

# consumer trader and tenancy tri consumer trader and tenancy tribunal



**CTTT**  
Consumer, Trader &  
Tenancy Tribunal

annual report  
2002 - 2003





## minister's foreword

The Consumer, Trader and Tenancy Tribunal has proven that it can provide an excellent service to the people of New South Wales. The Tribunal has cut waiting times for hearings and shortened the time taken to finalise matters.

The strong relationship between the Tribunal and the community continued to develop during the year. Hearings are arranged in locations close to the site of the dispute so that the location is convenient to parties. There are over 85 venues across the state. Information sessions were held in seven regional locations throughout the state and both Divisional and Regional Consultative Forums were held on a regular basis.

In the period 2002-2003 the Tribunal received over 60,000 applications which were listed for hearing between 14 and 28 days after lodgement. More than 80% of matters are finalised prior to or at the first hearing.

Information and communication technology was a high priority for the Tribunal during the year to greatly improve facilities available to its clients. On-line lodgement will support an already responsive service and will shortly be available to all Tenancy Division clients. The Department of Housing has been piloting the facility and the larger public will enjoy the benefits.

During the year Tribunal Members began using technology during hearings. The Sydney Registry has been trialing a new method of recording orders directly onto the Case Management System. This allows clients to collect a printed copy of the orders at the conclusion of the hearing.

The Tribunal is now an integral part of the New South Wales justice system. It is a vital service for people to use to resolve the range of contractual disputes that occur in daily life. The Tribunal is an independent adjudicative body that complements the Government's policies for a fair marketplace and I commend the continued improvement in performance.

Congratulations to all members and staff on their achievements during the year

Reba Meagher  
Minister for Fair Trading

letter to the  
minister

Minister for Fair Trading

Dear Minister,

I am pleased to present the second Annual Report for the Consumer, Trader and Tenancy Tribunal.

The Report has been prepared for presentation to the Parliament of New South Wales in accordance with the requirement of the Annual Reports (Statutory Bodies) Act 1984.

The Report also fulfils the statutory requirements of the Chairperson under the Consumer, Trader and Tenancy Tribunal Act 2001.

**Kay Ransome**

Chairperson  
Consumer, Trader and Tenancy Tribunal

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chairperson's  
report

The Consumer, Trader and Tenancy Tribunal commenced operations in February 2002 and since then has developed a strong identity in line with its objects. The Tribunal provides a dispute resolution service that is:

- **Accessible and efficient**

The vast majority of applications are listed for their first hearing anywhere in NSW between 14 and 28 days after lodgement. Commitment to delivering service through increased use of information technology means that in September 2003 on-line application lodgement and listing via e-mail will be introduced. There will also be enhanced sound recording using digital technology. This direction accords with the Government's policies to improve responsiveness. An extensive public information and awareness program has been implemented to increase understanding about the Tribunal's operations.

- **Consistent and High Quality**

Tribunal members have specialist knowledge about the subject matter of disputes and the legislation which governs them. They understand the experiences of the parties before them and apply this knowledge in resolving disputes before them. The practices in the eight divisions continue to be developed and this is evident in the Divisional Reports. Case management practices are designed to accommodate the needs of the parties and increase satisfaction with Tribunal processes.

- **Inexpensive and expeditious**

Most applications cost \$28.00 to file and legal representation is not required. All procedures are explained so that parties understand what they must prove and how they can do this. A decentralised service means that more than 85 locations in NSW host Tribunal hearings and no one waits longer than 28 days for the first hearing.

- **Informal and Fair**

More than 80% of matters are finalised prior to or at the first hearing, which is designed to be informal and structured to promote a conciliated resolution. Where both parties appear the Tribunal uses every endeavour to assist the parties reach a mutually acceptable resolution. Alternative dispute resolution tools used by the Tribunal include conciliation, mediation, conclaves of experts and assistance from assessors and technical experts. Less than 1% of all matters are reheard under the Consumer, Trader and Tenancy Tribunal Act 2001.

This Report covers the first full 12 months of the Tribunal's operations and provides an outline of major achievements during the year.

Kay Ransome  
Chairperson

## tribunal jurisdiction

### Objects of Act

*Section 3 of the Consumer, Trader and Tenancy Tribunal Act 2001 states:*

The objects of this Act are as follows:

- (a) to establish a Consumer, Trader and Tenancy Tribunal to determine disputes in relation to matters over which it has jurisdiction,
- (b) to ensure that the Tribunal is accessible, its proceedings are efficient and effective and its decisions are fair,
- (c) to enable proceedings to be determined in an informal, expeditious and inexpensive manner,
- (d) to ensure the quality and consistency of the Tribunal's decision-making.

### Legislation

*Section 5 of the Consumer, Trader and Tenancy Tribunal Act 2001 states that*

- (1) A Consumer, Trader and Tenancy Tribunal of New South Wales is established by this Act.
- (2) The Tribunal has and may exercise such functions as are conferred or imposed on it by or under any Act.

Note. The following Acts confer jurisdiction on the Tribunal:

*Community Land Management Act 1989*

*Consumer Claims Act 1998*

*Consumer Credit Administration Act 1995*

*Consumer Credit (New South Wales) Act 1995*

*Credit Act 1984*

*Credit (Finance Brokers) Act 1984*

*Credit (Home Finance Contracts) Act 1984*

*Fair Trading Act 1987*

*Holiday Parks (Long-term Casual Occupation) Act 2002*

*Home Building Act 1989*

*Motor Dealers Act 1974*

*Motor Vehicle Repairs Act 1980*

*Residential Parks Act 1998*

*Residential Tenancies Act 1987*

*Retirement Villages Act 1999*

*Strata Schemes Management Act 1996*

*Travel Agents Act 1986*

### New Legislation

The enactment of the Holiday Parks (Long-term Casual Occupation) Act 2002 and changes to the Strata Schemes Management Act 1996 have extended the jurisdiction of the Tribunal.

### Holiday Parks

The Holiday Parks (Long-term Casual Occupation) Act 2002 provides the Tribunal with jurisdiction to deal with disputes over breaches of holiday park occupancy agreements in relation to long-term casuals. The Holiday Parks (Long-term Casual Occupation) Regulation 2003 provides the prescribed form

for the application to the Tribunal. These applications are dealt with in the Tribunal's General Division.

The types of orders the Tribunal can make include an order that a clause of the occupation agreement is void, an order that the site has been abandoned, an order for compensation for loss caused by abandonment of the site and an order for retrieval of uncollected goods.

## Strata Schemes Management Act 1996

There are essentially two new types of applications to the Tribunal as a result of the changes to the Strata Schemes Management Act 1996. They relate to caretakers and procedures for meetings.

### Caretakers

A new Part, 4A, relating to caretakers has been inserted into the Act. A caretaker is a person who is entitled to exclusive possession of a lot or common property and assists in exercising certain functions of the Owners Corporation.

Section 183A provides that Owners Corporations may make an application to the Tribunal in respect of caretaker's agreements.

The Tribunal has specific powers to:

- terminate the agreement;
- vary terms of contracts or declare certain terms void;
- confirm terms of the agreement;
- require compensation on the grounds of unsatisfactory performance of the agreement, unfair charges or alleged harsh, oppressive, unconscionable or unreasonable agreement; or
- dismiss the application.

### Procedures for meetings

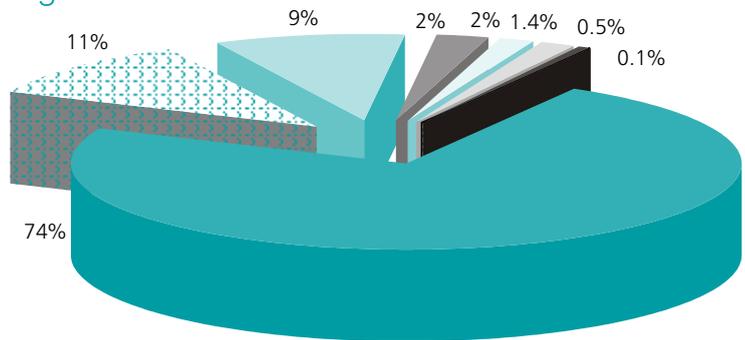
Schedule 2 of the Act limits the exercise of proxy voting rights. Caretakers, on-site property managers or a strata managing agent cannot use a proxy vote on a matter that would obtain or assist in obtaining a pecuniary interest for, or confer a material benefit on the proxy holder. Accordingly, applications may be made to the Tribunal to invalidate the resolution or election made at a meeting.

DIVISION	APPLICATIONS LODGED	APPLICATIONS FINALISED
Tenancy	45306	50899
General	6843	7282
Home Building	5685	5711
Motor Vehicles	1447	1557
Residential Parks	1104	1374
Strata & Community Schemes	918	922
Commercial	336	354
Retirement Villages	58	47
<b>Total CTTT</b>	<b>61697</b>	<b>68146</b>

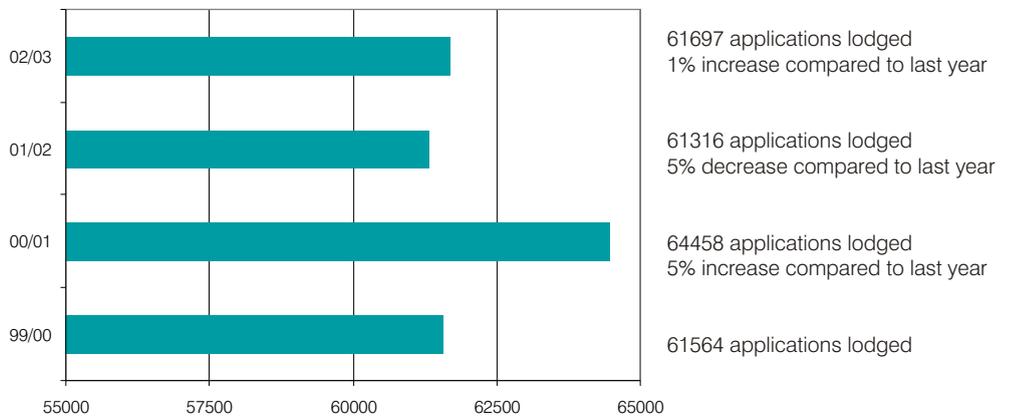
### Divisional Percentage

applications lodged

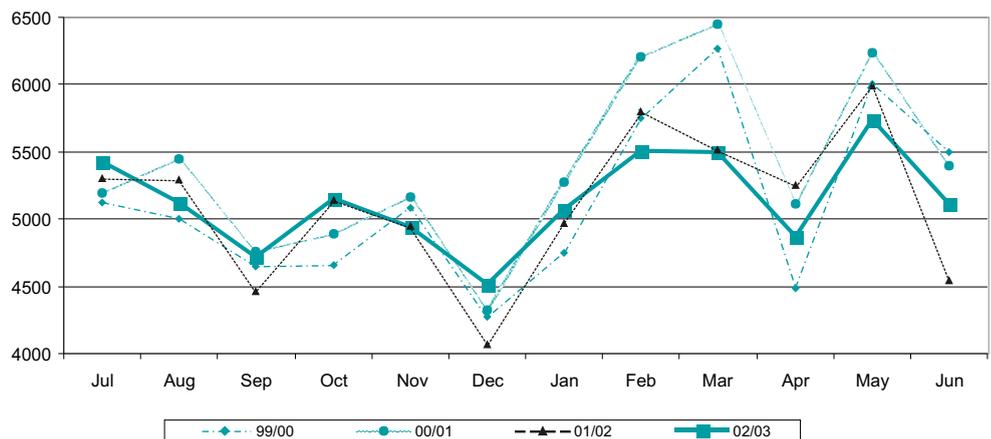
- Tenancy
- Motor Vehicles
- Commercial
- General
- Residential Parks
- Retirement Villages
- Home Building
- Strata & Community Schemes



