

Timely. Low Cost.  
Expert. Accessible.  
Independent.



Victorian  
Civil and  
Administrative  
Tribunal

2005-06

Annual Report

Our vision is to set the standard for dispute resolution by achieving a high level of quality decision-making, timeliness and service excellence.

## Letter to the Attorney-General

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

Dear Attorney-General

We are pleased to present our annual report of the performance and operations of the Victorian Civil and Administrative Tribunal (VCAT) from 1 July 2005 to 30 June 2006 according to the requirements under 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 2006; and
- proposals for improving the operation of VCAT and forecasts of VCAT's workload in the subsequent 12-month period.

Sincerely



Stuart Morris  
President  
18 August 2006



John Ardlie  
Chief Executive Officer  
18 August 2006

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# Purpose, Objectives and Background

## Background to the VCAT Act

The 1996 Department of Justice report *Tribunals in the Department of Justice: A Principled Approach* acknowledged that tribunals “are now considered to be an integral part of the justice system”.

On 1 July 1998, the Victorian Civil and Administrative Tribunal (VCAT) was established under the *Victorian Civil and Administrative Tribunal Act 1998* (the VCAT Act).

A Supreme Court judge heads VCAT as President and County Court judges serve as Vice-Presidents. Deputy Presidents head the various Lists and a Rules Committee appointed under the VCAT Act develops rules of practice and procedure and Practice Notes for VCAT. VCAT provides Victorians with accessible justice in administrative review matters, civil disputes and human rights.

## Purpose

At VCAT, our purpose is to deliver a modern, accessible, informal, efficient and cost-effective tribunal justice service to all Victorians, while making quality decisions.



Deputy President Catherine Aird.

## Aims and Objectives

### *Users and the Public*

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

### *Our Role*

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

- Independent
- Responsible
- Responsive

### *Our People*

Encourage 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

### *The Community*

Ensure that VCAT continues to raise awareness of its services and to improve its service delivery to the community through:

- User feedback
- Education



Sessional Member Hugh Davies.

## About our Cover Theme

In our eighth year of operation, our ongoing themes of being *timely, low cost, expert, accessible* and *independent*, communicate our key objectives and strengths in providing a valuable dispute resolution service to the Victorian community.

This aim is critical because VCAT’s decisions directly impact more than one million Victorians every year.

For each of the 220,000 parties at VCAT in 2005–06, at least four other people have a direct interest in the matter, such as family members, business associates, company employees and local residents.

VCAT addresses issues of importance to the community, including decisions having a critical effect on the care of people who are no longer able to manage their personal and financial affairs.

VCAT decisions impact the Victorian environment and its economy through matters involving planning and environment, liquor licensing, occupational and business regulation and credit providers.

Front cover, pictured from the top— Vice-President His Honour Judge Bowman, Customer Service Officer Julie Savvidis and Senior Member Rohan Walker.



Administrative Officer Anielle Ollivier.



# About VCAT

## Who We Are

The Victorian Civil and Administrative Tribunal (VCAT) began operations on 1 July 1998 as part of an initiative to improve the operation of the tribunal justice system in Victoria by:

- streamlining administrative structures;
- increasing flexibility; and
- improving the operation of tribunals.

VCAT comprises three divisions—Civil, Administrative and Human Rights. Each division has a number of Lists specialising in particular types of cases.

VCAT has a hierarchy of members:

- the President of VCAT who is a Supreme Court judge;
- Vice-Presidents who are County Court judges;
- Deputy Presidents who are appointed to manage one or more Lists; and
- Senior Members and other members who serve on the Lists on a full-time or sessional basis.

