

consumer trader and tenancy tribunal



CTTT

Consumer, Trader &
Tenancy Tribunal

annual report
2004 - 2005

Minister's Foreword



The Consumer, Trader and Tenancy Tribunal has completed its third full year of operation and has consolidated its role as one of the major pillars of the New South Wales justice system.

The Tribunal plays a vital role in determining disputes in NSW. It has been assigned a number of important areas within the civil jurisdiction and is the primary decision-making body with powers to determine disputes across a wide spectrum of civil disputes.

The Tribunal continues to provide an excellent service to the people of NSW, receiving approximately 60,000 applications during the reporting year. It has maintained its capacity to respond to and deal with applications in an expeditious manner and this is reflected in the large number of matters resolved or determined within the target time frames, with 77% of all matters finalised at or before the first hearing.

The service the Tribunal provides is critical in the resolution of a variety of contractual disputes experienced by consumers and traders. The Tribunal is an independent decision-making body that complements the Government's policies for a fair market place and I commend the continued improvement in performance.

Congratulations to all Members and officers of the Tribunal on their achievements during the year.

Diane Beamer
Minister for Fair Trading

Letter to the Minister



CTTT
Consumer, Trader &
Tenancy Tribunal

Minister for Fair Trading

Dear Minister

I am pleased to present the fourth 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 requirements 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 & Tenancy Tribunal

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Chairperson's Report

During the Consumer, Trader and Tenancy Tribunal's third full year of operation, the Tribunal remained one of the highest volume jurisdictions in Australia. Developments during the year have resulted in strengthened and improved operations, increased efficiency and enhanced dispute resolution services.

The demand for the Tribunal's services continued in 2004-2005 with 60,114 applications received, representing a small increase of 0.3% from 2003-2004. Additionally, in 2004-2005 77% of matters were finalised either before or at the first hearing.

These applications were lodged in all of the Tribunal's eight Divisions, with the Tenancy Division once again topping the divisional charts with 76.7% of the total applications received. Of the applications received, 24% were managed by the Sydney Registry and the remaining 76% managed by the Tribunal's seven Regional and Metropolitan Registries located at Hurstville, Liverpool, Newcastle, Parramatta, Penrith, Tamworth and Wollongong.

The Tribunal has continued to refine its processes and maximise the use of technology. The continued and expanded use of the InCourt case management system and on-line lodgement of applications has assisted greatly in enabling the Tribunal to provide a better service to parties.

The InCourt system allows orders to be provided to parties immediately after a hearing in Tenancy Division matters. A trial of the InCourt facility was conducted at the Gosford Office of Fair Trading, a non-Registry hearing venue, during the year and it is envisaged the facility will be expanded to other non-Registry locations across the State when resources become available. The Tribunal will also continue to explore the expansion of the facility for use in other Divisions. In this reporting period the Tribunal was granted funding to ensure this can happen as part of an upgrade of the case management system.

On-line lodgement of applications has continued to develop, with approximately 22% of all applications being lodged online. Currently this service is available for the Tenancy and Residential Parks Divisions but this will expand to other Divisions as part of the case management system overhaul.

Accessibility of the Tribunal's services remained a priority with the Tribunal conducting hearings at 85 venues throughout New South Wales. The Tribunal's website provides an invaluable on-line service to its clients. The website ensures equitable and prompt provision of information regarding Tribunal procedures, a listing calendar and hearing lists, as well as access to published decisions, application forms and relevant legislation. During 2004-2005 there were over 79,000 visitors to the website, an increase of 128% compared with last year.

The Tribunal introduced a pilot program in the Residential Parks Division with the aim of increasing access and timeliness in the conciliation and hearing of these complex multiparty disputes. The pilot also aims to increase park residents' and park owners' knowledge of the issues involved, the legislation governing these matters and the Tribunal's procedures for resolving these complex disputes. It is hoped the program will continue to assist in the timely resolution of matters coming before the Tribunal.

The Tribunal has continued to develop ways of informally resolving disputes. Within the official staffing arrangements, the organisation has established permanent Deputy Registrar (Conciliator) positions in Newcastle/Gosford, Penrith/Western Suburbs, Hurstville/Wollongong and Liverpool/Campbelltown. These are the kind of front-line services that the public seeks because they provide assistance to help parties resolve their disputes. This initiative has been commended by the public and organisations representing parties appearing before the Tribunal.

Chairperson's Report

Additionally, the Tribunal has adopted differential case management strategies to accommodate legislative and operational requirements in its eight Divisions and to ensure all proceedings are fair, informal and efficient.

The strong relationship between the Tribunal and the community has continued to develop during the year. Thirteen informal information sessions were conducted across New South Wales. The Tribunal also facilitated Divisional and Regional Consultative Forums on issues directly related to the operation of the eight Divisions for which it has legislative responsibility.

Members and staff have continued to undertake training and professional development activities to maintain and enhance their skills. These skills and dedication to the task at hand are the reason the Tribunal remains at the forefront of providing equitable, accessible, expeditious and affordable justice to the people of New South Wales.

Kay Ransome

Chairperson

Tribunal Jurisdiction

Objects of the Act

The Consumer, Trader and Tenancy Tribunal commenced operation on 25 February 2002. Its powers, functions and procedures are set out in the *Consumer, Trader and Tenancy Tribunal Act 2001* (the Act) and the *Consumer, Trader and Tenancy Tribunal Regulation 2002* (the Regulations).

The objects of the Act are set out in s3:

- (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.

The Tribunal's purpose is defined by the objects of the Act. The Tribunal measures its capacity to achieve its legislative purpose with reference to, amongst other things, the ease of access to its services and the quality of the information it provides. The Tribunal is committed to providing efficient and effective proceedings fairly and in an informal and expeditious manner. The Tribunal continues to provide quality and consistency in decision-making.

To allow ready access to its services the Tribunal conducts hearings in approximately 85 venues across New South Wales. Application fees vary across the eight Divisions of the Tribunal. However, the majority of applications made to the Tribunal attracted a small lodgement fee of \$29. All hearings are open to the public. The Tribunal promotes the use of electronic orders issued to the parties on the day of hearing and the Tribunal publishes its written decisions on its website. Those features ensure the transparency, consistency and accessibility of Tribunal proceedings and decisions. The Tribunal installed facilities for digital sound recording of hearings to ensure recordings are readily available to parties attending hearings.

Additionally, the Tribunal continues to refine the information provided to parties in its application forms, Chairperson's Directions and information sessions. The statistical information provided in this report also demonstrates the Tribunal's commitment to expeditious and inexpensive proceedings with particular reference to differential case management including listing procedures.

Legislation

The Tribunal is not a tribunal of general jurisdiction. It can only determine disputes over which it has specifically been given jurisdiction. As at 30 June 2005 the following Acts conferred 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

Tribunal Jurisdiction

Credit (Home Finance Contracts) Act 1984

Fair Trading Act 1987

Holiday Parks (Long-Term Casual Occupation) Act 2002

Home Building Act 1989

Landlord and Tenant (Rental Bonds) Act 1977

Motor Dealers Act 1974

Motor Vehicle Repairs Act 1980

Pawnbrokers and Second-hand Dealers Act 1996

Property, Stock and Business Agents Act 2002

Residential Parks Act 1998

Residential Tenancies Act 1987

Retirement Villages Act 1999

Strata Schemes Management Act 1996

Travel Agents Act 1986

New and Amended Legislation

During the reporting period new legislation and amendments to several existing Acts increased the Tribunal's jurisdiction.

Consumer Credit Administration Amendment (Finance Brokers) Act 2003

The *Consumer Credit Administration Amendment (Finance Brokers) Act 2003* commenced on 1 August 2004 and made amendments to the *Consumer Credit Administration Act 1995* and the *Credit (Finance Brokers) Act 1984* was repealed.

In summary, under the *Consumer Credit Administration Amendment (Finance Brokers) Act 2003*:

- A finance broker cannot negotiate credit on behalf of a consumer until that person has signed a written contract that contains details of the credit they want the broker to obtain on their behalf.
- A finance broker must provide up-front disclosure of commissions they receive from the credit providers they deal with as well as soft commissions such as tickets to the football or free holidays.
- If a finance broker requires a commission from the consumer directly, they cannot demand an up-front payment. Fees can only be paid after the credit is obtained and the credit matches the terms and conditions as outlined in the contract.

Tribunal Jurisdiction

The finance broking contract must record:

- The total or maximum amount of credit the client wants;
- The term of the loan;
- The maximum periodic repayment the client is prepared to pay (including repayment charges);
- The maximum interest rate the client will accept;
- The date by which the credit is to be secured;
- Any specific features the client wants in the credit product (such as a redraw facility).

Before a client enters into a credit contract, the broker must disclose:

- The amount of financial or other benefit the finance broker will receive from the credit provider;
- Whether or not the broker can determine or recommend conditions (eg interest rate, fee or term of the loan) and the effect of any such conditions on the amount the broker will receive from the credit provider;
- Any financial or other benefit that a person, other than the broker, (eg an employer of the broker or company) will receive from the credit provider, if the benefit is likely to influence the broker's recommendations;
- Any other interests or relationships that may influence the broker's recommendations.

A consumer can apply to the Tribunal if he or she considers a broker has charged excessive commission, breached the terms of the contract or engaged in unjust conduct.

Property Stock and Business Agents Act 2002

The *Statute Law (Miscellaneous Provisions) Act 2004* commenced on 6 July 2004, making amendments to the *Property Stock and Business Agents Act 2002*.

Sub-sections 55(4) and 55(5) of the *Property Stock and Business Agents Act 2002* permit the Tribunal "before which a licensee is a respondent to a consumer claim relating to commission or expenses" to order that the commission or expenses are wholly or partly recoverable despite the failure of the licensee to comply with s55(1)(c).

The amendments ensure that the s55(1)(c) requirement, in relation to the service of the agency agreement, may be waived in consumer claim proceedings under s36 (which relates to commission or expenses) in which the licensee is the respondent.

Strata Schemes Management Amendment Act 2004

The *Strata Schemes Management Amendment Act 2004* commenced on 7 February 2005 and included a large package of reforms to strata scheme management. The most significant amendments are listed below:

- Provision for special rules for the operation of schemes with 100 lots or more including mandatory auditing of accounts, quotes to be obtained for items of high expenditure and limiting expenditure in large schemes to no more than 10% above budget on specific items.
- All new strata schemes are now required to prepare and budget for ten year sinking fund plans.
- Limits an Executive Committee's powers to commence some legal actions and costs of legal action to be advised to all lot owners.
- Streamlines mediation requirements, so mediation is no longer required for unit entitlements, the appointment of strata managing agents and some other matters.
- Adjudicators can order access for fire inspections.
- Owners Corporations to keep records for five years.
- Strata retirement villages must disclose rates of levies to prospective residents.

Tribunal Jurisdiction

Consumer Credit (New South Wales) Regulations

The jurisdictional limit of the Tribunal in the Commercial Division varies according to the type of application that is lodged. On 5 November 2004 the jurisdictional limit of the Tribunal changed for hardship applications. The hardship threshold applies when a consumer cannot make loan repayments due to hardship, such as illness, unemployment or other reasonable cause but could pay the debt if the terms of the credit contract were changed.

The threshold is now a floating threshold linked to an Australian Bureau of Statistics index of the cost of new houses in Sydney. The hardship threshold is equal to 110% of the average loan size for the purchase of new dwellings. As at 30 June 2005 the threshold was \$302,830.

Home Building Regulation 2004

The *Home Building Regulation 2004* commenced on 1 September 2004, replacing the *Home Building Regulation 1997*.

Part 2 of the *Home Building Regulation 2004* provides definitions for the purposes of the *Home Building Act 1989*. Clause 5 provides an extensive list of definitions of “dwelling” as applied in section 3(1) of the *Home Building Act 1989*.

Part 6 of the *Home Building Regulation 2004* provides for the resolution of building disputes and building claims. Clause 78 provides that a warning notice to licence holders is to be placed on Tribunal orders made under Part 3A of the *Home Building Act 1989*. The warning notice is to be displayed in the following format:

You must notify the Office of Fair Trading's Home Building Service in writing when you have complied with this order (for example, when you have done the work or paid the money). If you do not notify the Home Building Service, your public record will show that you have failed to comply with the order and you may be unable to renew your licence when it expires. You can be fined up to \$22,000 if you falsely claim you have complied with this order.

The Tribunal

Structure

The Tribunal's membership consists of a Chairperson, two Deputy Chairpersons, Senior Members and Members. The Chairperson is the executive officer of the Tribunal and is responsible for its overall operation and administration. The Chairperson is responsible for the effective and efficient operation of the Tribunal and is assisted by the Deputy Chairpersons, Tribunal Members and the Registrar.

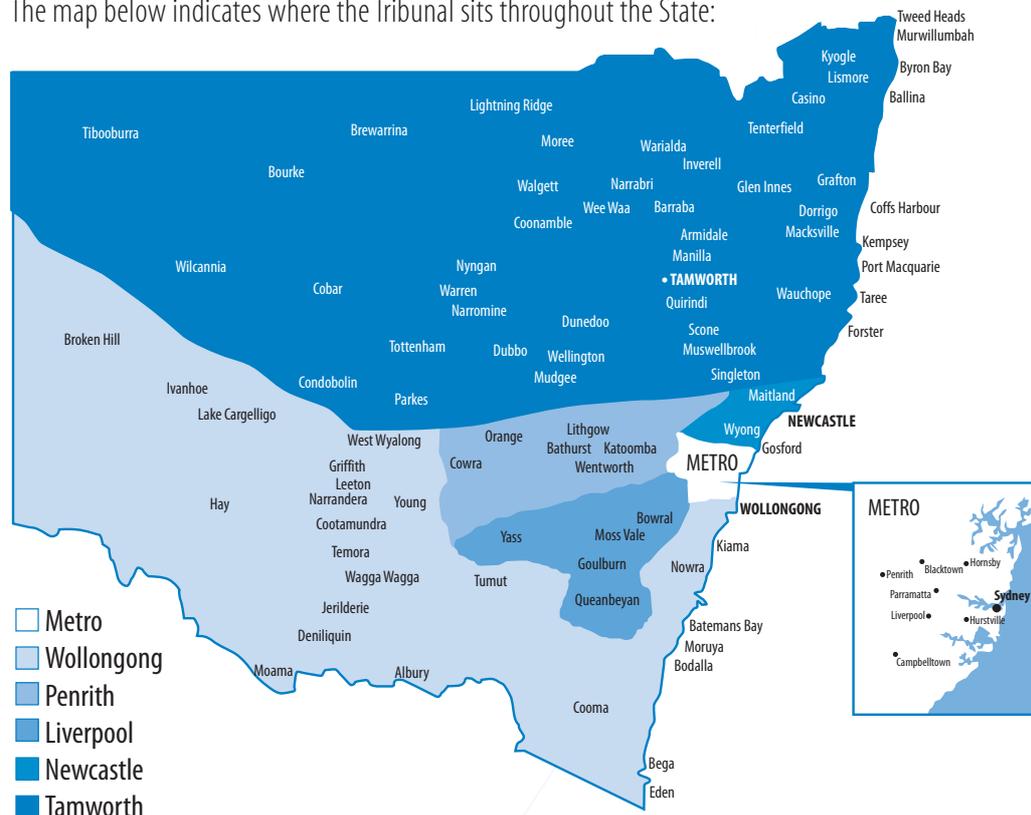
The Deputy Chairperson (Determinations) is responsible to the Chairperson and deals with issues relating to the Members of the Tribunal. The Deputy Chairperson (Registry and Administration) is responsible to the Director-General for the effective and equitable management of staff and resources.

All Tribunal Members, except for the Deputy Chairperson (Registry & Administration), are appointed by the Governor on either a full-time or part-time basis. The qualifications for appointment are set out in s8 of the Act. During the year, the Tribunal's membership comprised six senior Members, 17 full-time Members, and 83 part-time Members.

The Tribunal seeks to further enhance quality and consistency, efficiencies and accessibility through the establishment of Regional Registries and hearings throughout New South Wales. Members are responsible for conducting hearings throughout New South Wales. To achieve this service, Members are based in metropolitan and regional areas.