### Yearly Lodgement Comparison



### Monthly Lodgement Comparison



### Applications Finalised

DIVISION	Finalised within			TOTAL
	0-28 DAYS	29-35 DAYS	36 + DAYS	
Tenancy	36189	2970	11740	50899
General	3713	723	2846	7282
Home Building	988	227	4496	5711
Motor Vehicles	519	148	890	1557
Residential Parks	595	59	720	1374
Strata & Community Schemes	220	79	623	922
Commercial	140	30	184	354
Retirement Villages	18	4	25	47
<b>Total</b>	<b>42382</b>	<b>4240</b>	<b>21524</b>	<b>68146</b>

### Withdrawals

applications  
finalised

TOTAL NUMBER OF WITHDRAWN MATTERS			
WITHDRAWN PRIOR TO HEARING	WITHDRAWN AT HEARING	TOTAL WITHDRAWAL ORDERS	% OF WITHDRAWALS TO FINAL ORDERS
<b>4897</b>	<b>6452</b>	<b>11349</b>	<b>16%</b>

### Number of Matters Heard and Where

HEARING VENUE / REGION	NUMBER OF MATTERS LISTED	PERCENTAGE COMPARED TO ALL MATTERS LISTED
Blacktown	4536	6%
Campbelltown	3766	5%
Central Coast	3950	5%
Far West	142	0.2%
Hornsby	604	1%
Hunter Region	1259	2%
Hurstville	6370	9%
Liverpool	4977	7%
Central West	1728	2%
North Coast	4587	6%
Newcastle	4361	6%
North West	1137	1%
Northern Tablelands	330	0.4%
Other areas	40	0.1%
Parramatta	4148	6%
Penrith	6394	9%
Riverina	1854	2.5%
South Coast	1166	1.5%
Southern Tablelands	1071	1.3%
Sydney	17776	24%
Tamworth	587	1%
Wollongong	3001	4%
<b>Total</b>	<b>73784</b>	<b>100%</b>

## performance

### Attendance Index

The Attendance Index illustrates the number of times attendance at the Tribunal is required by parties. The table below demonstrates the percentage of matters where attendance by the parties was not required or required only once.

DIVISION	ATTENDANCE INDEX
Tenancy	81%
General	78%
Home Building	66%
Motor Vehicles	79%
Residential Parks	76%
Strata & Community Schemes	63%
Commercial	75%
Retirement Villages	100%
<b>All Divisions</b>	<b>80%</b>

### Clearance Ratio

The Clearance Ratio relates incoming applications with the Tribunal's capacity to finalise its cases.

100% = keeping up with workload

> 100% = reducing existing workload

< 100% = accumulating cases

DIVISION	CLEARANCE RATIO
Tenancy	112%
General	106%
Home Building	100%
Motor Vehicles	108%
Residential Parks	124%
Strata & Community Schemes	100%
Commercial	105%
Retirement Villages	81%
<b>All Divisions</b>	<b>110%</b>

## Rehearing Applications

Under section 68 of the Consumer, Trader and Tenancy Tribunal Act 2001, a party to completed proceedings may apply to the Chairperson to have a matter reheard. Section 68 (7) states the Chairperson is not to grant a rehearing application unless it appears to the Chairperson that the applicant may have suffered a substantial injustice on specified grounds which are set out in the Act.

Division	Rehearing Applications Lodged	Rehearings Refused	Rehearings Approved	Percentage of Applications Approved
Tenancy	1577	946	357	27%
General	584	372	105	22%
Home Building	466	287	75	24%
Motor Vehicles	178	113	26	19%
Residential Parks	35	19	7	27%
Strata & Community Schemes	10	2	0	0%
Commercial	36	24	8	25%
Retirement Villages	3	3	0	0%
<b>Total</b>	<b>2889</b>	<b>1766</b>	<b>578</b>	<b>25%</b>

## Supreme Court Appeals

Under section 67 of the Consumer, Trader and Tenancy Tribunal Act 2001 a party may appeal to the Supreme Court against a decision of the Tribunal on a question with respect to a matter of law.

During the year, the Tribunal was notified of 81 appeals of its decisions to the Supreme Court. Of these matters, 3 settled, 10 were remitted for hearing, 30 were dismissed, 1 order was substituted and 37 are yet to be determined.

tenancy  
division

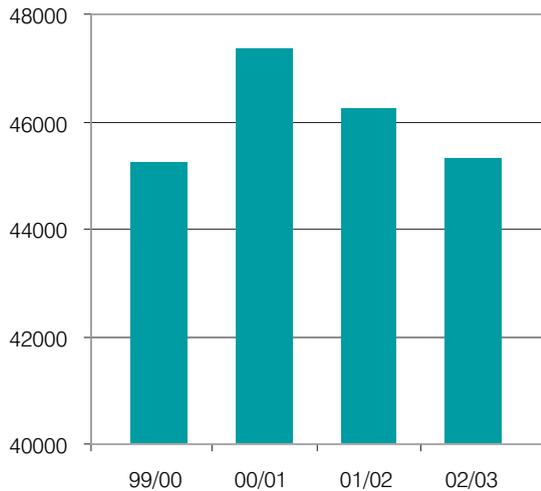
### Lodgements

45306 applications were received during the financial year.

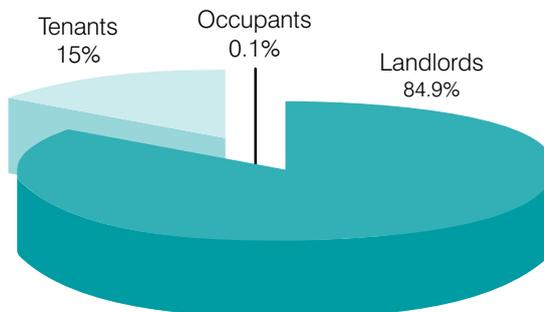
### Finalised

50899 matters were finalised during the financial year.

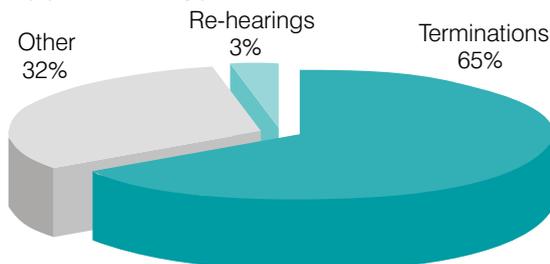
### Yearly Lodgement Comparison



### Applicants



### Application Types



### Case Study 1

The tenants, a family, rented premises from Mr and Mrs E for about five years. At the end of the tenancy, the landlords found the premises needed to be cleaned and repainted and vertical drapes needed to be replaced.

### The Claim

The tenants agreed that while the premises could perhaps have been left tidier, they believed the landlords' complaints were attributable to fair wear and tear. The landlords sought an order for compensation of over \$5000.00 for damage allegedly caused by the tenants. It was claimed that some of the damage could be attributed to the tenants smoking inside the premises.

### The Outcome

The Tribunal noted the long period of the tenancy was a significant factor in this case. Further, the residential tenancy agreement did not preclude smoking and even during the tenancy the tenants were not told not to smoke. The Tribunal found that the premises were left in the condition as asserted by the landlords and accepted their evidence about the cost and repair. However the Tribunal determined the real issue in the case was about fair wear and tear and if it would be just and equitable for the tenants to pay the full cost of replacement and repairs arising from normal and usual fair wear and tear of an occupied premises.

The Tribunal determined that the fair wear and tear "discount" should be 80%, reflecting the length of the tenancy. The Tribunal awarded the landlords 20% of the sum claimed.

## Case Management Practices

### Legislation

- Residential Tenancies Act 1987
- Landlord and Tenant (Rental Bonds) Act 1977

The jurisdictional limit of the Tribunal in this Division is \$10,000 or \$20,000 with respect to a rental bond.

### Application Fees (effective 1 July 2003)

\$28

\$5 for eligible pensioners

### Applications managed by

Sydney	22%
Electronically (DoH)	18%
Penrith	11%
Newcastle	11%
Liverpool	9.5%
Hurstville	8%
Parramatta	7%
Wollongong	7%
Tamworth	6.5%

### Members

All Tribunal members determine matters in the Tenancy Division.

### Published Aids

The Tribunal has designed and published specialised aids for clients regarding applications in the Tenancy Division. For example, by completing the Hearing Notes form parties are assisted in setting out their cases clearly for the Tribunal.

### Tenants' Advice and Advocacy Service

Tenants' Advice and Advocacy Service (TAAS) offices receive government funding for offering assistance to tenants at Tribunal hearings. TAAS officers provide legal assistance and advice, assist tenants in preparing applications to the Tribunal or to prepare for an application lodged by their landlord. TAAS officers may attend Tribunal hearings as a support to tenants and in some cases represent them. To help TAAS officers provide this service, the Tribunal's registries notify the local TAAS offices which lists contain tenancy matters.

### Department of Housing

The Department of Housing (DoH) is the Tribunal's largest client group making up 13% of the total workload. DoH only lodges applications in the Tenancy Division which is 18% of the Division's workload. The DoH has been involved in the first phase of the Tribunal's Electronic Service Delivery (ESD) project. ESD enables clients to lodge applications on-line. The DoH's experience is the foundation for extension to the wider public from September 2003.



general division

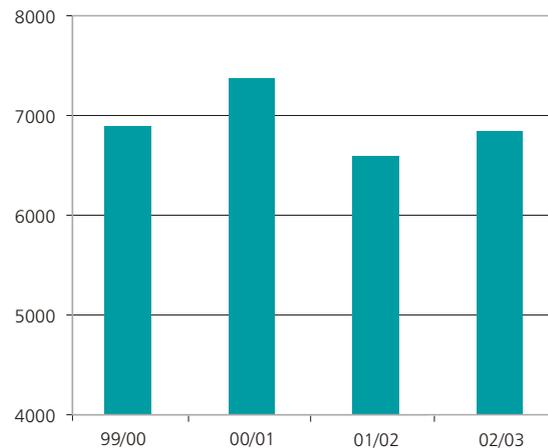
### Lodgements

6843 applications were received during the financial year.

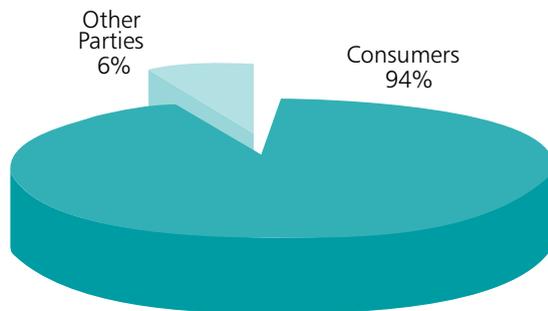
### Finalised

7282 matters were finalised during the financial year.

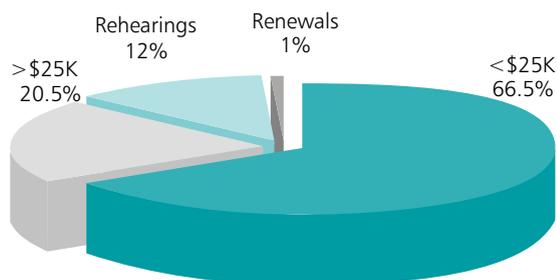
### Yearly Lodgement Comparison



### Applicants



### Application Types



### Case Study 2

Mrs J contacted Ms L about a former fisherman's cottage available for holiday lease. Mrs J was told the cottage had been refitted and "done up" but from the description given to Mrs J, she understood it would be a small cottage on the lake on a block of land. She paid the \$500 deposit.

Before commencing the booking, Mrs J and her husband drove to the cottage. They were surprised to find a long house, not a cottage as described. They advised Ms L they wanted to cancel the reservation, as the cottage was not what they had expected. Ms L offered to swap the booking for other accommodation but Mrs J declined. Ms L would not refund the deposit because the cancellation was only 3 to 4 days before the booking date.