Its members have a broad range of specialised skills to hear and determine cases. Experienced members, including judges, legal practitioners and members with specialised qualifications, enable VCAT to hear a wide range of complex matters. The President assigns members to specific Lists according to their expertise and experience. If a member has appropriate

qualifications, he or she may be assigned to hear cases or mediate in more than one List. In this way, VCAT allows for the most efficient use of members' time, as well as flexible and appropriate use of members' expertise. Of the 37 full-time members, 31 are allocated to more than one List. The remaining full-time members are specialist planners or planning lawyers who work exclusively in the Planning and Environment List.

## What We Do

In our Civil Division, we assist Victorians in resolving a range of civil disputes that involve:

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

Our Administrative Division deals with disputes between people and Government about:

- land valuation;
- licences to carry on business, involving such business enterprises as travel agencies and motor traders;
- planning and environment;
- state taxation; and

- other administrative decisions such as Transport Accident Commission decisions and freedom of information issues.

Our Human Rights Division deals with matters relating to:

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

In addition, we review decisions made by a number of statutory professional bodies such as the Medical Practice Board of Victoria.



VCAT received an award for its 2004–05 Annual Report from the Australasian Reporting Awards in June 2006, setting VCAT apart in meeting strict standards and criteria, reflecting national and international best practice standards in annual reporting.



From left—Deputy President of the Planning and Environment List and Land Valuation List Helen Gibson, Deputy President of the Civil Claims List and Residential Tenancies List Bernadette Steele, Deputy President of the General List Anne Coghlan, Deputy President of the Credit List Kate McKenzie and Deputy President of the Domestic Building List Catherine Aird.

# Highlights

## List Users

- |   | <b>Refer to Page</b> |
|---|----------------------|
| • Received 88,950 applications (88,417 in 2004–05), representing a 1% increase.   | 4, 5                 |
| • Resolved 89,475 cases (88,558 in 2004–05), representing a 2% increase.  | 4, 5                 |
| • Cases pending totalled 8,627 (9,031 in 2004–05) representing a decrease of 4%.  | 4, 5                 |
| • Received 51,766 applications via VCAT Online, representing 78% of the total applications for the Residential Tenancies List (compared with 76% in 2004–05). | 41, 58               |
| • Visits to the VCAT website rose 22% from 411,237 in 2004–05 to 499,709 in 2005–06.  | 6, 59, 72            |

## Our Role

- |  |           |
|--|-----------|
| • Achieved a high level of performance on budget, with VCAT operating expenditure totalling \$27.38 million in 2005–06, in line with budget projections. | 8, 61     |
| • The overall VCAT mediation success rate moved from 68% in 2004–05 to 70% in 2005–06.   | 4, 14, 15 |
| • Successfully incorporated the former Legal Profession Tribunal, creating the Legal Practice List (see below).  | 5, 30, 48 |

## Our People

- |  |        |
|--|--------|
| • The number of VCAT employees rose 10% from 179 in 2004–05 to 197 in 2005–06.   | 53     |
| • A total of 73 employees attended 60 training courses offered by the Department of Justice, providing 75 days of training.  | 54     |
| • VCAT non-judicial membership increased 21% from 149 in 2004–05 to 181 in 2005–06.  | 51     |
| • VCAT members attended training and development programs offered by the Judicial College of Victoria, Monash University and the Australian Institute of Judicial Administration Tribunals Conference, as well as List-specific training programs, particularly in the Planning and Environment List and General List. | 51, 52 |

## The Community

- |  |           |
|--|-----------|
| • The 220,000 parties at VCAT in 2005–06 came from all walks of life, including: <ul style="list-style-type: none"><li>– tenants in private and public housing;</li><li>– people who buy cars, wedding dresses and computers;</li><li>– people who renovate homes;</li><li>– people with a disability and their families;</li><li>– small traders to public companies in all fields of commerce; and</li><li>– most arms of the Victorian Government and local government.</li></ul> | 9         |
| • Conducted regular user group meetings across Lists aimed at improving service delivery by encouraging feedback from the community that uses VCAT's services (see also individual Lists, starting on page 16).  | 57        |
| • Judicial Members, Deputy Presidents, Members and senior staff presented a number of speeches and information sessions to raise awareness of VCAT's services.   | 6, 57, 67 |

In December 2005, the former Legal Profession Tribunal was successfully incorporated into the tribunal, creating the Legal Practice List. Headed by Judge John Bowman, the List continued the work of the former tribunal.

