

**VCAT  
ANNUAL  
REPORT  
2011/2012**



The Honourable Robert Clark, MP  
Attorney-General  
121 Exhibition Street  
MELBOURNE 3000

Dear Attorney-General

We are pleased to present our Annual Report on the performance and operations of the Victorian Civil and Administrative Tribunal (VCAT) from 1 July 2011 to 30 June 2012.

In accordance with the requirements of section 37 of the *Victorian Civil and Administrative Tribunal Act 1998*, the report includes:

- A review of the operations of VCAT and of the Rules Committee during the 12 months ended 30 June 2012; and
- Proposals for improving the operation of VCAT in the coming 12 month period.



**Justice Greg Garde AO RFD**  
President  
Victorian Civil and Administrative Tribunal



**Andrew Tenni**  
Chief Executive Officer  
Victorian Civil and Administrative Tribunal

# CONTENTS

<b>2</b>	<b>ABOUT VCAT</b>	<b>32</b>	<b>ADMINISTRATIVE DIVISION</b>
2	WHO WE ARE	32	PLANNING AND ENVIRONMENT LIST
3	WHAT WE DO	35	LAND VALUATION LIST
3	OUR OBJECTIVES	37	OCCUPATIONAL AND BUSINESS REGULATION LIST
4	VCAT ORGANISATIONAL STRUCTURE	39	GENERAL LIST
5	YEAR AT A GLANCE	40	TAXATION LIST
<b>6</b>	<b>PRESIDENT'S MESSAGE</b>	41	LEGAL PRACTICE LIST
<b>8</b>	<b>CHIEF EXECUTIVE OFFICER'S MESSAGE</b>	<b>42</b>	<b>HUMAN RIGHTS DIVISION</b>
<b>10</b>	<b>A YEAR OF PROMOTING EXCELLENCE</b>	42	GUARDIANSHIP LIST
<b>14</b>	<b>SERVING OUR CUSTOMERS AND THE COMMUNITY</b>	44	HEALTH AND PRIVACY LIST
15	CUSTOMER SUPPORT SERVICES	45	ANTI-DISCRIMINATION LIST
16	CUSTOMER SERVICE CHARTER	47	MENTAL HEALTH LIST
17	HOW CASES ARE RESOLVED	<b>48</b>	<b>ORGANISATIONAL SUPPORT AND DEVELOPMENT</b>
18	VCAT IN THE COMMUNITY	49	GOVERNANCE
<b>19</b>	<b>THE TRIBUNAL AT WORK</b>	50	RULES COMMITTEE
20	VCAT'S ALTERNATIVE DISPUTE RESOLUTION SERVICES	52	PROFESSIONAL DEVELOPMENT GROUP
<b>23</b>	<b>CIVIL DIVISION</b>	53	VCAT STAFF
23	CIVIL CLAIMS LIST	54	ENVIRONMENT GROUP
25	RESIDENTIAL TENANCIES LIST	55	VCAT REGISTRY
27	DOMESTIC BUILDING LIST	56	INFORMATION TECHNOLOGY
29	OWNERS CORPORATIONS LIST	<b>58</b>	<b>FURTHER INFORMATION</b>
30	RETAIL TENANCIES LIST	58	OPERATING STATEMENT AND FINANCIAL SUMMARY
31	REAL PROPERTY LIST	60	ALLOCATION OF FUNCTIONS
		63	VCAT MEMBER DIRECTORY
		65	VCAT CONTACT DETAILS
		65	VCAT HEARING LOCATIONS

---

# ABOUT VCAT

## WHO WE ARE

The Victorian Civil and Administrative Tribunal (VCAT) is established under the *Victorian Civil and Administrative Tribunal Act 1998* (VCAT Act) and began operations on 1 July 1998, amalgamating 15 boards and tribunals to offer a 'one-stop shop' dealing with a range of disputes.

VCAT's vision is to be *'an innovative, flexible and accountable organisation which is accessible and delivers a fair and efficient dispute resolution service'*. Hearings are conducted at 55 King Street, Melbourne, as well as at a range of venues in suburban and regional Victoria.

In accordance with the Act, a Supreme Court judge heads VCAT as President and County Court judges serve as Vice Presidents. Applications are heard and determined by Deputy Presidents (appointed on a full time basis), Senior Members and ordinary Members (may be appointed on a full time, part time or sessional basis). Members have a broad range of specialised skills and qualifications, enabling VCAT to hear and determine cases of varying complexity and subject matter.

## WHAT WE DO

Since its inception, VCAT's purpose has been to provide Victorians with a low cost, accessible, efficient and independent tribunal delivering high quality dispute resolution.

Over the years, VCAT has evolved to accommodate new jurisdictions and functions under various Acts, regulations and rules. VCAT comprises three divisions.

The **Civil Division** hears and determines a range of civil disputes relating to:

- consumer matters;
- domestic building works;
- legal services;
- owners corporation matters;
- residential and retail tenancies disputes;
- sale and ownership of real property; and
- use or flow of water between properties.

The **Administrative Division** deals with applications from people seeking review of government and other bodies' decisions that affect them. These include decisions relating to:

- local council land valuations and planning permits;
- Transport Accident Commission findings;
- State taxation;
- business licences and professional registrations;
- Freedom of Information applications;
- WorkSafe assessments; and
- disciplinary proceedings across a range of professions and industries.

The **Human Rights Division** deals with matters relating to:

- guardianship and administration
- discrimination;
- racial and religious vilification;
- health and information privacy; and
- decisions made by the Mental Health Review Board.

## OUR OBJECTIVES

**1. To achieve service excellence by being:**

- cost-effective
- accessible and informal
- timely
- fair and impartial
- consistent
- quality decision-makers

**2. To effectively anticipate and meet demand for dispute resolution by being:**

- independent
- responsible
- responsive

**3. To invest in the development of flexible, satisfied and skilled Members and staff by providing:**

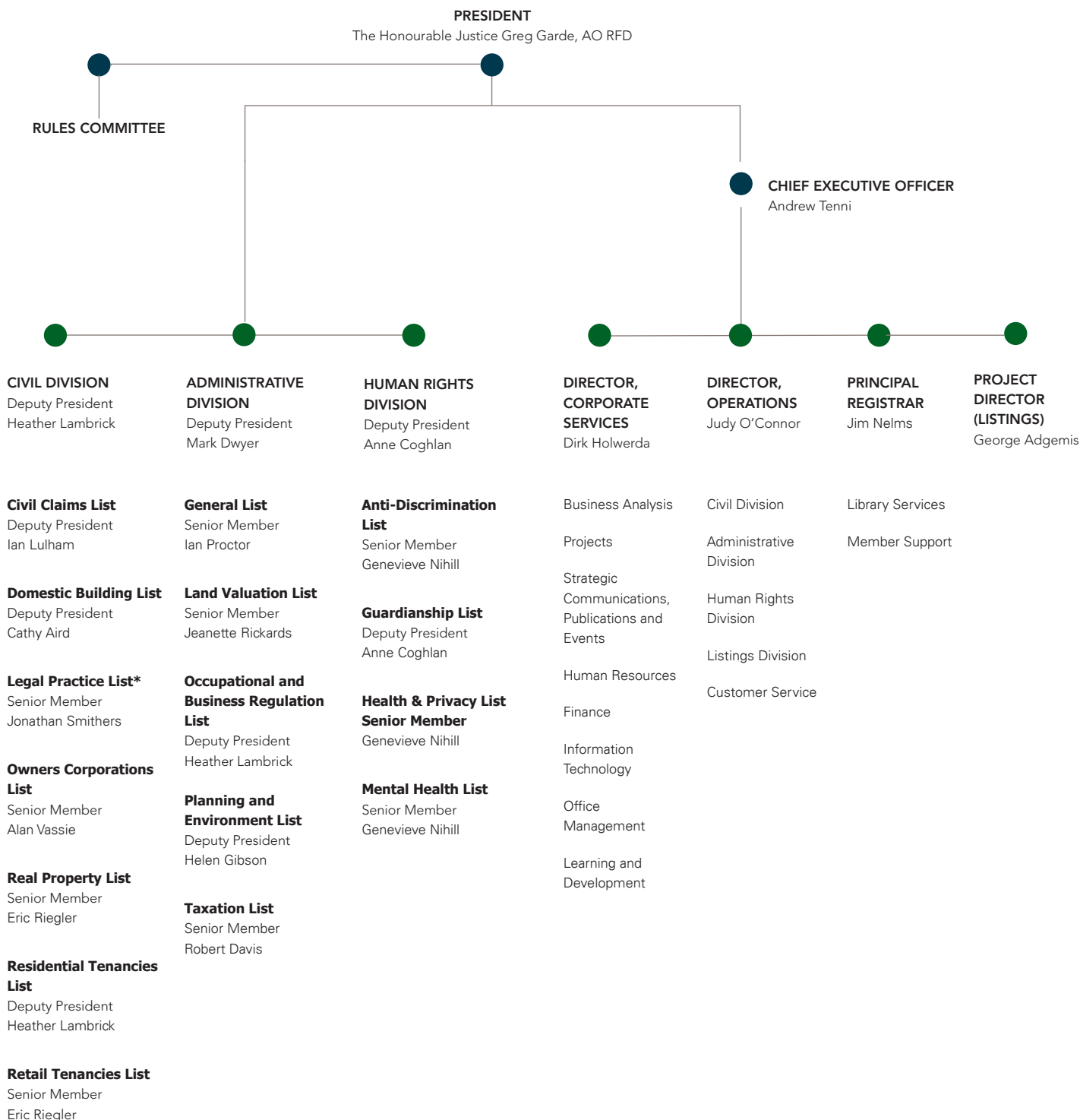
- a safe, challenging and team-oriented work environment
- learning and development
- appropriate use of specialised expertise

**4. To continue to raise awareness of our services and improve service delivery through:**

- user feedback
- community engagement
- education



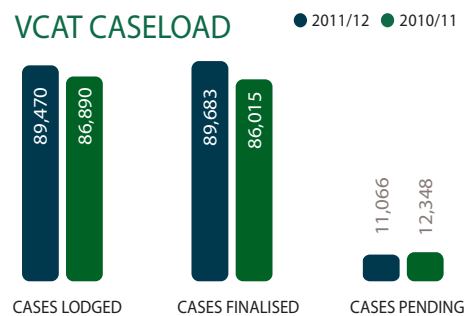
# VCAT ORGANISATIONAL STRUCTURE



\*The VCAT Rules 2008 established the Legal Practice List in the Civil Division, but for registry purposes it sits within the Administrative Division

# YEAR AT A GLANCE

OVERVIEW			
	2011-12	2010-11	% change
Cases lodged	89,470	86,890	3%
Cases finalised	89,683	86,015	4%
Cases pending	11,066	12,348	-10%
Clearance rate	100%	99%	
Hearing venues used	71	95	-34%



## OUR PEOPLE

	2011-12	2010-11	%change
VCAT staff	219	217	1%
Judicial Members	17	15	13%
Full-time Members	38	34	12%
Part-time Members	3	2	50%
Sessional Members	179	173	3%

## TWO YEAR FINANCIAL SUMMARY

FUNDING	2011-12	2010-11	%change
<b>VCAT FUNDING SOURCES</b>			
	\$m	\$m	
Output Appropriations	20.06	20.72	-3%
Residential Tenancies Fund	12.13	10.27	18%
Domestic Building Fund	2.69	2.56	5%
Guardianship and Administration Trust Fund	1.50	1.40	7%
Retail Tenancies List	0.35	0.35	0%
Legal Practice List	1.41	1.38	2%
Victorian Property Fund	1.00	1.22	-18%
<b>TOTAL</b>	<b>39.40</b>	<b>37.90</b>	<b>4%</b>
<b>EXPENDITURE</b>			
	2011-12	2010-11	%change
<b>VCAT OPERATIONAL EXPENDITURE</b>			
	\$m	\$m	
Salaries to staff	11.01	10.29	7%
Salaries to full-time Members	7.52	7.23	4%
Sessional Members	7.04	5.96	18%
Salary related on-costs	4.73	4.48	6%
Operating costs	9.10	9.94	-8%
<b>TOTAL</b>	<b>39.40</b>	<b>37.90</b>	<b>4%</b>

## LISTS

	Cases received per List			Timeliness per List		
	2011-12	2010-11	%change	Median	80th Ptle	Target
<b>CIVIL DIVISION</b>						
Civil Claims	8,928	8,554	4%	14	24	19
Owners Corporations	3,084	2,528	22%	5	7	10
Residential Tenancies	58,755	57,659	2%	2	3	6
Domestic Building	1,229	1,016	21%	16	36	35
Legal Practice	175	141	24%	17	46	40
Retail Tenancies	328	289	13%	12	32	18
Real Property	192	177	8%	21	36	35
<b>ADMINISTRATIVE DIVISION</b>						
Planning and Environment	3,873	3,775	3%	22	34	26
Land Valuation	138	124	11%	25	48	40
General	1,145	988	16%	34	73	56
Occupational and Business Regulation	267	228	17%	19	41	25
Taxation	82	111	-26%	36	79	23
<b>HUMAN RIGHTS DIVISION</b>						
Guardianship	10,898	10,893	0%	5	13	13
Health and Privacy	37	26	42%	14	38	26
Mental Health	23	29	-21%	7	12	6
Anti-Discrimination	316	352	-10%	14	39	26

---

# PRESIDENT'S MESSAGE



**VCAT's mission is to provide fair and efficient justice for all Victorians. Our business is the achievement of justice through dispute resolution. A very wide cross section of the Victorian community interacts with VCAT, from the needs of the elderly and persons with a disability, tenants and real estate agents, racing appeals, minor civil disputes to large building cases, review of administrative decisions, licensing and vocational standards for doctors, lawyers, teachers and many more.**

---

A key to the delivery of high quality services is the knowledge and skill of professional members and staff. VCAT's own people are its greatest strength and their career management and professional development is of pivotal importance. The Tribunal continues its program of providing members and staff with training and professional development activities during the year to help them perform their roles.

Professional development days for members were held in November 2011 and May 2012. The range of topics covered brought together members from different lists at VCAT to exchange ideas and draw on a wealth of in-house experience. Conferences and other professional development activities form part of the professional development program which includes an induction program and mentoring. VCAT introduced a member appraisal framework for the promotion of professional excellence. Together these initiatives are intended to support our members to develop the skills needed to effectively perform their roles, which in turn enhances the Tribunal's overall performance.

Administrative staff are the first point of contact for the many people who come to the Tribunal each year. They provide an outstanding service and assist hundreds, if not thousands, of people each day. Staff are supported in their career development, induction, training, mentoring and an appraisal system that supports their career development and future prospects. Recognition of outstanding merit and long service is and will be a routine part of service at VCAT.

VCAT is a recognised mediator accreditation body under the national mediator accreditation scheme. This allows VCAT to deliver accredited training for staff and members and to support accredited mediators to fulfil their on-going accreditation requirements. The first in-house mediation training program was in December 2011. Fourteen VCAT members and staff became accredited mediators through this program.

There was a three percent increase in the number of applications lodged with VCAT in 2011-12. More than 89,000 applications were lodged, with the highest numbers received in the Residential Tenancy,

Guardianship and Civil Claims Lists.

The Tribunal continues to review its case management practices to ensure that it is offering high quality dispute resolution in a reasonable time. A number of initiatives were implemented this year to assist the Tribunal to manage its caseload better. These include regular reporting of the age of cases, systematic review of older cases and the introduction of a new timeliness benchmark that applies for cases lodged after 1 March 2012. These significant initiatives will continue in 2012-13.

VCAT sits in a range of locations across metropolitan and regional Victoria. To improve access and better meet the needs of VCAT parties, VCAT located staff in seven key regional centres including Ballarat, Bendigo and Warrnambool. VCAT expanded the metropolitan hub at Berwick to a full service registry, and progressively introduced the recording of all VCAT hearings throughout Victoria. These initiatives have improved access by providing VCAT services when and where they are needed.

We continue to focus on service



delivery and on ways to optimise our resources through the innovative use of technology. In October 2011 'SMART' forms were launched. They allow online lodgement and payment across a broad range of jurisdictions. 90 percent of all VCAT applications can now be lodged electronically.

Increasing the awareness of the Tribunal's dispute resolution services was a key priority during the reporting period and the website is a pivotal facility to support communication with the community. On 1 June 2012 a new website was launched. This aims to provide comprehensive, up-to-date information about the Tribunal, its processes and alternative dispute resolution options.

In March 2012, the Tribunal introduced Tribunal wide practice notes dealing with common procedures and issues. A number of list-specific practice notes were modified and revoked. The practice notes have facilitated greater consistency and efficiency in VCAT practice.

The *Equal Opportunity Act 2010* came into effect on 1 August 2011. A project management team involving members and staff worked hard to ensure the necessary systems were put in place to enable the seamless implementation of the Act. Their activities included changes to the case management system, development of a new online application form and accompanying guide, and the distribution of information to external and internal stakeholders.

In February 2012, the VCAT leadership group and 14 external assessors used the Tribunal Excellence Framework to

assess the Tribunal against eight areas of Tribunal performance. The *Tribunal Excellence Framework* draws on the work of the *International Framework for Court Excellence*. In conjunction with the Council of Australasian Tribunals (COAT), VCAT substantially modified the Court's Excellence Framework to better meet the particular needs of tribunals. The results can be accessed at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au).

The Tribunal continues to be an active member of the Council of Australasian Tribunals and to participate in meetings with other Heads of Tribunals. These meetings provide a valuable opportunity to discuss issues of mutual interest including the professional development of members and the opportunities for further sharing of knowledge.

There were a number of new appointments to the Tribunal during 2011-12. Judge Michael Macnamara was appointed as a Vice President. Mr Ian Lulham was promoted to the position of Deputy President, Mr Jonathan Smithers was appointed as a full time senior member, and Mr Ian Proctor and Ms Genevieve Nihill were promoted to the position of full time senior members. In addition Dr Rebecca French and Mr Mark Farrelly were appointed as full time ordinary members.

The Tribunal appointed a number of sessional members during the reporting period. VCAT's sessional members are typically practising professionals with established expertise and reputation who give outstanding service to VCAT, often putting their own personal or professional commitments aside to conduct VCAT hearings. VCAT is very fortunate to have

them. I also thank Dr P Molloy and Dr E Tan, whose appointments ended during the reporting period.

I would like to record my thanks for the contributions made by the administrative staff whose time at the Tribunal came to end during the reporting period, and to welcome the staff who have joined us.

I thank all Tribunal members and staff who continued this year to meet the challenges of working in a dynamic and very busy jurisdiction. Their achievements highlight their dedication, support and commitment to serving the Victorian community.

VCAT is a wonderful Victorian institution, increasingly emulated in other States and Territories. I look forward to its future growth and development in providing fair and efficient justice for all Victorians.



**Justice Greg Garde AO RFD  
President**

---

# CHIEF EXECUTIVE OFFICER'S MESSAGE



**On 13 September 2010, we launched Transforming VCAT, a three year strategic plan.**

**Central to Transforming VCAT was a new vision for the Tribunal as: 'an innovative, flexible and accountable organisation, which is accessible and delivers a fair and efficient dispute resolution service'.**

Since that time the tribunal has undergone a significant amount of change intended to achieve this vision. Those changes are outlined throughout this annual report.

The more fundamental changes that have occurred during this process include:

- the recruitment of additional staff in a number of metropolitan and regional locations in order to improve access to, and support for, VCAT services in those locations.
- using technology to again improve access and convenience for parties through the use of 'Smart' form technology for the lodgement of applications and the upgrade of our website to better organise information for the community.
- extending the use of alternative dispute resolution processes where possible and also engaging staff in the

facilitation of ADR hearings.

- enhanced professional development programs and focus for both Members and staff.
- greater community engagement through more active participation in law week, conducting information sessions at locations outside the CBD and the development and delivery of the VCAT schools program.

A more detailed discussion of these and other initiatives is contained elsewhere in this report.

In addition to this extensive change process, we have also had to conduct business as usual. Once again this year the number of cases received by the tribunal has increased with 89,470 applications lodged. This is a 3 per cent increase in the number of matters commenced at the tribunal. At the same time we are

experiencing an increase in the length and complexity of matters as they proceed through the process. This all culminates in a greater challenge for Members and staff in being able to meet this increased demand while also maintaining the high standards and expectations that the community has for the tribunal.

Throughout 2011-12 VCAT has worked to meet this challenge and will continue to strive to do so in the future.

During the reporting period, VCAT had a change in President. In February 2012, Justice Iain Ross was appointed President of Fairwork Australia. During his time as president of VCAT, the Tribunal has achieved an extraordinary amount of change. His vision and drive meant that a great deal of change was able to be achieved over a relatively short period of time.

During the period between February 2012 and June 2012, the role of Acting President was undertaken by Judge John Bowman. Judge Bowman has performed the role of Acting President on other occasions in the past and provided great leadership during that period.

On 1 June 2012, Justice Greg Garde AO RFD was appointed VCAT President. On 26 June 2012, Justice Garde was sworn in by the Chief Justice, The Honourable Justice Marilyn Warren, as VCAT President at a welcome ceremony. At that welcome ceremony Justice Garde outlined his ideas and views as to how VCAT would continue to develop as a high performing institution.

I would like to thank our various stakeholders for all their assistance and on-going cooperation over the past year.

I would also like to thank in particular the Secretary to the Department of Justice, Penny Armytage, for all her assistance as required; Dr Graham Hill, Executive Director, Courts and the team at the Courts and Tribunals unit, for their ongoing support; the Chief Magistrate and Management and staff of Magistrates' Court of Victoria, whose co-operation helped us achieve many of our objectives, particularly in relation to our metropolitan and regional expansion; and Consumer Affairs Victoria and the Department of Business and Innovation, who were major partners on a number of our projects, and worked closely with the Tribunal to ensure their ongoing success.

I would personally like to thank those who have served as President of VCAT over the

period, Justice Ross, Judge Bowman and Justice Garde. Their help and support over the period has been greatly appreciated. The members of the VCAT Executive team have also been a great support over the past year.

Finally, I would like to thank our dedicated and talented staff, who have been vital to our success. Without our passionate staff, VCAT would not be able to realise its vision.



**Andrew Tenni**  
Chief Executive Officer

# TRANSFORMING VCAT: PROMOTING EXCELLENCE

Promoting Excellence was the second stage of our three year strategic plan, called Transforming VCAT. Over the last 12 months, over 40 initiatives directed at 'Promoting Excellence' were implemented.

VCAT serves the public through the provision of an accessible, fair and efficient dispute resolution service. In delivering that service we are accountable to the public.

Central to *Transforming VCAT* is a vision for the Tribunal as:

**'an innovative, flexible and accountable organisation, which is accessible and delivers a fair and efficient dispute resolution service'.**

*Promoting Excellence* contained more than 40 new initiatives directed at realising each element of our vision statement. In the past year, VCAT has focused on delivering all of these initiatives aimed at improving our service delivery. They have been grouped into four categories:

- Access to Justice and Promoting Fairness
- An ADR Centre of Excellence
- Efficiency and Innovation
- Accountability, Engagement and Professionalism

### ACCESS TO JUSTICE AND PROMOTING FAIRNESS

In the past year we have implemented the following initiatives to increase access to justice and promote fairness:

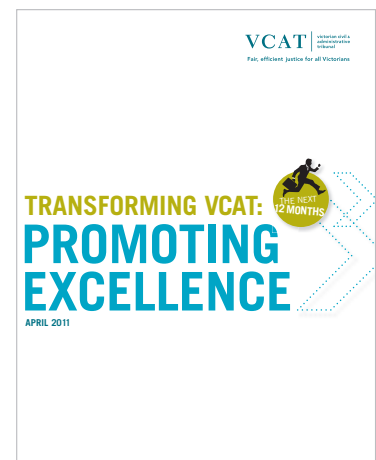
- Consulted with culturally and linguistic diverse (CALD) and Koori communities to identify the access barriers that stand between them and the Tribunal and find ways to improve access. Further sessions will be scheduled
- Expanded the metropolitan hub at Berwick to a full service registry
- Located staff at Ballarat, Wangaratta and Warrnambool and established a full service registry at Ballarat
- Commenced listing hearings at the

William Cooper Justice Centre

- Incorporated the provisions of a fair hearing and communication skills into VCAT's professional development (PD) program for members
- Introduced five Tribunal-wide practice notes dealing with common procedures with several List-specific practice notes modified or revoked. Practice Notes are published by VCAT to provide guidance on the usual practice of the Tribunal in dealing with particular issues and to provide greater consistency and certainty in VCAT's procedures.
- All new and amended practice notes were reviewed to ensure they were accessible and expressed in plain language
- Appointed a Litigant-in-Person Coordinator and consulted with pro bono legal services to develop measures to improve the delivery of these services
- Developed a Litigant-in-Person Management Plan
- Launched a 'Taking it to VCAT' information guide specifically for users of the Planning and Environment List
- Reviewed and upgraded VCAT's website

### AN ADR CENTRE OF EXCELLENCE

Alternative Dispute Resolution (ADR) processes have been used at VCAT since the creation of the Tribunal in 1998. VCAT has a purpose built Mediation Centre on level 2, 55 King Street, Melbourne comprising of hearing rooms, meeting areas and mediation break out rooms. In order for VCAT to become an ADR



Centre of Excellence, in the past year we have enhanced our capabilities by:

- Implementing the High Performance mediator strategy
- Piloting a formal ADR intake process in a number of Lists
- Continuing to provide a mandatory cooling off period in mediations where one or more parties is self represented. Where appropriate the cooling off period has been extended to all VCAT mediations
- Developing an in-house ADR training and accreditation program. The program delivered ADR training to 14 Members and staff in December 2011. The second program is scheduled to run in October 2012
- Distributing a qualitative survey to parties in ADR matters to obtain feedback on our processes. The results will now form the basis for further improvement of our ADR services

**“It should never be forgotten that tribunals exist for users, and not the other way around. No matter how good tribunals may be, they do not fulfil their function unless they are accessible by the people who want to use them, and unless users receive the help they need to prepare and present their cases.”**

Sir Andrew Leggatt, 2001

## EFFICIENCY AND INNOVATION

We improved our efficiency in the past year through the following initiatives:

- Launched our new website in June 2012. The new website has been designed to accommodate our new user guides and online applications and make it easier for VCAT users to locate information
- Commenced a project in November 2011 to review all listing practices and procedures with a view to identifying opportunities for improvement in Tribunal listings and in the utilisation of full time and sessional Members and Mediators
- Piloted the use of telephone hearings in debt cases within the Civil Claims List
- Provided updated forms and information online through the VCAT website, including updated user guides. 90% of all VCAT applications are now able to be lodged online
- Introduced a new fee structure into the Major Cases List in the Planning jurisdiction
- Improved access to our decisions. Worked with AustLII to ensure decisions are published within 5 days of the decision being delivered
- Trialled the use of an automatic order entry system in the Civil Claims and Owners Corporations List
- Used Skype to conduct hearings between Victoria and interstate and overseas locations

## ACCOUNTABILITY, ENGAGEMENT AND PROFESSIONALISM

We improved our accountability, engagement and professionalism in the past year through the following initiatives:

- Introduced a new timeliness benchmark that applies to cases lodged after 1 March 2012
- Measured our performance against the *Tribunal Excellence Framework* and reported on the results
- Introduced the audio recording of all VCAT hearings throughout Victoria
- Regularly reported on the Tribunal's performance on our website
- Surveyed parties about their experience at VCAT
- Increased our engagement in Law Week
- Developed a schools kits and piloted interactive workshops in secondary schools
- Developed and piloted a Member mentoring program for new Members
- The short mediation and hearing (SMAH) was developed and implemented, involving the use of staff to conduct mediations
- Established a staff professional development group
- Developed a fairer and more transparent process for the reappointment of Members
- Piloted an appraisal framework for Members to be used during their term of office

## STILL TO COME

- The current VCAT Fee Regulations are due to expire in December 2012. Review our current fee levels to ensure that an appropriate level of cost recovery is occurring and make recommendations to Government accordingly
- Develop and strengthen VCAT's relationship with pro bono legal service providers
- Extend the pilot telephone hearings in either the Civil or Residential Tenancies List
- Continue to seek alternative venues in metropolitan and regional locations to improve community access to the Tribunal
- Launch a 'virtual tour' of VCAT in August 2012 which can be accessed via our website
- Explore and trial the use of Social Media

## A WORD OF THANKS

.....