### The Claim

Mrs J sought a full refund of the deposit for breach of warranty.

### The Outcome

The Tribunal found that Ms L had represented to Mrs J that the premises was a former fisherman's cottage that had been fully renovated as 2 bedroom holiday accommodation. In fact the premises had been renovated and extended and included 3 joined sections being the former cottage, a middle section and a small caretaker flat. Therefore, the representation that the premise was a 2-bedroom cottage was a misrepresentation. Accordingly, the Tribunal found the cancellation of the booking was not unreasonable and Mrs J was entitled to a full refund of the \$500.00 deposit.

## Case Management Practices

### Legislation

- Consumer Claims Act 1998
- Holiday Parks (Long-term Casual Occupation) Act 2002

The jurisdictional limit of the Tribunal under the Consumer Claims Act 1998 is \$25,000.

### Application Fees (effective 1 July 2003)

\$28

\$5 for eligible pensioners

### Applications managed by

Sydney	33%
Newcastle	11%
Parramatta	10%
Wollongong	10%
Penrith	9%
Liverpool	9%
Hurstville	9%
Tamworth	9%

### Members

All Tribunal members determine matters in the General Division.

### Holiday Parks

The Holiday Parks (Long-term Casual Occupation) Act 2002 was introduced during the year. All applications lodged in the General Division regarding this piece of legislation are referred to the Registrar. The Registrar provides listing directions to the Registry to ensure these applications are dealt with in the most appropriate manner.

### Application form

During the year, a new application form was designed with specialised guidelines to assist parties in the General Division. The new form provides information regarding legal entities and the types of claims that can be made. It also provides a self-checking process to ensure the applicant has turned their mind to legislative aspects of the application.

The purpose of this specifically designed form is to ensure parties are clear on their rights and obligations and to assist them to prepare for the hearing in the first instance. The form maximises the utility of hearing time and ensures minimum time is required to resolve a dispute.

The jurisdiction of the General Division is limited to applications by consumers, as defined by the Consumer Claims Act 1998, and not for debt recovery by suppliers of goods and services. However, if a consumer lodges an application with the Tribunal for orders and the Tribunal finds against the consumer, orders can be made in favour of the supplier.



home building division

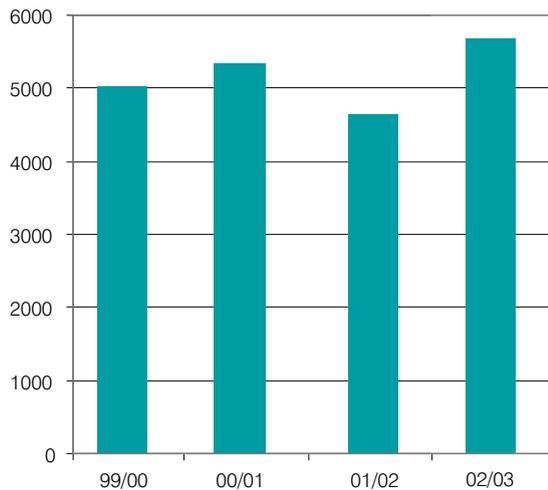
**Lodgements**

5685 applications were received during the financial year.

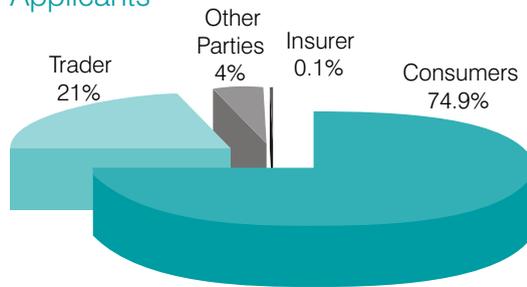
**Finalised**

5711 matters were finalised during the financial year.

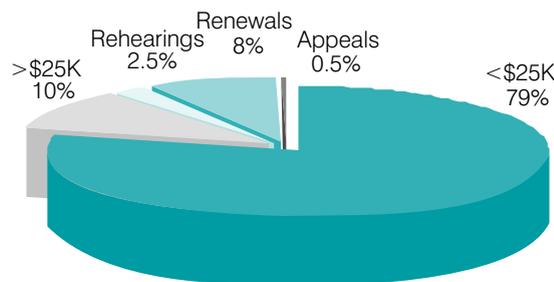
**Yearly Lodgement Comparison**



**Applicants**



**Application Types**



**Case Study 3**

Ms U contracted with Mr V to concrete and stencil a driveway, pathway and paving around a pool for \$10,350. Ms U stated that within 48 hours of completion cracks appeared in the concrete. She also claimed the stencilling was out of alignment and had not been finished off correctly in a number of areas. Ms U contacted a number of concrete resurfacing companies all of whom would not guarantee that rectification work would necessarily solve the cracking issue, as it was the result of the underlying concrete and construction

**The Claim**

Under these circumstances, Ms U lodged a claim for a full refund of the contract price paid to Mr V, \$10,350.

**The Outcome**

Mr V disputed Ms U's claim, stating he had carried out the work in a proper and workmanlike manner and gave evidence about the kind particular kind of expansion joint he had used in the concrete. The Tribunal viewed photographs and a video of the area and issues of concern and found that Ms U was not overstating her case. It was evident to the Tribunal that rectification required substantial work with large costs. It was noted that no other company would guarantee that resurfacing would fix the problem. The Tribunal found that Mr V had not carried out the work in a proper and workmanlike manner. Given the animosity that had developed between Ms U and Mr V, an order that Mr V carry out rectification work was not appropriate.

As Ms U was likely to have to either remove the current work and start again or spend at least as much money again to attempt to rectify the work the Tribunal found she had not received any value from the work. The Tribunal ordered Mr V pay to Ms U \$10,350.

## Case Management Practices

### Legislation

- Home Building Act 1989

The jurisdictional limit of the Tribunal in this Division is \$500,000.

### Application Fees (effective 1 July 2003)

\$28 for claims up to \$10,000

\$58 for claim exceeding \$10,000 up to \$25,000

\$155 for claims exceeding \$25,000

\$5 for eligible pensioners

### Applications managed by

Sydney	57%
Wollongong	8%
Tamworth	7.5%
Newcastle	7%
Parramatta	7%
Penrith	5%
Liverpool	4.5%
Hurstville	4%

### Members

Senior and specialist building members only determine matters in the Home Building Division where the claim is over \$25,000.

### Published Aids

A Scott Schedule is a form which allows parties to itemise the defects which are the subject of a building dispute. This assists parties to set out their claim clearly. Two Scott Schedules have been published. Schedule One is to be used when claiming for defective workmanship or materials. Schedule Two can be used when claiming extra work.

### Claims

Overwhelmingly the Tribunal dealt with matters involving home renovation work with the majority of matters arising in the Sydney metropolitan area. The Tribunal adopts two case management strategies based on the value of the amount in dispute to manage applications in this Division. The value of a building claim is indicative of case complexity. The Consumer, Trader and Tenancy Tribunal Act 2001 also provides for the difference in complexity by recognising that parties in the higher value claims are entitled to legal representation in contrast to the representation provisions for claims under \$25,000. Cases where the value of the claim is less than \$25,000 are listed firstly in a Group List. Cases over \$25,000 are initially listed for a directions hearing.

### Expert Conclaves

In complex matters the Tribunal may order that the parties' experts meet in a "conclave" normally chaired or facilitated by an appointed expert or Tribunal member to narrow the issues in dispute. Conclaves have the added advantage of occurring on-site.

### Chairperson's Directions

The Chairperson issued Directions with respect to procedure in building cases in accordance with section 12(2)(c) of the Consumer, Trader and Tenancy Tribunal Act 2001. These directions assisted to facilitate a range of alternative dispute resolution mechanisms and to limit undue delay in proceedings, including delay caused by unnecessary adjournments.

### Building Conciliation Service

During 2001-2002 the primary role of the Building Conciliation Service (BCS) was to help parties who, during or after home building work, found themselves in dispute. BCS staff worked with the parties to find a solution without a formal hearing. Participation in the process was voluntary and required the consent of both parties.

BCS officers employed a range of strategies to assist parties in resolving their disputes. They used a panel of independent experts who met with the parties on site. The experts possessed specific home building related skills as well as mediation/negotiation skills. They were highly effective and were responsible for 50% of all settlements. BCS officers also worked with the parties directly in order to resolve the issues in dispute. This involved negotiation and sometimes compromise from both parties. In 42% of all resolved matters, this facilitated process resulted in a settlement without the need for a hearing. In a limited number of circumstances, the BCS officers called on the services of a specialist mediator to meet with parties in a neutral location to discuss the issues in dispute. This process resulted in 5% of matters being settled without a hearing.

From 1 July 2003, under amendments to the Home Building Act 1989, the early dispute resolution function of the BCS was transferred to the Home Building Service of the Office of Fair Trading.

motor vehicles  
division

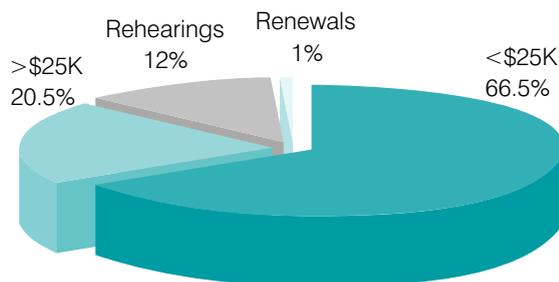
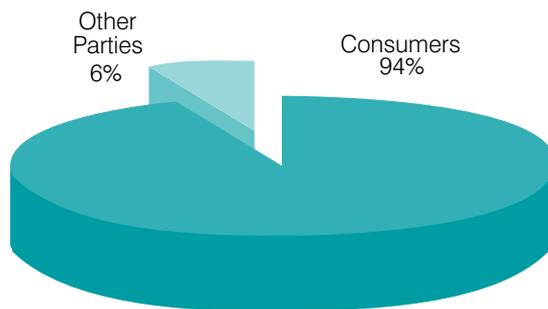
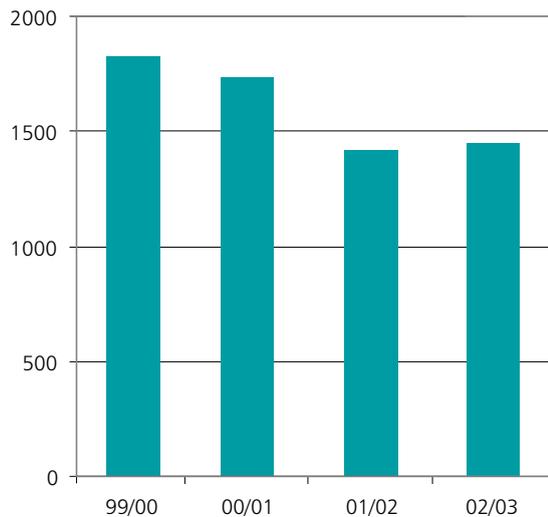
**Lodgements**

1447 applications were received during the financial year.

**Finalised**

1557 matters were finalised during the financial year.

**Yearly Lodgement Comparison**



**Case Study 4**

Mr X bought a new car for \$54,271, from Dealer Y. The car was manufactured by Motor Company Z. Almost immediately after purchase Mr X found problems with the car which persisted for over a year. The car had 2 failed motors, 2 failed clutches, 1 failed gearbox, engine noise and problems with shock absorbers in the space of 8 months.

**The Claim**

Unhappy with efforts by the dealer and manufacturer to fix the defects, Mr X sought an order for a replacement vehicle or a full refund of the purchase price. He claimed the car was defective from its point of sale and the manufacturer failed to act on his complaint promptly. Mr X also claimed he suffered disappointment, loss of esteem and was subject to public ridicule when the car was being towed.

