

2021 -22 Annual Report

VCAT Victorian Civil &
Administrative Tribunal

Acknowledgement of Country

VCAT acknowledges the Aboriginal and Torres Strait Islander people as the First Peoples and Traditional Owners and Custodians of the land and waterways upon which our lives depend. VCAT acknowledges and pays respects to ancestors of this country, Elders knowledge holders and leaders – past and present. VCAT extends that respect to all Aboriginal and Torres Strait Islander peoples.

About this report

Under the *Victorian Civil and Administrative Tribunal Act 1998*, VCAT provides the Attorney-General of Victoria with an annual report before 30 September each year. To account for the caretaker period that precedes the State Election for 2022, this year's report is submitted to Parliament on 15 September 2022.

This report includes summary financial information. VCAT's accounts are published as part of the Court Services Victoria (CSV) annual report, available at courts.vic.gov.au.

Feedback

Visit vcat.vic.gov.au to ask VCAT a question or tell us what you think about this report.

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Responsible Body's Declaration

In accordance with section 37 of the *Victorian Civil and Administrative Tribunal Act 1998*, we are pleased to present VCAT's Annual Report for the year ending 30 June 2022.

Justice Michelle Quigley
President

Mary Amiridis
Chief Executive Officer

Contents

1. About VCAT	04
Our vision and values	04
2. Message from our President and Chief Executive Officer	06
Introduction to the Annual Report	08
3. 2021-22 at a glance	10
Laying foundations for transformation and growth	10
Key achievements	11
4. Our people	12
Our structure	12
Leadership	14
5. 2021-22 Overview	16
Key challenges	16
Health, safety and wellbeing a priority	16
Refining our approach to remote hearings	18
Gradually returning to in-person services	19
Service Transformation Program launches	20
Innovating to reduce case backlogs	21
Taking a tribunal digital	23
6. The legislative environment	24
Environment and resources	24
Jurisdiction change: Recourse for interstate parties	24
The Owners Corporations List	25
7. Services	26
Our website enhances communication and accessibility	27
Building on solid foundations: Purpose-designed facilities are key service enablers	28
Continuing the work of building accessible justice for Koori users	30

8. Cases	32
Alternative Dispute Resolution	35
9. Our services by division	38
Our divisions	38
Administrative Division	40
Civil Division	44
Human Rights Division	52
Planning and Environment Division	60
Residential Tenancies Division	65
10. Appeals	70
11. Structure and governance	72
Our structure	72
Internal governance	74
Rules Committee	75
12. Appendices	78
A. Financial information	80
B. Enabling enactments as at 30 June 2022	81
C. VCAT member directory	86
D. List of tables and figures	91
E. Complaints	100
F. Glossary	101
G. Contact details	104



01

About VCAT

The Victorian Civil and Administrative Tribunal (VCAT) operates as an independent part of Victoria's justice system.

We resolve disputes and make decisions under more than 150 pieces of Victorian legislation.

The *Victorian Civil and Administrative Tribunal Act 1998* establishes VCAT and governs our operations. Our independence is supported by the provision of administrative services and facilities by a statutory body corporate: Court Services Victoria (CSV).

Our vision and values

Our vision: To serve the community by resolving disputes in a timely, cost-effective and efficient way

Our values: Fairness, professionalism, integrity, independence, efficiency, approachability, accessibility

Our goal: To be a tribunal that meets the needs of all Victorians



Contemporary and customer-centric services

Embrace innovation and digital technologies to meet contemporary service expectations



Inclusive and accessible

Make it easier for all Victorians to participate and access VCAT



Responsive and collaborative relationships

Strengthen relationships with stakeholders and the community we serve



United leadership and culture

Embed the leadership capability and culture needed to drive change



Skilled for the future

Develop a modern and dynamic workforce for the future

The types of cases we decide

- ✓ Renter and rental provider disputes
- ✓ Domestic and commercial building disputes
- ✓ Consumer disputes about products or services
- ✓ Owners corporation disputes
- ✓ Planning disputes including permits and objections
- ✓ Appointing or reviewing a guardian or administrator
- ✓ Retail and commercial lease disputes
- ✓ Human rights matters, like discrimination
- ✓ Reviewing decisions made by other authorities

02

Message from our President and Chief Executive Officer

We once again acknowledge the continued commitment of our members and staff to maintaining our services to the Victorian community and thank our users for their patience as we conclude our second year of pandemic operations as an online Tribunal.

Our most significant challenge and concern remains our case backlogs, which grew further in the past year, particularly in the Residential Tenancies List. This growth was driven by the retirements of a large number of members and longer hearing times for cases arising from legislative changes.

The health, safety and wellbeing of our members and staff were prioritised throughout another challenging pandemic year.

In the last twelve months, we have laid strong foundations for our four-year, digitally-enabled Service Transformation Program, which will deliver a single case management system, a self-service portal for our users, and end-to-end digital workflows for our members and staff.

We evolved our business-as-usual remote hearing operations and commenced a gradual return to face-to-face hearings, initially in our Guardianship List.

A dedicated Backlog Recovery Program established for Residential Tenancy matters is showing very promising results in reducing our backlogs and improving our clearance rates. At the time of writing, the program's clearance rates are at 125% and the total backlog numbers have been decreasing month-on-month since March. The program is being expanded from July 2022 and will pilot an online bulk listing model in one category of cases in the list.

We welcomed a small number of new members in late 2021, and we look forward to the appointment of additional members to assist us to return to our pre-pandemic hearing capacity.

A search for a new headquarter facility in central Melbourne is underway with an expected move, in 2025, to a contemporary purpose-designed venue that will support our future service aspirations.

Finally, work is underway to refresh our strategic plan, which concludes at the end of 2022. The impact of the pandemic on our strategy has been mixed. In some respects, the impetus to innovate, particularly in the provision of online services, has moved us beyond the plan. In other respects, the disruption to our core business has diverted resources away from achieving all our strategic priorities. We have, therefore, decided to refresh rather than replace the existing strategic plan before its expiry. Consultations are underway with the work to be completed and reported upon in the 2022-23 Annual Report.



Justice Michelle Quigley
President



Mary Amiridis
Chief Executive Officer

"The health, safety and wellbeing of our members and staff were prioritised throughout another challenging pandemic year."



Introduction to the Annual Report

Our annual report presents the 2021-22 year in review, and canvasses qualitative and quantitative representations of the year. The report reflects on achievements and challenges, and steps through a further year, in which online hearings have been comfortably embedded into our operations. Resourcing pressures have been substantial, but have not deterred the Tribunal from its core business.

This year underscored the criticality of partnerships across the justice system, demonstrating the strength of collaboration and recognising the complex impacts of the COVID-19 pandemic. Examples include the transfer of over 100 cases in the Building and Property List to be heard by VCAT Vice Presidents in the County Court, and the support of the Dispute Settlement Centre of Victoria (DSCV) in providing their mediators to the Residential Tenancies Backlog Recovery Program. CSV's support was also instrumental in funding the backlog program, and the refurbishment of our operations hub floor at our King Street site to support covid-safe onsite operations.

The commencement of the Service Transformation Program highlighted the importance of uniting the Tribunal to co-design a shared vision for the outcomes the program will deliver. Our vision for our service transformation is a contemporary and accessible Tribunal that anticipates the diverse needs of the Victorian community.

It also confirmed the need to plan for rolling impacts of the program on our business-as-usual operations, as our own subject-matter experts (members and staff) are core to the design of the new case management system and the digital workflows that will automate much of the transactional work that defines our current paper-based processes. Careful and early planning for the use of subject matter experts must be undertaken to reduce the risk on the impact on our daily operations. A key challenge faced this year was a very tight labour market. Equally important is change management as we progressively pivot the Tribunal to a digital-first environment.

The service design work has built a deep foundation for the detailed design and build of the new system and supporting infrastructure. We are also grateful to leverage the support of our colleagues from the Department of Treasury and Finance, Digital Victoria, the Department of Justice and Community Safety and CSV in an assurance and advisory frame, recognising a whole-of-government investment in the success of the program.

The year ahead will also see us integrating building, system and workforce design to align our core transformation enablers of people, process and place. Our strategic plan will be refreshed and leverage these enablers, and our service transformation, to set a pathway to excellence in dispute resolution – our core business.



03

2021-22 at a glance

Laying foundations for transformation and growth



68,095
applications



~43,000
cases heard online



32,704
hearings via
teleconference



New programs introduced
to improve clearance
rates and address
increasing backlogs



172,030
calls answered



Transitioning back to
in-person hearings



11% improvement
in clearance rate for
Residential Tenancies, our
highest volume list



747,821
visitors to the VCAT
website



367,086
emails managed



1,179
cases resolved by
compulsory conferences
and mediation sessions



46%
ADR resolution
rate



Service transformation
foundations established





Key achievements

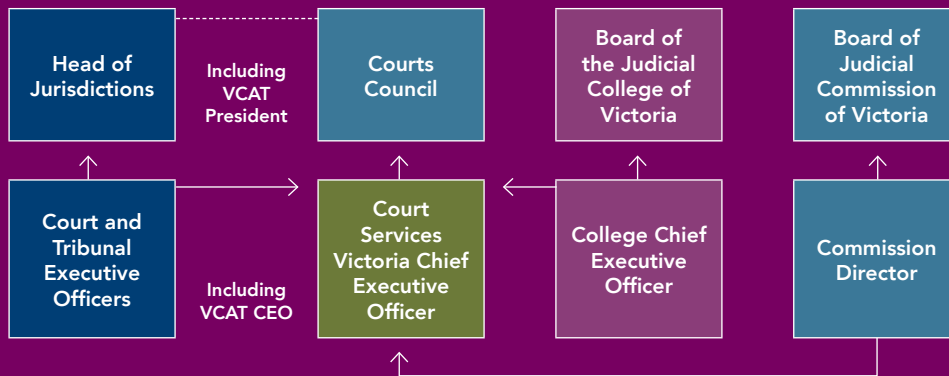
- ✓ The **Backlog Recovery Program** is reversing growth in pending residential tenancies matters and finalised **8,653 matters** in **6 months**.
- ✓ Implementing the **Environment Protection Act 2017**, giving greater protections to the environment and public from the effects of pollution and giving VCAT greater oversight over Environment Protection Authority (EPA) decisions.
- ✓ The **Service Transformation Program** completed the service design phase, developing our program vision and strategy, and blueprints for future service delivery.

04

Our people

Our structure

Court Services Victoria accountability structure, including VCAT

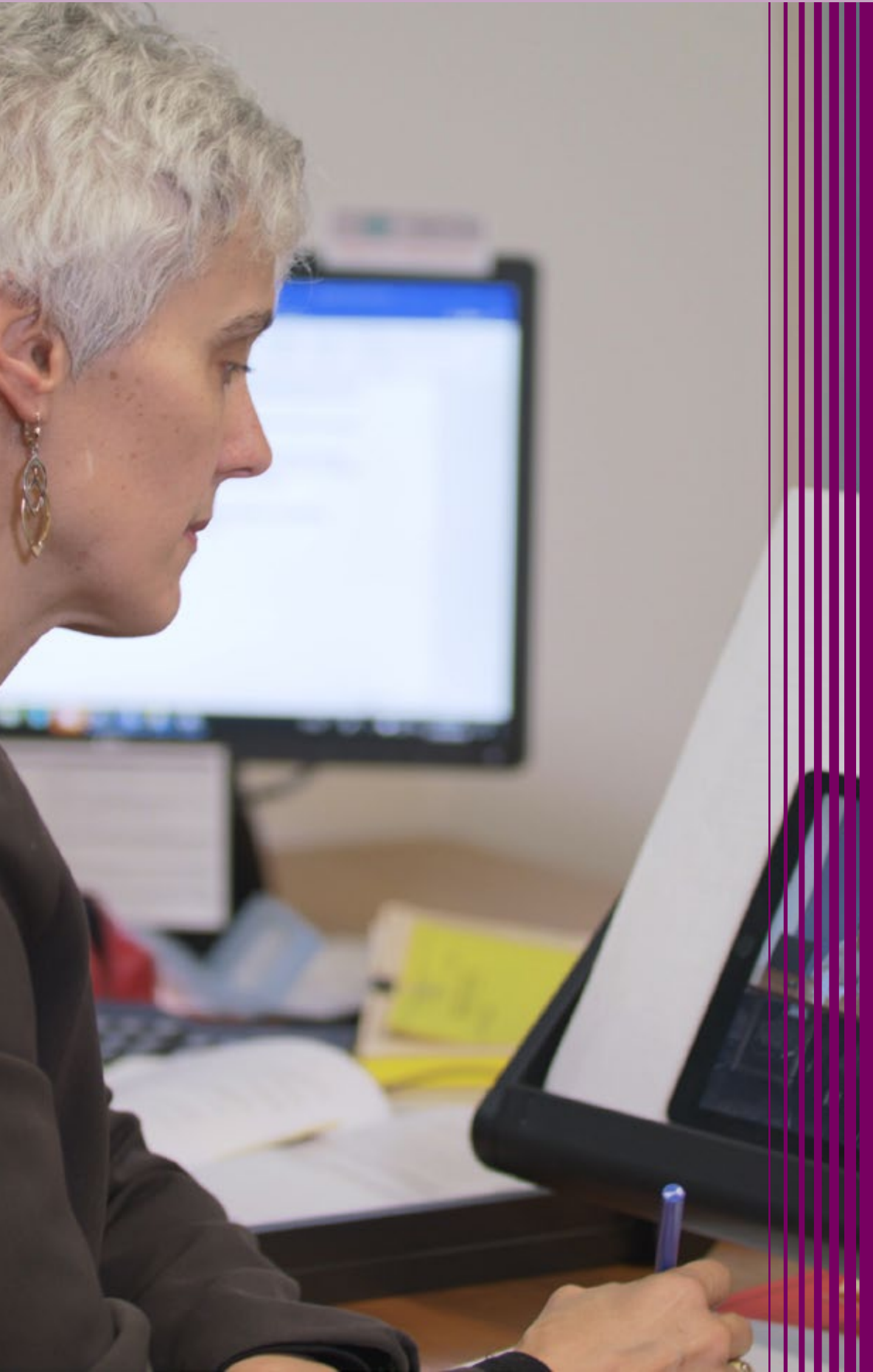


For more information about CSV and to view its annual reports, visit courts.vic.gov.au.

VCAT Corporate Structure



OUR MEMBERS AND STAFF	2018-19	2019-20	2020-21	2021-22
Members (head count)	225	222	201	195
Staff (full-time equivalent, rounded)	238	254	263	270



Leadership

Our leadership group includes VCAT members, appointed by the Governor in Council to ensure the Tribunal's independence, and senior staff employed by CSV.

President

Justice Michelle Quigley

Vice Presidents

Nine County Court judges serve as Vice Presidents.

