standard of decision making and writing throughout the Tribunal.

Under section 32 of the *Civil and Administrative Tribunal Act 2013*, 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.

Internal appeals can be lodged as of right on a question of law in most cases. An appeal on other grounds can be lodged if the Appeal Panel grants leave.

The Appeal Panel which hears any internal appeal will in most cases be made up of two or three members. At least one of the members will be a lawyer. Panel Members are drawn from across NCAT's membership.

NCAT's internal appeal jurisdiction does not extend to:

- 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*, and
- Decisions of an Appeal Panel.

There are exclusions and variations under some of the divisional schedules to the 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 requisite forms are available on the NCAT website. NCAT appeal decisions are published to the NSW Caselaw website, and a selection is published in NCAT's Legal Bulletin.

During the year, a subscription service to the new *NCAT Appeal Panel Decisions Digest* was introduced. The Digest provides monthly keyword summaries of decisions of the Internal Appeal Panel.

## 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, as an alternative to lodging an appeal. 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* and others are found in the Act. 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 are often decided 'on the papers', based on the information provided on the application form and any written submissions provided by the parties. The Tribunal may refuse the application in the first instance or call for submissions from the other party before determining the application.

The Tribunal will not grant an application to set aside or vary a decision unless the other party has been notified and given a copy of the application and has been given a reasonable opportunity to respond. The Tribunal will consider all responses before making a decision.

# Appendix 8

## Fees and charges as at 30 June 2016

### Lodgement of applications

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
Guardianship proceedings	No fee payable	No fee payable	No fee payable
Residential proceedings	\$47	\$94	\$5
Strata proceedings	\$97	\$194	\$5
General consumer or commercial proceedings If amount claimed is:			
• \$10,000 or less or no amount	\$47	\$94	\$5
• More than \$10,000 and not more than \$30,000	\$97	\$194	\$5
• More than \$30,000	\$252	\$504	\$5
Decision under <i>Retail Leases Act 1994</i>	\$96	\$192	\$5
Other proceedings:			
• Required to be determined in a Division by 2 or more Division members	\$201	\$402	\$50
• In any other case	\$96	\$192	\$25
Administrative review application:			
• Required to be determined by 2 or more Division members	\$201	na	\$50
• In any other case	\$96	na	\$25

### Lodgement of appeals

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
External appeal:			
• Required to be determined by an Appeal Panel	\$396	\$792	\$25
• Required to be determined in a Division by 2 or more Division members	\$201	\$402	\$50
• Strata	\$96	\$192	\$5
• In any other case	\$96	\$192	\$25
Internal appeal	\$396	\$792	\$100
Set aside or vary decision	\$97	\$194	\$25

**Corporation fee** - 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 applications lodged by the following eligible persons: A person who receives a pension, benefit or allowance under Chapter 2 of the *Social Security Act 1991*; a person who receives a service pension under Part III of the *Veterans Entitlements Act 1986*; or a person in receipt of a grant of legal aid or assistance from a community legal centre.

**Residential proceedings** include matters about tenancy, social housing, residential communities, retirement villages and boarding houses.

**General consumer or commercial proceedings** include 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 Travel Compensation Fund appeals.

## Other services

SERVICE	FEE
Issue of a summons (for production of or to give evidence, or both)	\$43
Supply of sound recording or transcripts	Full cost
Request for the production to Tribunal of documents held by court	\$50
Retrieval of any document or file from archives	\$76
Provisions of copy or certified copy of decision or written reasons	\$76
Request by a non-party to inspect public access documents <sup>#</sup>	\$40
Photocopying of documents where requesting party makes the copies	\$0.50 per sheet
Photocopying of documents where a Tribunal staff member makes the copies	\$2 per sheet
Fees for any other service provided	\$40

<sup>#</sup> Payment of fee is applicable per finalised matter. Fee is for inspection only and is payable in addition to any charges for the photocopying of documents.