We would like to acknowledge all those who took the time to contribute to *Transforming VCAT: Promoting Excellence* and to thank the VCAT Members and staff who assisted in implementing and achieving our vision. This has been a collective effort and testament to their dedication and hard work.

# SERVING OUR CUSTOMERS AND THE COMMUNITY

This year we worked harder than ever to provide the Victorian people with easy access to justice.



## CUSTOMER SUPPORT SERVICES

### MELBOURNE OFFICE

Hours of operation are Monday to Friday, 9.00am to 4.30pm (closed public holidays).

VCAT's main office at 55 King Street, Melbourne has three distinct service areas:

#### Counter Services (Ground Floor)

The ground floor counter services team provides information to customers about VCAT's operations and hearing procedures. Staff assist customers to lodge their applications, respond to general queries and assist them when they arrive for a hearing. A wheelchair is available on the ground floor for people who require assistance from their car to a hearing room.

Our modern customer service environment provides user-friendly facilities, including a file inspection room for parties to use. Our SmartQueue ticketing system helps us serve customers in an efficient and systematic way. Multimedia LCD screens display our information DVDs in this area, which assists users to understand some of the disputes that are heard at VCAT.

The counter services team provides a concierge service on the ground floor, to meet and greet customers and provide direction when necessary. The concierge service is available weekdays, from 9.15am to 10.15am and from 1.45pm to 2.15pm.

#### Mediation Centre (Second Floor)

The mediation centre provides parties with comfortable amenities conducive to achieving settlements at mediation. It comprises dedicated hearing rooms, meeting areas and a suite of mediation breakout rooms.

#### Fifth Floor

The fifth floor counter staff welcome parties arriving for hearings. Staff record party arrivals and direct them to hearing rooms. Screens display our information DVDs to assist parties to understand the hearing process.

Other services include:

#### Victoria Legal Aid duty lawyer

Located on the ground floor, the duty lawyer provides unrepresented parties with free and confidential legal advice. In addition, the duty lawyer provides a valuable legal resource for VCAT staff in day-to-day dealings with customers, particularly in relation to complex matters.

#### Alternative Dispute Resolution (ADR)

The ADR Intake and Assessment Coordinator is responsible for overseeing the intake of parties participating in ADR. A trained mediator, the coordinator also provides support, direction and information to these parties both before and when they arrive at VCAT.

#### Family Violence Support Worker

A Support Worker is available to assist applicants to the Residential Tenancies List who are affected by family violence or other difficult circumstances. The Support Worker can provide these applicants with information, support and referral to other services.

#### Court Network

Located on the fifth floor and in attendance most days, the volunteer Court Network service offers friendly support, information and referral for people attending VCAT for mediations and hearings.

#### Video and Telephone Links

If parties are unable to physically attend a hearing, they may link in via video or telephone (VCAT can arrange video links to locations around Australia and overseas). In addition to providing added convenience for parties, this technology assists Members to manage hearing times more efficiently, especially when dealing with urgent matters in rural areas.

#### Smartboards

Interactive whiteboards provide a touch-sensitive surface onto which information on a computer screen can be displayed, via a projector. The whiteboards can display websites, software, spreadsheets, Word documents and presentations. Changes made to information projected onto the whiteboard can be transferred to the computer, printed out, emailed and saved for future reference.

Fixed smartboards are located in selected hearing rooms on the ground, first and sixth floors. A portable smartboard is available for use on the second floor.

#### Access for the hearing impaired

VCAT offers hearing loop access in all hearing rooms located at 55 King Street, Melbourne. In addition, a DVD player is available for use by parties upon request, allowing them to present their cases in a format designed to assist them and Members. Ten hearing rooms at VCAT have permanent audiovisual equipment.

#### Interpreter service

The Tribunal provides a free interpreter service for parties as part of its obligation to provide a fair hearing. Requests by a party for the provision of an interpreter can be made either in writing or by contacting the Tribunal. Such requests should be made when lodging an application with the Tribunal or as soon as practicable after being notified of the hearing date.

#### Suburban and Regional Centres

VCAT conducts hearings at suburban and regional locations listed on the back inside cover of this report. VCAT employs staff at a number of these locations to coordinate appearances and assist parties with general VCAT enquiries.

VCAT has established full service registries at Berwick and Ballarat.

## CUSTOMER SERVICE CHARTER

VCAT's purpose is to provide Victorians with a low cost, accessible, efficient and independent Tribunal delivering high quality dispute resolution including the use of Alternative Dispute Resolution (ADR) processes. We aim for service excellence by being cost-effective, accessible, informal, timely, fair, impartial and consistent.

The Charter is available on VCAT's website (About VCAT) and is displayed on posters at our venues.

**1. When you contact VCAT, you can expect**

- Answers to your queries about our jurisdictions and processes.
- Appropriate forms, brochures and information
- Assistance with VCAT application forms.
- Appropriate contacts for other agencies about your enquiry.
- Compliance with VCAT's privacy policy.

---

**2. We aim to help, but there are certain things we cannot do for you. We cannot:**

- Provide advice about what to say in your VCAT hearing.
- Give you legal advice.
- Complete a VCAT application on your behalf.
- Speak to VCAT Members on your behalf.

**3. We exist to serve the community and aim to:**

- Serve 95 per cent of people within 5 mins of them attending a VCAT enquiry counter.
- Respond to 95 per cent of callers within five minutes of them contacting VCAT.
- Greet you in a polite and courteous way.
- Deal with your enquiry professionally.
- Provide you with clear and accurate information and assistance.

---

**4. We respect your right to:**

- Fair and helpful assistance, including appropriate arrangements for people with disabilities, special access needs or cultural requirements.
- An interpreter, if necessary.
- Respectful and equitable treatment in accordance with the Victorian Charter of Human Rights and Responsibilities.
- A fair and just mediation and/or hearing in a safe environment.
- Timely decisions.

**5. To deliver you a high quality service, we expect you to:**

- Provide us with complete information and accurate information.
  - Comply with any VCAT directions or orders.
  - Behave courteously and peaceably with staff, parties and Members at all times.
-

## HOW CASES ARE RESOLVED

VCAT hears and determines a wide variety of matters for a range of different parties, all with differing requirements.

The process of resolving cases begins when a person or party refers a matter to VCAT or lodges an application with Registry and pays the prescribed fee. Some disputes are settled using Alternate Dispute Resolution (ADR) processes such as mediation and compulsory conferences. Many cases, however, proceed directly to a full hearing.

In certain disputes, the parties involved may agree at any time to resolve their differences without mediation, a directions hearing, a compulsory conference or a hearing. If the case does proceed to a hearing, there is still an opportunity to settle prior to the hearing and determination of the case.

A full hearing may take from 15 minutes to an hour in small civil disputes, owners corporation and residential tenancies matters. In other jurisdictions, hearings can take up to a day or longer. In the more complicated cases, a hearing may be held over a period of several days due to the nature of the issues involved.

Hearings give parties the opportunity to call for or provide evidence, ask questions of witnesses, and make submissions. At the end of a hearing, the Member can either deliver a verbal decision and provide the order immediately, or reserve the decision and provide written reasons.

There is no general provision in the VCAT Act for a matter to be reconsidered or re-opened by the Tribunal once an order has been made. Where a party to a proceeding believes they have not been afforded procedural fairness or is otherwise dissatisfied with the decision of the Tribunal, the Act provides appeal rights, on questions of law only, to the Supreme Court of Victoria.

### FAIR HEARING OBLIGATION

From 1 October 2010, a new Fair Hearing Obligation Practice Note was introduced and now applies across all of VCAT's jurisdictions. This practice note was a fundamental aspect of the Tribunal's three year strategic plan: *Transforming VCAT*.

The practice note sets out the obligations of Tribunal Members regarding the conduct of hearings. It also requires parties and their representatives to participate in the Tribunal's processes in a responsible way in order to assist the Tribunal to provide a fair hearing.

The Tribunal has a general duty to ensure a fair hearing, pursuant to s24 of the *Charter of Human Rights and Responsibilities Act 2006* and various provisions of the *Victorian Civil and Administrative Tribunal Act 1998* (VCAT Act). A fair hearing involves the provision of a reasonable opportunity to put your case – the right to be heard – and to have your case determined according to law by a competent, independent and impartial tribunal.

The provision of a fair hearing is at the very heart of the Tribunal's obligations to the parties who appear before it. Sections 97, 98, 100, 101 and 102 of the VCAT Act also set out some of the Tribunal's obligations regarding the conduct of hearings.

### HOW TO APPLY

Parties can obtain VCAT application forms by:

- Contacting VCAT (details on inside back cover); or
- Logging on to [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

### HEARING LOCATIONS

Hearings are conducted at various suburban locations, such as Berwick, Broadmeadows, Collingwood, Dandenong, Frankston, Heidelberg, Moorabbin, Ringwood, Sunshine and Werribee and also at a number of hospitals listed on the inside back cover of this report.

In addition, VCAT conducts hearings at various regional locations which are also listed on the inside back cover. Details concerning regional sittings are contained in the law calendar, which is produced by the court services section of the Department of Justice website [www.justice.vic.gov.au](http://www.justice.vic.gov.au).

## VCAT IN THE COMMUNITY

VCAT contributes to the community it serves in many different ways. In 2011–12 we strengthened our public profile, with Members and staff delivering information sessions at 55 King Street, Melbourne and across the State.

Through an increased presence in metropolitan, regional and rural locations, Members and staff endeavoured to increase public knowledge of our processes which has assisted to integrate VCAT into the community.

VCAT has located staff in seven key regional centres including Ballarat, Bendigo and Warrnambool. Locating VCAT staff members in key regional locations has improved the service we are able to provide to regional communities.

### LAW WEEK 2012

During Law Week in May 2012, Members and staff facilitated a series of interactive community events at metropolitan and regional venues including, public libraries and community centres.

We held a Twilight Opening at 55 King Street. Members and staff conducted information sessions, moot hearings and mediations, involving members of the public in mock disputes across our civil claims, residential tenancies, owners corporations, planning and guardianship jurisdictions.

### SCHOOL ENGAGEMENT

VCAT worked with secondary students to develop an interactive education program. The VCAT 'Adopt a School' Program, complemented by a 'schools kit', was launched on 24 October 2011. The launch followed the program being piloted to Year 10 students at Boronia Heights Secondary College and Dandenong High School.

The 'Adopt a School' Program aims to educate students about VCAT and their rights and obligations as consumers. The program provides VCAT with the opportunity to increase and strengthen our links with young people. The 75 minute program features:

- an 'Introduction to VCAT' information session jointly facilitated by a VCAT Member and staff member;
- a screening of the VCAT-produced video 'Get Real' featuring information on seven of our Lists, followed by a Q&A session with the students; and
- an interactive Civil Claims moot hearing, followed by a discussion with the VCAT Member about consumer rights and obligations.

In February 2012, we successfully delivered the full program to 180 Year 11 and 12 students at Grovedale Secondary College in Geelong. We will continue to deliver the program to secondary students across metropolitan and regional Victoria.

We welcomed secondary school, TAFE and other adult education program students to VCAT's Melbourne headquarters throughout the year. Our program for visiting students aims to demystify VCAT's processes and highlight how VCAT helps people deal with issues in their everyday lives. It includes a presentation by staff or Members on the range of disputes VCAT handles, followed by a question and answer session. Students then have the opportunity to observe hearings in progress.

### OTHER ACTIVITIES

We engaged with our user groups and stakeholders on a regular basis, providing up-to-date information about the Tribunal and receiving valuable feedback on our processes and initiatives. Examples of user engagement can be found in each List's report in this Annual Report.

We also engaged directly with the public, often in partnership with our stakeholders. The following are just some examples of the ways in which we engaged with the community in 2011–12:

- Members of the Guardianship List conducted regular local and regional information sessions for newly appointed guardians and administrators
- Our Guardianship Members partnered with the Office of the Public Advocate and State Trustees Limited to deliver guardianship information sessions for Health Professionals at hospitals across the state
- Members and staff partnered with the Department of Justice's 'Justice for Refugees Program' and conducting Residential Tenancies presentations at the Melbourne Multicultural Hub for the Sierra Leone community
- We delivered a youth information session at Geelong's MacKillop Youth Services
- Our staff, together with Consumer Affairs Victoria, attended a Berwick Chamber of Commerce meeting to provide general information about disputes at VCAT
- We participated at the 2011 Royal Melbourne Show as part of the Courts and Tribunals stall
- Our Members have participated in the Victoria Law Foundation 'Law Talks' Program held in Horsham for Year 11 and 12 VCE students

### FUTURE

We look forward to delivering future initiatives aimed at deepening our links with the community. The Tribunal will continue to look at new and innovative ways to engage and interact with the community to further improve access to justice at VCAT.

# THE TRIBUNAL AT WORK

The Tribunal's Lists dealt with more than 89,000 Civil, Administrative and Human Rights cases. The number of applications continued to grow in the 2011/12 financial year. To increase customer satisfaction, VCAT continued to improve and expand its ADR services across all lists.

## VCAT'S ALTERNATIVE DISPUTE RESOLUTION SERVICES

Alternative or appropriate dispute resolution (ADR) is an umbrella term for processes, other than judicial determination, in which an impartial person assists parties to resolve the issues between them. ADR encompasses processes such as mediation, compulsory conferences, conciliation and facilitation.

ADR can provide a quicker, more flexible and cost-effective alternative to traditional litigation. It can allow parties to choose the process that best suits their needs. By working together parties can resolve their dispute and agree to a settlement that makes sense to them.

VCAT has used ADR since the Tribunal was established in 1998. We have a purpose-built mediation centre, comprising hearing rooms, meeting areas and mediation breakout rooms. We provide technology so that parties can, using VCAT's template, prepare, print and sign their own terms of settlement.

### ADR STRATEGY

VCAT's ADR Strategy has three key components:

- Improving access
- Measuring success
- Improving outcomes

These components align closely to the objectives of VCAT's three-year strategic plan, *Transforming VCAT*. A key priority of *Transforming VCAT* is to position VCAT as an ADR Centre of Excellence, and we are delivering on this priority.

ADR Member Genevieve Nihill is responsible for driving VCAT's ADR Strategy. Principal Mediator, Ian De Lacy, supports the ADR Member in this task, and is also responsible for the professional development and support of VCAT's mediators.

### IMPROVING ACCESS

Through piloting ADR processes for disputes not traditionally subject to ADR, we have increased opportunities for parties to benefit from ADR. Improving access to ADR is also dependent on our ability to increase the number of Members, mediators and staff able to deliver high-quality ADR services.

### Short Mediation and Hearing (SMAH)

During this reporting period we established the Short Mediation and Hearing (SMAH) listings as a permanent program following a pilot in 2010-11.

SMAH listings are a shortened form of mediation, at which the parties can explore options to resolve their dispute. If the parties are unable to resolve their dispute, the matter proceeds to hearing on the same day. SMAH's are only conducted by accredited VCAT staff mediators. The mediator assists both parties to try and reach an agreement that both find acceptable. SMAH is currently only available to proceedings in the Civil Claims List.

SMAH allows the parties to settle their dispute before the hearing and achieve a tailored solution. Parties can avoid the potential risks and stress of taking their case to a public hearing if they settle at SMAH. This reduces demand for hearing time.

Feedback obtained from parties who have tried SMAH suggests that they feel more in control of their case and have the opportunity to develop a solution to their dispute that is acceptable to both parties. In comparison, at a VCAT hearing a Tribunal Member could impose a solution that may not be desirable to either party. 60 percent of SMAH listings resolved without a hearing.

### Mediator training and accreditation

VCAT is a Recognised Mediator Accreditation Body (RMAB) under the National Mediator Accreditation Scheme. This allows us to deliver training and professional development so that our staff and Members can become accredited mediators and fulfil their on-going accreditation requirements.

We now have access to 93 accredited mediators, 77 of those accredited through VCAT. These comprise VCAT Members and staff, and a panel of sessional mediators.

We developed an in-house mediation

training program and our first course was run in December 2011. Fourteen VCAT Members and staff became accredited mediators via the program. Over the next three years we will provide the ADR training where necessary to enable more staff/Members to become accredited mediators.

We have also assessed for re-accreditation, Members who became accredited mediators in 2009, and in September 2011 we reappointed our panel of mediators for a further two years.

### MEASURING SUCCESS

We measure our ADR outcomes to evaluate their quality. Apart from recording settlement rates, we identify where ADR has assisted parties to resolve some of their issues, reduced hearing times and costs, and increased their satisfaction.

### Measuring Party Satisfaction

To measure party satisfaction, we have designed a simple qualitative survey to give parties after they participate in mediations.

### Measuring Formal ADR Outcomes

In this reporting period we continued to require all Members and mediators undertaking ADR in any List to complete a standard form recording the process and outcome. This enabled us to record settlement rates in every List and across a range of ADR methods, including mediations and compulsory conferences.

### IMPROVING OUTCOMES

By improving access to ADR, and measuring our success, we improve outcomes for parties.

### ADR Intake Process

We continued our 12 month formal 'ADR Intake' pilot which commenced at the end of the previous reporting period. We employed an ADR Intake and Assessment Coordinator who was responsible for overseeing the intake and

lodgement of ADR matters, together with providing authoritative, clear and accurate information to people attending VCAT for ADR processes.

The Intake Coordinator has developed a formal intake process where either the party themselves or their legal representative is contacted by telephone four business days prior to the scheduled mediation. This amount of time allows parties to file documents such as adjournment requests, but is close enough to the listing date that parties can give an accurate account of the status of their case.

The intake process has improved access to ADR at VCAT because parties attend their mediation with more confidence due to an increased understanding of the process and role of the Mediator. Parties receive the coordinator's direct number and are encouraged to call for further information and support.

Since the establishment of the Intake Coordinator role, our Mediation Centre Reception has been opened each morning to greet and direct persons attending for mediation or hearings on level 2 at 55 King Street. The presence of a staff member at the counter provides a consistency of service from intake to arrival. Up to date VCAT reading material is provided at the counter and mediators can easily seek assistance in locating parties, resources or information.

In addition to providing a best practice level of service to VCAT users, the intake process has also worked to ensure that VCAT resources are utilised effectively. The formal intake process has reduced the number of cancelled mediations, where a mediator has been booked, due to the parties failing to attend. This has resulted in cost savings.

Another benefit to VCAT of a formal intake process is the ability to ascertain which cases may adjourn or settle at late notice. A

formal intake process has been established in the following Lists:

- Domestic Building;
- Owners Corporation;
- Anti Discrimination;
- Retail Tenancies;
- Real Property
- Legal Practice;
- Civil Claims;
- Health and Privacy; and
- Taxation.

#### **Cooling Off**

We continued to utilise a 'cooling off' period for mediations conducted by panel mediators in which one or more parties were self-represented. The 'cooling off' period had been successfully piloted in the previous reporting period. The cooling off period (two business days) allows parties who have reached a settlement an opportunity to reconsider the settlement agreement.

#### **ADL Model**

A new case management model was implemented in the Anti Discrimination List in response to the introduction of the *Equal Opportunity Act 2010* which allows parties to lodge an application directly with VCAT. Instead of routinely listing matters for directions hearings, each application is now carefully reviewed to determine the most suitable first step. This has resulted in some cases being referred straight to mediation or compulsory conference. We have found that the earlier the ADR, the more likely the parties' relationship is preserved, and costs are minimised. The Intake Coordinator trained the Anti-Discrimination List staff in ADR intake so that it could be adapted to their case management model.

#### **COMMUNITY ENGAGEMENT**

ADR features frequently in VCAT's community and education activities. Senior Member Genevieve Nihill spoke about

VCAT's ADR program at a number of forums including seminars hosted by the Victorian Association for Dispute Resolution and the Victorian Bar's ADR Committee.

Our Principal Mediator Ian De Lacy spoke about VCAT's ADR initiatives at the 2011 Law Institute of Victoria ADR conference in July 2011. In August 2011 he also gave an address to the Eastern Suburbs Law Association on 'Solicitors as Mediators'.

VCAT's Members and mediators have ongoing engagement with other ADR practitioners, and organisations such as universities, courts and tribunals, community legal centres, Victoria Legal Aid, the Dispute Settlement Centre, Law Institute of Victoria and the Victorian Bar Council. This enables shared learning and an exchange of ideas about ADR.

#### **THE FUTURE**

We will continue to build VCAT as a centre of excellence in ADR. Our aim is to improve customer satisfaction by reducing costs and time spent resolving disputes, and by assisting parties to have some control over outcomes.

Additional to the projects underway, future initiatives include:

- consolidating and updating information about ADR and making it available on our website;
- considering how to best offer and extend ADR use across all Lists;
- conducting a telephone mediation pilot; and
- considering how to best deliver full ADR services in VCAT's new regional and metropolitan hubs.

## ADR STATISTICS

### NUMBER OF MATTERS DEALT WITH AT COMPULSORY CONFERENCE (COMP CONF)

	AD	CC	CREDIT	DB	GEN	HP	LV	LP	OBR	OC	P	REAL P	RET T	TAX
Number of matters resolved through Comp Conf	18	271	0	140	150	9	53	3	21	26	0	25	12	0
Number of matters still in Comp Conf	2	6	0	6	21	0	27	0	6	5	0	6	0	0
Number of post Comp Conf matters resolved before final hearing	5	39	0	3	47	0	12	3	9	5	0	2	4	0
Number of post Comp Conf matters awaiting final hearing	0	49	0	25	44	2	2	0	15	11	1	7	7	0
Number of post Comp Conf matters proceeded to final hearing	2	45	0	38	24	0	11	1	21	6	1	7	3	0
<b>TOTAL</b>	<b>27</b>	<b>410</b>	<b>0</b>	<b>212</b>	<b>286</b>	<b>11</b>	<b>105</b>	<b>7</b>	<b>72</b>	<b>53</b>	<b>2</b>	<b>47</b>	<b>26</b>	<b>0</b>

### NUMBER OF MATTERS DEALT WITH AT MEDIATION

	AD	CC	CREDIT	DB	GEN	HP	LV	LP	OBR	OC	P	REAL P	RET T	TAX
Number of matters resolved through Mediation	56	61	1	301	5	6	0	0	0	74	208	45	30	0
Number of matters still in Mediation	0	1	0	34	1	0	0	0	0	8	6	2	3	0
Number of post Mediation matters resolved before final hearing	5	4	0	62	1	0	0	1	0	5	12	7	8	1
Number of post Mediation matters awaiting final hearing	0	4	0	60	2	0	1	0	0	9	18	15	9	0
Number of post mediation matters proceeded to final hearing	12	19	0	31	1	0	0	1	0	15	193	7	5	1
<b>TOTAL</b>	<b>73</b>	<b>89</b>	<b>1</b>	<b>488</b>	<b>10</b>	<b>6</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>111</b>	<b>437</b>	<b>76</b>	<b>55</b>	<b>2</b>

List of abbreviations: AD Anti-Discrimination, CC Civil Claims, DB Domestic Building, GEN General, HP Health and Privacy, LV Land Valuation, LP Legal Practice, OBR Occupational and Business Regulation, OC Owners Corporations, P Planning, Real P Real Property, Ret T Retail Tenancies, Tax Taxation

### CASE STUDY: BENEFITS OF ADR INTAKE

The respondent in this case was contacted for intake prior to a scheduled mediation at VCAT. The respondent was a builder and director of a construction company. The Intake Coordinator enquired if the respondent was ready to proceed and if he had any questions. He immediately made enquiries as to how to arrange an adjournment of the mediation without giving any explanation about why he needed it. By asking if there was anything concerning him about the mediation, he admitted that he was concerned that the Mediator was going to make a decision about the case and the respondent felt anxious, as he could not afford a lawyer.