Judge Samantha Marks

Judge Sharon Burchell

Judge Elizabeth Brimer

Judge Sandra Davis

Judge Felicity Hampel

Judge Michael Macnamara

Judge Jeanette Morrish

Judge Ted Woodward

Judge Graham Anderson

Administrative Division

Head of Division

Deputy President Heather Lambrick

Legal Practice List

Head of List

Senior Member Elisabeth Wentworth

Deputy Head of List

Senior Member Reynah Tang

Review and Regulation List

Head of List

Deputy President Heather Lambrick

Deputy Heads of List

Senior Member Anna Dea

Senior Member Jonathan Smithers

Civil Division

Head of Division

Deputy President Ian Lulham

Deputy President Richard Wilson

(from 1 December 2021)

Civil Claims List

Head of List

Deputy President Ian Lulham

Deputy Heads of List

Senior Member Stella Moraitis

Senior Member Silvana Wilson

Building and Property List

Head of List

Senior Member Suzanne Kirton

Deputy Heads of List

Deputy President Eric Riegler

Senior Member Mark Farrelly

Senior Member Leneen Forde

Owners Corporations List

Head of List

Senior Member Lindsay Warren

Deputy Heads of List

Senior Member Charlene Price

Senior Member Silvana Wilson

(from 30 October 2021)

Human Rights Division

Head of Division

Deputy President Genevieve Nihill AM

Guardianship List

Head of List

Deputy President Genevieve Nihill AM

Deputy Heads of List

Senior Member Bernadette Steele

Senior Member Brendan Hoysted

Human Rights List

Head of List

Deputy President Genevieve Nihill AM

Deputy Head of List

Senior Member Bernadette Steele

Planning and Environment Division

Head of Division

Deputy President Teresa Bisucci

Planning and Environment List

Head of List

Deputy President Teresa Bisucci

Deputy Heads of List

Senior Member Margaret Baird

Senior Member Carol Daicic

Senior Member Bill Sibonis

Residential Tenancies Division

Head of Division

Deputy President Ian Proctor

Residential Tenancies List

Head of List

Deputy President Ian Proctor

Deputy Heads of List

Member Kylea Campana

Member Andrea Treble

Alternative Dispute Resolution

Director, Alternative Dispute

Resolution

Deputy President Ian Lulham

Deputy Director, Alternative

Dispute Resolution

Senior Member Charlene Price

Administration Executive

Chief Executive Officer and

Principal Registrar

Mary Amiridis

Senior Strategic Adviser

Stuart Moran

Executive Director & Registrar,

Services and Legal

Warwick Mitchell

Executive Director, People, Culture

and Wellbeing

Cheryl Woollard

Executive Director, Experience,

Strategy and Transformation

Zoe Dyson

Executive Director, Finance and

Business Services

Seth Holmes (to 12 July 2022)

05

2021-22 Overview

Although Victoria's State of Emergency remained in place throughout the financial year, VCAT adapted and evolved to the restricted operating environment. We continued to provide essential services to the Victorian community while adhering to advice on maintaining health and safety for our users, members and staff.

Key challenges

A growth of 25% in pending cases compared to the same time last year created significant pressure across most lists. This was most acutely felt in our highest volume list, Residential Tenancies, which saw a 37% increase in pending matters, despite a finalisation rate that was on par with the previous year.

Overall, there were fewer initiated cases during the year, but the effects of the COVID-19 pandemic were still keenly felt across the Tribunal. A slightly reduced finalisation rate (2% down on the previous year) meant that despite fewer cases being initiated, pending matters remained high.

Health, safety and wellbeing a priority

The health, safety and wellbeing of our people and the community were a priority for VCAT, and informed decisions about how we operated during the year. In line with public health directives, we developed and maintained a COVIDSafe plan for each of our workplaces. Due to our continued high reliance on paper files in most lists, we maintained a significant on-site workforce of staff and members throughout the year in accordance with applicable government restrictions. In addition to implementing preventative measures under our COVIDSafe plan, we activated business continuity and crisis management protocols to effectively manage workplace exposures. Timely communication with the whole organisation and personal attention to affected staff and members were key elements of our response.





Throughout the year, wellbeing support to members and staff was provided by a range of practitioners including the Employee Assistance Program, organisational psychologists, counsellors and the People, Culture and Wellbeing (PCW) team.

Support also included training sessions focused on upskilling staff and members to work from home effectively, using enhanced technology. The support provided was tailored to the needs of people working from home and for the staff and members who continued to work on site. Further sessions were held as staff and members transitioned back to primarily office-based working. Extra support was offered to staff and members who contracted COVID-19. This support included both practical and emotional support and was extended to their families.

Communication from leaders in the form of Tribunal-wide, team and individual activities was increased and was essential to maintaining a positive culture during this time. Surveys and 'pulse checks' were implemented to ensure the support provided was tailored to the range of needs and circumstances of staff and members across the Tribunal. VCAT has continued to provide a comprehensive and proactive wellbeing program as the presence of COVID-19 in the community remains high.

A refurbishment of our Level 7 primary operations floor at 55 King Street is underway this year with

the aim of supporting COVIDSafe operations and optimising occupational health and safety.

Refining our approach to remote hearings

This year, VCAT continued to deliver most of its hearings remotely in order to ensure the health and safety of members, staff and the community. While initially a product of necessity that developed in response to the pandemic, remote hearings are now accepted as an ongoing feature of VCAT's dispute resolution activity. To support this, we improved the stability of our teleconference and online hearing platforms and embedded better support for members running remote hearings. Given the diversity of VCAT's users and the types of cases we hear, a one-size-fits-all approach to the way we conduct hearings will not serve community needs and expectations.

The efficiency and appropriateness of hearings delivered remotely remains variable across lists and matter types. The ability for users to participate remotely provides an opportunity to increase convenience and access to justice for some users compared with traditional in-person hearings. In residential tenancies disputes, for example, we have seen an increased rate of participation by renter respondents. However, increased participation also means that hearings typically take longer, with implications for our member resourcing. We are also working to ensure that lack

“While initially a product of necessity that developed in response to the pandemic, remote hearings are now accepted as an ongoing feature of VCAT’s dispute resolution activity.”

of access to technology does not create new barriers for some users; for example, users who have access only to a mobile phone may find it difficult to view detailed documents shared on a screen during hearings. In addition, participants in some case types, such as in the Guardianship List, have difficulty fully participating via teleconference or the online platform.

Towards the end of the year, we prioritised planning for and delivery of our first in-person Guardianship List hearings since March 2020. This work formed part of a broader project to refine our future hearing delivery model, taking into account the varying needs of our lists. This work will continue in 2022-23 and will seek to define the optimum mix of remote, in-person and hybrid hearings to support the Tribunal’s multiple objectives of efficiency, timeliness, accessibility and excellence in decision-making.

Gradually returning to in-person services

Our members and staff have continued to support our digital services while moving towards a return to in-person operations. It is recognised that a hybrid model, mixing digital and in-person hearing services, provides greater accessibility and flexibility to the community.

The re-opening of our venues to the public for counter services and in-person hearings marked a significant milestone. Our CBD venue at 55 King Street was the first to open on 13 April 2022, followed by our community-based venues at Oakleigh (22 April), Bundoora (29 April) and Frankston (6 May). While our Bundoora and Frankston sites had been formally opened in early 2021, due to pandemic restrictions and impacts these dates marked the first time that these venues were accessible to the public. Small teams of members and staff were located at these venues during the venue closures to mitigate the risk of loss of facilities from COVID-19 exposures by spreading essential workers across multiple sites. The operation of these community venues also ensured that applicable density requirements could be maintained at our King Street premises.

While our users can interact with us digitally or face-to-face, a physical drop box service operated at our CBD venue during the pandemic, allowing users to supply hard copy files and to maintain social distancing.

HOW WE HEARD OUR CASES	2018-19*	2019-20**	2020-21	2021-22
Teleconferences	n/a	11,651	40,210	32,704
Videoconferences (hearings not individual sessions)	n/a	437	6,833	10,316
Mediations held via phone or Zoom – a combination of video and teleconferences as part of the Fast Track Mediation & Hearing program for Civil Claims***	n/a	137	1,695	1,234
On the papers	n/a	42	2,375	2,299

* Video and teleconference matters were conducted but no data maintained as ‘in-person’ was the norm in 2018-19 – digital by exception only

** 2019-20 data taken from period 18 March 2020 to 30 June 2020 (3.5 months only) – no YOY comparison

*** Before pandemic restrictions, majority of FTMH hearings were conducted in person – 998 in 2019-20

We supplemented traditional methods of dispute resolution by making greater use of our ability under the *Victorian Civil and Administrative Tribunal Act 1998* to decide cases solely based on written documents provided by the parties. Known as decisions ‘on the papers’, this mode of dispute resolution can result in faster decisions in some cases without the need for parties to be present. Under the law, we can make decisions ‘on the papers’ unless a party objects, but we can still proceed if we are satisfied that the objection is not reasonable.

Service Transformation Program launches

VCAT’s four-year, digitally-enabled Service Transformation Program was formally established. The program will:

- create a seamless online experience for VCAT users, including opportunities for greater self-service and better online access to case information
- progressively transition all VCAT’s lists onto a new singular, paperless, cloud-based case management system that will automate end-to-end workflows, reduce repetitive manual administrative tasks and inefficiencies, and support our workforce to provide the best possible service to the Victorian community

- improve the accuracy, quality and timeliness of the information we provide to over 400,000 Tribunal users who contact us through phone, email and over the counter.

We commenced our initial, high-level service design phase to create the foundations of this program and ensure the case management system is built to deliver the right solutions for members, staff and users. A co-design process was used which included inputs from and workshops with VCAT members and staff, consultation with external stakeholders, and research within a representative group of VCAT users.

The outputs of the service design phase included creating service blueprints, a customer journey map, user experience strategy and transition considerations. The work was overseen through a multi-disciplinary service design advisory group (comprising members, staff and program team members), in addition to the existing VCAT governance groups.

Our revised Information Management Strategy underpins this service design work, ensuring that case files are transferred to a digital format securely, while providing opportunities to improve our data insights.

The service design phase set our service and experience goals for the future, which will be critical as we undertake procurement for our delivery partner (who will build our new case management system) in 2022-23.

We also continued our transition to a more digital way of working with the rollout of our eFiling solution, a process of automating some correspondence tasks to improve user experience for members and staff in preparing and hearing cases.

Combined, this work will drive VCAT's transition to being a contemporary and user-centric Tribunal that embraces innovation and digital technologies to meet the service expectations of the modern user and to better serve the Victorian community.

Innovating to reduce case backlogs

Efforts to reduce VCAT's case backlog continue to be a focus. We acknowledge the waiting times in some of our lists are too long and are impacting our users. Our staff and members are committed to reducing backlogs, and this year evidenced a focus on innovation, while also working under significant pressure to reduce the backlogs and their associated waiting times. As our highest volume division, the Residential Tenancies List faces the most pressure.

Backlog Recovery Program

In December 2021, Acting Deputy President Lindsay Warren was appointed to lead a dedicated Backlog Recovery Program, solely focusing on initiatives to finalise backlog cases and arrest backlog growth in the Residential Tenancies List.

“...finalised 8,653 matters, raising the monthly clearance rate to more than 120%.”

With a team of registry staff and sessional members, Deputy President Warren is working closely with Deputy President Proctor, head of the Residential Tenancies List, to trial several parallel initiatives. The aim of the program is to systematically work through all backlog cases. CSV assisted VCAT with funding for key program resources.

A collaboration was established with DSCV as part of this program. VCAT partnered with DSCV to allocate cases to trained DSCV dispute resolution officers to determine if they could be resolved via mediation. The matters were largely outstanding bond or compensation applications in Residential Tenancies, many of which had been lodged with VCAT for some time. VCAT's existing mediator panel has also been utilised to mediate appropriate matters.

Systematic surveying of parties was key to identifying which cases required determination by VCAT. Some cases have resolved, and the strikeout of these cases focuses the program on active matters. VCAT also worked closely with the Residential Tenancies Bond Authority (RTBA) to identify disputes where the bond was released, indicating matters had been resolved and no longer required attention.

Between the beginning of the program in December 2021 and 30 June 2022, it finalised 8,653 matters, raising the monthly clearance rate to more than 120%.

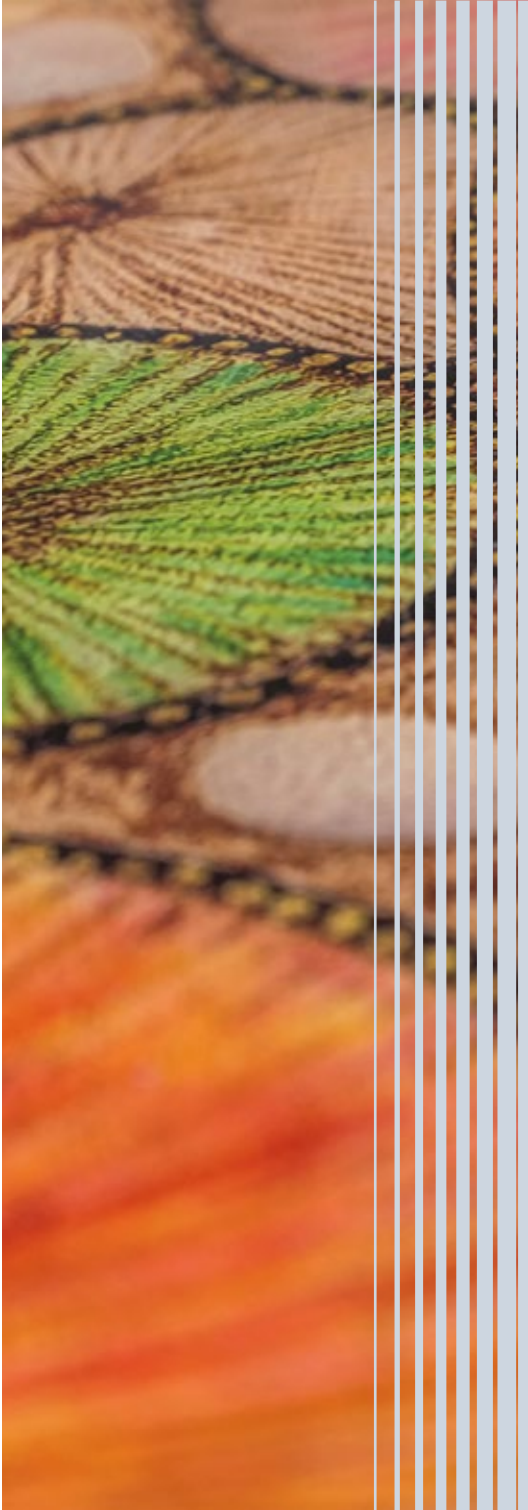
Over the same period, DSCV assisted VCAT by processing 1,597 backlog cases, including 445 cases where they worked with the parties to reach a settlement, either before or at mediation.

Where possible, backlog matters are listed to be heard using a bulk listing model. Rather than allocating specific timeslots for each case, several are scheduled within a certain timeframe, avoiding time lost if cases are resolved early or parties fail to attend.

The program is also exploring options to expand the use of our 'on the papers' hearing model. Pioneered in the Tribunal's Owners Corporations List with fee recovery debt collection matters, this model allows for matters to be heard and resolved entirely via written submissions, with no hearings taking place. This method accelerates case processing and resolution.

Finally, a pilot high-volume hearing program for cases involving possession for rent arrears will be launched in early July 2022.

“The pending case numbers are challenging but the pilot has presented opportunities for us to consider the way we have traditionally operated,” says Lindsay. “By looking outside the square for new options to work more efficiently, we can be creative whilst simultaneously ensuring procedural fairness and natural justice for our users.”



Taking a tribunal digital

Our VCAT IT team is the key enabler of our transformation

It was a year of evolution rather than revolution, for VCAT's IT team after they helped facilitate the rapid transformation of services to enable remote hearings and remote working environments. Following two years of delivering on substantial outputs, including facilitating the digital capability of hearing rooms and completing a laptop rollout to members and staff, this year the IT team focused on consolidating and continuing to refine previously introduced technology and processes.

The IT team refined existing services, such as Zoom and Virtual Meeting Centre (VMC). VMC is a tailored service offering more efficient management of hearings, especially in high-volume lists, by allowing parties to call in to a virtual VCAT lobby while they wait for their hearing. Previously, members had to dial out to parties, often resulting in delays. These programs have undergone continuous improvement as the Tribunal adapts to the evolving operational environment.

IT staff were extensively involved in the Digital Service Transformation, contributing their knowledge and expertise to the program. In the latter part of the year, IT also applied their expertise to facilitate hybrid hearings which enabled parties to attend both in person and remotely. Insights from these hearings will be used as a template to establish how future hybrid hearings can work.

