

10 YEARS OF  
VCAT

# LETTER TO THE ATTORNEY-GENERAL

The Hon Rob Hulls MP  
Attorney-General  
55 St Andrews Place  
Melbourne 3002

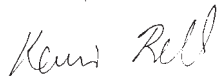
Dear Attorney-General

In this our 10th anniversary year, we are pleased to present the Annual Report of the performance and operations of the Victorian Civil and Administrative Tribunal (VCAT) from 1 July 2007 to 30 June 2008.

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 2008; and
- proposals for improving the operation of VCAT and forecasts of VCAT's workload in the subsequent 12-month period.

Sincerely,



Justice Kevin Bell  
President



Samantha Ludolf  
Chief Executive Officer



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## PRESIDENT'S REPORT

“

EQUAL ACCESS  
TO JUSTICE IS OF  
FUNDAMENTAL  
IMPORTANCE TO  
THE COMMUNITY.

”



Equal access to justice is of fundamental importance to the community. That is why this year I accepted the appointment of president of the Victorian Civil and Administrative Tribunal. While remaining a justice of the Supreme Court of Victoria, being president of VCAT enables me to contribute something more: to lead the largest tribunal in Australia, a pioneer in alternative dispute resolution, whose reason for existence is to fulfil that fundamental objective of providing the community with equal access to justice.

This is VCAT's 10th anniversary year. As previous annual reports and this one show, since 1998 the tribunal has gone from strength to strength. The number of jurisdictions added, applications filed, mediations conducted and decisions made has continued to increase. We now receive some 90,000 applications a year, which is testament enough to VCAT's importance to the Victorian community and

its civil justice system. The members and staff of VCAT should feel proud of their work, as I do in joining the organisation.

To Judge John Bowman, who has been acting president, I express my sincere thanks. Judge Bowman gave VCAT much needed support and guidance, and also the personal warmth and care for which his Honour is well known. Judge Bowman remains a vice-president of VCAT, which gives us the continuing benefit of his experience.

Justice Stuart Morris, my predecessor at VCAT, was a distinguished president for three years. He will be especially remembered for the aptly named 'Operation Jaguar', by which hearing and waiting times in the planning and environment list were significantly reduced. I give Stuart Morris QC my best wishes for the future in his career at the Victorian Bar, to which he has returned.

Our chief executive officer, Ms Samantha Ludolf, worked closely with Justice Morris and Judge Bowman. Many important initiatives were undertaken in that period, in particular the recent and on-going registry review. With the vice-presidents and deputy presidents who comprise the heads of lists committee, I have endorsed the implementation of that project. Ms Ludolf is an energetic and talented CEO. Having worked with her at the Supreme Court, I look forward to building on that relationship at VCAT – especially during my review of the tribunal and in carrying through *ONE VCAT*.

The tribunal review to which I have referred has been requested by the Victorian government. Due for completion by 30 November 2009, the review will help to prepare the tribunal for its second decade. As I said in a recent keynote address to the Law Institute of Victoria, I was pleased to accept the task of undertaking the review at this opportune time for reflection upon the tribunal's performance. In undertaking the review, I will consider a range of access, operational and jurisdictional issues. I will also consider whether VCAT is achieving its objectives, taking advantage of its opportunities, and equipped to face future challenges. My keynote address ('The role of VCAT in a changing world: the President's review of VCAT') further elaborates on aspects of the review and is available on VCAT's website.

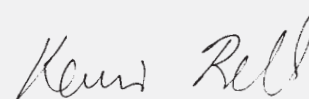
*ONE VCAT* is a term I use – italicized for emphasis – to describe a key policy priority: the unification of VCAT under modern governance and management practices. The objective of *ONE VCAT*

is (to use Ms Ludolf's words) to make our operations seamless and to fully realise the bold mission of unifying Victoria's previously disparate tribunals into an efficient, flexible, accountable and engaged institution. Through *ONE VCAT*, the Tribunal will be able to deliver reasonably consistent and predictable procedures, standards and outcomes to the whole of the Victorian community, and do so inexpensively and quickly, especially through the use of alternative dispute resolution processes.

Under section 37(1)(b) of the *Victorian Civil and Administrative Tribunal Act 1998*, I am required to include in the annual report proposals for improving the operation of VCAT in the next 12 months. The implementation of *ONE VCAT* is my principle proposal in this annual report. The tribunal review will provide the foundation for my future proposals in the next annual report.

Before concluding, I would like to acknowledge in this reporting period the coming into full force of the *Charter of Human Rights and Responsibilities Act 2006*. This was an historic milestone in the evolution of democracy in Victoria. The Charter explicitly recognises human rights and requires every public body in Victoria to act consistently with those rights. VCAT has important responsibilities under the Charter. More than this, VCAT embraces the values of the Charter, which are already reflected in so much of what we do. VCAT has begun, and will continue, the process of implementing the Charter, by which it will fulfil not only its statutory obligations, but also enhance respect for human rights in the community.

VCAT provides equal access to justice in its engagement with the community in all respects – through its administrative processes, the mediations it conducts, the decisions it makes, and the wider educative role it plays. As you will see from the general descriptions and specific illustrations that follow, that is the theme of this annual report. Our commitment in this regard is personified by deputy president Cate McKenzie AM who, in 2008, received her award for service to the law and the community. To Deputy President McKenzie may I say, congratulations!



**Justice Kevin Bell**  
President

## CHIEF EXECUTIVE OFFICER'S MESSAGE

“

WE ARE A VIBRANT, THRIVING ORGANISATION WITH 10 SUCCESSFUL YEARS BEHIND US AND A PROMISING FUTURE AHEAD.

”



What a fantastic year for VCAT! This year marks our 10th anniversary and it has been wonderful to serve the organisation as we have looked back fondly on our past achievements – and looked forward to an exciting future.

When I think about VCAT's history, a number of major achievements come to mind:

- the successful amalgamation of a range of different tribunals, combining to offer a one-stop shop for dispute resolution;
- the development and promotion of alternative dispute resolution processes, supported by modern facilities, to assist parties to reach their own solutions;
- the application of combined learnings as expertise is shared between Lists and jurisdictions;
- the new jurisdictions conferred on the Tribunal, and our ability to accommodate them with a minimum of fuss; and

- our sustained culture of informality, despite increasingly complex cases. These achievements illustrate that VCAT is a thriving community-focused organisation with a strong foundation from which to build future successes.

We will begin to think of ways to raise VCAT's profile and become even more accessible, particularly to people who are suffering disadvantage or may not be aware of our services. We will strive to maintain VCAT's informal approach to dispute resolution while accommodating new jurisdictions and more complex matters. And, of course, we will support the continued integration of VCAT's operations to become a seamless organisation, providing expert, inexpensive and fair outcomes, crafted to meet the needs of parties wherever possible.

Turning to the current reporting period, I want to thank the former Acting President,

Judge Bowman, for his encouragement and support in this my second year with VCAT. He made the difficult task of settling into a new organisation a breeze.

I also want to take this opportunity to express my delight at the appointment of Justice Bell as our new President. I was fortunate to work with Justice Bell for a time at the Supreme Court, and his outstanding contribution to the community is well known. I am sure that VCAT and the community it serves will benefit greatly from his expertise and wisdom. I am looking forward to supporting Justice Bell in the process of the President's Review, which will be undertaken in the upcoming reporting period.

This year, a number of new jurisdictions were allocated to the Tribunal and amendments were made to Acts under which VCAT already had jurisdiction. These included the *Owners Corporation Act 2006*, *Disability Act 2006* and the *Health Professions Registration Act 2005*. Our successful accommodation of these changes was further evidence of VCAT's capacity to adapt our processes and effectively respond to developments in the law.

The additional demands on the Tribunal are recognised in this Annual Report, as once again our statistics show that most Lists recorded increasing workloads. We expect this to continue, as we prepare to support the introduction of new and changed laws. In particular, our Human Rights Division will be responding to changes to Victoria's equal opportunity laws as a result of the Parliamentary review of the *Equal Opportunity Act 1995*. In addition, the Residential Tenancies List

will be asked to resolve tenancy disputes arising from amendments to the *Residential Tenancies Act 1997* proposed under the Crimes (Family Violence) Bill 2008.

Our processes are continually being improved so that we can support members of the public who are affected by changes in the law. One way in which we are doing that is via a review of VCAT's Registry. Our Registry is the engine room for correspondence, information and queries between the Tribunal and the community it serves. It has had to adapt over the years to new and growing jurisdictions, each with its own unique set of communication needs. To ensure its continued high level of service with this increasing – and increasingly diverse – workload, we commissioned a review of its processes, system and structures. The Review commenced in 2007, and has delivered recommendations about how we can improve in these areas. Implementation has started and will continue in the new financial year. We look forward to significant improvements to this vital function of the Tribunal.

It has been a busy year, and I take this opportunity to thank the staff of VCAT, not only for their continual support in improving the Tribunal's services, but also for what they contribute to VCAT's culture. We are a vibrant, thriving organisation, with 10 successful years behind us, and a promising future ahead.



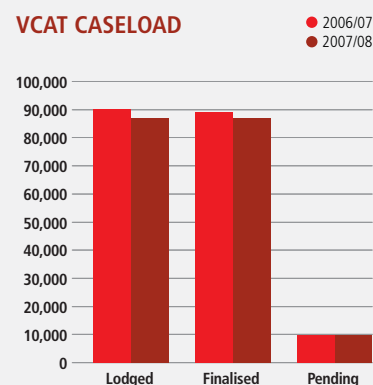
**Samantha Ludolf**  
Chief Executive Officer

## YEAR AT A GLANCE

### Overview

	2007-08	2006-07	CHANGE
Cases Lodged	86,971	90,218	-4%
Cases Finalised	86,911	89,059	-2%
Cases Pending	9,919	9,786	1%
Overall Mediation Success Rate	70%	69%	1%
Visits to VCAT Website	650,265	566,538	15%
Hearing Venues Used	101	99	2%

### VCAT CASELOAD



### LISTS

Cases received per List	2007-08	2006-07	Change
<b>Human Rights</b>			
Guardianship	9,698	10,229	-5%
Anti-Discrimination	340	361	-6%
<b>Civil</b>			
Civil Claims	8,975	8,043	12%
Credit	379	300	26%
Residential Tenancies	61,089	65,453	-7%
Domestic Building	756	825	-8%
Legal Practice	329	291	13%
Retail Tenancies	205	226	-9%
Real Property	173	175	-1%
<b>Administrative</b>			
Planning and Environment	3,640	3,250	12%
Land Valuation	99	70	41%
General List	921	833	11%
Occupation and Business Regulation	341	139	145%
Taxation	26	23	13%

### OUR PEOPLE

	2007-08	2006-07	Change
VCAT Staff	206	201	2%
Judicial Members	6	8	-25%
Full-time Members	41	42	-2%
Sessional Members	193	136	42%

### TWO-YEAR FINANCIAL SUMMARY

FUNDING	2007-08	2006-07	Change
VCAT Funding Sources	\$m	\$m	
Output Appropriations	16.94	16.04	6%
Residential Tenancies Fund	9.23	8.58	8%
Domestic Building Fund	2.23	2.06	8%
Guardianship & Administration Trust Fund	1.70	1.10	55%
Retail Tenancies List	0.30	0.26	15%
Legal Practice List	1.44	1.41	2%
<b>Total</b>	<b>31.84</b>	<b>29.45</b>	<b>8%</b>

EXPENDITURE	2007-08	2006-07	Change
VCAT Operational Expenditure	\$m	\$m	
Salaries to staff	8.43	7.77	8%
Salaries to full-time Members	7.64	6.68	14%
Sessional Members	4.29	4.06	6%
Salary related on-costs	3.44	2.93	17%
Operating costs	8.04	8.01	0%
<b>Total</b>	<b>31.84</b>	<b>29.45</b>	<b>8%</b>





# ABOUT VCAT

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# ABOUT VCAT



## WHO WE ARE

The Victorian Civil and Administrative Tribunal (VCAT) was established under the *Victorian Civil and Administrative Tribunal Act 1998* (the 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.

A Supreme Court Judge heads VCAT as President and County Court Judges serve as Vice-Presidents. Deputy Presidents are appointed to manage one or more Lists, and a Rules Committee develops rules of practice and procedure.

Senior Members and Members serve on the Lists on a full-time or sessional basis. They have a broad range of specialised skills and qualifications, which enables VCAT to hear and determine cases of varying complexity and subject matter.

## WHAT WE DO

Our purpose is to provide Victorians with a modern, low cost, accessible and efficient independent civil justice system, delivering high quality, expert decisions.

VCAT addresses issues of importance to the community. Its decisions range from those that critically affect people needing assistance to manage their personal or financial affairs, through to those that impact the Victorian environment and economy in the areas of planning and development, liquor licensing, and business regulation.

More than one million Victorians are directly affected by VCAT decisions in any given year. For each of the approximately 225,000 parties attending VCAT, at least four other people will have an interest in the outcome, including family members, business associates, company employees and local residents.

In our **Civil Division**, we assist Victorians to resolve a range of civil disputes involving:

- consumer matters;
- credit;
- domestic building works;
- legal practice matters;
- residential tenancies; and
- retail tenancies.

Our **Administrative Division** deals with disputes between citizens and Government about:

- land valuation;
- licences to carry on business, such as motor trading, travel agencies, clubs and bars;
- planning and environment;
- state taxation; and
- decisions made by government bodies, such as the Transport Accident Commission.

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

- guardianship and administration;
- discrimination; and
- racial and religious vilification.

## OUR OBJECTIVES

1. To achieve excellence in our service to users and the public by being:

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

2. Effectively anticipate and meet the demands for dispute resolution by being:

- independent
- responsible
- responsive

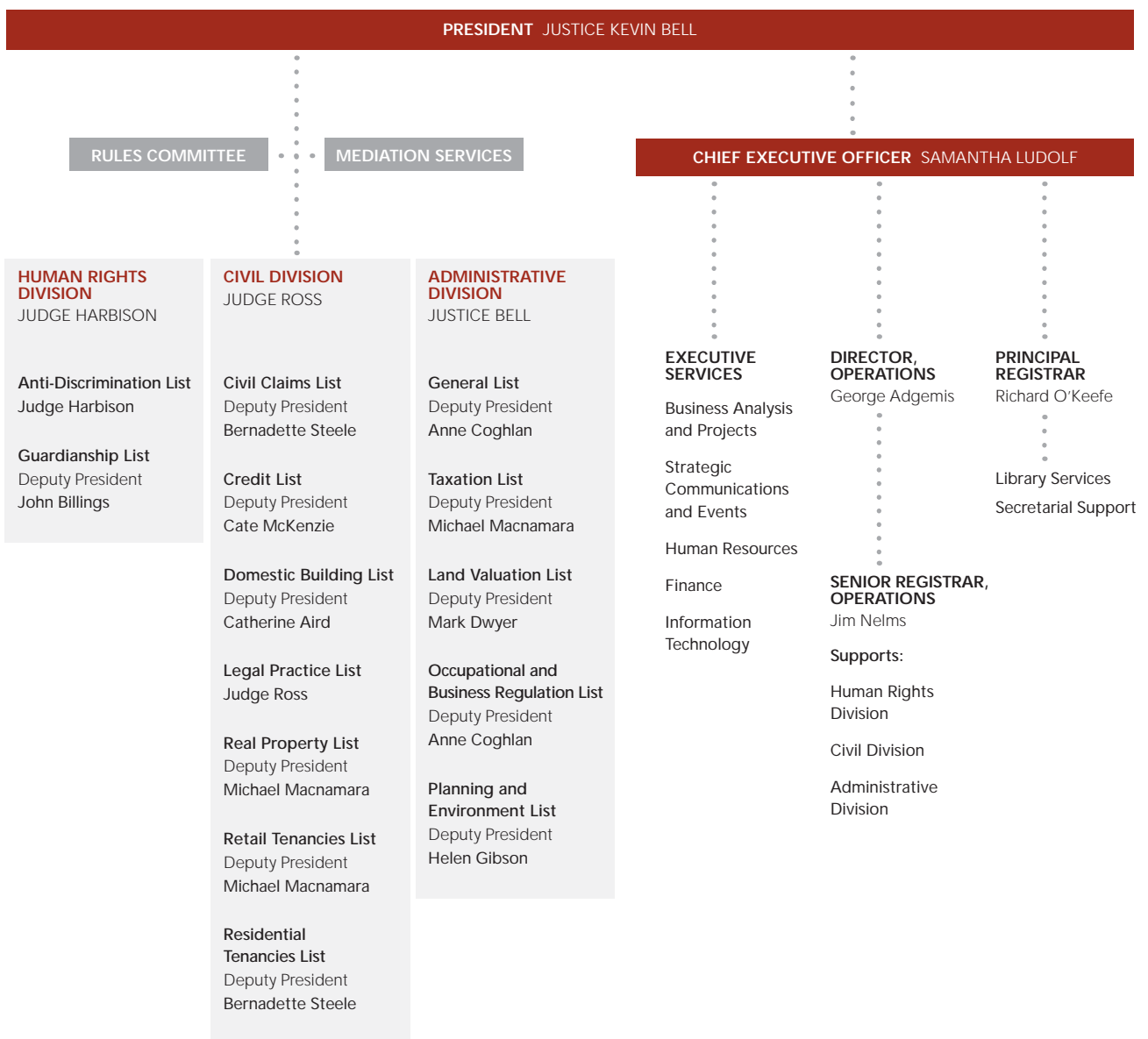
3. Invest in the development of flexible, satisfied and skilled Members and staff by providing:

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

4. Continue to raise awareness of our services and improve service delivery through:

- user feedback
- community engagement
- education

# VCAT ORGANISATIONAL STRUCTURE





Members and the Community

VCAT and the Community

# SERVING THE COMMUNITY

## MEMBERS AND THE COMMUNITY

VCAT was established in order for Victorians to receive more efficient and effective dispute resolutions. Our presence in the community serves the community.

But our community involvement goes much further than our resolution services. In this year when we celebrate 10 years of serving Victoria, we highlight the ways in which individual Members have effectively engaged with local, national and international communities:

VCAT's recognition as a leader in mediation was highlighted when Principal Mediator, **Margaret Lothian**, was invited to visit Papua New Guinea. Margaret gave presentations on court-annexed mediation for lawyers working in the Solicitor General's office in Port Moresby. Back in Australia, Margaret also presented a seminar to the Building Dispute Practitioners Society and spoke to Deakin University students and members of the public in Warrnambool.

November 2007 marked the passing of VCAT member and mediator, **Michael Walsh**. Michael embodied all that is best in VCAT mediators; he was learned in the law, just, compassionate, logical, resourceful and consistent. He always highlighted the

needs and interests of the people behind disputes and he had the wisdom and generosity to craft lasting settlements. He will be sadly missed, but his example lives on. Michael is survived by his wife, Marie, his six daughters and eight grandchildren.

Deputy President **Helen Gibson** gave a number of talks, regionally and in Melbourne, for members of the Victorian Planning and Environmental Law Association (VPELA). Her topics ranged from preparing expert evidence for the Tribunal, to a seminar entitled 'Women, Politics and Planning'.

Deputy President **Catherine Aird** gave presentations to a number of organisations:

- the Law Institute of Victoria
- Leo Cussen Institute
- the Building Disputes Practitioners' Society
- the Australian Society of Building Consultants
- Master Builders Tasmania.

Her topics included 'Resolving Domestic Building Disputes at VCAT', 'Expert Reports', and 'It's All About the People – Avoiding and Resolving Disputes with Clients'.

Additional to his many speaking engagements, Deputy President **John**

**Billings** gave an interview for 'The Illegals' Radio show on 3WBC FM. His topic was 'Guardianship and Administration in Victoria'.

Deputy President **Michael Macnamara** addressed the Law Institute of Victoria's Government Lawyer Forum. His topic – 'Appearing Before the Victorian Civil and Administrative Tribunal' – covered the nature of VCAT's review jurisdiction; section 49 statements; use of witness statements and tribunal books; and modes of presentation at hearings.

**Judge Harbison** and Deputy President **Cate McKenzie** attended a Human Rights conference in New Zealand relating to common Human Rights issues in Australia and New Zealand.

Deputy President **Mark Dwyer** participated in activities of the Municipal Valuers Association and accepted invitations to speak to valuers.



### Congratulations Deputy President Cate McKenzie AM

In a major acknowledgment of VCAT's influence in the community, one of our Deputy Presidents, Cate McKenzie, was in 2008 made a Member of the General Division of the Order of Australia. Cate received her honour for service to the law and the community, especially as an advocate for human rights and equal opportunity. In the reporting period, Cate also served on the Gardner State Parliamentary Report Advisory Committee, providing expert assistance and input into this major review of Victoria's equal opportunity laws.