The Intake Coordinator explained the process of the mediation and the role of the Mediator to address the respondent's concerns. It was explained that he would be under no obligation to sign a settlement he wasn't comfortable with and that any agreement would be subject to a cooling off period if he were unrepresented. The respondent was given guidance on how to prepare for the mediation and what he may wish to bring.

The respondent was asked if the information given had addressed some of his concerns and if he would still like information about requesting an adjournment. He said that now he understood how mediation worked he wanted to attend and try to sort the matter out. The respondent was also referred to the VCAT website so he could watch the video about preparing for mediation. The respondent was also given the Intake Coordinator's contact number should he have had any further questions.



---

# CIVIL DIVISION

## CIVIL CLAIMS LIST

The List deals with disputes between buyers and sellers of goods and services. It deals with claims based on the contract between a buyer and seller, and based on consumer legislation which has changed significantly over the last few years.

Consumer transactions after 1 January 2011 may be covered by the Australian Consumer Law which is Federal legislation applicable in Victoria under the *Australian Consumer Law and Fair Trading Act 2012*.

### YEAR IN REVIEW

#### Cases

There was a slight increase in applications. Over 850 cases commenced as disputes based on the *Domestic Building Contracts Act 1995*. In future it is intended that these disputes be dealt with in the Domestic Building List.

There was also an increase of over 4,000 cases in disputes categorised as “civil claims” which reflects the increasing breadth of the subject matter of disputes, an increase in the number of applications for interim injunctions, and amendments to the applicable legislation.

#### Flexibility

We continued to explore ways to shape our ADR methods to suit small claims (less than \$10,000), which comprise the majority of applications. VCAT cannot make costs orders for these claims so we aim to minimise parties’ expenses by resolving matters in a single visit, while still providing a fair outcome.

During this reporting period we established Short Mediation and Hearing (SMAH) listings

as a permanent program in the Civil Claims List. Participants were required to attend a brief mediation on a Thursday morning, led by a VCAT accredited staff mediator, prior to their scheduled hearing. If the matter did not settle, parties were given a hearing on the same day. Parties also received enhanced notices of hearing, explaining the short mediation process and how they should prepare.

#### Efficiency

There was a decrease in the number of cases finalised, which reflects the increasing complexity of applications, the number of parties, and the amount in dispute.

However, overall timeliness of cases finalised improved, which is the result of the new approach to pre-hearing directions and a continued focus on ADR, particularly SMAH hearings.

To alleviate waiting times for complex cases, or matters with a value of over \$10,000, we continued making pre-hearing direction orders in chambers soon after the filing of such applications. The orders contain directions setting out the steps to be undertaken in preparation for hearings. Parties who consider that other directions are required can request a directions hearing. We found that most parties preferred to comply with the directions unchanged because they offered parties

convenience, time savings, some control over their case’s progress, and often resulted in early resolution. The system also reduced the number of cases requiring directions hearings, reducing cost and delay.

Claims for amounts in excess of \$100,000 continue to grow in complexity and increased by 14 percent over the previous year.

During the year, our waiting lists in fair trading claims fell behind our targets, as resources did not meet demand. The SMAH listings described above helped us avoid long delays. For much of the year, applications were dealt with in a timely manner, but at times we had difficulty predicting demand. This years experience will help us plan our use of resources for the future.

VCAT introduced a new timeliness benchmark that applies to cases filed after 1 March 2012:

- 90% of all cases at VCAT will be finalised within six months
- No case at VCAT will take more than 12 months to finalise.

Deputy President Lulham began a review of the case management of civil cases over \$10,000 to reduce the number of cases taking more than 12 months to finalise.

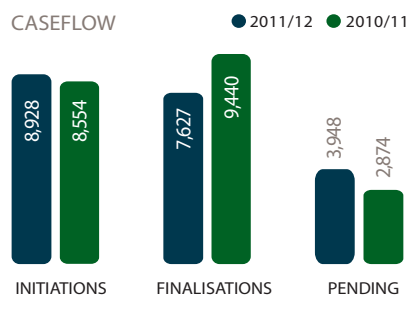
---

### CASE STUDY: “ROLL OVER” CLAUSE IN CONTRACT INVALID

A company supplied security monitoring services to businesses, under a tri-annual standard form contract which contained a “roll over” clause to the effect that unless the customer gave notice of cancellation by a certain date, the contract continued for another three years. The customer had terminated the contract without giving notice of cancellation. The parties were in dispute over an invoice for less than \$1,000 but the customer’s liability turned on the validity of the “roll over” clause.

The company used the standard form contract in thousands of transactions. If the company lost the case its income under all of those contracts was at risk.

The Tribunal gave written reasons for its decision, analysing the expressions in the contract, relevant sections of the *Fair Trading Act 1999* and common law principles, and explaining why the “roll over” clause was invalid.



**TIMELINESS OF FINALISED CASES (WEEKS)**

	2011/12	2010/11	Target
Median	14	22	
80th Percentile	24	32	
Target			19

**Access to Justice**

We revised our on-line application form as part of a VCAT wide project to create and standardise the Tribunal’s application forms and guides. The revamped form was launched in October 2011.

VCAT has long conducted civil claims proceedings at many court venues across the State. During the reporting period VCAT continued to list civil claims hearings at new and non-traditional venues. We conducted weekly hearings at the Berwick Justice Service Centre, and at the Hume Global Learning Centre in Broadmeadows. These changes improve accessibility by locating services close to where people live.

We continued to widely distribute our popular information guide ‘Taking it to VCAT’ (which can be accessed from our website) at information sessions and among our stakeholders.

**APPLICATIONS BY CLAIM TYPE**

	2011/12	2010/11	Variance
Civil claim	4,652	-	0%
Debt recovery	1,603	3,516	-54%
Motor cars parts supply, service and repair	157	267	-41%
Motor car purchase	167	304	-45%
Others	2,349	4,467	-47%
<b>TOTAL</b>	<b>8,928</b>	<b>8,554</b>	<b>4%</b>

**APPLICATIONS BY CLAIM AMOUNT**

	2011/12	2010/11	Variance
< \$10,000	7,460	7,096	5%
\$10,000 - \$100,000	959	875	10%
\$100,000+	83	73	14%
No value	426	510	-16%
<b>TOTAL</b>	<b>8,928</b>	<b>8,554</b>	<b>4%</b>

**User Engagement**

The civil claims user group met during the reporting period. It comprises representatives of Consumer Affairs Victoria, Consumer Action Law Centre, and the Victorian Small Business Commissioner, among others.

At the VCAT Twilight opening during Law Week, Members participated in mock hearings and mediations, and we partnered with Consumer Affairs Victoria in conducting information sessions and ‘expos’ across Victoria.

**THE FUTURE**

The introduction of the *Australian Consumer Law and Fair Trading Act 2012* on 1 July 2012. Among other changes, the Act does not rely on implied conditions of a contract to establish that goods and services must be of an acceptable standard. The consumer can claim compensation from people with whom the consumer does not have a contract.

**APPLICATIONS BY ENABLING ENACTMENT**

	2011/12	2010/11	Variance
<i>Domestic Building Contracts Act 1995</i>	867	-	0%
<i>Fair Trading Act 1999</i>	8,029	8,190	-2%
<i>Owners Corporations Act 2006</i>	3	10	-70%
Others	29	354	-92%
<b>TOTAL</b>	<b>8,928</b>	<b>8,554</b>	<b>4%</b>

Future initiatives include:

- continuing to review and refine our case management processes to save parties time and money while delivering fair and consistent outcomes;
- improving VCAT’s online information to explain our consumer dispute processes, and what parties can do to expedite their claims; and
- transferring disputes under the *Domestic Building Contracts Act 1995* to the Domestic Building List.

# RESIDENTIAL TENANCIES LIST

The List determines disputes under the *Residential Tenancies Act 1997*. These include disputes between residential landlords and tenants, and disputes between rooming house and caravan park owners and residents. The List also hears some applications under the *Disability Act 2006* and the *Supported Residential Services (Private Proprietors) Act 2010*.

Each year we receive around 60,000 applications, representing approximately 13 per cent of Victoria’s residential tenancies. Applications typically relate to non-payment of rent, the state of repair or cleanliness of the premises, bond refunds, and the obligations of landlords or owners to provide and maintain premises fit for occupation.

## YEAR IN REVIEW

### Cases

There was a slight increase in applications during the reporting period and we continued to resolve most cases within three weeks, well within our timeliness targets.

Our ability to maintain timeliness was largely due to the efficient management of the List’s resources across the State. There was no notable change to the types of applications received.

The *Residential Tenancies Amendment Act 2010* came into operation on 1 September 2011. This legislation amended the *Residential Tenancies Act 1997* as follows:

- regulated site agreements between residents who own their dwelling but rent the underlying land (site tenants) and park operators who rent out such sites (site owners);
- introduced a regime for the regulation of residential tenancy databases; and
- increased the regulation of rooming houses.

Disputes arising in relation to site agreements, databases and rooming houses are now heard by the Tribunal.

### Flexibility

We are conscious that landlords and tenants need easy access to the Tribunal so that their issue can be expeditiously heard and resolved. We hear applications at 35 venues across Victoria.

Our registry staff are multi-skilled and are able to assist with counter and telephone enquiries and address the multitude of queries which arise.

Our Members continue to adopt flexible hearing practices and various informal ADR techniques where appropriate to assist parties to reach a settlement on the hearing day. Feedback has shown that parties in residential tenancies disputes usually prefer this approach over referral to a separate mediation, as it saves time and money and expedites decision-making about the future of the tenancy.

We will continue to monitor and refine our hearing approaches to help parties achieve prompt, sustainable outcomes.

### Efficiency

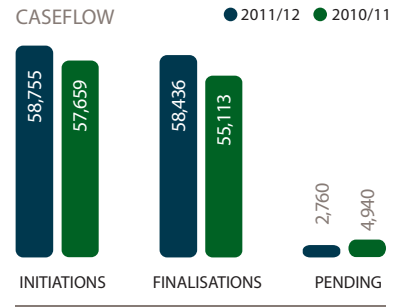
Delay can lead to tenancies failing that might otherwise have continued. We therefore have strong systems in place to ensure timeliness. Adjournments are granted only when necessary and Members provide decisions in most cases on the hearing day. Our SMS hearing reminders help minimise adjournments and re-hearing applications. File management and customer support issues are constantly revised and refined.

### Access to Justice

In October 2011 we launched three new on-line ‘Smart’ forms and accompanying guides as part of a wider VCAT forms project. The application forms can be accessed, completed and submitted on-line, or printed, completed and submitted manually to accommodate all users of the list. The forms can be prepared and submitted 24 hours a day, 7 days a week.

We continued to send SMS hearing reminders, resulting in more tenants attending hearings. SMS’s are now sent five days before a hearing, rather than two, to provide a fairer notice period.

## CASEFLOW



## TIMELINESS OF FINALISED CASES (WEEKS)

	2011/12	2010/11	Target
Median	2	2	
80th Percentile	3	3	
Target			6

## APPLICATIONS BY CASE TYPE

	2011/12	2010/11	Variance
Bond - unpaid rent and loss or damage or both - Landlord	9,483	9,130	4%
Bond and compensation - Landlord	6,264	5,988	5%
Possession and rent	12,421	11,799	5%
Possession and rent and bond	5,913	5,775	2%
Others	24,674	24,967	-1%
<b>TOTAL</b>	<b>58,755</b>	<b>57,659</b>	<b>2%</b>

## APPLICATIONS BY APPLICANT TYPE

	2011/12	2010/11	Variance
Director of Housing	12,373	12,401	0%
Landlords represented by estate agents or property managers	38,099	36,886	3%
Private landlords	3,008	2,975	1%
Tenants or residents	4,350	4,622	-6%
Others	925	775	19%
<b>TOTAL</b>	<b>58,755</b>	<b>57,659</b>	<b>2%</b>

Our applicant support worker continued to assist applicants who are affected by family violence or other difficult circumstances by providing them with information, support and referral to other services.

We continued to widely distribute the 'Taking it to VCAT' DVD, updated guide and information forms. These resources assist people in tenancy disputes to better understand how we conduct hearings. We distribute the guide to various organisations who are able to assist vulnerable self-represented litigants.

As part of *Transforming VCAT*, a VCAT representative is now employed at a number of metropolitan and regional venues throughout Victoria to assist users of the Tribunal in all VCAT matters. The VCAT Metropolitan and Regional Administrative Officers provide support to Members of the Tribunal, engage with the community, coordinate VCAT hearings and undertake various administrative duties.

#### User Engagement

Over the last 12 months, the Regional Administrative Officers have actively been

developing relationships to promote and educate the public about the Residential Tenancies List. On a daily basis they answer many enquires and throughout the year they have hosted and participated in activities in Law Week and facilitated Tenant's Advice and Advocacy Programs and duty lawyer services at their venues. They also hosted regional User Forums and were pivotal in the establishment of a VCAT hub at the Berwick Justice Centre.

Our user group continued to meet during the reporting period. It comprises representatives from the Office of Housing, Real Estate Institute of Victoria, Tenants Union of Victoria, Community Housing Federation and Victoria Legal Aid. The user group provides valuable feedback on our hearing processes.

We held five of our popular, open-to-the-public user forums; three in Melbourne and one each in Geelong and Moe.

During Law Week, Members and staff held information sessions at libraries, community centres and courts across Victoria, including Ballarat, Warrnambool, Horsham and

Geelong.

Members and staff also participated in a presentation and mock hearing at VCAT's Twilight opening.

In partnership with the Justice for Refugees program, we delivered an information session at the Melbourne Multicultural Hub for the Sierra Leone Community.

## THE FUTURE

The *Supported Residential Services (Private Proprietors) Act 2010* comes into effect on 1 July 2012. The List will hear disputes which arise between proprietors and residents in relation to occupancy rights and payments made by residents to proprietors.

Initiatives proposed for 2012–13 include:

- enhancing online lodgement capabilities for non-regular users of our current 'VCAT Online' system and 'Smart' forms.

---

## CASE STUDY: TENANT AND LANDLORD WORKING TOGETHER TO ACHIEVE AN OUTCOME

The landlord had lived in his home for 10 years at which time he was offered a position overseas which he accepted. The landlord rented the premises to an international student who was completing his final year of study in Australia. The landlord and the tenant were both extremely happy with the tenancy arrangements. In September, the landlord's wife became critically ill and the couple needed to return to Australia for urgent medical treatment. They made application to the tribunal for a reduction in the fixed term tenancy agreement emphasising the unforeseen change in their circumstances and seeking immediate access to their home. The tenant whilst extremely sympathetic to the landlord pointed out that he would suffer significant hardship if he were forced to vacate the rented premises just prior to his final examinations. He emphasised that because he would be permanently leaving the country in 2 months after the completion of his studies it would be difficult to obtain such a short-term tenancy.

At the conclusion of the evidence, the parties indicated to the Tribunal that they now better understood each others positions and advised that a negotiated outcome may be possible. After discussions it was agreed that the tenant would move into a serviced apartment and that the landlord would subsidise the increased costs associated with the move. The tenant was satisfied with the outcome because he just wanted to have comfortable surrounds in which to complete his studies without incurring additional costs. The landlord was satisfied with the outcome because it enabled his wife to convalesce after her surgery in the comfort of her home.

## DOMESTIC BUILDING LIST

The List has unlimited jurisdiction to hear and determine disputes relating to domestic buildings, ranging from small projects, such as bathroom and kitchen renovations, to disputes concerning high-rise apartment blocks. The List also hears applications for review of decisions by warranty insurers in relation to domestic building contracts.

### YEAR IN REVIEW

#### Cases

Matters before the list are technically and legally complex. There was a 21 percent increase in applications to the domestic building list, much of it, seemingly impacted by the changing economic times. There were a number of applications made during the course of the contract, particularly from builders seeking payment of progress claims.

Small claims (less than \$10,000) increased by 21 percent and standard claims (\$10,000 - \$100,000) increased by 41 percent, which impacted on our overall workload. The number of complex claims (exceeding \$100,000) decreased slightly.

Pending cases include matters requiring further investigation and testing to determine the cause of a defect and the best method of rectification, and those requiring seasonal monitoring after initial rectification works have been carried out.

#### Flexibility

We continued to tailor proceedings to suit each case. Applications are dealt with according to the monetary value of the claim: those less than \$20,000 are, as a general rule, listed directly for hearing which, depending on the nature of the claim may be for one hour to one day. Applications where the amount claimed is between \$20,000 - \$100,000 are referred directly to mediation. Where the amount claimed exceeds \$100,000 the file is initially reviewed by the Head of List (or a Senior Member) to assess whether they should be referred to mediation or to a directions hearing.

We continued to achieve high settlement rates using ADR which, together with our technical expertise in building and construction, encourages the parties to find a workable solution. A large

proportion of matters were resolved with the use of ADR processes, without parties incurring significant costs, even where they were legally represented.

We adopt flexible processes, fitting the process to the case rather than the case to the process. Often parties were offered more than one compulsory conference, frequently conducted by the same member so that they are given the best opportunity to negotiate an outcome. In complex cases, particularly where the allocated hearing time is more than ten days it is not unusual for the parties to be offered, or to request a further compulsory conference, sometimes after the hearing has commenced. Consequently only a small percentage of matters proceeded to final hearing.

We continued to order joint expert reports for more complex matters. The reports are in the form of a Scott Schedule identifying expert's areas of agreement and disagreement and estimated costs of completion and/or rectification works. This frequently provided the basis for successful settlement negotiations, often at a compulsory conference.

#### Efficiency

Despite the increase in claims, our timeliness improved and we are now close to meeting our targets. We finalised 1,209 matters in 2011-12, a 24 percent increase from the previous year. The list had a clearance rate of 98 percent.

Many proceedings involved multiple parties due to the impact of Part IVAA of the *Wrongs Act 1958* which requires that parties be joined before responsibility can be apportioned. Although parties are encouraged to make early applications to join others, for the purposes of Part IVAA, this does not always happen and has impacted on our timeliness targets.

Initiatives that improved efficiency included:

- undertaking a review of older cases. Many remained open either because they could not progress any further, or they had settled but required some final step for closure. We actively managed these cases to ensure they are finalised in an efficient and timely manner;
- using ADR processes, such as mediations, expert conclaves and compulsory conference, to either settle disputes or narrow issues, saving time and promoting better outcomes through interaction and collaboration;
- we continued to hold twice weekly 'directions days' to which we allocated the majority of directions hearings. In appropriate cases where all parties were present (and a suitable mediator or Member was available), parties were offered immediate mediations or compulsory conferences;
- to minimise costs and unnecessary appearances at directions hearings, we encouraged legally represented parties to prepare Minutes of Consent Timetables. Self-represented parties were, however, required to attend directions hearings so we could explain the process, clarify what outcome they wanted, and ensure they understood what was required of them;
- files were actively managed to ensure compliance with directions, thus minimising late adjournment requests. Compliance warnings were sent to parties and, if necessary, we held compliance directions hearings;
- increasing the number of expert conclaves chaired by a Member for complex matters involving significant alleged defective and/or incomplete works. Where possible, conclaves were conducted in a room with a computer and projector so that joint reports could be prepared and finalised during the

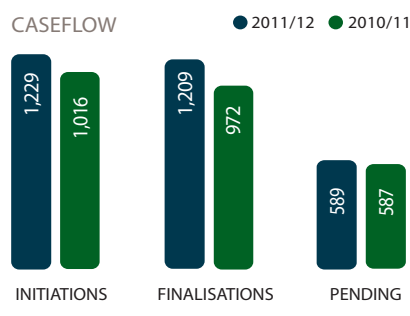
conclave. Joint reports often facilitate settlement, and where settlement is not achieved, provide the basis for hearing expert evidence concurrently, thus reducing hearing time and promoting greater understanding of the technical issues; and

- regular meetings with the listings coordinator ensured matters were allocated in a way that assisted timely, efficient resolutions.

**Access to Justice**

In October we launched a new on-line ‘Smart’ form and accompanying guide as part of a wider VCAT forms project. The forms make it easier for parties to provide the information we require to process their claims. This has reduced Registry’s need to request further information from parties, reducing delay in processing their applications.

When it suited parties and we were able to secure appropriate venues, we heard smaller matters and conducted mediations in regional areas. Leave was usually granted for parties and their representatives who are in the outer suburban or regional locations to appear at a directions hearing by telephone, rather than travelling a long



distance for a relatively short hearing.

**User Engagement**

The user group comprises representatives from the Building Disputes Practitioners Society (BDPS), building consultants, barristers and solicitors. The group met once and provided valuable feedback on our hearing processes.

**THE FUTURE**

We will continue to proactively and flexibly manage cases, and improve information for self represented parties, to assist them in preparing and running cases in the domestic building list.

**TIMELINESS OF FINALISED CASES (WEEKS)**

	2011/12	2010/11	Target
Median	16	15	
80th Percentile	36	37	
Target			35

**APPLICATIONS BY CLAIM TYPE**

	2011/12	2010/11	Variance
Damages	149	156	-4%
Domestic Building (Fair Trading Act 1999)	571	-	0%
Payment of money owing	168	346	-51%
Rectification - defective/incomplete work	190	401	-53%
Others	125	250	-50%

**APPLICATIONS BY CLAIM AMOUNT**

	2011/12	2010/11	Variance
< \$10,000	433	359	21%
\$10,000 - \$100,000	466	330	41%
\$100,000 +	121	128	-5%
No Value	209	199	5%
<b>TOTAL</b>	<b>1229</b>	<b>1016</b>	<b>21%</b>

**CASE STUDY: CONCLAVE OF EXPERTS FIND SOLUTION TO OWNERS CORPORATION ISSUE**

Expert conclaves have been exceptional in their ability to bring experts to consensus and facilitate settlement discussions. Generally conducted in the absence of any lawyers, experts are instructed that they should not question liability but accept that their role is to try to agree on methods and costs of rectification work should the Tribunal at hearing find there is liability. The conclave is usually conducted by an experienced Member who will often later conduct a compulsory conference attended by the parties and their lawyers. Prior to a conclave the experts are directed to prepared a detailed Scott Schedule in which the experts record in table form each item of alleged defective or incomplete work, their respective opinions and any estimates of the cost of rectification or completion. Copies are provided to the lawyers and the Tribunal in paper form, and electronically.

A conclave is conducted in a hearing room with the participants generally sitting around a table and using a computer and video projector to enable real time recording of the areas of agreement and disagreement between the experts. Where there are a number of expert disciplines, more than one conclave may be held so that the experts meet in their respective disciplines. A copy of the joint report, signed by the experts, is then provided to each of the parties, following which a compulsory conference conducted by the same Member will usually be convened. Where a scope of rectification and/or completion works has been agreed quotations or cost estimates for carrying out the works may be obtained and these will form the basis of settlement discussions at the compulsory conference.

An owners corporation made a claim against a builder alleging a number of significant defects in a high rise apartment building including leaking windows, leaking balconies and cracking and falling cladding, as well as numerous minor defects. After four other parties were joined as respondents to the proceeding as concurrent wrongdoers for the purposes of apportionment under Part IVAA of the *Wrongs Act 1958*, conclaves of experts were held over a two day period during which a scope of rectification works was agreed. The parties then agreed to the appointment of an expert under section 94 of the *Victorian Civil and Administrative Tribunal Act 1998* to prepare a detailed cost estimate for the carrying out of the works (\$1.5m). Settlement was achieved at a compulsory conference during which the respondents agreed on an apportionment of their respective responsibilities for the defective works, thereby saving the parties the costs and uncertainty of a 25 day hearing.

# OWNERS CORPORATION LIST

The List deals with disputes under the *Owners Corporations Act 2006*. An owners corporation, formerly called a ‘body corporate’, manages the common property in apartment and unit complexes, such as foyers, carparks, lifts, utilities, gardens, and pathways between units. Owners corporations also have rules relating to occupants’ behaviour on common property and in their own properties.

## YEAR IN REVIEW

### Cases

There was a significant increase in applications. Most related to non-payment of owners corporation fees. Cases are becoming more complex as a result of larger-scale, upmarket unit developments, including luxury high-rise apartment blocks.

### Flexibility

Many disputes involve people who must live together or maintain relationships, so we tailor our processes accordingly. We refer non-fee disputes to mediation (unless assessed as unsuitable, or if parties choose not to participate). Mediation helps parties resolve all their concerns and reach solutions everyone can live with.

Fee disputes are usually straightforward, so are set down for immediate hearing.

### Efficiency

Despite the increase in cases in 2011-12, the List continued to meet its targets for the timely finalisation of cases, and indeed improved its performance over the previous year.

We finalised 2,886 matters in 2011-12, a 13 percent increase from the previous year.

The List had a clearance rate of 94 percent.