**The Outcome**

The Tribunal was satisfied that neither the dealer nor the manufacturer was aware of the defects before the sale of the car. It also found that the dealer had rectified all identified defects and, although the manufacturer took 6 months to identify the systemic problem, it did honour its warranty by providing replacement parts. The Tribunal found that Mr X did not suffer any economic loss and although he had been frustrated and disappointed with the purchase of this car, the circumstances did not justify payment of compensation for non-economic loss. The Tribunal noted the vehicle, with all its shortcomings, had been used by Mr X for over 18 months. Further, the manufacturer had provided a sunroof "to ease the situation", extended the warranty and had provided new components including the engine, gearbox and clutch. The Tribunal was not satisfied it could make the orders Mr X sought and dismissed the application.

## Case Management Practices

### Legislation

- Consumer Claims Act 1998
- Motor Dealers Act 1974
- Motor Vehicle Repairs Act 1980

The jurisdictional limit of the Tribunal in this Division is \$25,000 for used vehicles and unlimited for new substantially privately used vehicles.

### Application Fees (effective 1 July 2003)

\$28 for claims under \$10,000

\$ 58 for claims \$10,000 - \$25,000

\$155 for claims exceeding \$25,000

\$5 for eligible pensioners

### Applications managed by

Sydney	22%
Newcastle	15.5%
Wollongong	12%
Hurstville	10.5%
Penrith	10%
Liverpool	10%
Parramatta	10%
Tamworth	10%

### Members

All Tribunal members may determine matters in the Motor Vehicles Division. However, specialist members are initially assigned when matters are listed.

### Alternative Dispute Resolution

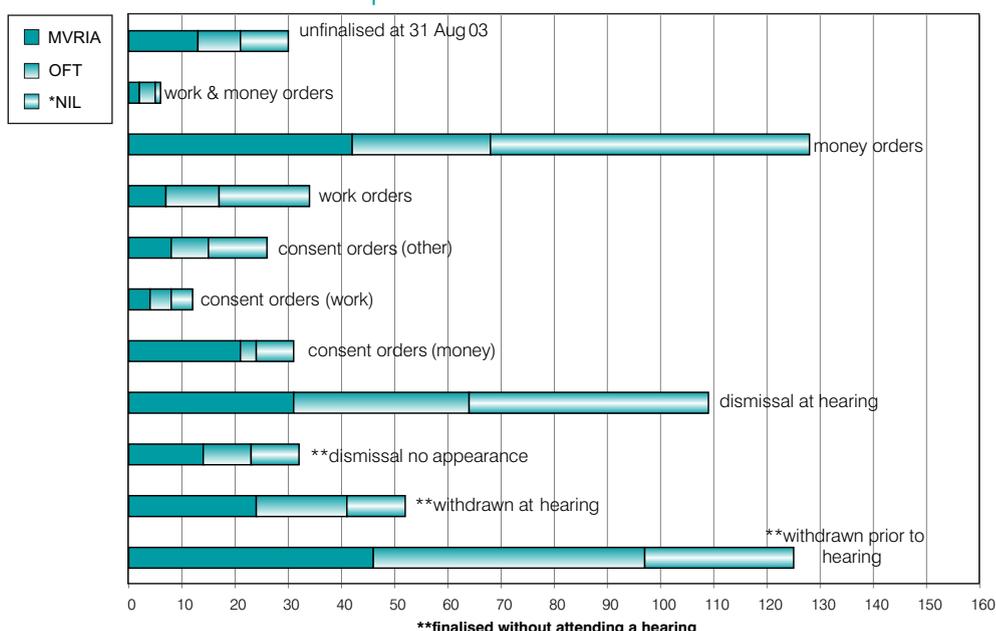
The Tribunal uses its best endeavours to ensure parties have exhausted all other avenues before making orders. In the Sydney venue motor vehicle matters are listed separately in their own group list. Two members and one conciliator, chosen especially for their skills as mediators or with motor vehicle expertise, are assigned the list. This practice ensures a quality conciliation service.

When an application is lodged that has not been referred to any other investigative or mediation organisation, the Registry refers it before listing. When an application is received, it is assessed to see if it has been to the Motor Vehicle Repair Industry Authority (MVRIA) or the Office of Fair Trading (OFT) for dispute resolution. If it has not been to OFT or MVRIA (as specified on the application form), it is referred for their assistance. The Sydney Registry commenced referral on 29 April 2003, whilst other Registries referred from September 2002.

The purpose of the scheme is to deliver a better outcome to parties by avoiding a hearing or, if the need for a hearing remains, that the determination is aided by the earlier MVRIA or OFT intervention. The outcome of the 585 new applications received from 1 January 2003 to 30 June 2003 is charted below. MVRIA were referred 212 applications; 84 or 39.6% were finalised without attending a hearing. OFT were referred 171; 77 or 45% were finalised without attending a hearing.

\*NIL referral was 202; 48 or 23.8% were finalised without attending a hearing. \*NIL matters were those where parties had already used the service provided by MVRIA or OFT or were lodged before 29 April 2003

### Referral for Alternative Dispute Resolution



residential parks

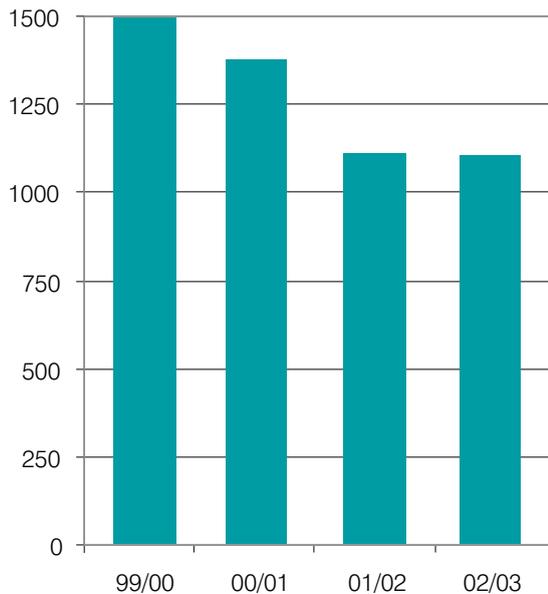
### Lodgements

1104 applications were received during the financial year.

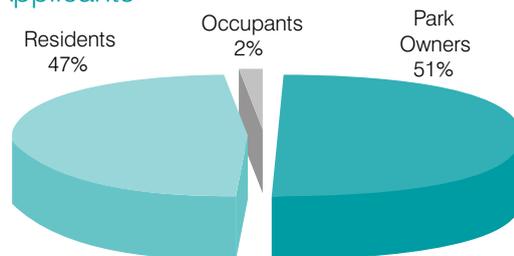
### Finalised

1374 matters were finalised during the financial year.

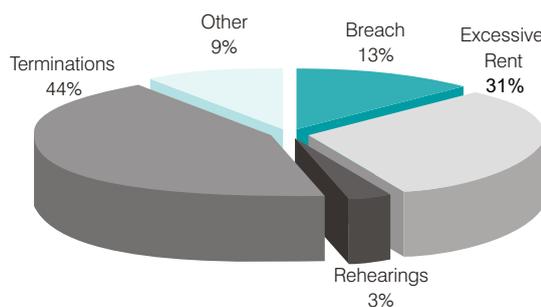
### Yearly Lodgement Comparison



### Applicants



### Application Types



### Case Study 5

Three permanent residential park residents had entered 3-year fixed-term residential site agreements at \$79.30 per week. At the end of the fixed term, the residential park owner served these residents with a notice that the rent was increased to \$92 per week.

#### The Claim

The residents believed the increase was excessive. The park owner argued that the increase was based on market rent for comparable properties and that all new residential site agreements for the park were set at \$92 per week. The residents applied to the Tribunal to determine the issue.

#### The Outcome

The Tribunal attempted conciliation but a settlement was not reached. The Tribunal member visited and inspected the park in dispute and 3 others in the area. This took place because under section 57 of the Residential Parks Act 1998, the Tribunal may, in determining if a rent increase is excessive, have regard to the general market level of rent for comparable premises in the same residential park and in other parks in the locality or similar locality.

The Tribunal determined that the rent increase notice and service were valid. The Tribunal was also satisfied in market terms and comparative terms the site rents at the park in question were justified in being higher than other parks.

In the absence of any evidence in relation to costs or outgoings from the park owner the Tribunal determined the relative increase in the CPI was the correct indicative figure and found the rent increase to be excessive. The Tribunal made orders stating the amount the increase was not to exceed.

## Case Management Practices

### Legislation

- Residential Parks Act 1998
- Landlord and Tenant (Rental Bonds) Act 1977

The jurisdictional limit of the Tribunal in this Division is unlimited.

### Application Fees (effective 1 July 2003)

\$28

\$5 for eligible pensioners

### Applications managed by

Newcastle	34%
Tamworth	8%
Penrith	7.5%
Liverpool	7%
Sydney	3%
Wollongong	3%
Hurstville	1%
Parramatta	0%

### Members

All Tribunal members may determine matters in the Residential Parks Division. However, members with specialist experience are usually assigned these cases.

### Multiple party matters

Due to the nature of this jurisdiction, applications are at times lodged by numerous applicants against the same respondent or the same applicant against numerous respondents. Sometimes these can involve over 100 applications at a time.

Applications lodged in this division by park owners are generally seeking termination of the Residential Tenancy Agreement, whilst the majority of tenant initiated applications relate to alleged excessive rent increases.

The Tribunal follows specialised procedures to ensure that these matters are dealt with in an efficient manner. For instance an initial directions hearing will be held to canvas whether an on-site mediation or facilitation should be convened to explore settlement possibilities.

Alternatively, a timetable is set at the initial directions hearing for the provision of documents to each party and for the hearing. This provides parties the opportunity to properly prepare for hearing and assists the Tribunal in receiving the evidence from all parties before making a decision.



strata &  
community  
schemes  
division

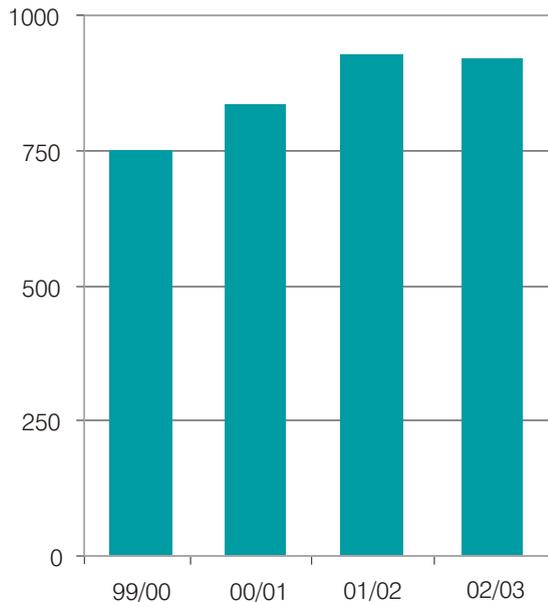
### Lodgements

918 applications were received during the financial year.

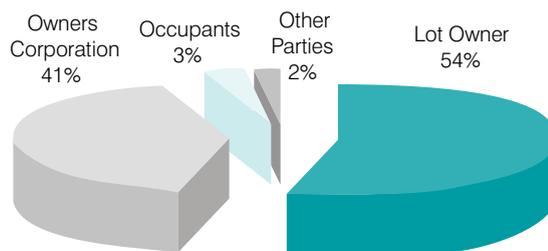
### Finalised

922 matters were finalised during the financial year.