## VCAT AND THE COMMUNITY



To provide Victorians with the best possible independent legal service, we must understand and meet community expectations.

There are three general ways in which VCAT seeks community feedback and participation:

### User Groups

User Groups play a vital role in the ongoing development of our processes. The Groups are comprised of a broad spectrum of representatives from community and industry groups and the legal profession. Members of most Lists conduct regular User Group meetings where representatives have the opportunity to offer valuable feedback.

### Information Sessions

Information sessions provide essential community engagement, helping to raise awareness about the many services VCAT provides. Members, Judicial Members, and key staff regularly conduct information sessions covering topics important to users.

### Visitors to VCAT

Legal groups, international groups, and tertiary and high school students frequently visit VCAT to observe our operations. We accommodate these visits with an introductory seminar and access to our hearings.

In addition to these forums, we work in the community to offer assistance in areas in which we have expertise, and also to raise awareness about our full range of services. Listed below are just some of the ways we did this in 2007–08:

We hosted the three-day Australasian Residential Tenancies Conference, 'Changing Communities Changing Needs', at which Tim Costello (AO), CEO of World Vision, was the keynote speaker.

We assisted interest groups to develop approaches to the new *Owners Corporation Act 2006*. As part of that, we worked closely

with Consumer Affairs Victoria which advises the public about civil claims issues.

We presented a mock mediation and hearing to some 200 staff and members of the Financial and Consumer Rights Council Victoria and Consumer Affairs Victoria. The event allowed counsellors and others dealing with consumer debt issues a first-hand experience of the role of VCAT in resolving credit disputes.

We participated in the Victoria Law Foundation Civics Roadshow – a regional education project aimed mainly at Victorian secondary school students, but also members of the public. VCAT's involvement included a melodrama called 'Get a Life' for audiences in Warrnambool, demonstrating self-help methods for informally resolving disputes.

Members contributed to the professional development of council planners through the Department of Sustainability and Environment's PLANET program.

As part of Law Week, we conducted a moot mediation for the general public. The moot addressed a domestic building dispute between Ms Lyttle and Mr Pigge!

Upon request of the National Alternative Dispute Resolution Advisory Council (NADRAC), we provided footage for a DVD. VCAT's component featured role-playing by Members and staff of the Tribunal in a simulated mediation between a builder and a homeowner.

We participated in the Planning Institute of Australia's 'Planning Week', holding an open day at which members of the public toured the Tribunal and attended presentations.

We had input into the upgrade of the Australian Guardianship and Administrative Council's website – a key tool for all the guardianship boards and tribunals, public trustees, advocates and guardians throughout Australia.



Human Rights Division

Civil Division

Administrative Division

# OUR DIVISIONS

## HUMAN RIGHTS DIVISION: GUARDIANSHIP LIST

“

OUR AIM IS ALWAYS TO DO WHAT WE DO BETTER. PEOPLE WHO NEED THE INTERVENTION OF THE TRIBUNAL OFTEN NEED IT URGENTLY, SO THE MORE TIMELY, ADAPTABLE AND RESPONSIVE WE CAN BE, THE BETTER.

”

### About the List

The Guardianship List makes and reassesses protective orders, including guardianship and administration orders under the *Guardianship and Administration Act 1986*. These orders involve appointing a substitute decision-maker when it is in the best interests of an adult who has a disability that impairs their cognitive capacity. The List also makes orders in relation to enduring powers of attorney under the *Instruments Act 1958* or enduring powers under other legislation. VCAT has also been given jurisdiction under the *Disability Act 2006* (Disability Act), which came into operation on 1 July 2007. The List can make orders under this Act for the compulsory treatment of persons with an intellectual disability who pose a significant risk of serious harm to other persons.

### Year in Review

#### Cases

We were able to finalise significantly more cases than in the previous reporting period, while accommodating the additional caseload associated with the Disability Act. While these new cases represent a small proportion of the overall case numbers for the List, they have been more complex, taking approximately twice the length of time to hear than our more usual cases. They have also provided a challenge for both the Registry and Members dealing with the new legislation and cases in appropriate ways.

Our new jurisdiction to make orders under the Disability Act for compulsory treatment means that detention and treatment occurs only when justified by expert evidence and the law, under independent scrutiny and review by the Tribunal. We recognise the important role of the Tribunal in balancing the rights of all concerned in relation to compulsory treatment.

#### Accessibility

Wherever possible, we schedule hearings close to the place where the person with a disability resides. This has included hospitals, nursing homes and community health care centres,

as well as court and tribunal complexes throughout Victoria. In particular, we established arrangements with the Royal Melbourne Hospital for regular sittings at its Parkville campus, promoting participation in hearings by elderly patients, which helps to expedite the fair determination of applications concerning them.

Other new hearing locations for guardianship matters include the Magistrates' Court at Frankston and Dandenong, the new Moorabbin Court and Tribunal complex, and the Neighbourhood Justice Centre in Collingwood.

We have redesigned hearing notices and forms, in particular introducing an 'Easy Read' informative version of the application under the Disability Act for persons with an intellectual disability.

#### Efficiency

We continually engage in the professional development of our staff and Members to enable them to perform better, and we have introduced a comprehensive internal manual to guide Members and Registry staff in the best way to carry out their activities. Through this we expect to gain the efficiencies and consistency that comes from clear processes and standards. The manual will be updated each year.

Additionally, we are implementing a new process for reassessing a particular category of administration orders without a hearing, where this is appropriate. This will free time in hearing lists to enable the earlier scheduling of new applications and often more urgent cases.

We have continued to make orders in most cases using the Order Entry System, which enables Members to produce and sign written orders in the hearing room, which can then be handed directly to parties.

#### Our Users

Our user group comprises professional administrators, legal and advice organisations, and representatives from the Office of the Public Advocate. The group met in October. We offered regular information sessions for newly appointed guardians and administrators in Melbourne and regional centres.



We had input into the upgrade of the website of the Australian Guardianship and Administrative Council (AGAC), the umbrella organisation for all the guardianship boards and tribunals, public trustees, advocates and guardians throughout Australia. AGAC's website is a key tool for these agencies.

#### Our Community

Speaking engagements were frequent, and included seminars given to lawyers and palliative care staff, an interview for 'The Illegals' program on Radio 3WBC, and a talk for members of a regionally-based

retiree association. Seminars and talks covered topics such as the jurisdiction of the List, elder abuse, medical treatment laws, and new legislation.

#### The Future

We expect the demands on the List will grow in the future as a natural result of an ageing population. Our aim is always to do what we do better. People who need the intervention of the Tribunal often need it urgently, so the more timely, adaptable and responsive we can be, the better.

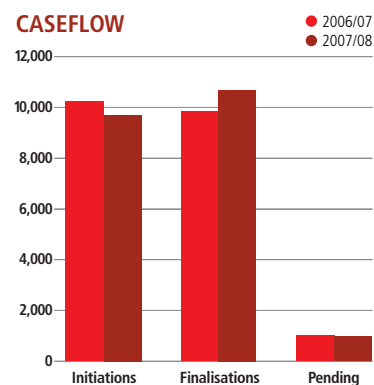
#### APPLICATIONS BY TYPE

	2006/07	2007/08	Variance
Guardianship Orders	17%	19%	2%
Guardianship Reassessments	8%	8%	0%
Administration Orders	24%	25%	1%
Administration Reassessments	44%	40%	-4%
Advice to Administrators	1%	2%	1%
Orders about Enduring Powers of Attorney	3%	3%	0%
Other	3%	3%	0%

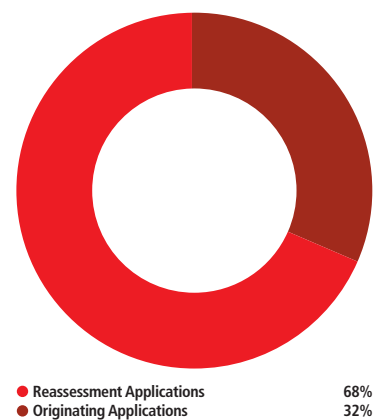
#### Case Study Supervised Treatment and Human Rights

On 1 July 2007, the date on which the Disability Act commenced, VCAT considered an application for a Supervised Treatment Order (STO) for MM, a man with a mild intellectual disability who had convictions for sexual assault against children. A parole order required him to undergo treatment at a residential treatment facility. His treatment plan, approved by the Senior Practitioner, detailed the nature and benefits of the treatment. The plan involved restrictions including a restriction of his movement. There was evidence that the treatment had progressed well but that MM would still pose a serious risk of harm to others were he to access the community unsupervised. VCAT made an interim STO. Later, at the hearing, MM and his parents said they wanted him to remain in the program, but the Act required VCAT to be satisfied that he was able to consent to that. The evidence included an independent psychological assessment. The Public Advocate and MM's lawyer made submissions. VCAT made a STO, finding that MM could not make a sufficiently informed decision. In interpreting the Act VCAT had regard to the *Charter of Human Rights and Responsibilities Act 2006*, determining that the restrictions on MM were justifiable.

#### CASEFLOW



#### APPLICATIONS BY INITIATION TYPE



#### TIMELINESS OF FINALISED CASES (WEEKS)

	2006/07	2007/08	Target
Median	5	5	
80th Percentile	20	13	

## HUMAN RIGHTS DIVISION: ANTI-DISCRIMINATION LIST

“

WE FASHION OUR  
CASE MANAGEMENT  
TO SUIT THE CASES  
THAT COME TO US, TO  
GIVE PEOPLE THE BEST  
POSSIBLE RESULTS FOR  
THEM PERSONALLY, AND  
SOLVE THE PROBLEM  
QUICKLY AND FAIRLY.

”

### About the List

Members of the Anti-Discrimination List determine complaints made under the *Equal Opportunity Act 1995* (EO Act) that are referred from the Equal Opportunity and Human Rights Commission (EOHRC). Complaints are referred at the request of the complainant if the EOHRC declines to conciliate a complaint, or if conciliation is unsuccessful.

The List also determines applications for exemptions from the EO Act, which are made directly to the List. An exemption is sought, for example, if an applicant needs to discriminate between persons to achieve a just outcome overall.

Occasionally, the List receives applications to strike out complaints on the basis that they are frivolous or vexatious, and applications for interim orders to prevent parties from acting prejudicially to outcomes being reached in relation to complaints.

Additionally, the List hears complaints brought under the *Racial and Religious Tolerance Act 2001*.

### Year in Review

#### The Gardner Report – An Equality Act for a Fairer Victoria

The most significant development in Anti-Discrimination was the State Parliamentary report, *An Equality Act for a Fairer Victoria – Equal Opportunity Review*, submitted by Julian Gardner to the Attorney General on 30 June 2007 (Gardner Report). It communicates the results of a review of the EO Act, and makes recommendations to improve the effectiveness of equal opportunity law in Victoria. A major recommendation that impacts the Tribunal is that the EOHRC should have increased powers to investigate discrimination in the community, whether or not formal complaints have been made. If implemented, VCAT will play a more active role in handling complaints, fulfilling some of the current functions of the EOHRC. VCAT had significant input into the Gardner Report and supports this recommendation.

### Cases

Similar to the 2006–07 reporting period, complaints referred from the EOHRC totalled 223, while 98 Exemption Applications, most for renewal of existing exemptions, were made.

Discrimination on the basis of impairment continued to be the main ground of complaint, which may be due to increased awareness of rights in the workplace, schools and other settings. Sex Discrimination and Sexual Harassment claims decreased slightly, but still comprised 17 per cent of claims. Other grounds of complaint included Race, Gender Identity, and Status as a Parent or Carer.

There were more applications for Registered Agreements, which are agreements reached at the EOHRC between parties and registered with VCAT, which then take effect as Orders of the Tribunal. Registered Agreements are easier to enforce than confidential agreements between parties.

### Mediations

The List continued to build on its success in mediation, achieving a settlement rate of 72 per cent – the highest in the Tribunal. This is due in part to changes in the way cases are managed. Instead of routinely listing matters for directions hearings to decide the approach, each file is now carefully reviewed to determine the best first step. This has resulted in most cases being referred straight to mediation. We have found that the earlier the mediation, the more likely the parties' relationship is preserved, and costs are minimised.

We have increased the types of applications referred to mediation – we will now refer strike-out applications, or matters where a mediation has not resolved the complaint initially, but where an additional mediation may result in settlement. This reduces the number of cases being locked into formal, open hearings, which brings financial and relational benefits to parties, and preserves confidentiality.

### Accessibility and Efficiency

In 2007–08 we took greater advantage of our access to VCAT's Duty Lawyer, referring

parties early in proceedings if they were unprepared or unfamiliar with the process. The Duty Lawyer assists parties to understand the likely success of their case, and how to access legal assistance according to their financial means. This leads to better case management for the List, and supports parties who might otherwise be disadvantaged due to lack of understanding of the Tribunal process.

We are more actively matching cases to Members. For example, unrepresented parties with minor disputes are referred to Members experienced in resolving small claims informally, whereas complex matters involving legal counsel are more appropriate for resolution by a Judge. Consequently, parties have their disputes resolved in a manner appropriate to the scale and nature of the dispute.

#### Our Users

Our user group is active and vocal, meeting every two months and having consistent input. It comprises barristers and solicitors who work in Anti-Discrimination, and representatives from the Department of Justice and the EOHR. The Group's work mainly revolved around having input into the Gardner Report, meeting with Mr Gardner on four occasions in 2007–08.

#### Our Community

A major contribution has been through our engagement with the Gardner Report. Significantly, Deputy President Cate McKenzie was appointed to the

Advisory Committee, providing expert assistance to the EO Act review.

Judge Harbison and Deputy President McKenzie attended a Human Rights conference in New Zealand at which the head of New Zealand's Human Rights Tribunal – a leader in the Anti-Discrimination jurisdiction – gave a useful seminar pertinent to issues faced by our List.

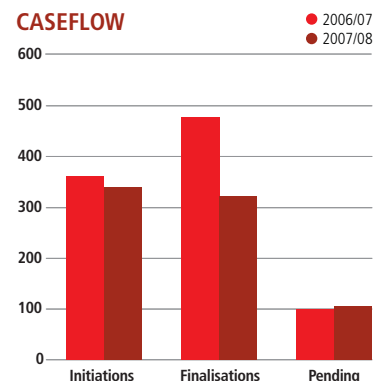
#### The Future

We will continue to fashion our case management to suit the cases that come to us, to give people the best possible results for them personally, and solve the problem quickly and fairly.

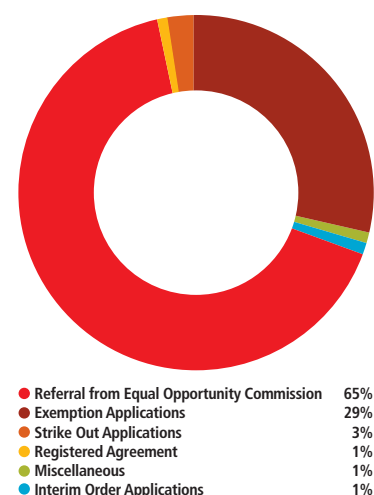
We will prepare for the implementation of recommendations from the Gardner Report. Until these are finalised, we won't know what resources or changes are needed. We have the expertise and willingness to take a more active role in dealing with complaints made under the EO Act, if that is what is required.

We anticipate that the *Charter of Human Rights and Responsibilities Act 2006* (Charter), which influenced the Gardner Report, may have an impact on how we consider cases, although in many ways the Charter already reflects – and therefore strengthens – the provisions of the EO Act. Its effect may not therefore be obvious in the way VCAT deals with Anti-Discrimination cases, but will influence outcomes in more systemic ways.

#### CASEFLOW



#### APPLICATIONS BY TYPE



#### TIMELINESS OF FINALISED CASES (WEEKS)

	2006/07	2007/08	Target
Median	12	9	
80th Percentile	41	22	23

#### REFERRALS BY GROUNDS

	2006/07	2007/08	Variance
Sex Discrimination & Sexual Harassment	18.5%	16.5%	-2.0%
Impairment	32.1%	27.3%	-4.8%
Race	9.7%	10.2%	0.5%
Victimisation	10.3%	11.1%	0.8%
Other*	29.4%	34.9%	5.5%

\*Other grounds include: Gender Identity, Industrial Activity, Lawful Sexual Activity, Marital Status, Personal Association, Physical Features, Political Beliefs, Pregnancy, Religion, Status as a Parent or Carer, Racial Vilification, Religious Vilification.

### Case Study Damages Awards in the Anti-Discrimination List

The Anti-Discrimination List has unlimited jurisdiction in relation to damages awards, and in 2007–08, we made some decisions ordering large compensation payments.

A female trainee surgeon endured sexual harassment by a senior male surgeon. She was extremely distressed by the experience, but terrified to complain in case her traineeship were jeopardised by her being thought a troublemaker. She made a complaint of sexual harassment to the Tribunal well after she had finished her traineeship rotation. VCAT found her complaint of sexual harassment substantiated, and awarded \$100,000 in damages for her distress. In the course of the judgment, VCAT pointed out that the harasser was in a position of power, that the purpose of damages is to attempt to measure in money the hurt that has been caused by the harassment, and that there should not be any perception that damages awards at VCAT will be any smaller than awards given by the Courts.

## CIVIL DIVISION: CIVIL CLAIMS LIST

12%  
INCREASE IN  
CASES RECEIVED

19%  
INCREASE IN  
CASES FINALISED

78%  
OF CASES FINALISED  
WITHIN 14 WEEKS

### About the List

Civil Claims deals with two kinds of disputes under the *Fair Trading Act 1999* (FTA), being disputes between buyers and sellers of goods or services, and claims for damages for breaches of the Act, such as misleading and deceptive conduct. The List now also deals with disputes to do with owners corporations, under the *Owners Corporation Act 2006*, which came into effect on 31 December 2007. An owners corporation, i.e. body corporate, is a body that manages the common ownership of shared property – for example, the gardens and pathway between units in a block of units.

Applications under the FTA are dealt with according to the monetary value of the claim. Those less than \$10,000 are listed immediately for hearing and may be mediated on the hearing day. Legal representation is generally not permitted in these cases, and orders cannot be made that one party pay the legal costs of the other. We have a high rate of quick determination of small claims, usually resolved inexpensively and in a single visit to the Tribunal.

Claims exceeding \$10,000 are usually referred straight to compulsory conference, which differ from mediation in that the Member assists parties to realistically assess the merits of their case, identifying key issues and advising them on how the law applies to the situation. A high proportion of larger claims are settled during compulsory conference. Otherwise they proceed to a hearing to be decided by a different Member.

### Year in Review

#### Cases

We experienced another increase in applications, up from 8,043 in 2006–07, to 8,975 in 2007–08, continuing the trend of increasing demand in the area of Civil Claims. The total number of applications includes 247 brought under the new *Owners Corporation Act 2006*.

Claims under \$10,000 comprised 87 per cent of all applications, the largest proportion

being debt recovery, at 44 per cent compared to 40 per cent in 2006–07. In debt activity, the Tribunal ensures that the applicant attends the hearing and has complied with all requirements, such as those in the *Consumer Credit (Victoria) Act 1995*, even if the respondent does not file a defence. Additionally, applicants cannot seek costs for claims under \$10,000, although their costs are probably considerably less than they would be in the Courts.

Claims for amounts over \$10,000 are growing in proportion and complexity, taking longer to hear and resolve. There may be increased awareness that people will get a fair consideration of their claim without a large financial outlay, even if it is complex. For example, a self-represented applicant brought a claim of unconscionable conduct against a bank. The application was dismissed, but the hearing ran for 10 days and the written decision was over 200 pages.

#### Timeliness

We finalised significantly more cases in 2007–08 than in the previous financial year, and have continued to accommodate increased demand without a major increase in resources. We are continually developing a better case management approach to complex claims, such as referring more matters to compulsory conference, and ensuring all our Members are trained in alternative dispute resolution processes. We have also introduced a system whereby orders





in directions hearings can be printed and handed directly to parties who attend hearings, where this is appropriate.

We have a new procedure for claims under \$5,000 where the respondent seeks review of a decision on the grounds that they were unable to attend the original hearing. We now hear the review, and, if successful, rehear the application on the same day. The parties are only required to attend the Tribunal once, and hearing time is minimised.

#### Our Users

We established a new user group which will meet twice a year to provide input into our processes and projects. It comprises representatives from

Consumer Affairs Victoria, Consumer Action Law Centre, Victorian Small Business Commissioner, and Owners Corporation Victoria, among others.