### Access to Justice

We ensure our procedures are as informal as possible. We commonly conduct directions hearings by telephone, and proceedings in rural and regional areas when it suits parties. In directions hearings, we help parties refine their issues and understand VCAT’s processes.

VCAT’s website has resources to help unrepresented parties. The *‘Taking it to VCAT’* information booklet covers owners corporation disputes and is widely distributed.

### User Engagement

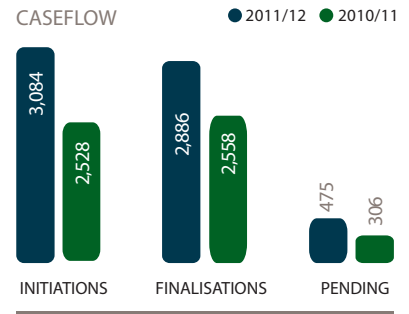
The user group comprises representatives from the Law Institute of Victoria, Owners Corporations Victoria and Consumer Affairs Victoria and owners corporation managers and lawyers.

## THE FUTURE

Future initiatives include:

- continuing to review and refine case management processes; and
- review and improve online capability for application forms.

CASEFLOW



TIMELINESS OF FINALISED CASES (WEEKS)

	2011/12	2010/11	Target
Median	5	5	
80th Percentile	7	8	
Target			10

APPLICATIONS BY CLAIM AMOUNT

	2011/12	2010/11	Variance
<\$10,000	2,550	2,113	21%
\$10,000 - \$100,000	138	79	75%
\$100,000 +	5	9	-44%
No value	391	327	20%
<b>TOTAL</b>	<b>3,084</b>	<b>2,528</b>	<b>22%</b>

## CASE STUDY: DISPUTE OVER THE USE OF COMMON PROPERTY

In this proceeding John complained that Sally had breached the Owners Corporation Models Rules 3.1(1) and 3.2 by placing on common property an outdoor table and two chairs, and by permitting visitors to park cars on the common property driveway. Sally’s experience of John’s behaviour was that she felt harassed and disrespected.

John resides in Lot 1 which is at the front of the block and Sally resides in Lot 2 at the rear. The common property is a drive way of about 30 metres in length, which with landscaping is not perfectly straight. Both parties’ double garages are to the side of the driveway, so that the driver must ‘swing into’ their garage. It is more convenient for John to drive into the driveway, position his car close to Sally’s home, and then reverse into the garage from there. Reversing in from the street would not be a practical alternative. The outdoor furniture was placed against the front wall of Sally’s home and the visitor’s cars had been parked near the rear end of the driveway, outside Sally’s home.

Both parties regretted that they seemed unable to agree on what to do. Both wanted the Tribunal to direct them. John wanted Orders which would define conduct that would be in breach of the Rules, but that cannot be done because the Tribunal cannot give advisory opinions, the Tribunal can only make Orders to enforce Rules not create them. There is a limit to the degree of certainty that neighbours can have. The Tribunal decided that Sally had not breached the Model Rules and on the evidence was not a threat to breach those Rules. For those reasons no Orders were made against Sally in relation to the motor vehicles. The Tribunal made no Orders in relation to the outdoor furniture. First, John produced some photographs in the hearing which show these small items of metal furniture were situated very close to the front of Sally’s home. The Tribunal ruled that Rule 3.1 had not been broken because those items did not obstruct John. In any event, during the hearing Sally undertook to take the furniture away, which is an example of how neighbours can cooperate.

# RETAIL TENANCIES LIST

The List deals with disputes of varying complexity between landlords and tenants of retail premises. All retail tenancy disputes, apart from applications for injunctions, must first be referred to the Small Business Commissioner for mediation before VCAT is vested with jurisdiction to hear the dispute. As such, a large proportion of proceedings in the List come to VCAT following an unsuccessful attempt to resolve the dispute through the Small Business Commissioner.

## YEAR IN REVIEW

### Cases

Despite a significant decrease in small claims, there was still a 13 percent overall increase in applications received.

### Flexibility

ADR still dominated case management procedures, with many disputes being referred to mediation or compulsory conferences, even though the parties may have already participated in mediation through the office of the Small Business Commissioner. As with previous years, the use of ADR proved to be successful in resolving many retail tenancy disputes at an early stage in the hearing process and on terms which may not otherwise have been achievable had the matter been determined by a hearing.

### Efficiency

Timeliness targets lagged behind the previous year, however, this was to be expected due to the significant increase in the number of complex disputes received during the year. Intensive case management processes have been implemented to ensure that matters are finalised expeditiously. To that end, a revised Practice Note has been developed, with the aim of streamlining interlocutory processes and assist parties in running their cases. The Practice Note is currently being reviewed by stakeholder groups and will be released in the latter half of 2012.

### Access to Justice

Wherever possible we refer self-represented parties to mediation or a compulsory conference. Numerous matters are settled this way, saving parties time and money. Our website contains comprehensive information for retail tenants seeking assistance, and our forms and guides help parties understand our processes.

When it suits parties and appropriate facilities are available, we conduct mediations and hearings regionally or utilise audio visual facilities to allow witnesses to give their evidence remotely. In some matters, we conduct urgent injunction hearings by telephone if parties are unable to personally attend.

### User Engagement

We have ongoing dialogue with stakeholder groups, such as the Small Business Commissioner, the Law Institute of Victoria, and the Victorian Bar Council.

Senior Member Riegler presented a paper on the trends and procedures adopted in the List at a seminar organised by the Small Business Commissioner.

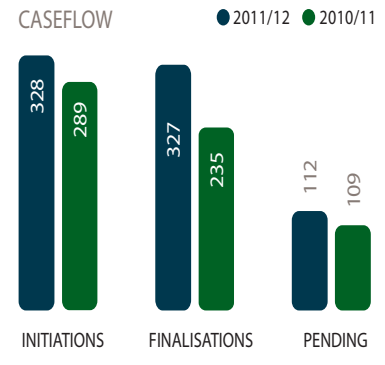
## THE FUTURE

We will continue to refine the application process and increase our use of ADR.

Future initiatives include:

- the use of technology, such as audio visual facilities, to reduce the need for personal appearances, especially for

### CASEFLOW



### TIMELINESS OF FINALISED CASES (WEEKS)

	2011/12	2010/11	Target
Median	12	10	
80th Percentile	32	29	
Target			18

### APPLICATIONS BY CLAIM AMOUNT

	2011/12	2010/11	Variance
< \$10,000	38	47	-19%
\$10,000 - \$100,000	63	50	26%
\$100,000 +	22	20	10%
No Value	205	172	19%
<b>TOTAL</b>	<b>328</b>	<b>289</b>	<b>13%</b>

regional Victoria; and

- reviewing and improving forms used in the list to assist parties with information as to what is required, in order to properly present their case.

## CASE STUDY: VARYING THE TERMS OF A LEASE

In November 2008, a tenant leased premises within which it operated a licensed gaming venue. As the lease agreement was made prior to the introduction of the *Retail Leases Act 2003*, the lease agreement could lawfully impose an obligation on the tenant to maintain the rented premises in a structurally sound condition and pay or reimburse the landlord for the landlord's land tax liability. In 2004, the tenant experienced a downturn in revenue due to legislative changes to gaming laws. As a consequence, it renegotiated the lease to allow a reduction in the amount rent payable in consideration that the term of the lease was extended by 10 years. In all other respects the terms of the 2008 lease remained in force.

A deed of variation was executed by the parties to reflect the agreement reached. In 2009, after receiving legal advice, the tenant maintained that the deed of variation constituted a surrender of the 2008 lease and a re-grant of a fresh lease. As a consequence, it claimed that the fresh lease was now governed by the *Retail Tenancies Act 2003* and as a result, it had no obligation to maintain the premises in a structurally sound condition or pay the landlord's land tax liability as those obligations were prohibited under the *Retail Tenancies Act 2003*. It claimed reimbursement of all monies paid to the landlord in respect of the landlord's land tax liability from when the deed of variation was executed.

The Tribunal upheld the tenant's claim and determined that the change in the term of the original lease operated at law as a grant of a new tenancy and surrender of the former tenancy. The landlord was required to repay the amount of land tax paid to it by the tenant from the date of the deed of variation. This case serves as a warning to tenants and landlords that variations to the terms of a lease may result in a new lease coming into effect.



# REAL PROPERTY LIST

The List hears a range of disputes relating to real estate, including: liability for damages caused by the taking, use or flow of water between properties; estate agent commissions; the acquisition or removal of easements; and property co-ownership disputes.

## YEAR IN REVIEW

### Cases

The list received 192 applications this year. This represents an 8 per cent increase from the previous year.

### Flexibility

We tailor our processes to fit the claim. We refer most co-ownership disputes to mediation or compulsory conference as the first step in the proceeding to help preserve relationships and allow parties to explore alternative outcomes. ADR processes proved to be particularly successful in resolving these co-ownership disputes.

Similarly, claims under the *Water Act 1989* were also referred to mediation or compulsory conferences as an early step in the proceeding. In some cases, building consultant mediators or engineer Members convened the mediation or compulsory conference, as their expertise could be utilised in exploring possible solutions to arrest the unwanted flow of water.

In technically complex cases, we encourage experts to meet and prepare joint reports before hearing their evidence concurrently. This helps identify areas of agreement and disagreement, narrowing the disputed issues and often leading to settlement.

### Efficiency

We finalised 189 proceedings this year, which is a 30 percent increase from the previous year. The List had a clearance rate of 98 percent.

Although we are still marginally behind our timeliness targets, we increased the

timeliness of finalisations by more than 10% compared to the previous year, and we are very close to reaching our target of 35 weeks. The time taken to finalise co-ownership matters following VCAT orders for the sale of property impacted on timeliness, and can be attributed to sales in real estate slowing.

Similarly, several large and complex matters involving claims over \$5 million have adversely affected timeliness in finalising *Water Act 1989* claims.

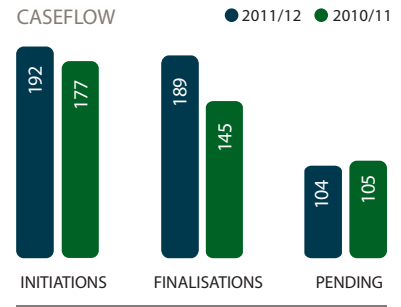
Intensive case management and adoption of a flexible approach to dispute resolution has proven successful in progressing large and complex matters expeditiously with the ultimate aim to resolve the dispute without the need for a hearing. Using expert conclaves and hearing evidence concurrently shortens the hearing time for complex matters.

### Access to Justice

Information on our website helps self-represented parties understand the various kinds of disputes heard in the List. Applications for co-ownership disputes are simplified, with no formal requirements for filing statements of claim.

We have adopted a flexible approach in hearing matters and have conducted many hearings where witnesses or parties appear remotely, either through a Tribunal audio visual facility or by an internet connection, such as Skype. This approach has been of great assistance to parties who are located in regional areas.

CASEFLOW



TIMELINESS OF FINALISED CASES (WEEKS)

	2011/12	2010/11	Target
Median	21	18	
80th Percentile	36	40	
Target			35

APPLICATIONS BY ENABLING ENACTMENT

	2011/12	2010/11	Variance
<i>Fair Trading Act 1999</i>	4	2	100%
<i>Property Law Act 1958</i>	116	121	24%
<i>Water Act 1989</i>	59	44	34%
Others	10	10	0%
<b>TOTAL CASES INITIATED</b>	<b>189</b>	<b>177</b>	<b>7%</b>

## THE FUTURE

The List will continue to refine the application process and increase the use of ADR. Forms will be reviewed and developed to assist parties in the process.

## CASE STUDY: CO-OWNERSHIP ISSUES

Under Part IV of the *Property Law Act 1958*, a co-owner of a property may apply to the Tribunal for an order that the property be sold and the proceeds of sale be divided in such proportions as the Tribunal considers just and equitable.

In one case before the Tribunal, the applicant sought orders that an apartment in an apartment complex, Melbourne be sold and that the proceeds of sale be divided between himself and the co-owner of the apartment. However, the applicant was not a registered co-owner of the apartment as the certificate of title named the respondent as the sole owner of the property.

The applicant argued that he held an equitable interest in the apartment by virtue of monetary contributions he had made to its purchase and upkeep. The Tribunal was required to determine whether the Applicant was a co-owner notwithstanding that his interest in the apartment was in equity only.

The Tribunal determined that as a matter of statutory construction, the definitions of co-owner and land in s.222 of the *Property Law Act 1958* had the effect that a person claiming an equitable interest may apply to the Tribunal for relief under Part IV of that Act. It therefore follows that a person who claims an equitable interest as a co-owner in land by way of a constructive trust is able to make an application under Part IV of the *Property Law Act 1958*.

---

# ADMINISTRATIVE DIVISION

## PLANNING AND ENVIRONMENT LIST

The List reviews decisions made about planning permits, including decisions whether to grant, refuse or amend them, or to impose conditions. Planning permits are issued for land use and development proposals such as subdivisions, dwellings, commercial or retail use, advertising signage, childcare centres and aged care facilities.

The List also makes enforcement orders – for example, to stop a development from proceeding – and hears and determines applications for declarations, and applications to cancel or amend permits the Tribunal has previously granted.

Most of its decisions are made under the *Planning and Environment Act 1987*, but it also has jurisdiction under a range of other Acts such as the *Environment Protection Act 1970* and the *Water Act 1989*.

### YEAR IN REVIEW

#### Cases

There was a slight increase in applications.

Residential development proposals continued to be the subject of the majority of applications dealt with by the List, ranging in size from one or two dwellings to many hundreds of units. However, cases covered a wide variety of other matters, including retail, commercial and industrial use, development and subdivision.

Cases are increasing in complexity due to the more complex and detailed policy framework, for example, planning strategies encourage high-density development close to activity centres which have resulted in more applications for large residential buildings in areas new to high-density living.

#### Flexibility

Our case management committee reviews cases before they are listed to assess the likely issues, the most appropriate form of proceeding, the required Member expertise, the amount of time needed, and whether the case is suitable for hearing in the short cases list.

We continued to refer all major cases to mediation. Of those that did not settle, we found that the disputed issues were greatly narrowed, reducing hearing time and expense.

#### Efficiency

Applications involving development worth approximately \$6.39 billion were initiated in 2011–12.

Our timeliness improved this year with the median finalisation of cases occurring within 22 weeks.

We finalised 3,718 matters in 2011-12, a 6 percent increase in finalisations. The List had a clearance rate of 96 percent.

On 15 February 2012, the Minister for Planning announced that the Victorian Coalition Government would commit \$1m in funding to tackle the backlog in the List. The additional funding has enabled VCAT to reduce delays by a small margin in the period up to 30 June 2012. Without the additional funding the number of pending cases as at 30 June 2012 would have risen significantly and the timeliness for cases to be heard and determined would have been longer.

#### Major Cases List

The Major Cases List recommenced on 3 January 2012 after a successful pilot was run in the previous reporting period. The Major Cases List is designed to provide a dedicated and expedited service for major development matters. The matters eligible to be included in the Major Cases List include proposed dwelling developments greater than \$10 million and other developments greater than \$5 million.

The list operates on a user pays basis and applicants wishing to have their case included in the Major Cases List are required to pay application and hearing fees. Timelines are strictly applied, with the objective of finalising applications within 18 weeks.

The Major Cases List has expedited the determination of major development proposals.

#### Short Cases List

To expedite the hearing of shorter, less complex planning matters we continued the operation of the Short Cases List. This was introduced to handle matters that can be resolved within a 2 hour hearing. In this sub-List, Members are encouraged to provide oral decisions at the conclusion of the hearing.

#### Process Reforms

In March 2012, a number of Practice Notes specific to the Planning and Environment List were reviewed and updated (PNPE 1, 3, 4, 6, 7 & 9). In addition five VCAT-wide Practice Notes (PNVCAT 1 - 5) setting out common procedures and issues that apply to proceedings in all Lists at VCAT were also launched.

#### Hearing Room Technology

We continue to use the Smartboards installed in hearing rooms to help parties present their cases. The Smartboards are used to display plans, photographs, permits and other relevant information on overhead screens. They have internet connection, enabling online research and access to tools such as email and Google Maps. Parties can use Smartboards to make real-time changes to documents electronically during a hearing or mediation, saving them time and promoting better outcomes through interaction and collaboration. Smartboards help to expedite hearings, particularly in the Short Cases List, by minimising the need for site inspections.

#### Access to Justice

In February 2012 we launched a new guide specifically for users of the Planning and Environment List. 'Taking it to VCAT' demystifies the process of bringing an application to the Tribunal, and provides information on how to become involved in proceedings and how to present a case before the Tribunal. A team comprising the

List's Deputy President, Members and staff worked together on this successful project.

The plain language booklet features checklists for applicants, respondents and objectors to help them follow the List's processes, a diagram of a hearing room layout, and a contact list of useful organisations and resources.

#### **User Engagement**

Members contributed to the planning and environment community by participating in seminars, conferences and working groups, such as the Department of Planning and Community Development's PLANET program; the Swinburne University and RMIT University students programs; and various seminars conducted by organisations such as the Victorian Planning and Environment Law Association (VPELA).

Members also participated in Law Week 2012, conducting a mock Planning hearing at the Tribunal's Twilight Opening.

#### **Planning and Environment**

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

The Committee comprises Members of the Planning and Environment List and is dedicated to the professional development of List Members.

The Committee conducted twilight seminars on a diverse range of topics, including interim decisions and amendment applications; heritage; noise; conduct of hearings; note taking; and running short cases.

#### **THE FUTURE**

We will continue to refine our processes and hearing practices to ensure the most efficient use of the resources available to the List and continue to improve the quality and timeliness of our decision making.

---

### **CASE STUDY: REDEVELOPMENT OF AN ICONIC BUILDING**

This case involved a proposal to undertake alterations and additions to the Dimmey's building in Swan Street, Richmond. The most controversial aspect of the proposal was the inclusion of a new glass residential tower reaching 10 storeys in height.

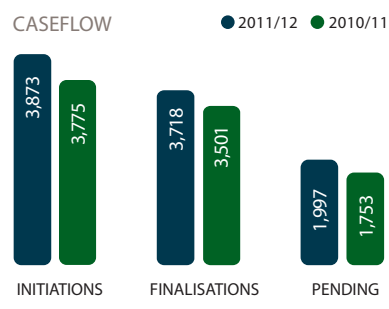
The Council and objectors held the view that the glass tower was not a quality design and not respectful of Dimmey's clock ball tower, and that it would compete with and diminish the ball tower's landmark significance. However, the Swan Street Trader's association supported the proposal and described it as an opportunity to bring people back into the community.

The Tribunal found that the tower was an acceptable and appropriate addition to the local area, including the adjacent low rise heritage streetscape of Swan Street. During the hearing Dimmey's was described as a faded jewel. The proposal would rejuvenate and renew this jewel through the proposed new development and the combination of residential, retail and office use of the old and new buildings on the site.

The State planning policies of urban consolidation, housing diversity and affordability; and the social and economic benefits of more retail, commercial and residential land uses in Swan Street were strong and compelling benefits that also weighed in favour of the proposal. Swan Street has been identified as a Major Activity Centre and State policy encourages intensive housing in such areas.

The local planning policy framework seeks an outcome of pockets of taller buildings amongst a generally low rise built form environment and the Tribunal found that this proposal achieved this policy outcome. In approving the development proposal, the Tribunal found that the design responded to its context by being different to the surrounds. The design was in a simplistic elliptical form with a glass surface that ensured the tower did not compete with the heritage facades of Swan Street or the Dimmey's clock ball tower and reveals the modern structure for what it is.

CASEFLOW



TIMELINESS OF FINALISED CASES (WEEKS)

	2011/12	2010/11	Target
Median	22	23	
80th Percentile	34	37	
Target			26

APPLICATIONS BY ENABLING ENACTMENT

	2011/12	2010/11	Variance
<i>Environment Protection Act 1970</i>	13	15	-13%
<i>Local Government Act 1989</i>	15	4	275%
<i>Planning and Environment Act 1987</i>	3,832	3,742	2%
<i>Water Act 1989</i>	8	8	0%
<i>Others</i>	5	6	-17%
<b>TOTAL</b>	<b>3,873</b>	<b>3,775</b>	<b>3%</b>

APPLICATIONS BY TYPE

	2011/12	2010/11	Variance
Major Cases List	97	396	-76%
Standard Claims	3,260	3,285	-1%
Short Case List	516	94	449%
<b>TOTAL</b>	<b>3,873</b>	<b>3,775</b>	<b>3%</b>

TOP 20 COUNCILS

Number of Applications by Council area	2011/12	2010/11	Variance
Stonnington City Council	202	194	4%
Boroondara City Council	199	174	14%
Port Phillip City Council	197	184	7%
Yarra City Council	197	174	13%
Mornington Peninsula Shire Council	173	160	8%
Glen Eira City Council	168	146	15%
Banyule City Council	147	114	29%
Moreland City Council	143	145	-1%
Bayside City Council	136	130	5%
Darebin City Council	129	117	10%
Casey City Council	119	87	37%
Yarra Ranges Shire Council	118	123	-4%
Hobsons Bay City Council	117	88	33%
Monash City Council	111	106	5%
Moonee Valley City Council	107	101	6%
Manningham City Council	89	63	41%
Maroondah City Council	86	62	39%
Greater Geelong City Council	83	81	3%
Whitehorse City Council	82	79	4%
Greater Dandenong City Council	81	79	3%

APPLICATIONS BY CLAIM TYPE

	2011/12	2010/11	Variance
Refusal to grant a permit	1,106	1,057	5%
Decision to grant a permit	887	755	17%
Conditions on a permit	475	453	5%
Failure to grant a permit	338	378	-11%
Enforcement Order	169	151	12%
Others	898	981	-8%
<b>TOTAL</b>	<b>3,873</b>	<b>3,775</b>	<b>3%</b>

TOP 20 SUBURBS

Number of Applications by Suburb	2011/12	2010/11	Variance
Richmond	67	62	8%
South Yarra	50	54	-7%
Williamstown	49	33	48%
Brighton	47	37	27%
Brunswick	45	37	22%
Port Melbourne	39	27	44%
Malvern East	37	35	6%
Camberwell	35	22	59%
Northcote	34	33	3%
South Melbourne	34	30	13%
Elwood	33	25	32%
Hawthorn	33	37	-11%
Bentleigh	32	22	45%
Mount Waverley	32	17	88%
Prahran	32	27	19%
Preston	32	25	28%
Kew	30	28	7%
St Kilda	30	35	-14%
Albert Park	29	32	-9%
Boronia	29	7	314%

APPLICATIONS BY CLAIM AMOUNT

	2011/12	2010/11	Variance
<\$10,000	453	438	3%
\$10,000 - \$100,000	117	95	23%
\$100,000 - \$1m	1,122	967	16%
\$1m - \$5m	414	381	9%
\$5m - \$20m	240	155	55%
\$20m +	69	0	0%
No value	1,458	1,739	20%
<b>TOTAL</b>	<b>3,873</b>	<b>3,775</b>	<b>3%</b>
<b>APPROXIMATE TOTAL VALUE (\$billion)</b>	<b>\$6.39</b>	<b>\$7.32</b>	

## LAND VALUATION LIST

The List hears applications by landowners seeking to review the valuation or classification of their land for rating or taxation purposes. The List also hears and determines disputed claims arising from the compulsory acquisition of land for public purposes, or damage to land caused by mining, under a number of different Acts.

### YEAR IN REVIEW

#### Cases

The number of applications received totalled 138 in 2011-12, compared with 124 in 2010-11, representing an increase of 11 percent.

Valuation matters still comprise 81 percent of cases in the list. We received 112 valuations appeals in 2011-12, compared with 89 in 2010-11. Our cases are influenced by market conditions; property market fluctuations can influence the number of appeals.

The List also determines disputed claims arising from the compulsory acquisition of land for public purposes, or damage to land caused by mining, under a number of different Acts. These matters comprised 19 percent of the list. We received 26 compensation disputes in 2011-12, which is a decrease of 38 percent. These matters are usually more complex, taking longer to hear than valuation matters. The Tribunal has exclusive jurisdiction over compensation disputes involving amounts less than \$50,000.

#### Flexibility

We refer every matter to a compulsory conference in the first instance, achieving high settlement rates. Parties can request prior directions hearings, and often find these useful for obtaining orders for document exchange.

The vast majority of valuation applications are settled in compulsory conferences. Valuer Members assist parties to resolve their differences through informal discussions based on accepted valuation methodology.

#### Efficiency

Despite the increase in cases in 2011-12, the List continued to meet its targets for the timely finalisation of cases, and indeed significantly improved its performance over the previous year.

We finalised 151 matters in 2011-12, a 25 percent increase from the previous year. The List had a clearance rate of 109 percent.

We continued to use 'conclaves of experts' to hasten the resolution of complex matters. Experts are brought together and questioned with the aim of forming a consensus view. This helps all parties and the Tribunal to understand the technical issues and reach a speedier outcome.

In order to promptly assess underlying merits, we have been more proactive in managing large cases to ensure parties comply with directions and timetables. This has reduced delay and costs for all involved.

In March 2012, Practice Note (PNLV 1) specific to the Land Valuation List was reviewed and updated. In addition five VCAT-wide Practice Notes (PNVCAT 1 - 5) setting out common procedures and issues that apply to proceedings in all Lists at VCAT were also launched.

#### Accessibility

Our valuer-Members are particularly skilled in assisting self-represented homeowners seeking residential valuation reviews. Residential reviews are separately streamed from commercial valuation reviews, further improving timeliness for resolution of simple claims.