06

The legislative environment

Environment and resources

During the year, VCAT undertook significant work for the commencement of the *Environment Protection Act 2017* on 1 July 2021. The Act was originally scheduled to commence on 1 July 2020, but was postponed owing to the impact of the pandemic. The Act gives the EPA greater powers in enforcing measures to protect the environment and the public from pollution and waste.

VCAT now has additional powers to review a wider range of EPA decisions, including making improvement and prohibition orders, notices to investigate, environment action orders and site management orders. The ability to review such decisions allows for greater oversight into the implementation of the Act.

Jurisdiction change: Recourse for interstate parties

Recent decisions of the High Court and the Victorian Court of Appeal have found that VCAT and other state tribunals do not have power to hear certain types of matters that, under the Commonwealth Constitution, must be heard by a court. This includes cases between individuals where one of the individuals resides interstate. Hundreds of such cases are initiated in VCAT every year, especially in the Residential Tenancies and Civil Claims lists.

In December 2021, new Victorian laws came into effect, allowing for disputes that can no longer be heard by VCAT because of this constitutional issue to be heard by the Magistrates' Court of Victoria (MCV). VCAT worked closely with MCV to support this transition and to allow the Court to hear matters in this new jurisdiction. This support included providing comprehensive training, led by the leadership of the Residential Tenancies Division, to magistrates and staff of the MCV.

The Owners Corporations List

In December 2021, an amendment to the *Owners Corporation Act 2006* established a new power for VCAT to order a lot owner to pay to the owners corporation the corporation's 'reasonable costs' in recovering an unpaid amount from the lot owner. VCAT quickly identified an appropriate case to establish jurisprudence on this significant new power, and finalised extensive reasons in April 2022. This approach helped give the industry clarity, and VCAT has since been able to resume its approach to 'on the papers' fee recovery hearings.



07

Services

In 2021-22, our services balanced working practices introduced as a response to the pandemic with a re-introduction of in-person services.

OUR SERVICES	2018-19	2019-20	2020-21	2021-22
Incoming emails managed	237,394	278,600	334,549	367,086
Counter enquiries handled at our main hearing venue, 55 King St	20,505	15,225	0	412*
Calls answered	210,416	247,951	169,593	172,030

* King Street venue has been open to public since 13 April 2022

Our website enhances communication and accessibility

Our website is a critical interface for enabling users to navigate VCAT processes. Since the redesign and relaunch of VCAT's website in July 2020, online improvements largely focused on refining the content and current architecture.

The website has been the primary channel for communicating new initiatives such as DSCV's mediations for residential tenancies disputes, venue re-openings after the COVID-19 restrictions, publication of recent decisions and new jurisdictions conferred onto the Tribunal.

Web accessibility and security upgrades have comprised most of the design and functional improvements.

This year, there was a decrease in web traffic and engagement, which reflects the trend of previous years as case backlogs grew due to the COVID-19 pandemic. A positive correlation can be found with site traffic and the number of case initiations. The website was updated regularly to inform users as the Tribunal devised strategies to deal with case backlogs.

A decrease in pages viewed per session, since the website redevelopment, indicates that users are locating information faster.

OUR WEB ENGAGEMENT	2018-19	2019-20	2020-21	2021-22
Pages viewed online	4.1 million	4.2 million	3.4 million	2.9 million

YEAR	SESSIONS	USERS	PAGE VIEWS (MILLIONS)	PAGES PER SESSION	AVERAGE SESSION (MIN:SEC)
2021-22	1,229,126	747,821	2.9	2.4	3:50
2020-21	1,318,535	814,711	3.4	2.6	3:53
2019-20	1,453,475	916,743	4.2	4.9	3:28
2018-19	1,337,696	824,434	4.1	3.1	3:50

Building on solid foundations: Purpose-designed facilities are key service enablers

Preparing for a new central Melbourne venue

Following on from the delivery of two new community-based venues in Frankston and Bundoora last year, VCAT is working towards the delivery of a new fit-for-purpose headquarters in central Melbourne, which will replace our current venue at 55 King Street.

We commenced a search for a suitable accommodation solution, working in partnership with CSV. The new venue will improve user experience as the Tribunal continues its service transformation to meet both current and future demand for its services. The venue will be able to accommodate a hybrid model of in-person and remote hearings to suit the needs of particular cases and hearing types within the Melbourne CBD. The new venue will also enable us to operate all our divisions from a single convenient location, including our Human Rights Division, which is currently operating out of temporary facilities in La Trobe Street.

Work is already underway to deliver this new facility by early 2025. An interdepartmental steering committee (comprising representatives from the Department of Justice and Community Services, Department of Treasury and Finance, Department of Premier and Cabinet, CSV

and VCAT) was established in early 2022 to provide strategic direction for the project. Preparation of a tender process began in late 2021, with development of tender documentation, review of the proposal and securing relevant approvals.

The tender was released in late June 2022, with the contract anticipated to be awarded to the successful applicant by mid-2023.

The new venue will build on concepts successfully pioneered by our community-based venues in Oakleigh, Frankston and Bundoora, which have received praise for their human-centred design features and the ease with which users can navigate their services and spaces.

Temporary move for the Human Rights Division

In early 2021, VCAT's Human Rights Division was relocated to a new venue at La Trobe Street in Melbourne's CBD. The division's prior premises at the William Cooper Justice Centre has been re-purposed to create hearing rooms for the courts. The Human Rights Division will remain at this location until VCAT's relocation to its new headquarter facility in 2025. Hearing, mediation and interview rooms will be operational at this location from September 2022, facilitating an increase in face-to-face hearings.



Continuing the work of building accessible justice for Koori users

Engaging with the Koori community as users of the Tribunal is a key part of our diversity and inclusion strategy, developed to remove barriers to effective access to justice for Aboriginal and Torres Strait Islander people.

In 2021-22, the Koori Support team built on the successes of the previous financial year, which included delivering a new website resource, multiple culturally safe hearing rooms and recruitment of several Koori support officers. This year, the team continued building on these solid foundations and increasing their support to more users.

These initiatives, coupled with dedication and hard work from the team, have yielded very positive results. Attendance rates for Koori users have increased across this year of mostly virtual hearings, with Koori Support Officers present on request whenever operationally available to do so. Our Support Officers assist in ensuring Koori parties are hearing-ready and confident to participate with our cultural supports in place for both in-person and virtual hearings.

The team strengthened methods to collect data from Koori users, to better understand their progress and the impact of the team's work. This framework enables us to understand how the support services are expanding and whether they are reaching more Koori users. Residential tenancy matters remain the most common reason Koori people come to VCAT (as with non-Indigenous users), but the number of goods and services cases are rising and are now more frequent case types than guardianship matters.

The Koori support web page and helpline continue to be an effective first point of contact for Koori users, providing important information in a culturally sensitive way and connecting the community with information and services, including the Victorian Aboriginal Legal Service, Victoria Legal Aid, Consumer Action Law Centre, Koori consumer advice and Koori family violence support organisations.

Koori Engagement Manager Wendy Harris said that all these resources were developed after extensive feedback and consultation with the Koori community, and she is delighted they are paying dividends:

“These are strong foundations to build upon as in-person hearings increase.

We’re very excited about the return to face-to-face engagement and have been getting involved where we can. It was fantastic to be invited by the Bendigo Library to participate in their Law Week event in May 2022, where we were able to provide special insight into the Koori programs and support services across jurisdictions and the Tribunal that will be a part of the new Bendigo Law Courts. It was a fantastic opportunity to represent VCAT in person again.

We remain very proud of the support we have been able to offer the community, including some of our most vulnerable represented users in guardianship and administration matters.”



08

Cases

Between the 2020-21 and 2021-22 reporting periods, lodgements decreased 10% (compared to 6% the previous year) and finalisations were 2% lower (compared to the 19% reduction in 2020-21). Reflective of these trends, the number of pending cases increased by 26%, down from a 90% increase the previous year. Pending case increases were caused by reduced member capacity and increased complexity in cases across some lists.

2021-22 CASE OVERVIEW	2018-19	2019-20	2020-21	2021-22	VARIANCE
Cases initiated	85,850	80,395	75,290	68,095	-10%
Cases finalised	83,414	76,245	61,563	60,263	-2%
Cases pending (at end of FY)	9,653	14,656	27,848	35,164	26%
Clearance rate	97%	95%	82%	89%	8%
Hearing venues used	59	60	n/a	n/a	n/a



CASES LODGED PER LIST

LISTS	2018-19	2019-20	2020-21	2021-22	VARIANCE
Civil Division					
Building and Property	2,298	2,295	2,406	2,060	-14%
Civil Claims	9,488	8,756	7,608	7,889	4%
Owners Corporations	3,245	3,445	2,665	2,263	-15%
Residential Tenancies Division					
Residential Tenancies	52,412	49,022	44,685	39,587	-11%
Administrative Division					
Legal Practice	124	121	90	72	-20%
Review and Regulation	1,100	1,034	1,039	1,002	-4%
Planning and Environment Division					
Planning and Environment	2,652	2,259	2,136	1,806	-15%
Human Rights Division					
Guardianship	14,076	12,981	14,169	12,848	-9%
Human Rights	455	510	492	568	15%
TOTAL	85,850	80,423	75,290	68,095	-10%

TIMELINESS (WEEKS) 80TH PERCENTILE

LISTS	2018-19	2019-20	2020-21	2021-22
Civil Division				
Building and Property	34	37	60	70
Civil Claims	16	15	39	56
Owners Corporations	13	12	24	25
Residential Tenancies Division				
Residential Tenancies	7	9	13	22
Administrative Division				
Legal Practice	33	48	53	68
Review and Regulation	51	60	66	83
Planning and Environment Division				
Planning and Environment	34	34	47	49
Human Rights Division				
Guardianship	n/a	n/a	n/a	n/a
Human Rights	30	29	42	49
TOTAL	24	32	23	42

Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) is one of VCAT's key services due to its ability to help resolve matters in a more amicable environment than a formal hearing and give parties more control over the outcome. The Tribunal remains committed to providing users with the chance to resolve their case before a hearing. ADR can be a viable tool for a diverse range of cases, including civil cases, planning and environment matters

and building and property disputes. ADR allows for parties to agree on a mutually beneficial result, rather than have an outcome imposed on them, with fewer resources required than for a hearing.

Mediations are private meetings where parties come together to discuss ways to reach an agreement (settle) with the help of a mediator.

Compulsory conferences enable parties to confidentially discuss ways to resolve their dispute with the help of a VCAT member.

OUR DISPUTE RESOLUTION SERVICES

	2018-19	2019-20	2020-21	2021-22
Cases heard by mediation or compulsory conference	2,516	2,051	2,725	2,556
Resolution rate for cases at mediation or compulsory conference	56%	52%	46%	46%

Mediation and compulsory conferences

In 2021-22, there was a 6% drop in total cases heard by mediation and compulsory conference. Residential Tenancies had a substantial growth in cases (800%) on the previous year, attributable to the 2020-21 ADR rates being impacted by the *COVID-19 Omnibus (Emergency Measures) Act 2020*, which required hearings for possession or termination, limiting opportunities for ADR. The number of Residential Tenancies matters settled by these means rose by 460%. Human Rights cases in ADR fell by 39%.

Cases resolved by ADR had an overall decline, reflective of fewer cases being heard, but remain proportionally consistent with previous years. One exception was Review and Regulation, which had a slightly higher (14%) resolution rate to the previous year.

See [Appendix D](#) for detailed tables with results by list.

COMPULSORY CONFERENCES OR MEDIATIONS

	Compulsory conference				Mediation			
	2018-19	2019-20	2020-21	2021-22	2018-19	2019-20	2020-21	2021-22
Cases heard	2,154	1,666	2,352	1,882	362	385	373	674
Cases resolved (settled)	1,186	828	1,041	818	261	250	210	361

TOTAL CASES HEARD BY COMPULSORY CONFERENCE OR MEDIATION

	2018-19	2019-20	2020-21	2021-22	VARIANCE
Total cases heard	2,516	2,051	2,725	2,556	-6%
Total cases resolved (settled)	1,415	1,076	1,251	1,179	-6%

PERCENTAGE OF CASES RESOLVED (SETTLED) BY COMPULSORY CONFERENCE OR MEDIATION

	Compulsory conference				Mediation			
	2018-19	2019-20	2020-21	2021-22	2018-19	2019-20	2020-21	2021-22
TOTAL	55%	50%	44%	43%	63%	65%	56%	54%

TOTAL PERCENTAGE OF CASES RESOLVED (SETTLED) BY COMPULSORY CONFERENCE OR MEDIATION

	2018-19	2019-20	2020-21	2021-22	VARIANCE
TOTAL	56%	52%	46%	46%	0%

Fast Track Mediation and Hearing program**VIDEO AND TELECONFERENCE COMBINATION**

	2019-20*	2020-21	2021-22
Mediations via phone or Zoom	137	1,695	1,234

* Before pandemic restrictions, majority of FTMH hearings were conducted in person – 998 in 2019-20

09

Our services by division

Our divisions

The type of matters we manage make up nine individual lists organised under five divisions. Each division is led by a deputy president. The Tribunal divisions are supported by the administration executive and registry staff.



Planning and Environment Division

- Planning and Environment List



Residential Tenancies Division

- Residential Tenancies List



Administrative Division

- Legal Practice List
- Review and Regulation List



Civil Division

- Civil Claims List
- Building and Property List
- Owners Corporations List



Human Rights Division

- Guardianship List
- Human Rights List

Heads of Division

Administrative Division

Deputy President Heather Lambrick

Civil Division

Deputy President Ian Lulham
(from 4 May 2021)

Deputy President Richard Wilson
(from 27 July 2021)

Human Rights Division

Deputy President Genevieve Nihill AM

Planning and Environment Division

Deputy President Teresa Bisucci

Residential Tenancies Division

Deputy President Ian Proctor



Administrative Division

The Administrative Division deals with professional conduct inquiries, applications to review decisions made by government and other authorities, and civil disputes between lawyers and clients.

The Administrative Division has two lists:

- Legal Practice List
- Review and Regulation List.

During the pandemic, the Administrative Division continued to experience significant challenges to its operational capacity. Despite these limitations, the division benefitted from the move to a remote hearing model adopted in response to the onset of COVID-19. Both users and members found added value in remote hearings, which provided easier access to supporting information for parties including witnesses, who often found dialling in more convenient than the logistics involved with appearing in person.

The result has been faster and more efficient case resolution and fewer adjournments or delays. Clearance rates for Review and Regulation improved on the previous financial year, and pending case numbers also dropped for both lists. Credit for these results must go to the division's stakeholders, who have been proactive, helpful and understanding of the limited operating environment.

Overall, remote hearings have led to improved access to justice. Journalists continue to be present in hearings at higher numbers than during pre-pandemic times.

Legal Practice List

The Legal Practice List resolves disputes between lawyers and clients about services and costs. The list also decides professional disciplinary cases brought by the Victorian Legal Services Commissioner (VLSC) and reviews decisions by the Victorian Legal Services Board, typically about practising certificates.

Some civil disputes are brought under the Legal Profession Uniform Law (Victoria), but most are brought under the *Australian Consumer Law and Fair Trading Act 2012*.

Year in review

In a continuing trend, clearance rates for the list have been higher than 100% for the second year in a row. This was enabled through the introduction of several redesigned application forms in 2020. Trends in types of cases have been consistent, with a broader range of conduct coming under scrutiny in professional conduct and practising certificate cases, including sexual harassment.

There has been an increase in professional disciplinary cases coming to the list with an agreed proposed outcome after negotiations between the regulator and legal practitioner. There has also been an increase in disputes related to migration law. Most cost disputes continue to come from family law cases.