#### Our Community

Much of our community engagement in 2007-08 involved preparations for the new *Owners Corporation Act 2006* and assisting interest groups to develop approaches to the new legislation. For example, we addressed a conference of the Owners Corporation Institute of Victoria.

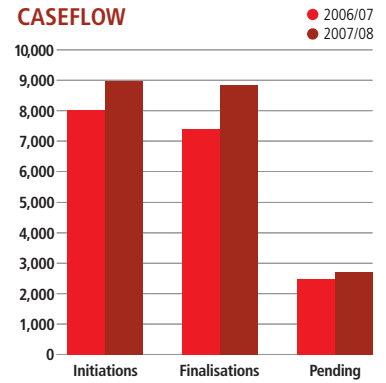
We also continued to work closely with Consumer Affairs Victoria which advises the public about civil claims issues.

#### The Future

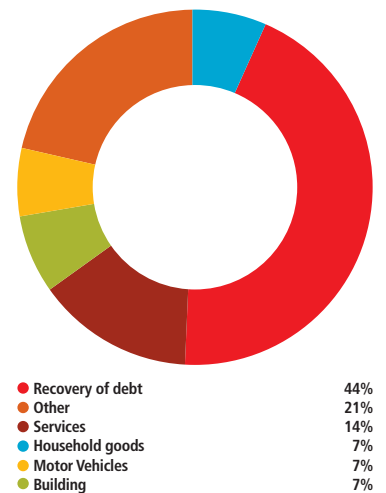
We want to increase opportunities for regional applicants to have claims heard close to home, but also provide alternatives to physical attendance at hearings where appropriate.

We will need to find ways to expand or increase our resources to deal with the growing workload. More and more claims are being brought, particularly debt recovery and complex matters that might once have gone to the Courts, and those associated with new jurisdictions.

#### CASEFLOW



#### APPLICATIONS BY CLAIM TYPE



#### APPLICATIONS BY CLAIM AMOUNT

	2006/07	2007/08	Variance
Small Claim: < \$10,000	7,012	7,766	10.8%
Standard Claim: \$10,000 - \$100,000	796	974	22.4%
Complex Claim: \$100,000 - \$1m	59	65	10.2%
Complex Claim: \$1m +	10	10	0.0%
No Value	166	160	-3.6%
<b>Total</b>	<b>8,043</b>	<b>8,975</b>	

#### TIMELINESS OF FINALISED CASES (WEEKS)

	2006/07	2007/08	Target
Median	8	9	
80th Percentile	13	15	14

### Case Study Misleading Conduct in Trade on eBay

In January, a purchaser bid \$1,160 on eBay for what the seller described as a 'B.O.S.E. Series home theatre system given as a wedding present' and 'still in the box' because 'we already have a BOSE home theatre system'. The photographed box bore a logo very like that of BOSE. A BOSE system retails at about \$7,000, so it seemed a bargain.

The system arrived. The purchaser discovered BOSE had not made it. The DVD made a clicking sound, and a speaker was faulty.

In April, the Tribunal heard the purchaser's application for a refund in rural Victoria, where he lived. The seller, from South Australia, appeared by telephone. The seller agreed the system was not made by BOSE, but argued that she had described it accurately and it was up to the buyer to be satisfied about the offer. She was unaware of problems with the DVD player, and the speaker was damaged in the post.

The Tribunal found the seller had engaged in misleading conduct in trade. She advertised a product designed to mislead consumers, and did not clarify the ambiguity. eBay says, 'If the product you are selling bears the name or logo of a company, but it wasn't made or endorsed by that company, don't list it on eBay'.

In May, the Tribunal ordered the seller to pay a refund and the purchaser to return the system.

## CIVIL DIVISION: CREDIT LIST

26%  
INCREASE IN  
CASES RECEIVED

37%  
INCREASE IN  
CASES FINALISED

88%  
OF CASES FINALISED  
WITHIN 8 WEEKS

### About the List

The Credit List hears two main types of applications: repossession applications and applications for relief from hardship.

Repossession applications are made when a loan contract is secured by a mortgage over goods, and the lender needs the consent of the Tribunal to enter residential premises to seize the goods.

Hardship relief applications are made by debtors under hardship who want to change the loan contract, such as by reducing or postponing payments. The Tribunal can grant no-fault hardship relief, which is a jurisdiction under the *Consumer Credit (Victoria) Act 1995* (Credit Code) that is exclusive to VCAT, and an important remedy for debtors.

### Year in Review

#### Cases

There was a 26 per cent increase in the number of applications made to the List, building on significant increases in previous years. The continued growth in application numbers reflects a growing awareness of the List, which we have been active in promoting amongst financial counsellors and credit providers. Most applications were for repossession orders, however applications for hardship relief also increased by nine per cent.

Two notable decisions in relation to vendor financing arrangements – and failure by a credit provider to disclose that it retained part of a loan for itself – were appealed to the Supreme and High Courts on questions of interpretation of the Credit Code. The decisions were upheld and remitted to the Tribunal for determination of penalty.

#### Resolving Disputes

We resolved 48 per cent of disputes by using VCAT's Mediation Services, or through settlement agreements reached at or before a hearing. That figure however does not include mediations which resulted in debtors and lenders trying out new repayment arrangements

before finally settling. Where cases proceeded to hearing, we continued to take an active approach to promoting settlement, and many matters settled during hearing as a result.

#### Debtor Participation in Hearings

We continued to encourage the participation of debtors in hearings for repossession applications, and that participation is increasing. We found that debtors often don't appear at hearings due to the hardship they are experiencing, which has led to the application being made in the first place. This makes it difficult to encourage settlement or make orders that assist debtors, even though the Tribunal ensures that a lender has complied with the Credit Code before making a repossession order.

We conducted a five-month assessment measuring the participation of debtors in repossession applications. We found that debtors appeared for 37 out of 99 applications in that period. Of those 37 applications, 32 resulted in settlement.

The benefit of settlement is that parties can consider a much broader range of remedies than those the Tribunal can order. Additionally, relationships are preserved and financial hardship minimised. These outcomes, which the Tribunal has been active in achieving, have flow-on benefits for the wider community.





**Accessibility and Efficiency**

We finalised 380 matters – a 37 per cent increase on last year. This reflects the Credit List’s strict time targets; we are conscious that, if someone applies for hardship relief, or if a repossession application is made, it is imperative that we expediently resolve those applications.

We have greatly increased the use of telephone hearings and mediations for both debtors and lenders, and our hearing notices remind debtors that they can appear by phone. We also further simplified the application form that is used by debtors and lenders so that all relevant information is available to parties. We added a list of basic questions for the debtor’s response in preparation for hearing or mediation, aimed at understanding their financial position and what changes could assist them to comply with the credit contract. Debtors have responded to the questions in every application we have since received, which has greatly assisted in achieving rapid settlement.

**Our Users**

Our user group comprises representatives from credit providers, consumer advocates, government agencies and

the legal profession. The group meets twice a year, and minutes are circulated to List Members and our President.

We encourage our users to contribute ideas to assist in managing credit disputes. This year a credit provider from the group initiated a ‘pre-VCAT’ letter, which it now sends to debtors advising them that settlement can still occur if the credit dispute proceeds to VCAT.

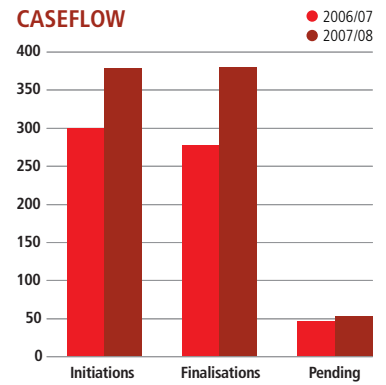
**Our Community**

We presented a mock hearing and mediation to some 200 staff and members of the Financial and Consumer Rights Council of Victoria and Consumer Affairs Victoria. Deputy President Cate McKenzie presided and made mock ‘settlement orders’. The event allowed counsellors and others dealing with consumer debt issues a first-hand experience of the role of the Credit List in resolving credit disputes.

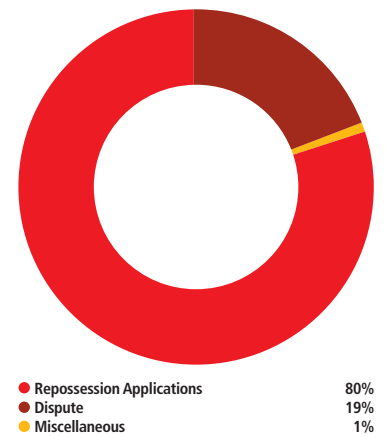
**The Future**

We hope to extend our reach to those in the community who may be suffering financial hardship but are not aware of the available remedies. This will involve targeting community legal and migrant resource centres, and translating our material into languages that more accurately reflect the changing demographic. We will work on encouraging debtor participation, and promoting VCAT as a place where people can obtain a relatively simple, informal and cost-effective resolution of a credit dispute, even when it seems all else has failed.

**CASEFLOW**



**APPLICATIONS BY TYPE**



**TIMELINESS OF FINALISED CASES (WEEKS)**

	2006/07	2007/08	Target
Median	2	3	
80th Percentile	5	5	8

**Case Study Settlement of an Application for Hardship Relief**

A lender and a debtor entered into a loan contract under which the debtor borrowed money to buy a car and the lender took security over the car for the payment of the loan. The debtor, who had been working full-time when the contract was entered into, lost his job. His child then became ill and, because he had to care for his child, he was only able to resume work on a part-time basis.

His loan payments fell into arrears. The lender repossessed the car which was the security under the loan contract. The debtor asked the lender to let him reduce his monthly loan repayments. The lender refused. The debtor applied to VCAT for hardship relief under the Credit Code.

At the hearing the debtor spoke about his difficulties, and the Tribunal facilitated settlement discussions. The discussions were successful and the parties asked for their outcome to be included in a VCAT Order. The outcome was that payments under the loan contract were reduced, further interest and default interest were waived for the rest of the term of the loan, and the debtor’s car was returned to him. This was more favourable to the debtor than VCAT could have ordered if the matter had been heard and determined.

## CIVIL DIVISION: RESIDENTIAL TENANCIES LIST

37  
VENUES VISITED

82%  
OF CASES  
RECEIVED ON-LINE

85%  
OF CASES FINALISED  
WITHIN 3 WEEKS

### About the List

The Residential Tenancies List has jurisdiction to determine disputes between landlords and tenants under the *Residential Tenancies Act 1997*. The List also hears some applications under the *Fair Trading Act 1999* as well as applications relating to 'protected tenancies' under the *Landlord and Tenant Act 1958*.

This year, the List was given additional jurisdiction under the *Disability Act 2006* to hear applications relating to disputes in community residential units operated by disability service providers. No applications have yet been made under these provisions.

The List receives more than 60,000 applications a year, which represents approximately 15 per cent of all residential tenancies in Victoria. Applications are made by tenants, private landlords and the Director of Housing. They typically relate to non-payment of rent, damage to premises, bond refunds, and the obligations of landlords to provide and maintain premises fit for occupation.

### Year in Review

#### Conference – Changing Communities, Changing Needs.

In September, we successfully hosted the three-day Australasian Residential Tenancies Conference, its theme being 'Changing Communities, Changing Needs'. The Conference, held biennially since 1990, is rotated throughout the States, Territories and New Zealand. It highlighted issues associated with affordable housing, demographic trends, accommodating people with special needs, and new approaches to tenancy disputes.

Tim Costello AO was the keynote speaker, and approximately 50 other guest speakers – ranging from leaders of well-known community organisations to senior academics – gave presentations across a wide range of topics. Attendees included VCAT Members, frequent users, and representatives from associated

organisations and agencies across Australia and New Zealand. The Conference offered many valuable ideas – particularly in relation to making the Tribunal more accessible to tenants – which we are incorporating into our future planning.

#### Cases

There was a seven per cent decrease in the total number of applications received, from 65,453 in 2006-07 to 61,089. We finalised 60,772 applications and maintained timeliness targets, with 80 per cent of cases being resolved within three weeks of the application being filed. A number of those cases resolved without the need for a hearing.

There were fewer applications by landlords for possession orders, but there was no other significant change in numbers and types of applications.

#### Accessibility and Efficiency

We are conscious that landlords and tenants need easy access to the Tribunal so that their issues can be expediently heard and resolved. We hear applications at 37 venues across the State, and this year we extended the use of the Order Entry System (OES) to every venue. OES enables orders to be produced, printed, signed and given to the parties immediately after hearings.

Our Members took advantage of training offered by the Judicial College of Victoria to





develop skills in writing decisions and delivering oral reasons for decisions. One change made to our written decisions – which we formalised this year – was the use of initials instead of naming parties to disputes. Maintaining tenants' anonymity means there is less chance they will be discriminated against in future tenancy applications. We hope this encourages more tenants to participate in hearings that may affect them.

#### Our Users

The user group comprises representatives from the Office of Housing, Real Estate Institute of Victoria, Tenants Union of Victoria, Community Housing Federation of Victoria and Victoria Legal Aid. The user group met a number of times and discussed issues of concern to them in relation to VCAT's processes.

In particular, we consulted in relation to the future implementation of proposed amendments to the *Residential Tenancies Act 1997*. The amendments will affect people who share rented premises and would be subject to Orders under the Crimes (Family Violence) Bill 2008 in relation to those premises. The Tribunal will need to address the challenges associated with resolving tenancies affected by this change in the law.

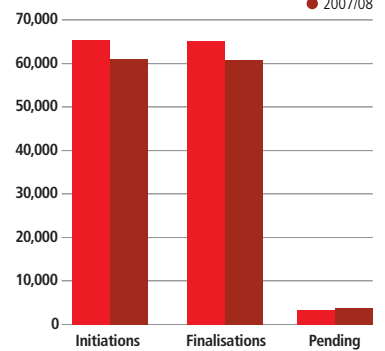
This year we held a question and answer forum in relation to set topics for frequent users. The forum was a success and we will offer it to our users on a regular basis.

## The Future

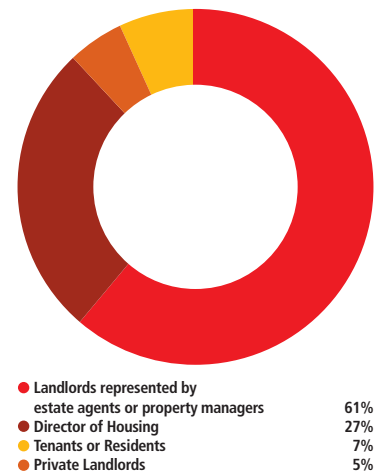
Much of our future planning will be based on ideas drawn from the Australasian Residential Tenancies Conference. We are concerned about the low proportion of tenants appearing at hearings in order to have input into decisions that will affect them. We have discretion to make orders that can assist tenants in default to maintain their tenancies, and we aim to be more accessible to those tenants. For example, we will pilot the use of mobile phone messaging as a means of contacting tenants to encourage them to attend hearings.

Additionally, we are working with Consumer Affairs Victoria, the Court Network and other agencies to provide links to services for people at risk of homelessness following decisions of the Tribunal.

## CASEFLOW



## APPLICATIONS BY APPLICANT TYPE



## TIMELINESS OF FINALISED CASES (WEEKS)

	2006/07	2007/08	Target
Median	2	2	
80th Percentile	3	3	3

## APPLICATIONS BY TYPE

	2006/07	2007/08	Variance
Possession Orders	50%	41%	-9%
Payment of Bond	27%	25%	-2%
Compensation or Compliance Orders alleging Breach of Duty	9%	9%	0%
Other	14%	25%	11%

## Case Study Landlord and Tenant at Loggerheads over Rent Increase

A tenant had been living in rented premises for six years without any rent increases. The Landlord decided to increase the rent by \$50 per week. The tenant stopped paying rent and lodged an application with the Tribunal for a declaration that the rent increase was excessive. The landlord served the tenant with a 'Notice to Vacate' on the grounds of unpaid rent.

Information from Consumer Affairs Victoria indicated that the rent increase was consistent with current market values, and the tenant's own research suggested that it was not excessive. At the hearing, the landlord explained that he increased the rent in response to interest rate rises, and that his agent had advised him that he could impose an increase of up to \$100 per week. He further explained that, as he liked the tenant, he had decided on an increase of only \$50 per week. The tenant said they stopped payments because they were upset and under financial difficulty. It emerged that the tenant had since met with a financial counsellor who helped them to budget to meet the new rent.

The application for a declaration of excessive rent increase was dismissed, and orders were made for the tenant to remain in the property and repay the arrears.

## CIVIL DIVISION: DOMESTIC BUILDING LIST

“

WE ACTIVELY  
PROMOTE, ENCOURAGE  
AND PROVIDE  
OPPORTUNITIES FOR  
ALTERNATIVE DISPUTE  
RESOLUTION.

”

### About the List

The Domestic Building List has unlimited jurisdiction to hear and determine disputes relating to domestic buildings, ranging from houses to major multi-unit developments, such as high-rise apartment blocks.

The List also hears applications for review of decisions of warranty insurers in relation to domestic building contracts.

Applications are dealt with according to the monetary value of the claim: those less than \$15,000 (Small Claims) are, as a general rule, automatically listed for a one- or half-day hearing, or transferred to the Civil Claims List for determination; claims between \$15,000 and \$100,000 (Standard Claims) are referred to mediation; and Claims exceeding \$100,000 (Complex Claims) are first referred to a directions hearing after which a compulsory conference is generally held, usually following the completion of some interlocutory steps.

### Year in Review

#### Cases

Matters before the List have become more technically and legally complex. There was an increase in the number of claims relating to multi-unit and high-rise apartment developments, many of which concerned waterproofing issues. Proceedings often involved several parties due to the impact of Part IVAA of the *Wrongs Act 1958*. This requires that responsibility can only be apportioned between persons who are parties to a proceeding. Multiple applications to join persons as parties to proceedings impacted on our timeliness targets for many larger Standard Claims and Complex Claims.

Cases pending include matters for which further investigation and testing is required (including seasonal monitoring, often over a period of 12 months or more) to determine the cause of a defect and the most appropriate method of rectification. Parties are encouraged to file

responsive reports, which assists them, their legal advisors and experts, and the Tribunal to identify and understand the technical issues so that an appropriate solution can be found.

#### Alternative Dispute Resolution

We actively promote, encourage and provide opportunities for alternative dispute resolution which, together with our technical expertise in building and construction, facilitates the efficient delivery of workable outcomes for the people most affected by them. We have continued to adopt a flexible approach to case management, focussing on fitting the process to the case, rather than the case to the process.

Standard Claims were referred to mediation within six to eight weeks of lodgment, while Complex Claims sometimes went through a number of compulsory conferences, in order to ensure we had provided parties with every opportunity to negotiate outcomes. As a result, only a small percentage of matters proceeded to hearing and final determination. Some cases were referred to compulsory conference during the hearing with the consent of the parties.

Where matters were referred to mediation, many were resolved without the need for parties to obtain expert evidence or incur significant costs, even where they were legally represented.

#### Expert Conclaves and Concurrent Evidence

Experts are encouraged to meet and prepare a joint report identifying the areas of agreement and disagreement and, where possible, an appropriate scope of completion and/or rectification works. In appropriate cases we have been conducting expert conclaves chaired by a building consultant mediator or Member of the List. Joint reports can provide the basis for negotiation between the parties. A compulsory conference will often be conducted by the same Member who chaired the experts' conclave.

If settlement is not achieved, the joint expert report provides the basis for the hearing of concurrent evidence. We have found this to be an effective way of reducing hearing

times and enabling the parties, their legal representatives and, importantly, the Member, a greater understanding of the technical issues.

### Efficiency

We continued to hold twice-weekly 'directions days'. At the first directions hearing, Members discuss with the parties or their legal representatives the future conduct of the matter with a view to containing costs, expeditiously reaching resolutions, and setting realistic timetables. On a directions day, if all parties are present and a suitable mediator or Member is available, the parties may be offered an immediate mediation or compulsory conference.

Once directions are made, files are actively managed to ensure compliance with directions, thus minimising late adjournment requests. Regular meetings are held with the listings coordinator to ensure matters are allocated in a way that assists timely, efficient resolution.

To minimise costs, we encouraged legally represented parties to prepare Minutes of Proposed Consent Orders which could then be made by a Member in Chambers, avoiding the need to attend a directions or compliance hearing.

### Our Users

The user group comprises representatives from the Building Disputes Practitioners Society (BDPS), building consultants, and barristers and solicitors representing diverse interests. The group met three times and discussed list trends and practices, and expert evidence – in

particular the use of expert conclaves and concurrent hearing of evidence.