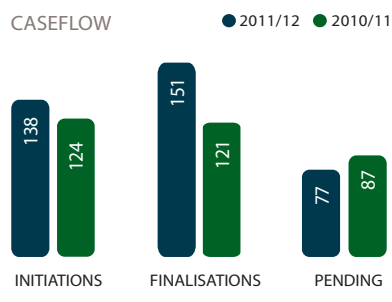
Parties in rural and regional areas can attend directions hearings by telephone, and we have allowed parties to appear by telephone for compulsory conferences and mediations. We are open to hearing applications in regional centres where there is a demonstrated need and if it suits both parties.

#### User Engagement

We met with representatives of the Australian Property Institute and the Valuer General to discuss our listings practices and other issues of mutual interest.

### THE FUTURE

We will continue to explore ways to improve efficiency without compromising fairness and review forms used by parties in the List.



**TIMELINESS OF FINALISED CASES (WEEKS)**

	2011/12	2010/11	Target
Median	25	29	
80th Percentile	48	71	
Target			40

**APPLICATIONS BY ENABLING ENACTMENT**

	2011/12	2010/11	Variance
<i>Land Acquisition and Compensation Act 1989</i>	25	40	-38%
<i>Local Government Act 1989</i>	8	3	167%
<i>Valuation of Land Act 1960</i>	104	81	28%
Others	1	-	0%
<b>TOTAL</b>	<b>138</b>	<b>129</b>	<b>11%</b>

**APPLICATIONS BY CLAIM AMOUNT**

	2011/12	2010/11	Variance
<\$10,000	-	1	0%
\$10,000 - \$100,000	-	-	0%
\$100,000 +	1	4	-75%
No Value	137	119	15%
<b>TOTAL</b>	<b>138</b>	<b>124</b>	<b>11%</b>

**CASE STUDY: DISPUTE ABOUT LAND CLASSIFICATION FOR RATING PURPOSES**

A local council classified the whole of the land as ‘commercial industrial’ for differential rating purposes for 2010-2011. The applicant lived on the 59ha of land, farmed it through raising beef cattle and also operated dog boarding kennels. The Council divided the land into two occupancies for rating purposes – one comprising the area occupied for the animal boarding business, and one comprising the balance of the land. The land had previously been rated as a whole on the farm rate. The effect was that the combined rate was lower than if the whole land had been rated at a commercial rate, but higher if the whole land had been rated at a farm rate.

In an earlier decision the Tribunal had determined that the landholding comprised a single occupancy and should be valued on that basis. (Rothe v East Gippsland SC (Land Valuation) [2011] VCAT 997).

The Tribunal determined ‘animal boarding’ conducted on the land is a business activity that comprises the ‘carrying out’ of a ‘trade’ in ‘services’, and thus capable of meeting the definition of ‘commercial and industrial land’ if it is the principal purpose. The Tribunal determined the principal purpose for which the land is being occupied and used is that of animal boarding due to the significant infrastructure for the intensive use of part of the land, although most of the land was used for cattle raising. The kennels business are the main endeavour on the land and was shown to be the primary source of income rather than the raising and sales of beef cattle.

Despite the applicant regarding the kennels as a subordinate adjunct to the farm the Tribunal determined the operation of the boarding kennels was a business activity that is not for farming or agriculture and did not fall within the definition of ‘farm land’ as specified in the *Valuation of Land Act 1960*.

## OCCUPATIONAL AND BUSINESS REGULATION LIST

The List has both original and review jurisdiction. Original jurisdiction involves the conduct of disciplinary proceedings relating to a number of occupational groups.

The List's review jurisdiction involves the review of licensing decisions (including those of the Business Licensing Authority), decisions made by registration boards concerning professional registrations, and provisional improvement notices issued by WorkSafe.

The legislation under which the majority of matters are heard include:

- *Education and Training Reform Act 2006*
- *Estate Agents Act 1980*
- *Health Practitioner Regulation National Law (Victoria) Act 2009*
- *Liquor Control Reform Act 1998*
- *Occupational Health and Safety Act 2004*
- *Transport (Compliance and Miscellaneous) Act 1983*
- *Working with Children Act 2005*
- *Racing Act 1958*

### YEAR IN REVIEW

#### Cases

There was a 17 percent increase in applications during the reporting period, mainly under the *Working with Children Act 2005*.

Applications to VCAT under the *Racing Act 1958* had a significant increase in the reporting period of 140 percent.

The Victorian Commission for Gambling and Liquor Regulation commenced operation on 6 February 2012 replacing the Tribunal's liquor licensing disciplinary and review jurisdiction.

#### Flexibility

We continued to actively encourage the use of alternative dispute resolution (compulsory conferences) in the List. Compulsory conferences provide an opportunity for parties to fully engage with each other about the issues in dispute to narrow the issues and in many instances reach a resolution to the dispute. This results in hearing times being reduced, parties working together to resolve problems and non-party witnesses are saved the inconvenience of having to attend Tribunal hearings.

#### Efficiency

Our timeliness improved this year however we still fell behind timeliness targets in finalising some cases. In some instances this occurred at the request of parties who sought additional time to continue with negotiations and discussions or because

witnesses had become unavailable. We finalised 261 matters this year, a 12 percent increase in finalisations from last year. The List had a clearance rate of 98 percent.

The use of standard directions in health practitioner matters, minimised the need for represented parties to attend direction hearings in those cases.

For all other matters, we regularly list directions hearings on Mondays, grouping applications, wherever possible, according to the legislation under which they are made. This gives practitioners in specialised areas some certainty of having their cases scheduled together, saving time and inconvenience.

#### Access to Justice

While rationalising our directions hearing processes in health practitioner matters, we have ensured that self-represented parties retain the benefit of attending at least one directions hearing. This provides Members an opportunity early in proceedings to guide parties through Tribunal processes and procedures ensuring that parties are fully equipped to present their case.

### CASE STUDY: OBTAINING INFORMED CONSENT

The Medical Board of Australia referred the professional conduct of a health practitioner to the tribunal. The patient had consulted the practitioner in relation to pain in her hand. During the consultation, the patient's breast implants were thoroughly examined and she complained of feeling violated. From a clinical point of view the examination was completely appropriate.

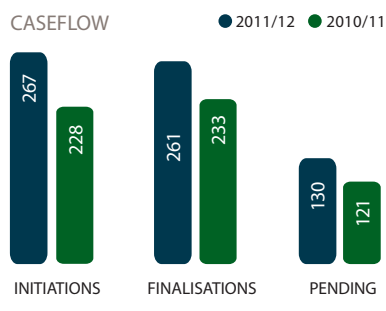
What the case highlighted in detail was the need for health professionals to fully explain to their patients what they are doing and why they are doing it. The patient and the practitioner were both reasonable, level-headed people with a good recollection of the events of the day as each saw them coming from their own knowledge base. Had the practitioner ensured that his patient fully understood the need for the examination and could thereby give informed consent for it to take place, the distressing (for both patient and practitioner) misunderstanding would not have occurred.

The tribunal dismissed the serious allegation of conducting an examination in a sexual manner but found that the practitioner had not obtained his patient's informed consent to the examination. The practitioner was reprimanded and cautioned. He was also ordered to undertake counselling in relation to the process of obtaining informed consent from, and appropriate communication with patients

Most applications are heard in Melbourne where the majority of relevant bodies and practitioners are located. However, we hear matters regionally when it suits parties and appropriate venues are available, in particular for Working with Children assessment notice reviews.

### THE FUTURE

We will continue to extend our use of ADR within the list.



### TIMELINESS OF FINALISED CASES (WEEKS)

	2011/12	2010/11	Target
Median	19	22	
80th Percentile	41	42	
Target			25

### APPLICATIONS BY ENABLING ENACTMENT

	2011/12	2010/11	Variance
<i>Health Practitioner Regulation National Law (Victoria) Act 2009</i>	42	-	0%
<i>Health Professions Registration Act 2005</i>	4	42	-90%
<i>Liquor Control Reform Act 1998</i>	27	31	-13%
<i>Racing Act 1958</i>	24	10	140%
<i>Working with Children Act 2005</i>	39	29	34%
Others	131	116	13%
<b>TOTAL</b>	<b>267</b>	<b>228</b>	<b>17%</b>



# GENERAL LIST

The List hears applications for review of government decisions, including Freedom of Information (FOI) decisions, and decisions made by the Transport Accident Commission (TAC) and the Victims of Crime Assistance Tribunal.

## YEAR IN REVIEW

### Cases

The number of applications received increased by 16 percent, with a substantial rise in Transport Accident Commission applications.

Amendments to the *Domestic Animals Act 1994* came into force in late 2011, relating to restricted breed dogs, mainly pit bull terriers.

### Flexibility

The case management process of Transport Accident Commission applications was reviewed. These applications vary in length but predominantly resolve by agreement of the parties. Where applicants represented themselves there was increased use of ADR processes.

There was increased emphasis on assisting parties to resolve FOI applications using alternative dispute resolution.

Case management strategies were also developed with the aim of hearing restricted breed dog applications approximately 8 weeks after the application was received.

Some listings were expedited. Metropolitan Fire Brigade (False Alarm) appeals now proceed straight to compulsory conference, eliminating the need for a prior directions hearing.

### Efficiency

There were 1,148 matters were finalised this year, a 45 percent increase in finalisations from last year. This resulted in a slight decrease in the number of cases pending compared to the previous year. The List had a clearance rate of 100 percent.

To minimise cost and time for parties attending directions hearings, we continued to encourage the use of consent orders and telephone directions hearings. Parties were required to attend directions hearings to address reasons for proposed delays in particular cases.

We streamlined our mail handling and response procedures resulting in reduced time in answering correspondence, such as requests for consent orders or requests from self-represented parties.

### Access to Justice

During the reporting period we focused on resolving applications as promptly as possible by offering support to the parties and deciding matters in a timely manner.

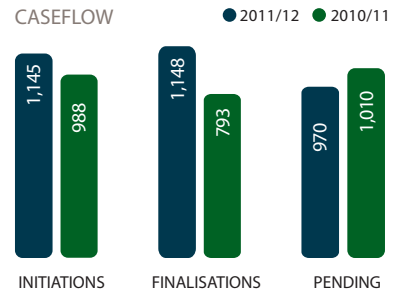
### User Engagement

Our focus on Transport Accident Commission matters resulted in two successful meetings with the TAC user group. The meetings improved communication and service delivery. VCAT now emails final decisions and reasons for decision to parties on the day they are released. Previously parties had to collect the decision if they wanted it on the day of release.

## THE FUTURE

The List will continue to use robust case management processes to ensure that cases are finalised as soon as possible with fairness to parties. A review will be undertaken of current online capability to improve case management processes and service delivery.

CASEFLOW



TIMELINESS OF FINALISED CASES (WEEKS)

	2011/12	2010/11	Target
Median	34	34	
80th Percentile	73	68	
Target			56

APPLICATIONS BY ENABLING ENACTMENT

	2011/12	2010/11	Variance
<i>Domestic Animals Act 1994</i>	43	-	0%
<i>Freedom of Information Act 1982</i>	182	200	-9%
<i>Transport Accident Act 1986</i>	813	700	16%
<i>Victims of Crime Assistance Act 1996</i>	33	37	-11%
Others	74	51	45%
<b>TOTAL</b>	<b>1,145</b>	<b>988</b>	<b>16%</b>

## CASE STUDY: ACCIDENT ON A TRAM

Early on a morning in 2007, Ms B was sitting on a tram facing the ticket-dispensing machine. Without warning, another tram ran into the back of the tram. Ms B was thrown from her seat, hit the machine and was injured. She sought funding for a knee procedure, stating her knee was injured in the accident. TAC refused saying her knee problems were likely the result of ageing or an earlier injury unrelated to the accident. After a four day hearing involving multiple witnesses, the Tribunal found Ms B was involved in a transport accident that caused her to suffer an aggravation to pre-existing degeneration in her left knee and ordered TAC to fund the arthroscopy.

## TAXATION LIST

The List has jurisdiction to carry out merits reviews of the Commissioner of State Revenue’s taxation assessments. State levies and taxes are paid under a number of Victorian taxing Acts, for example, the *Land Tax Act 2005*, *Payroll Tax Act 1971* and the *First Home Owner Grant Act 2000*.

Applications for merits reviews are referred from the Commissioner upon an applicant’s request. The taxpayer may rely upon any factual or legal ground in his or her notice of objection and, subject to leave, upon further factual or legal grounds.

### YEAR IN REVIEW

#### Cases

There was a decrease of 26 percent in applications received this reporting period. Application numbers relate to the number of reassessments sought, rather than the number of individuals making an application. Additionally, many applications related to a single, underlying dispute.

#### Flexibility

Because disputes have already been through the Commissioner’s conciliation processes, ADR is not routinely used. We are open, however, to using mediation if parties request it or it is appropriate. Most cases are listed for at least one directions hearing to ensure procedural issues are properly addressed. In simple matters, the Tribunal allows parties to request by consent that directions hearings be vacated, and directions given in writing.

#### Timeliness

We finalised 103 matters this year, a 49 percent increase in finalisations from previous year. The List had a clearance rate of 126 percent.

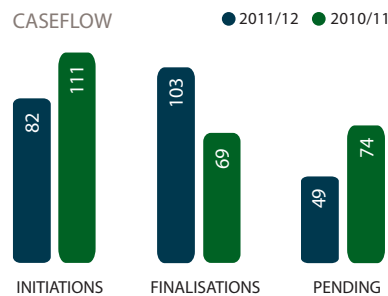
Some test cases have been the subject of appeals to the Court of Appeal, and a small number of VCAT matters have been adjourned pending the outcome of the test cases. The case load of the Taxation List is small and this small number of lengthy cases can greatly affect the timeliness results.

#### Access to Justice

To assist regionally based parties, we commonly conduct directions hearings by telephone. We hear applications in regional centres when it suits parties and appropriate venues are available.

### THE FUTURE

The List will continue to review forms and assess ability to use technology and online capability to improve processes.



#### TIMELINESS OF FINALISED CASES (WEEKS)

	2011/12	2010/11	Target
Median	36	15	
80th Percentile	79	27	
Target			23

#### APPLICATIONS BY ENABLING ENACTMENT

	2011/12	2010/11	Variance
<i>Duties Act 2000</i>	3	8	-63%
<i>First Home Owner Grant Act 2000</i>	14	16	-13%
<i>Land Tax Act 1958</i>	31	63	-51%
<i>Taxation Administration Act 1997</i>	30	8	275%
Others	4	16	-75%
<b>TOTAL</b>	<b>82</b>	<b>111</b>	<b>-26%</b>

### CASE STUDY: DATE OF CONTRACT AND GAIC LIABILITY

Mr and Mrs X (the vendors) were registered proprietors of a parcel of land and in June 2008 engaged the services of an agent to sell the land. In November 2008 the applicants (the purchasers) made an offer to the agent that they would purchase the land for a sum of \$1.4 million. The offer was verbally accepted by the agent on 1 December 2008. The vendors signed the written contract on the 9 December 2008. The purchase was subsequently settled on 16 June 2009 and the applicant became the registered proprietor of the land in August 2009. By letter of 22 September 2010, the Commissioner of State Revenue notified the applicant that it may have Growth Area Infrastructure Contribution (GAIC) liability in relation to the purchase of the land. On 1 December 2010, the Commissioner issued an assessment to the applicant for GAIC liability in the amount of \$811, 297.15. On 27 January 2011, the applicant objected to the assessment which objection was disallowed on 15 August 2011 and the matter was referred to the Tribunal.

Section 201RB(d)(iii) of the *Planning and Environment Act 1987* (the Act) excludes tax payers from liability for GAIC if the contract was entered into before the relevant day which is defined in section 201R of the Act to be 2 December 2008. The applicants argued that at common law, the contract was made when accepted and as oral acceptance was on 1 December 2008 they were exempt from GAIC. The Commissioner submitted that (a) section 126 of the *Instruments Act 1958* requires contracts dealing with land to be enforceable, the same must be in writing, and (b) the objective intention of the parties was that the contract needed to be in writing; or (c) an any event, oral agreement was merged into the written contract.

The issue for the Tribunal was whether the contract for the sale of the land was entered into prior to 2 December 2008 which is the relevant date referred to in s 201RB(d)(iii) of the Act. The Tribunal found for the Commissioner on all three grounds.

# LEGAL PRACTICE LIST

The List hears disciplinary charges brought against lawyers by the Legal Services Commissioner, and appeals by lawyers against Legal Services Board decisions that affect their professional status. The List also deals with some disputes between lawyers and clients about legal costs or unprofessional services.

## YEAR IN REVIEW

### Cases

There was a moderate increase in applications. Applications increased from 141 to 175, an increase of 24 percent.

### Flexibility

Each application is reviewed to determine the best approach to take. We look for opportunities to resolve non-disciplinary matters at the earliest stage possible (including at the initial directions hearing) especially claims for smaller amounts. We refer matter to compulsory conference in cases where it is considered more efficient.

### Efficiency

We fell slightly behind our timeliness targets, however we finalised 178 matters this year, a 53 percent increase from last year. The List had a clearance rate of 102%.

### Access to Justice

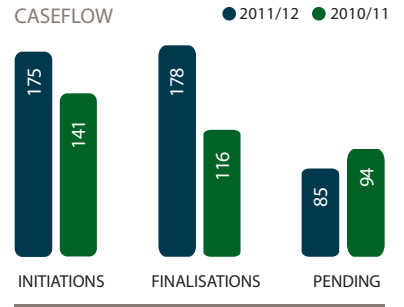
To assist regionally based parties, we commonly conducted directions hearings by telephone. We heard applications in regional centres when it suited parties and appropriate venues were available.

### User Engagement

User Engagement Forums were held with the Office of the Legal Services Commissioner.

## THE FUTURE

National legislation for the regulation of the legal profession will be introduced in 2013 and may involve this jurisdiction.



### TIMELINESS OF FINALISED CASES (WEEKS)

	2011/12	2010/11	Target
Median	17	15	
80th Percentile	46	25	
Target			40

### APPLICATIONS BY ENABLING ENACTMENT

	2011/12	2010/11	Variance
<i>Fair Trading Act 1999</i>	38	30	27%
<i>Legal Practices Act 1996</i>	-	2	0%
<i>Legal Practice Act 2004</i>	135	127	6%
Others	-	2	0%
<b>TOTAL</b>	<b>173</b>	<b>161</b>	<b>-30%</b>

## CASE STUDY: SOLICITORS WITHHOLDING MONIES RECEIVED FOR DISBURSEMENTS

Three equity partners of a law firm engaged in a procedure over a three year period to withhold payment to service providers of disbursement monies they received from clients. This was used for the purposes of bolstering the working capital of the firm. This constituted a gross breach of their professional duty. They pleaded guilty to charges of professional misconduct under the *Legal Practice Act 2004*.

The charges brought by the Legal Services Commissioner did not relate to breach of trust accounting requirements or breach of fiduciary duty. It was agreed the relevant service providers (including barristers) were engaged directly by the firm and not in a way that created any contractual obligation as between any client of the firm and a service provider.

The charges related to 216 separate payments involving sums totalling \$305,791.97.

The respondents were found to have engaged in disgraceful and dishonourable conduct. The Tribunal ordered that the practising certificates of all three be suspended for nine months. They were also required to pay the Commissioner’s costs of \$50,000.

---

# HUMAN RIGHTS DIVISION

## GUARDIANSHIP LIST

The List makes protective orders under the *Guardianship and Administration Act 1986* and other legislation. The most common – guardianship and administration orders – involve appointing substitute decision-makers where there is a need to do so and when it is in the best interests of cognitively impaired adults.

The List also makes orders about enduring powers of attorney (including those for medical treatment) and enduring powers of guardianship. VCAT also has jurisdiction under the *Disability Act 2006*, including power to make orders for the compulsory treatment of intellectually disabled persons who pose a significant risk of seriously harming others.

### YEAR IN REVIEW

#### Cases

Application numbers remained similar to the previous reporting period. Reassessments of administration orders again comprise the majority of our workload. This is because administration orders must be reassessed every three years. During the reporting period, amendments were made to the *Disability Act 2006*, including:

- clarification that an Authorised Program Officer must apply to VCAT within 60 days of a Supervised Treatment Order expiring so that the order can be properly reviewed; and
- streamlining processes to enable better service provision for people with a disability.

#### Flexibility

To facilitate participation by represented persons in hearings, we try to schedule hearings close to where the person resides. This is because in many cases the mobility of represented persons is significantly limited.

We conduct hearings at hospitals, nursing homes and community health care centres, as well as in court and tribunal complexes across Victoria. During the reporting year, we increased the number of venues where we conduct hearings. This initiative has been well received by all concerned.

We referred more matters to mediation or compulsory conference at an early stage, achieving significant success in terms of party satisfaction and reduced hearing times. Although presiding Members must make final orders, in appropriate cases ADR offers families the best opportunity to resolve their issues amicably. In a significant number of cases, following ADR, parties have withdrawn their applications without VCAT needing to make orders appointing administrators or guardians, or orders about enduring powers of attorney.

#### Efficiency

The List continued to meet its targets for the timely finalisation of cases. Finalisations increased by 7 percent from the previous year. The List had a clearance rate of 120 percent.

We continued the use of 'VCAT in a Box'; an information technology resource that allows Members to access the Order Entry System remotely. Members are able to produce and sign written orders whenever and wherever they are sitting, which can then be handed direct to parties. This benefits parties requiring urgent orders outside business hours or where access to VCAT is difficult.

#### Access to Justice

In October 2011 we launched 7 new on-line 'Smart' forms and accompanying guides as part of a wider VCAT forms project. The application forms can be accessed, completed and submitted on-line with attachments, or printed, completed and submitted manually to accommodate all users of the list. The forms are accessible 24 hours a day, 7 days a week. The forms make it easier for parties to provide the information required to process their applications. This has reduced Registry's need to request information from applicants and reduced delays in processing applications.

In metropolitan Melbourne, we now sit at the Berwick Justice Centre and the Bundoora Extended Care Centre (Northern Health). We conduct regular sittings at the Royal Melbourne Hospital, Wantirna Health, Caulfield Hospital and the Kingston Centre in Cheltenham. We also sit one day a week at the Hume Global Learning Centre in Broadmeadows. This has increased opportunities for represented persons to participate in hearings and decision-making that affects them. To improve accountability, we use portable digital recording kits to record more hearings at these venues.

We continue to conduct regular local and regional information sessions for newly appointed guardians and administrators.

On 14 November 2011, we hosted the 'Next Steps - A Forum for Families' event

---

## CASE STUDY: ORDERS RELATING TO THE MANAGEMENT OF MISSING PERSON'S AFFAIRS

In October 2010, the Government passed legislation that enabled VCAT to make administration orders for missing persons. Before this, family members or friends did not have an accessible, cost-effective process for attending to the person's financial affairs.

VCAT has assisted a number of families with administration orders, relieving some of the burdens and anxieties families face in these difficult times when they are convinced or highly sure the missing person is still alive.

at the Lionel Murphy Centre. The event was planned and co-ordinated by the VCAT committee 'Parents of Children with a decision making disability' in partnership with Victorian Legal Aid. The workshop helped parents and carers understand available options and resources, particularly once a child turns 18. A video of the event can be accessed via our website.

**User Engagement**

Our user group comprises professional administrators (e.g. State Trustees Limited, FTL Judge & Papaleo Pty Ltd, Equity Trustees Limited etc), legal firms, advice organisations, and representatives from the Office of the Public Advocate.

VCAT hosted the launch of 'Safe Keeping' a guide to help families of missing persons on 2 February 2012. The guide was produced by the Loddon Campaspe Community Legal Centre, funded by the Victoria Law Foundation, with the assistance from VCAT and other stakeholders including Victoria Police, State Trustees and the Coroner's Court of Victoria. The guide gives practical support to families and friends of missing persons to enable the proper administration of the affairs of the missing person.

Deputy President Coghlan presented a paper on 'Attorneys Behaving Badly - A Discussion of Cases where Attorneys have abused their powers' at the STEP (Qld) Inaugural Succession Law Conference in September 2011.

Deputy President Coghlan also participated in a panel discussion on 'Guardianship and Supported Decision Making' at the Strengthening Disability Advocacy Conference in March 2012.

Members visited the Caulfield-based 'Acquired Brain Injury Network' to talk to health professionals about guardianship and administration orders for the cognitively impaired

**APPLICATIONS BY ENABLING ENACTMENT**

	2011/12	2010/11	Variance
<i>Disability Act 2006</i>	73	73	0%
<i>Guardianship and Administration Act 1986</i>	10,761	10,717	0%
<i>Victorian Civil and Administrative Tribunal Act 1998</i>	36	31	16%
Others	28	72	-61%
<b>TOTAL</b>	<b>173</b>	<b>161</b>	<b>-30%</b>

Members participated in Law Week 2012, conducting a mock Guardianship hearing and information sessions at the Tribunal's Twilight Opening.

We partner with the Office of the Public Advocate and State Trustees Limited to conduct regular metropolitan and regional information sessions for health care and other professionals who work with cognitively impaired people. We continue to host medical and social work students who, as part of their training, observe hearings and discuss with Members the procedures and law relating to the determination of guardianship and administration applications

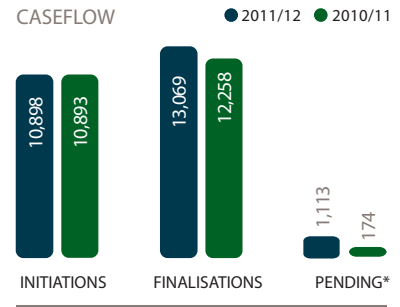
**THE FUTURE**

We expect the demands on the list will grow in the future as a natural result of an ageing population and the increasing proportion, within that population, of persons with cognitive impairment. Our aim continues to be to respond to applications regarding persons with a disability in the most timely way and to conduct hearings at the most suitable venue.