The Tribunal has eight Regional Registries. These Registries manage geographical catchment areas. Registry staff process documents, list matters for hearing, respond to requests by parties and the public and provide administrative support to the Tribunal. The table attached on page 64 outlines the allocation of Tribunal Members to the eight Tribunal Registries and its two permanent hearing venues at Campbelltown and Gosford.

The map below indicates where the Tribunal sits throughout the State:



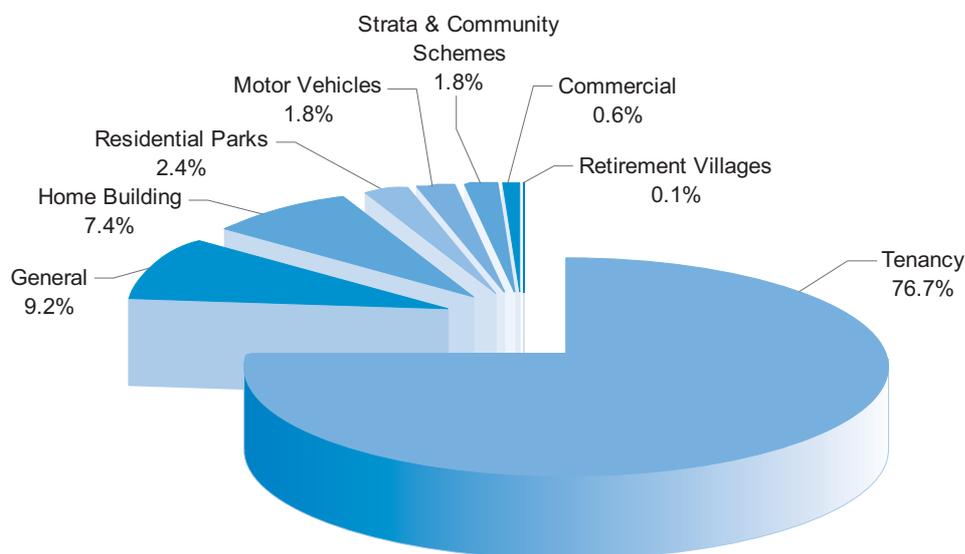
Overview of Tribunal Workload for 2004-2005

In 2004-2005, the Tribunal received a total of 60,114 applications and finalised 66,044 matters. The table below provides the break up of applications received and applications finalised in each of the eight Divisions.

Division	Applications received	Applications finalised
Tenancy	46125	52481
General	5506	5682
Home Building	4446	4361
Residential Parks	1439	1067
Motor Vehicles	1064	1080
Strata & Community Schemes	1090	951
Commercial	390	376
Retirement Villages	54	46
Total for Tribunal	60114	66044

Divisional Percentage

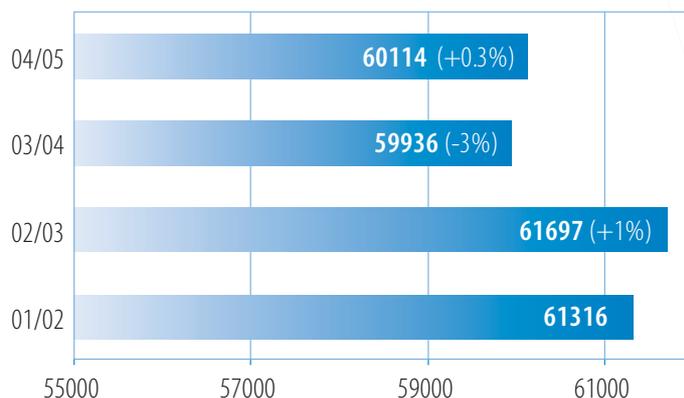
The Tribunal's diverse jurisdiction requires differential case management to reflect the requirements of the legislation and the needs of the parties. The Tribunal considers factors such as the volume of applications and the legislative complexity when determining listing procedures. The chart below indicates the percentage of applications made to each Division of the Tribunal.



Overview of Tribunal Workload for 2004-2005

Yearly Lodgement Comparison

In the past year the lodgement of applications to the Tribunal stabilised. The slight increase in application numbers is referable to applications lodged in the Home Building, Residential Parks, Strata and Community Schemes and Retirement Villages Divisions.



Applications Finalised

The table below shows the number of days taken by the Tribunal to finalise applications from the day of lodgement.

DIVISION	0 - 28 Days	29 - 35 days	36 - 49 Days	50 + days	Total
Tenancy	37723	2410	3131	9217	52481
General	2603	574	585	1920	5682
Home Building =<\$25K	1066	292	350	1702	3410
Home Building >\$25K	37	14	19	427	497
Home Building other	256	25	18	155	454
Motor Vehicles	190	153	229	508	1080
Residential Parks	336	45	119	567	1067
Strata & Community Schemes	227	48	83	593	951
Commercial	149	44	28	155	376
Retirement Villages	8	5	4	29	46
Total for Tribunal	42595	3610	4566	15273	66044

Withdrawals

The table below indicates the number of matters withdrawn before or at hearing, including the percentage of withdrawals referable to final orders made by the Tribunal.

TOTAL NUMBER OF WITHDRAWN MATTERS			
WITHDRAWN BEFORE HEARING	WITHDRAWN AT HEARING	TOTAL WITHDRAWAL ORDERS	% OF WITHDRAWALS TO FINAL ORDERS
5018	5475	10493	16%

Overview of Tribunal Workload for 2004-2005

Percentage of Matters Finalised at First Hearing

The percentage of finalised matters at hearing (also known as "Attendance Index") illustrates the number of times attendance at the Tribunal is required by the parties to finalise the application. The overall attendance index of 77% demonstrates that the vast majority of matters in the Tribunal are finalised at first hearing.

DIVISION	% Finalised at First Hearing
Tenancy	79%
General	74%
Home Building	66%
Motor Vehicles	54%
Residential Parks	83%
Strata & Community Schemes	71%
Commercial	73%
Retirement Villages	89%
All Divisions	77%

Clearance Ratio

The clearance ratio relates incoming applications with the Tribunal's capacity to finalise its cases. The table demonstrates that the Tribunal is not developing a backlog of matters to be dealt with.

- 100% = keeping up with workload
- >100% = reducing existing workload
- <100% = accumulating cases

DIVISION	CLEARANCE RATIO
Tenancy	102%
General	102%
Home Building	96%
Motor Vehicles	72%
Residential Parks	101%
Strata & Community Schemes	86%
Commercial	93%
Retirement Villages	85%
All Divisions	101%

Overview of Tribunal Workload for 2004-2005

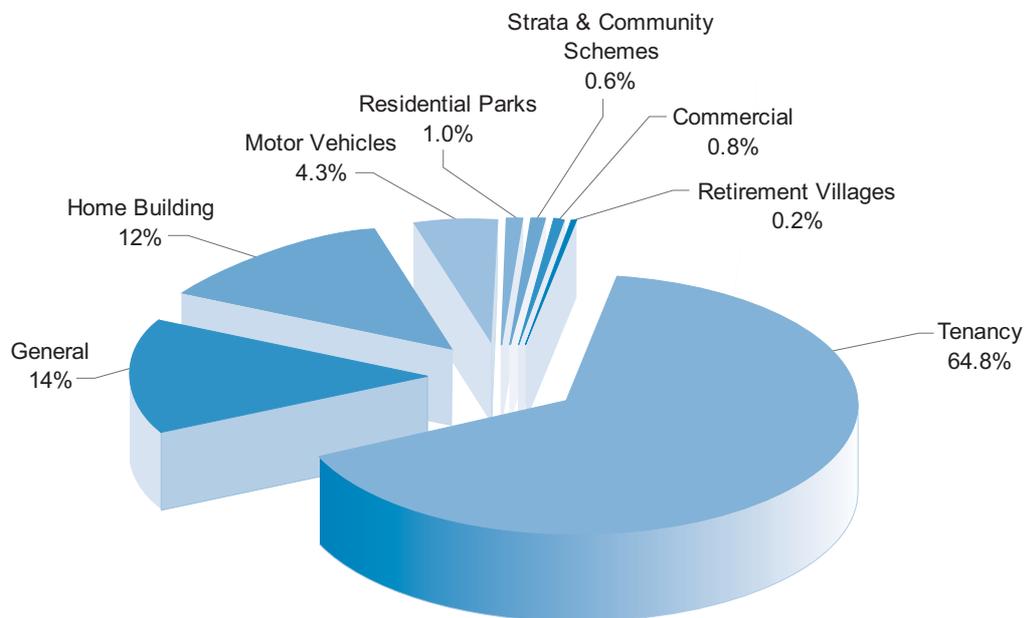
Rehearing Applications

Under s68 of the Act, a party to finalised proceedings may apply to have a matter reheard on the grounds that they may have suffered a substantial injustice.

Of the 60,114 applications received in 2004-2005, 1,832 (3%) were rehearing applications.

Division	New Applications	Rehearings	TOTAL
Tenancy	44939	1186 (3%)	46125
General	5239	267 (5%)	5506
Home Building	4194	252 (6%)	4446
Motor Vehicles	985	79 (8%)	1064
Residential Parks	1421	18 (1%)	1439
Strata & Community Schemes	1078	12 (1%)	1090
Commercial	375	15 (4%)	390
Retirement Villages	51	3 (6%)	54
Total	58282 (97%)	1832 (3%)	60114

Rehearing Applications Lodged by Division



Overview of Tribunal Workload for 2004-2005

Rehearing Determinations

Division	Rehearing Applications	Rehearings Refused	Rehearings Approved	Percentage of Applications Approved
Tenancy	1186	659	257	28%
General	267	160	45	22%
Home Building	252	154	25	14%
Motor Vehicles	79	43	14	25%
Residential Parks	18	13	1	7%
Strata & Community Schemes	12	9	3	25%
Commercial	15	7	1	13%
Retirement Villages	3	2	0	0%
Total	1832	1047	346	25%

NB: Applications lodged during the reporting period may not have been determined during the same period.

Supreme Court Appeals

A party may appeal to the Supreme Court against a Tribunal decision with respect to a question of law.

The Tribunal was notified of 61 appeals to the Supreme Court in relation to its decisions. The Supreme Court finalised 53 Tribunal appeals. Of these matters, 40 appeals were dismissed, 4 were remitted to the Tribunal for rehearing and nine appeals orders were substituted.

The Tribunal publishes a regular Bulletin, which outlines significant decisions and which is available on the Tribunal website <http://www.fairtrading.nsw.gov.au/corporate/cttt/publications.html>.

Additionally, Supreme Court decisions can be found at: <http://www.lawlink.nsw.gov.au/caselaw.nsf/pages/sc>

Outstanding appeals to the Supreme Court by Division as at 30 June 2005:

Division	Number	%
General	6	20
Home Building	13	44
Motor Vehicles	1	3
Residential Parks	0	0
Commercial	0	0
Tenancy	10	33
Retirement Villages	0	0
Strata and Community Schemes	0	0
TOTAL	30	100

Divisional Reports - Tenancy

Tenancy Division

The Tenancy Division hears disputes between landlords and tenants including applications for termination and vacant possession, compensation and rental bond disputes and excessive rent disputes.

This Division determines the highest volume of matters lodged with the Tribunal, forming 76.7% of the Tribunal's overall workload. During this reporting period this Division received 46,125 applications and finalised 52,481 applications.

Jurisdiction and Legislation

The Tenancy Division has jurisdiction to deal with matters under the following Acts:

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

The time limit for lodging an application in the Tenancy Division is 30 days of becoming aware of the event or breach. The maximum claim in the Division is \$20,000 in respect of rental bond or \$10,000 in respect of any other matter.

Differential Case Management

Members

All Tribunal Members determine matters in the Tenancy Division.

Application Forms

The Tribunal has developed specific application forms to assist parties to meet the legislative requirements in lodging an application in the Tenancy Division. These forms include applications for termination and possession of the premises and a general application form.

In April 2005 the Tribunal designed and published on its web site a specialist application form for rental bond claims, as a significant proportion (8.6%) of applications in the Tenancy Division relate to rental bonds.

Dispute Resolution Methods

Applications to the Tenancy Division are managed expeditiously. These matters are listed within 21 days of lodgement. Informal dispute resolution procedures are applied to resolve these matters without recourse to formal hearing. Conciliators are available to assist parties in reaching a consent agreement.

Electronic Service Delivery

Applications in the Tenancy Division continued to be lodged on-line during the reporting year with 14,870 (32%) of the Division's applications lodged electronically this year. The Department of Housing lodged 8,629 (64%) and the remaining 5,396 (36%) were lodged by other users such as agents, tenants and tenants' advice services.

The Tribunal promotes its electronic lodgement service at all information sessions. This appears to have resulted in the increase in applications made on-line.

Divisional Reports - Tenancy

Additionally, the Tribunal utilises InCourt facilities in the hearing rooms of all eight Tribunal Registries. This facility allows parties to obtain written copies of the Tribunal's orders at the conclusion of the hearing. A trial of the InCourt facility was conducted at the Gosford Office of Fair Trading, a non-Registry hearing venue, during the year.

Case Studies

Case study (1)

The parties had entered into an unusual tenancy agreement in respect of premises in a highly sought after holiday location, at a rent of \$750 per week. Part of the agreement involved the tenants vacating the premises for set periods for previously arranged holiday rentals at rents of up to \$3,000 per week. The fixed term ran to mid-October 2004.

The tenant, Mr C, complained to the landlord, Mr D, that the house was of a faulty design and allowed water to come in. The tenant gave notice to the landlord and handed back the keys in July 2004 during the fixed term.

The Claim

The landlord, Mr D, argued that the tenancy had not been terminated by the notice and that the tenant had abandoned the premises. The landlord claimed compensation for the loss of rent to the end of the fixed term.

The Outcome

The Tribunal found the tenant had abandoned the premises. The Tribunal noted the landlord's obligation to mitigate his loss and to take reasonable steps to find a new tenant for the premises. The landlord was not obliged to accept offers from prospective tenants for periods which went beyond October at the same rent.

The landlord's loss of rent would have been \$11,000; he received \$4,000 for holiday rentals, reducing the claim to \$7,000. The landlord only made a claim for the bond in satisfaction of the debt. An order was made for payment of the whole bond to the landlord.

Case study (2)

Tenant Mr C had lived in a former railway station since 1980. He claimed the station was in a state of disrepair when he moved in and, over the years, he undertook considerable repairs at his own expense, including plumbing, flooring, locks and planting trees and lawn. A formal residential tenancy agreement was entered into in 2000.

The Claim

The landlord served a notice of termination giving the tenant 60 days to vacate. The tenant did not vacate and the landlord lodged an application for an order ending the tenancy and taking possession of the premises.

The Outcome

The Tribunal heard the matter with both parties giving evidence by telephone. The Tribunal found that the landlord had given the tenant a valid notice of termination. The Tribunal noted the landlord did not allege that the tenant had seriously or persistently breached the residential tenancy agreement.

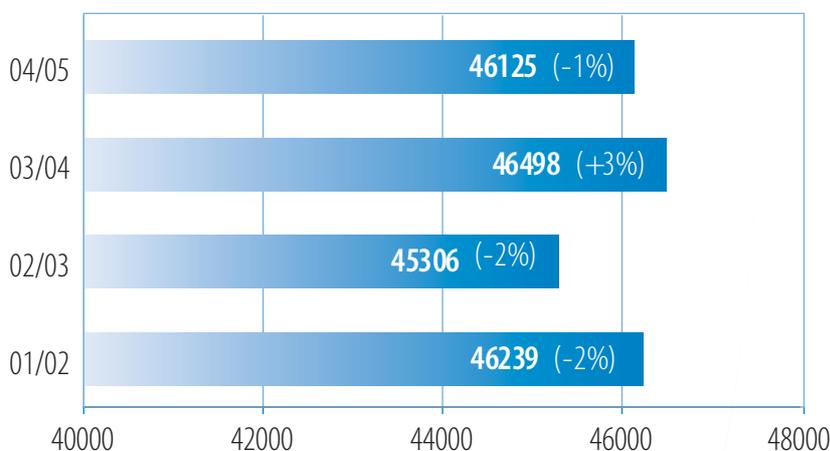
Divisional Reports - Tenancy

The Tribunal stated that before making an order for termination it must be satisfied on the balance of probabilities that, having considered the circumstances of the case, it was appropriate to terminate the tenancy, pursuant to section 64(2)(c) of the *Residential Tenancies Act 1987*. The Tribunal relied on *Swain's* case in the New South Wales Court of Appeal where Meagher JA stated "I think it can be fairly stated that the Act is intended to balance the rights of landlords and tenants. The argument urged against accepting Rolfe J's interpretation of s64(2) is that it could be unduly harsh on the landlord. That argument fails as hardship to the landlord is something which the Tribunal must consider as part of the 'circumstances of the case'".