### Our Community

Deputy President Catherine Aird gave presentations to: the Law Institute of Victoria; Leo Cussen Institute; the BDPS; the Australian Society of Building Consultants; and Master Builders Tasmania. Topics included 'Resolving Domestic Building Disputes at VCAT', 'Expert Reports', and 'It's All About the People – Avoiding and Resolving Disputes with Clients'. The presentations aimed to emphasise that disputes belong to clients, rather than practitioners, and that this should always be remembered.

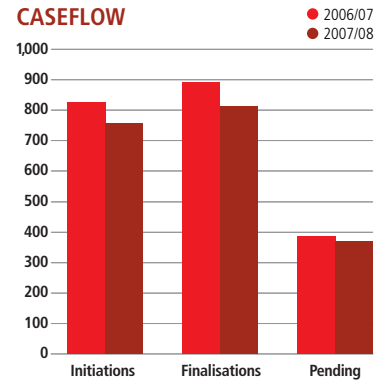
### The Future

We will continue to proactively and flexibly manage cases, and we want to develop more information to assist members of the public in preparing and running cases in the Tribunal.

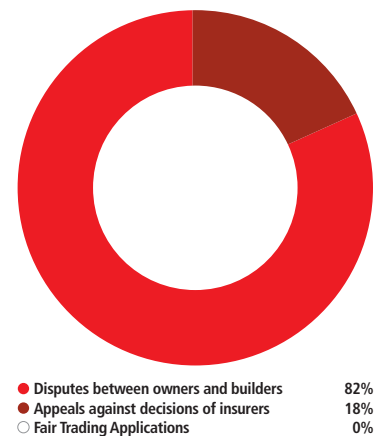
Changing economic and climatic conditions may impact the building industry and lead to an increase in case numbers, however we don't yet know to what extent.



### CASEFLOW



### APPLICATIONS BY TYPE



### APPLICATIONS BY CLAIM AMOUNT

	2006/07	2007/08	Variance
Small Claim: < \$10,000	260	298	14.6%
Standard Claim: \$10,000 - \$100,000	354	313	-11.6%
Complex Claim: \$100,000 - \$1m	89	93	4.5%
Complex Claim: \$1m - \$5m	5	5	0.0%
Complex Claim: \$5m +	2		-100.0%
No Value	115	47	-59.1%
<b>Total Claims Initiated</b>	<b>825</b>	<b>756</b>	

### TIMELINESS OF FINALISED CASES (WEEKS)

	2006/07	2007/08	Target
Median	14	16	
80th Percentile	35	41	35

## Case Study Expert Conclave's Report Solves Roof Plumbing Dilemma

In a claim for more than \$800,000, a body corporate sought \$308,000 for the cost of rectification works to the roof plumbing. The builder's experts proposed a less expensive method of rectification with an estimated cost of \$119,000. A conclave of experts was convened and chaired by an engineer/lawyer Member. The experts prepared a joint report confirming an agreed scope of rectification works. With some minor variations in their material allowances, their estimates of the cost of rectification differed by approximately \$11,000. All other issues between the parties were resolved in the interim, and the parties settled the roof plumbing issues following receipt of the joint report, avoiding a 15-day hearing.

## CIVIL DIVISION: LEGAL PRACTICE LIST

“

WE WANT TO INCREASE  
ENGAGEMENT WITH  
SOLICITORS TO DISCUSS  
THE ISSUES THEY FACE.

”

### About the List

The Legal Practice List is headed by Judge Ross, who commenced his role of Vice President of the Tribunal in April 2008. Members hear applications brought under the *Legal Profession Act 2004* (LPA) and the *Fair Trading Act 1999* (FTA). The LPA repealed the *Legal Practice Act 1996*, however, a small number of applications were also brought under the repealed Act in the reporting period.

Most applications under the LPA and FTA concern disputes between clients and their lawyers, usually about legal costs, but also about compensation for unprofessional services.

Cases under the LPA also include:

- disciplinary charges brought against lawyers; and
- appeals by lawyers against decisions by the Legal Services Commissioner or the Law Institute of Victoria refusing to issue a practising certificate.

### Year in Review

#### Cases

There was an increase in disputes brought under the FTA, from 135 to 193. Matters brought under the LPA also increased, from 113 to 126, while cases commenced under the *Legal Practice Act 1996* decreased from 43 to 10. It is likely that this reflects the developing trend of disputes coming to the Tribunal under the FTA – which deals with disputes between buyers and sellers of goods and services – rather than under the LPA, which applies only to legal services.

The number of disciplinary cases commenced was 49, compared to 11 in the previous year.

### Efficiency

We finalised a significantly greater proportion of applications than last year. Disputes were finalised more swiftly than disciplinary matters, usually within six weeks. Parties to disputes were often referred to a compulsory conference or mediation, where we achieved a settlement success rate of around 70 per cent.

One benefit of the Tribunal having jurisdiction under both the LPA and FTA is that related cases can be dealt with simultaneously, using the same expertise.

### Community Awareness

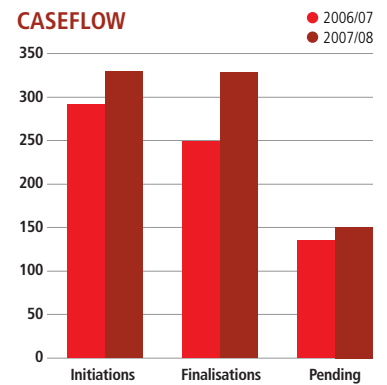
Judge Ross met with the Legal Services Commissioner to discuss plans for the List, in particular how the List should engage with the community. Next year, in conjunction with the Legal Services Commissioner and the Law Institute of Victoria, we plan to meet regularly with solicitors in suburban and regional areas to discuss the specific issues they face.

### The Future

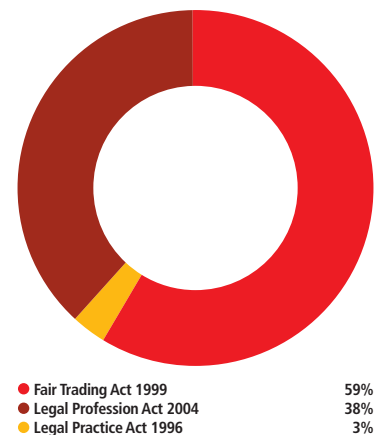
We want to improve the timeliness of determinations of disciplinary cases. We plan to develop a Practice Note, and increase community engagement with practitioners, who are those most affected by the matters we hear and decisions we make.

### APPLICATIONS BY CATEGORY

	2006/07	2007/08	Variance
Civil Disputes	48%	59%	11%
Costs and Pecuniary Loss	44%	18%	-26%
Costs Agreement	2%	5%	3%
Discipline Matter	4%	15%	11%
Practising Certificates	2%	3%	1%



**APPLICATIONS BY JURISDICTION TYPE**



**Case Study The Tribunal's Approach to Penalty**

The Tribunal's power to discipline legal practitioners for misconduct is primarily protective, but its disciplinary orders are also punitive.

The Tribunal dealt with a legal practitioner who had misappropriated a total of \$75,000 from six clients, and concealed his misconduct by making false statements on the trust records. The misappropriations had also led to criminal charges, to which the practitioner pleaded guilty. He was sentenced to 18 months imprisonment, wholly suspended for two years.

In determining an appropriate penalty, the Tribunal balanced specific and general deterrence on the one hand, against rehabilitation on the other. The Tribunal found the practitioner guilty of misconduct and decided that he could not apply for a practising certificate until he had served his suspended sentence, and could not receive or deal with trust money for a minimum of 20 years. The following matters were relevant to the determination of an appropriate penalty:

- the seriousness and extent of the practitioner's misconduct;
- the fact that the practitioner was suffering from a mental illness at the time of the relevant conduct;
- the misappropriated money had been fully repaid and there had been no claims on the Fidelity Fund;
- the practitioner was remorseful and it was highly unlikely that he would commit similar acts in the future; and
- the practitioner's past contribution to the community and the fact that his rehabilitation was well advanced.

**TIMELINESS OF FINALISED CASES (WEEKS)**

	2006/07	2007/08	Target
Median	12	9	
80th Percentile	33	26	14

## CIVIL DIVISION: RETAIL TENANCIES LIST

“

OUR PROCEDURES ARE AS INFORMAL AS POSSIBLE, CONSISTENT WITH ENSURING EACH PARTY HAS A PROPER OPPORTUNITY TO BE HEARD.

”

### About the List

The Retail Tenancies List resolves disputes between landlords and tenants arising under or with respect to leases for retail premises, as defined in the *Retail Leases Act 2003*. The List also hears a small number of disputes in relation to tenancies under the *Fair Trading Act 1999*.

Disputes are generally referred from the Office of the Small Business Commissioner in the event that the Commissioner's dispute resolution processes do not result in settlement. Where urgent injunctions are required, applications are made directly to the Tribunal.

### Year in Review

#### Cases

We received 205 applications, representing a decrease of nine per cent on the previous year. We finalised 198 cases, with 116 pending. The duration of time for finalising disputes reflects the time it took many parties to prepare their cases for hearing.

Applications were dealt with according to the monetary value of the claim: those less than \$15,000 were referred to a short mediation, and, if no settlement was reached, immediately to a final hearing conducted on the same day; claims between \$15,000 and \$100,000 were referred to mediation and, if not resolved, a directions hearing to set final hearing dates; those over \$100,000 went to a preliminary hearing to organise filing of points of claim and statements of evidence, and to fix hearing dates (matters could be referred to mediation at any stage in this process).

Where applicants sought urgent, temporary injunctive relief – for example if an applicant needed access to locked premises to conduct business – applications were heard on the same day or soon after.

#### Accessibility and Efficiency

Our procedures were as informal as possible, consistent with ensuring each party had a proper opportunity to be heard and to respond

to the evidence. As most disputes had been through the alternative dispute resolution processes of the Small Business Commissioner, we did not order mediation as a matter of course, enabling some matters to proceed quickly to hearings, where appropriate.

Except where urgent injunctive relief was required, we encouraged parties to first contact the Office of the Small Business Commissioner, assisting them to save time and money and to resolve their disputes less formally.

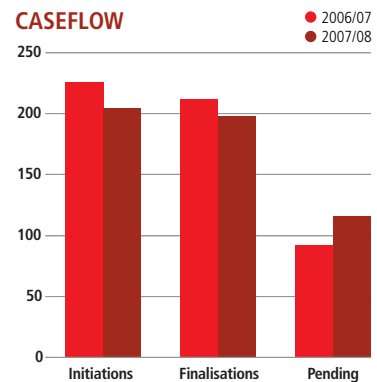
#### Our Users

The user group comprised representatives from the Office of the Small Business Commissioner and organisations representing the interests of landlords and tenants. The user group met once in the reporting period and provided feedback on Tribunal processes relevant to them.

#### The Future

Changing economic conditions may lead to an increase in case numbers for the List. Apart from that possibility, we don't anticipate any significant changes.

### CASEFLOW



### TIMELINESS OF FINALISED CASES (WEEKS)

	2006/07	2007/08	Target
Median	6	10	
80th Percentile	21	28	18

# CIVIL DIVISION: REAL PROPERTY LIST

## About the List

The Real Property List hears and determines a wide range of disputes under various pieces of legislation related to real estate, including: liability for damages caused by the taking, use or flow of water between properties; estate agent commissions; and the acquisition or removal of easements.

Two relatively new areas for which the List has been given jurisdiction to resolve disputes include:

- disputes between co-owners under Part IV of the *Property Law Act 1958*, where, for example, one co-owner wants to sell shared property and the other does not; and
- subdivision disputes affecting owners corporations under Part 5 of the *Subdivision Act 1998*.

## Year in Review

### Cases

Similar to the previous reporting period, the List received a total of 173 applications and finalised 154. There were, however, changes to the spread of applications across the List's various jurisdictions. For instance, 70 per cent of cases related to applications by owners to remove or acquire easements under the *Subdivision Act 1998*, whereas last year they accounted for three per cent. Conversely, applications under the *Property Law Act 1958* decreased from 59 per cent to two per cent. Given the relatively small number of applications to the List, and their spread across a number of jurisdictions, these variations are unlikely to indicate significant shifts in application trends.

There were a number of applications in relation to disputes between co-owners under the *Property Law Act 1958*. We believe this area will develop into a significant jurisdiction for the List, as more co-owner disputes are brought to

the Tribunal for efficient, informal and inexpensive resolution. Co-owners could previously only apply to the Courts for orders resolving disputes between them.

At 18 per cent, water flow cases continued to comprise a high proportion of matters for the List. VCAT has specialist engineer Members to identify and resolve issues associated with these cases.

### Accessibility and Efficiency

We achieved our timeliness targets, resolving 80 per cent of cases within 35 weeks.

In co-ownership disputes, no particular formal requirements were set for the filing of statements of claim, and applicants were directed to use a simple, generic form available on the VCAT website, to set out their grounds and the orders they wanted the Tribunal to make. Mediations were set early to wherever possible avoid the need for parties to comply with the formal steps leading up to a final hearing and orders being made.

For water flow disputes, where claims were for small amounts, the parties were referred to mediation. For larger amounts, parties were required to obtain and exchange expert evidence reports before participating in a compulsory conference chaired by an engineer Member. If matters did not settle in compulsory conference, they were referred to a hearing presided over by a legal Member, and sometimes also an engineer Member.

### Our Users

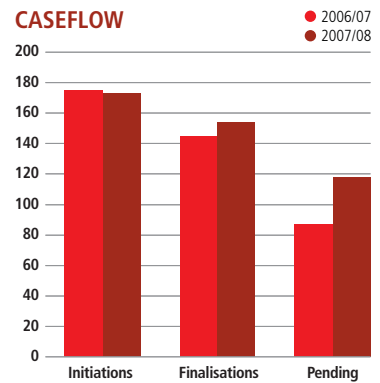
There are no consistent or regular users at this stage to justify establishing a users group for the List.

### The Future

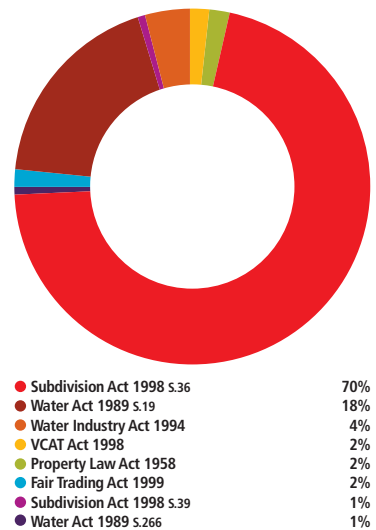
We expect continued growth in the number of applications made under Part IV of the *Property Law Act 1958*, proportionate to increasing awareness of VCAT's ability to resolve co-owner disputes expertly, informally and inexpensively.

We also expect to begin seeing more applications for resolution of owners corporations disputes as a result of amendments to part 5 of the *Subdivision Act 1998*.

## CASEFLOW



## APPLICATIONS BY JURISDICTION



## TIMELINESS OF FINALISED CASES (WEEKS)

	2006/07	2007/08	Target
Median	14	17	
80th Percentile	31	35	35

## ADMINISTRATIVE DIVISION: PLANNING AND ENVIRONMENT LIST

12%  
INCREASE IN  
CASES RECEIVED

\$3.5  
BILLION VALUE OF  
CASES RECEIVED

82%  
OF CASES FINALISED  
WITHIN 26 WEEKS

### About the List

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

We also make enforcement orders – for example, to stop a development from proceeding – and we hear and determine applications for declarations, and applications to cancel or amend permits previously granted by the Tribunal.

### Year in Review

#### Cases

Applications continued to increase; we received 3,640 – 12 per cent more than last year. Despite this, we continued to meet our timeliness targets, resolving 82 per cent of cases within 26 weeks.

Appeals against decisions to refuse planning permits decreased slightly, but still comprised 27 per cent of applications – the largest proportion of the List. There was an increase in the number of applications for amendments to permits. We expect these applications to continue to grow, proportionate with the total number of permits that have been issued at the direction of the Tribunal.

There was no significant change to the types of use and development proposals considered by the Tribunal. Multi-unit residential developments continued to dominate, followed by single dwellings.

#### Accessibility

Most people are, at some stage, affected by planning proposals, whether as developers, members of a community, investors or conservationists. We are conscious that many unrepresented parties wish to have input into planning decisions, and we have promoted a

culture of informality, equality and fairness between represented and unrepresented parties. We encourage lawyers, planners and the experts who regularly appear before the Tribunal to support this culture, and we are grateful for the support we receive from them.

Further enhancing our accessibility, our website contains comprehensive information to guide parties in making and responding to applications.

#### Efficiency

Our decision-making has a growing impact on the State's economy. The scale and value of projects before the Tribunal has increased considerably – \$3.5 billion worth of development was represented by applications before the Tribunal, compared to \$1.8 billion last year. It is therefore imperative that we resolve cases as quickly as possible to assist in promoting the State's economic growth.

To support our aim of timely resolution, we continued to utilise a case management committee, comprised of List Members. The committee met regularly to review each file and determine the best approach, resolving many preliminary issues prior to hearing.

Minor cases and procedural matters were listed for 'Practice Day' hearings each Friday. 'Practice Days' allow small matters to be listed together and called in turn by the presiding Member. This process frees up space for the hearing of more complex matters.

We achieved a 70 per cent success rate in mediation – one of the highest in the Tribunal. A total of 239 cases were settled in this way, saving time and money.

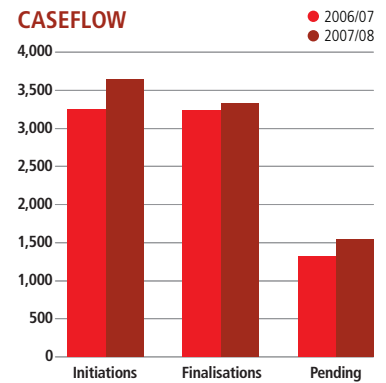
#### Professional Development

The List continued to invest in the development of its staff and Members through the Planning and Environment Professional Development Committee. See page 48 for further information.





## CASEFLOW



## APPLICATIONS BY TYPE

	2006/07	2007/08	Variance
Original Jurisdiction	155	422	172.3%
Review of a Decision	3,095	3,218	4.0%
<b>Total</b>	<b>3,250</b>	<b>3,640</b>	

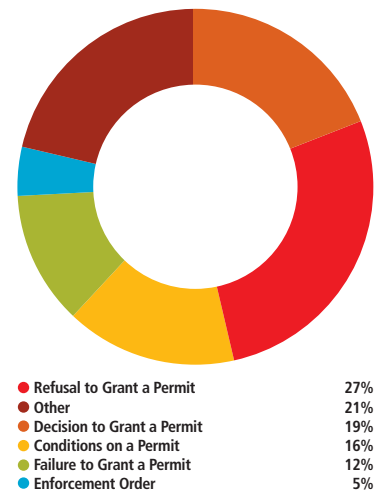
## APPLICATIONS BY CLAIM AMOUNT

	2006/07	2007/08	Variance
Small Claim: < \$10,000	193	847	338.9%
Standard Claim: \$10,000 - \$100,000	98	172	75.5%
Complex Claim: \$100,000 - \$1m	662	1,145	73.0%
Complex Claim: \$1m - \$5m	176	367	108.5%
Complex Claim: \$5m - \$20m	72	133	84.7%
Complex Claim: \$20m +	19	34	78.9%
No Value	2,030	942	-53.6%
<b>Total Claims Initiated</b>	<b>3,250</b>	<b>3,640</b>	
<b>Total Value</b>	<b>\$1.8b</b>	<b>\$3.5b</b>	

## APPLICATION BY DEVELOPMENT TYPE

	2006/07	2007/08	Variance
Building	2%	3%	1.0%
Child Care Centre	3%	2%	-1.0%
Dwelling	18%	18%	0.0%
Multi-Dwelling	26%	24%	-2.0%
Office	3%	2%	-1.0%
Outdoor Recreation Facility	2%	0%	-2.0%
Sign	2%	1%	-1.0%
Subdivision	7%	7%	0.0%
Other	37%	43%	6.0%

## APPLICATIONS BY CLAIM TYPE



## TIMELINESS OF FINALISED CASES (WEEKS)

	2006/07	2007/08	Target
Median	16	17	
80th Percentile	24	26	26

## PLANNING AND ENVIRONMENT LIST [CONTINUED]

### Our Users

In keeping with our commitment to continuous improvement, we commenced a series of consultative forums with metropolitan and regional stakeholders and users. These included council planning officers, community planning groups, and lawyers and consultants who regularly appear at the Tribunal. The forums provided opportunities for users to raise issues regarding our processes, and for the Tribunal to communicate changes to its practices. The forums will continue, and may evolve into a small, rotating user group that would meet periodically with List Members.