Some future initiatives include:

- launching an on-line Account by Administrator form. This form will be available in the second half of 2012

**CASEFLOW**



NOTE: the increase in pending relates to the List moving to quarterly re-assessment blocks.

**TIMELINESS OF FINALISED CASES (WEEKS)**

	2011/12	2010/11	Target
Median	5	5	
80th Percentile	13	11	
Target			13

**APPLICATIONS BY CLAIM TYPE**

	2011/12	2010/11	Variance
Administration order	1,401	1,745	-20%
Guardianship order	2,248	1,935	16%
Reassessment of administration order	5,951	5,765	3%
Reassessment of guardianship order	908	962	-6%
Others	390	486	-20%
<b>TOTAL</b>	<b>10,898</b>	<b>10,893</b>	<b>0%</b>

**APPLICATIONS BY CASE TYPE**

	2011/12	2010/11	Variance
Originating applications	2,944	3,106	-5%
Re-assessment applications	7,954	7,787	2%
<b>TOTAL</b>	<b>10,898</b>	<b>10,893</b>	<b>0%</b>

- introducing a 'BPAY' facility to assist the payment and collection of fees in the List

## HEALTH AND PRIVACY LIST

The List hears and determines complaints referred to it by the Health Services Commissioner under the *Health Records Act 2001*, and by the Privacy Commissioner under the *Information Privacy Act 2000*.

The List also hears applications for review of public health orders made by the Chief Medical Officer under the *Public Health and Wellbeing Act 2008*, and appeals against certain decisions of the Patient Review Panel under the *Assisted Reproductive Treatment Act 2008* (ART Act).

### YEAR IN REVIEW

#### Cases

Information privacy and health records referrals again comprised the majority of cases.

We received one application under the *Public Health and Wellbeing Act 2008*. As this is a review jurisdiction, directions were made for the filing of a statement of reasons in accordance with section 49 of the *Victorian Civil and Administrative Act 1998*.

#### Flexibility

Given the nature of the applications, we aim to resolve cases quickly and with sensitivity. We assessed privacy matters for their suitability for ADR and wherever possible referred them to mediation, where they commonly settled.

#### Efficiency

We finalised 32 matters this year, a 33 percent increase from the previous year. The case load of the List is very small and a one or two lengthy cases can greatly affect the timeliness results.

#### Access to Justice

We revised our applications form and accompanying guide as part of a VCAT wide project to create and standardise the Tribunal's application forms and guides. The application forms can be accessed, completed and submitted on-line with attachments, or printed, completed and submitted manually to accommodate all users of the list. The forms are accessible 24 hours a day, 7 days a week. The revamped forms were launched in October 2011.

Applications to the List are free of charge. When it suits parties, we conduct mediations and hearings in regional areas. VCAT's website contains information to help unrepresented parties understand the List's application and hearing processes.

### THE FUTURE

The List will continue to increase the use of ADR and to consider ways to further improve accessibility for self-represented parties.



#### TIMELINESS OF FINALISED CASES (WEEKS)

	2011/12	2010/11	Target
Median	14	18	
80th Percentile	38	28	
Target			26

#### APPLICATIONS BY ENABLING ENACTMENT

	2011/12	2010/11	Variance
<i>Assisted Reproductive Treatment Act 2008</i>	-	5	0%
<i>Health Records Act 2011</i>	18	9	100%
<i>Information Privacy Act 2000</i>	19	12	58%
<i>Public Health and Wellbeing Act 2008</i>	1	-	0%
<b>TOTAL</b>	<b>38</b>	<b>26</b>	<b>42%</b>

### CASE STUDY: SEEKING ACCESS TO MEDICAL FILES

Ms T was seeking a copy of her medical file from a specialist she had consulted many years ago. The specialist had declined to give her a copy of the file, because she was concerned that doing so might pose a risk to Ms T's health. Ms T made a complaint to the Health Services Commissioner, and this complaint was referred to VCAT.

At the hearing the specialist said that because she had not seen Ms T for many years, and no longer had a professional relationship with her she did not want to compromise Ms T's health by giving her the file without the opportunity to talk through the contents. She said, however, that she would be willing to give a copy of the file to Ms T's general practitioner, who knew Ms T better than the specialist and was in a better position to make informed decisions in consultation with Ms T. Ms T was happy with this outcome and the proceeding was withdrawn.

## ANTI-DISCRIMINATION LIST

In April 2010, the Victorian Government passed the *Equal Opportunity Act 2010*, which replaced the *Equal Opportunity Act 1995*. The provisions of the new Act that relate to VCAT take effect from August 2011. Under the new Act, a person can apply directly to VCAT for resolution of their complaint, or they can lodge a dispute with the Victorian Equal Opportunity & Human Rights Commission (VEO&HRC).

Lodging a dispute with the VEO&HRC does not preclude a party from withdrawing that dispute and making an application to VCAT. This increases people's options when they allege the Act has been breached and are seeking relief or compensation.

While transitioning to the *Equal Opportunity Act 2010*, the list continued to hear and determine complaints referred from the VEO&HRC under the *Equal Opportunity Act 1995*.

The List also hears applications for exemptions from the *Equal Opportunity Act 2010*, for example, if an applicant needs to discriminate between persons to achieve a just outcome overall.

Occasionally, the List hears applications to strike out frivolous or vexatious complaints, and applications for interim orders to prevent parties from acting prejudicially to complaint outcomes.

### YEAR IN REVIEW

#### Cases

There was no significant change to application numbers this year.

#### Flexibility

The List continued to build on its success in ADR, achieving a high settlement rate. Instead of routinely listing matters for directions hearings to decide the approach, each application is now carefully reviewed to determine the best first step. This has resulted in some cases being referred straight to mediation or compulsory conference. We have found that the earlier the ADR, the more likely the parties' relationship is preserved, and costs are minimised.

We are more actively matching the type of hearing and the Member to the nature of the dispute so that parties can have their

disputes resolved in a manner appropriate to the scale and nature of the dispute.

We are actively case managing applications at an early stage, telephoning parties to identify the most appropriate hearing process, for example, listing the application for a compulsory conference or a directions hearing.

#### Efficiency

The List continued to meet its targets for the timely finalisation of cases, and indeed improved its performance over the previous year.

We finalised 151 matters in 2011-12 and reduced our pending matters by 23 percent. The List had a clearance rate of 109 percent.

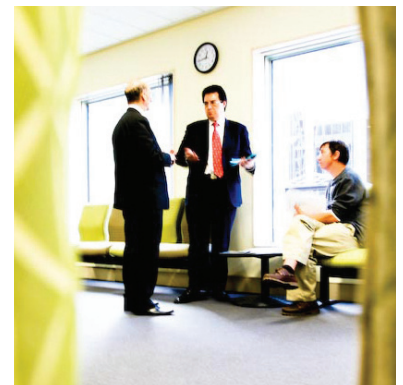
#### Access to Justice

We created a new online application form for people who wish to lodge their applications electronically. The form, together with an updated guide and information about the new Act, were launched in August 2011 and are accessible through our website.

In 2011 - 12 we took greater advantage of our access to the specialist ADL Duty Lawyer Service. Duty lawyers from Victoria Legal Aid attend directions hearing every Monday and provide self-represented applicants with advice.

#### User Engagement

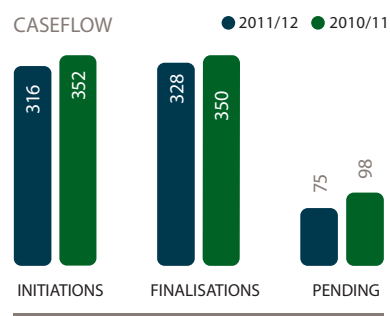
Our user group comprises representatives from the Department of Justice, the VEO&HRC, and legal practitioners who work in the area of discrimination law, including Victoria Legal Aid. Regular meetings were held throughout the year with our user group and other stakeholders focusing on changes under the *Equal Opportunity Act 2010*.



We participated in two seminars organised by the VEO&HRC and PILCH about exemptions and special measures.

### THE FUTURE

We will continue to review and improve our case management to suit the applications we receive, giving parties the best possible results for them personally, and solving the dispute quickly and fairly.



**TIMELINESS OF FINALISED CASES (WEEKS)**

	2011/12	2010/11	Target
Median	10	10	
80th Percentile	24	25	
Target			23

**APPLICATIONS BY ENABLING ENACTMENT**

	2011/12	2010/11	Variance
<i>Equal Opportunity Act 2010</i>	200	-	0%
<i>Equal Opportunity Act 1995</i>	116	345	-66%
<i>Racial and Religious Tolerance Act 2001</i>	-	7	58%
<b>TOTAL</b>	<b>316</b>	<b>352</b>	<b>-10%</b>

**APPLICATION BY CLAIM TYPE**

	2011/12	2010/11	Variance
Employment	76	-	0%
Impairment	65	106	-39%
Sex discrimination	23	53	-57%
Victimisation	39	52	-25%
Others	205	270	-24%

**APPLICATION BY SUB CLAIM TYPE**

	2011/12	2010/11	Variance
Disability	30	-	0%
Education	-	24	0%
Employment	71	180	-61%
Goods and services	44	59	-25%
Others*	120	22	-24%

(\* other attributes include gender identity, industrial activity, lawful sexual activity, marital status, personal association, physical features, political beliefs, pregnancy, religion, status as a parent or carer, sex, sexual orientation)

**CASE STUDY: SPECIAL MEASURES UNDER THE EQUAL OPPORTUNITY ACT 2010**

A special measure is something done for the purpose of promoting or realising substantive equality. Special measures may be taken because it is recognised that discrimination can cause social and economic disadvantage, and that access to opportunities is not equitably distributed throughout society. Also, the equal application of a rule to different groups can have unequal results or outcomes. In other words, one size does not necessarily fit all. As a consequence, the achievement of substantive equality may require the taking of special measures. Where conduct is a special measure under section 12 of the *Equal Opportunity Act 2010*, that conduct is not discriminatory and so there is no need for an exemption to engage in the conduct.

For example: Parks Victoria applied for an exemption to allow it to advertise for and employ only indigenous people, with preference to be given to members of the Wurundjeri Tribe Land Compensation & Cultural Heritage Council Inc, in field and office based positions working to care and protect Wurundjeri country. After hearing evidence from Parks Victoria and considering submissions from it and the Victorian Equal Opportunity & Human Rights Commission, the Tribunal concluded that the conduct was a special measure. The conduct aimed to promote or realise equality through providing indigenous people with opportunities for employment and connection with their culture and traditional lands in a way which carried great significance for them. As the conduct was found to be a special measure, there was no need for an exemption to be granted.



## MENTAL HEALTH LIST

The List hears and determines appeals against decisions of the Mental Health Review Board, made under the *Mental Health Act 1986*, about applicants' involuntary treatment. The List is within the Human Rights Division to reflect the fact that mental health reviews affect applicants' personal rights and freedoms.

### YEAR IN REVIEW

#### Cases

Consistent with previous years, we received a small number of applications. There was no significant change to case profile.

#### Flexibility

To protect applicants' rights, we try to accommodate their requests regarding the order of proceedings. Applicants can choose to make their submissions prior to or after the other party's submissions, and they maintain a right of reply throughout.

Members are required to make orders about involuntary treatment, therefore it is usually not appropriate to use ADR to resolve applications. The Tribunal, however, supports parties wherever possible to resolve matters in ways that maximise their participation and control.

When applications are received directions are made in chambers to avoid the need for parties to attend the Tribunal more than once. Hearings are as informal and applicant focused as is possible and appropriate.

#### Efficiency

The issues that prompt applications often require urgent attention, and most cases are finalised within 6 weeks.

Sometimes, however, due to unforeseen circumstances such as an applicant's failure

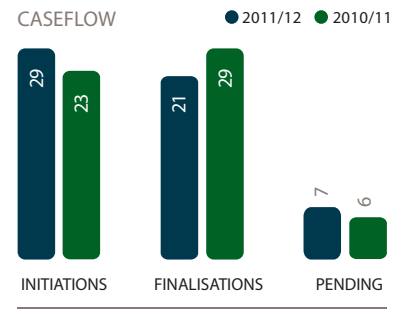
to attend the hearing on the day assigned, they can take longer.

#### Access to Justice

We revised our applications form and accompanying guide as part of a VCAT wide project to create and standardise the Tribunal's application forms and guides. The application forms can be accessed, completed and submitted on-line with attachments, or printed, completed and submitted manually to accommodate all users of the list. The forms are accessible 24 hours a day, 7 days a week. The revamped forms were launched in October 2011.

Applications to the List are free of charge. Many applicants are self-represented and face significant communication barriers. We conduct proceedings with sensitivity, assisting applicants to understand their rights and our procedures.

We hear applications in regional locations when it suits applicants, and this usually also suits the area mental health service. We have begun to sit in non-traditional hearing venues, such as hospitals, when applicants are unable to attend VCAT. This allows applicants to fully participate in decisions about treatments that affect their human rights.



#### TIMELINESS OF FINALISED CASES (WEEKS)

	2011/12	2010/11	Target
Median	7	8	
80th Percentile	12	21	
Target			6

#### User Engagement

We have regular meetings with the Mental Health Review Board, focusing on improvements to case management processes, which helps us to operate more efficiently. The Board and Mental Health Legal Centre undertake community education about rights and legal issues relating to mental health.

#### THE FUTURE

The List will continue to review the forms and guides for applicants and assess any additions to non traditional hearing venues.

### CASE STUDY: MEETING THE NEEDS OF VULNERABLE APPLICANTS

'Mr M' had experienced intermittent episodes of schizophrenia since his early twenties. When receiving treatment he remained well and able to participate full in a wide range of activities. During episodes of illness he became very frightened and withdrawn. He had recently decided to stop accepting treatment, and had experienced a period of severe illness. He had barricaded himself in his house and attempted to take his own life. Mr M had been in hospital for several weeks subject to an involuntary treatment order.

The Mental Health Review Board had confirmed the order and Mr M applied to VCAT for a review of this decision as he did not consider that he had a mental illness. VCAT conducted the hearing at the hospital. VCAT affirmed the decision of the Board. During the hearing Mr M had the opportunity to ask many questions of the treating team and after some time accepted to a degree that he was ill and needed treatment.

# ORGANISATIONAL SUPPORT AND DEVELOPMENT

To successfully serve all Victorians, we invested in the ongoing development of our people, facilities, technology, processes and governance.

## GOVERNANCE

### APPOINTING MEMBERS

Consistent with the VCAT Act, the President of VCAT is a Supreme Court judge, and Vice-Presidents are judges of the County Court. The Attorney-General recommends these judicial appointments to the Governor-in-Council, after consulting with the Chief Justice and Chief Judge.

Deputy Presidents, Senior Members, full-time, part-time and sessional Members of VCAT are also appointed by the Governor-in-Council.

Both judicial and non-judicial Members hold five-year terms and are eligible for re-appointment. They may resign their office by delivering a signed letter of resignation to the Governor.

### MEMBER PROFILE

VCAT's membership consists of judicial and non-judicial Members, with judicial Members including the President and Vice-Presidents.

Our Members include legal practitioners and other professionals with specialised knowledge or expertise, such as town planners, engineers, architects, medical and allied health practitioners, accountants, land valuers and real estate agents. VCAT functions efficiently and effectively, due to the contributions of these diverse Members, many of whom are qualified to sit on a number of our Lists. In turn, Members gain career flexibility, satisfaction and development, from working in a variety of jurisdictions.

### DIRECTING VCAT

The President directs the business of the Tribunal and is responsible for management of its administrative affairs.

The Chief Executive Officer exercises responsibilities under the *Public Administration Act 2004* and the *Financial Management Act 1994* (under delegation from the Secretary).

## RULES COMMITTEE

In accordance with Part 6 of the VCAT Act, the Rules Committee is comprised of VCAT's judicial Members, a full-time Member (who is not a legal practitioner), an Australian legal practitioner (within the meaning of the *Legal Profession Act 2004*) and two persons nominated by the Attorney-General.

The Committee undertakes a number of important leadership functions within VCAT, including:

- developing rules of practice and procedure, and practice notes;
- directing the education of VCAT Members in relation to those rules of practice and procedure, and practice notes;
- establishing the Divisions and Lists; and
- allocating functions of the Tribunal under enabling enactments to Divisions and Lists.

### RULES COMMITTEE MEMBERSHIP

As at 30 June 2012, members of the Rules Committee were:

#### **The Hon. Justice Greg Garde, AO RFD BA (Hons), LLB (Hons), LLM**

Justice Garde AO RFD was appointed a Justice of the Supreme Court of Victoria on 29 May 2012. Prior to his Honour's appointment to the Supreme Court, he was a practising Queens Counsel, having been appointed in 1989. Justice Garde signed the Victorian Bar roll in 1974. He was also appointed Queens Counsel in New South Wales, Queensland, the Northern Territory and Tasmania. Justice Garde is a former lecturer in Administrative and Constitutional Law and President of the Victorian Chapter of the Council of Australasian Tribunals. Justice Garde was appointed President of VCAT on 1 June 2012.

#### **Other Judicial Members**

Judge Bowman, Judge Davis, Judge O'Neill and Judge Macnamara are full-time Judges of the County Court of Victoria and Vice-Presidents of VCAT. They are members of the Rules Committee. Judge Macnamara was appointed a Vice-President of VCAT on 7 February 2012. Prior to his appointment, his Honour was a Deputy President of the Tribunal.

#### **Louise Jenkins BA, LLB**

Ms Jenkins is a barrister and solicitor of the Supreme Court of Victoria, and partner at law firm Allens Arthur Robinson. She practices in litigation for major Australian companies and international insurers. Ms Jenkins is a Member of the Tribunal and a Trustee of Law Aid, and was appointed to the Committee on 1 July 1998.

#### **Margaret Baird BTRP (Hons), Grad Dip Law**

Ms Baird is a member of the Planning and Environment List of VCAT. She was appointed to the Committee on 24 June 2003. Previously she worked as a consultant strategic planner and sessional member of Planning Panels Victoria.

#### **Bill Sibonis BPD, BTRP**

Mr Sibonis was appointed as a full time Member of the Planning and Environment List of VCAT on 21 July 2009. He formerly worked as a town planner in local government, a sessional Member of Planning Panels Victoria, and associate general editor of Victorian Planning Reports. He was appointed to the Committee on 24 July 2007.

## RULES COMMITTEE ACTIVITIES AND MEETINGS

The Rules Committee amends the rules and practice notes of VCAT in response to procedural reform, changes in jurisdiction and new legislation. During 2011–12, the Committee met on three occasions: 8 August 2011, 15 December 2011 and 23 February 2012.

The Committee has a four-member quorum. A question arising at a meeting is determined by a majority of votes, with the person presiding having a deliberative vote and, in the case of an equality of votes, a second or casting vote. The Committee must ensure that accurate minutes are kept of its meetings, but otherwise it regulates its own proceedings.

### VCAT RULES

At the meeting on 8 August 2011, the Committee approved amendments to the Rules. The amendments were required as a consequence of the commencement of the *Equal Opportunity Act 2010*.

At the meeting on 15 December 2011, the Committee approved an amendment to Rule 5.04 of the VCAT Rules 2008. Rule 5.04 provides for a time limit within which a statement of grounds must be lodged in proceedings under a planning enactment. The amendment was a consequence of the re-opening of the Major Cases List within the Planning and Environment List.

### PRACTICE NOTES

At the meeting on 15 December 2011, the Committee approved an amendment to the practice note on the Major Cases List (PNPE8).

At the meeting on 23 February 2012, the Committee introduced five practice notes applicable across all Lists from 15 March 2012. The practice notes cover the following areas:

- Common Procedures (PNVCAT1)
- Expert Evidence (PNVCAT2)

- Fair Hearing Obligation (PNVCAT3)
- Alternative Dispute Resolution (PNVCAT4)
- Directions Hearings & Urgent Hearings (PNVCAT5)

The Committee also approved amendments to the following List specific practice notes:

- Domestic Building - General Procedures (PNDB1)
- Land Valuation - General Procedures (PNLV1)
- Planning and Environment List - General Procedures (PNPE1)
- Planning and Environment List - Cancellation and Amendment of Permits (PNPE3)
- Planning and Environment List - Enforcement (PNPE4)
- Planning and Environment List - Practice Day Hearings (PNPE6)
- Planning and Environment List - Short Cases List (PNPE7)
- Planning and Environment List - Amending plans and applications (PNPE9)

As a consequence of the approval of the above new and amended practice notes, the following practice notes were revoked at the Committee meeting on 23 February 2012:

- Digital Recording (PNVCAT1)
- General - Service of Documents (PNG1)
- General - Withdrawal of Proceedings (PNG2)
- Planning and Environment - Representation of Parties (PNPE5)
- Taxation - Representation of Parties (PNT1)
- Real Property - Compulsory Conferences (PNRP1)
- Real Property - Drainage Claims (PNRP2)
- Retail Tenancies (PNRT1)

### NEW JURISDICTIONS

During the reporting year the following new jurisdictions were allocated by the Rules Committee.

The *Equal Opportunity Act 2010*, which commenced on 1 August 2011, was allocated to the Anti Discrimination List. The main purpose of the Act is to re-enact and extend the law relating to equal opportunity and protection against discrimination, sexual harassment and victimisation. Section 122 of the Act provides that a person can make an application directly to the Tribunal in respect of an alleged breach of Part 4, 6 or 7 of the Act, whether or not the person has brought a dispute to the Commissioner for resolution.

The *Accident Towing Services Act 2007* was allocated to the Occupational and Business Regulation List. The main purposes of the Act is to promote the safe, efficient and timely provision of accident towing services and other related services by licensing and accrediting tow truck operators and drivers. The Act provides that a person may apply to VCAT for review of a decision by the Authority under the Act.

The *Bus Safety Act 2009* was allocated to the Occupational and Business Regulation List. The main purposes of this Act are to provide for the safe operation of bus services in Victoria and to change the title of the Public Transport Competition Act 1995 to the Bus Services Act 1995. Section 58(1) of the Act provides that any person affected by the decision of the Authority may apply to VCAT for review of the decision.

The *Climate Change Act 2010* was allocated to the Planning and Environment List. The main purposes of this Act are to establish a target to reduce Victoria's greenhouse gas emissions and to facilitate the consideration of climate change issues in specified areas of decision making of the Government of Victoria.

## PROFESSIONAL DEVELOPMENT TEAM

This reporting year we delivered a number of initiatives directed at improving Members' professional development.

The VCAT Member professional development team has a broad professional development focus. Over the past 12 months, the team has worked on a wide range of professional development issues, including the development of a program of activities to promote the key competencies expected of VCAT Members, along with the development of orientation, induction, mentoring and appraisal standards.

When first appointed, new Members now attend a Group Orientation Day, the format of which is common to all Lists of VCAT ensuring that the orientation experience is consistent for all Members. The orientation provides new Members with a comprehensive overview of VCAT, including its goals, values and philosophy as well as ensuring that all administrative matters are dealt with. This ensures the Member knows how to claim pay, obtain a security pass, is able to find their way around the building and is able to access and use VCAT's comprehensive IT system.

### Induction Program

The induction program takes place over the first 12 months of the Member's appointment.

The program commences with an intensive preliminary stage of approximately 2 weeks duration. The aim of the program is to assist new Members to familiarise themselves with their new role as quickly and efficiently as possible. Full time Members attend the Judicial College of Victoria's (JCV) orientation program.

During the course of VCAT induction, new Members gain an understanding of the individual list(s) to which they have been assigned. The Member meets the relevant Head of List who explains the role of the list, its functions, structure and interaction with other lists. The Head of List explains the expectations that VCAT has of its Members and is guided in that discussion

by the VCAT Member Competency Framework.

New Members are engaged in both general, and list-specific, training and development. The training varies slightly from list to list but includes some or all of the following:

- legal and jurisdictional knowledge training;
- core introductory training: court craft;
- observation of hearings;
- mentoring; and
- self-managed learning.

For example, new Members assigned to the Residential Tenancies list have the equivalent of 3 days training on the legislation and order-entry system. They are then paired with an experienced Member who they observe on the bench. They then start hearing cases with the experienced Member beside them.

### Member Appraisal

A pilot of the Member Appraisal Framework took place during the reporting period. The pilot enabled further professional development opportunities. For example, an issue raised by a Member in dealing with a large complex case during the feedback session became a topic for the professional development day held on 11 November 2011. This particular topic was attended by over half of the registrants.

### Professional Development Program

VCAT's Member Competency Framework is an essential component in our approach to developing VCAT's Professional Development Program.

Professional development needs are identified in a number of different ways: the professional development team seeks feedback on a regular basis; needs are identified by individual Members; Heads of List identify training needs for an individual Member or the entire list, VCAT's President

identifies specific training needs or sometimes the needs are identified during the appraisal processes.

The selection of appropriate courses is justified by the Member or the relevant Head of List who then refers the matter to the Professional Development Team for final approval.

One of the many priorities of the professional development team has been to plan a program of continuing professional development activities. We sought Member input in structuring the program. Members expressed their wish to share knowledge and expertise to ensure consistent hearing and decision-making approaches. This has the added benefit of giving experienced Members an opportunity to present professional development sessions.

The first full-day Member Professional Development day took place on 11 November 2011 and the second was held on 11 May 2012. The feedback indicated both days were a resounding success. Many Members rated them as the most successful professional development they had undertaken at VCAT. One of the reasons for this was that it brought the different lists of VCAT together, highlighting similarities across the Tribunal. Day to day issues which confront Members were addressed drawing on the wealth of in-house experience and through the exchange of ideas between peers. All of the topics discussed were suggested by Members.