The Tribunal considered the particular circumstances, which included that the tenant had occupied the premises for a period of over 20 years, was in poor health. The tenant could not drive a motor vehicle but could walk from the premises to his work and the Tribunal noted the tenant's improvements to the premises. The Tribunal established that while the tenant could possibly find alternate accommodation, it would cause him distress to do so. Also, the Tribunal found that the landlords did not require the premises for any other persons and did not provide any further reasons for requiring the property back. The Tribunal weighed up all the circumstances of the case and was not satisfied on the balance of probabilities that it was appropriate to terminate the residential tenancy agreement.

Yearly Lodgement Comparison

Applications to the Tenancy Division were relatively stable in the reporting period.



Divisional Reports - Tenancy

Lodgements

The Tribunal received 46,125 Tenancy Division applications during the financial year.

Application Type	lodged by Landlords	lodged by Tenants	lodged by Occupants	Total	Percentage %
Termination – Other	28716	371	0	29087	63.06
Termination – Nuisance & Annoyance	177	0	0	177	0.38
Termination – Hardship	0	197	0	197	0.43
Breach/Compensation	8322	1857	0	10179	22.07
Rental Bond	1894	1989	0	3883	8.42
Excessive Rent/Increase	0	410	0	410	0.89
Abandoned Premises/Goods	163	0	0	163	0.35
Other	340	417	0	757	1.64
Recognition as a Tenant	0	0	37	37	0.08
Renewal	12	37	0	49	0.11
Sub Total	39624	5278	37	44939	97.43
Rehearing	258	919	9	1186	2.57
Grand Total	39882	6197	46	46125	100.00

Application Fees

\$29 for all tenancy dispute matters

\$5 for eligible pensioners

The application fee will rise to \$30 from 1 July 2005.

Applications managed throughout NSW:

Registry	No. of applications
Sydney	10,774
Penrith	6,305
Newcastle	5,784
Liverpool	6,506
Hurstville	3,646
Parramatta	3,505
Wollongong	4,714
Tamworth	4,891
TOTAL	46,125

Divisional Reports - Tenancy

Finalised

The Tribunal made orders finalising 52,481 Tenancy Division matters during the financial year.

Order outcomes

Order Types	Number	Percentage %
Withdrawn at hearing	4,547	8.66
Withdrawn before hearing	3,132	5.97
Dismissal	3,780	7.20
Termination	10,656	20.30
Rental Bond	2,466	4.70
Specific performance	3,284	6.26
Money order	19,482	37.12
Abandoned premises and goods	78	0.15
Excessive rent or increase	20	0.04
Rehearing approved	257	0.49
Rehearing refused	659	1.26
Other	4,120	7.85
Total	52,481	100.00

Divisional Reports - General

General Division

The General Division deals with consumer disputes relating to the supply of goods and services. The Division also deals with claims by pawnbrokers against restoration notices issued by the NSW Police and disputes between holiday park owners and long-term casual occupants of premises within the park.

During the reporting period this Division received 5,506 applications and finalised 5,682 applications representing 9.2% of the Tribunal's overall workload.

Jurisdiction and Legislation

The General Division has jurisdiction to deal with matters under the following Acts:

- *Consumer Claims Act 1998*
- *Pawnbrokers and Second-hand Dealers Act 1996*
- *Holiday Parks (Long-term Casual Occupation) Act 2002*

The jurisdiction under the *Consumer Claims Act 1998* is limited to applications by consumers, as defined by that Act, and cannot be used for debt recovery by the 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.

One of the most significant changes in the last year was the decision by the NSW Supreme Court in *Oubani v MCI Technologies Pty Ltd* [2004] NSWSC 733. This judgement clarified that, under the *Consumer Claims Act*, the Tribunal's jurisdiction may arise where goods or services are supplied to a consumer in NSW, irrespective of where the contract was made.

The time limit for lodging an application under the *Consumer Claims Act* is three years from date of supply of goods or services supplied in NSW. The maximum claim allowed for consumer claims is \$25,000. There is no jurisdictional limit under the *Pawnbrokers and Second-hand Dealers Act* and the *Holiday Parks (Long-term Casual Occupation) Act* and different time limits apply.

Differential Case Management

Members

All Tribunal Members determine matters in the General Division.

Dispute Resolution Methods

In general these matters are listed within 28 days of lodgement. Informal dispute resolution procedures are applied to resolve these matters without recourse to formal hearing. Conciliators are available to assist parties in reaching a consent agreement.

The Tribunal recognises that parties to a dispute in the General Division may reside or conduct their business in locations throughout NSW or interstate. Accordingly, if satisfied that it is appropriate to do so, the Tribunal will conduct a telephone hearing to ensure that all parties to a dispute are able to present their case expeditiously and economically.

Divisional Reports - General

Electronic Service Delivery

The Tribunal utilises InCourt facilities throughout all Divisions in the hearing rooms of all eight Tribunal Registries. This facility allows parties to obtain written copies of the Tribunal's orders at the conclusion of the hearing. A trial of the InCourt facility was conducted at the Gosford Office of Fair Trading, a non-Registry hearing venue, during the year.

Case Studies

Case study (1)

Mr J purchased a light fitting from B Pty Ltd. The light was installed over a dining room table with a glass top. Three months later the light shattered causing damage to the table top. The light was replaced by B Pty Ltd. Two months later the second light also shattered causing further damage to the table top.

The claim

Mr J sought a refund of the purchase price of the light fitting and the cost of replacement of the glass table top.

The outcome

The Tribunal was satisfied that there was no evidence that the light had been incorrectly installed. An electrician could find no faults in the connections or wiring. The light components produced by Mr J showed that the metal parts were severely heat affected. The Tribunal formed the view that it was more probable than not that the glass insulator within the light did not adequately dissipate the heat generated by the halogen bulb and that this caused the glass to shatter. The Tribunal found that the light fitting was not fit for the purpose for which it was sold and that Mr J was entitled to a refund of the purchase price.

The Tribunal also found that that it was reasonably foreseeable that the light fitting was likely to be installed as a feature light over a table and that any failure of the light fitting would damage the table below. Mr J was entitled to the cost of replacement of the glass table top.

Case study (2)

Ms S pawned a digital camera with ABC Pawnbrokers. The amount lent on the camera was \$100. At a later date Mr V, the licensee of ABC Pawnbrokers, was served with a restoration notice by the NSW Police. The notice named Mr T as the claimant.

The claim

Mr V applied to the Tribunal for an order that he retain the digital camera as pawned goods. He argued that he had accepted the camera from Ms S in good faith, that he had complied with all the requirements under the legislation and that he had no idea the goods were stolen.

Divisional Reports - General

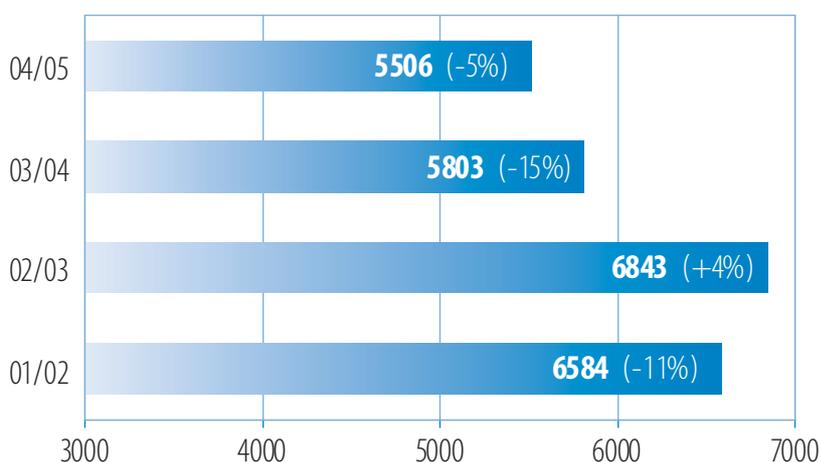
The outcome

The Tribunal accepted the evidence of Mr T, supported by an officer of the NSW Police, that his home had been broken into and a number of items had been stolen, including a digital camera of the make and model the subject of the restoration notice. The police informed the Tribunal that the thieves had not been identified and that Ms S was unable to be located. Mr T produced a receipt of purchase for a digital camera showing the same model and serial number as that on the camera pawned with ABC Pawnbrokers.

The Tribunal was satisfied that Mr T was the rightful owner of the camera and made an order that the camera be returned to him immediately. The Tribunal noted that Mr V had not acted wrongly but that Mr T was entitled to the camera as the rightful owner.

Yearly Lodgement Comparison

Applications to the General Division have been relatively stable over the past two years.



Lodgements

The Tribunal received 5,506 General Division applications during the financial year.

Application Type	lodged by Consumers	lodged by Other Parties	Total	Percentage %
Consumer Claims	4992	0	4992	90.66
Holiday Parks	19	65	84	1.53
Pawnbrokers	8	53	61	1.11
Renewal	92	10	102	1.85
Sub Total	5111	128	5239	95.15
Rehearing	126	141	267	4.85
Grand Total	5237	269	5506	100.00

Divisional Reports - General

Application Fees

\$29 for claims or disputes not exceeding \$10,000

\$59 for claims or disputes between \$10,000 and \$25,000

\$ 5 for eligible pensioners

Application fees will rise to \$30 and \$61 from 1 July 2005.

Applications managed throughout NSW:

Registry	No. of applications
Sydney	1809
Penrith	463
Newcastle	585
Liverpool	612
Hurstville	426
Parramatta	459
Wollongong	579
Tamworth	573
TOTAL	5,506

Finalised

The Tribunal finalised 5,682 General Division matters during the financial year.

Order outcomes

Order Types	Number	Percentage %
Withdrawn at hearing	601	10.58
Withdrawn before hearing	815	14.34
Dismissal	972	17.11
Termination	8	0.14
Specific performance	217	3.82
Money order	1,627	28.63
Abandoned premises and goods	10	0.18
Rehearing approved	45	0.79
Rehearing refused	160	2.82
Other	1,227	21.59
Total	5,682	100.00

Divisional Reports - Home Building

Home Building Division

The Home Building Division deals with disputes between consumers, traders and insurers concerning home building work.

During the reporting period this Division received 4,446 applications and finalised 4,361 applications. Home building disputes formed 7.4% of the Tribunal's overall workload.

Jurisdiction and Legislation

The Home Building Division has jurisdiction to deal with matters under the following Act:

- *Home Building Act 1989*

The time limit for lodging an application in the Home Building Division varies as follows: three years for building goods and services, 10 years for insurance claims, seven years for breach of a statutory warranty, and 45 days when an insurance claim is declined. The maximum claim allowed under this Division is \$500,000.

The Tribunal is required to provide the Home Building Service of the Office of Fair Trading with a copy of all orders made against a builder by the Tribunal. The Tribunal has instituted administrative arrangements to meet this legislative obligation efficiently.

New Legislation

The *Home Building Regulation 2004* commenced on 1 September 2004 replacing the *Home Building Regulation 1997* which was repealed on 1 September 2004 by s10(2) of the *Subordinate Legislation Act 1989* (for more information refer to New and Amended Legislation on page 7 of this report).

Differential Case Management

Members

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

Dispute Resolution Methods

Claims under \$25,000

Home Building Division matters continue to be primarily concerned with work that would be classified as home renovations with the majority of matters originating in the Sydney metropolitan area. However, it is clear that there is considerable residential building activity along the coastal strip. A significant proportion, 80%, of all applications relate to matters valued at less than \$25,000.

Claims over \$25 000

Matters where the amount in dispute exceeds \$25,000 make up 20% of matters within the Tribunal's Home Building Division. The issues in dispute tend to involve complaints about defective work and appeals against insurers' decisions to decline home insurance claims.

These applications may require a number of listings to deal with procedural and evidentiary matters prior to the substantive hearing and determination. However, the Tribunal continues to apply a wide range of dispute resolution strategies such as conclaves, case conferences and mediation in an endeavour to settle these matters informally.

Divisional Reports - Home Building

Published Material

The Chairperson has issued Directions with respect to the applicable procedure in home building disputes over \$25,000 in accordance with s12 of the Act. These Directions are to assist parties in preparing their cases and participating in the Tribunal process.

Electronic Service Delivery

The Tribunal utilises InCourt facilities throughout all Divisions in the hearing rooms of all eight Tribunal Registries. This facility allows the Tribunal to produce written orders at the conclusion of the hearing in appropriate matters. A trial of the InCourt facility was conducted at the Gosford Office of Fair Trading, a non-Registry hearing venue, during the year.

Case study

Mr and Mrs S (the home owners) entered into a contract with C Pty Limited (the builders) for the construction of a driveway, retaining walls and external drainage at their home. The Tribunal dealt with a claim by the home owners for damages for breach of warranties together with a claim by the builder against the home owners for payment for the work as a debt or alternatively based on quantum meruit payment for the value of the work. There was a dispute between the parties about whether there was a fixed-price contract or do and charge.

There was no dispute that C Pty Ltd was not licensed to do residential building work and there was no insurance in place as required by the *Home Building Act 1989*.

The Claim

Mr and Mrs S were unsatisfied with parts of the work, including that the amount of infill in the courtyard was excessive, the retaining walls in the rear of the house were not constructed in a proper manner and the driveway did not have the correct falls.

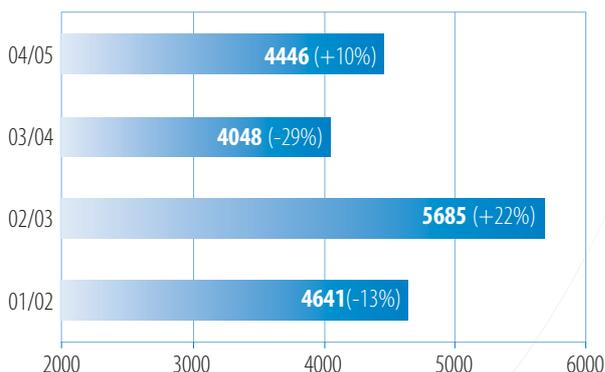
The Outcome

The Tribunal held that as C Pty Ltd was unlicensed it was not entitled to recover under the contract or on a quantum meruit basis. Further, the failure to have both a license and insurance, in these circumstances, did not make it fair and equitable to allow C Pty Ltd to recover debts.

The Tribunal did not accept the home owners' claim in relation to the infill in the courtyard, the landscaping at the rear of the house, the driveway or other minor issues. Orders for part of the builder's costs in defending the home owners' claim were made.

Yearly Lodgement Comparison

Applications to the Home Building Division increased in this reporting period.



Divisional Reports - Home Building

Lodgements

The Tribunal received 4,446 Home Building Division applications during the financial year.

Application Type	Lodged by Consumers	Lodged by Traders	Lodged by Insurer	Lodged by Other Parties	Total	Percentage %
<=\$25000	2,442	844	3	86	3,375	75.91
>\$25000	474	112	1	30	617	13.88
Rectification Order	52	2	0	0	54	1.21
Renewal	132	13	1	2	148	3.33
Sub Total	3,100	971	5	118	4,194	94.33
Rehearing	110	123	0	19	252	5.67
Grand Total	3,210	1,094	5	137	4,446	100.00

Application fees

\$29 for claims or disputes not exceeding \$10,000

\$59 for claims or disputes between \$10,000 and \$25,000

\$159 for claims or disputes exceeding \$25,000

\$5 for eligible pensioners

Application fees will rise to \$30, \$61 and \$163 from 1 July 2005.

Applications managed throughout NSW:

Registry	No. of applications
Sydney	1,333
Penrith	413
Newcastle	608
Liverpool	418
Hurstville	484
Parramatta	295
Wollongong	397
Tamworth	498
TOTAL	4,446

Finalised

The Tribunal finalised 4,361 Home Building Division matters during the financial year.