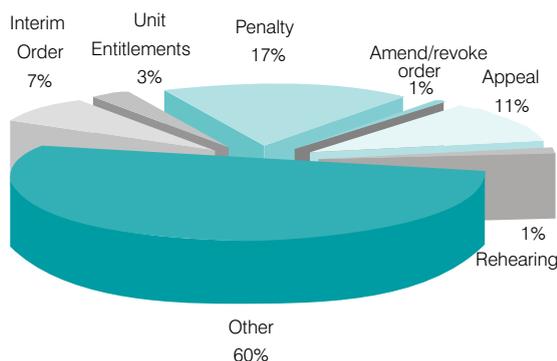
### Yearly Lodgement Comparison



### Applicants



### Application Types



### Case Study 6

Mr and Mrs T live in a strata scheme lot below Mr and Mrs P. They believe that since Mr and Mrs P laid floating floorboards in their lot noise transmission from above has become unbearable. They stated they could hear people walking, dogs barking and drawers opening and shutting. Mr and Mrs P believed Mr and Mrs T were unreasonable and had unrealistic expectations of apartment living. They stated 90% of their walkway areas were treated with rubber underlay covered by rugs, they removed their shoes when inside their lot and asked their guests to do the same.

#### The Claim

The parties could not come to an agreement on the treatment of the floor. Mr and Mrs T applied to the Strata Schemes Adjudicator for an order that Mr and Mrs P permanently treat their hard floor to stop the transmission of noise.

#### The Outcome

The Adjudicator accepted on the evidence submitted that there was an ongoing problem with the transmission of noise from the upper to the lower lot. It was accepted that the problem started when Mr and Mrs P removed flooring and replaced it with a floating wooden floor. It was noted that Mr and Mrs P had made some efforts to deal with the noise complaints and that the floor was installed by an accredited company and complied with Australian standards. However, on the balance of probabilities the Adjudicator found that Mr and Mrs P had breached Strata By-Law 14 by failing to treat their floors to an extent sufficient to prevent the transmission of noise likely to disturb the peaceful enjoyment of Mr and Mrs T in their lot.

Accordingly, the Adjudicator ordered Mr and Mrs P to comply with By-Law 14. That is to ensure that all floor surfaces within their lot were covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the owners or occupiers of another lot. In accordance with the Strata Schemes Management Act 1996, the order did not apply to kitchen, laundry, lavatory or bathroom floors.

## Case Management Practices

### Legislation

- Community Land Management Act 1989
- Strata Schemes Management Act 1996

There is no monetary jurisdictional limit in this Division.

### Application Fees (effective 1 July 2003)

\$58

\$5 for eligible pensioners

### Applications managed by

Sydney	68%
Hurstville	9%
Tamworth	7%
Newcastle	5%
Liverpool	3%
Wollongong	3%
Parramatta	3%
Penrith	2%

### Members

Specialist Tribunal members and adjudicators determine matters in the Strata and Community Schemes Division.

### Application Forms

The Tribunal is reviewing its application forms in this Division to assist parties to indicate clearly what type of an application they wish to make.

### Method of determination

Applications lodged in the Strata and Community Schemes Division are determined in two ways depending on the orders sought, as prescribed by legislation.

### Adjudications

Matters determined through the adjudication process are decided by an Adjudicator on the basis of written submissions from all parties. These applications are never listed for hearing and therefore the parties are invited to submit in writing all information on which they wish to rely.

The Tribunal has developed procedures to attempt to identify all relevant parties and meet its service requirements under the legislation. The procedures seek to ensure that all parties to a dispute are given the opportunity to make written submissions for consideration by the Adjudicator.

Matters dealt with by this method include but are not limited to:

- Interim orders
- Appointing a managing agent
- Contributions and levies
- The keeping of animals
- Property issues
- Insurance
- By-laws
- Covenants and other restrictions

### Hearings

Matters dealt with by this method include but are not limited to:

- Initial Period
- Unit Entitlements
- Penalties
- Vary or revoke an order
- Appeals from an order of an Adjudicator

Applications to vary or revoke an order or to appeal an order are listed initially for a directions hearing.

In all other matters, except penalties, submissions are sought prior to hearing. Once the submission period has lapsed, the matter is listed for hearing.



commercial division

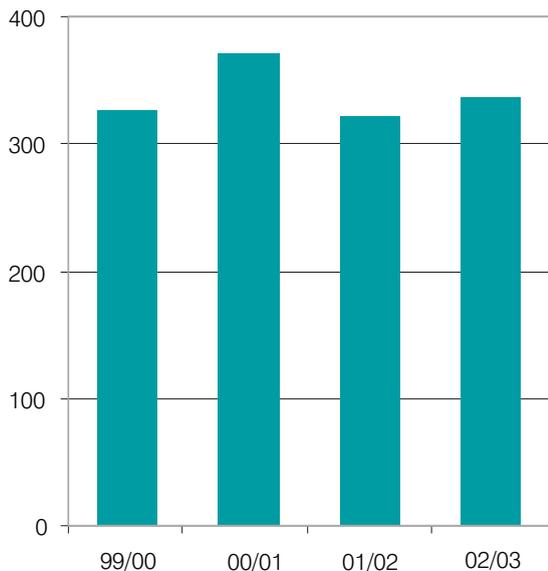
### Lodgements

336 applications were received during the financial year.

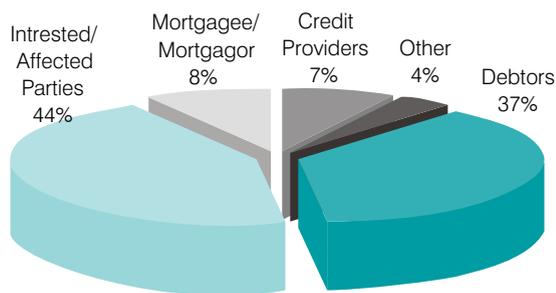
### Finalised

354 matters were finalised during the financial year.

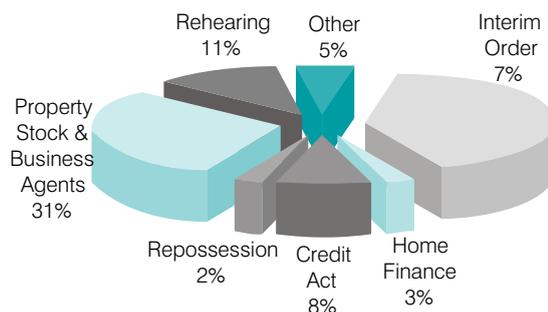
### Yearly Lodgement Comparison



### Applicants



### Application Types



### Case Study 7

Mr S bought a house to which Company M holds the mortgage. Company M's panel lawyer incorrectly noted the repayment amount on Mr S's loan agreement as a lower monthly payment. Mr S experienced difficulty paying the corrected amount and due to a change in financial circumstances was unable to pay his mortgage. Mr S decided to sell the property. Company M wanted him to surrender the house and land to them voluntarily, so that Company M could sell it.

#### The Claim

Mr S applied to the Tribunal for an order that his home finance contract be varied to a lower monthly payment for a period of 6 months to enable him to sell the property.

#### The Outcome

The Tribunal was satisfied that Mr S was unable to reasonably discharge his obligations under his home finance contract with Company M. The Tribunal found it would be preferable for Mr S to be afforded the opportunity to sell his home rather than Company M conducting a mortgagee sale. The Tribunal found Mr S understood that varying the contract to lower monthly payments would result in the balance owing under contract increasing each month. He would owe Company M more in 6 months time than he presently owed. Accordingly, the Tribunal ordered the home finance contract be varied as requested by Mr S for a period of 6 months. It was noted that if Mr S defaulted in payment, Company M was entitled to commence enforcement proceedings.

## Case Management Practices

### Legislation

- Consumer Credit Administration Act 1995
- Consumer Credit (New South Wales) Act 1995
- Credit Act 1984
- Credit (Finance Brokers) Act 1984
- Credit (Home Finance Contracts) Act 1984
- Travel Agents Act 1986
- Property, Stock and Business Agents Act 1941

The jurisdictional limit of the Tribunal in this Division is varied according to the type of application.

### Applications managed by

Sydney	41%
Tamworth	14%
Newcastle	9%
Penrith	8%
Hurstville	8%
Wollongong	7%
Parramatta	7%
Liverpool	6%

### Application Fees (effective 1 July 2003)

- \$28 for claims up to \$10,000
- \$58 for claims exceeding \$10,000 - \$25,000
- \$155 for claims exceeding \$25,000
- \$516 for claims under section 86 and 86A of the Credit Act 1984
- \$64 for claims under Consumer Credit (NSW) Code except for claims made by a credit provider under section 101 where it is \$516
- \$5 for eligible pensioners

No fee is payable for certain applications under the Credit Act 1984, Consumer Credit (NSW) Code or the Credit (Home Finance Contracts) Act 1984. Applicants in this Division can appeal against a decision relating to payment from the Travel Compensation Fund, make an application in relation to a consumer credit contract or make an application in relation to reviewing a commission or fee as charged by a licensed agent. Licensed agents can apply for orders if their fees have not been paid and consumers can apply if they wish to dispute the fee or to seek an order that they not have to pay the fee.

Applicants can make an application in relation to a consumer credit contract of value up to \$125,000. The contract must be credit for personal or household uses including consumer leases, home loans and insurance related to a credit contract (eg insurance on a motor vehicle purchased on credit). The contract must not be for commercial or business purposes.

The Tribunal can make orders where the borrower is suffering hardship and cannot meet their payments. The Tribunal can make orders to reduce, reschedule or recalculate payments; assess arrears; postpone enforcement action; reopen a contract because it is unjust; reduce or waive interest charges; or determine how much is owed.

When making an application a credit consumer must attach a copy of the contract as the Tribunal needs to determine if it is a regulated contract. A regulated contract means whether it is subject to the Credit Code and whether the Tribunal has jurisdiction to deal with it.

### Members

All Tribunal members may determine matters in the Commercial Division.

### Listing Claims Under \$25,000

Applications lodged involving a monetary claim under \$25,000 are listed in the general group list.

### Listing Claims Over \$25,000

Applications lodged involving a monetary claim over \$25,000 are listed for an initial short hearing at which directions are made as to the future conduct of the matter.

retirement villages

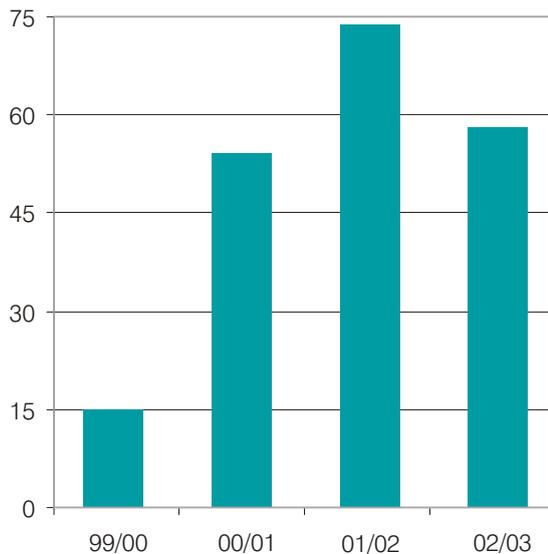
### Lodgements

58 applications were received during the financial year.

### Finalised

47 matters were finalised during the financial year.

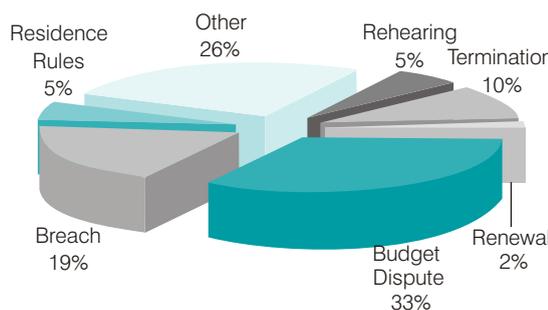
### Yearly Lodgement Comparison



### Applicants



### Application Types



### Case Study 8

Mr O is a resident in a retirement village complex operated by Company Q under a loan-licence agreement. Under this agreement, all the buildings remain the property of the operator. A dispute arose between Mr O and the operator as to payment for exterior painting and insurance premiums for replacement of village buildings. Mr O objected to contributing towards the protection of the operator's assets.