# Appendix 9

## NCAT Liaison Group and Divisional Consultative Forum Membership

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### NCAT Liaison Group

Brain Injury Association NSW  
Community Legal Centres Group (NSW) Inc  
Health Care Complaints Commission  
Health Professionals Councils Authority  
Law Society of NSW  
Legal Aid Commission of NSW  
Bar Association of NSW  
NSW Council for Intellectual Disability (CID)  
NSW Council of Social Services (NCOSS)  
NSW Medical Council  
Real Estate Institute of NSW  
Redfern Legal Centre Tenants' Union of NSW

### Consumer and Commercial Division

#### Tenancy Consultative Forum / Aboriginal Consultative Forum

Aboriginal Affairs NSW  
Aboriginal Housing Office  
Aboriginal Legal Services  
Anaiwan LALC  
Argyle Community Housing Ltd  
Bungree Aboriginal Association Inc  
Civil Law Service for Aboriginal Communities  
Common Equity NSW  
Department of Finance, Services and Innovation  
Dtarawarra Aboriginal Resource Unit  
Estate Agents Co-operative  
Financial Counsellors Association of NSW  
Gandangara Local Lands  
Greater Sydney Aboriginal Tenancy Advice Service  
Homelessness NSW  
Housing Appeals Committee  
Housing NSW  
Inner Sydney Tenants' Advice & Advocacy Service  
LawAccess NSW  
Law Society of NSW  
Legal Aid NSW

Macquarie Legal Centre  
Mission Australia  
Murra Mia  
Tenant Advocacy Service  
NSW Aboriginal Land Council - Southern Zone, Northern Zone, Eastern Region, Western Region NSW  
NSW Federation of Housing Associations  
Property Owners Association of NSW  
Public Tenants Council (Central Sydney)  
Real Estate Institute of NSW  
Redfern Legal Centre  
Seniors Rights Service  
Southern Sydney Tenants Service (SSTAS)  
Teacher Housing Authority of NSW  
Tenants Union of NSW  
UDIA (NSW)  
Western Aboriginal Tenant Advice and Advocacy Service

#### Commercial / General / Motor Vehicles Consultative Forum

Australian Consumers Association  
Australian Manufacturing Workers Union  
Consumer Credit Legal Centre  
Disability Council of NSW  
Department of Finance, Services and Innovation  
Fair Trading Advisory Council  
Financial Counsellors Association of NSW  
Institute of Automotive Mechanical Engineers  
Kemp Strang Lawyers  
LawAccess NSW  
Law Society of NSW  
Legal Aid NSW  
Motor Traders Association  
Multicultural NSW  
NSW Fair Trading (Legal Services)  
NSW Office of Migration Agents Registration Authority  
Property Owners Association of NSW  
Redfern Legal Centre  
Tenants Union of NSW

## Home Building Consultative Forum

Australian Institute of Building  
Building and Construction Council of NSW  
Civil Contractors Federation  
Department of Finance, Services and Innovation  
HOBAS c/- Macquarie Legal Centre  
Housing Industry Association  
Institute of Building Consultants  
Institution of Engineers Australia  
Law Society of NSW  
Master Builders Association  
Master Painters Association  
Master Plumbers Association of NSW  
National Electrical & Communications Association of NSW  
National Wood Flooring Association  
NSW Fair Trading (Legal Services)  
Owners Corporation Network  
Paint Solutions & Associates  
Royal Australian Institute of Architects (NSW Charter)  
Russo and Partners  
Shaw Reynolds Bowen & Garathy Lawyers  
Strata Community Australia (NSW)  
Suncorp  
Swaab Attorneys  
Swimming Pool and Spa Association of NSW

## Residential Communities Consultative Forum

Affiliated Residential Park Residents Association  
ARPRA Central Coast Residents Association  
Caravan & Camping Industry Association NSW  
Combined Pensioners & Superannuants Association of NSW Inc  
Department of Finance, Services and Innovation  
HOBAS c/- Macquarie Legal Centre  
Independent Park Residents Action Group of NSW (IPRG NSW)  
Land Lease Living Industry Association NSW  
Law Society of NSW  
Park and Village Service (Combined Pensioners & Superannuants Association)  
Port Stephens Park Residents Association Inc  
Senior Rights Service  
Tenants Union of NSW  
Tweed Residential Parks Homeowners Association