### Our Community

List Members contributed to the wider planning and environment community through participation in seminars, conferences and working groups.

Deputy President Helen Gibson gave a number of talks, regionally and in Melbourne, through the Victorian Planning and Environmental Law Association (VPELA). VPELA's members comprise lawyers and a range of

professionals working in the planning and environment field, such as planners, traffic engineers and environmental scientists. Deputy President Gibson's topics ranged from preparing expert evidence for the Tribunal, to a seminar entitled 'Women, Politics and Planning'.

List Members contributed to the professional development of council planners through the Department of Sustainability and Environment's PLANET program. Members conducted seminars relevant to running planning cases in the Tribunal.

VCAT participated in the Planning Institute of Australia's 'Planning Week', holding an open day at which members of the public toured the Tribunal and attended presentations.

### The Future

We anticipate that case numbers will continue to increase and become more complex. This will require us to work more efficiently within our current resources to maintain timeliness and quality decision-making. We want to minimise the time

taken between the listing and hearing of matters, and in delivering decisions. We will continue to focus on developing skills in decision-making, including focussing on the key issues and giving oral decisions wherever possible.

We will publicise our 'Red-Dot Decisions' (key decisions that may have wide application) through the Department of Planning and Community Development's 'Planning Matters' weekly bulletin.

In addition, we will undertake a review of our forms and correspondence, practice notes, advice sheets and guidelines with a view to updating them and making them more user-friendly.

### Case Study Mount Evelyn Supermarket

Woolworths applied to the Council for a planning permit to develop a supermarket at Mt Evelyn, despite strong community opposition. The land was in a Business Zone where a supermarket might ordinarily be located.

The Council approved a Design and Development Overlay (DDO) for inclusion in the Planning Scheme after Woolworths had lodged its planning permit appeal with the Tribunal. The DDO included design objectives for the proposed supermarket site. The Tribunal considered that the Business Zone purpose 'to encourage intensive retail development' could be qualified by a local overlay such as the DDO seeking to protect and enhance the unique village atmosphere of the Mt Evelyn town centre.

Planning is not a popularity contest, and a community petition generally opposing the supermarket was not helpful. The Tribunal had to reach its decision by considering and balancing the relevant provisions and guidelines in the Planning Scheme. The main community objector group and the Council had carefully articulated the failings of the supermarket proposal when assessed against the new DDO. Woolworths filed amended plans, but the Tribunal considered that the proposal remained an over-development of the site and did not adequately respond to the DDO. The submissions and evidence focussing on this key point persuaded the Tribunal to refuse a permit.

## TOP 20 COUNCILS

Number of Applications by Council	2006/07	2007/08	Variance
Boroondara Council	172	231	34.3%
Stonnington City Council	144	197	36.8%
Port Phillip Council	168	187	11.3%
Mornington Peninsula Shire Council	165	185	12.1%
Yarra City Council	152	157	3.3%
Bayside City Council	118	144	22.0%
Glen Eira City Council	91	142	56.0%
Darebin City Council	71	140	97.2%
Moreland City Council	71	122	71.8%
Hobsons Bay City Council	121	109	-9.9%
Monash City Council	114	104	-8.8%
Yarra Ranges Shire Council	83	102	22.9%
Melbourne City Council	133	101	-24.1%
Whitehorse City Council	61	86	41.0%
Banyule City Council	76	82	7.9%
Kingston City Council	69	79	14.5%
Greater Geelong City Council	93	75	-19.4%
Moonee Valley City Council	59	72	22.0%
Casey City Council	58	67	15.5%
Manningham City Council	56	66	17.9%

## TOP 20 SUBURBS

Number of Applications by Suburb	2006/07	2007/08	Variance
Richmond	40	58	45.0%
South Yarra	48	57	18.8%
Hawthorn	25	50	100.0%
Malvern East	25	48	92.0%
Williamstown	43	45	4.7%
Camberwell	31	43	38.7%
Brighton	44	42	-4.5%
St Kilda	30	41	36.7%
Port Melbourne	20	41	105.0%
Northcote	21	38	81.0%
Kew	30	32	6.7%
Reservoir	15	31	106.7%
Melbourne	64	29	-54.7%
Mount Waverley	22	29	31.8%
Preston	14	29	107.1%
Albert Park	30	27	-10.0%
Prahran	19	27	42.1%
Brunswick	16	26	62.5%
Coburg	16	26	62.5%
North Melbourne	13	26	100.0%



## ADMINISTRATIVE DIVISION: LAND VALUATION LIST

“

PART OF VCAT'S ROLE IS TO RECOGNISE AND RESPOND TO THE REAL GRIEVANCE, EVEN WHEN THERE IS NO SIMPLE OR OBVIOUS LEGAL SOLUTION.

”

### About the List

The Land Valuation List hears appeals by landowners against valuations of land for rating or taxation purposes, and classifications of land for different rating purposes. Appeals against valuations contained in rate notices comprise the vast majority of applications.

Our members also determine disputes concerning compensation payable upon compulsory acquisition of land, or damage to land, under a number of different Acts. These comprise a smaller proportion of the List, but are usually more complex, taking longer to hear and resolve than valuation matters. The Tribunal has exclusive jurisdiction over compensation disputes involving amounts less than \$50,000. Where the amount is greater, applications can be made to the Tribunal or Supreme Court.

### Year in Review

#### Cases

Our case statistics are influenced by market conditions; land is re-valued every two years, and in intermediate years – such as 2007–08 – there are usually fewer appeals due to reduced activity that might trigger them. Additionally, property market fluctuations can influence the number of appeals; valuations are made at the start of the calendar year, but take effect six months later. If property values have increased in the intervening months – as they did in 2007 – we can expect a decrease in appeals, and vice versa. Despite this, we identified an increase in 2007–08 in the number of applications for both valuation appeals and compensation matters.

The vast majority of valuation appeals continued to be referred to, and resolved in, compulsory conference. The benefit of compulsory conference for valuation matters is that parties' valuers are generally proactive in working out their differences based on accepted methodology.

More compensation disputes involving amounts greater than \$50,000 are being brought to the



Tribunal. This likely reflects the Tribunal's demonstrated expertise in the decisions it makes, and the fact that it is less expensive, simpler, and more efficient to have a dispute resolved in the Tribunal than in Court.

Compensation disputes are often about issues other than the land value, such as loss of business, or family property. Part of VCAT's role is to recognise and respond to the real grievance, even when there is no simple or obvious legal solution. That means extending empathy, and also taking an educational role in explaining the process and policy behind decisions.

#### Accessibility & Efficiency

Deputy President Mark Dwyer instituted a review of the List's processes, resulting in a number of changes that are currently being implemented. The correspondence, forms, procedures and website were all updated to distinguish between the types of disputes heard by the List. As a result, members of the public can now more easily discern the nature of their issue, what material they need to submit, and the procedures they should follow.

We achieved a 20 per cent reduction in the number of directions hearings as a result of these changes, which had flow-on benefits to parties of cost and time savings, and quicker resolutions.

Additionally, we increased telephone use for directions hearings, which eliminates the need

for regional- and rural-based parties to attend the Tribunal for these generally short, administrative-based hearings.

In consultation with the Valuer General, we established a protocol, which resulted in earlier notification when the Valuer General wishes to be joined as a party to an application. This more streamlined approach allows us to seek the consent of the parties without requiring a directions hearing, and results in the earlier listing of matters.

#### Our Users

In the process of updating our forms and procedures, we worked with the Municipal Valuers Association (MVA), the Valuer General, and compulsory acquisition lawyers familiar with the Tribunal. The feedback was constructive in terms of minimising unnecessary and potentially confusing detail.

We have quarterly meetings with the MVA, and more regular informal catch-ups and communications. We have found this exchange of information very useful.

#### Our Community

The small numbers of people who use the List come from disparate communities. We therefore focussed on updating our website, which is our key public communication tool.

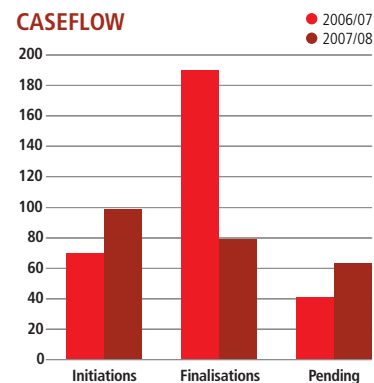
Deputy President Dwyer participated in MVA activities and accepted invitations to speak to valuers. Building relationships with valuers and educating them about our processes is another way we communicate to the public, since valuers work more closely with people affected by valuation decisions. The MVA assists us by including VCAT information in their electronic mail-outs.

#### The Future

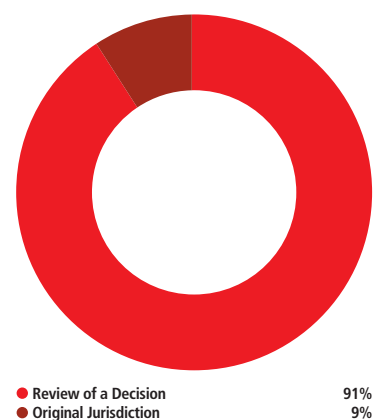
Due mainly to changed market conditions, we expect our caseload to increase. There are 106 cases still on adjournment, carried over from the previous financial year, pending the outcome of the appeal against the decision of *ISTP Pty Ltd v Melbourne City Council & Valuer General of Victoria* [2007] VCAT 652. The decision by the Court of Appeal in the matter will result in the adjourned cases either settling or being brought back onto the List.

We will continue to implement changes to processes in accordance with our aforementioned review, including developing a Practice Note and further reducing the number of directions hearings. We anticipate this will result in new targets in terms of timeliness, and allow us to continue to offer a prompt, accessible and cost-effective service.

#### CASEFLOW



#### APPLICATIONS BY TYPE



#### TIMELINESS OF FINALISED CASES (WEEKS)

	2006/07	2007/08	Target
Median	108	22	
80th Percentile	129	43	40

#### APPLICATIONS BY CLAIM TYPE

	2006/07	2007/08	Variance
Acquisition Application	22%	21%	-1%
Classification Appeal	5%	3%	-2%
Compensation	2%	4%	2%
Review a Decision of an Authority	6%	3%	-3%
Valuation Application	65%	69%	4%

### Case Study Craigieburn Bypass Compensation Claim

A claimant disputed a compensation claim resulting from the compulsory acquisition of land for the Craigieburn Bypass. The land fronted the Hume Highway with future industrial subdivision potential.

In assessing compensation, the Tribunal is required to disregard the purpose for which the land is acquired. If this 'purpose' included earlier schemes to upgrade the Hume transport corridor, access restrictions to the land resulting from those schemes would also be disregarded, leading to potentially higher compensation. The Tribunal, however, found that these earlier schemes were for a separate purpose.

The major influence on valuation was the likely timing of rezoning and development. The Tribunal had to decide between divergent expert planning opinions on a hypothetical scenario for the area that pre-dated the urban growth boundary and the bypass. It also had to take into account likely future industrial land demand and supply on the urban fringe, as well as the vagaries of the planning process.

Ultimately, the Tribunal found that the land would not have been rezoned for some time, and its value was not comparable to industrial subdivisions such as in Epping North that, despite some servicing issues, had clearer strategic support for shorter-term development. (See *Moore v Roads Corporation* [2008] VCAT 838).

## ADMINISTRATIVE DIVISION: GENERAL LIST

11%  
INCREASE IN  
CASES RECEIVED

2%  
INCREASE IN  
CASES FINALISED

87%  
OF CASES FINALISED  
WITHIN 56 WEEKS

### About the List

The General List hears and determines applications for review of decisions made by government agencies, such as the Transport Accident Commission (TAC), the Mental Health Review Board and the Victims of Crime Assistance Tribunal. This includes decisions made by agencies and government departments under the *Freedom of Information Act 1982* (FOI Act).

When a person applies for review of a decision, the original decision-maker must lodge with VCAT a statement setting out their reasons for the decision, together with documents the decision-maker relied upon in reaching that decision. The applicant and VCAT then know the parameters of the application, without the applicant having to provide further information. VCAT will start again and make the decision afresh, taking into account all the available information, including any fresh material.

### Year in Review

#### Cases

There was an 11 per cent overall increase in applications, up from 833 in 2006–07 to 921. This was mostly because of a substantial increase in applications under the FOI Act lodged by State Opposition Members of Parliament. The increase commenced late in the reporting year, and is reflected in the number of cases pending. Otherwise, there were only minor variations in lodgements, with TAC cases still comprising the majority (64 per cent).

The *Charter of Human Rights and Responsibilities Act 2006* (Charter) had a direct effect on the List because we are obliged to take its provisions into account when making decisions that replace those of government decision-makers. This has been particularly the case when reviewing decisions of the Mental Health Review Board. We also take the Charter into account when meeting our responsibilities toward self-represented applicants.

There was only one application under the new *Disability Act 2006*, and it was resolved following a compulsory conference, so did not go to hearing.

#### Efficiency

The time for finalisation of cases has remained steady and is well within our targets. Where possible, we continued to resolve matters through our alternative dispute resolution processes.

In response to the increase in Freedom of Information cases, we referred more matters to compulsory conference. In that forum, a member with relevant expertise can inspect documents claimed to be exempt from release under the FOI Act. Parties can then be assisted to reach a point where the number of documents in dispute is substantially reduced and often it becomes clear that a hearing will not be needed. This initiative significantly reduced the time for disposition of cases, saving costs and freeing space in hearing lists to enable the earlier scheduling of matters requiring a hearing.

#### Our Users

There are two user groups; one focuses solely on TAC matters, and the other comprises representatives from the range of government agencies and departments whose decisions the Tribunal is asked to review, as well as lawyers who frequently appear on behalf of those agencies. Meetings were held for both groups, and no major issues were raised regarding the List's management of proceedings.





### Our Community

In July 2007, Deputy President Michael Macnamara addressed the Law Institute of Victoria's Government Lawyer Forum. His topic - 'Appearing Before the Victorian Civil and Administrative Tribunal' - covered the nature of VCAT's review jurisdiction; section 49 statements; use of witness statements and Tribunal books; and modes of presentation at hearings.

### The Future

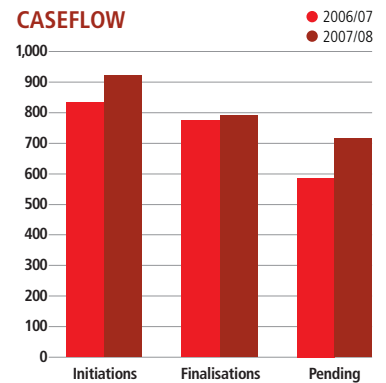
It is likely that the number of TAC applications will remain steady, but we expect the increase in FOI applications to continue. In order to minimise the number of applications requiring a hearing, we will wherever possible promote the use of alternative dispute resolution processes.

## Case Study FOI Documents Released After Compulsory Conference

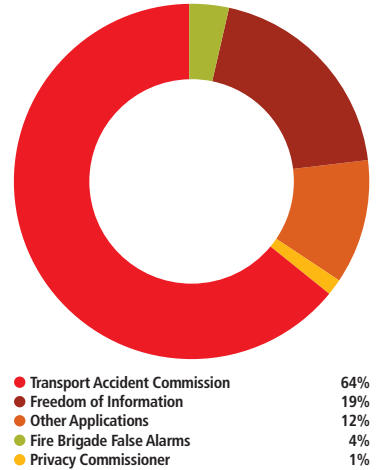
Ms B applied to her local council for access to documents under the FOI Act. She was granted access to all but three documents, which the council claimed were exempt from release because they were internal working documents. She applied to the Tribunal for a review of the council's decision.

Ms B represented herself, so VCAT referred the parties to a compulsory conference with a Member experienced in FOI. The Member discussed with the parties the background to the request and inspected the documents claimed to be exempt. The Member indicated to the council that it was very unlikely in the particular circumstances that the exemption claimed would be maintained at a Tribunal hearing. The council then chose to release the documents. Using this alternative approach, the parties were saved the time and expense of having a full hearing.

### CASEFLOW



### APPLICATIONS BY TYPE



### TIMELINESS OF FINALISED CASES (WEEKS)

	2006/07	2007/08	Target
Median	24	23	
80th Percentile	46	47	56

## ADMINISTRATIVE DIVISION: OCCUPATIONAL AND BUSINESS REGULATION LIST

145%  
INCREASE IN  
CASES RECEIVED

41%  
INCREASE IN  
CASES FINALISED

88%  
OF CASES FINALISED  
WITHIN 25 WEEKS

### About the List

The Occupational and Business Regulation List reviews decisions made by licensing bodies such as the Business Licensing Authority, and decisions made by various registration boards concerning professional registrations, such as the Medical Practitioners Board.

The List also conducts disciplinary proceedings relating to allegations of professional misconduct across a number of occupational groups, particularly health service providers.

### Year in Review

#### Cases

The statistics show a 145 per cent increase in applications and a 232 per cent increase in

cases pending, accounted for by one group of cases. In June 2008, the Director of Liquor Licensing introduced a 2.00 am 'lockout' for certain licensed premises in four municipalities. VCAT received more than 160 applications for interim orders staying the Director's orders. Those applications were still awaiting final orders at the end of the reporting year.

The other significant increase has been in applications to VCAT for orders directing the Secretary to the Department of Justice or the Director of Public Transport to issue assessment notices to applicants with a particular criminal history allowing them to undertake child-related work. This increase is largely related to the staged implementation of the *Working with Children Act 2005*, and



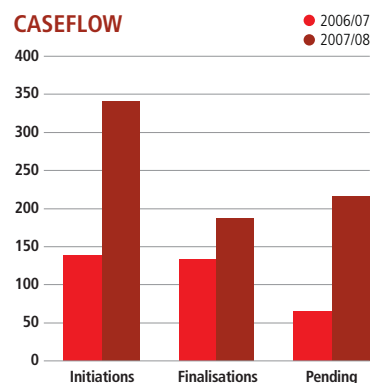


## Case Study The '2am Lockout' – How We Dealt with Applications

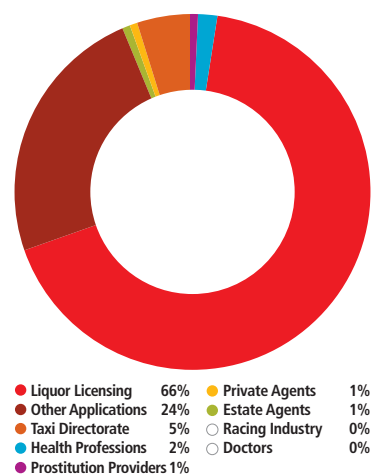
In response to concerns about increased anti-social behaviour on the streets of inner Melbourne, the Director of Liquor Licensing issued a 'late hour entry declaration' covering certain types of licensed premises in inner Melbourne municipalities. It was publicly known as the '2am lockout' because the licensed premises could not admit anyone after 2.00 am. The lockout led to a flood of applications for review and applications for a stay of the declaration.

VCAT responded by efficiently arranging a large-scale mediation using VCAT Members with relevant experience. The parties reached an outcome that resolved these applications. It demonstrated how VCAT could respond quickly, providing an appropriate resolution forum in the form of a large scale assisted mediation to resolve these numerous cases, concerned with the same issues, in an efficient and effective manner.

### CASEFLOW



### APPLICATIONS BY CASE TYPE



### TIMELINESS OF FINALISED CASES (WEEKS)

	2006/07	2007/08	Target
Median	19	12	
80th Percentile	30	22	25

amendments to the *Transport Act 1983*. VCAT has jurisdiction to direct the issue of assessment notices and to review decisions made by the Secretary or Director.

The introduction of the *Health Professions Registration Act 2005* was smoothly managed due to preparations made in advance of its implementation. While this new jurisdiction had a small impact on the List's workload, a major task was the recruitment of new sessional members from the 12 health professions concerned. This was undertaken because the legislation requires applications to be heard by a panel, of which two members must be practitioners in the area regulated by the board that is a party to the proceeding.

#### Our Users

There were several meetings of the new user group established in the health professions jurisdiction. The group comprises representatives from the wide range of health profession registration boards covered by the jurisdiction.

We also met with representatives of the Director of Public Transport to discuss the introduction of changes to the *Transport Act 1983*. There were additional meetings to discuss the anticipated new jurisdiction to cover all taxi drivers.

#### The Future

It is anticipated that there will be a steady increase in applications relating to child-related work as the provisions of the *Working with Children Act 2005* and *Transport Act 1983* come more fully into operation.