#### The Claim

Mr O applied to the Tribunal for an order that certain insurance premiums not be part of the recurrent charges and that exterior painting constituted refurbishment, not maintenance, and should be paid for by the operator.

#### The Outcome

The Tribunal noted that the last painting of premises was 12 years ago and further painting must be regarded as part of the general building maintenance of structures requiring regular protection from weathering. Accordingly, the proposed expenditure for external painting was recurrent expenditure, not a capital item.

The Tribunal found that the operator was obliged under section 97 of the Retirement Villages Act 1999 to insure the village for its full replacement value. The Act did not stipulate that the operator must pay the cost of doing so.

The Tribunal found that insurance against loss of buildings was "risk management" not "capital replacement" and was a cost of "recurrent nature". As a recurrent item, the operator was entitled to recover the cost as part of the residents' fees, if authorised by the residence contract.

The Tribunal noted the residence contract specifically included insurance premiums.

Accordingly, the Tribunal found that insurance premiums payable for replacement or reinstatement costs of buildings in the retirement village was a recurrent charge payable by Mr O under his residence contract.

The Tribunal dismissed Mr O's application.

## Case Management Practices

### Legislation

- Retirement Villages Act 1999

The jurisdictional limit of the Tribunal in this Division is \$10,000

### Application Fees (effective 1 July 2003)

\$28

\$5 for eligible pensioners

### Applications managed by

Sydney	29%
Newcastle	28%
Hurstville	17%
Parramatta	8%
Tamworth	7%
Wollongong	7%
Penrith	2%
Liverpool	2%

### Members

Specialist Tribunal members determine matters in the Retirement Villages Division.

### Hearing Venue

After an initial directions hearing, mediation is usually scheduled to allow parties full participation in the dispute resolution process. These are commonly held by the Tribunal on site and in other neutral venues.

A Tribunal member, different to the one who will conduct a formal hearing, conducts the mediation or conciliation, and up to two days is organised for the negotiation. This is to accommodate the large number of residents who wish to participate in the resolution process.

Alternative venues are also frequently used for hearings because of the large numbers of interested parties in attendance. The Registry also ensures the venues have appropriate facilities for wheelchair access and are in close vicinity to the retirement village.



flexible  
proceedings

## Alternative Dispute Resolution Strategies

To assist the Tribunal in dealing with the matters and complex jurisdictional issues throughout its divisions, a number of strategies have been designed to aid the resolution of disputes, apart from formal hearings.

### Conciliation

The Tribunal's alternative dispute resolution processes are set out in Part 5 of the Consumer, Trader and Tenancy Tribunal Act 2001. There the Tribunal is set the task of promoting conciliation and using its best endeavours to bring the parties in the proceedings to a settlement that is acceptable to all the parties, before making an order.

The Tribunal attempts to conciliate matters on every hearing date. Tribunal members advise the parties in all proceedings of the statutory requirement and encourage the parties to attempt settlement before determination of the matter. Where possible Tribunal members act as conciliators and actively assist parties to resolve their disputes.

To enhance the conciliation outcomes, specialist tenancy lists are developed in some of the Tribunal's regional registries. Further, the Tenants' Advice and Advocacy Services, funded through a grants program, provide a specialised service to unrepresented tenants in the conciliation process. In the Residential Parks Division and Retirement Villages Division conciliation is often arranged on-site.

### Assistance from other agencies

Another strategy relates to the Motor Vehicles Division. Where prior attempts at settlement have not occurred, the Tribunal refers matters to the Office of Fair Trading or the Motor Vehicle Repair Industry Authority which assist the parties to attempt to resolve the matter prior to hearing. Details are given in the Motor Vehicle Division Report about this specialist alternative dispute resolution process.

### Mediation and on-site expert conclaves

In relation to Home Building Division matters, a number of strategies are used to increase settlement rates, including mediation and on-site expert conclaves. Mediation is used extensively in Retirement Village Division proceedings.

## Telephone Hearings

If a party is unable to attend a Tribunal hearing, the Tribunal may allow a party to give their evidence by telephone in certain circumstances. Some of the circumstances in which a telephone hearing may be approved is where a party is interstate or lives more than three hours travelling time from a venue, or where a party has medical reasons or a disability which prevents them from being able to attend a hearing.

Parties are required to make a written request for this service and the Tribunal attempts to provide this service at all its registries.

Telephone hearings in which both parties are contacted by telephone may also be available in certain types of cases, such as in some directions hearings in Home Building Division matters, where the Tribunal considers a case may be progressed efficiently by speaking to the parties by telephone.

## Decisions On The Papers

The Act affords parties an opportunity to have a matter decided on the basis of documents submitted by both parties in certain circumstances. Where a party obtains the consent of the other party to a matter being considered on the basis of written submissions and documents from both sides, the Tribunal determines if the matter is one that may be considered in this way without prejudicing the parties.

Where the Tribunal decides a matter may be decided this way, the parties are asked to provide to the Tribunal and the other party, prior to hearing, all documents and other written material they wish to be considered. The matter is then listed in the usual way, with parties advised the decision will be made on the basis of written submissions only.

## Hearings

Listing arrangements were continuously reviewed over the reporting period in preparation for listing automation with Electronic Service Delivery. Most applications to the Tribunal were determined at hearing.



information &  
communication  
technology

The Tribunal seeks opportunities to develop and implement technology based solutions which provide efficiencies for the Tribunal and its clients.

### Electronic Service Delivery (ESD)

The Office of Fair Trading's Information Management and Technology Strategic Plan 2002-2005 identified the provision of on-line services as one of the key strategies for the Office as a whole and for related organisations such as the Tribunal.

The Tribunal's Electronic Service Delivery (ESD) project continued to make progress during the year. Demands to further develop the ESD application were made by a wider range of clients including real estate agents, property managers, tenants' representatives and individual members of the public.

Based on the success of the initial web site, the Tribunal in February 2003 was successful in obtaining funding from the Office of Information Technology to upgrade the pilot site to become an electronic service delivery channel.

The project will provide five core ESD functions that will ensure the widest possible use is made of the service by organisations and individual members of the public. The five core functions to be developed are:

1. Payment on-line,
2. Automatic listing at the time the application is submitted,
3. Electronic issue of notices of hearing to applicants,
4. On-line monitoring of progress by both parties,
5. Electronic issue of printed orders to applicants.

### Case Management System (CMS)

The Tribunal's Case Management System (CMS) is the core business application used to register, store and retrieve information relating to applications lodged. The system provides enquiry and reporting facilities and produces notices of hearing, orders and other Tribunal correspondence.

At the commencement of the Tribunal in early 2002, upgrades of the CMS were planned. The second stage of upgrades was implemented in July 2002. This included new system modules to manage Alternative Dispute Resolution in the Building Conciliation Service.

During the year, Information & Communication Technology staff at the Tribunal continued to refine many CMS functions to provide further efficiencies for staff and clients. A significant achievement has been the introduction of automatic listing. Automatic listing allows for applications which meet certain criteria to be allocated a hearing date and time when the application is registered. Rules are built into the system to ensure matters are listed within acceptable timeframes and appropriate hearing venues.

This process will also be used to link the new CTTT web site to provide automatic listing and notice of hearing for Internet users.

### Digital Sound Recording

The Tribunal is acting as lead agency in the acquisition of an efficient, indexed, digital recording system for a number of tribunals within the Department of Commerce portfolio. The tribunals participating in this project include the CTTT, the Government and Related Employees Appeals Tribunal (GREAT) and the

## information & communication technology

Transport Appeals Board (TAB).

While the three Tribunals differ in their client groups, from public sector issues to individuals and business within the private sector, there are common issues in terms of process, fairness and transparency.

The Tribunals are required to provide timely, consistent and efficient hearings and related processes. Improvements in these areas can be directly linked to the introduction of an efficient, indexed digital recording system.

The sound recording system will be installed in the Tribunal member benches with central recording of proceedings on agency systems.

Funding for this project is shared between the Tribunal, Office of Industrial Relations and the Office of Information Technology. The pilot is planned to be available in April 2004.

### [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au)

The web site contains general information about the Tribunal, direct links to legislation and recent decisions, application forms and Chairperson directions.

The "What's New" box is regularly updated to include information about CTTT Information Sessions, changes to legislation and other significant events. During the year, the [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au) page received 14010 visitor hits.

### In-court

The Tribunal has developed a pilot module closely integrated with the Tribunal Case Management System (CMS) which allows Tribunal orders to be produced in the hearing room at the end of a hearing.

Members operate the system from the hearing bench whilst the hearing is in progress. The member notes attendance, amends parties' names if necessary and makes any orders using the custom-made system. At the end of the hearing parties are able to collect the order from the hearing attendant before leaving the Registry.

Currently clients can wait up to a week to receive a copy of the order the Tribunal makes during a hearing. As a result of the orders on-line process applicants and respondents are able to receive a copy of the orders the Tribunal has handed down at the conclusion of the hearing.

The pilot is being run in the Sydney Registry to allow the process to be bedded down. Although the pilot is presently limited to Tenancy Division applications, the Tribunal is currently considering the expansion of the In-Court module to include more divisions within the Tribunal's jurisdiction.

Based on the success of the In-Court pilot in Sydney the Tribunal is planning to make the module available to other Registry hearing venues.

### On-line Enquiries

Clients are now able to make contact with the Tribunal on-line through the new email address: [CTTTenquire@cttt.nsw.gov.au](mailto:CTTTenquire@cttt.nsw.gov.au).

### Telephone Enquiries

During the year, the 1300 toll free telephone number received 81,106 telephone calls.

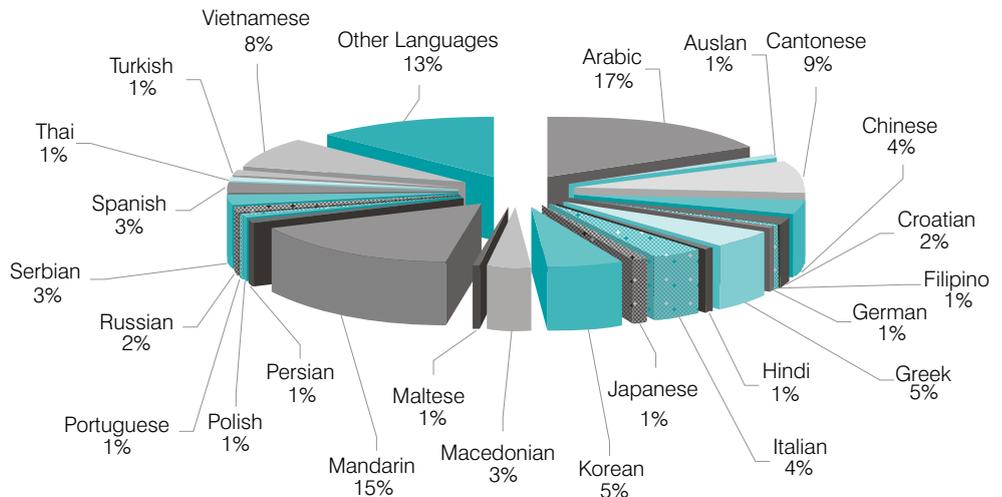
facilities & services

## Hearing Loop

A portable Hearing Loop is now available for the use of parties with hearing impairments at some sites. The loop is best used in conjunction with digital sound recording facilities. The Tribunal intends to expand the availability of hearing loops to all sites.

## Interpreters

The Tribunal provides interpreters at hearings at the request of the parties. The Tribunal bears the cost of this service. During the year, the Tribunal arranged for 2044 interpreters to be available at hearing. The most common languages used are shown below in the graph.



## Security

During the reporting period the CTTT, with the assistance of Business & Procurement Consulting of Public Works, selected seven security providers to provide security at Tribunal hearings throughout NSW. The tender was issued to enhance services in various locations and minimise costs. The successful tenderers are based at both metropolitan and regional locations.