Order outcomes

Order Types	Number	Percentage %
Withdrawn at hearing	464	10.6
Withdrawn before hearing	676	15.5
Dismissal	603	13.8
Money order	1,213	27.8
Specific performance	175	4.0
Rehearing approved	25	0.6
Rehearing refused	154	3.5
Other	1,051	24.1
Total	4,361	100.0

Divisional Reports - Motor Vehicles

Motor Vehicles Division

The Motor Vehicles Division deals with disputes relating to the purchase and/or repairs of new and used motor vehicles.

During this reporting period this Division received 1,064 applications and finalised 1,080 applications. Motor vehicle disputes formed 1.8% of the Tribunal's overall workload.

Jurisdiction and Legislation

The Motor Vehicles Division has jurisdiction to deal with matters under the following Acts:

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

The time limit for lodging an application in the Motor Vehicles Division is three years. The maximum claim in the Motor Vehicles Division is \$25,000 *except* for when the dispute relates to the supply of a new motor vehicle for private use, in which case there is no monetary limit.

Differential Case Management

Members

All Tribunal Members may determine matters in this Division. However, there are some Members who specialise in motor vehicles matters. Motor vehicles matters in the Sydney Registry are usually separately group listed so that specialist Members can be allocated to hear them.

Dispute Resolution Methods

Applications to the Motor Vehicles Division are assessed to determine whether they have been referred to either the Motor Vehicle Repair Industry Authority for disputes about repairs or to the Office of Fair Trading if the dispute is about sales or warranty. Referral often results in resolution of the dispute before the matter is listed for hearing. If the matter is not resolved, both of these bodies are able to provide reports to the Tribunal. These reports may be of assistance to the Tribunal in determining the matter.

The Tribunal also applies informal dispute resolution procedures to resolve these matters without recourse to formal hearing. Conciliators are available to assist parties in reaching a consent agreement.

Electronic Service Delivery

The Tribunal utilises InCourt facilities throughout all Divisions in the hearing rooms of all eight Tribunal Registries. This facility allows the Tribunal to produce written orders at the conclusion of the hearing in appropriate matters. A trial of the InCourt facility was conducted at the Gosford Office of Fair Trading, a non-Registry hearing venue, during the year.

Divisional Reports - Motor Vehicles

Case study

Mr and Mrs E purchased a new motor vehicle from S Pty Limited for \$44,500. Over the following 18 months the vehicle was returned on approximately nine occasions for warranty repairs including brakes, interior trim, suspension, cruise control and transmission. After many attempts to repair the vehicle, the dealer refused to carry out any further work and the applicants were referred to another dealer. In total, the car had spent 88 days under repair since its purchase.

The Claim

The applicants sought orders for a refund of the full purchase price and an additional \$3,500 for time lost from work, inconvenience and embarrassment in relation to the constant need for repairs of the vehicle.

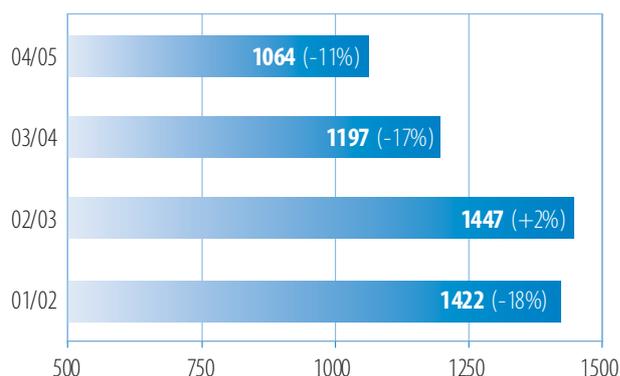
The Outcome

The Tribunal Member found there had been a large number of warrantable defects. Although a number of those defects had been attended to, there were still a significant number identified by an independent report. The outstanding defects included intermittent failure of the engine to start, inoperative cruise control and failure of dashboard warning lamps and unidentified noises from the suspension. These were in addition to a number of other more minor defects.

The Tribunal was satisfied on the evidence that the dealer had failed to correctly diagnose and correct several significant defects. The applicants were awarded a full refund of the purchase price of the vehicle. The additional amount claimed (\$3,500) was not awarded as the applicants had the use of the vehicle for almost two years and there was insufficient information provided by them to establish the additional damages claimed.

Yearly Lodgement Comparison

Applications to the Motor Vehicles Division have decreased in this reporting period.



Divisional Reports - Motor Vehicles

Lodgements

The Tribunal received 1,064 Motor Vehicles Division applications during the financial year.

Application Type	Lodged by Consumers	Lodged by Other Parties	Total	Percentage %
<=\$25000	850	0	850	79.89
>\$25000	116	0	116	10.90
Renewal	18	1	19	1.79
Sub Total	984	1	985	92.58
Rehearing	40	39	79	7.42
Grand Total	1024	40	1064	100.00

Application fees

\$29 for claims or disputes not exceeding \$10,000

\$59 for claims or disputes between \$10,000 and \$25,000

\$159 for claims or disputes exceeding \$25,000

\$5 for eligible pensioners

Application fees will rise to \$30, \$61 and \$163 from 1 July 2005.

Finalised

The Tribunal finalised 1,080 Motor Vehicles Division matters during the financial year.

Order outcomes

Order Types	Number	Percentage %
Withdrawn at hearing	116	10.7
Withdrawn before hearing	174	16.1
Dismissal	223	20.6
Money order	255	23.6
Specific performance	28	2.6
Rehearing approved	13	1.2
Rehearing refused	43	4.0
Other	228	21.1
Total	1080	100.0

Applications managed throughout NSW:

Registry	No. of applications
Sydney	242
Penrith	102
Newcastle	104
Liverpool	169
Hurstville	96
Parramatta	98
Wollongong	117
Tamworth	136
TOTAL	1,064

Divisional Reports - Residential Parks

Residential Parks Division

The Residential Parks Division deals with disputes between park owners, permanent residents, and occupants. Disputes may involve applications for the termination of a tenancy, applications for compensation in relation to residential parks and relocatable home parks arising from breaches of the agreement, excessive rent claims, and compliance.

During the reporting period this Division received 1,439 applications and finalised 1,067 applications. Residential parks disputes formed 2.4% of the Tribunal's overall workload.

Jurisdiction and Legislation

The Residential Parks Division has jurisdiction to deal with matters under the following Acts:

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

The time limit for lodging an application in the Residential Parks Division varies according to the type of application. The Tribunal's monetary jurisdiction in this Division is unlimited.

Differential Case Management

Members

The Tribunal recognises the need to informally resolve these disputes and specialist expertise has been developed in conciliating and hearing applications to the Residential Parks Division.

Dispute Resolution Methods

The Tribunal promotes access to hearing and conciliation by listing applications in this Division at a venue that meets the needs of residents and owners. This will usually involve conducting the conciliation and hearing at or close to the residential park.

The Residential Parks Division frequently receives multiple applications with the same or very similar issues in dispute about the same residential park. In such cases the residents generally act collectively.

Informal dispute resolution procedures are applied to resolve these matters without recourse to formal hearing. Conciliators are available to assist parties in reaching a consent agreement.

The Tribunal is conducting a 12-month pilot scheme designed to improve service delivery to residents and park owners. The pilot was implemented following a significant increase in the number of applications received in the Division (an increase of 41% from the previous reporting period).

The pilot is designed to expedite the listing and finalisation of multiple applications with a focus on conciliation and directions hearings. Two Members, or a Member and a Deputy Registrar specially trained in conciliation, are allocated to the initial listing of the matters which allows conciliation to take place and for the Member to consider the procedural and evidentiary matters.

If the parties cannot come to a settlement agreement the Tribunal will conduct a hearing. This hearing will usually commence on the same day as the conciliation. After the Tribunal has considered all of the evidence submitted by both the residents and park owners the Tribunal will make final and binding orders.

This case management strategy is expected to reduce the time required to finalise matters by reducing the number and length of hearings.

Divisional Reports - Residential Parks

Electronic Service Delivery

Applications in the Residential Parks Division continued to be lodged on-line during the reporting period, with 30 (2%) of total residential parks applications lodged electronically this year.

Case study

Following a fire in a van on a site at a residential park, the resident moved out of the park, leaving the burnt van on the site. The park owner had asked the resident to remove the debris from the site on many occasions. This was not done.

The Claim

The park owner claimed the cost of removing the debris from the site and the loss of rent as it was unable to relet the site until it was cleaned. As the burnt caravan was a hazard the park owner was required by the Local Council to fence the area. The fencing costs were also claimed.

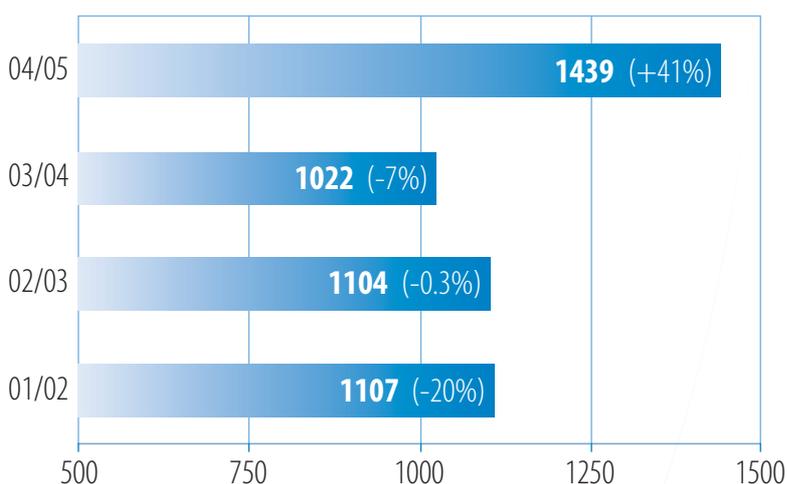
The Outcome

The resident did not attend the hearing, written submissions and documents were provided on the resident's behalf by the Local Community Legal Centre. The Tribunal considered the material before it.

The Tribunal found that the resident was aware of her obligations to remove the debris and was obliged to pay the cost of removal, the cost of the fence and the loss of rent.

Yearly Lodgement Comparison

Applications to the Residential Parks Division have increased in this reporting period.



Divisional Reports - Residential Parks

Lodgements

The Tribunal received 1,439 Residential Parks Division applications during the financial year.

Application Type	Lodged by Park Owners	Lodged by Residents	Lodged by Occupants	Total	Percentage %
Breach/Compensation	55	84	0	139	9.66
Excessive Rent/Increase	0	936	0	936	65.05
Termination	251	2	0	253	17.58
Rental Bond	1	1	0	2	0.14
Other	21	42	0	63	4.38
Recognition as a Tenant	0	0	2	2	0.14
Renewal	1	24	1	26	1.81
Sub Total	329	1089	3	1421	98.75
Rehearing	0	15	3	18	1.25
Grand Total	329	1104	6	1439	100.00

Application fees

\$29 for all residential parks dispute matters

\$5 for eligible pensioners

The application fee will rise to \$30 from 1 July 2005.

Applications managed throughout NSW:

Registry	No. of applications
Sydney	186
Penrith	38
Newcastle	589
Liverpool	232
Hurstville	0
Parramatta	0
Wollongong	35
Tamworth	359
TOTAL	1,439

Finalised

The Tribunal finalised 1,067 Residential Parks Division matters during the financial year.

Order outcomes

Order Types	Number	Percentage %
Withdrawn at hearing	108	10.1
Withdrawn before hearing	155	14.5
Dismissal	96	9.0
Termination	164	15.4
Money order	72	6.7
Specific performance	27	2.5
Excessive rent or increase	351	32.9
Abandoned premises and goods	5	0.5
Rehearing approved	13	1.2
Rehearing refused	1	0.1
Other	75	7.0
Total	1067	100.0

Strata and Community Schemes Division

The Strata and Community Schemes Division determines applications lodged for adjudication. In addition, this Division deals with appeals from those adjudications to the Tribunal. The Tribunal has original jurisdiction to reallocate unit entitlements, authorise acts in the initial period and impose penalties either for non-compliance with a notice to comply with a by-law or for breach of an order made by an Adjudicator or the Tribunal. In relation to community schemes the Tribunal has further original jurisdiction dealing with restricted property, management statements, resolution, contributions and the appointment of agents.

During the reporting period this Division received 1,090 applications and finalised 951 applications. Strata and Community Schemes disputes formed 1.8% of the Tribunal's overall workload.

Jurisdiction and Legislation

The Strata and Community Schemes Division has jurisdiction to deal with matters under the following Acts:

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

The time limit for lodging an application in the Strata and Community Schemes Division varies according to the type of application. The Tribunal's monetary jurisdiction in this Division is unlimited.

New Legislation

The *Strata Schemes Management Amendment Act 2004* commenced on 7 February 2005 (for more information refer to New and Amended Legislation on page 7 of this report).

Differential Case Management

Members

Specialist Tribunal Members and Adjudicators determine matters in the Strata and Community Schemes Division.

Dispute Resolution Methods

Adjudications in the Strata and Community Schemes Division are made on the basis of the written evidence provided by the applicant, the respondent and any other interested party. In most matters the applicant is required to demonstrate that they have attempted to mediate the matter before an application is accepted and order made. This mediation service is provided by the Office of Fair Trading.

Once an application is accepted the parties are invited to make submissions. In order to ensure that these applications are managed expeditiously, parties are usually required to make submissions within four weeks of receipt of a copy of the application. These matters are then referred to an Adjudicator for determination. The orders and the reasons for the orders are then issued to the parties.

Orders by an Adjudicator may be appealed to the Tribunal and listed for a formal hearing.

Some matters, as specified by the legislation, are listed for hearing before the Tribunal and do not need to go through the adjudication process. These matters include unit-entitlement applications, penalty applications and appeals. Adjudicators can also transfer more complex legal and factual matters to the Tribunal.

Divisional Reports - Strata and Community Schemes

Case study

Mr G, one of the lot owners, had made an application to an Adjudicator for the appointment of a strata managing agent. The need for the appointment was accepted by the Adjudicator, however, orders were not made as written consent had not been provided by the proposed agent.

The Claim

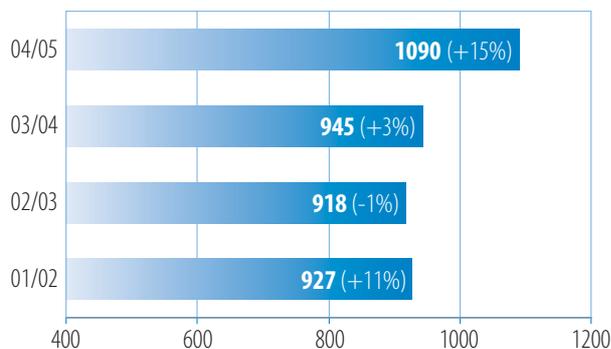
Mr G appealed the decision of the Adjudicator to the Tribunal. Mr G claimed that the owners corporation was not able to function as there was a deadlock between two factions. The effect of this was to give one group of lot owners the majority, which was being exercised in an inappropriate manner, resulting in failures to maintain and repair the common property. Another consequence was that some of the lot owners were occupying areas of common property effectively excluding use by other lot owners. Steps had been taken during the appointment of the previous compulsory managing agent for removal of the encroachment, but stopped when that appointment expired.

The Outcome

The Tribunal was satisfied that the owners corporation was not functioning satisfactorily; it had failed to resolve problems in management of the common property and was not taking steps to address the long-term maintenance of the property. A strata managing agent was appointed with full powers and required to deal with other areas of current dispute within the scheme.

Yearly Lodgement Comparison

Applications to the Strata and Community Schemes Division have increased in this reporting period.



Divisional Reports - Strata and Community Schemes

Lodgements

The Tribunal received 1,090 Strata and Community Schemes Division applications during the financial year.