Amendments to our user interface (new website pages and application forms), introduced in the previous financial year, continue to yield improvements. These include better understanding of Tribunal processes, which has resulted in applicants providing important information and in respondents responding sooner. In turn, this has helped us more readily

identify cases that may be suitable for fast-track hearing or ADR.

The increase in timelines for cases is reflective of several variables often outside of the Tribunal's control. An example is matters awaiting the outcome of criminal trials or disciplinary proceedings before they can continue.

CASEFLOW	2018-19	2019-20	2020-21	2021-22	VARIANCE
Initiations	124	121	90	72	-20%
Finalisations	115	87	113	79	-30%
Pending	63	43	80	72	-10%
Clearance rate	93%	72%	126%	110%	-13%

TIMELINESS OF FINALISED CASES (WEEKS)	2018-19	2019-20	2020-21	2021-22	VARIANCE
Median	17	19	29	33	14%
80th percentile	33	48	53	68	28%

APPLICATIONS BY ENABLING ENACTMENT	2018-19	2019-20	2020-21	2021-22	VARIANCE
<i>Australian Consumer Law and Fair Trading Act 2012</i>	86	80	64	45	-30%
<i>Legal Profession Act 2004</i>	8	3	1	1	0%
<i>Legal Profession Uniform Law Application Act 2014</i>	28	38	22	25	14%
<i>Victorian Civil and Administrative Tribunal Act 1998</i>	2	0	3	1	-67%
TOTAL	124	121	90	72	-20%

“There was a drop in the overall number of initiated cases (down 4% from 2020-21), but a more notable gain in finalised cases (up 12%).”

Review and Regulation List

The Review and Regulation List hears matters pursuant to over 80 pieces of legislation. It is a jurisdiction that oversees challenges brought by users against government or regulatory body decisions, accepts referrals and conducts inquiries into the professional conduct of various professions. Types of cases include reviewing conduct by health practitioners, overseeing racing disciplinary hearings, Freedom of Information (FOI) cases, state taxation matters and applications involving dangerous domestic animals.

Year in review

This year, the types of cases this list oversees has evolved, continuing the growth in fluctuations from the previous financial year. The government’s response to the COVID-19 pandemic resulted in an increase in FOI applications, as decisions made during the pandemic continue to be closely scrutinised. In contrast, Health Practitioner Registration and Worker Screening applications continued to decline, although this decrease is expected to cease as public restrictions end.

There was a drop in the overall number of initiated cases (down 4% from 2020-21), but a more notable gain in finalised cases (up 12%). Pending cases have continued to decline year-on-year for this list, with the clearance rate now sitting at 88% – a 12% improvement on the previous year.

CASEFLOW	2018-19	2019-20	2020-21	2021-22	VARIANCE
Initiations	1,100	1,034	1,039	1,002	-4%
Finalisations	1,038	820	787	881	12%
Pending	646	724	705	689	-2%
Clearance rate	94%	79%	76%	88%	16%

TIMELINESS OF FINALISED CASES (WEEKS)	2018-19	2019-20	2020-21	2021-22	VARIANCE
Median	21	27	30	35	17%
80th percentile	51	60	66	83	26%

INITIATIONS (DETAILS)	2018-19	2019-20	2020-21	2021-22	VARIANCE
<i>Freedom of Information Act 1982</i>	159	151	242	213	-12%
<i>Transport Accident Act 1986</i>	187	263	284	275	-3%
Others	754	620	513	514	0%
TOTAL	1,100	1,034	1,039	1,002	-4%

FINALISATIONS (DETAILS)	2018-19	2019-20	2020-21	2021-22	VARIANCE
<i>Freedom of Information Act 1982</i>	157	105	156	201	29%
<i>Transport Accident Act 1986</i>	223	165	157	200	27%
Others	658	550	474	480	1%
TOTAL	1,038	820	787	881	12%

PENDING (DETAILS)	2018-19	2019-20	2020-21	2021-22	VARIANCE
<i>Freedom of Information Act 1982</i>	79	145	188	183	-3%
<i>Transport Accident Act 1986</i>	137	489	74	56	-24%
Others	430	90	443	450	2%
TOTAL	646	724	705	689	-2%

See [Appendix D](#) for:

- Review and Regulation – Initiated Cases by Enabling Enactment

Civil Division

The Civil Division hears and determines disputes about the supply of good and services, disputes under the Australian Consumer Law, commercial and retail leasing claims, building disputes, owners corporation disputes, disputes between co-owners of property and claims about damage caused by the flow of water between properties. There are three lists within this division:

- Building and Property List
- Civil Claims List
- Owners Corporations List.

These lists hear and determine an array of disputes including domestic and commercial building claims, automotive sales cases, claims affecting owners corporations and retail and commercial tenancies cases. The lists also hear cases on insurance matters, franchisee issues, contracts for both hardware and software, jointly owned property disputes and utilities usage between buildings.

This year, the Civil Division continued to adapt its processes in response to the challenging environment created by the pandemic to enable continued access for Victorians needing resolution of civil cases.

Building and Property List

The Building and Property List hears:

- domestic and commercial building and property disputes between a property owner, builder, sub-contractor, architect, engineer or other building practitioner – or any combination

of these – as well as disputes between a property owner and a warranty insurer

- disputes between landlords and tenants under retail tenancies, in shops and offices and under commercial tenancies
- disputes between some joint property owners
- disputes arising from the use or flow of water between properties, such as flooding from one block of land to another or water leaking between apartments.

Year in review

In 2021-22, the COVID-19 pandemic continued to have a pronounced impact on the types and volume of cases heard by the Building and Property List. While case duration remained substantially higher than during pre-pandemic years, several trends in initiated cases were observed. Notably, there was a reduction in the number of retail and commercial leasing disputes (down 23% from 2020-21) as businesses adapted to the circumstances and limitations the pandemic had on economic development during the pandemic. In addition, the number of applications for injunctive relief also eased, and the Small Business Commissioner played an active and successful role in resolving many of the rent adjustment disputes.

Applications by claim amount declined across all measurable values, with small claims incurring the slightest drop (down 4% from 2020-21) and complex claims (over \$100,000) incurring the largest drop (down 16%).

While there has been a 14% drop in initiated matters, the list continues to be challenged by delays in finalising cases, contributing to a reduction in finalisations of 10% on prior year. Like other lists, Building and Property has experienced challenges from reduced member capacity due to member retirements, which has been further compounded by the increasing complexity of cases appearing before the list.

Ultimately, these factors have contributed to an increase in pending cases of 9% overall. We recognise that these figures represent people who own businesses and homes, many of whom are facing increasing financial and emotional stress while waiting for a resolution to their disputes. The members, Registry and Listings teams are working closely to adapt and innovate, to help reduce this duress.

One innovation introduced during the year was a referral protocol, whereby VCAT matters are heard by judges of the County Court who are also vice presidents of VCAT. This arrangement has allowed more than 80 cases to be transferred to the County Court to be managed by the Court's judges and staff, albeit acting under the auspices of VCAT. Although still relatively new, affecting fewer than 100 cases, this work has already translated into many hundreds of hearing days saved in the VCAT Building and Property List. VCAT wishes to acknowledge the hard work and initiative of the County Court, as well as Head of List Suzanne Kirton and all the registry and listings teams involved in this effort.

CASEFLOW	2018-19	2019-20	2020-21	2021-22	VARIANCE
Initiations	2,298	2,295	2,406	2,060	-14%
Finalisations	1,801	1,827	1,995	1,799	-10%
Pending	1,408	1,880	2,287	2,495	9%
Clearance rate	78%	80%	83%	87%	5%

TIMELINESS OF FINALISED CASES (WEEKS)	2018-19	2019-20	2020-21	2021-22	VARIANCE
Median	16	20	36	38	6%
80th percentile	34	37	60	70	17%

INITIATIONS	2018-19	2019-20	2020-21	2021-22	VARIANCE
Building	1,753	1,729	1,599	1,394	-13%
Real Property	239	239	279	261	-6%
Retail Tenancies	306	327	528	405	-23%
TOTAL	2,298	2,295	2,406	2,060	-14%

FINALISATIONS	2018-19	2019-20	2020-21	2021-22	VARIANCE
Building	1,294	1,337	1,386	1,208	-13%
Real Property	203	218	216	207	-4%
Retail Tenancies	304	272	393	384	-2%
TOTAL	1,801	1,827	1,995	1,799	-10%

PENDING	2018-19	2019-20	2020-21	2021-22	VARIANCE
Building	1,089*	1,497	1,715	1,882	10%
Real Property	177	192	250	292	17%
Retail Tenancies	142	191	322	321	0%
TOTAL	1,408	1,880	2,287	2,495	9%

* See explanatory note on page 47

APPLICATIONS BY ENABLING ENACTMENT	2018-19	2019-20	2020-21	2021-22	VARIANCE
<i>Domestic Building Contracts Act 1995</i>	1,267	1,324	1,400	1,128	-19%
<i>Property Law Act 1958</i>	146	125	146	137	-6%
<i>Retail Leases Act 2003</i>	306	327	528	405	-23%
<i>Water Act 1989</i>	91	114	131	124	-5%
<i>Australian Consumer Law and Fair Trading Act 2012</i>	486*	395	195	263	35%
Others	2	10	6	3	-50%
TOTAL	2,298	2,295	2,406	2,060	-14%

* See explanatory note on page 47

APPLICATIONS BY CLAIM AMOUNT	2018-19	2019-20	2020-21	2021-22	VARIANCE
Small claims: <\$15,000*	728	636	523	504	-4%
Standard claims: \$15,000–\$100,000	560	591	556	490	-12%
Complex claims: \$100,000+	329	328	372	311	-16%
No value	681	740	955	755	-21%
TOTAL	2,298	2,295	2,406	2,060	-14%

* On 7 December 2018, part of the *Justice Legislation Amendment (Access to Justice) Act 2018* came into effect, increasing the small claims range to under \$15,000 for applications made under the *Australian Consumer Law and Fair Trading Act 2012*.

See [Appendix D](#) for complete data set.

Farewell to Senior Member Margaret Lothian

Senior Member Lothian has had an enormously varied career with us at VCAT, undertaking a great number of roles. A Tribunal chameleon, she could be found in a compulsory conference in a complex building case, or presiding over a small claims hearing, or a retail leasing injunction, or chairing a conclave of experts. Even that was seemingly not enough as she also tackled overflow referrals and new applications in her spare time. Senior Member Lothian's biggest enthusiasm was her use of the ADR. As a Principal Mediator she started and ran weekly compulsory conference seminars which many members have found invaluable to keep up their accreditations. Senior Member Lothian's track record of mutually positive case resolutions speaks for itself.



Described by colleagues as an incredibly hard working, innovative and resourceful member, Senior Member Lothian would use all the tools at her disposal to find agreements between parties. She was also renowned for being a compassionate and understanding member who helped foster a fantastic workplace environment for those around her. VCAT is very grateful for her contributions and dedication that helped so many and wishes her all the best in her retirement.

Civil Claims List

The Civil Claims List hears disputes about the supply of goods or services. Claims can be issued by suppliers and consumers – for example, a tradesperson may make an application about an unpaid debt, and the owner may make an application about the tradesperson. There is no limit to the amount that may be claimed in an application in the Civil Claims List – matters range from everyday consumer transactions to large commercial matters.

Year in review

The effects of the COVID-19 pandemic had a significant impact on the operations of the Civil Claims List. While initiated cases remain steady (climbing by 4% on the prior year) and the number of matters that

were finalised increased by 19%, the overall impact from the previous year's lower finalisations meant that pending cases increased by 18% in 2021-22. The duration between the date of issue of the proceeding and its finalisation also grew. The list is impacted by both lower member numbers than in previous years and by competing priorities. Many Civil Claims List members sit across other lists, further reducing available capacity when demand is high across other divisions.

This year, there were 7,793 applications under the *Australian Consumer Law and Fair Trading Act 2012*, representing a 4% increase on the previous year. Small and Standard Claims had increases of 3% and 1% respectively, while Complex Claims fell by 15%. No Value Claims rose by 83% (or just under 100 cases).

CASEFLOW	2018-19	2019-20	2020-21	2021-22	VARIANCE
Initiations	9,488	8,756	7,608	7,889	4%
Finalisations	9,381	7,421	5,652	6,726	19%
Pending	2,475	3,579	5,354	6,302	18%
Clearance rate	99%	85%	74%	85%	15%

TIMELINESS OF FINALISED CASES (WEEKS)	2018-19	2019-20	2020-21	2021-22	VARIANCE
Median	10	10	23	29	26%
80th percentile	16	15	39	56	44%

APPLICATIONS BY ENABLING ENACTMENT	2018-19	2019-20	2020-21	2021-22	VARIANCE
<i>Australian Consumer Law and Fair Trading Act 2012</i>	9,474	8,660	7,498	7,793	4%
<i>Domestic Building Contracts Act 1995</i>	3	5	0	3	0%
Others	14	96	110	96	-13%
TOTAL	9,488	8,756	7,608	7,889	4%

APPLICATIONS BY CLAIM AMOUNT	2018-19	2019-20	2020-21	2021-22	VARIANCE
Small claims: <\$15,000*	8,106	7,463	6,481	6,678	3%
Standard claims: \$15,000–\$100,000	1,052	1,036	890	895	1%
Complex claims: \$100,000+	131	135	120	102	-15%
No value	199	122	117	214	83%
TOTAL	9,488	8,756	7,608	7,889	4%

* See explanatory note on page 47

Owners Corporations List

Apartment and unit living is an increasingly popular option for many Victorians and brings together a wide range of people who have diverse goals, interests and expectations. There are currently over 85,000 active owners corporations in Victoria, covering more than 772,000 individual lots. It is estimated that around 1.5 million Victorians – a quarter of the state’s population – either live in, or own property in, an owners corporation.

This list predominantly hears ‘owners corporation disputes’ within

the scope of meaning defined under section 162 of the *Owners Corporation Act 2006*, which underwent significant legislative reform in 2021. These amendments increased the range of disputes coming under the Tribunal’s jurisdiction and also amended the powers of the Tribunal in making orders, including conferring the power to make an order requiring a lot owner to pay the reasonable costs incurred by an owners corporation in recovering an unpaid amount from the lot owner. As a consequence of that amendment, the Tribunal arranged for and conducted a ‘test case’ – hearing three claims heard

together by a panel of members – to provide a written decision on the section’s scope and application in order to assist Victorian owners corporations and lot owners: *Owners Corporation 1 Plan No. PS735439F v Singh (Owners Corporations)* [2022] VCAT 389.

Year in review

This year, there was a substantial drop of initiated cases in the Owners Corporations List (down 15% from 2020-21), largely attributable to the ongoing effects of the COVID-19 pandemic. The pandemic also impacted case finalisations in the Tribunal, which dropped by 27% resulting in pending cases increasing by 4% overall.

The ‘on the papers’ model – where fee recovery matters are heard and resolved exclusively by written ‘summary of proofs’ of evidence with no parties appearing before VCAT – was pioneered by the

Owners Corporation List. This model continues to play a key role in the efficient final hearing and determination of these cases and in preventing increases to the list’s backlog, reducing delays associated with listing hearings in other cases.

The small number of applications under the *Australian Consumer Law and Fair Trading Act 2012* rose by 15%, while applications within the *Owners Corporations Act 2006* fell by 15%. There was some variation in the amounts claimed in cases, with claims between \$15,000–\$100,000 increasing by 25% and claims under \$15,000 decreasing by 19%. Complex claims cases commenced fell 44% this year, but these cases take longer to resolve and involve additional directions hearings and more intensive case management due to the range of issues raised by the parties to these disputes. Standard claims – mostly related to disputes over incomplete maintenance work on properties – rose 25% for the year.