## Registries

The Tribunal operates out of eight Registries throughout regional and metropolitan New South Wales.

### Newcastle

The Newcastle hearing venue holds hearings every Monday, Tuesday and Thursday. Newcastle Registry is also responsible for Gosford, Wyong, Taree and East Maitland hearing venues. Many other organisations used rooms in Newcastle, mostly on Wednesdays and Fridays.

During a regional consultative committee forum, the Tenants' Advice and Advocacy Service (TAAS) raised the issue of the importance of conciliation for tenants and the provision of conciliators in the Newcastle Registry. The listing of matters at Newcastle has been reorganised to ensure a conciliator is present on a more regular basis. In addition, copies of hearing lists are faxed to TAAS offices in advance of hearings to assist TAAS in planning their attendance at hearings to assist tenants.

## facilities & services

### Liverpool

The Liverpool hearing venue holds hearings every Tuesday, Wednesday and Friday. The Campbelltown venue holds hearings every Monday and Thursday. The Local Court regularly uses Tribunal hearing rooms at the Campbelltown venue. Other organisations have at times also used this facility.

The Liverpool area consultative committee met on three occasions during the year. This regular communication develops contacts with key client groups including the Department of Housing, the Real Estate Institute of NSW, Park and Village Service and Credit Line Macarthur. These meetings allow the Tribunal to supply background information to our client groups in relation to problems or delays they may experience and action is then taken to resolve the problem by the Registry. The filtering of information in this forum encourages public trust in the services provided by the Registry.

### Sydney

The Sydney Registry receives the largest number of applications. In the Sydney hearing venue there are 13 hearing rooms and 16 conciliation rooms due to the number of matters processed.

The Sydney hearing venue holds hearings every weekday. Group lists are conducted in four hearing rooms in Sydney on Monday, Wednesday and Fridays each week. Extended hearings are held every day.

### Tamworth

The Tamworth hearing venue holds hearings every Thursday. Tamworth Registry is also responsible for North Coast above Taree, North West, Upper Hunter, Upper Central West and the Northern Tablelands.

On 28 November 2002, the new Tamworth Registry was formally opened. The new Registry includes one customised hearing room and four private, informal conciliation rooms.

The Tamworth Registry has commenced a telephone directions & hearing pilot program for complex matters from the far north coast. The pilot has been introduced to increase the preparedness of the parties for hearing, thus reducing the need for adjournments. After applications are assessed as suitable for the pilot program, they are listed for telephone directions and hearing before the full time member in Tamworth.

The Tribunal provides the parties with directions for the hearing and encourages them to conciliate. If the applicant does not withdraw the application, the matter is then listed on the far north coast for a formal hearing as directed. The member hearing the matter is then required to complete a feedback sheet regarding the preparedness of the parties for return to the Registry to assist in the evaluation of the pilot.

### Penrith

The Penrith hearing venue holds hearings every Tuesday, Thursday and Friday. Hearings are also held at the Blacktown venue every Tuesday and Wednesday. The Registry is also responsible for the Blue Mountains, Hawkesbury and Central West areas. The Penrith Registry also hires its Tribunal rooms to other agencies.

The Penrith area participated in two User forums, which continued to provide an avenue to exchange information with key groups.

The Penrith hearing venue consistently achieves high conciliation outcomes. During the month of June 2003, it had the highest conciliation result of 86%. This

## facilities & services

can be attributed to the addition of a designated conciliator and to the implementation of the pilot Tenants' Advice and Advocacy Service (WESTS) scheme.

### Parramatta

The Parramatta hearing venue holds hearings every Wednesday and Friday. The Parramatta Registry lists for the Blacktown venue every Monday and Tuesday. Group lists are held on Monday, Tuesday and Thursday at the Commonwealth Courts Complex.

Parramatta Registry trialed the Tenants' Advice and Advocacy Service (TAAS) scheme at the Blacktown hearing rooms. The Tribunal found that with this help available to tenants, fewer matters were adjourned and more matters settled.

### Hurstville

The Hurstville hearing venue holds hearings every Tuesday, Wednesday, Thursday and Friday.

As a result of an increase to the geographical catchment area for matters heard at the Hurstville Registry, a number of innovations were developed and implemented throughout the year in order to provide quicker turnaround times.

The Hurstville Registry held a number of consultative committee meetings, which provided an avenue for the exchange of information with key interest groups.

### Wollongong

The Wollongong hearing venue holds hearings every Tuesday and Thursday.

Wollongong Registry is also responsible for the South Coast, Riverina and Southern Tablelands areas and Far West NSW.

In response to community requests, the Tribunal began sitting in Kiama in January 2003. Hearings in Kiama are held on a weekly basis.

The Southern Operations Committee met twice during the year with positive outcomes achieved on both occasions.

The Wollongong Registry also began a telephone directions & hearing program for complex matters to assist the parties prepare for hearing and encourage a settled agreement before hearing.

## Customer Service Standards

The Tribunal's "Customer Service Standards" were published in October 2002. The brochure explains what the Tribunal does, the type of service a client can expect to receive, alternative dispute resolution and conciliation processes, what a hearing is and when and where it will take place and when printed orders can be expected to be received.

It also explains how enquiries can be made and when enforcement documents can be expected to be received as well as information on interpreter, TTY and disability facilities. It details how and within what time frame written concerns will be responded to.

## Bulletin

The CTTT Bulletin was published in April 2003. This Bulletin discussed three cases in which appeals to the Supreme Court were made. It also included issues and guidelines regarding Holiday Parks matters, the CTTT's web site and also Chairperson's Directions concerning procedures in Home Building cases. The Bulletin is a quarterly publication.

## Information Sessions

The Tribunal actively promotes public awareness through various avenues. One of these is by conducting information sessions throughout NSW. Tribunal Information Sessions provide the public with general information about the Tribunal including: an overview of Tribunal proceedings; how to make an application to the Tribunal; the orders that can be made; and how hearings are organised and conducted. They are presented by a Tribunal member and Registry staff.

Approximately 500 people participated in the sessions this year.

The Tribunal implemented a marketing strategy to promote the sessions involving direct mail to key users, e-mail notification to members of the CTTT Consultative Forums, press advertising and press releases to local media.

In 2002-2003 Information Sessions were held at Lismore, Newcastle, Wagga Wagga, Nowra, Wollongong, Bathurst and Dubbo.

## Campbelltown Commercial Legal Seminar

Two Deputy Registrars of the Tribunal attended this seminar. The aim of the seminar was to educate people in the Macarthur area (both community groups and members of the public) about consumer credit and debt issues.

The Deputy Registrars talked about the services that the Tribunal provides, how to lodge a claim, time limits, types of matters dealt with, costs of applications and appeal mechanisms.

## Legal Studies Teachers Conference

A Deputy Registrar of the Tribunal attended a conference held for teachers of Legal Studies in the Parramatta area. The purpose of the session was to inform teachers about the role of the CTTT.

## Association to Resource Co-op Housing

A member of the Tribunal attended a session at the request of the Association to Resource Co-op Housing (ARCH). The session topic was the problems faced by Co-operatives when attending Tribunal hearings.

## information & education

### Ryan Region Group (Northern NSW)

A member of the Tribunal attended a meeting at the request of a real estate agent group. The member provided information on Tribunal legislation and practical knowledge of hearings to assist in their development and improve knowledge of Tribunal functions.

### Law Week

The Tribunal opened its doors to the public during Law Week in May 2003. At the two sessions attendees were given an opportunity to participate in a group list, hear a talk about the conciliation process and ask questions on topics such as the exchange of documents and the enforceability of consent orders.

Tribunal members presented hearing scenarios in a generic manner and not specific to any division although, references were made to divisions when explaining a particular process. The sessions allowed parties to ask questions that were specific to their concerns.

Both sessions included many advisory agencies eg Legal Aid, Community Housing organisations, Wesley Mission, The Smith Family, Tenants' Advice & Advocacy Service officers and motoring interest groups.

The attendees were also given a guided tour of the Tribunal's hearing facilities and were able to take published material and ask questions of Registry staff.

### Student Visits

Throughout the year High School, College and TAFE students have observed various hearings to understand the processes of conciliation and hearings. An officer meets the group and provides a general overview of what they can expect. On booking the session it can be determined what hearing date is best suited to the group depending on their particular divisional interests and group size.

### Work Experience

During the year, a third year Bachelor of Laws Student from the University of Wollongong gained work experience in the Tribunal. He observed and assisted with Registry functions for 20 days. The student greatly assisted the production of the Tribunal's privacy statement.

### Video

The Tribunal's video working group began work on the new video that will provide information to the public. The video will show how the Tribunal processes work. Funding for the video has been approved and the video is due in 2004.

### Overseas Delegates

#### Malta

Members of Malta's Commission for Fair Trading attended the Tribunal during December 2002. The Chairperson and Deputy Chairperson (Registry and Administration) hosted the delegates on their visit.

#### New Zealand

In June 2003, the Chairperson and Deputy Chairperson met with a member of the New Zealand Building Tribunal and the Principal Tenancy Adjudicator. The meetings allowed for an exchange of published documentation and general information on the processes of the Tribunals.

## Malaysia

Delegates from Malaysia met with the Registrar and a member of the Tribunal in March 2003. Members of the delegation included the Parliamentary Secretary, Senior Enforcement Officer and the Deputy Director of the Ministry of Domestic Trade and Consumer Affairs. The purpose of their visit was to examine all functions and processes of the Tribunal in relation to the Motor Vehicles Division. (See photograph)

In June 2003 the Chairperson and Deputy Chairperson met with delegates from the Malaysian Tribunal for Consumer Claims.



## Application Forms

The Tribunal has twelve application forms. Each division has its own designed form and the Tribunal also publishes a tenancy termination form, a rehearing form and a notice to renew an application.

Forms are constantly reviewed in consultation with consultative forum groups to ensure they are accessible and informative.

## Tribunal's Commitment To Privacy

The Tribunal stores information about people who have been involved in cases. This information is directly related to the function of the Tribunal to resolve disputes between the parties. New South Wales law governs what information is collected and the manner in which it is processed and made available. It balances the public interest in having an open system of justice with the individual's need for privacy.

As required by the Consumer, Trader and Tenancy Tribunal Act 2001, the Registrar sends copies of any documents including the applications to the other person or persons in the dispute. A full description of the Tribunal's commitment to privacy can be found on the web site.

staff services &  
organisational  
development

## Freedom Of Information (FOI)

No applications under the Freedom of Information Act 1989 (FOI Act) were lodged during 2002-2003 or the previous year.

Pursuant to section 10 of the FOI Act, the Consumer, Trader and Tenancy Tribunal is not an agency subject to FOI provisions in relation to its judicial functions. In addition, any document relating to the judicial functions of the Tribunal is exempt under clause 11 of schedule 1 of the FOI Act.

However, all parties to a matter have access to their file in accordance with Part 8 of the Consumer, Trader and Tenancy Tribunal Regulation 2002 (CTTT Regulation). The entire file can be viewed with the exception of the member's private notes. There is no fee payable by a party to the proceedings for viewing a file except in the Strata & Community Schemes Division, where the fee is \$12. Normal photocopy fees apply for copies of any documents on file. Requests by parties for access to their file should be in writing to the Registrar at the Registry where the file is held.

Under clause 38(3) of the CTTT Regulation, the Registrar may also grant access to a person who is not a party to proceedings, to a record of proceedings where the Registrar considers there is sufficient reason to do so.

Formal FOI applications for access and amendment are made in writing to the Registrar, Consumer, Trader and Tenancy Tribunal, GPO Box 4005, Sydney 2001.

## Training

### Registry Training

This year saw the Tribunal introduce a new approach to training people in the operational areas of the Registry. Management coaching was a major initiative introduced to improve organisational and individual performance and ranged from group sessions to one on one coaching tailored to meet individual needs. Training in the areas of Managing People for Performance and Managing Teams Effectively further enhanced the coaching methodologies.