We will continue to be alert to areas where we can streamline our procedures and explore different resolution processes. Additionally, we plan to prepare material to assist those who come to VCAT to give evidence, particularly to explain VCAT's role and the witness's role in a hearing.

# ADMINISTRATIVE DIVISION: TAXATION LIST

## About the List

The Taxation List has jurisdiction to carry out merits reviews of the Taxation Assessments of the Commissioner of State Revenue (Commissioner) in the imposition of state levies and taxes under a number of Victorian taxing Acts, for example, the *Land Tax Act 1958*, *Payroll Tax Act 1971* and the *First Home Owner Grant Act 2000*.

Applications for merits review must be referred from the Commissioner upon request of the applicant. Where a taxpayer believes the Commissioner has erred in applying the law, the dispute must be resolved by the Court, rather than the Tribunal. The Tribunal's jurisdiction allows it to make only findings of fact in relation to disputes about assessments.

## Year in Review

### Cases

The List received 26 applications – a slight increase on the previous year.

We finalised 12 matters, with 28 still pending. The number of cases pending is unrelated to VCAT's processes, but more likely a reflection of parties taking time to prepare their cases.

### Accessibility & Efficiency

Most cases were listed for at least one directions hearing in order to ensure any procedural issues or concerns of the applicants were properly addressed. In straightforward matters, the Tribunal allowed parties to request by consent that the directions hearing be vacated, with directions being made in writing for the hearing of the matter.

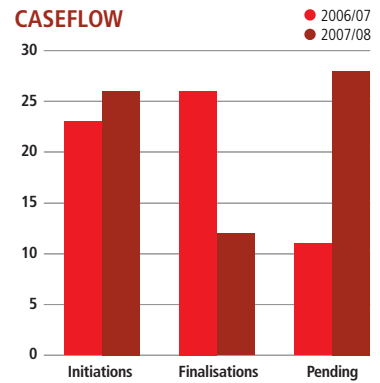
### Our Users

The Commissioner is the only repeat user so there is no formal user group.

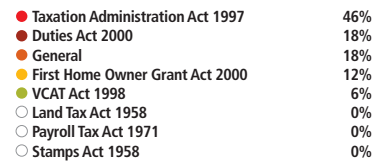
### The Future

We don't anticipate any significant change to the case profile or Tribunal processes in the immediate future.

## CASEFLOW



## APPLICATIONS BY JURISDICTION



## Case Study First Home Owner v The State

In 2001, Ms X purchased a unit with the help of a grant under the *First Home Owner Grant Act 2000* (Act). The Act required that Ms X occupy the unit as her principal place of residence within 12 months of purchase. In 2006, the Commissioner of State Revenue determined that Ms should repay the grant. Ms X asked the Tribunal to review the Commissioner's determination.

Ms X claimed she occupied the unit from 5–18 February 2002 – i.e. within 12 months of purchase – but found it unsatisfactory and moved. Ms X had, however, engaged a real estate agency to manage the property, directing it to find a tenant and a replacement tenant in the event of vacancy. The first tenancy was from August 2001 till February 2002; a further tenancy commenced on 18 February 2002. The agency said it had not been told that Ms X was living in the unit that February, and that it understood the unit to be available for tenancy.

The Tribunal found implausible Ms X's claim that the unit was her principal place of residence during a period when she had it under the agency's management, particularly as the agency was seeking to re-let it, including allowing it to be inspected by prospective tenants. The review application was dismissed.

## TIMELINESS OF FINALISED CASES (WEEKS)

	2006/07	2007/08	Target
Median	20	9	
80th Percentile	33	26	23



**OUR MEDIATION  
SERVICES**

## MEDIATION AT VCAT

“

WE ARE ALWAYS  
AIMING TO KEEP THE  
BEST INTERESTS OF  
PARTIES AT HEART,  
AND TO MAKE SURE,  
AS OFTEN AS POSSIBLE,  
THE SOLUTION IS THAT  
OF THE PARTIES AND  
NOT SOMETHING  
IMPOSED UPON THEM.

”

Mediation gives parties to a dispute the best opportunity to settle their differences as early as possible to avoid high litigation costs and achieve more tailored solutions.

VCAT is a leader in mediation as a form of alternative dispute resolution; mediation was built into the original VCAT Act. Prior to VCAT, mediation was used in a number of the Tribunals that were amalgamated to form VCAT.

Mediations are conducted by a panel of mediators drawn from VCAT's full time and sessional Members. Additionally there are some non-Member mediators.

VCAT has a purpose-built Mediation Centre, located at 55 King Street, Melbourne, comprising hearing rooms, meeting areas, and mediation break-out rooms. The Mediation Centre has been designed to provide the best physical environment to support dispute resolution, while our mediators aim to create a good relational environment to assist parties to resolve their grievances.

In 2007–08 we added a computer and printer for public use in the Mediation Centre to allow parties to prepare, amend, print and sign their own terms of settlement. The Tribunal provides a template of standard terms of settlement, which parties can use as a basis for their own.

### Highlights

VCAT's recognition as a leader in mediation was highlighted in 2007–08 when Principal Mediator, Margaret Lothian, accepted an invitation to visit Papua New Guinea, where she presented on the topic of court-annexed mediation for lawyers working in the Solicitor General's office in Port Moresby. The aim of the visit was to assist the lawyers in running mediations as part of their court processes

### Our Mediators

A major development for mediation at VCAT is that VCAT will soon be declared a Recognised Mediator Accreditation Body.

This means that the training, expertise and professionalism of VCAT's mediators can be formally recognised by VCAT through a national scheme of accreditation, adding weight to the status of mediation as a stand-alone profession and VCAT's leadership role in that regard.

VCAT conducts professional training and post-mediation debriefing for mediators. See page 48 for further information about the Mediation Committee, which supports the professional development of mediators.

### Cases

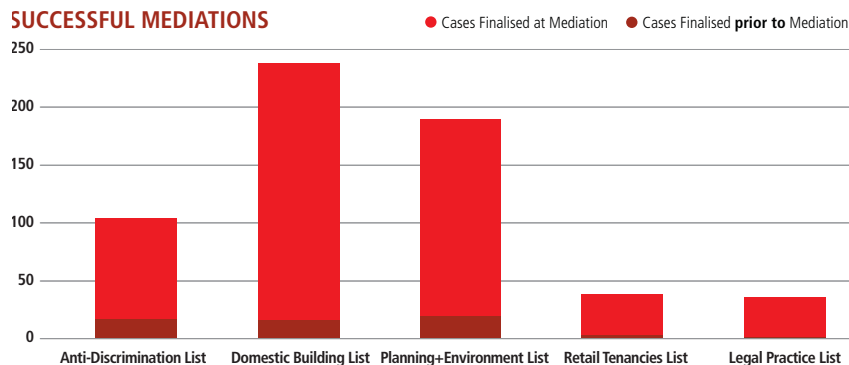
Mediations are typically conducted in the Credit, Civil Claims, Domestic Building, Retail Tenancies, Real Property, Planning and Environment, Legal Practice, and Anti-Discrimination Lists. In 2007–08 we achieved an overall success rate of 70 per cent of matters resolving at mediation. We are now starting to mediate disputes arising under the *Owners Corporation Act 2006*, which are generally being referred from the Civil Claims List.

### Community Awareness

Once again we held a successful moot mediation as part of Law Week, which is run by the Victoria Law Foundation. The moot concerned a domestic building dispute between Ms Lyttle and Mr Pigge, former more-than-friends who entered into a contract with each other on the basis of a Valentine's Day card. The moot, although based on a fantasy, contained many kernels of truth relevant to domestic building disputes. Mr Pigge built a house on land owned by Ms Lyttle, thinking they would marry and live there happily ever after. Wedding plans were cancelled when Ms Lyttle found the house had not been built to her standards. The moot was promoted in the media and through our usual contacts, and resulted in a room full of spectators.

We participated in a Civics Roadshow put on by the Victoria Law Foundation. The Civics Roadshow is a regional education project aimed mainly at Victorian secondary school students, but also members of the public. Participation included a melodrama called

## SUCCESSFUL MEDIATIONS



'Get a Life' for audiences in Warrnambool, demonstrating self-help methods for informally resolving disputes. Mediator and Member Susanne Liden spoke to students and the public in Mildura.

Margaret Lothian gave a number of talks including a seminar on VCAT to students at Deakin University and to members of the public in Warrnambool. Public talks are given catchy titles such as 'VCAT – What's That?' to make them relevant to the uninitiated.

Margaret Lothian presented a seminar to the Building Dispute Practitioners Society titled 'The Twenty-Seven Deadly Sins of Advocates at Mediation' and continued to publish the news sheet 'Mediation Gnus' for mediators.

We also contributed to a video made for the National Alternative Dispute Resolution Advisory Council (NADRAC). It featured role-playing by members and staff of the Tribunal and Federal Court in a simulated mediation between a builder and a homeowner, relating to a fictitious kitchen renovation.

### Submission

We prepared a submission on behalf of VCAT to the Victorian Parliamentary Law Reform Committee inquiring into alternative forms of dispute resolution. The Mediation Committee made recommendations to assist with the submission.

### The Future

We are always aiming to keep the best interests of parties at heart, and to make sure, as often as possible, the solution is that of the parties and not something imposed upon them. The adoption of accreditation for mediators will bring a new level of recognition of the professionalism of our mediators. Accreditation can be achieved through training, experience, or a combination. We will be encouraging our current mediators, and any new mediators, to become accredited.

## VCAT MEDIATION STATISTICS 2005-2008

List	Cases Finalised Prior to Mediation			Cases finalised at Mediation			Mediation Success Rate		
	2007-08	2006-07	2005-06	2007-08	2006-07	2005-06	2007-08	2006-07	2005-06
Anti-Discrimination List	17	6	17	87	90	93	72%	65%	59%
Domestic Building List	16	33	41	222	260	276	64%	72%	66%
Planning & Environment List	20	36	44	170	240	239	70%	69%	75%
Retail Tenancies List	3			35	32	14	62%	59%	58%
Legal Practice List	2	3	2	34	47	38	68%	78%	86%
<b>Total</b>	<b>58</b>	<b>78</b>	<b>104</b>	<b>548</b>	<b>669</b>	<b>660</b>	<b>70%</b>	<b>69%</b>	<b>70%</b>

## Case Study Mediated Settlements and the Needs of the Parties

One size does not fit all in alternative dispute resolution at VCAT. Some disputes call for flexibility and a concerted effort.

At the beginning of a five-day hearing in the Domestic Building List, the presiding Member realised that the dispute had all the hallmarks of 'toxic costs' – where legal costs outstrip the amount in dispute. The applicant home-owner was self-represented and an experienced building lawyer represented the builder. The Member therefore anticipated that the builder would have been likely to have made a commercially astute, without prejudice 'offer of compromise' in reliance upon section 112 of the VCAT Act, which, if not accepted by the applicant, might have resulted in the applicant being ordered to pay the legal costs of the builder from the date of the offer.

The Member referred the matter to a compulsory conference, which is a robust form of mediation in which parties are assisted to understand the strengths and weaknesses of their cases, and how the law would probably apply to the facts in dispute. The dispute settled on the first day at compulsory conference, saving substantial legal costs and giving the parties control over the outcome of the dispute.



# OUR GROUPS AND COMMITTEES

Rules Committee

Heads of Lists Committee

Professional Development Group

Mediation Committee

Planning and Environment  
Professional Development  
Committee

Library Committee

## RULES COMMITTEE

“

A SIGNIFICANT PART  
OF THE COMMITTEE'S  
WORK WAS THE REVIEW  
AND RENEWAL OF  
THE VCAT RULES.

”

In accordance with the VCAT Act, the Rules Committee comprises 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 for VCAT;
- directing the education of VCAT Members in relation to those rules of practice and procedure and practice notes; and
- establishing the divisions of VCAT.

### Rules Committee Membership

As at 30 June 2008, the Rules Committee comprised:

#### Justice Kevin Bell, BA, LLB (Hons)

Justice Bell worked in community legal centres and academia until signing the Bar Roll in 1985. He was a Member of the Small Claims and Residential Tenancies Tribunals in the 1980s, and was appointed Queens Counsel in 1997. He practised administrative, industrial and native title law until appointed a Justice of the Supreme Court in February 2005. Justice Bell was appointed President of VCAT in March 2008.

#### Judge Marilyn Harbison, BA (Hons), LLB, LLM

Judge Harbison was appointed Vice-President of VCAT, Human Rights Division, in January 2007. She has been a Judge of the County Court since 1996, where she had charge of the Business and Damages Lists. Prior to her judicial appointment, she was a partner in a city law firm specialising in commercial litigation; a council member of the Law Institute of Victoria; Chairperson of the Housing Guarantee Fund; and President of the Public Interest Law Clearing House.

#### Judge Iain Ross, B.Ec, LLB, LLM, MBA, PhD

Judge Iain Ross AO was appointed Judge of the County Court and Vice-President of VCAT on 1 November 2007. Dr Ross was previously partner of a city law firm, and Vice-President of the

Australian Industrial Relations Commission.

#### Judge John Bowman, LLB (Hons)

Judge Bowman was appointed Judge of the County Court in 2001, and Vice-President of VCAT in 2002. He was Acting President of VCAT from May 2007 to March 2008.

#### Other Judicial Members

Judge Davis, Judge Duggan, Judge Davey and Judge Cullity are full-time Judges of the County Court and Vice-Presidents of VCAT. They are members of the Rules Committee and can be called upon to sit, if required. The Committee thanks former committee member Judge Michael Strong for his contribution as a Vice-President of VCAT and an active member of the Committee. Mr Strong was appointed Director of the Office of Police Integrity on 1 May 2008.

#### 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 practises 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.

#### Michael Macnamara, BA (Hons), LLB (Hons)

Mr Macnamara is the Deputy President who heads the Retail Tenancies, Real Property and Taxation Lists of VCAT, and was previously Deputy President of the Administrative Appeals Tribunal of Victoria. He was appointed to the Committee in July 2007.

#### Bill Sibonis, BPD, BTRP

Mr Sibonis currently works 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 in July 2007.

## RULES COMMITTEE [CONTINUED]

### Rules Committee Meeting attendees

Meetings held	7
Justice Bell	2
Judge Bowman	5
Judge Harbison	5
Judge Ross	3
Judge Strong	1
Margaret Baird	7
Louise Jenkins	4
Bill Sibonis	5
Michael Macnamara	4

### 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 as new legislation is allocated to VCAT's Lists. During 2007–08, the Committee met on seven occasions.

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

A significant part of the Committee's work was the review and renewal of the VCAT Rules. Deputy Presidents in charge of the VCAT Lists were involved in updating and simplifying the Rules, removing redundant provisions and ensuring they reflected current practice. The Committee thanks Deputy President Cathryn (Cate) McKenzie AM and Jayne Atkins of Parliamentary Counsel for their assistance with drafting the new rules.

The VCAT Rules 2008 commenced on 30 June 2008, revoking the 1998 Rules. As well as being considerably shorter and conveniently renumbered, the new Rules:

- enable VCAT to dispense with compliance with any of the Rules' requirements, either before or after the occasion for compliance arises;
- amended the two main application forms to ensure VCAT has all information relevant to the parties and the application; and
- are compatible with the *Charter of Human Rights and Responsibilities Act 2006*.

#### Practice Notes

In February 2008, the Committee updated the guidelines on 'Bringing Contempt Proceedings' (published on VCAT's website). The guidelines

now reflect the provisions of the VCAT Act and the Tribunal's current procedures in relation to dealing with contempt proceedings under section 137 of the Act.

#### New Jurisdictions

The *Owners Corporations Act 2006* commenced on 31 December 2007, amending the *Subdivision Act 1988* and making significant changes to the regulation of owners corporations (previously called 'bodies corporate'). In September 2007, the Rules Committee allocated the Act to various Lists of VCAT. The Act confers jurisdiction on VCAT to:

- determine disputes regarding owners corporations;
- impose civil penalties;
- appoint an administrator or a manager of an owners corporation;
- grant exemptions from the Act;
- deal with the registration of a body corporate manager; and
- wind up an owners corporation.

The *Education and Training Reform Act 2006* was allocated to the Occupational and Business Regulation List of VCAT in November 2007.

The Act provides for the regulation of teachers, education and training, and confers jurisdiction on VCAT in relation to:

- registration of both government and non-government schools and higher education providers;
- registration and discipline of teachers;
- home schooling;
- accreditation of courses; and
- authorisation to award qualifications.



## HEADS OF LISTS COMMITTEE

President Justice Bell chairs the Heads of Lists Committee, which also comprises VCAT's Vice-Presidents Judge Harbison and Judge Ross, and the eight Deputy Presidents who head VCAT's Lists.

The role of the Heads of Lists Committee has been significantly enhanced under Justice Bell's leadership. It is now the

principal forum for discussing, and making decisions in relation to, the major policy and operational issues affecting VCAT (subject to the statutory authority of the President). It is also an important mechanism by which governance, coherence and unity is achieved within the organisation, consistent with the 'ONE VCAT' policy.



## PROFESSIONAL DEVELOPMENT GROUP

The Professional Development Group – chaired by Deputy President Cate McKenzie – amalgamates the former Professional Development Committee and the New Members and Seminars Committee, creating a broader professional development focus. While most Lists provide specific professional development opportunities for their Members, this Group has primary responsibility for coordinating the overall professional development of VCAT Members and mediators, as well as VCAT management staff.

### Activities

We held monthly meetings and organised frequent professional development seminars across a number of Lists.

These included:

- 'Human Rights in South Africa', presented by Justice Yacoob of the Constitutional Court of South Africa. This seminar assisted us to understand how Victoria's new Charter of Human Rights and Responsibilities might apply – particularly in relation to the right to

a fair hearing, which is also enshrined under South Africa's Bill of Rights;

- 'The *Charter of Human Rights and Responsibilities Act 2006* – What do we do when it is raised?' was presented by John Tobin, a Senior Lecturer in International Law at Melbourne University;
- Water leaks in buildings and what causes them, was the topic of two useful seminars presented by architect Rico Bonaldi, relevant to Members and mediators dealing with building and development disputes across a range of jurisdictions;
- 'Islamic Awareness and VCAT', presented by Sherene Hassan, Executive Committee Member of the Islamic Council of Victoria, enabled us to better understand what we should keep in mind when conducting hearings or mediations involving Islamic parties; and
- 'Threats and How to Deal with Them' was presented by Paul Mullen, Professor of Forensic

Psychiatry at Monash University and Clinical Director of the Thomas Embling Hospital.

### Future

We will consider broader approaches to promoting professional development, for instance through mentoring, and we will be consulting with Members and mediators in order to gauge their professional development needs. Additionally, we will participate in organising the VCAT Conference to be held in November, and will support individual List's needs as required.

## MEDIATION COMMITTEE

The Mediation Committee is chaired by Principal Mediator Margaret Lothian and comprises various Members and Mediators of the Tribunal. It provides a forum for discussing issues that impact on the Tribunal's Mediation Services; makes recommendations to enhance the effectiveness of mediation as a means of dispute resolution; and leads the professional development of mediators.

In the reporting period, the Committee met on a number of occasions and:

- made recommendations to incorporate into VCAT's submission to the Victorian Parliament's Law Reform Committee Inquiry into Alternative Dispute Resolution;
- discussed the new process for the accreditation of VCAT's mediators;
- organised professional development seminars for mediators both

independently and in concert with the Professional Development Group;

- arranged mediation training for six VCAT Members through Bond University's Legal Skills Centre;
- supported Law Week by devising and staging a moot mediation (*Ms Lyttle v Mr Pigge*); and
- published a regular newsheet containing information of interest to mediators.

## PLANNING AND ENVIRONMENT PROFESSIONAL DEVELOPMENT COMMITTEE

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

In 2007–08 it ran seminars across a range of topics, including:

- the Tribunal's role in adjudicating disputes under the *Aboriginal Heritage Act 2006*;
- the management of contaminated sites under current planning laws;

- implications for the List arising out of the *Charter of Human Rights and Responsibilities Act 2006*; and
- the recently introduced Urban Growth Zone, presented by the Growth Area Authority.

Members attended and presented at a number of external conferences and seminars run by the Victorian Planning and Environmental Law Association (VPELA), the Planning Institute of Australia, the Housing Industry Association, and the

Department of Planning and Community Development's PLANET Program.

Additionally, List Members participated in training run by the Judicial College of Victoria, and Government-run programs for the professional development of Judicial Officers and Tribunal Members. Topics included judicial leadership, human rights, judgment writing, and managing self-represented litigants.