CASEFLOW	2018-19	2019-20	2020-21	2021-22	VARIANCE
Initiations	3,245	3,445	2,665	2,263	-15%
Finalisations	2,885	2,911	2,971	2,159	-27%
Pending	976	1,469	1,111	1,153	4%
Clearance rate	89%	84%	111%	95%	-14%

TIMELINESS OF FINALISED CASES (WEEKS)	2018-19	2019-20	2020-21	2021-22	VARIANCE
Median	9	17	14	15	7%
80th percentile	13	12	24	25	4%

APPLICATIONS BY ENABLING ENACTMENT	2018-19	2019-20	2020-21	2021-22	VARIANCE
<i>Australian Consumer Law and Fair Trading Act 2012</i>	9	10	13	15	15%
<i>Owners Corporations Act 2006</i>	3,193	3,401	2,626	2,220	-15%
Others	43	34	26	28	8%
TOTAL	3,245	3,445	2,665	2,263	-15%

APPLICATIONS BY CLAIM AMOUNT	2018-19	2019-20	2020-21	2021-22	VARIANCE
Small claims: <\$15,000*	2,740	2,988	2,258	1,826	-19%
Standard claims: \$15,000–\$100,000	162	115	91	114	25%
Complex claims: \$100,000+	21	16	18	10	-44%
No value	322	326	298	313	5%
TOTAL	3,245	3,445	2,665	2,263	-15%

* See explanatory note on page 47

Human Rights Division

The Human Rights Division deals with matters about guardianship and administration, working with users to appoint guardians and administrators, decide on power of attorney, medical treatment and advance care directives, equal opportunity and racial and religious vilification. The division also hears cases on health and privacy information, decisions made by the Mental Health Tribunal, and decisions made under the *Disability Act 2006 (Vic)*, *Assisted Reproductive Treatment Act 2008* and *Voluntary Assisted Dying Act 2017*.

The Human Rights Division has two lists:

- Guardianship List
- Human Rights List.

This year, the division continued to build on remote working models established in the previous year, further evolving digital technologies so services can continue for our users. However, the Human Rights Division has recognised that many represented and interested persons are at an advantage when hearings are conducted in person. Therefore, in keeping with public health directives, the Human Rights Division recommenced in-person hearings in June 2022.

Guardianship List

The Guardianship List makes protective orders under legislation including the *Guardianship and Administration Act 2019*, the *Powers of Attorney Act 2014* and the *Medical*

Treatment Planning and Decisions Act 2016. As of the end of this financial year, over 17,000 Victorians are subject to a guardianship or administration order (or both). The list also decides on special medical procedures applications, compensation applications, *Medical Treatment Planning and Decisions Act 2016 (MTPDA)* applications and Advice to Administrator applications, amongst others.

VCAT decides whether a person with disability needs a guardian and/or administrator. The roles are different – some people with disability need neither, while others will need either or both. A guardian can be appointed to make decisions about life matters such as where a person lives, what services they might need, medical treatment and whom the person has contact with. An administrator might be appointed to make some limited financial or legal decisions or to manage the person's finances. An administrator manages income and the payment of expenses, financial planning, investment of assets and, in some cases, debt or liability.

Before either can be appointed, VCAT must be satisfied that the person has lost the capacity to make their own decisions because of a disability.

In situations where decision-making capacity is not lost because of a disability, a supportive guardian or administrator can be appointed to help with some decisions where it is necessary.

In considering whether to make these orders, members must balance the

will and preference of the person, and the person's rights, with the need for protection from harm or exploitation. As a result, these orders are highly nuanced to a represented person's specific needs and wishes. The orders are also regularly reassessed to ascertain whether the order needs to continue or if it can be revoked because an issue has been resolved or because the person has regained capacity.

Appointed administrators are accountable to VCAT through independent annual examination of accounts.

VCAT also makes orders about powers of attorney, including suspending or revoking the power where the principal has lost capacity and the attorney has breached their obligations. Compensation can also be ordered in some cases where the attorney has caused a loss to the principal.

VCAT makes orders about medical treatment matters, including about advance care directives, medical treatment decision-maker appointments and some medical treatment decisions.

Year in review

While we were occasionally able to offer in-person hearings during the year, the majority were conducted remotely. The gradual return to in-person hearings, in late June 2022, was a positive development. Members reported that in-person hearings make the task of managing the proceedings and assessing the represented

person's 'will and preferences' simpler and more intuitive.

A focus for the list was embedding two of the key principles of the *Guardianship and Administration Act 2019* by ensuring the participation of the person at the hearing and ensuring the decision members make about the person is informed by their will and preferences. The implementation of this process took substantial preparation and development across the entire list, with communication strategies and best practice guidelines developed for our members and staff.

There was an increase in online applications through the Guardianship Hub, rising 15% from the prior financial year. This presents an accumulative trend that demonstrates users are finding the platform more convenient than manual registry applications, which fell by 14%.

There was a slight decline in both initiated and finalised case numbers, reducing by 9% and 7% respectively. This year we predominantly focused on managing the impacts of COVID-19 and the strong demand on member time across VCAT. We have refined our processes significantly to accommodate the COVID-19 environment and reduce the impact to our service delivery. Overall, the clearance rate improved by 3%.

CASEFLOW	2018-19	2019-20	2020-21	2021-22	VARIANCE
Initiations	14,076	12,981	14,169	12,848	-9%
Finalisations	12,971	12,920	13,361	12,420	-7%
Pending	201	293	292	411	41%
Clearance rate	92%	100%	94%	97%	3%

APPLICATIONS BY LODGEMENT TYPE	2018-19	2019-20	2020-21	2021-22	VARIANCE
Guardianship Hub (online)	536	1,826	2,187	2,507	15%
Registry (manual)	13,540	11,155	11,982	10,341	-14%
TOTAL	14,076	12,981	14,169	12,848	-9%

MAJOR APPLICATIONS/ ACTIVITIES BY ACT AND SECTIONS	2018-19	2019-20	2020-21	2021-22	VARIANCE
Guardianship and/or administration orders	6,609	6,064	5,473	5,509	1%
Reassessment orders	6,833	6,058	6,917	5,720	-17%
Powers of attorney	734	652	548	527	-4%
Others*	3,772	4,147	4,514	4,411	-2%
TOTAL	17,948	16,921	17,452	16,167	-7%

* Further breakdown of information in this row can be found in the table on page 55

BREAKDOWN OF OTHER APPLICATIONS/ ACTIVITIES BY ACT AND SECTIONS	2018-19	2019-20	2020-21	2021-22	VARIANCE
Advice to administrator	2,793	3,108	3,268	3,180	-3%
Directions	615	759	787	612	-22%
Orders about appointed medical treatment decision-makers and support persons	86	78	34	37	9%
Order to comply with guardian's decisions*	n/a	10	14	41	193%
Rehearing for party to application*	n/a	14	47	40	-15%
Rehearing for not a party to application*	n/a	2	15	4	-73%
Additional activities	278	202	428	497	40%
TOTAL	3,772	4,147	4,514	4,411	-2%

* Additional reporting detail added due to receiving sufficient volumes to count separately from the 'Additional activities' category.

CASE STUDY***Assessing the decision-making capacity of a person with disability***

A recent administration order reassessment concerned a represented person living in a Supported Residential Service (SRS) for the past two years. They have had an administrator since 2012 and the member asked the engagement officers to contact the represented person to determine if they would like a reassessment hearing and to obtain their will and preferences.

Historically, the represented person had previously requested a hearing and had made complaints about their administrator. However, all notice of hearing letters came back undelivered and they did not attend their hearings. The engagement officer contacted the represented person and explained the purpose of the call. The represented person said that they had never been contacted by VCAT to ask how they felt about having an administrator or what is important to them. The represented person expressed surprise that VCAT took the time to consider their thoughts and opinions.

The represented person advised they would like to manage their own finances and felt that they were capable of doing so. They advised their current situation would make this feasible, as they were living in an SRS where their fee covered rent, amenities and food. They suggested a direct deduction

could be arranged and they could manage the remaining funds. They noted that if this was refused and the administrator remained in place they would at least like to negotiate having access to more funds. They requested a hearing, and confirmed they were happy to receive a call from the VCAT member if they forgot to dial in.

This example highlights the benefits of having a team who can initiate direct contact with a represented person. It was clear from the conversation that the represented person had capacity to express what was important to them and was able to articulate why they should have control of their finances. The call may have also conveyed that VCAT valued their views. Given their history, it is doubtful they would have responded to a letter and phone contact may have also encouraged them to attend the hearing.

The member presiding over this case observed that “the work this team is doing is a great step towards ensuring our processes support promoting the human rights and dignity of persons with disability. Of course, there is always more we can do and we will keep reviewing our service and making improvements where we can.”

“The Human Rights List had a higher number of initiated cases than in previous years, equating to a 15% increase on last year.”

Human Rights List

This list hears cases under legislation including the *Equal Opportunity Act 2010*, *Health Records Act 2001*, *Privacy and Data Protection Act 2014*, *Disability Act 2006* and *Mental Health Act 2014*.

Common matter types include:

- equal opportunity
- racial and religious vilification
- health and privacy information
- compulsory and restrictive treatment
- decisions made by the Mental Health Tribunal.

Year in review

The Human Rights List had a higher number of initiated cases than in previous years, equating to a 15% increase on last year. Finalised cases decreased by 10% and the clearance rate decreased by 22%. The growth in applications can be seen more clearly within the Acts they were initiated under, with applications under the *Disability Act 2006* up 67% and applications under the *Mental Health Act 2014* increasing by 45%. In contrast, applications made under the *Voluntary Assisted Dying Act 2017* fell 75% – although this decrease must be interpreted in the context of very low application figures under this Act.

The team focused on refining processes and cross-training all staff in the team to allow for greater flexibility in assisting with cases. A major focus was to minimise the impact of COVID-19 on our work and service delivery.

CASEFLOW	2018-19	2019-20	2020-21	2021-22	VARIANCE
Initiations	455	510	492	568	15%
Finalisations	439	412	480	431	-10%
Pending	201	293	292	411	41%
Clearance rate	96%	81%	98%	76%	-22%

TIMELINESS OF FINALISED CASES (WEEKS)	2018-19	2019-20	2020-21	2021-22	VARIANCE
Median	16	17	19	18	-5%
80th percentile	30	29	42	49	17%

APPLICATIONS BY ENABLING ENACTMENT	2018-19	2019-20	2020-21	2021-22	VARIANCE
<i>Disability Act 2006</i>	41	44	50	85	67%
<i>Equal Opportunity Act 2010</i>	316	322	298	325	9%
<i>Health Records Act 2001</i>	30	44	45	39	-13%
<i>Mental Health Act 2014</i>	32	44	38	55	45%
<i>Assisted Reproductive Treatment Act 2008</i>	3	2	2	0	-100%
<i>Voluntary Assisted Dying Act 2017</i>	0	2	4	1	-75%
<i>Racial and Religious Tolerance Act 2001</i>	8	10	8	7	-13%
<i>Privacy and Data Protection Act 2014</i>	8	29	30	27	-10%
Others	17	13	17	29	71%
TOTAL	455	510	492	568	15%

CASE STUDY

Company liable for employee conduct with \$150,000 in damages after sexual harassment

Under the Victorian *Equal Opportunity Act 2010* (EO Act), employers must take reasonable and proportionate measures to eliminate sexual harassment as far as possible. In this case, VCAT awarded \$150,000 in general damages, equal to \$70 per day for the six years the employee was found to be suffering the effects of being sexually harassed in the workplace. This decision was made after VCAT found the employee had been sexually harassed under section 92 of the EO Act and that the co-worker responsible for the harassment had contravened section 93, which prohibits sexual harassment of other workers.

The employer argued that it should not be held vicariously liable for the conduct of its employee because it gave all employees electronic access to a handbook containing an anti-discrimination and equal opportunity policy, including a section on sexual harassment and a complaints-handling procedure. However, VCAT found that minimal efforts had been made by the employer to encourage review of the handbook by staff and that the employer provided no evidence of any handbook-specific training, undertook no follow-up to ascertain whether employees read or understood it and had no evidence that any employee accessed it.

VCAT found the employer failed to take reasonable precautions to prevent the sexual harassment even after the employee complained. No monitoring of the workplace was undertaken to ensure compliance with its sexual harassment policies and no appropriate steps were taken to communicate said policies. VCAT also found the employer's responses to the employee's complaints about the harassment manifestly inadequate.

In awarding the amount, VCAT said that under the EO Act damages are an attempt to measure the loss, damage and injury that the victim has suffered as a result of the sexual harassment. While the applicant was only seeking general damages, the EO Act's objective to eliminate sexual harassment and the approach to compensation established by relevant authorities ultimately shaped the Tribunal's decision.

This case sets a significant example for the Victorian community in relation to the potential consequences for employers of not taking reasonable precautions to prevent sexual harassment and discrimination under the EO Act. The case also demonstrates to victims of sexual harassment that appropriate remedies are available under the law and may encourage other victims to come forward.

Planning and Environment Division

The Planning and Environment Division presides over a variety of case types including the use and development of properties and land, heritage matters, EPA licensing and approvals, land valuation (for council ratings) and compensation for compulsory acquisitions of property. The division primarily deals with reviews of decisions made by councils and other authorities.

The Planning and Environment Division divides its work into three areas:

- planning
- environment and resources
- land valuation and compensation.

The division has recently undergone a substantial amount of change to its operational environment, beginning with the introduction of a digitisation project in July 2020 that radically transformed how cases were initiated, filed and processed. This year was the first full year during which the division operated in a fully digital environment without its legacy systems. The move to digitisation has also seen a greater number of online submissions and parties participating in online hearings, demonstrating that the online environment has the potential to increase access to justice for the Victorian community.

In October 2021, two new specialist registrars commenced in the division, with the aim of improving case management and overall efficiency. The new registrars perform high-level case management functions that were previously performed by members, freeing the members to conduct more hearings and decision writing.

Further operating changes began on 1 July 2021 with the commencement of the *Environment Protection Act 2017*, new legislation designed to give the EPA greater enforcement powers to prevent harm to both the environment and public health from pollution and waste. Accordingly, VCAT's role expanded with greater authority to review the new range of notices and decisions the Act introduced.

Year in review

The year saw a marked drop in the number of initiated cases, which fell 15% from the prior year. Finalised matters remained consistent, declining by 1%. As a result, pending matters fell by 16%. The ability to finalise cases was hampered by continued COVID-19 pandemic restrictions, which impacted our ability to conduct site inspections and caused delays during the first half of the financial year.

The increase in overall time taken to finalise cases was driven by greater participation by parties due to improved accessibility through online hearings, which extended the length of some hearings.

A reduction in initiations in the Land Valuation claims Sub List (down 39%) was a dip potentially attributable to COVID-19 relief measures reducing demand. It is expected this reduction was an exception rather than a continuing trend. Initiations in Planning and Environment cases were

also down by 14%. Clearance rates were up for both, with increases of 5% and 19% respectively.

A change in the number of cases with hearing durations over three days was also observed this year, increasing from 0.5% to 4%.