Application Type	Lodged by Lot Owners	Lodged by Owners Corporation	Lodged by Occupier of a Lot	Lodged by Other Parties	Total	Percentage %
Interim Order	99	27	2	1	129	11.83
Appoint Strata Manager	51	0	0	0	51	4.68
Regarding Animals	15	13	1	0	29	2.66
By Laws	79	53	0	0	132	12.11
Meetings/Decisions/Records of Owners Corp	11	15	0	0	26	2.39
Contributions & Levies	16	1	0	0	17	1.56
Insurance	5	7	0	0	12	1.10
General Orders/Other	263	95	4	6	368	33.76
Initial Period	5	6	0	2	13	1.19
Unit Entitlements	23	16	0	1	40	3.67
Caretaker Contract	1	0	0	0	1	0.90
Amend or Revoke Order	8	2	0	1	11	1.01
Appeal	69	27	1	1	98	8.99
Penalty	28	122	1	0	151	13.85
Sub Total	673	384	9	12	1078	98.90
Rehearing	8	1	0	3	12	1.10
Grand Total	681	385	9	15	1090	100.00

Application fees

\$59 for all strata and community schemes dispute matters

\$5 for eligible pensioners

The application fee will rise to \$61 from 1 July 2005.

Applications managed throughout NSW:

Registry	No. of applications
Sydney	724
Penrith	20
Newcastle	52
Liverpool	34
Hurstville	98
Parramatta	42
Wollongong	51
Tamworth	69
TOTAL	1,090

Finalised

The Tribunal finalised 951 Strata and Community Schemes Division matters during the financial year.

Divisional Reports - Strata and Community Schemes

Order outcomes

Order Types	Number	Percentage %
ADJUDICATIONS		
Applications not accepted	63	6.6
Interim Orders granted	25	2.6
Interim Orders refused	97	10.2
Orders re by-laws made	42	4.4
Orders re by-laws refused	59	6.2
Appoint a Strata Managing Agent	19	2.0
Refuse to appoint a Strata Managing Agent	15	1.6
Notice of Orders	329	34.6
Sub-Total	649	68.2
HEARINGS		
Penalty Orders made	47	4.9
Penalty Orders dismissed	48	5.1
Penalty Orders withdrawn	47	4.9
Appeals allowed	21	2.2
Appeals dismissed	37	3.9
Appeals withdrawn	16	1.7
Other Orders made	45	4.7
Other Orders dismissed	10	1.1
Other Orders withdrawn	11	1.2
Amend/Revoke Orders made	0	0
Amend/Revoke Orders dismissed	8	0.8
Rehearings Orders approved	3	0.3
Rehearings Orders refused	9	1.0
Sub-Total	302	31.8
TOTAL	951	100.0

Divisional Reports - Commercial

Commercial Division

The Commercial Division deals with credit matters and disputes about regulated credit agreements; finance brokers' commissions; appeals by consumers against decisions of the Travel Compensation Fund and the reviewing of commissions and fees charged by licensed agents.

During the reporting period this Division received 390 applications and finalised 376 applications. Commercial disputes formed 0.6% of the Tribunal's overall workload.

Jurisdiction and Legislation

The Commercial Division has jurisdiction to deal with matters under the following Acts:

- *Consumer Credit Administration Act 1995*
- *Consumer Credit (New South Wales) Act 1995*
- *Credit Act 1984*
- *Credit (Home Finance Contracts) Act 1984*
- *Travel Agents Act 1986*
- *Property, Stock and Business Agents Act 2002*

The time limit for lodging an application in the Commercial Division is three years. The jurisdictional limit in this Division varies according to the type of application.

On 5 November 2004, the Tribunal's jurisdictional limit changed. Previously, the Tribunal could determine claims for change of consumer credit contracts or of postponement of contract enforcement due to hardship experienced by the consumer to a limit of \$125,000 of credit available. The threshold is now a floating threshold linked to an Australian Bureau of Statistics index of the cost of new houses in Sydney. The hardship threshold is equal to 110% of the average loan size for the purchase of new dwellings in NSW. The jurisdictional limit has varied between \$298,100 and \$340,670.

New and Amended Legislation

Property Stock and Business Agents Act 2002

The Statute Law (Miscellaneous Provisions) Act 2004 was assented to on 6 July 2004, making amendments to the *Property Stock and Business Agents Act 2002*, which commenced on the day of assent.

Consumer Credit Administration Amendment (Finance Brokers) Act 2003

The *Consumer Credit Administration Amendment (Finance Brokers) Act 2003* commenced on 1 August 2004 and made amendments to the *Consumer Credit Administration Act 1995* and inserted a new Part 1A into the *Consumer Credit Administration Act 1995* dealing with finance brokers. The *Credit (Finance Brokers) Act 1984* was repealed.

Consumer Credit (New South Wales) Regulations

On 5 November 2004 the jurisdictional limit of the Tribunal changed. The threshold will now be a floating threshold linked to the Australian Bureau of Statistics index of the cost of new houses in Sydney.

For more information on all of the above mentioned legislation refer to New and Amended Legislation on page 7 of this report).

Differential Case Management

Members

All Tribunal Members determine matters in the Commercial Division.

Divisional Reports - Commercial

Dispute Resolution Methods

Generally, applications to the Commercial Division are listed within 21 days of lodgement. Informal dispute resolution procedures are applied to resolve these matters without recourse to formal hearing. Conciliators are available to assist parties in reaching a consent agreement.

Claims under \$25,000

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

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.

Electronic Service Delivery

The Tribunal utilises InCourt facilities throughout all Divisions in the hearing rooms of all eight Tribunal Registries. This facility allows the Tribunal to produce written orders at the conclusion of the hearing in appropriate matters. A trial of the InCourt facility was conducted at the Gosford Office of Fair Trading, a non-Registry hearing venue, during the year.

Case study

Mr P signed an exclusive agency agreement with X Real Estate Pty Ltd, a real estate agent, to sell his property for him. He believed the agreement between himself and the company did not comply with the requirements of the *Property Stock and Business Agents Act 2002*, and that the respondent's officer was negligent in the exchange of contracts and other aspects of the sale.

The Claim

Mr P applied to the Tribunal for an order that he not be required to pay commission for the sale of his property. He argued that in the sale agreement, the agent stated the property was to be offered at "\$290,000 - \$340,000". However, in the section nominating the agent's estimated selling price, the agent wrote "TBA".

The agent imperfectly copied the contract which had been drafted by Mr P's solicitor, and left out terms regarding the payment of interest for delayed settlement. The agent also added terms to the contract without Mr P's authority whereby the purchaser could pay part of the deposit by bond rather than in cash.

The property eventually sold. Mr P incurred additional legal and other costs due to the added and omitted terms and was unable to claim interest of \$1,495 from the purchaser following the delayed settlement.

The Outcome

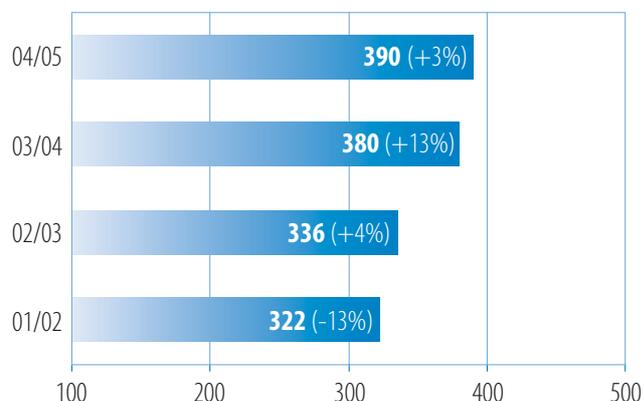
The Tribunal found the agent was not negligent in relation to the marketing of the property, but was negligent in omitting the terms of the contract and in obtaining the signature of only one purchaser. The agent acted improperly in altering the terms of the sale contract and was in breach of the agency agreement with Mr P.

The Tribunal found the agreement had been wrongly drafted as it did not include a sales inspection report which gave an agent's estimate of the sales price. Under s55 of the *Property Stock and Business Agents Act 2002*, this specific requirement has to be met before the agent can claim any commission or expenses. The agent did not comply and the Tribunal ordered that Mr P was entitled to the deposit held by the agent and owed no commission for the sale.

Divisional Reports - Commercial

Yearly Lodgement Comparison

Applications to the Commercial Division were relatively stable in this reporting period.



Lodgements

The Tribunal received 390 Commercial Division applications during the financial year.

Application Type	Lodged By Credit Provider	Lodged By Debtors	Lodged By Interested/Affected Parties	Lodged By A Lessee	Lodged By A Mortgagor	Lodged By A Owner	Lodged By Director General	Lodged By A Mortgagee	Total	Percentage %
Consumer Credit Code	12	78	47	0	13	0	2	19	171	43.85
Credit – Home Finance	1	5	1	0	0	0	0	3	10	2.56
Credit Act	1	16	1	0	1	0	0	7	26	6.67
Repossession	2	0	0	0	0	0	0	1	3	0.77
Property Stock & Business Agents	0	0	148	0	0	0	0	0	148	37.95
Termination – Return of Goods	0	0	0	4	0	0	0	0	4	1.03
Waive Notice	0	0	0	0	0	3	0	0	3	0.77
Penalty	0	0	0	0	0	0	0	0	0	0
Renewal	1	0	0	1	0	8	0	0	10	2
Sub Total	17	99	197	5	14	11	2	30	375	96.15
Rehearing	0	5	5	0	3	2	0	0	15	3.85
Grand Total	17	104	202	5	17	13	2	30	390	100

Divisional Reports - Commercial

Application fees

\$29 for claims or disputes not exceeding \$10,000 (or no specific amount claimed)

\$59 for claims or disputes between \$10,000 and \$25,000

\$159 for claims or disputes exceeding \$25,000

\$528 for applications under s86A of the *Credit Act 1984*

\$66 for applications under the *Consumer Credit (NSW) Code* except for applications made by a credit provider under s101 of the *Consumer Credit (NSW) Code* where it is \$542

\$5 for eligible pensioners

Application fees will rise to \$30, \$61, \$163, \$542 and \$68 respectively from 1 July 2005.

A fee is not payable for hardship applications under the *Credit Act 1984*, *Consumer Credit (NSW) Code* or the *Credit (Home Finance Contracts) Act 1984*.

Applications managed throughout NSW:

Registry	No. of applications
Sydney	163
Penrith	40
Newcastle	44
Liverpool	33
Hurstville	48
Parramatta	23
Wollongong	25
Tamworth	14
TOTAL	390

Finalised

The Tribunal finalised 376 Commercial Division matters during the financial year.

Order outcomes

Order Types	Number	Percentage %
Withdrawn at hearing	51	13.6
Withdrawn before hearing	72	19.1
Dismissal	74	19.7
Money order	73	19.4
Specific performance	4	1.1
Rehearing approved	3	0.8
Rehearing refused	10	2.7
Other	89	23.7
Total	376	100.0

Divisional Reports - Retirement Villages

Retirement Villages Division

The Retirement Villages Division determines disputes between the administering authority of a retirement village and one or more residents. Some of the common disputes in this Division include the terms of the retirement village contract, the legality of a village rule or the sale or lease of premises.

During the reporting period this Division received 54 applications and finalised 46 applications. Retirement villages' disputes form 0.1% of the Tribunal's overall workload.

Jurisdiction & Legislation

The Retirement Villages Division has jurisdiction to deal with matters under the following Act:

- *Retirement Villages Act 1999.*

The time limit for lodging an application in the Retirement Villages Division is three years. The jurisdictional limit in this Division varies according to the type of application.

Differential Case Management

Members

Specialist Tribunal Members determine matters in the Retirement Villages Division and the Tribunal will also appoint Members with specialist expertise to act as mediators in an attempt to informally resolve these disputes.

Dispute Resolution Methods

Applications to the Retirement Villages Division are listed within 21 days of lodgement. Informal dispute resolution procedures are applied to resolve these matters without recourse to formal hearing. Mediators and conciliators may be available to assist parties in reaching a consent agreement.

After an initial directions hearing, mediation is usually scheduled to allow parties full participation in the process. Mediation is commonly held by the Tribunal on-site to reduce the need for parties to travel long distances to attend.

Special venues can also be arranged for hearings to allow all interested parties to attend. Hearings are usually scheduled later in the morning to allow the parties to avoid peak-hour transport. The Registry also ensures that the venues have appropriate facilities for wheelchair access and are within close vicinity to the retirement village.

Electronic Service Delivery

The Tribunal utilises InCourt facilities throughout all Divisions in the hearing rooms of all eight Tribunal Registries. This facility allows the Tribunal to produce written orders at the conclusion of the hearing in appropriate matters. A trial of the InCourt facility was conducted at the Gosford Office of Fair Trading, a non-Registry hearing venue, during the year.

Divisional Reports - Retirement Villages

Case study

R & H, the applicants, were residents in a village operated by the respondent village operator CLM Pty Limited. The village was operated under a deed entered into in January 1987. The deed was extremely detailed in relation to the operation of the village and part of the deed required the village residents to pay a proportionate amount of wages, salaries and other employment benefits of the administrator which were all included as part of the management fee. In this case, the village operator had required the applicant's to pay for legal fees associated with the termination of employment contracts of two employees and then the costs for the subsequent workplace agreements for the replacement staff.

The Claim

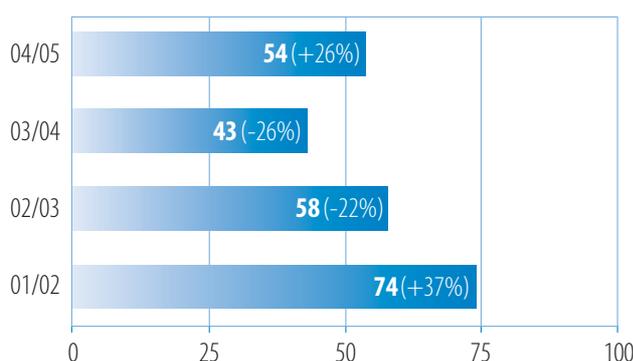
The applicant residents sought a declaration that they were not liable for the village management's legal fees and that they be refunded the amount collected.

The Outcome

It was held by the Tribunal that the residents of the village were not responsible for the payment of the legal fees as they formed part of the general management fee, rather than a separate item to be reimbursed by the village residents. If the village residents were required to pay legal fees, they should have been referred to as a separate item in the deed. Accountancy fees for example were separately itemised. The legal costs related directly to the performance of the management contract which included employment related costs and had already been paid by the residents as part of the management fee.

Yearly Lodgement Comparison

Applications to the Retirement Villages Division have increased in this reporting period.



Divisional Reports - Retirement Villages

Lodgements

The Tribunal received 54 Retirement Villages Division applications during the financial year.

Application Type	Lodged by Administering Authority	Lodged by Residents	Total	Percentage %
Budget Dispute	7	13	20	37.04
Breach	4	9	13	24.07
Residence Rules	1	1	2	3.70
Termination	3	0	3	5.56
Other	4	9	13	24.07
Renewal	0	0	0	0
Sub Total	19	32	51	94.44
Rehearing	1	2	3	5.56
Grand Total	20	34	54	100.00

Application fees

\$29 for all retirement village dispute matters

\$5 for eligible pensioners

The application fee will rise to \$30 on 1 July 2005.

Applications managed throughout NSW:

Registry	No. of applications
Sydney	27
Penrith	0
Newcastle	16
Liverpool	2
Hurstville	1
Parramatta	2
Wollongong	1
Tamworth	5
TOTAL	54

Finalised

The Tribunal finalised 46 Retirement Village Division matters during the financial year.

Order outcomes

Order Types	Number	Percentage %
Withdrawn at hearing	5	10.9
Withdrawn before hearing	12	26.1
Dismissal	7	15.2
Termination	0	0.0
Specific performance	1	2.2
Rehearing approved	0	0.0
Rehearing refused	2	4.3
Other	19	41.3
Total	46	100.0

Flexible Proceedings

Procedure generally

The Act enables the Tribunal to determine its own procedure. The Tribunal can be as informal as circumstances permit and uses a range of options to resolve disputes as effectively and efficiently as practicable.

Alternative Dispute Resolution

While the Act specifies several methods of dispute resolution (the use of mediators and assessors) to assist in resolving disputes, the Tribunal employs additional methods including expert conclaves and case conferences, in an attempt to resolve disputes as efficiently and effectively as possible.

Conciliation

The Tribunal has a duty to promote conciliation and use its best endeavours to bring parties in the proceedings to a settlement that is acceptable to all the parties. The Tribunal lists most new applications in group lists and makes conciliators available to assist the parties as often as possible.