## Retirement Villages Consultative Forum

Aged Care Association Australia (NSW)  
Aged & Community Services Association of NSW & ACT

Bougainvillea Retirement  
Council on the Aging (NSW) Inc  
Department of Finance, Services and Innovation  
Law Society of NSW  
NSW Fair Trading  
Public Interest Advocacy Centre  
Retirement Villages Residents Association (RVRA)  
Seniors Rights Service

## Strata Consultative Forum

Australian College of Community Assoc Lawyers  
Department of Finance, Services and Innovation  
Fair Trading NSW  
Housing Industry Australia  
LawAccess NSW  
Law Society of NSW  
Management Rights Association (NSW) Inc  
Older Persons Tenants Services (Combined Pensioners & Superannuants Association)  
Owners Corporation Network  
Property Council Australia  
Property Owners Association of NSW  
Strata Community Australia (NSW)

## Guardianship Division

### Consultative Forum

Aboriginal Disability Network Incorporated / First Peoples Disability Network  
Aboriginal Legal Services (NSW/ACT)  
Alzheimer's Australia NSW  
Brain Injury Association of NSW  
Community Legal Centres NSW Inc  
Department of Family and Community Services  
Disability Council  
Intellectual Disability Rights Service  
Law Society of NSW  
Leading Age Services Australia NSW-ACT  
Legal Aid NSW  
Mental Health Coordinating Council  
Mental Health Review Tribunal  
Multicultural Disability Advocacy Association  
National Disability Insurance Agency  
National Disability Services NSW  
NSW Council for Intellectual Disability  
NSW Ministry of Health  
NSW Network of Women With Disability  
NSW Trustee & Guardian

Office of the Public Guardian  
People With Disability - PWD Australia  
Senior Rights Service

## **Administrative and Equal Opportunity Division**

### **Consultative Forum**

Anti-Discrimination Board of NSW  
Australian Taxi Drivers Association  
Biripi Aboriginal Corporation Medical Centre  
CASPA - Child and Adolescent Specialist Programs and Accommodation  
Connecting Carers  
Department of Family and Community Services  
Firearms Registry  
Independent Liquor & Gaming Authority  
Information and Privacy Commission NSW  
KARI Aboriginal Resources Incorporated (KARI)  
Kingsford Legal Centre, UNSW Law - Community Legal Centres NSW  
Legal Aid NSW  
Local Government NSW  
NSW Bar Association  
NSW Crown Solicitor's Office  
NSW Department of Education  
NSW Department of Justice  
NSW Fair Trading  
Office of State Revenue  
Office of the Children's Guardian  
Public Interest Advocacy Centre Ltd  
The NSW Trustee and Guardian  
Transport for NSW  
Victims Services  
Wesley Dalmar

Health Professional Councils Authority  
HWL Ebsworth  
Law Society of NSW  
MDA National  
Medical Indemnity Protection Society  
Medical Insurance Group Australia  
Meridian Lawyers  
NSW Bar Association  
NSW Nurses & Midwives Association  
Office of Local Government  
Office of the Legal Services Commissioner  
Tress Cox  
Veterinary Practitioners Board of NSW  
Barristers from 15 Wardell, 6 St James Hall, Culwulla, Denman, Forbes, Jack Shand, Level 22, Maurice Byers, Sir James Martin and Wentworth Chambers

## **Occupational Division**

### **Professional Disciplines Consultative Forum**

Architects Registration Board  
Australian Medical Association (NSW) Limited  
Australian Health Practitioner Regulation Agency  
Avant Lawyers  
Building Professionals Board  
Dibbs Barker  
Health Care Complaints Commission