## LIBRARY COMMITTEE

The Library Committee comprises a number of Tribunal Members from various Lists, the VCAT Librarian and the Technology Services Coordinator. The Committee meets regularly to ensure the VCAT library offers an efficient service to Members, assisting them to carry out their primary functions of hearing and determining Tribunal matters.

The main library is located on the fourth floor at 55 King Street. Branch libraries,

containing selected resource materials, occupy the common areas on the first and sixth floors. The library provides legal texts, law reports and journals, electronic access to resources, and legal research training. Additionally, it provides a contact point for VCAT Members, allowing them to make suggestions to enhance library services.

One of the Library's key responsibilities is to ensure the accurate publication of

VCAT's decisions on the Australasian Legal Information Institute (AustLII) website. More than 2,500 of VCAT's decisions are published on AustLII each year, and at least 21,000 VCAT decisions are currently available to the public via the AustLII website. VCAT is AustLII's ninth most visited jurisdiction, exceeded in Victoria only by the Supreme Court.

A black and white photograph of a man in a dark suit and patterned tie, sitting on a wide staircase. He is looking towards the camera with a slight smile. The staircase has metal railings and is set against a light-colored wall. The overall composition is a high-angle shot looking down at the man.

Governance

Our People

Our Registry

Information Technology

# MANAGING VCAT

# GOVERNANCE

“

THE PRESIDENTIAL MEMBERS REINFORCE THE ETHICAL RESPONSIBILITIES OF MEMBERS AND STAFF.

”

## Appointing Members

Consistent with the VCAT Act, VCAT’s President must be a Supreme Court Judge, and any Vice-President must be a Judge 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, and full-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 then eligible for re-appointment. They may resign their office by delivering a signed letter of resignation to the Governor.

## Member Profile

As at 30 June 2008, we had six Vice-Presidents – two of whom were located permanently at VCAT – and 234 non-judicial Members, up from 177 in 2006–07. The increase is largely due to the transfer of Members of various professional registration boards to VCAT, resulting from amendments to the *Health Professions Act 1997*. VCAT’s non-judicial Membership comprises 41 full-time Members (one less than last year) and 193 Sessional Members (compared to 135 as at June 2007).

Our Members include legal practitioners and other professionals with specialised knowledge or expertise, such as planners, engineers, architects, medical and allied health practitioners, accountants, land valuers and real estate agents. VCAT functions efficiently and effectively, thanks 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 exposure to a variety of jurisdictions. (Refer to ‘Our Groups and Committees’ on page 47 for information about Members’ professional development.)

Members’ remuneration is fixed by the Governor-in-Council. Remuneration and allowances totalled \$11.93 million, compared with \$10.74 million in 2006–07.

## Directing VCAT

VCAT’s President is responsible for directing Vice-Presidents, and for advising the Minister about any action that would assist in:

- the more convenient, economic and efficient disposal of VCAT business;
- avoiding delays in the hearing of proceedings; and
- rendering the VCAT Act or any enabling Acts more effective.

The President and Vice-Presidents, in consultation with Deputy Presidents, the Chief Executive Officer and Principal Registrar:

- direct VCAT business;
- manage VCAT’s administrative affairs;
- direct the professional development and training of Members; and
- determine venues and times for hearings.

Additionally, the President and Vice-Presidents sit on VCAT’s ‘Rules Committee’, along with other persons appointed under the VCAT Act. The Rules Committee makes VCAT’s Rules and Practice Notes, and establishes the Divisions of Tribunal. The Rules Committee report can be found in ‘Our Groups and Committees’ (page 45).

The Presidential Members also promote continual learning and reinforce the ethical responsibilities of Members and staff.

## OUR PEOPLE



Our staff comprises nine senior managers, 19 managers and supervisors and 159 administration staff. Staff numbers decreased from 201 to 187 in the reporting period and this total includes 44 part-time and three casual staff, as well as three people on maternity leave, nine on leave without pay and six on secondments. VCAT also had five trainees as at 30 June 2008.

### Staff Survey

We participated in a Department of Justice staff survey to determine workplace satisfaction and identify opportunities for improvement. Staff rated VCAT highly in the areas of:

- customer service;
- career development;
- commitment to OneJustice values;
- strong work team relationships; and
- supervisors/managers acting with integrity.

Since the last survey in January 2007, staff noted a significant increase in our provision of quality customer service. Additionally, they found that VCAT had both provided and achieved learning and development goals, and had shown continuous overall improvement.

Staff said that initiatives commenced since the last survey – such as encouraging work/life balance and respectful behaviours in the workplace – had been maintained. They also said there was room for improvement in the areas of performance management, and professional and career development.

Our Senior Management team will address these and all other issues raised in the survey, incorporating them into VCAT's Business Plan over the next 12 months.

### Staff Conference

The theme and agenda for the July Staff Conference were developed via a series of staff forums. The Conference enabled staff to contribute ideas, explore possibilities and work together to provide a better service for the community. In addition, the results of the staff survey were discussed and feedback provided.

### Training and Development

We provided 157 days of staff training (an increase of 45 days on last year). Staff took advantage of the Department of Justice Corporate Training Program, offering competency-based training in areas such as:

- staff recruitment and selection;
- project- and people-management;
- working effectively with diversity;
- occupational health and safety; and
- computer and writing skills.

Our Senior Managers were additionally offered a diverse range of courses to help them develop excellent leadership skills.

All staff received training on the Charter of Human Rights, to coincide with its introduction on 1 January 2008, and 24 staff attended training that addressed the management of Court and Tribunal security.

### Youth Employment Scheme

We provided job opportunities for Victorians aged 16–24 through the Youth Employment Scheme, a joint venture between the Victorian Government and employers. Eight trainees came to VCAT under this Scheme, four of whom have obtained either ongoing or fixed-term employment with us.

### Employee Relations

VCAT is an equal opportunity employer. We recruit the best applicants, consistent with merit and equity principles. Via in-house seminars, access to JNET, workshops and the circulation of relevant literature, we update staff on issues and developments in workplace discrimination and harassment.

Our commitment to work/life balance means that some employees have job-sharing arrangements, several enjoy other flexible working arrangements and a number are employed on a permanent part-time basis.

## OUR PEOPLE [CONTINUED]

### Wages and Superannuation

Employee wages totalled \$8.43 million, compared to \$7.77 million in 2006–07. The Victorian Public Service (VPS) Agreement, which specifies terms and conditions of employment and incorporates performance management and progression plans for all staff, will remain in place until 1 March 2009.

The Agreement recognises and rewards eligible staff who demonstrate sustained improvement in accordance with agreed progression criteria with an average two per cent salary increase. Additionally, we provided staff with a three per cent salary increase, effective 1 October 2008. This Agreement was common to all non-executive employees in all Public Service Departments and agencies.

Staff receive superannuation benefits provided through a choice of superannuation funds, including the State Superannuation Funds (revised and new) and VicSuper fund.

### Occupational Health and Safety

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

During 2007–08:

- there were four new WorkCover claims, resulting in 10 lost workdays (seven workdays were lost from two claims in 2006–07);
- responding to previous OHS audits (and as issues presented), an independent OHS specialist followed up walk-through assessments of the mailroom, stairs and Registry floor;
- trial emergency procedures were conducted, and our fire wardens received regular instructions;
- reviews and testing of emergency and evacuation procedures were regularly carried out;
- Victoria Police Protective Service Officers provided building security;
- flu vaccinations were made available to Members and staff; and
- staff received ergonomic assessments and equipment, and eyesight testing was available for those who used computers.



## OUR REGISTRY



More than 120 staff make up the VCAT Registry, working with Members and other staff to serve the community. Most Registry employees are based at 55 King Street, but some work at suburban and rural Magistrates' Courts where VCAT also conducts hearings.

Registry comprises:

- the Residential Tenancies and Guardianship Section, which exclusively supports these high-volume Lists;
- the Civil and Administrative Section, which supports all other Lists apart from those noted above; and
- the Listing Directorate, which supports all Lists, allocating cases to Members for hearing, and managing hearing venues.

Our Registry efficiently streamlines VCAT's administration by advising customers in person or by phone about our operations, and assisting them to lodge applications. Registry also deals with and coordinates correspondence, making sure hearing notices and orders are received by all relevant parties in a timely manner.

### Registry Review

The VCAT Registry has had to adapt over the years to new and growing jurisdictions. To ensure its continued high level of service with this increasing – and increasingly diverse – workload, we commissioned a review of its processes, systems and structure. The Review, commenced in 2007, highlighted the need to:

- enhance customer services;
- enhance Member services;
- reduce duplications and inefficiencies;
- support VCAT's positioning as an 'employer of choice';
- recognise staff strengths and capabilities; and
- factor for future growth and development.

Registry staff, Deputy Presidents and Members were all involved in the Review. Together, they documented existing Registry processes for each List and jurisdiction, identifying where improvements and efficiencies could be made. This resulted in a re-design of ideal

processes and led to some ideas regarding how the Registry structure might evolve to respond to the suggested changes.

We are currently assessing the ideas, suggestions and comments that emerged from the review and we have developed a number of proposed structures, which will be further explored by the President, Members and staff.

### Registry Management

In October 2007, a Senior Management restructure resulted in the reallocation of responsibilities for Registry operations. The major changes included the establishment of a Director of Operations and the combination of two Senior Registrar positions into a single Senior Registrar, Operations.

As at 30 June 2008, Registry management comprised Senior Managers Richard O'Keefe, George Adgemis and Jim Nelms.

### Major Activities

Registry played an important role in:

#### Integrated Courts Management System (ICMS)

We provided full-time staff to the Courts and Tribunal Technology Group to assist with this major project and to ensure our requirements were incorporated into 'CourtView'. Scheduled for deployment in late 2010, ICMS will provide a single, integrated technology platform and set of applications for the Courts and Tribunal. We have continued to facilitate and participate in related project reference groups, Courts change management and communications initiatives.

#### Information Sessions

Registrars attended and addressed the following groups:

- Law Institute of Victoria Administrative Law Committee
- Magistrates' Court of Victoria Conference
- Eastern Property Management Group
- Consumer Affairs Victoria Tenants' Workshop
- Mornington Peninsula Property Management Group
- Victoria University Court Registrars

## INFORMATION TECHNOLOGY

“

WE HAVE INCORPORATED DEVELOPMENTS TO ENABLE THE IMPLEMENTATION OF THE INTEGRATED COURTS MANAGEMENT SYSTEM.

”

### Case Management

We use two computerised case management systems to manage VCAT’s workload: ‘Caseworks’, and the ‘Tribunal Management System’ (TMS). Our Members and staff use Caseworks and TMS to:

- record applications received;
- create orders, correspondence and notices;
- schedule hearings across Victoria;
- quickly find information to answer telephone enquires;
- record case outcomes; and
- generate performance statistics.

In addition, the Order Entry System (OES) was used by Members of the high-volume Residential Tenancies and Guardianship Lists. OES allows Members to produce and print orders that can be signed and given to parties immediately after hearings. OES was deployed throughout the new Magistrates’ Court at Moorabbin, and expanded within the existing courts at Morwell, Frankston, Dromana, Sunshine and Heidelberg.

### VCAT Online

Regular users of the Residential Tenancies List can register to use the web-based VCAT Online. It enables users to quickly and easily:

- complete application forms;
- generate and print notices of dispute under the *Residential Tenancies Act 1997*;
- view notices of hearings and VCAT orders;
- request warrants of possession; and
- withdraw applications.

More recently, we rolled out a version of VCAT Online for Guardianship List users (VOGL). VOGL provides an online interface between the Victorian State Trustees and VCAT for the purpose of examining administrators’ annual accounts. Undertaking this mostly-administrative exercise on-line saves considerable time for the Guardianship List. State Trustees completed 5,035 financial examinations on the VOGL system, and VOGL will receive a significant upgrade in the near future.

### Digital Recording System

The system records proceedings from all VCAT hearing rooms and stores them on a central server. This allows VCAT users to request transcripts of hearings (at their cost) and VCAT presiding Members to access voice recordings. Transcripts are an important source of information in the event of an appeal. The recordings protect the interests of users and Members participating in hearings, with the added benefit of monitoring and improving standards of conduct.

We received 451 requests for transcripts (up 15 on last year) and 279 requests from VCAT Members for voice recordings (an increase of 50 on last year).

### System and Infrastructure Upgrades

We undertook the following telecommunications and computer system upgrades:

- replacement and installation of 165 desktop computers at 55 King Street (with 35 more planned for 2008–09);
- a QMaster call centre management software upgrade for the RTG, Civil and Administrative call centres;
- replacement and installation of four network file servers; and
- commenced replacement of obsolete printers with energy efficient multi-function device (MFD) printers.

We have continued to incorporate information technology developments to enable the implementation of the Integrated Courts Management System (ICMS) at VCAT.

In the coming year we plan the following initiatives:

- a remote access test, using Citrix, for our case management systems;
- implementation of SMS technology to contact parties prior to hearings;
- replacement and installation of new application network servers (CaseWorks); and
- installation of audiovisual equipment in two hearing rooms and a conference room.





# FURTHER INFORMATION

Operating Statement  
and Financial Commentary

Legislation Defining  
VCAT Jurisdiction

VCAT Member Directory

## OPERATING STATEMENT AND FINANCIAL COMMENTARY



### Expenditure

In 2007–08, VCAT’s recurrent expenditure of \$31.84 million was 7.9 per cent higher than the \$29.45 million expended by VCAT in 2006–07, divided among expenditure on salaries to full-time and sessional Members (\$11.93 million), staff salaries (\$8.43 million), salary related on-costs (\$3.44 million) and operating expenses (\$8.04 million).

### Funding

VCAT received Victorian Government appropriations (\$17.24 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 \$1.8 million generated by those Lists receiving application fees.

- The Residential Tenancies Trust Fund, established under the *Residential Tenancies Act 1997*, wholly funds the Residential Tenancies List (\$9.23 million).

- The Domestic Builders Fund, established under the *Domestic Building Contracts Act 1995*, wholly funds the Domestic Building List (\$2.23 million).
- The Guardianship and Administration Trust Fund established under the *Guardianship and Administration Act 1986*, partially funds the Guardianship List (\$1.7 million).
- The Legal Services Board established under the *Legal Profession Act 2004*, wholly funds the Legal Practice List (\$1.44 million).
- The Owners Corporation jurisdiction was established under the *Owners Corporation Act 2006*, and is wholly funded by Consumer Affairs Victoria.

### VCAT Audited Accounts

VCAT’s accounts are audited and published as part of the accounts of the Department of Justice, 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.

### FUNDING 2007/08

	2007/08	2006/07
	\$m	\$m
<b>VCAT Funding Sources</b>		
Output Appropriations	16.94	16.04
Residential Tenancies Fund	9.23	8.58
Domestic Building Fund	2.23	2.06
Guardianship and Administration Trust Fund	1.70	1.10
Retail Tenancies List	0.30	0.26
Legal Practice List	1.44	1.41
<b>Total</b>	<b>31.84</b>	<b>29.45</b>

### EXPENDITURE

	2007/08	2006/07
	\$m	\$m
<b>VCAT Operational Expenditure</b>		
Salaries to staff	8.43	7.77
Salaries to full-time members	7.64	6.68
Sessional members	4.29	4.06
Salary related on-costs	3.44	2.93
Operating costs	8.04	8.01
<b>Total</b>	<b>31.84</b>	<b>29.45</b>

### VCAT EXPENDITURE ALLOCATED BY LIST\*

	2007/08	2006/07
	\$m	\$m
Planning	7.62	7.32
Guardianship	4.38	4.10
General/ OBR/ Taxation	2.28	2.19
Anti-Discrimination	0.31	0.37
Civil Claims	2.42	2.14
Retail Tenancies	0.52	0.47
Real Property	0.11	0.09
Land Valuation	0.64	0.31
Credit	0.51	0.41
Health Profession	0.15	-
Legal Practice List	1.44	1.41
Residential Tenancies Fund	9.23	8.58
Domestic Building Fund	2.23	2.06
<b>Total</b>	<b>31.84</b>	<b>29.45</b>

\* Expenditure by List figures shown above are approximate only. They are intended to give an impression of the relative expenditure among Lists. An accurate comparison of these costs between years is not possible due to the extent of the sharing of resources among Lists.

# LEGISLATION DEFINING VCAT JURISDICTION

As at 30 June 2008, the following legislation gave jurisdiction to VCAT:

## ADMINISTRATIVE DIVISION

### 1. General List

The functions of VCAT under the following enabling Acts are allocated to the General List of the Administrative Division:

<i>Accident Compensation Act 1985;</i>
<i>Adoption Act 1984 section 129A(1)(a) (decisions regarding fitness to adopt and approval to adopt);</i>
<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 section 50 (decision as to disability);</i>
<i>Domestic (Feral and Nuisance) Animals Act 1994 section 98(2) (declaration and registration of dangerous dogs);</i>
<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 section 81(5A) (claims against the Guarantee Fund);</i>
<i>Fisheries Act 1995;</i>
<i>Freedom of Information Act 1982;</i>
<i>Fundraising Appeals Act 1998;</i>
<i>Gas Safety Act 1997;</i>
<i>Health Act 1958 section 125 (compensation for seizure of property);</i>
<i>Health Records Act 2001;</i>
<i>Infertility Treatment Act 1995;</i>
<i>Information Privacy Act 2000;</i>
<i>Livestock Disease Control Act 1994;</i>
<i>Local Government Act 1989 sections 38(2A) and 48 (decisions of the 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>
<i>Melbourne and Metropolitan Board of Works Act 1958;</i>
<i>Mental Health Act 1986 sections 79 (decisions of the Chief General Manager), 120 (decisions of the Mental Health Review Board);</i>
<i>Metropolitan Fire Brigades Act 1958;</i>
<i>Motor Car Traders Act 1986 section 79 (claims against the Guarantee Fund);</i>
<i>Parliamentary Salaries and Superannuation Act 1968;</i>
<i>Road Management Act 2004;</i>
<i>Road Transport (Dangerous Goods) Act 1995;</i>

<i>Sports Event Ticketing (Fair Access) Act 2002;</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 section 46 (claims against approved compensation schemes);</i>
<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>

### 2. Land Valuation List

The functions of VCAT under the following enabling Acts are allocated to the Land Valuation List of the Administrative Division:

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

### 3. Occupational and Business Regulation List

The functions of VCAT under the following enabling Acts are allocated to the Occupational and Business Regulation List of the Administrative Division:

<i>Adoption Act 1984 section 129A(1)(b) (decisions regarding approval of adoption agencies) and 129A(1)(c) (decisions regarding accreditation of bodies);</i>
<i>Agricultural and Veterinary Chemicals (Control of Use) Act 1992;</i>
<i>Architects Act 1991;</i>
<i>Biological Control Act 1986;</i>
<i>Children's Services Act 1996;</i>
<i>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);</i>
<i>Dangerous Goods Act 1985;</i>

## LEGISLATION DEFINING VCAT JURISDICTION [CONTINUED]

*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);

*Gambling Regulation Act 2003*;

*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*;

*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*;

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

*Owners Corporations Act 2006* Part 6 and Part 12;

*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 Transport Competition Act 1995*;

*Racing Act 1958*;

*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*;

*Wildlife Act 1975*;

*Working with Children Act 2005*.

### 4. Planning and Environment List

The functions of VCAT under the following enabling Acts 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 cooperative 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 a special rate or charge) and 185AA (imposition of a 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).

### 5. Taxation List

The functions of VCAT under the following enabling Acts are allocated to the Taxation List of the Administrative Division:

*Business Franchise (Tobacco) Act 1974*;

*Business Franchise (Petroleum Products) Act 1979*;

*First Home Owner Grant Act 2000*;

*Taxation Administration Act 1997*.

## CIVIL DIVISION

### 1. Civil Claims List

The functions of VCAT under the following enabling Acts 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*.

## 2. Credit List

The functions of VCAT under the following enabling Acts 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 371(1) (see Occupational and Business Regulation List);

*Fair Trading Act 1999*.

## 3. Domestic Building List

The functions of VCAT under the following enabling Acts are allocated to the Domestic Building List of the Civil Division:

*Building Act 1993*;

*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.

## 4. Legal Practice List

The functions of VCAT under the following enabling Acts 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*.

## 5. Real Property List

The functions of VCAT under the following enabling Acts are allocated to the Real Property List of the Civil Division:

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

*Fair Trading Act 1999*;

*Owners Corporation Act 2006* Division 3 of Part 11;

*Property Law Act 1958* Part IV;

*Sale of Land Act 1962* section 44;

*Subdivision Act 1988* Part 5, 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 licensees).

## 6. Residential Tenancies List

The functions of VCAT under the following enabling Acts 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*.