CASEFLOW	2018-19	2019-20	2020-21	2021-22	VARIANCE
Initiations	2,652	2,259	2,136	1,806	-15%
Finalisations	2,613	2,197	2,072	2,057	-1%
Pending	1,417	1,469	1,600	1,351	-16%
Clearance rate	99%	97%	97%	114%	17%

TIMELINESS OF FINALISED CASES (WEEKS)	2018-19	2019-20	2020-21	2021-22	VARIANCE
Median	26	26	29	33	14%
80th percentile	34	34	47	49	4%

INITIATIONS	2018-19	2019-20	2020-21	2021-22	VARIANCE
Planning and Environment	2,556	2,066	2,103	1,731	-14%
Land Valuation	96	193	123	75	-39%
TOTAL	2,652	2,259	2,136	1,806	-15%

FINALISATIONS	2018-19	2019-20	2020-21	2021-22	VARIANCE
Planning and Environment	2,525	2,067	1,923	1,962	2%
Land Valuation	89	129	148	95	-36%
TOTAL	2,613	2,197	2,072	2,057	-1%

PENDING	2018-19	2019-20	2020-21	2021-22	VARIANCE
Planning and Environment	1,365	1,353	1,512	1,281	-15%
Land Valuation	52	116	88	70	-20%
TOTAL	1,417	1,469	1,600	1,351	-16%

APPLICATIONS BY ENABLING ENACTMENT*	2018-19	2019-20	2020-21	2021-22	VARIANCE
<i>Environment Protection Act 1970</i>	9	14	19	n/a	n/a
<i>Planning and Environment Act 1987</i>	2,525	2,032	1,976	1,701	-14%
<i>Environment Protection Act 2017</i>	n/a	n/a	n/a	15	n/a
<i>Valuation of Land Act 1960</i>	81	167	111	52	-53%
Others	37	46	30	38	27%
TOTAL	2,652	2,259	2,136	1,806	-15%

* Cells marked n/a are reflective of a changeover to new legislation (*Environment Protection Act 2017*).

APPLICATIONS BY TYPE	2018-19	2019-20	2020-21	2021-22	VARIANCE
Major cases	565	460	431	363	-16%
Standard claims	1,991	1,606	1,582	1,368	-14%
Land Valuation	96	193	123	75	-39%
TOTAL	2,652	2,259	2,136	1,806	-15%

APPLICATIONS BY CLAIM AMOUNT	2018-19	2019-20	2020-21	2021-22	VARIANCE
Small claims: <\$10,000	245	103	243	269	11%
Standard claims: \$10,000–\$100,000	90	72	135	98	-27%
Complex claims: \$100,000–\$1 million	784	427	609	616	1%
Complex claims: \$1 million–\$5 million	452	315	346	344	-1%
Complex claims: \$5 million–\$20 million	175	149	150	106	-29%
Complex claims: \$20 million+	96	87	116	81	-30%
No value	810	1,106	537	292	-46%
TOTAL	2,652	2,259	2,136	1,806	-15%
Approximate total value (\$ billion)	\$7.75	\$6.20	\$9.69	\$8.32	-14%

See **Appendix D** for:

- Top 20 number of applications by council during 2021-22 (in alphabetical order)
- Top 20 number of applications by suburb during 2021-22 (in alphabetical order)

CASE STUDY



Competing priorities for land use

A case for a planned solar energy farm instigated a debate about competing policy objectives and appropriate land usage. Those in favour of the farm were keen to encourage renewable energy production, while those against wished to protect productive agricultural land (and its associated irrigation infrastructure). Undoubtedly, important priorities – but how to resolve them?

VCAT considered both arguments carefully, noting that the provision of solar energy facilities is part of the government's commitment to renewable energy targets. However state and local policy encourages the retention of productive agricultural land and aims to ensure that non-agricultural uses do not adversely affect the use of land for agriculture. There are also policies which protect the public investment in modernised irrigation infrastructure and the existing irrigation network.

Ultimately, VCAT's decision permitted the solar farm to go ahead after inspection and careful consideration of the site's agricultural value, determining that the land was too small to integrate with a larger farming operation and was compromised for cropping by poor soil quality, and that the development of a solar farm would not impede the property's irrigation supplies or future development.

Residential Tenancies Division

The Residential Tenancies Division deals with matters involving renters (tenants) and residential rental providers (landlords) concerning private and public housing, rooming house operators and residents, caravan park owners and residents, site tenants and site owners, and specialist disability accommodation.

The division has only one list: Residential Tenancies.

This was the first full year VCAT operated under the new *Residential Tenancies Amendment Act 2018*. Consisting of over 130 reforms, this legislation was designed to provide both renters and rental providers with greater and clearer rights and responsibilities.

The division continued to feel the effects of the COVID-19 pandemic acutely, with users involved in VCAT cases enduring significant hardship and struggling to cope with the financial and other implications of the pandemic. Balancing these competing hardships continued to be a major challenge when deciding cases. To mitigate these challenges, we prioritised case categories that were deemed to be the most urgent, including matters that had a prescribed statutory timeframe to a hearing.

Despite an overall drop of 11% in initiated cases for the year, the list remained the highest volume in the Tribunal by some margin. Residential

“Residential Tenancies remains an area with a very high caseload, representing 58% of the Tribunal’s volume of applications for the year.”

Tenancies remains an area with a very high caseload, representing 58% of the Tribunal’s volume of applications for the year.

This sheer scale meant that with reduced capacity enforced by pandemic restrictions, waiting times for applications for possession due to unpaid rent and for bond and compensation continued to grow. This was exacerbated by several member retirements during the year, which represented a substantial combined loss of knowledge and expertise to VCAT.

However, we have implemented strategies to mitigate these issues, including re-allocating members from other lists (primarily Civil Claims). We secured funding from CSV to implement the first stage of the Backlog Recovery Program, utilising mediators and resources from the DSCV to focus on bond and compensation matters, prioritising the oldest cases first.

These steps helped to improve the list’s clearance rate to 85% (up from 76% the previous year).

Median duration for cases grew by 40%, largely attributable to finalising cases that were delayed by the backlog.

CASEFLOW	2018-19	2019-20	2020-21	2021-22	VARIANCE
Initiations	52,412	49,022	44,685	39,587	-11%
Finalisations	52,171	47,650	34,132	33,711	-1%
Pending	2,467	5,199	16,419	22,462	37%
Clearance rate	100%	97%	76%	85%	11%

TIMELINESS OF FINALISED CASES (WEEKS)	2018-19	2019-20	2020-21	2021-22	VARIANCE
Median	3	4	5	7	40%
80th percentile	7	9	13	22	69%

APPLICATIONS BY ENABLING ENACTMENT	2018-19	2019-20	2020-21	2021-22	VARIANCE
<i>Residential Tenancies Act 1997</i>	49,857	42,175	43,569	38,377	-12%
<i>Victorian Civil and Administrative Tribunal Act 1998</i>	2,397	2,043	1,061	1,193	12%
<i>Australian Consumer Law and Fair Trading Act 2012</i>	138	124	46	6	-87%
Others	20	4,680*	9	11	22%
TOTAL	52,412	49,022	44,685	39,587	-11%

* Most of these were possession/termination applications commenced between 29 March and 30 June 2020 under the COVID-19 emergency provisions.

TOP 5 APPLICATION TYPES	NUMBER OF APPLICATIONS
Bond repayment order	9,907
Bond and compensation	8,965
Possession – rent arrears	8,204
Renewal of proceedings	3,292
Urgent repairs	1,612

APPLICATIONS BY APPLICANT TYPE	2018-19	2019-20	2020-21	2021-22	VARIANCE
Director of housing	8,628	6,619	1,462	2,724	86%
Residential rental provider	31,973	30,296	31,626	25,533	-19%
Private rental provider	35,793	3,957	3,981	3,402	-15%
Renter	6,703	6,986	6,936	6,835	-1%
Others	1,288	1,164	680	1,093	61%
TOTAL	52,412	49,022	44,685	39,587	-11%

See [Appendix D](#) for complete data set.

CASE STUDY

Weighing the costs for both parties

Despite best laid plans, tragedy can strike without warning with debilitating consequences. Such was the case of an applicant experiencing exceptionally trying personal circumstances outside of their control, which had left them at risk of homelessness, destitution and deportation.

The renter came to VCAT seeking a new rental agreement with the Director of Housing (the rental provider) following the death of their partner. After considering the evidence, VCAT found the applicant's circumstances were exceptional and their potential losses far greater than those to the rental provider. The director ultimately did have options to relet the property if the applicant did not fulfill their responsibilities and entering into a rental agreement would be consistent with the director's role and objectives. Therefore, an order was made for a rental agreement to be drawn between both parties that aligned with the authority and responsibilities of the rental provider while keeping the renter in the property.



10

Appeals

Under section 148 of the *Victorian Civil and Administrative Tribunal Act 1998*, our decisions can only be appealed on questions of law – that is, where a party believes the judge or member made a legal error. This limit on appeals helps give certainty to parties when we determine their disputes.

Parties who want to appeal must seek leave (permission) from the Supreme Court of Victoria. The Court’s Trial Division hears appeals against orders made by a VCAT member or Deputy President. The Court of Appeal hears appeals against decisions by the VCAT President or a Vice President.

APPEALS TO SUPREME COURT	2018-19*	2019-20	2020-21	2021-22
Leave to appeal not granted	36	14	9	4
Leave to appeal granted and appeal dismissed	12	15	23	2
Leave to appeal granted and appeal upheld	17	12	15	6
Administrative disposal/ discontinued/finalised by consent	40	46	17	16
Awaiting decision	8	3	14	50
TOTAL NUMBER OF APPEALS LODGED	113	90	78	78

* Minor updates to numbers for these years reflect a data cleaning exercise undertaken in 2018-19.



11

Structure and governance

Our structure

VCAT is established under the *Victorian Civil and Administrative Tribunal Act 1998* (the VCAT Act). VCAT's facilities and staff are provided by CSV which is established under the *Court Services Victoria Act 2014* (the CSV Act). CSV is a statutory body corporate established to support the independence of Victoria's courts and VCAT. VCAT's President is a member of CSV's governing body, the Courts Council.

The VCAT Act provides for the Tribunal to be led by a President, who must be a judge of the Supreme Court of Victoria, and several Vice Presidents, who must be judges of the County Court of Victoria. In practice, by agreement with the Chief Judge of the County Court, at least one of the Vice Presidents is made available to VCAT on a full-time basis at any one time.

VCAT's President and Vice Presidents direct the business of the Tribunal and are responsible for the management of its administrative affairs. They are supported by the Chief Executive Officer (CEO) (appointed under the CSV Act) and Principal Registrar (appointed under the VCAT Act). The role of Principal Registrar is currently vested in the CEO, with day-to-day responsibilities

acquitted by the Executive Director, Services and Legal under delegation.

The CEO's functions under the CSV Act include the management of the administrative support services for VCAT, including providing support to the President and Vice Presidents. The CEO has additional functions under other legislation, including the *Public Administration Act 2004* and occupational health and safety legislation. The Principal Registrar's functions are defined under the VCAT Act.

Members of the Tribunal are appointed by the Governor in Council and are required, under the VCAT Act, to have specialist knowledge and legal or other professional qualifications. The VCAT Act also provides for the appointment of senior members and Deputy Presidents. Heads of VCAT's divisions and lists are appointed from our Deputy Presidents and senior members.

VCAT's Executive Leadership Team reports to the CEO and is organised across four portfolios:

- Services and Legal
- Experience, Strategy and Transformation
- Finance and Business Services
- People, Culture and Wellbeing.



Internal governance

The President has established formal governance structures at VCAT to provide appropriate decision-making, risk management and quality assurance support to the Tribunal's leaders in a complex legislative, policy and service delivery environment. These structures include:

- Tribunal Leadership Committee (TLC)
- Member Leadership Group (MLG)
- Executive Leadership Team (ELT)
- Finance, Risk, Audit and Performance (FRAP) Committee.

Tribunal Leadership Committee

The Tribunal Leadership Committee is the primary formal body within VCAT's governance environment. The committee is chaired by the President and ordinarily meets on a monthly basis. Its membership includes the resident Vice President, the CEO and Executive Director, Services and Legal. The TLC sets the Tribunal's strategy, reviews and approves key policies, and considers issues that have a strategic or operational impact at a high level of materiality to the administration of the Tribunal.

Member Leadership Group

The Member Leadership Group is chaired by the President and includes the Vice President and Heads of Division and Heads of List.

The group meets every fortnight, with meetings attended by the CEO and other executives as required. These meetings provide a structured forum for member leaders to share information and for consultation on issues including:

- VCAT's strategic direction
- significant initiatives or risks impacting the Tribunal
- organisational wellbeing
- engagement with key external stakeholders
- communications with members.

Executive Leadership Team

The Executive Leadership Team consists of the CEO, the four executive directors and the Senior Strategic Adviser. Meeting monthly, the ELT considers key strategic and operational issues including:

- progress against our strategic and business plans, and progress of strategic projects
- our financial position and performance, and our compliance with relevant legislation and policy
- governance responsibilities and obligations specified in legislation
- compliance with occupational health and safety, workforce and wellbeing obligations
- significant risks or opportunities related to our operations.

Finance, Risk, Audit and Performance Committee

The Finance, Risk, Audit and Performance Committee is chaired by an independent external chair and provides oversight in relation to the following:

- financial management, performance and reporting
- risk management
- internal controls and compliance with applicable legislation and policies
- internal and external audit activities
- tribunal performance against targets or measures set by its strategic or other business plans or for government reporting purposes.

Rules Committee

The Rules Committee is established by section 150 of the VCAT Act. Under section 151 of the Act, the committee's functions are:

- a) to develop rules of practice and procedure and practice notes for the Tribunal;
- b) to direct the education of members of the Tribunal in relation to those rules of practice and procedure and practice notes;
- c) any other functions conferred on it by the President.

During the year, the Rules Committee met on four occasions.

Changes to rules

In September 2021, the committee made the *Victorian Civil and Administrative Tribunal (Residential Tenancies and Other Acts Amendment) Rules 2021*.

Changes to practice notes

Planning and Environment

As part of the major process reforms to the Planning and Environment Division, the committee approved the following changes to the list's practice notes, effective 1 July 2022:

- PNPE2 – Information from Decision Makers and Authorities (amended to reflect and streamline changes in the Short Cases List and Environment and Resources List)
- PNPE9 – Amendment of Planning Permit Applications and Plans
- PNVCAT3 Fair Hearing Obligation (update; effective 10 March 2022)
- PNVCAT6 Hearing Fees (update; effective 14 December 2021)

Allocation of jurisdictions

A new jurisdiction was established to allow the MCV to hear matters that VCAT cannot. Called the *Victorian Civil and Administrative Tribunal and Other Acts Amendment (Federal Jurisdiction and Other Matters) Act 2021 (Vic)*, it commenced on 29 November 2021.

The change follows a Court of Appeal ruling in *Meringnage v Interstate Enterprises & Ors* [2020] VSCA 30. The Court found that VCAT is not a court of a state, meaning it cannot hear matters:

- between states, residents of different states or a state and resident of another state
- in which the Commonwealth is suing or being sued
- involving the Constitution or its interpretation
- arising under any laws made by the Commonwealth Parliament.

As part of the new legislative scheme, new jurisdiction was conferred on the MCV in December 2021, to enable it to hear applications that, following the decision, VCAT can no longer hear.



12

Appendices

A. Financial information	80
B. Enabling enactments as at 30 June 2022	81
C. VCAT member directory	86
D. List of tables and figures	91
E. Complaints	100
F. Glossary	101
G. Contact details	104





A. Financial information

VCAT's 2021-22 accounts are audited by the Victorian Auditor-General's Office (VAGO) as part of CSV accounts. Financial transactions are recorded and audited for compliance with the reporting guidelines set by the Department of Treasury and Finance for Victorian Government agencies and are compliant with the Australian Accounting Standards.

VCAT's 2021-22 accounts are published in the consolidated CSV Annual Report 2021-22.

To view the CSV annual report, visit courts.vic.gov.au.

Due to a difference in legislated reporting timeframes, at the time of preparing this report, VAGO was yet to form an audit opinion on the CSV accounts. The finance information presented remains subject to VAGO audit.