In the first half of 2012 we trialled list specific twilight seminars to enable all our full-time and sessional Members to attend.

Members continued to attend external training courses conducted by the JCV and other providers, including training on how to deliver Member appraisals. Nineteen Members are enrolled in writing courses run by the JCV from 1 July 2012 onwards.

## VCAT STAFF

VCAT employs 219 staff members across Corporate Services, Registry and Member Support areas.

VCAT has located staff in seven regional centres including Ballarat, Bendigo and Warrnambool. Locating VCAT staff members in key regional locations has improved the service we are able to provide to regional communities. Through an increased presence in metropolitan, regional and rural locations, Members and staff increased public knowledge of our processes and assisted to integrate VCAT into the community.

### LEARNING AND DEVELOPMENT

During the reporting period we established the VCAT Staff Development Group (SDG) which consists of a broad range of representatives from all areas of VCAT, including registry, corporate services and Member support, in an effort to fully capture and address the learning and development needs of all VCAT employees. The group worked with the Courts portfolio, communities of practice such as the Australasian Committee for Courts Education (ACCE) and Meeting of the Minds (MOTM), plus other learning and development networks within the Department of Justice and the wider Victorian Public Service.

The SDG is currently led by VCAT's Learning and Development Manager. During the reporting period the group delivered on a number of initiatives including:

- conducting a high-level training needs analysis;
- creating VCAT's Learning and Development Strategy 2012 - 2017;
- actioning the objectives outlined in the Learning and Development Strategy 2012 - 2017;
- managing VCAT's participation in the Certificate IV in Government (Court Services) Program;
- identifying specific jurisdictional training needs including the implementation of

Jurisdictional Learning Opportunities;

- identifying training requirements specific to particular roles, for example, member support and bench clerks; and
- exploring the use of training in general skills such as project management and interpersonal skills.

VCAT is a member of the Courts Portfolio's Workforce Redesign and Development Group (WRDG) which was formed at the commencement of this reporting period in response to the Courts Portfolio Strategic Directions 2010-2015 and Divisional Priorities 2010-11. The WRDG has representation from all Victorian courts and tribunals. During the reporting period the group began to develop a courts portfolio specific capability model. The model will be a valuable tool underpinning people management across all jurisdictions. It will ensure consistency of practice and guide the approach to workforce management in the areas of defining roles; learning and development; recruitment and retention; performance management; workforce planning; talent management; and succession planning.

VCAT is a member of ACCE, which provides a forum for learning and development professionals across Australasian courts and tribunals to share knowledge, skills and resources to improve the development of staff. We hosted the two day ACCE conference in October 2011.

CLOUD has been a valuable resource for shared learning across VCAT and we continued to expand its use. We can upload video recordings of seminars and presentations, together with written resources, for future online access. This blended approach preserves some of the benefits of face-to-face learning for staff unable to physically attend due to location or timing, and allows those that did attend

to review what they experienced.

Four staff members graduated from the Certificate IV in Government (Court Services) in the reporting period. A further three staff members joined the course. Staff undertaking this two-year course gain experience across VCAT and in other jurisdictions.

Staff also attended courses provided through the 'One Justice' training curriculum and CLOUD in areas such as management and leadership, customer service, computer and writing skills, information privacy, and project management.

Further learning and development highlights included:

- the uptake and use of the Nexus Performance Management system. VCAT designed, developed and implemented an on-line learning module to support the roll-out of the new Nexus system. VCAT received recognition from the Department of Justice for being a stand-out business unit in relation to the roll-out and use of the Nexus performance management; and
- continued staff mentoring partnerships and the increased use of strategic coaching to obtain particular skills.

### STAFF CONFERENCE

Approximately 140 staff members attended VCAT's annual Staff Conference in September 2011. Under the Conference theme of *'Working Together'*, staff contributed ideas to improve VCAT's service and operations.

### STAFF AWARDS

Our staff are crucial to our ability to continually deliver a high standard of customer service. It is therefore vital that we recognise and reward members

of staff who demonstrate outstanding performance, contribute significantly to the success of VCAT or have provided years of valuable service to the Victorian Public Service (VPS). This year we continued our Staff Reward and Recognition program. As a result, more staff received formal acknowledgement of their contributions at special events held through the year, such as the Staff Conference.

### WORK EXPERIENCE AND TRAINEESHIPS

VCAT continued its work experience program, which was revamped and launched during 2010 -11. We hosted fifteen secondary students in this reporting period. Over the course of a week, students experience all facets of VCAT work, including customer services, corporate services, registry, and hearings. Students recorded their daily experiences in a blog on the VCAT Wiki and we presented them with certificates upon completion of their program.

Two tertiary students undertook practical placements at VCAT relevant to their legal studies. The 35-day placements occurred over a 10–12 week period, during which participants undertook projects in particular areas while gaining a broad overview of the Tribunal.

We provided professional placements for six Leo Cussen Centre for Law students during the reporting period. As part of their course requirements students are required to complete a three week professional placement.

VCAT provided three young Victorians aged 16 to 24 with traineeships through the Youth Employment Scheme, a joint venture between the Victorian Government and employers. One trainee became a permanent employee and another secured employment externally.

### EMPLOYEE RELATIONS

VCAT is an equal opportunity employer and adheres to merit and equity principles when recruiting staff. VCAT's diverse workforce contributes to its vibrant culture through staff-initiated events such as a multicultural lunch in celebration of Cultural Diversity Week. We regularly update staff in areas such as bullying, sexual harassment and the Victorian Public Service Code of Conduct. Recently, we adopted the Department of Justice's Respect in the Workplace policy. The policy outlines what behaviour is expected of VCAT employees and the steps to be taken if an employee considers that this policy has been breached.

### OCCUPATIONAL HEALTH AND SAFETY

VCAT aims to provide and maintain a safe working environment, which ensures and nurtures the health and wellbeing of all staff, Members and visitors.

VCAT's accredited first aid officers and fire wardens received regular training, and we practised fire, bomb and other emergency evacuations throughout the year. Ongoing OH&S training was offered, with supervisors and managers encouraged to attend.

This year we utilised the Department of Justice's Workplace Health checks and offered flu vaccinations to all staff. We continued to refer employees staff to the Employee Assistance Program (EAP) where appropriate.

During 2011–12, 3 new WorkCover claims were made, which, together with ongoing claims from the previous reporting period, resulted in 190 lost work days (there were 3 new claims with 99 lost work days in 2010–11).

### WAGES AND SUPERANNUATION

Staff are employed under the terms and conditions of the Victorian Public Service Agreement 2006 (2009 Extended and Varied Version), which incorporates performance management and progression plans for all staff. The Agreement recognises and rewards eligible staff who demonstrate sustained improvement against agreed progression criteria, with an average two per cent annual salary increase.

Staff received superannuation benefits through a choice of superannuation funds, including the State Superannuation Funds (new and revised), VicSuper or privately nominated funds.

## ENVIRONMENT GROUP

The VCAT Environment Group, comprising interested Members and staff, continued to promote and implement initiatives for using resources sustainably in our day-to-day operations.

In 2011-12, the Group implemented the following initiatives:

- Obtained funding from the Environment Initiatives fund to install sensor lights in six meeting rooms at 55 King St, Melbourne
- Organised and promoted a 'clean-up' week in which staff were encouraged

to tidy their respective work areas and improve their work environment

- Promoted and encouraged staff to participate in Earth Hour by ensuring they turned off all electrical appliances at their desk
- Audited all photocopiers to ensure that double-sided is the default print setting.

- Presented sustainability information sessions for staff via the Courts Portfolio Wiki
- Posted internal signs in staff and visitor areas to guide resource-saving use of light switches, hand dryers and taps



## VCAT REGISTRY

VCAT's Registry coordinates the exchange of information between VCAT and parties, including hearing notices, orders, and the forms required to lodge a claim. Registry also supports VCAT Members to more efficiently carry out their duties.

### STAFF AND STRUCTURE

Registry employs 173 staff members.

Registry comprises:

- the Civil Division, which supports the Civil Claims, Credit, Domestic Building, Owners Corporations, Real Property, Residential Tenancies and Retail Tenancies Lists;
- the Administrative Division, which supports the General, Land Valuation, Legal Practice, Occupational and Business Regulation, Planning and Environment, and Taxation Lists;
- the Human Rights Division, which supports the Anti-Discrimination, Guardianship, Mental Health, and Health and Privacy Lists; and
- the Listings Directorate, which supports all Lists, allocating cases to Members for hearing, and managing hearing venues.

### REGISTRY SERVICES

In line with *Transforming VCAT: Promoting Excellence*, over the past year we have improved service delivery by extending Registry resources beyond VCAT's Melbourne headquarters to key suburban and regional locations.

An administrative support officer is now permanently located at the Berwick Justice Service Centre five days a week. The administrative support officer coordinates hearings, provides customer support and helps to build VCAT's presence in Berwick and surrounding areas.

We have located staff in seven key regional centres:

- Ballarat also servicing Maryborough and Horsham
- Bendigo
- Geelong also servicing Colac
- Mildura also servicing Swan Hill and Robinvale
- Moe also servicing Bairnsdale,

Korumburra, Morwell and Sale

- Wangaratta also servicing Benalla, Cobram and Shepparton
- Warrnambool also servicing Hamilton and Portland

Locating staff in these regional locations has improved the service we are able to provide to regional communities.

Registry staff also provided support for hearings at the Hume Global Learning Centre in Broadmeadows, including Saturday mornings, twilight hearings at the Neighbourhood Justice Centre in Collingwood and hearings at the William Cooper Justice Centre in Melbourne.

### CASE MANAGEMENT

We partnered with Business Victoria to develop interactive on-line 'Smart' forms and accompanying guides across all three Divisions. As a result, 90 percent of all VCAT applications are now able to be lodged on-line. The new guides provide users with step by step instructions to assist them completing and lodging their application forms.

### LISTINGS PROJECT

The Listings Project was driven by VCAT's strategic direction statement *Transforming VCAT*, and in particular the vision for VCAT as an innovative, flexible and accountable organisation which is accessible and delivers a fair and efficient dispute resolution service.

The project aims to find opportunities to improve VCAT's listings, to make better use of available resources (people, venues, transport, funding), manage the budget, and clarify roles, responsibilities and expectations. The project has been divided into three phases.

Phase 1 of the project involved gathering information and ideas and resulted in the identification of preliminary issues.

Focus groups were held in April and May 2012 to allow the project team to consult with Members and staff, and included a document review and discussion.

Phase 2 of the project involved further consultation with judiciary, Members and staff to introduce the preliminary findings, test recommendations and provide opportunity for refinement. Phase 2 was completed in May 2012.

Phase 3 of the project will propose a sustainable listing model for VCAT together with a final set of recommendations and an implementation plan for consideration by the Steering Committee. It is anticipated that Phase 3 of the project will be delivered in the latter half of 2012.

### STAFF MEDIATORS

Accredited Registry staff mediators continued to participate in Short Mediation and Hearings (SMAH) covered elsewhere in this report (see ADR and Civil Claims List). Staff mediators offer parties a shortened form of mediation just before their scheduled hearings, with the aim of assisting them to reach settlement. Apart from benefits to parties, staff also gained substantially from skill consolidation and strengthened teamwork, particularly through the opportunity to work closely with Members.

We developed an internal mediation training program and our first course was run in December 2011. Fourteen VCAT Members and staff became accredited mediators via the program. Building on the success of the staff mediator initiative, we are planning another intake of Registry staff to undertake mediation training and become accredited mediators in October 2012.

## INFORMATION TECHNOLOGY

We continued to innovate and deliver technological improvements across VCAT this year, making good progress on a number of 'Promoting Excellence' initiatives aimed at creating a more accessible, flexible, accountable and efficient Tribunal.

### VCAT IN A BOX

'VCAT in a Box' is a wireless remote access kit, primarily used by Members hearing guardianship and administration matters in non-traditional venues such as aged care facilities. Using 'VCAT in a Box', Members can access VCAT's case management and order entry systems remotely, allowing them to produce and deliver orders directly after hearings. The kits also allow greater hearing venue flexibility, assisting Members to quickly adapt if venues are changed.

### DIGITAL RECORDING

Complementing 'VCAT in a Box', we developed portable digital recording kits to record hearings in venues such as the Hume Global Learning Centre in Broadmeadows where VCAT now sits three days a week. Members hearing guardianship and administration matters also use the kits in locations such as hospitals and community centres.

We extended our recording capabilities to all venues VCAT uses across suburban and regional Victoria. Previously only cases heard at 55 King Street, Melbourne have been routinely recorded.

Recordings form the basis of transcripts, which are an important source of information in the event of an appeal. Recordings also protect the interests of parties and Members participating in hearings, with the added benefit of monitoring and improving standards of conduct and accountability. We received 322 requests from parties for transcripts, compared with 529 in 2010–11, and 793 requests from parties and VCAT Members for CD recordings, compared with 507 in 2010–11.

### CASE MANAGEMENT

Members and staff continued to use VCAT's computerised case management systems – Caseworks and the Tribunal Management System (TMS) – to record applications and case outcomes, create correspondence, and schedule statewide hearings. Members of the high-volume Residential Tenancies and Guardianship Lists used the Order Entry System to produce and print orders that can be signed and given to parties immediately after hearings.

During the reporting period we upgraded Caseworks to support file archiving, enhanced reporting and further process improvements.

### AUDIO VISUAL UPGRADES

We have developed a mobile Skype terminal which has allowed us to conduct hearings between Victoria, other States and overseas. It has been used successfully to hear evidence from witnesses located in countries such as Thailand and Monaco.

We continued to encourage the use of interactive Smartboards which have been installed in some hearing rooms to assist parties in the presentation of their cases. The Smartboards are used to display plans, permits and other relevant information on overhead screens. They also have internet connection, enabling online research and access to tools such as email and Google Maps. Parties can use Smartboards to make real-time changes to documents electronically during the course of a hearing or mediation, saving them time and promoting better outcomes through interaction and collaboration.

An additional mobile Smartboard complements our range of hearing room facilities, which also includes video conferencing facilities in three hearing rooms, and advanced audiovisual and telecommunications systems in six hearing rooms and the VCAT Learning Centre.

### VCAT WEBSITE

In June 2012 we launched our new streamlined and user-friendly website. The new website aims to provide comprehensive, up-to-date information about the Tribunal, its processes and alternative dispute resolution options.

The site also features an innovative look and feel based on VCAT's colour and style guidelines. The overall image is consistent with the need for the website to be user friendly rather than legalistic. The simplified design includes:

- top navigation bar with drop down menus to make it easier for users to find what they are looking for;
- a separate search function to help new users navigate their way around the site;
- a 'first-time user' section that provides a brief overview of the types of disputes heard at VCAT and what Lists hear them; and
- quick links module to that users can navigate directly to popular pages.

The VCAT website at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) contains useful information such as:

- information about each List, including application forms and guides;
- access to online applications for most Lists;
- legislation, practice notes and VCAT Rules;

- the daily law list;
- information about community and stakeholder meetings;
- video guides and helpful links for parties representing themselves at VCAT;
- links to VCAT decisions, and to various government and legal websites; and
- how to access VCAT files, publications and information.

Neilson Net Ratings statistics tools show that during the period 1 July 2011 - 31 May 2012, the VCAT website received 2,378,059 hits. During that period our website used a WebInterprise template and was hosted on Department of Justice servers.

On 1 June 2012 the VCAT website moved to a Drupal case management system, hosted on external servers. We are now using Google Analytics for our web based reporting. This reporting is based on visits and not hits. For the period 1 - 30 June 2012, the VCAT website had 66,704 visits and 301,292 page views.

The most popular pages on our website during the reporting period were:

- Daily Law List
- VCAT Online (Residential Tenancies online applications)
- Contact Us
- Residential Tenancies
- Civil Claims
- Decisions
- Application forms and brochures
- Planning and Environment
- Fees

Throughout the reporting period we regularly posted updates on the latest Tribunal changes. To increase VCAT's accountability, we updated information on making complaints and provided electronic

copies of the following new publications:

- On-line 'Smart' forms and accompanying guides;
- 'Transforming VCAT' report cards;
- Practice notes;
- Performance statistics; and
- 'Taking it to VCAT' a guide to the Planning and Environment List

## EMAIL

The Residential Tenancies List, Administrative, Civil and Human Rights Divisions all have their own direct email addresses.

VCAT received 44,357 external emails, compared with 16,534 in 2010-11. The large increase can be attributed to our new 'Smart' forms which allow parties to submit their applications online directly to the relevant Division's email address.

## THE FUTURE

VCAT will continue work on current and new technology projects that align with its strategic plan. The following additional technology initiatives are planned for 2012-13:

- installation of public information screens in ground floor lobby of 55 King St;
- upgrade of Caseworks application servers;
- Wi-Fi internet to be installed in public waiting areas and hearing rooms at 55 King St; and
- implement enhancements to Caseworks relating to scheduling of hearings and integration of 'SMART' forms from the website.

# FURTHER INFORMATION

## OPERATING STATEMENT AND FINANCIAL SUMMARY

### FUNDING

VCAT received Victorian government appropriations of \$20.41 million either directly from the Department of Justice or by way of other departments making contributions to VCAT. These sources fund the majority of Lists with the exception of Lists funded by other sources as described below. Appropriations include revenue of \$2,961,394 million generated by those Lists receipting application fees.

- The Residential Tenancies Trust Fund, established under the *Residential Tenancies Act 1997*, wholly funds the Residential Tenancies List (\$12.13 million).
- The Domestic Building Fund, established under the *Domestic Building Contracts Act 1995*, wholly funds the Domestic Building List (\$2.69 million).
- The Guardianship and Administration Trust Fund established under the *Guardianship and Administration Act 1986*, partially funds the Guardianship List (\$1.5 million).
- The Legal Services Board established under the *Legal Profession Act 2004*, wholly funds the Legal Practice List (\$1.41 million).
- The Owners Corporations (Victorian Property Fund) jurisdiction was established under the *Owners Corporations Act 2006*, and is wholly funded by Consumer Affairs Victoria (\$1 million).

- The Australian Health Practitioner Regulation Agency and Victorian Health Professions Board wholly funds the Health Professions List which is a sub-list of the General, Occupational and Business Regulation and Taxation Lists for the hearing of disciplinary matters relating to health professionals (\$0.26 million).

### EXPENDITURE

In 2011–12, VCAT's recurrent expenditure of \$39.40 million was 4 per cent higher than the \$37.90 million expended by VCAT in 2010–11. This comprised expenditure on salaries to full-time, part-time and sessional Members (\$15 million), staff salaries (\$11.01 million), salary related on-costs (\$4.73 million) and operating expenses (\$9.10 million).

### VCAT AUDITED ACCOUNTS

VCAT's accounts are audited as part of the accounts of the Department of Justice and published in that Department's annual report.

The figures published in the Department's annual report may vary from the information published in this annual report, due to adjustments made in the period between their respective publications.

## OPERATING STATEMENT AND FINANCIAL SUMMARY

FUNDING	2011/12	2010/11
VCAT funding sources	\$m	\$m
Output appropriations	20.06	20.72
Residential Tenancies Fund	12.13	10.27
Domestic Building Fund	2.69	2.56
Guardianship and Administration Trust Fund	1.50	1.40
Retail Tenancies List	0.35	0.35
Legal Practice List	1.41	1.38
Victorian Property Fund	1.00	1.22
Health Boards	0.26	-
<b>TOTAL</b>	<b>39.40</b>	<b>37.90</b>

EXPENDITURE	2011/12	2010/11
VCAT operational expenditure	\$m	\$m
Salaries to staff	11.01	10.29
Salaries to full-time Members	7.52	7.23
Sessional Members	7.04	5.96
Salary related on-costs	4.73	4.48
Operating costs	9.10	9.94
<b>TOTAL</b>	<b>39.40</b>	<b>37.90</b>

VCAT Expenditure allocation by List	\$m	\$m
Planning	8.84	8.49
Major Cases <sup>1</sup>	0.60	0.99
Guardianship	5.42	5.23
General/ OBR/ Taxation	2.27	2.72
Anti-Discrimination	0.82	0.55
Civil Claims	3.00	2.78
Real Property	0.16	0.14
Land Valuation	0.35	0.51
Health Profession <sup>2</sup>	0.26	0.36
Retail Tenancies	0.44	0.41
Legal Practice List	1.42	1.38
Residential Tenancies Fund	12.13	10.27
Domestic Building Fund	2.69	2.56
Owners Corporations	1.00	1.22
<b>TOTAL</b>	<b>39.40</b>	<b>37.90</b>

1. Sub-list of the Planning and Environment List

2. Sub-lists of the General, Occupational and Business Regulation and Taxation Lists

## ALLOCATION OF FUNCTIONS

According to the Victorian Civil and Administrative Tribunal Rules 2008 [SR65/2008] as at 30 June 2012

### ADMINISTRATIVE DIVISION

#### General List

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the General List of the Administrative Division.

<i>Accident Compensation Act 1985</i>
<i>Adoption Act 1984</i> section 129A(1)(a) (decisions regarding fitness to adopt and approval to adopt)
<i>Associations Incorporation Act 1981</i>
<i>Births, Deaths and Marriages Registration Act 1996</i>
<i>Cemeteries and Crematoria Act 2003</i>
<i>Children, Youth and Families Act 2005</i>
<i>Co-operatives Act 1996</i>
<i>Country Fire Authority Act 1958</i>
<i>Dangerous Goods Act 1985</i>
<i>Disability Act 2006</i> section 50 (decision as to disability)
<i>Domestic (Feral and Nuisance) Animals Act 1994</i> section 98(2) (declaration and registration of dangerous dogs)
<i>Drugs, Poisons and Controlled Substances Act 1981</i>
<i>Electoral Act 2002</i>
<i>Electricity Safety Act 1998</i>
<i>Emergency Management Act 1986</i>
<i>Emergency Services Superannuation Act 1986</i>
<i>Equipment (Public Safety) Act 1994</i>
<i>Estate Agents Act 1980</i> section 81(5A) (claims against guarantee fund)
<i>Fisheries Act 1995</i>
<i>Freedom of Information Act 1982</i>
<i>Gas Safety Act 1997</i>
<i>Livestock Disease Control Act 1994</i>
<i>Local Government Act 1989</i> sections 38(2A) and 48 (decisions of Municipal Electoral Tribunal), section 133 (decision of the Minister imposing a surcharge) and clause 8 of Schedule 12 (decisions of returning officer concerning how-to-vote cards)
<i>Major Sporting Events Act 2009</i>
<i>Melbourne and Metropolitan Board of Works Act 1958</i>
<i>Metropolitan Fire Brigades Act 1958</i>
<i>Motor Car Traders Act 1986</i> section 79 (claims against guarantee fund)
<i>Parliamentary Salaries and Superannuation Act 1968</i>
<i>Public Health and Wellbeing Act 2008</i> section 204

<i>Relationships Act 2008</i> Part 2.4 of Chapter 2
<i>Road Management Act 2004</i>
<i>Road Transport (Dangerous Goods) Act 1995</i>
<i>State Employees Retirement Benefits Act 1979</i>
<i>State Superannuation Act 1988</i>
<i>Superannuation (Portability) Act 1989</i>
<i>Transport Accident Act 1986</i>
<i>Transport Superannuation Act 1988</i>
<i>Travel Agents Act 1986</i> section 46 (claims against approved compensation schemes)
<i>Unclaimed Money Act 2008</i> sections 59, 61 and 63
<i>Victims of Crime Assistance Act 1996</i>
<i>Victoria State Emergency Service Act 2005</i>
<i>Victorian Plantations Corporation Act 1993</i>
<i>Victorian Qualifications Authority Act 2000</i>

### LAND VALUATION LIST

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Land Valuation List of the Administrative Division.

<i>Flora and Fauna Guarantee Act 1988</i> section 43(12) (claims for compensation)
<i>Health Services Act 1988</i> section 67 (compulsory acquisition of land)
<i>Land Acquisition and Compensation Act 1986</i>
<i>Local Government Act 1989</i> section 183 (differential rating)
<i>Mildura College Lands Act 1916</i> section 2(ec) (decision of Valuer-General on value of land)
<i>Mineral Resources (Sustainable Development) Act 1990</i> section 88 (compensation for loss caused by work under a licence)
<i>Pipelines Act 2005</i> section 154
<i>Planning and Environment Act 1987</i> sections 94(5) (compensation as a result of order to stop development or cancellation or amendment of permit) and 105 (compensation for loss caused by reservation of land, restriction of access or road closure)
<i>Subdivision Act 1988</i> section 19 (valuation of land for public open space)
<i>Valuation of Land Act 1960</i> Part III (disputes on the value of land)
<i>Water Act 1989</i> section 266(6) (setting tariffs, fees under tariffs, valuation equalisation factors and valuations)

## OCCUPATIONAL AND BUSINESS REGULATION LIST

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Occupational and Business Regulation List of the Administrative Division.