## 7. Retail Tenancies List

The functions of VCAT under the following enabling Acts are allocated to the Retail Tenancies List of the Civil Division:

*Fair Trading Act 1999*;

*Retail Leases Act 2003*.

## HUMAN RIGHTS DIVISION

### 1. Anti-Discrimination List

The functions of VCAT under the following enabling Acts are allocated to the Anti-Discrimination List of the Human Rights Division:

*Equal Opportunity Act 1995*;

*Racial and Religious Tolerance Act 2001*.

### 2. Guardianship List

The functions of VCAT under the following enabling Acts 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*.

# VCAT MEMBER DIRECTORY

**List of Abbreviations:** **AD** Anti-Discrimination, **C** Credit, **CC** Civil Claims, **DB** Domestic Building, **G** Guardianship, **Gen** General, **LP** Legal Practice, **LV** Land Valuation, **OBR** Occupational and Business Regulation, **P** Planning, **Real P** Real Property, **Res T** Residential Tenancies, **Ret T** Retail Tenancies, **Tax** Taxation

## Judicial Members

<b>President</b>	
His Honour Justice Kevin Bell	
<b>Vice-Presidents</b>	
His Honour Judge John Bowman	
Her Honour Judge Sandra Davis	
Her Honour Judge Marilyn Harbison	
His Honour Judge James Duggan	
His Honour Judge Iain Ross AO	

## Deputy Presidents Lists

Aird, Catherine	DB, CC, Ret T, G, P, Res T, Real P
Billings, John	Res T, G, CC
Coghlan, Anne	C, Gen, Res T, CC, G, T, OBR, AD
Dwyer, Mark	LV, P, OBR, G, Tax, LP, Real P, Ret T
Gibson, Helen	P, LV
Macnamara, Michael	Ret T, C, DB, OBR, Gen, Real P, P, AD, CC, LV, Tax
McKenzie, Cate AM	AD, Gen, C, G, CC, OBR
Steele, Bernadette	Res T, CC, G, Real P, AD, Gen, OBR, DB, Ret T

## Senior Members Lists

Baird, Margaret	P, LP, OBR
Byard, Russell	P, Real P, LV
Davis, Robert	Gen, Ret T, Real P, DB, OBR, P, CC, Tax, AD, LP
Fanning, David	Res T, G, CC
Howell, Malcolm	LP, CC, OBR, Gen
Lambrick, Heather	Res T, CC, G, OBR
Liston, Anthony	P, OBR
Lothian, Margaret	DB, Ret T, CC, Res T, G, P, Real P
Monk, Jane <sup>^</sup>	P
Preuss, Jacqueline	Gen, AD, P, OBR, G, CC
Scott, Robert	Res T, CC, Gen, G
Vassie, Alan	Res T, CC, LV, Gen, Real P, Ret T, C, G, LP
Walker, Rohan	Gen, Res T, CC, AD, P, DB, G, Ret T, Real

## Senior Sessional Members Lists

Cremean, Dr Damien	DB, CC, OBR, Ret T, Real P, G, Gen, Res T, Tax
Galvin, John	Res T, CC, G
Horsfall, Richard	P, LV, OBR, DB
Levine, Michael	CC, C, DB, OBR, Gen, G, Real P, Res T, LV, Ret T
Marsden, Ian	P
Megay, Noreen	Gen, G, OBR, CC, Tax, AD, LP, Res T, Real P, Ret T
Sharkey, Gerard	P, Real P, Ret T
Young, Roger	DB, Real P, Ret T, CC, Res T, P, LV

## Full Time Members Lists

Barker, Heather	Res T, CC, G
Bennett, John	P, OBR
Butcher, Gerard	LP, CC, OBR, Gen
Carruthers, Maureen	G, AD
Cimino, Sam	P, OBR
Grainger, Julie	Res T, CC, G, C
Hewet, Laurie	P, OBR
Holloway, William	Res T, CC, DB, G, Gen
Kefford, Jacquelyn	Res T, CC, C, G

Komesaroff, Tonia	P, LV
Liden, Susanne	Res T, CC, G, AD, C
Martin, Philip	P, LV, OBR
Moraitis, Stella	Gen, CC, G, Res T, C
Naylor, Rachel	P
O'Halloran, Donald	RT, G, Gen, CC, OBR
O'Leary, Peter	P, OBR
Potts, Ian	P, Real P
Proctor, Ian	Res T, G, Gen, CC, C
Rickards, Jeanette	P, LV, OBR
Tilley, Annemarie	Res T, CC, AD, Gen, G

## Sessional Members Lists

Alsop, David	P
Anderson, Diane	OBR
Anderson, Sandy	OBR
Archibald, Mary	OBR
Arnott, Anne	OBR
Barrand, Pamela	Res T, CC, G
Barry, Pamela	OBR
Barton, Terence	G
Batrouney, Roger	No list assigned
Bilston-McGillen, Tracey	P
Blachford, Melvin	OBR
Bolster, John	G, CC, Res T, Gen, OBR
Bourke, Gavan	LV
Bridge, Emma	Res T, CC, G, Gen
Brown, Vicki	LV
Burdon-Smith, Susan	Res T, CC, G
Burge, Dr Dorothy (Barbara)	OBR
Burgess, Zena	AD, G
Bylhower, Marietta	OBR
Calabro, Domenico	Res T, CC
Cali, Louis	OBR
Cameron, Dr Melanie	OBR
Campbell, Heather	No list assigned
Caputo, Joseph (CR JP)	LP
Carew, Megan	P
Chapman, Ysanne	OBR
Chase, Gregory	P
Cherrie, Deborah	LP
Clarke, Dr Bernard	OBR
Cleary, Peter	LV
Cogley, Vicki	OBR
Coldbeck, Peter	Gen, G, CC, OBR, Res T
Collopy, Dr Brian	OBR
Cook, Dalia	P
Cooney, Elizabeth	LP
Coulson Barr, Lynne	LP
Counsel, Caroline	LP
Crawford, Gwenneth	OBR
Cremean, Bernadette	AD, CC, Res T
Croft, Dr Clyde	Tax, OBR, LP
David, Graeme	P

Davies, Dennis	No list assigned
Davies, Hugh	CC, Res T
Davies, Vicki	P
Davis, Dr Julian	G, OBR
Dawson, Julie	AD, G
Dea, Anna	OBR
Delaney, Clare	OBR
Dickinson, Anthony	OBR
Dillon, John	OBR, Civil, Res T
Doherty, John*	Res T, CC, G
Drinkwater, John	OBR
Dudakov, Brian	LV
Dudycz, Dr Maria	AD, G, OBR
Duffy, Jane	OBR
Duggan, Anne	G
Dunlop, John	OBR
Eccles, Desmond (Assoc Prof)	P, OBR
Eggleston, Peter	Res T, CC
El Moussalli, Michael	OBR
Evans, Robert	P
Fabris, Dr Elaine	OBR
Farhall, John	OBR
Farkas, Michael	LP
Ferres, Dr Beverley	AD, G, OBR
Fong, Christina	P
Foy, Deborah	OBR
Galvin, John	Res T, CC, G,
Gerber, Paula	DB, AD, CC
Geyer, Carol	OBR
Gibson, Geoffrey	Tax
Gilfillan, Struan	P
Gleeson, John	OBR
Glover, Dr John	Gen, Tax
Glynn, Alison	P
Good, June	Res T, CC, G
Gorman, Lois	G, OBR
Graves, Phillip	G
Grayling, Jennifer	LP
Grosvenor, Russell	OBR
Gu, Xu Ming	OBR
Gymer, Raymond	OBR
Gysslink, Paul	OBR
Hally, Mary	OBR
Hasnnerbery, Elaine	LP
Hadjigeorgiou, Nicholas	P
Halstead, David	OBR
Hancock, Elizabeth	LV
Harper, Patricia	LP
Harris, Elizabeth	No list assigned
Harrison, Fiona	LP
Harty, Christopher	P
Harvey, Margaret	G, AD, CC, Res T
Hawkins, Annabel	Res T, CC, G
Hendtlass, Jane	Res T, CC, G, AD
Homewood, Penelope	P
Horan, Anthony	LP
Hughes, Elizabeth	OBR
Jacquier, Errol	LP
Jenkins, Louise	LP
Jones, Russell	No list assigned
Jopling, Peter	LP
Keaney, John	P
Keddie, Ann	P
Keith, Benedict	OBR
Klingender, Jessica	Res T, CC
King, Ross	OBR
Kirmos, Kay	Res T, CC
Kominos, Angela	Res T, CC, AD, G
Laidler, Terrence	OBR, AD
Lambden, Elizabeth*	G, CC, Res T, Gen, OBR
Langton, Robert	CC, Res T, DB
Lee, Christopher	LV
Levin, David	LP
Levy, Leonard	OBR
Lightfoot, Brian	CC, Res T, Ret T, Real P, G

Lipson, Mark	LP
List, David	OBR
Louden, David	OBR
Lulham, Ian	DB, Res T, CC
Mainwaring, Dr Sylvia	P, AD, Real P
Malbon, Alan	OBR
Marshall, Simone	OBR
McCabe, Edmund	Res T, CC, G
McDonald, Timothy*	G, CC, Res T, Gen, OBR
McFarlane, Timothy	G
McGarvie, Ann	Res T, CC, G
McKeeken, Joan (Prof)	OBR
McKenzie, Susanne	LP
McKeown, Patricia	OBR
McNamara, Kenneth	P
Myers, Paul	LP
Molloy, Dr Patricia	OBR
Molnar, John	OBR
Mulcare, Christine	LP
Nagle, Kathleen	OBR
Nihill, Genevieve	Res T, CC, G, Gen, OBR
Norman, Kathryn	Res T, CC, G
O'Dwyer, Daniel	No list assigned
Ogloff, James	OBR
Osborn, Jane	P
Ozanne-Smith, Eleanor (Prof)	OBR
Page, Rodney	LP
Pearson, Ros	OBR
Perlman, Janine	Res T, CC, AD
Phillips, Robert	CC, Res T, G
Phillips, Sabine	OBR
Pinksier, Dr Nathan	OBR
Pitt, Margaret	LP
Pizze, Geoffrey	P
Popovic, Jelena*	G, CC, Res T, Gen, OBR
Power, Marian	OBR
Price, Roland	Res T, CC
Quirk, Anthony	P, Real P
Rae, David	P
Raleigh, Steven*	G, CC, Res T, Gen, OBR
Read, Michael	P
Reddy, Dr Aruna	OBR
Richards, Keith	OBR
Reilly, Daniel	No list assigned
Riley, Dr Colin	OBR
Robinson, Ian	LV
Roller, Louis	OBR
Rowland, Linda	Gen, Res T, CC, G, AD
Ryan, Amanda	OBR
Shanahan, Dr Elizabeth	OBR
Shattock, Peter	No list assigned
Slee, Felicity	OBR
Soldani, Angela	Res T, CC, G
Southall, Anthony	No list assigned
Story, Rowan (AM RFD)	OBR
Tan, Dr Eng-Seong	OBR
Taranto, Mary-Ann	P
Tyers, Judith	LP
Von Einem, Ian*	G, CC, Res T, Gen, OBR
Wajcman, Jack	Res T, CC
Walter, Richard	P
Warren, Lindsay	CC, Res T, Ret T, G
Wentworth, Elisabeth	AD, CC, C, Gen, Res T, LP
West, Lynda	Gen, CC, G, Res T, AD
Williams, Charles	Gen, OBR, AD, G
Wilson, Cynthia	P
Zala, Peter	LV
Zemljak, Francis	AD, OBR
Zheng, Samuel	OBR

**Totals:** Judicial Members **6**, Deputy Presidents **8**, Senior Members **13**, Senior Sessional Members **8**, Full Time Members **20**, Sessional Members **185**

\* Magistrates

^ Jane Monk is on secondment at Dept of Sustainability & Environment



# OUR CUSTOMERS

[Our Customer Service Charter](#)

[Customer Support Services](#)

[How We Resolve Cases](#)

[How to Apply](#)

[VCAT Website](#)



## OUR CUSTOMER SERVICE CHARTER

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

- answers to queries about our jurisdictions and processes
  - appropriate forms, brochures and information guides
  - assistance in completing VCAT application forms
  - appropriate contacts for other government agencies, if required
- 

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

- provide advice about what to say in a VCAT hearing
  - give legal advice
  - complete a VCAT application form on your behalf
  - speak to VCAT Members on your behalf
- 

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

- serve 95 per cent of our customers within five minutes of them attending the front counter;
  - respond to 95 per cent of our customers within five minutes of them contacting our call centre;
  - greet customers in a polite and courteous manner;
  - deal with enquiries professionally; and
  - provide clear and accurate information and advice.
- 

**4. VCAT respects your right to receive:**

- fair and helpful assistance, including appropriate arrangements for people with disabilities, those with special access needs or other cultural requirements;
  - an interpreter if necessary;
  - privacy – we keep your information confidential, unless disclosure is authorised by the law (see [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) for our privacy policy);
  - 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; and
  - timely decisions.
- 

**5. To allow us to deliver a high quality service, VCAT users must meet their responsibilities by:**

- providing us with complete and accurate information to the level appropriate to their situations;
  - complying with any VCAT directions or orders; and
  - behaving courteously and peaceably in and around VCAT venues.
- 

**6. We value your feedback.**

We aim to continually deliver a high level of service to the community and we welcome your comments and suggestions. Contact VCAT in person or by telephone, fax, mail or email.

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## CUSTOMER SUPPORT SERVICES



VCAT's headquarters at 55 King Street, Melbourne is segmented into three distinct service areas:

### Ground Floor

Here we provide general advice to users about VCAT operations and hearing procedures. We assist when you arrive for a hearing and help you fill out application forms. We assist Residential Tenancies List users by requesting that warrants of possession be issued. We prepare between six and eight warrants per day and operate a facsimile service benefitting users with timely processing of warrants directly to real estate agents, landlords and police stations.

### Mediation Centre

Located on the second floor, the Mediation Centre provides users with comfortable amenities conducive to achieving settlements at mediation. The centre comprises dedicated hearing rooms, meeting areas, a computer and a suite of mediation breakout rooms.

### Fifth Floor

Here we welcome parties arriving for hearings. Hearings involve up to 300 people per day and VCAT staff record their arrival and direct them to hearing rooms.

Other significant VCAT customer 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 users, particularly in regard to complex matters.

### Court Network

The volunteer statewide Court Network offers a valuable service for users. Located on the ground and fifth floors, these two specially trained volunteers are in attendance most days. They offer friendly support, information and referral for people attending mediations and hearings.

### Video and Telephone Links

If you are unable to physically attend a hearing, for a small fee you may link in via video or telephone (we can arrange video links to locations around Australia and overseas). In addition to providing added convenience for users, these hearings help manage Members' time more efficiently, especially when hearing urgent matters in rural areas.

### Access for the Hearing Impaired

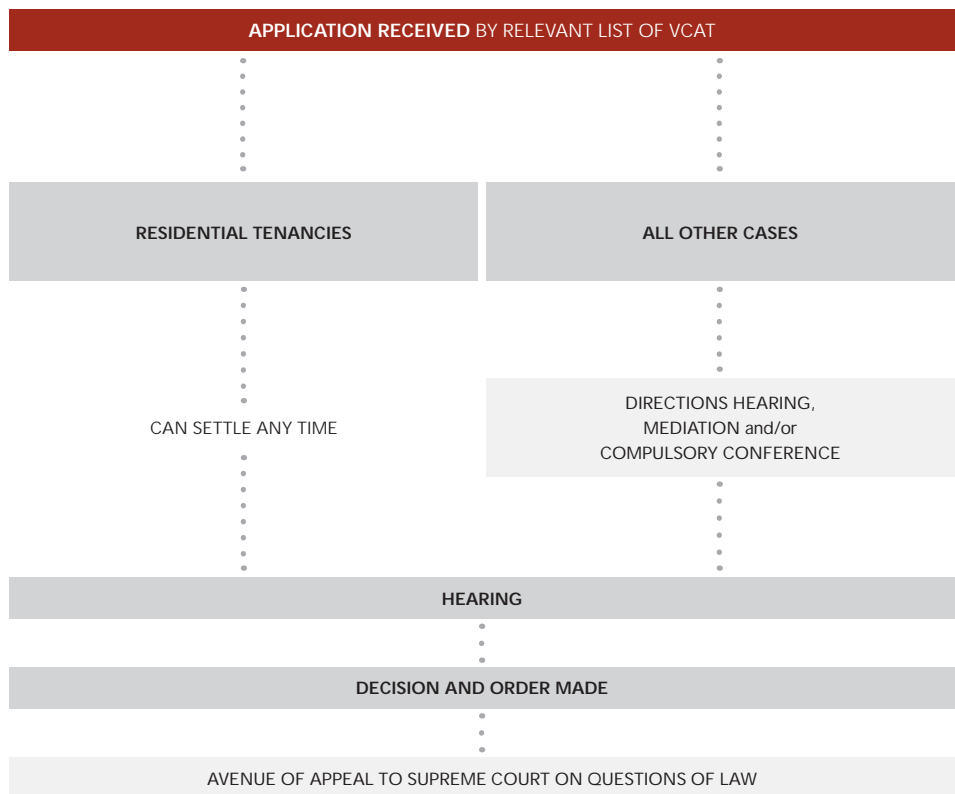
We offer hearing loop access in all of our hearing rooms at 55 King Street. In addition, a DVD player is available for use by parties upon request, allowing users to present cases in a format designed to assist them and Members. Four hearing rooms at VCAT have permanent audiovisual equipment.

### Publications

Further information about our services is contained in a series of informative publications available free at 55 King Street. More information is also available at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)



## HOW WE RESOLVE CASES



The above flow chart illustrates our usual approach to resolving cases.

Every case brought to VCAT is different. Cases may take from 15 minutes to as much as a day or more to resolve. Others may take several weeks due to the complex issues involved.

The process of resolving cases begins when a person files an application with one of our Lists. To help settle a dispute, a mediation, directions hearing or compulsory conference may occur, depending on the case. Many cases, however, proceed directly to a hearing.

Hearings give parties the opportunity to call for or give evidence, ask questions of witnesses, and

make submissions. At the end of a hearing, a Member of VCAT either delivers a decision on-the-spot, or writes a decision after the hearing and delivers it as soon as possible.

In a civil dispute, the people involved may agree at any time to resolve their differences without a mediation, directions hearing, compulsory conference or a hearing. If the case proceeds to a hearing, there is still an opportunity to settle prior to the Tribunal delivering its decision.

All VCAT decisions can be appealed to the Supreme Court of Victoria, but only on questions of law.

## HOW TO APPLY

Applying to VCAT is easy. You can request an application form by:

- phoning or writing to VCAT;
- visiting us at 55 King Street, Melbourne, Victoria; or
- logging on to [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

We conduct hearings at 55 King Street, Melbourne, as well as at Cheltenham, Collingwood, Dandenong, Frankston, Heidelberg, Kew, Ringwood, Sunshine and Werribee. In addition, we visit the rural locations listed on the map on the 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.



## VCAT WEBSITE

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

- details about each List and how to make an application or bring a claim;
- legislation, Practice Notes and Rules applicable to VCAT;
- the daily law list;
- a video 'Working It Out Through Mediation' to help parties prepare for mediation;
- links to VCAT decisions, and a variety of government, judicial and legal websites; and
- how to access files, publications and information held by VCAT.

### Site Visits

During the 2007–08 financial year, the number of visits to our website increased by 15 per cent, totalling 650,265 visits compared to 566,538 in 2006–07. Popular web pages included:

- VCAT Online;
- Daily Law List;
- Decisions;
- Application Forms and Brochures;
- Residential Tenancies;
- Civil Claims;
- Planning and Environment; and
- Contact Us.

### E-mails

We received 6,436 e-mails to [vcat@vcat.vic.gov.au](mailto:vcat@vcat.vic.gov.au) in the 2007–08 financial year, an increase of 17 per cent on the previous financial year.

# VCAT HEARING LOCATIONS



## 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 9988

### Civil Claims List

Tel: +61 9628 9830  
Fax: +61 9628 9988  
1800 133 055  
(within Victoria)

### Credit List

Tel: +61 9628 9790  
Fax: +61 9628 9988

### 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 9822  
1800 133 055  
(within Victoria)

### Land Valuation List

Tel: +61 9628 9766  
Fax: +61 9628 9788

### Legal Practice List

Tel: +61 9628 9081  
Fax: +61 9628 9988

### Occupational and Business Regulation List

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

### Planning and Environment List

Tel: +61 9628 9777  
Fax: +61 9628 9788

### 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 9770  
Fax: +61 9628 9788

[www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