OUR FINANCES (MILLIONS)	2018-19	2019-20	2020-21	2021-22
How much Parliament appropriates for VCAT costs	\$27.500	\$34.609	\$39.527	\$42.796
Fees retained as appropriations	\$9.900	\$8.335	\$7.889	\$8.021
Funds from Consumer Affairs Victoria (in trust, for dispute services)	\$19.500	\$20.749	\$20.589	\$19.640

B. Enabling enactments as at 30 June 2022

New legislative changes

Zero and Low Emission Vehicle Distance-based Charge Act 2021 – Commenced in July 2021, requiring ZLEV owners to declare odometer readings and pay additional registration fees or risk deregistration of their vehicles. VCAT has review jurisdiction regarding the Secretary's decision relating to an objection to an invoice.

Road Safety (Vehicles) Regulations 2021 – Commenced in September 2021, replacing the *Road Safety (Vehicle) Interim Regulations 2020*. The regulations give VCAT review jurisdiction regarding authorisation of vehicle inspectors, registration of vehicles, registration number rights, vehicle clubs and club permits.

Non-Emergency Patient Transport Amendment Act 2021 – Commenced in September 2021. The Act introduces a licensing and regulation scheme for commercial first aid services. VCAT has jurisdiction to review decisions regarding first aid service licences.

Essential Services Commission (Compliance and Enforcement Powers) Amendment Act 2021 – Commenced in December 2021, giving VCAT jurisdiction to review a requirement to provide information to the Commissioner and to review a decision to disclose confidential

information. New sections inserted to expand VCAT review jurisdiction to include a decision to serve a compliance notice.

Owners Corporations and Other Acts Amendment Act 2021 – Commenced in December 2021. The Act allows VCAT to make an order requiring a lot owner to pay reasonable costs an owners corporation incurred when recovering an unpaid amount from the lot owner (other than costs in the proceeding).

Change or Suppression (Conversion) Practices Prohibition Act 2021 – Commenced in February 2022. This Act bans practices that seek to change or suppress a person's sexual orientation or gender identity. VCAT has review jurisdiction of compliance notices issued by the Commissioner to a person they believe is in breach of the Act.

Windfall Gains Tax and State Taxation and Other Acts Further Amendment Act 2021 – Commenced in April 2022. The Act amends several taxation Acts including the *Land Tax Act 2005*, *Gambling Regulation Act 2003*, and *Taxation Administration Act 1997*.

Sex Work Decriminalisation Act 2022 – Partially commenced in May 2022. This amendment to the *Equal Opportunity Act 2010* inserts new sections specifying a person's profession or occupation as a protected attribute.

Transport Legislation Amendment (Port Reforms and Other Matters) Act 2022 – Some provisions commenced

in May 2022. The Act establishes Ports Victoria in place of Victorian Ports Corporation (VPC). VCAT has jurisdiction to review towage condition determinations made by VPC. A new provision gives VCAT power to review decisions made by Ports Victoria.

Education and Training Reform Amendment (Protection of School Communities) Act 2021 – Commenced in late June 2022. Amendments expand VCAT jurisdiction to review decisions in relation to school community safety orders. VCAT may vary or revoke an order.

Energy Legislation Amendment Act 2021 – Commenced in June 2022. The Act amends several energy Acts with the aim of expanding the types of determinations the Essential Services Commission can make that may be reviewable. VCAT has limited review jurisdiction with respect to certain requirements, decisions, and determinations of the ESC.

List of Enabling Enactments

Aboriginal Heritage Act 2006
Accident Compensation Act 1985
Accident Towing Services Act 2007
Accident Towing Services Regulations 2019
Adoption Act 1984
Agricultural and Veterinary Chemicals (Control of Use) Act 1992
Architects Act 1991
Assisted Reproductive Treatment Act 2008

Associations Incorporation Reform Act 2012
Australian Consumer Law and Fair Trading Act 2012
Back to Work Act 2015
Biological Control Act 1986
Births, Deaths and Marriages Registration Act 1996
Building Act 1993
Bus Safety Act 2009
Business Franchise (Petroleum Products) Act 1979
Business Licensing Authority Act 1998
Catchment and Land Protection Act 1994
Cemeteries and Crematoria Act 2003
Change or Suppression (Conversion) Practices Prohibition Act 2021 (commenced 17 February 2022)
Children, Youth and Families Act 2005
Children’s Services Act 1996
Child Wellbeing and Safety Act 2005
Climate Change Act 2017
Commercial Passenger Vehicle Industry Act 2017
Company Titles (Home Units) Act 2013
Congestion Levy Act 2005
Conservation, Forests and Lands Act 1987
Conveyancers Act 2006
Co-operatives National Law Application Act 2013
Country Fire Authority Act 1958
Credit Act 1984
Dairy Act 2000

Dangerous Goods Act 1985
Development Victoria Act 2003
Disability Act 2006
Disability Service Safeguards Act 2018
Domestic Animals Act 1994
Domestic Building Contracts Act 1995
Drugs, Poisons and Controlled Substances Act 1981
Duties Act 2000
Education and Care Services National Law Act 2010
Education and Training Reform Act 2006
Education and Training Reform Amendment (Protection of School Communities) Act 2021 (commenced 28 June 2021)
Electoral Act 2002
Electricity Safety Act 1998
Emergency Management Act 1986
Emergency Services Superannuation Act 1986
Energy Legislation Amendment Act 2021 (commenced 1 June 2022)
Environment Protection Act 2017
Equal Opportunity Act 2010
Equipment (Public Safety) Act 1994
Essential Services Commission Act 2001
Essential Services Commission (Compliance and Enforcement Powers) Amendment Act 2021 (commenced 1 December 2021)
Estate Agents Act 1980
Firearms Act 1996
Fire Rescue Victoria Act 1958
First Home Owner Grant Act 2000
Fisheries Act 1995
Flora and Fauna Guarantee Act 1988
Freedom of Information Act 1982
Fundraising Act 1998
Gambling Regulation Act 2003
Gas Safety Act 1997
Gender Equality Act 2020
Guardianship and Administration Act 2019
Health Complaints Act 2016
Health Practitioner Regulation National Law
Health Records Act 2001
Health Services Act 1988
Heavy Vehicle National Law Application Act 2013
Heritage Act 2017
Housing Act 1983
Labour Hire Licensing Act 2018
Land Acquisition and Compensation Act 1986
Land Tax Act 2005
Legal Profession Uniform Law Application Act 2014
Livestock Disease Control Act 1994
Local Government Act 1989
Local Government Act 2020
Long Service Benefits Portability Act 2018
Major Events Act 2009
Major Transport Projects Facilitation Act 2009

Meat Industry Act 1993

Medical Treatment Planning and Decisions Act 2016

Melbourne Strategic Assessment (Environment Mitigation Levy) Act 2020

Mental Health Act 2014

Mineral Resources (Sustainable Development) Act 1990

Motor Car Traders Act 1986

Non-Emergency Patient Transport Act 2003

Non-Emergency Patient Transport Amendment Act 2021 (commenced 30 September 2021)

Occupational Health and Safety Act 2004

Occupational Health and Safety Regulations 2017

Owner Drivers and Forestry Contractors Act 2005

Owners Corporations Act 2006

Owners Corporations and Other Acts Amendment Act 2021 (commenced December 2021)

Parliamentary Salaries, Allowances and Superannuation Act 1968

Payroll Tax Act 2007

Petroleum Act 1998

Pharmacy Regulation Act 2010

Pipelines Act 2005

Planning and Environment Act 1987

Plant Biosecurity Act 2010

Powers of Attorney Act 2014

Prevention of Cruelty to Animals Act 1986

Privacy and Data Protection Act 2014

Private Security Act 2004

Professional Boxing and Combat Sports Act 1985

Professional Engineers Registration Act 2019

Property Law Act 1958

Public Health and Wellbeing Act 2008

Racial and Religious Tolerance Act 2001

Racing Act 1958

Rail Safety National Law Application Act 2013

Relationships Act 2008

Residential Tenancies Act 1997

Retail Leases Act 2003

Retirement Villages (Contractual Arrangements) Regulations 2017

Retirement Villages Act 1986

Road Management (General) Regulations 2016

Road Management Act 2004

Road Safety (Vehicles) Regulations 2021 (commenced 30 September 2021). Replaces Road Safety (Vehicles) Regulations 2009.

Road Safety Act 1986

Rooming House Operators Act 2016

Sale of Land Act 1962

Seafood Safety Act 2003

Second-Hand Dealers and Pawnbrokers Act 1989

Sentencing Act 1991

Service Victoria Act 2018

Sex Work Decriminalisation Act 2022 (partially commenced 10 May 2022). Repeals the *Sex Work Act 1994*.

Small Business Commission Act 2017

State Employees Retirement Benefits Act 1979

State Superannuation Act 1988

Subdivision Act 1988

Superannuation (Portability) Act 1989

Supported Residential Services (Private Proprietors) Act 2010

Surveying Act 2004

Taxation Administration Act 1997

Therapeutic Goods (Victoria) Act 2010

Traditional Owner Settlement Act 2010

Transport (Compliance and Miscellaneous) Act 1983

Transport Accident Act 1986

Transport (Safety Schemes Compliance and Enforcement) Act 2014

Transport Legislation Amendment (Port Reforms and Other Matters) Act 2022 (commenced 25 May 2022)

Transport Superannuation Act 1988

Trustee Companies Act 1984

Unclaimed Money Act 2008

Valuation of Land Act 1960

Veterinary Practice Act 1997

Vexatious Proceedings Act 2014

Victims of Crime Assistance Act 1996

Victoria State Emergency Service Act 2005

Victoria State Emergency Service Regulations 2017

Victorian Plantations Corporation Act 1993

Voluntary Assisted Dying Act 2017

Water Act 1989

Wildlife Act 1975

Windfall Gains Tax and State Taxation and Other Acts Further Amendment Act 2021 (commenced 15 April 2022)

Worker Screening Act 2020

Workplace Injury Rehabilitation and Compensation Act 2013

Zero and Low Emission Vehicle Distance-based Charge Act 2021 (commenced 1 July 2021)

C. VCAT member directory

Current at 30 June 2022

President

Justice Michelle Quigley

Vice Presidents

Judges assigned to VCAT full-time in 2021-22:

Judge Samantha Marks
Judge Sharon Burchell
Judge Elizabeth Brimer
Judge Sandra Davis
Judge Felicity Hampel
Judge Michael Macnamara
Judge Jeanette Morrish
Judge Ted Woodward
Judge Graham Anderson

Deputy Presidents

Ms Teresa Bisucci
Mr Mark Dwyer
(to 31 May 2022)
Ms Heather Lambrick
Mr Ian Lulham
Ms Genevieve Nihill AM
Mr Ian Proctor
Mr Eric Riegler
Mr Richard Wilson

Senior Members, non-sessional

Ms Margaret Baird
Mr John Bennett
Mr John Billings
Ms Susan Burdon-Smith
Mr Salvatore Cimino
Mr Geoffrey Code
Ms Carol Daicic
Ms Anna Dea
Mr Mark Farrelly
Ms Leneen Forde
Mr Laurie Hewet
Mr Brendan Hoysted
Ms Justine Jacono
Ms Suzanne Kirton
Mr Philip Martin
Ms Stella Moraitis
Ms Rachel Naylor
Mr Ian Potts
Ms Charlene Price
Mr Bill Sibonis
Mr Jonathan Smithers
Ms Bernadette Steele
Mr Lindsay Warren
Ms Elisabeth Wentworth
Mrs Silvana Wilson

Senior Members, sessional

Ms Catherine Aird

Mr Robert Davis
(to 28 March 2022)

Judge Pamela Jenkins

Mr Michael Levine

Ms Margaret Lothian
(to 7 September 2021)

Ms Jacqueline Preuss

Ms Jeanette Rickards

Mr Alan Vassie

Mr Rohan Walker
(to 30 September 2021)

Members, non-sessional

Ms Pamela Barrand

Ms Diane Bates
(to 8 April 2022)

Ms Claire Bennett

Ms Elizabeth Bensch

Ms Deirdre Bignell

Ms Kerrie Birtwistle

Ms Tracey Bilston-McGillen

Ms Michelle Blackburn

Ms Danica Buljan

Mr Domenico Calabro

Ms Mary Cameron

Ms Kylea Campana

Mr Neill Campbell

Ms Megan Carew

Ms Dalia Cook

Mr Robert Daly

Mr Michael Deidun

Ms Spiridoula Djohan

Ms Nicole Feeney

Mr Sydney Fry

Mr Peter Gaschk

Ms Alison Glynn

Ms Juliette Halliday

Mr Christopher Harty

Ms Brook Hely

Ms Louise Johnson

Mr Barry Josephs

Mr Andrew Kincaid

Ms Jessica Klingender

Ms Kim Knights

Ms Judith Leshinsky

Ms Susanne Liden

Mr Owen Mahoney

Ms Sarah McDonald

Ms Felicity Marks

Ms Anne Moon

Ms Holly Nash

Mr Michael Nelthorpe

Ms Katherine Paterson

Ms Judith Perlstein

Ms Tania Petranis

Mr Charles Powles

Dr Linda Rowland

Mr Ian Scott

Ms Karina Shpigel

Ms Alison Slattery

Ms Anita Smith

Ms Jane Tait

Mr Reynah Tang AM
Ms Mary-Anne Taranto
Mr Joel Templar
Mr Chris Thwaites
Ms Annemarie Tilley
Dr Andrea Treble
Ms Tracy Watson
Ms Susan Whitney
Mr Shiran Wickramasinghe
Ms Cynthia Wilson
Dr Rebecca Wilson
(to 7 September 2021)

Members, sessional

Mr Benjamin Adcock
Ms Vanessa Aitken
Dr George Alexander
Ms Dianne Anderson
Ms Mary Archibald PSM
Mr Stephen Axford
Ms Pamela Barry
Dr James Baxter
Dr Philip Bender
Ms Wendy Boddison
Ms Venetia Bombas
(appointed 16 November 2021)
Ms Siobhan Boyd-Squires
Ms Melissa Bray
(appointed 16 November 2021)
Ms Emma Bridge
Mr Robert Buchanan
Ms Marietta Bylhouwer
Mr Louis Cali

Ms Rebecca Cameron
Dr Melainie Cameron
Mr Geoffrey Carruthers
Mr Gregory Chase
Mr John Clampett
Ms Vicki Cogley
Ms Gwenneth Crawford
Ms Bernadette Cremean
Ms Lara Crocker
Ms Vicki Davies
(to 7 October 2021)
Mr Frank Dawson
Dr Clare Delany
Dr Anthony Dickinson
Associate Professor Barry Draper
Ms Annette Eastman
Mr Christopher Edquist
Mr Michael El Moussalli
Ms Alison Elmes
(appointed 30 November 2021)
Dr John Farhall
Dr Peter Farrelly
Ms Natalie Fleming
Mr John Forsyth
(to 7 June 2022)
Ms Danielle Galvin
Ms Michelle Gardner
Mr Jayce Gilbert
Dr John Gleeson
Ms Megan Goulding
Mr Xu Ming Gu
Mr Raymond Gymer