The process of conciliation assists the parties to clarify the issues in dispute, to canvass options and negotiate an outcome they are both satisfied with. The conciliator assists the parties to gain an understanding of the legislative framework in which the dispute will be considered, and therefore what the Tribunal may consider relevant, if the matter does not settle and proceeds to hearing. The conciliator also provides information about procedures the Tribunal will follow at a hearing.

In Sydney, Tribunal Members are allocated to group lists and specialist Motor Vehicles Division lists to foster the conciliation process. The pilot of specially trained Deputy Registrars to work as conciliators in metropolitan and regional venues has continued in this reporting year and in January 2005, two full-time and two temporary positions were approved and filled to trial this service for 12 months.

These officers provide conciliation services at Liverpool/Campbelltown, Newcastle/Gosford, Hurstville/Wollongong and Penrith/Parramatta on all days on which disputes are listed for the first time where possible.

The conciliation pilot will be evaluated before the end of the 12-month period to measure whether conciliation services assist the Tribunal to achieve a more efficient and effective outcome to parties.

Mediation

Mediation is a more considered and time consuming form of dispute resolution usually reserved for complex matters involving large amounts of money, such as home building matters or where there are many applications about similar issues, such as a budget issue in a retirement village community.

In Retirement Villages Division matters, a Member with expertise in the area usually attends the village to mediate the matter with the residents and owners.

Case Conferences

Case conferences are used primarily in the Home Building Division to explore the issues in dispute and to canvass settlement possibilities within a "round table" context. The less formal atmosphere in conferences can significantly reduce the level of tension and provides an opportunity for parties to negotiate strategies to achieve an agreed outcome.

Conclaves

Expert conclaves are used in the Home Building Division. These meetings between expert witnesses are held at the premises the subject of the dispute. At a conclave the parties' experts discuss the issues on which they have prepared reports. The meeting of experts is facilitated by a Tribunal Member with a view to clarifying matters in dispute and reaching an agreement. In complex home building matters conclaves are an effective tool in

Flexible Proceedings

narrowing the points of difference and moving the matter towards settlement or reducing the hearing time and thereby reducing costs for the parties.

Specialised Hearing Lists

The Tribunal also conducts specialised hearing lists in Divisions such as the Home Building and Motor Vehicles Divisions. Members with appropriate skills and experience deal with matters and apply their specialist knowledge in dispute resolution and the hearing processes.

Other Methods of Determining Disputes

Appearance by Telephone

In certain circumstances, for example when a party is interstate, the Tribunal may grant leave for that party to present their evidence by telephone. A written request should be made by a party and each request will be considered on its merits.

Telephone Directions and Hearing

The Tamworth Registry commenced a telephone directions and hearing pilot program for complex matters from the far north coast in 2003. Due to the success of this pilot the initiative to list matters by telephone before a full-time Member in Tamworth has continued. The benefit to the parties in dispute is through better preparation for the hearing and therefore a reduction in the requirement for further adjournments.

Decision on the Papers

If both parties consent to the Tribunal making its decision on the papers, parties can put their case in writing. Neither party is required to attend a hearing in person and the decision is made on the basis of the written material submitted.

Return of Summons

The Chairperson published a Direction with effect from 1 July 2004, setting out the procedures to be followed by parties and the Tribunal in relation to requesting a summons, complying with a summons and attending and seeking orders for access to documents summonsed.

The guidelines clarify the process and allow for the return of summons to be listed before a Deputy Registrar before the date of formal hearing to allow the parties access to the documents in time to prepare for the hearing. A copy of these Directions may be viewed on the Tribunal's website.

The Return of Summons List is a special list before a Deputy Registrar every Tuesday in a hearing room at the Sydney Registry, to determine access to summonsed documents. Where documents are provided, the Deputy Registrar makes standard access orders set out in the Chairperson's Directions and where a party is represented by a legal practitioner with a current practicing certificate, facilitates the uplifting of summonsed documents by obtaining a signed undertaking reflecting the access orders.

Disputed matters, for example, when there is a claim for privilege, are referred to a Member for determination prior to or at the hearing.

Flexible Service Delivery for people with Disabilities

The Tribunal has made adjustments at Registries and in hearing rooms to ensure they are accessible to disabled people. The changes include making suitable parking available, providing wheelchair accessible sites and providing assistance for the hearing impaired. On-line lodgement and the Tribunal's website also improve access to Tribunal services. The Tribunal will continue to identify and implement options to improve access. Current planning includes enhanced service delivery in the North Coast and Dubbo regional areas.

Information & Communication Technology

Electronic Service Delivery

The Tribunal's integrated website allows applications to be lodged and fees paid on-line. In many cases clients can also receive and print a notice of hearing which details the time and place they need to attend the Tribunal.

The Tribunal plans to provide Internet lodgement for more Divisions within its jurisdiction. In this financial year the Tribunal upgraded the website to include the Residential Parks Division. Now clients can lodge and pay for applications on-line for residential parks and tenancy matters.

The Tribunal's Electronic Service Delivery process allows clients to sign up for a "group account". Details are then stored on the website so that each time the client logs on, their name and address details are pre-filled using the stored information.

The website also had a "bulk application" process where, if required, clients can lodge up to 10 applications at one time.

Case management system

The case management system is the core business software application used at the Tribunal. This software system allows Registry officers to process applications for hearings received from customers in the post, or at public counters. Applications received, using the Internet service, are automatically entered into the Tribunal's database.

The case management system stores information related to Tribunal cases and allows Registry officers to update and retrieve the information as required. Using the system Registry officers record incoming correspondence and evidence and also make file notes of telephone conversations related to particular cases. The system contains a file-tracking process that can identify which Tribunal officer has a particular case file.

The Tribunal continually reviews the case management system to ensure that it continues to maintain outcomes consistent with the Tribunal's goals and case management requirements.

One of the enhancements introduced this year was improving the process which tracks exhibits provided by parties in support of their cases. The new system provides a report, links exhibits to a case file and indicates when the exhibits should be returned.

This year the Tribunal also developed a way to use information stored in the case management system data base to provide on-line hearing lists to customers browsing the Tribunal website. Another improvement was the development of a process which allows the Tribunal to more accurately track the outcome of hearings in cases where conciliation was involved.

Digital Sound Recording

Digital Sound Recording has been installed at all Tribunal hearing locations. The digital sound system replaces the more cumbersome and less reliable system of using cassette players and cassette tapes. Digital recordings are also easier to store and search when parties seek a copy of the recording or a transcript.

Digital recordings are downloaded to a DVD for long-term storage. This form of digital storage reduces degradation of sound recording significantly.

Cassette tapes are now mainly used to record hearings held at non-Tribunal locations such as Local Court Houses. Tribunal officers are currently investigating technologies that will allow digital sound recording to occur at non-Tribunal locations.

Information & Communication Technology

Website www.cttt.nsw.gov.au

Since the launch of the Tribunal's website in 2003 the content has rapidly evolved to the point it has overwhelmed its architecture. This has resulted in less than optimum access for Tribunal clients. To address this issue the Tribunal commenced a comprehensive website redesign in March 2005. The site's content will also be reviewed as part of this process. It is proposed that the enhanced and modernised website will be launched by December 2005.

During the reporting period there were 79,277 visits to the Tribunal's website. This represents an increase of 128% compared to the last reporting period.

Network Upgrade

The Department of Commerce provides network services to the Tribunal under a shared services arrangement. In order to standardise the network technologies used across the Department of Commerce the Novell Network Operating System was chosen as the standard network operating environment. This year the Tribunal was chosen to pilot the conversion to the Novell system within the Office of Fair Trading.

The Tribunal's Business Development Unit worked closely with the Department of Commerce Information Management and Technology Branch to develop and test the pilot process. The upgrade project began in June with the conversion of the Tribunal Registry at Castlereagh St, Sydney.

All Tribunal Registry locations were converted to the new network operating system by September 2005. A primary objective of the Tribunal has been to implement the project with little or no interruption to the provision of Tribunal services to customers.

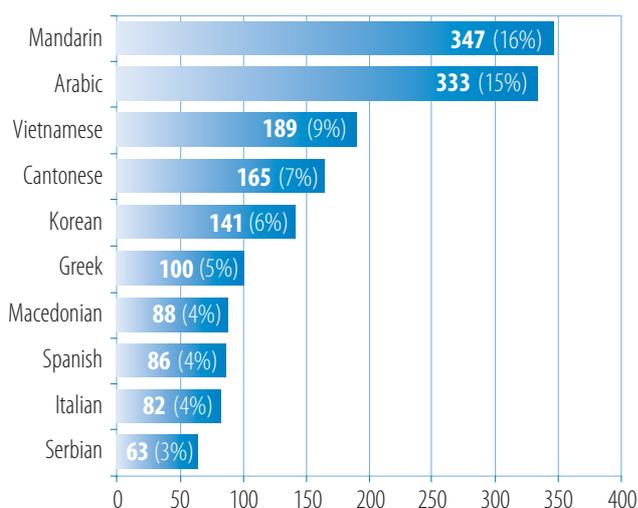


Facilities & Services

Interpreters

The Tribunal continues to promote its services to the diverse community groups of NSW through offering language assistance to clients free of charge. The language assistance is provided via telephone interpreter service, in-person interpreter service and by having officers accredited as language aids.

A total of 2,248 interpreters were used by the Tribunal in the 2004–2005 reporting period. The most common languages used during the reporting period are shown in the table below.

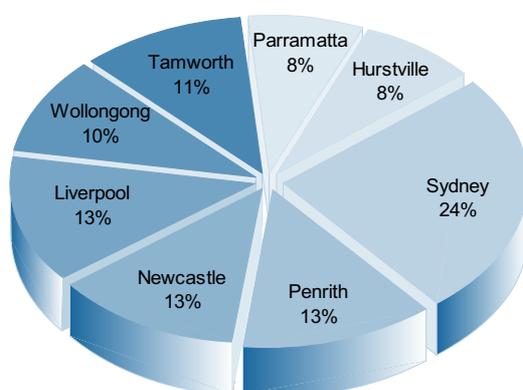


Registries

The Tribunal has eight Regional Registries with hearing rooms and conciliation facilities. The Tribunal also maintains three other customised hearing venues, which accommodate the conciliation and hearing processes, as well as using other venues throughout regional NSW.

Regional Consultative Meetings continued to be held with the community, key interest groups and users throughout NSW to consult with and obtain feedback on issues such as listing and procedural initiatives.

Percentage of Applications Lodged Per Registry



Facilities & Services

Sydney

The Sydney Registry and Members managed 24% of total applications received by the Tribunal. The Sydney Registry is responsible for listing hearings in the Sydney metropolitan area which covers a large catchment area including the Inner West, Eastern Suburbs, North Shore and Northern Suburbs.

In Sydney Members conduct hearings every week day with Mondays, Wednesdays and Thursdays allocated for group hearing lists. Member Conciliators are available on those days to assist with settlement discussions. Special group lists have been established for Motor Vehicle matters and there is a specialist Building Directions list to ensure that resources are available to serve these particular matters. The Sydney Registry has, for some years, had special termination lists in the Tenancy Division to ensure expeditious finalisation of these matters.

Telephone conferencing facilities are available in most hearing rooms and are used where appropriate.

Newcastle

The Newcastle Registry and Members managed 13% of total applications received by the Tribunal. The Newcastle Registry is responsible for listing matters for hearing for the Newcastle, Maitland and Gosford venues. In Newcastle Members conduct hearings on Tuesday, Thursday and Friday. Hearings are in Maitland every Monday and the first and third Tuesday of the month and hearings are held in Gosford on Monday, Wednesday and Friday.

Due to the growing population in the Maitland area the Newcastle Registry added an additional two lists each month to service this region.

The Newcastle Registry recently experienced an increase in the number of Residential Parks Division applications. These applications have generally involved disputes over rent increases.

A full-time Deputy Registrar (Conciliation) was allocated to the Newcastle Registry during the reporting period. The Deputy Registrar (Conciliation) provides conciliation assistance to parties at the Newcastle and Gosford venues.

Penrith

The Penrith Registry and Members managed 13% of total applications received by the Tribunal, covering the catchment areas of the Blue Mountains, Hawkesbury, Central West Tablelands, Penrith and part of the Blacktown region.

In Penrith Members conduct hearings every Tuesday, Thursday and Friday, and at the Tribunal's hearing rooms at Blacktown each Wednesday. The Central West region is serviced with fortnightly hearings at Katoomba, Bathurst and Orange and monthly hearings at Lithgow.

In the reporting period the Penrith Registry held an information session for real estate agents from the Penrith and Blacktown areas as part of an intensive program to promote the Tribunal's Electronic Service Delivery initiative. More than 70 agents attended and the ongoing promotion led to Penrith Registry receiving 17.4% of the Tribunal's total on-line lodgements.

In an on-going effort to provide regional services to the consumers of Sydney's western districts, the Penrith Registry continued to build cooperative inter-agency relationships through the continuing provision of a duty advocate service by the Tenants Advice and Advocacy Service. Additionally, a Registry officer attended as guest speaker, a seminar run by the NSW Office of the Sheriff at Penrith catering to the real estate industry. The Penrith Registry continues to provide a local venue accommodation service to other agencies including the

Facilities & Services

Guardianship Tribunal, Strata Mediation Service, Motor Vehicle Repair Industry Authority and the Social Security Appeals Tribunal.

In February 2005 the Penrith Registry established the use of a permanent Deputy Registrar (Conciliation). The service is designed to support applicants and respondents seeking to negotiate settlement of their dispute confidentially through the conciliation process.

Liverpool

The Liverpool Registry and Members managed 13% of total applications received by the Tribunal. The Liverpool Registry is responsible for applications from South West Sydney through to the Southern Highlands.

In Liverpool Members conduct hearings are on Tuesday, Wednesday and Fridays. Hearings are also held in the Campbelltown Hearing Rooms on Monday and Thursdays and in Moss Vale each fortnight. All hearings at the Liverpool Registry are now digitally sound recorded.

The appointment of a Deputy Registrar (Conciliation) to the Liverpool and Campbelltown venues has been a great assistance in helping the parties to achieve agreements by consent without going to hearing.

A consultative committee meeting was held on 7 February 2005 at the Liverpool Registry. This meeting was made up of representatives from the Tribunal, Liverpool Fair Trading Centre, South West Tenant's Advice & Advocacy Service and Park & Village Service.

The Liverpool Registry continues to provide a local venue accommodation service to the Guardianship Tribunal.

Hurstville

The Hurstville Registry and Members managed 8% of total applications received by the Tribunal. Members conduct hearings from Monday through Friday.

In February 2005 the Hurstville Registry established the use of a permanent Deputy Registrar (Conciliation). As in other Registries, the service is designed to support applicants and respondents seeking to negotiate settlement of their dispute confidentially through the conciliation process.

Parramatta

The Parramatta Registry and Members managed 8% of total applications received by the Tribunal. Members conduct hearings from Monday through Thursday. Group listings of hearings are conducted every Monday, Tuesday and Wednesday and Special Fixtures are listed on Tuesdays and Thursdays. The Tribunal now provides a Deputy Registrar (Conciliation) twice a week on group listing days to assist parties to resolve their disputes.

On 14 February 2005, the Parramatta Registry reopened after extensive refurbishment. The Registry now has two new hearing rooms equipped with digital sound recording. There are also five conciliation rooms. The Registry's environment was also enhanced with spacious reception and waiting areas for clients and an upgraded security system.

An advocate from the Western Sydney Tenants' Service provides assistance to tenants at the Registry half a day every fortnight to help them conciliate their matters or to present their case at hearing before the Tribunal.

As part of the Parramatta Registry's community involvement, the Registry participated in work placement for year 10 students through the Parramatta Schools Industry Partnership Inc, an organisation which arranges work experience for young students with local business. In September 2004 a student from Macarthur Girls School spent a week at the Registry gaining work experience in administrative and clerical duties and in learning how the Tribunal works. The student's placement was a positive experience for the student and Registry officers.

Facilities & Services

As part of the Customer Services Division induction program for new Office of Fair Trading staff, a number of staff attended conciliation and hearings at the Registry in March 2005 to gain first-hand experience of how the Tribunal conciliates, hears and determines matters. The Fair Trading visitors reported that this experience was invaluable in helping them to answer customers' enquiries about the Tribunal. Because of the success of this joint initiative with Office of Fair Trading, this segment will be included in future Customer Services Division induction programs.