*Adoption Act 1984* section 129A(1)(b) (decisions regarding approval of adoption agencies) and 129A(1)(c) (decisions regarding accreditation of bodies)

*Agricultural and Veterinary Chemicals (Control of Use) Act 1992*

*Architects Act 1991*

*Biological Control Act 1986*

*Building Act 1993* Division 12 of Part 12A

*Children's Services Act 1996*

*Consumer Credit (Victoria) Act 1995* Part 4 (registration of credit providers) and section 371(1) (permission, including conditions, to a disqualified person to engage or be involved in finance broking)

*Dairy Act 2000*

*Dangerous Goods Act 1985*

*Disability Act 2006* section 45 (registration of a disability service provider)

*Domestic (Feral and Nuisance) Animals Act 1994* section 98(1) (registration of premises to conduct a domestic animal business)

*Education and Training Reform Act 2006*, Division 14 of Part 2.6 and Part 4.8

*Estate Agents Act 1980* except sections 56B(1) (see Real Property List) and 81(5A) (see General List)

*Firearms Act 1996* section 182 (decisions of Firearms Appeals Committee)

*Fundraising Act 1998*

*Gambling Regulation Act 2003*

*Health Practitioner Regulation National Law* (applied in *Victoria by the Health Practitioner Regulation National Law (Victoria) Act 2009*), Part 8, Divisions 12 and 13

*Health Professions Registration Act 2005* Part 4

*Health Services Act 1988* section 110 (decisions of Minister or Chief General Manager under Part 4)

*Liquor Control Reform Act 1998*

*Local Government Act 1989* sections 30, 81D, 81E, 81J(1)(b), 81K, 81L, 81Q and 81R

*Marine Act 1988* section 85 (cancellation and suspension of certificates and licences)

*Meat Industry Act 1993* section 24 (licences to operate meat processing facilities, alteration of buildings)

*Mineral Resources (Sustainable Development) Act 1990*

*Motor Car Traders Act 1986* except sections 45 (see Civil Claims List) and 79 (see General List)

*Occupational Health and Safety Act 2004*

*Occupational Health and Safety Regulations 2007*

*Owner Drivers and Forestry Contractors Act 2005* section 41 (dispute between contractor and hirer)

*Owners Corporations Act 2006* Part 6 and Part 12

*Pipelines Act 2005* sections 64, 83 and 182

*Prevention of Cruelty to Animals Act 1986* section 33 (licensing of scientific establishments and breeding establishments)

*Private Security Act 2004* Part 7

*Professional Boxing and Combat Sports Act 1985* (licences, permits and registration)

*Prostitution Control Act 1994*

*Public Health and Wellbeing Act 2008* section 207

*Public Transport Competition Act 1995*

*Racing Act 1958*

*Rail Safety Act 2006* Part 7

*Second-Hand Dealers and Pawnbrokers Act 1989* sections 9B and 14 (correction of register)

*Surveying Act 2004* section 33 (review of decision, finding or determination)

*Therapeutic Goods (Victoria) Act 1994* section 71 (licensing of wholesale supply)

*Trade Measurement Act 1995* section 59 (licensing and discipline)

*Transport Act 1983* except section 56 (see Planning and Environment List)

*Travel Agents Act 1986* except section 46 (see General List)

*Utility Meters (Metrological Controls) Act 2002*

*Veterinary Practice Act 1997* section 55 (registration and discipline)

*Victoria State Emergency Service Act 2005*

*Victoria State Emergency Service Regulations 2006*

*Wildlife Act 1975*

*Working with Children Act 2005*

## PLANNING AND ENVIRONMENT LIST

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Planning and Environment List of the Administrative Division.

*Aboriginal Heritage Act 2006*

*Catchment and Land Protection Act 1994* section 48 (land use conditions and land management notices)

*Conservation, Forests and Lands Act 1987* section 76 (variation and termination of land management co-operative agreements)

*Environment Protection Act 1970*

*Extractive Industries Development Act 1995*

*Flora and Fauna Guarantee Act 1988* sections 34(3), 41 and 41A (interim conservation orders)

*Heritage Act 1995*

*Local Government Act 1989* sections 185 (imposition of special rate or charge) and 185AA (imposition of special rate or charge)

*Mineral Resources (Sustainable Development) Act 1990* except sections 88 (see Land Valuation List), 94 and 95 (see Occupational and Business Regulation List)

*Owners Corporations Act 2006* Part 6

*Planning and Environment Act 1987* except sections 94(5) and 105 (see Land Valuation List)

*Plant Health and Plant Products Act 1995* section 39 (costs and expenses of inspectors)

*Subdivision Act 1988* except sections 19 (see Land Valuation List), 36 and 39 (see Real Property List)

*Transport Act 1983* section 56 (decisions of the Public Transport Corporation or Roads Corporation)

*Water Act 1989* except sections 19 (see Real Property List) and 266(6) (see Land Valuation List)

*Water Industry Act 1994* except section 74 (see Real Property List)

## TAXATION LIST

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Taxation List of the Administrative Division.

*Business Franchise Acts*

*First Home Owner Grant Act 2000*

*Taxation Administration Act 1997*

## CIVIL DIVISION

### Civil Claims List

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Civil Claims List of the Civil Division.

*Domestic Building Contracts Act 1995*

*Fair Trading Act 1999*

*Motor Car Traders Act 1986* section 45 (rescission of agreement of sale of motor car)

*Owner Drivers and Forestry Contractors Act 2005*

*Owners Corporations Act 2006* Part 6 and Part 11, Divisions 1, 2, 3 and 4

*Retirement Villages Act 1986*

### Credit List

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Credit List of the Civil Division.

*Chattel Securities Act 1987* section 25 (compensation for extinguishment of security interest)

*Credit Act 1984*

*Credit (Administration) Act 1984*

*Consumer Credit (Victoria) Act 1995* except Part 4 and section 37(1) (see Occupational And Business Regulation List)

*Fair Trading Act 1999*

### Domestic Building List

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Domestic Building List of the Civil Division.

*Building Act 1993* except Division 12 of Part 12A

*Domestic Building Contracts Act 1995*

*Fair Trading Act 1999*

*House Contracts Guarantee Act 1987*

*Owners Corporations Act 2006* Part 6 and Part 11, Divisions 1, 2, 3 and 4

### Legal Practice List

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Legal Practice List of the Civil Division.

*Fair Trading Act 1999* (dispute between a legal practitioner and a client of a legal practitioner)

*Legal Profession Act 2004*

### Owners Corporations List

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Owners Corporations List of the Civil Division.

*Owners Corporations Act 2006* Part 6 and Part 11

*Subdivision Act 1988* Part 5, and sections 36 and 39 (other disputes)

*Fair Trading Act 1999*

### Real Property List

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Real Property List of the Civil Division.

*Estate Agents Act 1980* section 56B(1) (disputes about commissions and outgoings)

*Fair Trading Act 1999*

*Owners Corporations Act 2006* Part 6 and Part 11

*Property Law Act 1958* Part IV

*Sale of Land Act 1962* section 44

*Subdivision Act 1988* sections 36 and 39 (other disputes)

*Water Act 1989* section 19 (civil liability arising from various causes)

*Water Industry Act 1994* section 74 (liability of licensee)

### Residential Tenancies List

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Residential Tenancies List of the Civil Division.

*Disability Act 2006* Part 5 Division 2

*Fair Trading Act 1999*

*Housing Act 1983*

*Landlord and Tenant Act 1958*

*Owners Corporations Act 2006* Part 6 and Part 11, Divisions 1, 2, 3 and 4

*Residential Tenancies Act 1997*

*Retirement Villages Act 1986*

### Retail Tenancies List

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Retail Tenancies List of the Civil Division.

*Fair Trading Act 1999*

*Retail Leases Act 2003*

## HUMAN RIGHTS DIVISION

### Anti-Discrimination List

The functions of the Tribunal under the enabling enactment set out in the items below are allocated to the Anti-Discrimination List of the Human Rights Division.

*Equal Opportunity Act 2010*

*Racial and Religious Tolerance Act 2001*

### Guardianship List

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Guardianship List of the Human Rights Division.

*Disability Act 2006* Part 5 Division 3, Part 7, Part 8 Divisions 1, 3 and 5

*Guardianship and Administration Act 1986*

*Instruments Act 1958* Division 6 of Part XIA

*Medical Treatment Act 1988* section 5C (enduring powers of attorney)

*Trustee Companies Act 1984*

### Health and Privacy List

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Health and Privacy List of the Human Rights Division.

*Assisted Reproductive Treatment Act 2008*

*Health Records Act 2001*

*Information Privacy Act 2000*

*Public Health and Wellbeing Act 2008* section 122

### Mental Health List

The functions of the Tribunal under the enabling enactments set out in the items below are allocated to the Mental Health List of the Human Rights Division.

*Mental Health Act 1986* section 79 (decisions of Secretary), section 120 (decisions of Mental Health Review Board).



# VCAT MEMBER DIRECTORY

List of abbreviations: AD Anti-Discrimination, CC Civil Claims, DB Domestic Building, Gen General, G Guardianship, HP Health and Privacy, LV Land Valuation, LP Legal Practice, MH Mental Health, OBR Occupational and Business Regulation, OC Owners Corporations, P Planning, Real P Real Property, Res T Residential Tenancies, Ret T Retail Tenancies, Tax Taxation

## Judicial Members

### President

The Honourable Justice Greg Garde, AO RFD

### Vice Presidents

His Honour Judge John Bowman

Her Honour Judge Sandra Davis

His Honour Judge Mark Dean

His Honour Judge Timothy Ginnane

Her Honour Judge Felicity Hampel

Her Honour Judge Lisa Hannan

His Honour Judge Graeme Hicks

His Honour Judge Anthony Howard

Her Honour Judge Pamela Jenkins

Her Honour Judge Kathryn Kings

His Honour Judge Paul Lacava

His Honour Judge Michael Macnamara

His Honour Judge Philip Misso

Her Honour Judge Jeanette Morrish

His Honour Judge Christopher O'Neill

Her Honour Judge Susan Pullen

### Deputy Presidents

Aird, Catherine Elizabeth AD, C, CC, DB, Gen, G, HP, LV, LP, MH, OBR, OC, P, Real P, Res T, Ret T, Tax

Coghlan, Anne AD, C, CC, Gen, G, HP, MH, OBR, Res T, Tax

Dwyer, Mark Gen, LV, LP, OBR, P, Real P, R, Ret T, Tax

Gibson, Helen LV, P

Lambrick, Heather AD, C, CC, DB, Gen, G, HP, LV, LP, MH, OBR, OC, P, Real P, Res T, Ret T, Tax

Lulham, Ian CC, DB, OC, Real P, Res T, Ret T

### Senior Members

Baird, Margaret OBR, P, LP

Davis, Robert AD, CC, DB, Gen, HP, LV, LP, MH, OBR, OC, P, Real P, Ret T, Tax

Hewet, Laurie OBR, P

Nihill, Genevieve AD, CC, Gen, G, HP, OBR, OC, Res T

Preuss, Jacqueline AD, CC, Gen, G, LP, OBR, P

Proctor, Ian AD, C, CC, Gen, G, HP, LP, MH, OBR, OC, Res T

Rickards, Jeanette LV, OBR, P

Riegler, Eric CC, DB, OBR, Real P, Ret T

Scott, Robert CC, Gen, G, HP, MH, Res T

Smithers, Jonathan AD, CC, Gen, G, HP, LP, LV, MH, OBR, OC, P, Tax

Vassie, Alan C, CC, Gen, G, LV, LP, OC, Real P, Res T, Ret T

Walker, Rohan AD, CC, DB, Gen, G, HP, MH, OC, P, Real P, Res T, Ret T

### Part Time Senior Member

Wright, Heathcote (Michael) LV, OBR, P

### Senior Sessional Members

Byard, Russell LV, OBR, P, Real P

Dudycz, Maria AD, G, HP, MH, OBR

Dyett, Francis AD, C, CC, DB, Gen, G, HP, LV, LP, MH, OBR, OC, P, Real P, Res T, Ret T, Tax

Fanning, David\* CC, G, HP, MH, Res T

Galvin, John CC, Gen, G, OBR, OC, Res T

Hawkins, Annabel CC, G, Res T

Komesaroff, Tonia LV, OBR, P

Levine, Michael C, CC, DB, Gen, G, OBR, OC, LV, LP, Real P, Res T, Ret T

Liston, Anthony Paul OBR, P

Lothian, Margaret AD, C, CC, DB, G, HP, MH, OBR, OC, P, Real P, Res T, Ret T

McKenzie, Cathryn (Cate) AD, C, CC, Gen, G, HP, MH, OBR

Megay, Noreen AD, CC, Gen, G, HP, LP, MH, OBR, OC, Real P, Res T, Ret T, Tax

Nixon, John AD, C, CC, DB, Gen, G, HP, LV, LP, MH, OBR, OC, P, Real P, Res T, Ret T, Tax

Sharkey, Gerard Real P

Steele, Bernadette Marie AD, CC, DB, Gen, G, HP, MH, OBR, OC, Real P, Res T, Ret T

Williams, Roland AD, C, CC, DB, Gen, G, HP, LV, LP, MH, OBR, OC, P, Real P, Res T, Ret T, Tax

### Full Time Members

Barker, Heather CC, G, OC, Res T

Bennett, John P, OBR

Benz, Elizabeth P

Butcher RFD, Gerard CC, DB, Gen, LP, OBR, OC

Carruthers, Maureen AD, G, HP

Cimino, Salvatore (Sam) OBR, P

Code, Geoffrey LV, OBR, P

Deidun, Michael P

Farrelly, Mark OC

French, Rebecca AD, CC, Gen, LP, OBR, OC, Real P, Ret T, Tax

Grainger, Julie C, CC, Gen, G, HP, MH, OBR, OC, Res T

Holloway, William CC, DB, Gen, G, OC, Res T

Kefford, Jacquelyn C, CC, G, OC, Res T

Liden, Susanne AD, C, CC, Gen, G, HP, MH, OBR, OC, Res T

Martin, Philip LV, OBR, P

Moraitis, Stella CC, C, G, Gen, HP, LP, MH, OC, Res T

Naylor, Rachel OBR, P

Potts, Ian William P, Real P

Rundell, Geoffrey David P

Sibonis, Bill (Valilios) OBR, P

Tilley, Annemarie AD, CC, Gen, G, HP, MH, OC, Res T

### Part Time Members

Cook, Dalia LV, P, OBR, Real P

Dea, Anna AD, CC, DB, HP, MH, OBR, OC, Real P, Res T, Ret T

### Sessional Members

Alsop, David P

Anderson, Diane OBR

Anderson, Sandy OBR

Archibald, Mary OBR

Au-Yeung, Dominic OBR

Barrand, Pamela CC, G, OC, Res T

Barry, Pamela OBR

Batrouney, Roger LP

Beasley, Speros LP

Bilston-McGillen, Tracey P

Blachford, Melvin OBR

Boyd-Squires, Siobhan OBR

Bridge, Emma CC, Gen, G, HP, MH, OC, Res T

Buchanan, Robert C, CC, DB, Gen, LP, OBR, OC, Real P, Res T, Ret T, Tax

Burdon-Smith, Susan AD, CC, Gen, G, OBR, OC, Res T

Burge, Dorothy (Barbara) HP, MH, OBR

Bylhower, Marietta OBR

Calabro, Domenico CC, Gen, G, OC, Res T

Cali, Louis OBR

## FURTHER INFORMATION

Cameron, Melanie	OBR	Hancock, Elizabeth	LV	Phillips, Robert	CC, G, HP, OC, Res T
Campana, Kylea	CC, OC, Res T	Hannerbery, Elaine	LP	Phillips, Sabine	OBR
Campbell, Heather	LV, OBR	Harris, Elizabeth	LP	Pinksier, Nathan	OBR
Carew, Megan	OBR, P	Harrison, Fiona	LP	Power, Marian	OBR
Chase, Gregory	P	Harper, Patricia	HP, LP	Price, Charlene	CC, P, Res T
Cherrie, Deborah	LP	Hartsias, Joanna	P	Price, Roland	CC, OC, Res T
Chuck, Alan	P, Real P	Harty, Chistopher	P	Prince, Mark	OBR
Cogley, Vicki	OBR	Harvey, Margaret	AD, CC, G, OC, Res T, MH, HP	Rae, David	P
Collopy, Brian	HP, MH, OBR	Horan, Anthony	LP	Read, Michael	P
Cooke, Jenny	OBR	Hughes, Elizabeth	OBR	Reddy, Aruna	HP, MH, OBR
Cooney, Elizabeth	LP	Jacono, Justine	LV	Reggars, John	OBR
Coulson Barr, Lynne	LP	Jacquiery, Errol	LP, OBR	Ridgwell, Barbara	HP,
Counsel, Caroline	LP	Jenkins, Louise	LP	Riley, Colin	OBR
Crawford, Gwenneth	OBR	Jones, Leslie	LV	Rowland, Linda	AD, CC, DB, G, Gen, OBR, OC, Real P, Res T, Ret T
Cremean, Bernadette	AD, CC, OC, Res T	Jones, Russell	LP	Rundell, John	P, Real P
David, Graeme	P	Jopling, Peter	LP	Ryan, Amanda	OBR
Davies, Dennis	LP	Josephs, Barry	CC, OC, Res T	Shanahan, Elizabeth	HP, MH, OBR
Davies, Hugh	CC, DB, LP, OC, Res T, Ret T	Keaney, John	P	Sharkie, John	CC, OC, Res T, Ret T
Davies, Vicki	P	Keddie, Ann	P	Sharpley, Gregory	P
Davine, Diarmid	LP	Keith, Benedict	OBR	Shattlock, Peter	LP
Davis, Bruce	OBR	King, Ross	OBR	Slattery, Alison	P
Davis, Julian	G, OBR	Kirmos, Kay	CC, Res T	Slee, Felicity	OBR
Dawson, Frank	P	Klingender, Jessica	CC, G, OC, Res T	Soldani, Angela	CC, G, Res T
Delany, Clare	OBR	Kominos, Angela	AD, CC, G, HP, MH, OC, Res T	Southall, Anthony	LP
Dickinson, Anthony	OBR	Lennie, Owen	LV	Sweeney, Michael	CC, Gen, OC, Res T, Ret T
Doherty, Kathleen	OBR	Leshinsky, Judith	LV, OBR, OC, P, Real P	Tan, Eng-Seong	OBR
Draper, Barry	OBR	Levin, David	LP	Taranto, Mary-Ann	P
Drinkwater, John Stuart	OBR	Levy, Leonard	OBR	Treble, Andrea	AD, CC, G, Gen, HP, OBR, OC, Res T
Duffy, Jane	OBR	Lightfoot, Brian	CC, G, Real P, Res T, Ret T	Triglia, Maria	OBR
Duggan, Anne	G	Lipe, Shelley	CC, OC, Res T	Tyler, Peter	CC, Gen, P, Res T
Eggleston, Peter	CC, DB, Gen, LP, OBR, OC, Real P, Res T, Ret T	Lipson, Mark	LP	Wajzman, Jack	CC, OC, Res T
El Moussalli, Michael	OBR	List, David	OBR	Walsh, Jill	OBR
Fabris, Elaine	HP, OBR	Malbon, Alan	OBR	Warren, Lindsay Kevin	CC, G, OC, Res T, Ret T
Farhall, John	OBR	Manning, Carolyn	OBR	Waterhouse, John	OBR
Farkas, Michael	LP	Marks, Felicity	CC, OC	Watson, Tracey	P
Farrelly, Peter	OBR	Marshall, Simone	OBR	Wentworth, Elisabeth	AD, CC, C, Gen, LP, OC, Res T
Ferres, Beverley	AD, G, OBR	McCabe, Edmund	CC, G, OC, Res T	West, Lynda	AD, CC, G, Gen, OBR, OC, Res T
Fleer, Frank	P	McCann, David	CC, Res T	Williams, Charles	AD, G, Gen, OBR
Fleming, Natalie	HP	McClintock, Kathleen	OBR	Wilson, Catherine	P
Fong, Christine	OBR, P	McGarvie, Ann	CC, G, HP, MH, OC, Res T	Wilson, Cynthia	P
Fraser, Glenys	AD, CC, LP, OBR	McKenzie, Susanne	LP	Wilson, Silvana	CC, Res T, G
Fraser, Glenys	AD, CC, LP, OBR	McKeown, Patricia	OBR	Zheng, Samuel Xianbing	OBR
Fry, Sydney	CC, P, Res T	McMeekan, Joan	OBR		
Gerber, Paula	CC, DB	McNamara, Kenneth	P		
Geyer, Carol Mavis	OBR	Molloy, Patricia (Trish)	HP, MH, OBR		
Gilbert, Jayce	OBR	Moloney, Peter	CC, OC, Res T		
Gleeson, John	OBR	Moon, Anne Maree	CC, OC, Res T		
Glover, John	Gen, Tax	Mulcare, Christine	LP		
Glynn, Alison	P	Myers, Paul	LP		
Good (Keon-Cohen), June	CC, G, OC, Res T	Nagle, Kathleen	OBR		
Goulding, Megan	P	Neill, Diane	OBR		
Graves, Phillip	G, HP, MH	Nelthorpe, Michael	P		
Gray, Peter	P	Norman, Kathryn	CC, G, Res T		
Gosvenor, Russell	OBR	O'Brien, Elissa	OBR		
Gu, (Sherman) Xu Ming	OBR	Ogloff, James	OBR		
Gymer, Raymond	OBR	Page, Rodney John	LP, G		
Gysslink, Paul Francis	OBR	Paterson, Katherine	P		
Hadjigeorgiou, Nicholas	P	Pearson, Ros	OBR		
Hally, Mary	OBR	Perera, Christopher	G		

### TOTALS:

Judicial Members **17**

Deputy Presidents **6**

Senior Members **12**

Part Time Senior Members **1**

Senior Sessional Members **15**

Full Time Members **21**

Part Time Members **2**

Sessional Members **179**

\* Magistrates **1**

# VCAT CONTACT DETAILS

## MAIN OFFICE

Victorian Civil and Administrative Tribunal (VCAT)  
55 King Street, Melbourne, Victoria 3000  
Email: [vcat@vcat.vic.gov.au](mailto:vcat@vcat.vic.gov.au)  
Website: [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

### Anti-Discrimination List

Tel: +61 9628 9900  
Fax: +61 9628 9932

### Civil Claims List

Tel: +61 9628 9830  
Fax: +61 9628 9967  
1800 133 055 (within Victoria)

### Domestic Building List

Tel: +61 9628 9999  
Fax: +61 9628 9988

### General List

Tel: +61 9628 9755  
Fax: +61 9628 9788

### Guardianship List

Tel: +61 9628 9911  
Fax: +61 9628 9932  
1800 133 055 (within Victoria)

### Health and Privacy List

Tel: +61 9628 9900  
Fax: +61 9628 9932

### Land Valuation List

Tel: +61 9628 9766  
Fax: +61 9628 9789

### Legal Practice List

Tel: +61 9628 9755  
Fax: +61 9628 9788

### Mental Health List

Tel: +61 9628 9900  
Fax: +61 9628 9932

### Occupational and Business Regulation List

Tel: +61 9628 9755  
Fax: +61 9628 9788

### Owners Corporations List

Tel: +61 9628 9830  
Fax: +61 9628 9967

### Planning and Environment List

Tel: +61 9628 9777  
Fax: +61 9628 9789

### Real Property List

Tel: +61 9628 9960  
Fax: +61 9628 9988

### Residential Tenancies List

Tel: +61 9628 9800  
Fax: +61 9628 9822  
1800 133 055 (within Victoria)  
Registered users can access VCAT online through the website.

### Retail Tenancies List

Tel: +61 9628 9960  
Fax: +61 9628 9988

### Taxation List

Tel: +61 9628 9755  
Fax: +61 9628 9788

# VCAT HEARING LOCATIONS

VCAT sits at a number of suburban and regional locations throughout Victoria.

## SUBURBAN

### BERWICK

Berwick Justice Service Centre  
Wheeler Street

### BROADMEADOWS

Hume Global Learning Centre  
1093 Pascoe Vale Road

### COLLINGWOOD

Neighbourhood Justice Centre  
Wellington Street

### DANDENONG\*

Cnr Foster and Pultney Streets

### FRANKSTON\*

Fletcher Road

### HEIDELBERG\*

Jika Street

### MOORABBIN\*

Moorabbin Justice Centre  
Nepean Highway, Highett

### RINGWOOD\*

Ringwood Street

### SUNSHINE\*

10 Foundry Road  
(Entry via Harvester Road)

### WERRIBEE\*

Salisbury Street

## REGIONAL

### ARARAT\*

Cnr Barkly and Ingor Streets

### BAIRNSDALE\*

Nicholson Street

### BALLARAT\*

100 Grenville Street South

### BENALLA\*

Bridge Street

### BENDIGO\*

71 Pall Mall

### CASTLEMAINE\*

Lyttleton Street

### COBRAM\*

Cnr Punt Road and High Street

### COLAC\*

Queen Street

### DROMANA\*

Codrington Street

### ECHUCA\*

Heygarth Street

### GEELONG\*

Railway Terrace

### HAMILTON\*

Martin Street

### HORSHAM\*

Roberts Avenue

### KERANG\*

Victoria Street

### KORUMBURRA\*

Bridge Street

### MILDURA\*

Deakin Avenue

### MOE\*

Lloyd Street

### MORWELL\*

134 Commercial Road

### PORTLAND\*

67 Cliff Street

### ROBINVALE\*

George Street

### SALE\*

Foster Street (Princes Highway)

### SEYMOUR\*

Tallarook Street

### SHEPPARTON\*

High Street

### SWAN HILL\*

Curlewis Street

### WANGARATTA\*

Faithfull Street

### WARRNAMBOOL\*

218 Koroit Street

### WODONGA\*

5 Elgin Boulevard

### WONTHAGGI\*

Watt Street

## HOSPITALS

### CAULFIELD

260 Kooyong Road

### CHELTENHAM

Kingston Centre  
Warrigal Road

### PARKVILLE

Royal Melbourne, Royal Park Campus  
34-54 Poplar Road

### WANTIRNA

251 Mountain Highway

### BUNDOORA

Northern Hospital, Bundoora  
Extended Care Centre  
1231 Pleny Road

[www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)