Mr Paul Gysslink
Mr Nicholas Hadjigeorgiou
Ms Mary Hally
Ms Elisabeth Hancock
Ms Diana Harding QC
Ms Fiona Harrison
(to 1 September 2021)
Dr Christopher Hart
Ms Margaret Harvey
Mr Adrian Ho
(appointed 16 November 2021)
Mr Anthony Horan
Dr Alan Johnston
Mr Colin Jones
Ms Ann Keddie
Mr David Kim
Ms Kay Kirmos
Ms Carolyn Manning
Dr Elizabeth Mason
Mr Colin McIntosh
Ms Patricia McKeown
Dr Peter McNeill
Dr Roderick McRae
Ms Katherine Metcalf
Dr Patricia Molloy
Ms Lorina Nervegna
Ms Kathryn Norman
Dr Elissa O'Brien
Mr Rodney Page
Mr Saurabh Pandya
(appointed 16 November 2021)
Ms Kathryn Partenio
Ms Rosslyn Pearson
Ms Annette Peart
Mr Christopher Perera
Dr Yi-Lee Phang
Mr Robert Phillips
Ms Marian Power
Mr Mark Prince
Ms Erin Rankins
Dr Aruna Reddy (to 23 January 2022)
Dr John Reggars
Mr Geoffrey Rundell
(appointed 3 August 2021)
Dr Colin Riley
(to 6 December 2022)
Mr John Sharkie
Mr Gregory Sharpley
Ms Felicity Slee
Dr Rowan Story AM RFD
Dr Angela Sungaila
Mr Michael Sweeney OAM
Ms Anna Tantau
Ms Michelle Taylor-Sands
(appointed 16 November 2021)
Mr Bryan Thomas
(to 5 July 2021)
Ms Vivienne Topp
Mr Christopher Torr
Mr Peter Tyler
Mr Blair Ussher
(to 30 June 2022)
Ms Jill Walsh
Dr Laurie Warfe
Dr John Waterhouse

Mr Stuart Webb
(appointed 16 November 2021)

Mr Philip West

Dr Angela Williams

Ms Catherine Wilson

Mr Nicholas Wimbush
(appointed 16 November 2021)

Mr Samuel Zheng

Number of VCAT members at 30 June 2022

Judicial members – 9

Deputy presidents – 7

Senior members – 24

Senior members (sessional) – 6

Members – 57

Members (sessional) – 102

Total – 206

D. List of tables and figures

ADR

Snapshot ADR – Total cases heard by compulsory conference or mediation

LISTS	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	VARIANCE
Civil Division						
Building and Property	744	686	702	838	832	-1%
Civil Claims	377	359	290	323	283	-12%
Owners Corporations	119	171	91	160	139	-13%
Residential Tenancies Division						
Residential Tenancies	56	107	49	11	99	800%
Administrative Division						
Legal Practice	39	33	16	26	29	12%
Review and Regulation	250	270	199	221	195	-12%
Planning and Environment Division						
Planning and Environment	756	714	551	911	830	-9%
Human Rights Division						
Guardianship	11	7	16	16	15	-6%
Human Rights	181	169	137	219	134	-39%
TOTAL	2,533	2,516	2,051	2,725	2,556	-6%

Snapshot ADR – Total cases resolved (settled) by compulsory conference or mediation

LISTS	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	VARIANCE
Civil Division						
Building and Property	402	360	360	409	396	-3%
Civil Claims	247	245	173	191	165	-14%
Owners Corporations	65	99	50	82	73	-11%
Residential Tenancies Division						
Residential Tenancies	45	78	42	10	56	460%
Administrative Division						
Legal Practice	26	21	12	15	16	7%
Review and Regulation	99	118	67	64	73	14%
Planning and Environment Division						
Planning and Environment	386	366	274	326	313	-4%
Human Rights Division						
Guardianship	5	2	7	7	8	14%
Human Rights	112	126	91	147	79	-46%
TOTAL	1,387	1,415	1,076	1,251	1,179	-6%

Percentage of cases resolved (settled) by compulsory conference or mediation

LISTS	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	VARIANCE
Civil Division						
Building and Property	54%	52%	51%	49%	48%	-2%
Civil Claims	66%	68%	60%	59%	58%	-1%
Owners Corporations	55%	58%	55%	51%	53%	2%
Residential Tenancies Division						
Residential Tenancies	80%	73%	86%	91%	57%	-38%
Administrative Division						
Legal Practice	67%	64%	75%	58%	55%	-4%
Review and Regulation	40%	44%	34%	29%	37%	29%
Planning and Environment Division						
Planning and Environment	51%	51%	50%	36%	38%	5%
Human Rights Division						
Guardianship	45%	29%	44%	44%	53%	22%
Human Rights	62%	75%	66%	67%	59%	-12%
TOTAL	55%	56%	52%	46%	46%	0%

Fast Track Mediation and Hearing program

COMBINATION OF VIDEO AND TELECONFERENCES AS PART OF THE FAST TRACK MEDIATION & HEARING PROGRAM FOR CIVIL CLAIMS	2019-20	2020-21	2021-22
Mediations held via phone or Zoom	137	1,695	1,234

ASSESSMENTS	2019-20	2020-21	2021-22
Number of cases assessed as suitable, including cases that may be scheduled for mediation and hearing in 2021-22	2,960	2,286	3,131

MEDIATIONS CONDUCTED AND SETTLED	2019-20	2020-21	2021-22
Mediations conducted	998	971	1,234
Mediations settled	599	565	666
Mediation settlement rate	60%	58%	55%

SETTLED BEFORE MEDIATION	2019-20	2020-21	2021-22
Total matters settled before mediation, including DSCV-assisted settlement	655	441	607
Settled before scheduled mediation %	22%	21%	19%
Settled with assistance from DSCV after making initial contact with parties	188	250	370
DSCV-assisted settlement %	6%	11%	14%
DSCV resolution rate – mediation and assisted settlements %	66%	69%	69%

Planning and Environment List

*Top 20 number of applications by council during 2021-22
(in alphabetical order)*

	2018-19	2019-20	2020-21	2021-22	VARIANCE
Banyule City Council	80	53	55	48	-13%
Bayside City Council	120	81	85	57	-33%
Boroondara City Council	133	121	87	84	-3%
Darebin City Council	100	83	64	32	-50%
Glen Eira City Council	65	34	66	35	-47%
Greater Geelong City Council	49	58	55	57	4%
Hobson's Bay City Council	47	43	41	44	7%
Manningham City Council	70	62	47	23	-51%
Maroondah City Council	67	55	42	32	-24%
Melbourne City Council	140	93	87	43	-51%
Monash City Council	123	109	110	71	-35%
Moonee Valley City Council	43	46	46	29	-37%
Moreland City Council	102	63	58	36	-38%
Mornington Peninsula Shire Council	242	130	125	88	-30%
Port Phillip City Council	97	92	81	47	-42%

	2018-19	2019-20	2020-21	2021-22	VARIANCE
Stonnington City Council	101	101	91	69	-24%
Surf Coast Shire Council	29	38	40	27	-33%
Whitehorse City Council	54	45	58	65	12%
Whittlesea City Council	45	68	52	34	-35%
Yarra City Council	121	124	116	87	-25%

*Top 20 number of applications by suburb during 2021-22
(in alphabetical order)*

	2018-19	2019-20	2020-21	2021-22	VARIANCE
Brighton	35	31	32	26	-19%
Brunswick	31	16	17	10	-41%
Clayton	21	27	28	16	-43%
Doncaster	10	24	22	6	-73%
Eltham	18	13	16	14	-13%
Fitzroy	13	20	18	14	-18%
Fitzroy North	14	15	16	7	-56%
Glen Waverley	25	17	21	10	-55%
Hawthorn	23	24	11	25	127%
Kew	24	19	24	17	-32%
Melbourne	117	47	47	20	-57%
Mount Waverley	25	21	19	11	-39%
Northcote	20	12	19	5	-74%
Port Melbourne	17	14	19	6	-68%
Preston	20	31	20	13	-35%

	2018-19	2019-20	2020-21	2021-22	VARIANCE
Reservoir	25	17	17	7	-56%
Richmond	36	54	37	23	-36%
South Melbourne	24	18	21	11	-48%
South Yarra	18	18	21	16	-24%
St Kilda	16	12	16	7	-56%
Toorak	21	17	17	6	-65%

Review and Regulation List

Review and Regulation – Initiated Cases by Enabling Enactment

CATEGORIES	INITIATED 2021-22
<i>Transport Accident Act 1986</i>	275
<i>Freedom of Information Act 1982</i>	213
<i>Health Practitioner Regulation National Law (Victoria) Act 2009</i>	100
<i>Taxation Administration Act 1997</i>	50
<i>Worker Screening Act 2020</i>	41
<i>Children, Youth and Families Act 2005</i>	30
<i>Building Act 1993</i>	29
<i>Victorian Civil and Administrative Tribunal Act 1998</i>	27
<i>Private Security Act 2004</i>	26
<i>Labour Hire Licencing Act 2018</i>	22
<i>Racing Act 1958</i>	20
<i>Fire Arms Act 1996</i>	19
<i>Land Tax Act 2005</i>	17
<i>Domestic Animals Act 1994</i>	13
<i>Adoption Act 1984</i>	11

CATEGORIES	INITIATED 2021-22
<i>Fire Rescue Victoria Act 1958</i>	11
<i>Births, Deaths and Marriages Registration Act 1996</i>	9
<i>Commercial Passenger Vehicle Industry Act 2017</i>	9
<i>Education and Training Reform Act 2006</i>	9
<i>Payroll Tax Act 2007</i>	9
<i>Victims of Crime Assistance Act 1996</i>	9
<i>Estate Agents Act 1980</i>	7
<i>Public Health and Wellbeing Act 2008</i>	5
<i>Occupational Health and Safety Act 2004</i>	4
<i>Education and Care Services National Law Act 2010</i>	3
<i>Emergency Services Superannuation Act 1986</i>	3
<i>Health Complaints Act 2016</i>	3
<i>Domestic Animals Act 2004</i>	2
<i>Local Government Act 2020</i>	2
<i>Mental Health Act 2014</i>	2
<i>Sex Work Act 1994</i>	2
<i>Supported Residential Services (Private Proprietors) Act 2010</i>	2
<i>Wildlife Act 1975</i>	2
<i>Accident Compensation Act 1985</i>	1
<i>Accident Towing Services Act 2007</i>	1
<i>Architects Act 1991</i>	1
<i>Bus Safety Act 2009</i>	1
<i>Business Licensing Authority Act 1998</i>	1
<i>Conveyancers Act 2006</i>	1
<i>Disability Act 2006</i>	1

CATEGORIES	INITIATED 2021-22
<i>Fisheries Act 1985</i>	1
<i>Local Government Act 1989</i>	1
<i>Motor Car Traders Act 1986</i>	1
<i>Owner Drivers and Forestry Contractors Act 2005</i>	1
<i>Pharmacy Regulation Act 2010</i>	1
<i>Road Safety Act 1986</i>	1
<i>State Superannuation Act 1988</i>	1
<i>Therapeutic Goods (Victoria) Act 2010</i>	1
<i>Water Act 1989</i>	1
TOTAL	1,002

Other

2020-21 suppression orders at VCAT by list

LIST	2018-19	2019-20	2020-21	2021-22
Building and Property	0	0	0	0
Civil Claims	0	0	1	2
Guardianship	0	0	0	0
Human Rights	45	84	117	105
Legal Practice	0	0	4	2
Owners Corporations	0	0	0	0
Planning and Environment	0	0	1	0
Residential Tenancies	7	8	4	0
Review and Regulation	76	96	87	39
TOTAL	128	188	214	148

E. Complaints

This year we received a total of 433 complaints about VCAT people or processes.

VCAT regularly reviews the number and types of complaints we receive to identify any systemic issues.

Administrative Services

There was a notable increase in complaints about delays this year as we continued to deal with COVID related disruptions.

There were 132 complaints that were about a delay in either the listing of a matter, or, to a lesser extent, in handing down a reserved decision. In each of these cases, VCAT acknowledged the delay and its impact.

Members

There were 37 complaints made to the Tribunal regarding members, four of which were upheld. There were also 74 complaints that were about Tribunal decisions, which the Tribunal cannot investigate as Tribunal decisions are final and can only be appealed to the Supreme Court.

The Judicial Commission of Victoria is an independent body that can investigate complaints about judicial officers, including VCAT members. It cannot investigate complaints about the correctness of a VCAT decision. JCV reports separately on the complaints it receives about judicial officers, including VCAT members.

F. Glossary

Alternative Dispute Resolution	Resolution of a dispute through a VCAT-facilitated process other than a hearing. Examples include settling the dispute through mediation or a compulsory conference.
Applicant	The party applying to VCAT for orders or relief.
Caseflow	Caseflow is a way of measuring the work of the tribunal. It consists of three numbers: a count of new matters commenced, a count of matters finalised and matters still pending.
Clearance rate	The number of finalised applications divided by the number of new initiated/commenced applications, expressed as a percentage.
Compulsory conference	A form of dispute resolution where a VCAT member facilitates a confidential discussion between the parties.
CSV	Court Services Victoria
DBDRV	Domestic Building Dispute Resolution Victoria – a government agency that provides free services to help resolve domestic (residential) building disputes.
Directions	Directions are orders made by VCAT to promote the fair and expeditious hearing of a case – for example, directions to file or serve certain documents. VCAT may give directions at any time.
Directions hearing	A preliminary hearing where VCAT hears from the parties as to directions that might be made, or other preliminary matters.
Division	VCAT has five divisions – Civil, Administrative, Residential Tenancies, Human Rights and Planning and Environment.
80th percentile	VCAT aims to have 80 per cent of applications finalised within a certain number of weeks. The number of weeks varies for different types of cases.
Enabling enactment	An Act of Parliament or regulation under which jurisdiction is given to VCAT.
Enduring power of attorney	A legal document that allows another person to make personal or financial decisions on a person's behalf.
Finalisations	The number of applications finalised by VCAT.
Initiations	Applications commenced at VCAT.

Injunction	A type of order that directs a person to do, or not to do, something.
Judicial member	A VCAT member who is a judge of the Supreme Court of Victoria or County Court of Victoria.
Jurisdiction	The legal authority given to VCAT to hear and decide certain types of cases.
List	An area of VCAT that handles a specific type of case. VCAT has nine lists.
Median	The midpoint value in the distribution of finalised applications in weeks.
Mediation	Another form of dispute resolution involving confidential meetings and discussion between the parties. Unlike a compulsory conference, it is conducted by a trained mediator.
Member	A person appointed to hear and determine cases in VCAT's jurisdiction. Members are appointed on a sessional or non-sessional basis through the Governor-in-Council.
Non-sessional member	A full-time or part-time member of the Tribunal.
Objector	A person who has lodged an objection to a proposed planning permit with the responsible authority.
ODR	Online dispute resolution
Order	VCAT's written instructions or final decision in a case.
Original jurisdiction	When VCAT is the original decision-maker, rather than reviewing the decision of a responsible authority.
Party	A person or organisation that has applied to VCAT or who is defending claims made against them, or whom VCAT joins as a party.
Pending	The number of applications that have been commenced and are not yet finalised.
Presidential member	The President, a Vice President or a Deputy President of VCAT.
Real property jurisdiction	Co-ownership disputes under the <i>Property Law Act 1958</i> and claims arising from an unreasonable flow of water under the <i>Water Act 1989</i> .

Registry	The administrative section of VCAT that coordinates the exchange of information between VCAT and the parties, supports the members in their duties and handles enquiries about cases.
Respondent	The party against whom orders or relief is sought by an applicant.
Responsible authority	The government department or agency that an Act of Parliament names as the body with power to act in a particular situation.
Review jurisdiction	VCAT's powers to review decisions made by other decision-makers.
Sessional members	A VCAT member who is available as required; not full-time or part-time.
Settlement	An agreement between parties that finalises some or all of their dispute, so that VCAT does not have to decide it for them.
Target	A standard against which performance is measured, for example, weeks to finalise or numbers of cases. The target is measured in relation to the 80th percentile (not the median).
TAC	Transport Accident Commission
Tribunal	The Victorian Civil and Administrative Tribunal established under Part 2 of the <i>Victorian Civil and Administrative Tribunal Act 1998</i> .
User groups	Key stakeholders with interest in particular lists.
VCAT Act	The <i>Victorian Civil and Administrative Act 1998</i>
Variance	Percentage difference between the current and previous financial year.
VPS	Victorian Public Service

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