Wollongong

The Wollongong Registry and Members managed 10% of total applications received by the Tribunal. Members conduct hearings in Wollongong on Tuesdays and Fridays of each week. The Wollongong Registry is responsible for applications from the Wollongong, South Coast, Southern Tablelands, Riverina and Far West Regions.

In partnership with the Wollongong Fair Trading Centre the Registry participated in the Law Week Expo held at the Wollongong Court House in May 2005. The Registry hosted an information booth which provided general information to raise community awareness and to give people an opportunity to find out more about the Tribunal's services.

During the reporting period, the Registry continued its support in its involvement in the Community Development Employment Program. The work experience program provided a young local Aboriginal person the opportunity to gain clerical and administrative skills to assist them when entering the job market.

Tamworth

The Tamworth Registry and Members managed 11% of total applications received by the Tribunal, an increase of 1% from the last reporting period. This is the result of expanding the geographical area managed by the Registry to include more areas from the Mid-North Coast. The Tamworth Registry continues to service the Far North Coast, North and Far West, Upper Hunter, Upper Central West and the Northern Tablelands.

Throughout the Tamworth region Members conduct hearings in over 40 venues including Wellington, an addition in the past year to provide clients with a more accessible service in the area.

Tribunal Locations

Sydney Registry

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

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 Korner Complex
Cnr Kable Ave & Darling Street
PO Box 1033, Tamworth 2340

Parramatta Registry

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

Wollongong Registry

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

Hurstville Registry

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

Newcastle Registry

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

Campbelltown Hearing Rooms

Level 1, Centre Court
101 Queen Street
Campbelltown NSW 2560

Blacktown Hearing Rooms

Level 3A
13 – 17 Kildare Road
Blacktown NSW 2148

Gosford Hearing Rooms

Level 2 Gateway Centre
237 Mann Street
Gosford NSW 2250

Information & Education

Client Feedback Mechanism

In May 2004 the Tribunal introduced an on-line 'Registry Feedback Form' to assist in improving the quality and consistency of the service it provides to clients. When on-line feedback is received it is considered, assessed and, where possible, used to improve the Tribunal's services. Clients have used the feedback form to pass on comments about the Tribunal's service as well as thanks and appreciation to particular Registry officers. During the reporting period the Tribunal received 103 Registry service feedback forms. There is no comparable data available from the previous reporting period.

The Chairperson responds to clients who write to raise concerns about the conduct of proceedings at the Tribunal while issues about the Registry and its procedures are addressed by the Deputy Chairperson (Registry & Administration). The Tribunal is committed to responding to written concerns within 21 days.

In the reporting period 949 people wrote to the Tribunal outlining concerns about the Tribunal's practices and procedures. This is a decrease of 13% from last year. The majority of the correspondence concerned dissatisfaction with the outcome of proceedings.

Client Service Standards

The Tribunal's 'Client Service Standards – Our Guarantee of Service', which was published in April 2004, explains what the Tribunal does, the timeframes under which it operates and the facilities available to the public. The brochure establishes guidelines for Registry officers to follow and demonstrates to clients that the Tribunal continues to address their concerns. Regular monthly Management Reports monitor how the organisation meets the performance objectives set down by the Client Service Standards. The standards continue to strengthen the Tribunal's commitment to providing a prompt and efficient service.

Information Sessions

The Tribunal actively promotes public awareness of the service it provides by conducting public information sessions throughout NSW. These information sessions provide members of the public with general information including an overview of Tribunal proceedings, how to apply to the Tribunal, what orders the Tribunal can make and how hearings are organised and conducted. The sessions are presented by a Tribunal Member and Registry officers. Approximately 900 people attended the Tribunal's information sessions this year.



Information & Education

Law Week Open Day

As part of Law Week 2005 the Tribunal held an open day on 20 May 2005 at the Sydney Registry to help raise community awareness and provide members of the public with the opportunity to learn more about the Tribunal and the services it provides. Two sessions were held with about 100 people attending. A Tribunal Member presented case studies and facilitated question and answer sessions. The Member also gave a basic overview of Tribunal processes. A Deputy Registrar spoke about the conciliation service provided by the Tribunal. Visitors were also given a tour of the Tribunal's public areas.

Student Attendance at the Tribunal

The Tribunal conducts tailored information sessions to high school students, college students and legal groups. These sessions attracted 32 attendees in the reporting period. The sessions generally involve an introductory talk about Tribunal services, a guided tour of the public areas and conclude with the students observing hearings from specific Divisions selected to correspond with their particular interests.

School visits to the Tribunal can be arranged by contacting the Information and Education Team.

Member & Senior Staff Attendance by Request

Tribunal Members and senior officers attended various functions as guest speakers. Examples include:

- In July 2004, a Tribunal Officer spoke about the Tribunal's procedures at a session held by the Raymond Terrace Community Residents Group which is affiliated with the Hunter Central Coast Tenants Advisory Council.
- On 4 August 2004 a Tribunal Member spoke at the Management Rights Association meeting.
- On 13 October 2004, a Tribunal Member addressed a seminar organised by the Office of Fair Trading for managing agents and landlords in the Wollongong area.
- A Tribunal Member spoke at the Combined Pensioners and Superannuants of NSW, Park and Village Service meeting in October 2004.
- On 10 November 2004, two Tribunal Officers attended as guest speakers at a counselling agency, Creditworthy, meeting.
- On 7 December 2004, a Tribunal Member spoke at the LJ Hooker (Westmead) meeting held at Bankstown Trotting Club.
- On 13 March 2005, the Registrar spoke at a conference for Legal Studies Teachers organised by Hills Grammar School.
- On 2 May 2005, a Tribunal Member spoke at a session organised by the Office of Fair Trading held in the Kempsey Shire Area.
- On 9 May 2005, the Deputy Chairperson (Determinations) presented two sessions organised by the Office of Fair Trading at Batemans Bay and Merimbula.
- On 28 June 2005, a Tribunal Member addressed two sessions organised by the Office of Fair Trading for real estate agents from the Newcastle and Toronto areas.

Information & Education

Consumer Week

The Tribunal took an active role in the Office of Fair Trading's annual event, Consumer Week, in November 2004. Several Tribunal Registries participated in the displays offering information to the public about the consumer dispute resolution services offered by the Tribunal.

Overseas Delegates

The Tribunal regularly hosts overseas visitors and delegations. These visitors meet with the Chairperson, Deputy Chairpersons or other senior staff, are escorted on a tour of the Tribunal's facilities and may take part in discussions about the functions and processes of the Tribunal and other issues relating to matters within the Tribunal's jurisdiction.

Where possible the overseas visitors are also provided with the opportunity to view a Tribunal hearing in progress and may view the Tribunal's video, "Get it Sorted".

During this reporting period the Tribunal welcomed visitors from China in October 2004 and May 2005, from Korea in December 2004, South Africa in April 2005 and Malaysia in June 2005.

6th Australasian Residential Tenancies Conference

During the reporting period the Tribunal was busy organising the 6th Australasian Residential Tenancies Conference which it will host in Sydney in October 2005. The Conference, titled New Landscapes – rethinking residential tenancies, will be held for residential tenancy professionals involved in dispute resolution and the management or administration of tribunals and residential tenancies legislation throughout Australasia. The conference, held every two years, was first held in Sydney in 1990 and since then has been held in Melbourne, Maroochydore, Adelaide and Christchurch, New Zealand.

Publications

Chairperson's Directions

The Chairperson is responsible under the legislation for the effective and efficient management of the Tribunal. This is achieved, in part, through the Chairperson issuing Chairperson's Directions about the practice and procedure to be followed by Tribunal Members and parties attending the Tribunal.

During the reporting period the Chairperson issued Directions setting out the procedures which are to apply to summonses issued by the Tribunal. A summons is an official document issued by the Registrar bearing the Tribunal seal, which requires a person to attend and give evidence before the Tribunal or produce documents or other things to the Tribunal, or both.

This Direction is particularly useful for unrepresented parties preparing a case to go before the Tribunal and is available, with all other Chairperson's Directions, on the Tribunal's website.

Bulletin

The Tribunal Bulletin was published in July and October 2004. The Bulletin provides information about Supreme Court decisions in relation to appeals from the Tribunal as well as other court decisions that are relevant to the Tribunal's jurisdiction. The Bulletin also provides interested parties with updates on issues and guidelines, for example, relevant changes to the legislation or the release of new Chairperson's Directions. Other Tribunal news may also be promoted in the Bulletin. All versions of the Tribunal Bulletin are available on the Tribunal's website.

Information & Education

Application Forms

During the reporting period most of the Tribunal's application forms were reviewed and updated.

The Home Building, General and Motor Vehicle Division application forms now include specific information about the relevant Division to assist the applicant. New application forms dealing with specific disputes in relation to pawnbrokers and second-hand dealers and rental bonds were also developed.

All the Tribunal's application forms are available in PDF format from the Tribunal's website. Clients without internet access can collect application forms from Fair Trading Centres, Tribunal Registries or ask Tribunal Registry officers to forward them one in the post.

The Tribunal's General Information Brochure was reviewed and replaced in June 2005 with a new brochure called "What Happens at the Tribunal". This brochure provides basic information on how a dispute proceeds through the Tribunal process and should be read before the applicant completes an application form. The brochure also provides useful information to respondents to an application before the Tribunal.

School Resources

The Tribunal's resource document, titled 'Schools Project' was developed for students in the last reporting period. It outlines the Tribunal's background, composition and processes and can be viewed and downloaded from the Tribunal's website.

However, the document is currently only available in PDF format and the Tribunal is now working on developing a more interactive website 'page' version of the resource which should be available to students in the next reporting period.

Video

The Tribunal's video "Get it Sorted" has been in the public domain for 18 months and the feedback received from members of the public and stakeholders has been positive. The video, which illustrates the Tribunal's processes, can be viewed across the state at the Tribunal's Registries in the public waiting areas and is available at other locations such as local libraries and Fair Trading Centres. Copies of the video or a DVD version are available to interested groups and organisations by writing to the Registrar.

Transparency Decisions on AustLII

The Tribunal publishes written reasons and reserved decisions on the AustLII website at www.austlii.edu.au. During the reporting period the Tribunal placed 883 decisions on the AustLII site made up of the following Divisions:

Residential Tenancy	270
Home Building	210
Strata & Community Schemes	94
Retirement Villages	6
Residential Parks	23
Commercial	28
Motor Vehicles	45
General	207



Information & Education

Access to Files – Freedom of Information

Six requests under the *Freedom of Information Act 1989* were received during the reporting period. Of those requests, two were granted and two were granted in part as some of the documents required were exempt under the legislation. The other two were refused as the Tribunal did not hold the documents.

Pursuant to s10 of the *Freedom of Information Act 1989* the Tribunal is not an agency in relation to its judicial functions. In addition, any document relating to the judicial functions of the Tribunal is exempt under cl11 of sch1 of the *Freedom of Information Act 1989*. However, the Tribunal adheres to the objects of the *Freedom of Information Act 1989* and ensures that its processes are open, accountable and responsible. To this end, the Tribunal provides information on its website to assist parties involved in proceedings before the Tribunal. This information includes Chairperson's Directions, a quarterly Bulletin and information sheets.

In addition, all parties to a matter have access to their file/s in accordance with Part 8 of the *Consumer, Trader and Tenancy Tribunal Regulation 2002*. Generally, the entire file can be viewed with the exception of the Members' hearing notes. There is no fee payable by a party for viewing a file except for the viewing of files in the Strata and Community Schemes Division, where the fee is \$12. Photocopy fees of \$2 per page, with a minimum fee of \$21, apply for copies of any documents on the file. Requests by parties for access to their file/s should be in writing to the Deputy Registrar at the Registry where the files are held.

Under cl38(3) of the Regulations, 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. The request for access should be in writing to the Registrar, Consumer, Trader and Tenancy Tribunal, GPO Box 4005, Sydney 2001.

Formal freedom of information applications for access and amendment are made in writing to the Deputy Registrar, Consumer, Trader and Tenancy Tribunal, GPO Box 4005, Sydney 2001. Inquiries can be made by telephone (02) 9641 6468 Monday to Friday from 8.30am to 4.30pm.

Access to Tribunal Files by Third Parties

The Chairperson may elect to provide the Minister, Director General or an authorised agent or representative of a party with information as set out in s70, 72 and 85 of the Act. Requests from other third parties are dealt with under s73 of the Act and the Privacy and Personal Information Principles, which restricts disclosure of information.

A copy of the Tribunal's Privacy Management Plan is available on the Tribunal's website.

The Tribunal Registrar may allow access to information without the parties' permission under the following circumstances:

- written reasons and reserved decisions are published on AustLII
- information about party names are published daily on the hearing lists and on the Tribunal's website
- where the police are investigating an allegation about perjury in the Tribunal, access to any record is available
- where the media's request for information about a matter had been approved by the Registrar.

Information & Education

Peer Review Panel

The *Consumer, Trader and Tenancy Tribunal Act 2001* provides that a Peer Review Panel is established under the Act. The procedures of the Panel were approved by the former Minister for Fair Trading, the Commissioner for Fair Trading and the Tribunal Chairperson.

In 2004 one matter was referred to the Peer Review Panel by the then Minister for Fair Trading, the Hon Reba Meagher MP. In accordance with the legislation the Panel conducted a review of this matter and provided advice to the Minister.

Code of Conduct

Tribunal Members

In accordance with schedule 3 of the *Consumer, Trader and Tenancy Tribunal Act 2001* the Chairperson issued a Code of Conduct which applies to all Tribunal Members.

The Code provides guidance to Members in the performance of their statutory functions as Members of the Tribunal. It is intended to provide practical assistance in performing their duties and in identifying and resolving situations which may present ethical conflicts. It also sets out the standards of behaviour expected of each Member of the Tribunal.

Tribunal Registry

Tribunal Registry staff have been subject to the Code of Conduct administered by the former Department of Fair Trading.

The Tribunal adopted the Department of Commerce Code of Conduct in February 2005. The Code is a statement of the Department's collective commitment to maintaining the highest ethical standards of behaviour and is designed to provide a practical framework of acceptable behaviour to assist Registry officers in performing their day-to-day duties in an ethical and professional manner.

The Code is extensive, covering many issues including dealing with customers, conflicts of interest, discrimination and harassment, use of facilities, technology and business tools such as departmental cars and mobile telephones, protecting official and confidential information and workplace safety. The Code has been distributed amongst Registry officers and is actively supported by senior management.

Staff Services & Organisational Development

Library

The Tribunal has a Library to support the research needs of Members and Registry officers and to ensure publication of its decisions. The Tribunal published 883 written decisions on the AustLII website in this reporting period.

Occupational Health & Safety

The Tribunal's Occupational Health and Safety Committee continues to meet on a quarterly basis. The Committee is made up of management and employee representatives. During the reporting period the Committee was expanded to include a greater number of employee representatives and increase representation from Regional Registries.

Four representatives undertook training in Occupational Health and Safety consultation as required under s31 of the *Occupational Health and Safety Regulations 2001*.

During the reporting period, the Tribunal regularly undertook hazard reviews and dealt with any safety issues which required rectification. In addition, the Tribunal commenced the introduction of trained First Aid Officers at Regional Registries. Emergency Evacuation Plans were revised and refresher training was implemented at several sites. The Occupational Health and Safety and Injury Management Policy Statement and Action Plan were circulated and implemented.

Flexible Working Arrangements

To maximise the full potential of its workforce, the Tribunal supports its entire staff with a range of flexible work practices such as permanent part-time and job-sharing arrangements.

The Tribunal recognises that its people have lives outside of work and, during the reporting period, adopted the new flexible working hours agreement (published by Department of Commerce) to assist officers balance work/life options.

Spokeswomen's Program

The Department of Commerce Spokeswomen's Program promotes efficiency and effectiveness in the public sector by assisting women to develop their knowledge and skills in order to fully participate on equal terms. The Tribunal participates in the Program by way of a staff representative who updates women at the Tribunal with information on equal opportunity in employment and career development.

Some of the activities the Tribunal participated in during the 2004/2005 financial year included the Annual Spokeswomen's Conference, the Commerce 2005 International Women's Day celebration on 4 March 2005 and a breakfast organised by the United Nations Development Fund for Women on 8 March 2004.