The Registry has instituted monthly programs concentrating on procedural and legislative changes designed to improve service delivery by our frontline operational areas.

### Member Training

In December 2002, Tribunal members attended a training session discussing:

- Unlicensed builders, Joinder of Parties,
- Boarders (consumer claims),
- Building issues, Costs,
- Orders and Directions, Renewals and Relists.

In June 2003, Tribunal members attended new home building legislation training. All Full Time members were trained in the use of In-Court during the 2002/2003 financial year.

### Member Conferences

On 22 May 2003, the Chairperson and several members attended a seminar on recent developments in Administrative Law.

On 5 and 6 June 2003, the Chairperson and several members attended the Australian Institute of Judicial Administration (AIJA) conference.

## staff services & organisational development

### Governance

The Tribunal formed two committees during the reported period, one to develop a Code of Conduct for Members, and the other to develop a performance appraisal process for members. The Hon Dierdre O'Connor, a former Judge of the Federal Court of Australia and President of the Commonwealth Administrative Appeals Tribunal, was appointed as the independent member of the Peer Review Panel.

### Flexible Working Arrangements

The Tribunal continues to implement best practice methodologies by supporting staff with a range of flexible work arrangements such as job sharing and new flexible working hours to assist them balance work and personal commitments.

### Occupational Health And Safety

An OH&S Committee has been formed and meets every quarter. The Committee is made up of two management representatives and six employee representatives. Two of the employee representatives are from regional Registries. During the reporting period five members of the Committee received training in OH&S Consultation training as required under Clause 31 of the OH&S Regulation, 2001. The remaining two members had previously received training. As part of the CTTT's OH&S program all Registries and hearing rooms have been inspected and as a result, a number of issues have been identified and remedied.

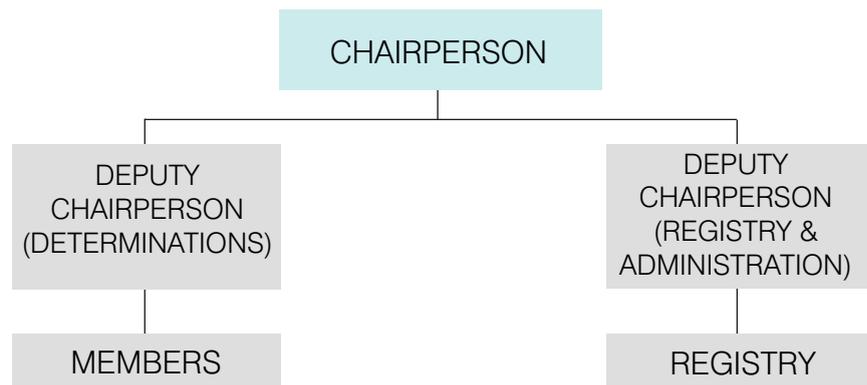
### Communication

A crucial means of ensuring consistency is reliable communication. Deputy Registrars receive, process and channel information between the determinative and administrative areas of the Tribunal. Procedures are regularly reviewed, and local Registry training maintains identical approaches to adjudication and protocol throughout NSW.

### Service Level Agreements

The CTTT has entered into a Service Level Agreement with the Office of Fair Trading which details the nature and timeliness of service to be provided in regard to Finance, Administration, Human Resource, and Information Technology. The agreement commences operation on 1 July 2003.

### Tribunal Structure



consultative  
committees

The Tribunal hosts a Consultative Committee for each Division, which meets throughout the year. The Tribunal along with interest groups, exchange and provide feedback about ideas on procedural and listing initiatives. As a result of these consultative initiatives, the Tribunal incorporates and makes suggestions to improve services to its clients.

**TENANCY DIVISION**

- Property Owners Association
- Real Estate Institute of NSW
- Tenants' Union of NSW
- South West Tenants' Advice
- Renting Services, Office of Fair Trading
- Southern Sydney Tenancy Service
- EAC Multilist
- Combined Pensioners & Superannuants Association
- Public Tenants' Council (Central Sydney)
- Department of Housing
- ARCH
- NSW Federation of Housing Association Inc
- NSW Aboriginal Housing Office
- Gandangara Local Lands Council
- Todd & Co
- Office of Community Housing
- Redfern Legal Centre
- Legal Aid Commission of NSW
- Hicks & Clay United Realty
- Financial Counsellors Association

**GENERAL DIVISION**

- Australian Consumers Association
- Combined Pensioners and Superannuants Association
- Community Relations Commission
- Disability Council of NSW
- Australian Retailers Association NSW
- Pawn Brokers Association of NSW
- Office of Fair Trading
- Attorney General's Department, Law Access NSW
- Retail Traders' Association of NSW
- Recreational Vans and Homes Aust. Industry Group
- Financial Counsellors Association

**HOME BUILDING DIVISION**

- Law Society of NSW
- Master Builders Association
- NSW Bar Association
- Housing Industry Association
- National Electrical and Communications Association of NSW
- Royal Australian Institute of Architects
- Master Plumbers and Mechanical Contractors Association of NSW
- Swimming Pool and Spa Association of NSW
- Building and Construction Council NSW Inc
- Australian Institute of Building
- Institution of Engineers Australia
- Civil Contractors Federation
- Office of Fair Trading
- Timber Flooring & Finishing
- John Simpson & Co

**MOTOR VEHICLES DIVISION**

- Motor Traders Association
- Office of Fair Trading
- Motor Vehicle Repair Industry Authority
- National Roads and Motorists Association
- Australian Manufacturing Workers Union
- Service Station Association
- Institute of Automotive Mechanical Engineers

**RESIDENTIAL PARKS DIVISION**

- Caravan & Camping Industry Association
- Affiliated Parks Residents Association
- Combined Pensioners & Superannuants Association
- Central Coast (North) Park Residents Association
- Energy and Water Ombudsman NSW
- Recreational Vans and Homes Aust. Industry Group

**STRATA & COMMUNITY SCHEMES DIVISION**

- Institute of Strata Title Management
- Home Unit Owners Association
- Property Owners Association of NSW
- Tenants' Union of NSW
- Combined Pensioners and Superannuants Association

**COMMERCIAL DIVISION**

- Consumer Credit Legal Centre
- Financial Counsellors Association of NSW & ACT
- Legal Aid Commission of NSW
- Kemp Strang Lawyers
- Department of Fair Trading
- Redfern Legal Centre
- Wesley Counselling Services

**RETIREMENT VILLAGES DIVISION**

- Combined Pensioners & Superannuants Association
- Retirement Village Association of NSW & ACT
- Australian Consumers Association
- The Aged-Care Rights Service
- Housing Industry Association
- Aged Services Association of NSW
- Nursing Homes and Extended Care Association
- Council on the Ageing (NSW) Inc
- Wesley Mission

human resources  
report

REGISTRY STAFF BY LEVEL** & EEO REPRESENTATION									
Level	Total Officer	Officer responding to EEO data	Men	Women	Aboriginal & Torres Strait Islander People	People from Racial, Ethnic, Ethno-Religious Minority groups	People whose Language First Spoken as a Child was not English	People with a Disability	People with a Disability requiring Adjustment at Work
\$28,710 - \$37,708	10	8	5	5	0	2	2	1	1
\$37,709 - \$42,156	70	68	12	58	2	24	18	4	0
\$42,157 - \$53,345	29	29	6	23	1	9	7	2	2
\$53,346 - \$68,985	36	35	12	24	0	9	6	2	0
\$68,986 - \$86,231	10	10	3	7	0	1	0	1	0
> \$86,231 (non-SES)	2	2	0	2	0	0	0	0	0
> \$86,231 (SES)	1	1	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>158*</b>	<b>153</b>	<b>38*</b>	<b>120*</b>	<b>3</b>	<b>46*</b>	<b>34*</b>	<b>10</b>	<b>3</b>

REGISTRY STAFF BY EMPLOYMENT BASIS**									
Level	Total Officer	Officer responding to EEO data	Men	Women	Aboriginal & Torres Strait Islander People	People from Racial, Ethnic, Ethno-Religious Minority groups	Peoples whose Language First Spoken as a Child was not English	People with a Disability	People with a Disability requiring Adjustment at Work
<u>Permanent</u>									
Full Time	122	120	31	91	3	39	27	9	2
Part Time	20	20	2	18	0	3	3	1	1
<u>Temporary</u>					0				
Full Time	12	10	4	8	0	4	4	0	0
Part Time	3	2	1	2	0	0	0	0	0
SES	1	1	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>158</b>	<b>153</b>	<b>38*</b>	<b>120*</b>	<b>3</b>	<b>46</b>	<b>34</b>	<b>10</b>	<b>3</b>

OFFICER CLASSIFICATION PROFILE TO JUNE 2003	
SES	1
Senior Officers	2
Statutory Appointees – Full Time	25
Statutory Appointees – Part Time	105
Legal Officers	2
Clerks	153
<b>Grand Total</b>	<b>288</b>

\* Totals provided only where staff may be identified

\*\* Information provided by the Office of Fair Trading

financial  
report

## Expenditure And Revenue Report

<b>Expenditure</b>	<b>\$'000</b>
<b>Salary and Related Payments</b>	
Salaries	5,667
Statutory Appointees	5,594
Employment Agencies/Security Services	1,279
Annual Leave	760
Overtime	37
Meal Allowance	5
Long Service Leave	504
Superannuation	1,156
Workers Compensation	178
Payroll Tax	853
Fringe Benefit Tax	87
	16,120
<b>Operational Expenditure</b>	
Office Accommodation	3,014
Postage and Couriers	371
Telephones	270
Minor Computer Purchases and Consumables	377
Fees	1,285
Training and Development Fees	40
Motor Vehicle Expenses	113
Travel Expenses	376
Minor Equipment, Consumables and Stores	505
Minor Miscellaneous Expenses	161
	6,512
Depreciation	1,072
<b>Total Operational Expenses</b>	<b>23,704</b>
Administrative On Costs	3,225
<b>Total Recurrent Expenditure</b>	<b>26,929</b>
Capital Expenditure	475
<b>TOTAL EXPENDITURE</b>	<b>27,404</b>
<b>Revenue</b>	
Lodgement Fees	(1,713)
Contribution from Consolidated Funds	(8,795)
Contribution from Rental Bond Board	(7,877)
Contribution from Statutory Interest Account	(7,947)
	(26,332)
Net Cost of Services	1,072
Less Non Cash Transactions Depreciation	1,072
<b>CASH DEFICIT</b>	<b>0</b>



# consumer trader and tenancy tribunal

[www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au)

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For the Hearing Impaired TTY: 02 9641 6521

**Sydney Registry**

Level 12, 175 Castlereagh Street  
Sydney NSW, 2000  
GPO Box 4005, Sydney 2001

**Parramatta Registry**

Level 2, 10 Valentine Avenue  
Parramatta NSW 2150  
PO Box 4117, Parramatta 2124

**Hurstville Registry**

Level 3, 4 - 8 Woodville Street  
Hurstville NSW 2220  
PO Box 148, Hurstville BC 1481

**Wollongong Registry**

Level 3, 43 Burelli Street  
Wollongong NSW 2500  
PO Box 319, Wollongong 2520



**Liverpool Registry**

Level 3, 33 Moore Street  
Liverpool NSW 2170  
PO Box 723, Liverpool BC 1871

**Penrith Registry**

Level 1, 308 High Street  
Penrith NSW 2750  
PO Box 988, Penrith 2751

**Tamworth Registry**

Suite 3 - 5, Kable Corner Complex  
Cnr Kable Ave & Darling St.  
PO Box 1033 Tamworth NSW 2340

**Newcastle Registry**

Level 1, 175 Scott Street  
Newcastle NSW 2300  
PO Box 792, Newcastle 2300