A review of the Spokeswoman's program is currently underway.

Registry Officer Training

During the 2004-2005 year the Tribunal identified some of the generic and technical skills, knowledge, experience and behaviours required by the organisation and provided learning and development opportunities for its officers to ensure that these capabilities were incorporated into its daily operations.

Staff Services & Organisational Development

The Tribunal focused on its culture and values and on the challenges in providing best practice across geographically dispersed Registries. Senior managers provided support to all Registry officers especially those in regional areas through coaching and informal mentoring programs.

Registry officers received training in management skills, mediation (accredited and non-accredited), software programs, procedural and legislative changes. The Tribunal also provided development opportunities to a large proportion of officers by supporting opportunities for secondments elsewhere in Commerce and other Government departments.

Law Students Program

During the year two Bachelor of Law students from the University of Wollongong gained work experience at the Tribunal. They each observed and assisted with Registry functions for a period of 20 days. The students also worked on individual projects developing reference material for the Tribunal and working on a project to appoint some Registry officers as Justices of the Peace to assist parties to the Tribunal.

Aboriginal and Torres Strait Islander Cadetship Program

The Tribunal participated in the Office of Fair Trading engagement of an Aboriginal or Torres Strait Islander law student as a cadet. The University of Technology student began at the Tribunal as the first leg of a rotation through three branches of the Office of Fair Trading. The student spent three months at the Tribunal, assisting with paralegal and project work and becoming acquainted with Registry processes.

Work experience

A year 10 student from St Ursula's College Kingsgrove attended the Tribunal for one week's work experience. The student was provided with a snapshot of the day-to-day operations of a Tribunal Registry. Throughout the week the student undertook administrative tasks and viewed Tribunal hearings.

Internal Communication

RegistryNet

RegistryNet is an intranet service developed by the Tribunal's Business Development Unit to give Tribunal Registry officers easy access to information relevant to their jobs. Registry officers can log into RegistryNet to access announcements, information about upcoming events, links to internet sites like the Tribunal's website, the Office of Fair Trading Website and AustLII for Tribunal decisions. Other resources available are links to application forms, the Registry Procedures Manual, a Question and Answer document, internal telephone lists and the Tribunal Members' travel diary.

MemberNet

MemberNet is an Intranet service for Tribunal Members. It provides easier communication between Members and facilitates the provision of information and resources to Members located throughout the State.

Staff Services & Organisational Development

Member Training

During the reporting period the Tribunal held a two-day conference for all Tribunal Members in November 2004.

Two Members attended a Decision/Judgment Writing workshop conducted by Professor James Raymond.

A number of Members also attended the Australian Institute of Justice Administration conference "The Rise and Rise of Tribunals" in June 2005.

Tribunal Charities

Tribunal officers and Members supported a number of charities during the 2004 – 2005 reporting period. Supported causes were the Tsunami Appeal, the Cancer Council (Daffodil Day and Pink Ribbon Day), World's Greatest Shave, Leukaemia Foundation (Lunch for Leukaemia) and the Children's Christian Fund. Over \$3000 was raised to support these causes.

Ethnic Affairs Priorities Statement

The Tribunal continues to involve the NSW community, including ethnic representatives, in all activities such as public information programs, and consultative forums. Additionally, all Tribunal application forms include referral information to appropriate interpreting services in 16 languages.

For 2005-2006 the Tribunal is looking to implement the following initiatives:

- an information session targeted at the non-English speaking background community, which is scheduled to take place in October
- provision of general information about the Tribunal in various languages in a CD-Rom format.

Staff Profile

About 25% of Tribunal officers are people whose language first spoken as a child was not English.

The Tribunal has 15 Registry officers providing language assistance in nine different languages. The Office of Fair Trading has 99 officers covering 28 languages who can provide assistance to Tribunal clients.

Consultative Forums

The Tribunal continued to hold Consultative Forums in all eight Divisions throughout the year. The Tribunal and interest groups exchange information and provide feedback about proposals for procedural and listing initiatives. As a result of feedback received, the Tribunal may make changes to improve its service to its clients.

The table below shows the number of Consultative Forums held in this reporting period:

Date	Event
1 July 2004	Tenancy Consultative Forum
22 July 2004	Strata & Community Schemes Consultative Forum
12 August 2004	General Consultative Forum
1 September 2004	Tamworth Regional Consultative Forum
2 September 2004	Motor Vehicles Consultative Forum
13 September 2004	Liverpool Regional Consultative Forum
15 September 2004	Wollongong Regional Consultative Forum
23 September 2004	Residential Parks Consultative Forum
14 October 2004	Tenancy Consultative Forum
11 November 2004	Commercial Consultative Forum
25 November 2004	Home Building Consultative Forum
1 December 2004	Newcastle Regional Consultative Forum
16 December 2004	Strata & Community Schemes Consultative Forum
7 February 2005	Liverpool Consultative Forum
10 February 2005	Tenancy Consultative Forum
3 March 2005	General Consultative Forum
17 March 2005	Motor Vehicles Consultative Forum
7 April 2005	Home Building Consultative Forum
28 April 2005	Residential Parks Consultative Forum
2 May 2005	Liverpool Consultative Forum
12 May 2005	Strata and Community Schemes Consultative Forum
2 June 2005	Commercial Consultative Forum
23 June 2005	Retirement Villages Consultative Forum

Consultative Forums

The organisations represented on the Consultative Forums are set out below:

TENANCY DIVISION

ARCH
Aboriginal Housing Office
Combined Pensioners and Superannuants' Association
Department of Housing Appeals Committee
Department of Housing
EAC
Financial Counsellors Association of NSW and ACT
Gandangara Local Lands
Legal Aid Commission
NSW Federation of Housing Association Inc
Office of Community Housing
Office of Fair Trading
Property Owners' Association of NSW
Public Tenants' Council (Central Sydney)
Real Estate Institute of NSW
Redfern Legal Centre
Southern Sydney Tenancy Service
South West Tenant's Advice and Advocacy Service
Tenants' Union of NSW
Teacher Housing Authority of NSW

GENERAL DIVISION

Australian Consumers Association
Australian Industry Group
Australian Retailers Association – NSW
Combined Pensioners and Superannuants' Association
Community Relations Commission
Disability Council of NSW
Fair Trading Advisory Council
Financial Counsellors Association of NSW and ACT
Law Access NSW
Pawn Brokers Association of NSW
Office of Fair Trading
Recreational Van and Home Owners Association

HOME BUILDING DIVISION

Australian Institute of Building, NSW Chapter
Building and Construction Council of NSW Inc
Civil Contractors Federation
Housing Industry Association
Institute of Building Consultants
Institute of Strata Title Management Ltd
Institution of Engineers Australia
Master Builders Association
Master Painters Association
Master Plumbers and Mechanical Contractors Association
NSW
National Electrical and Communications Association of
NSW
NSW Bar Association
Office of Fair Trading
Royal Australian Institute of Architects
Russo and Partners

Swimming Pool and Spa Association
The Law Society of NSW
Timber Flooring and Finishing Association of NSW
Vero Insurance Ltd

MOTOR VEHICLE DIVISION

Australian Manufacturing Workers Union
Institute of Automotive Mechanical Engineers
Motor Traders Association
Motor Vehicle Repair Industry Authority
NRMA
Office of Fair Trading
Service Stations Association

RESIDENTIAL PARKS DIVISION

Affiliated Park Residents' Association
Caravan and Camping Industry Association
Combined Pensioners and Superannuants' Association
Northern Alliance of Park Residents' Association
of NSW Inc
Office of Fair Trading
Recreational Van and Home Owners Association
Western Sydney and Hawkesbury Parks Residents'
Association

STRATA & COMMUNITY SCHEMES DIVISION

Combined Pensioners and Superannuants' Association
Institute of Strata Title Management Ltd
Management Rights Association (NSW) Inc
Office of Fair Trading
Property Owners' Association of NSW
Tenants' Union of NSW

COMMERCIAL DIVISION

Consumer Credit Legal Centre
Financial Counsellors Association of NSW and ACT
Kemp Strang Lawyers
Legal Aid Commission
Office of Fair Trading
Redfern Legal Centre

RETIREMENT VILLAGES DIVISION

Aged and Community Services Association of NSW and
ACT Inc
Combined Pensioners and Superannuants' Association
Council on the Ageing (NSW) Inc
Housing Industry Association
Nursing Homes and Extended Care Association
Office of Fair Trading
Retirement Villages Association of NSW and ACT
Retirement Villages Residents Association of NSW and
ACT
The Aged-Care Rights Service Inc
Wesley Mission

Appendices

Tribunal Members as of 30 June 2005

SYDNEY

Full Time Members

RANSOME, Kay (Chairperson)
 TYDD, Elizabeth (Deputy Chairperson -
 Registry & Administration)
 VRABAC, Nick (Deputy Chairperson -
 Determinations)
 BALDING, Margaret (Senior Member)
 BORDON, John (Senior Member)
 CONNOLLY, Reg (Senior Member)
 PAULL, Christine (Senior Member)
 DEAMER, Jane
 MOORE, Ted
 MURPHY, Cameron
 SHEEHAN, Des
 STEER, Charlotte
 THANE, Kathy

Part Time Members

BRIGGS, Phillip
 BULLEN, Mark
 BUTLER, Rex
 CHEESMAN, Philip
 COHEN, Totti
 CONNELLY, Janice
 CORLEY, Susan
 COURTNEY, Michael
 FAREY, Janet
 HUNTSMAN, Carolyn
 INNES, Graeme
 SHEEDY, Tracey
 TAYLOR, Lyndal
 WHITE, Tony

PARRAMATTA

Full Time Members

SMITH, Jeffery

Part Time Members

CONLEY, Jennifer
 GEORGE, Ian
 KELLY, Tom
 O'MOORE, Rory
 PILBERSEK, Raymond
 ROSS, Kim
 SARLOS, Peter
 TEARLE, William
 WILLIAMS, Louise

LIVERPOOL/CAMPBELLTOWN

Full Time Members

GAWDEN, Alexandra
 O'KEEFE, Gregory

Part Time Members

HENNINGS, Simon
 NEWHOUSE, George
 NOONE, Michael
 TURLEY, David

PENRITH/BLACKTOWN

Full Time Members

BORSODY, Agnes
 McMILLAN, John

Part Time Members

BRITTON, Anne
 BROPHY, Moira
 DELLAR, Garry

FELLOWS, Julie
 LEOTTA, Kerry
 LONG, Christine
 McDONALD, Allan
 MONTGOMERY, Stephen
 WIFFEN, Graeme

HURSTVILLE

Full Time Members

PHILLIPS, Richard (Senior Member)
 CARPENTIERI, Antony
 REID, Judy

Part Time Members

ADDERLEY, Georgia
 CIPOLLA, John
 DUNCOMBE, Sue
 EFTIMIOU, Maritsa
 FAULKES, Wendy
 GORDON, Bruce
 LENNON, David
 MARZILLI, Claudio
 PERRETT, Mary
 SMITH, Stephen

WOLLONGONG/SOUTH COAST –

KIAMA, NOWRA

Part Time Members

BARNETSON, Diane
 BECKETT, Angela
 BORDON, George
 BRADY, Brian
 DALLEY, Margaret
 GORDON, David
 HARVEY, Danae
 MALLAM, Bill
 SHIPP, Bernard

NEWCASTLE/MAITLAND

Full Time Members

LANSDOWNE, Robyn

Part Time Members

BOYD, Phillip
 CHOPPING, Sally
 FAUST, Sabina
 PEACOCK, Jane
 ROSS, Katherine

CENTRAL COAST – GOSFORD, HORNSBY

Full Time Members

DURIE, Graeme (Senior Member)
 SMITH, Peter

Part Time Members

BELL, Ross
 BLAIR, Robert
 ISAAC, Colin

TAMWORTH

Full Time Members

FORBES, Deborah

LOWER NORTH COAST – TAREE, FORSTER, KEMPSEY, PORT MACQUARIE

Part Time Members

COOPER, Emelie
 GILSON, Mark
 McCASKIE, Carol

MID-NORTH COAST – COFFS HARBOUR, GRAFTON

Part Time Members

SAINSBURY, Murray
 TOWNSEND, Kathy

FAR NORTH COAST – LISMORE, TWEED HEADS, BALLINA

Part Time Members

ANNIS-BROWN, David
 GALLAGHER, John
 HOLWELL, Kim
 MILLER, Jill
 PICKARD, Bryan

CENTRAL WEST

Part Time Members

BELL, Diana
 WALSH, William

DUBBO/FAR WEST/BROKEN HILL

Full Time Members

HALLIDAY, John

Part Time Members

WILLIAMS, Kerry (Broken Hill)

RIVERINA – ALBURY, WAGGA WAGGA, GRIFFITH, LEETON, DENILIQUIN

Part Time Members

CUMES, Guy
 LYNCH, Joanne

SOUTHERN TABLELANDS– QUEANBEYAN, GOULBURN, COOMA, YASS

Part Time Members

ANFORTH, Allan
 CHENOWETH, Rieteke
 HOOKEY, John
 KILLIMAN, Glenn

Members and staff were saddened by the passing on 30 November 2004 of Professor David Harland, part-time Member.

Total Chairpersons/ Deputy Chairpersons	3
Total Senior Members	6
Total full-time Members	17
Total part-time Members	83
Males	56
Females	45
Total	101

Percentage of Members based in Sydney metropolitan areas	60%
Percentage of Members based in regional NSW	40%

Appendices

Human Resources Report

Registry Officers 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
< \$30,146	0	0	0	0	0	0	0	0	0
\$30,146 - \$39,593	0	0	0	0	0	0	0	0	0
\$39,594 - \$44,264	53	48	11	42	2	19	18	1	0
\$44,265 - \$56,012	27	26	4	23	0	10	6	4	2
\$56,013 - \$72,434	38	37	10	28	0	11	7	3	0
\$72,435 - \$90,543	2	1	2	0	0	0	0	0	0
> \$90,543 (non-SES)	10	10	2	8	0	1	1	1	0
> \$90,543 (SES)	1	1	0	0	0	0	0	0	0
Total	130	123	29	102*	2	41	32	9	2

Registry Officers 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	People whose language first spoken as a child was not English	People with a disability	People with a disability requiring adjustment at work
Permanent Full Time	105	99	26	79	2	36	29	7	2
Permanent Part Time	19	19	0	19	0	4	3	2	0
Temporary Full Time	4	4	2	2	0	1	0	0	0
Temporary Part Time	2	0	1	1	1	0	0	0	0
SES	1	1	0	1	0	0	0	0	0
Total	130	123	29	102*	2	41	32	9	2

Officer Classification Profile to June 2004

SES	1
Senior Officers	1
Statutory Appointees – Full Time	26
Statutory Appointees – Part Time	83
Clerks	127
Total	238

* Totals provided only where staff may be identified

** Information provided by the Office of Fair Trading

Appendices

Financial Report

	\$'000
EXPENDITURE	
Salary and Related Payments	
Salaries	8,409
Statutory Appointees (majority included in salaries above)	2,118
Employment Agencies/Security Services	965
Annual Leave	938
Overtime	11
Meal Allowance	0
Long Service Leave	371
Superannuation	1,081
Workers Compensation	138
Payroll Tax	754
Fringe Benefit Tax	106
	14,891
Operational Expenditure	14,891
Office Accommodation	3,317
Postage and Couriers	319
Telephones	414
Minor Computer Purchases and Consumables	400
Fees	824
Training and Development Fees	33
Motor Vehicle Expenses	75
Travel Expenses	229
Minor Equipment, Consumables and Stores	443
Minor Miscellaneous Expenses	58
	6,112
Depreciation	993
Total Operational Expenses	21,996
Administrative On Costs	2,698
Total Recurrent Expenditure	24,694
Capital Expenditure	760
TOTAL EXPENDITURE	25,454
REVENUE	
Lodgement Fees	(1,793)
Contribution from Consolidated Funds	(5,744)
Contribution from Rental Bond Board	(8,462)
Contribution from Statutory Interest Account	(8,462)
	(24,461)
Net Cost of Services	993
Less Non Cash Transactions	
Depreciation	993
	993
CASH DEFICIT	0

Notes

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