From left—Vice-President and head of the newly formed Legal Practice List His Honour Judge Malcolm Howell, VCAT member Mardi Baker, VCAT member Gerry Butcher and Solicitor Paul Kooter.



# Year at a Glance

Item	2005-06	2004-05	% Change
<b>Overview</b>			
Applications lodged	88,950	88,417	1
Cases finalised	89,475	88,558	1
Cases pending	8,627	9,031	(4)
Overall mediation success rate (%)	70	68	2
Visits to VCAT web site	499,709	411,237	22
Hearing venues used	98	101	(3)

## Lists

Applications received per List:

• Residential Tenancies List	66,302	65,950	1
• Planning and Environment List	3,542	3,515	1
• Guardianship List	9,346	9,333	n/c
• General List and Taxation List	870	1,087	(20)
• Domestic Building List	831	825	1
• Anti-Discrimination List	451	433	4
• Civil Claims List	6,855	6,488	6
• Real Property List	67	71	(6)
• Retail Tenancies List	170	197	(14)
• Occupational and Business Regulation List	109	113	(4)
• Land Valuation List	94	209	(55)
• Credit List	215	236	(9)

## Our People

VCAT employees	197	179	10
Judicial members	8	8	n/c
Full-time members	38	36	6
Sessional members	143	115	17

## The Community

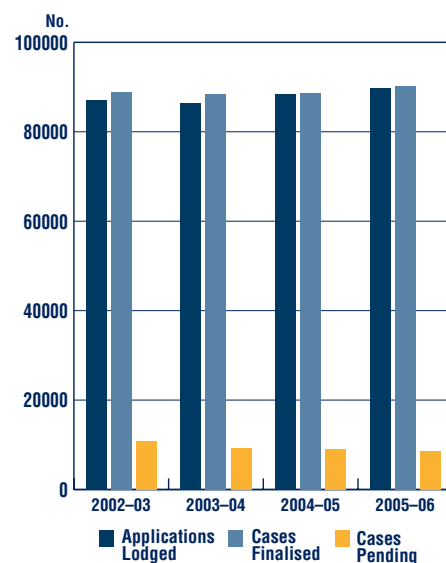
User group meetings conducted	17	17	n/c
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## Five-Year Financial Summary

Item	2005-06	2004-05	2003-04	2002-03	2001-02
<b>VCAT funding sources:</b>					
• Appropriations (VCAT)	(\$M) 15.69	(\$M) 14.99	(\$M) 14.49	(\$M) 13.90	(\$M) 12.15
• Residential Tenancies Trust Fund	8.00	7.32	6.97	6.63	6.66
• Domestic Builders Fund	1.91	1.63	1.45	1.40	1.49
• Guardianship and Administration Trust Fund	1.00	0.70	0.94	0.80	0.78
• Public Purpose Fund (Legal Practice List)	0.78	n/a	n/a	n/a	n/a
<b>Total:</b>	<b>27.38</b>	<b>24.63</b>	<b>23.85</b>	<b>22.73</b>	<b>21.08</b>
<b>VCAT operational expenditure:</b>					
• Salaries to staff	7.22	6.35	6.22	5.77	5.81
• Salaries to full-time members	5.87	5.26	5.31	5.35	4.10
• Salaries to sessional members	3.87	3.60	3.30	3.18	2.86
• Salary related on-costs	2.61	2.54	2.42	2.63	2.40
• Operating costs	7.81	6.88	6.60	5.80	5.91
<b>Total:</b>	<b>27.38</b>	<b>24.63</b>	<b>23.85</b>	<b>22.73</b>	<b>21.08</b>

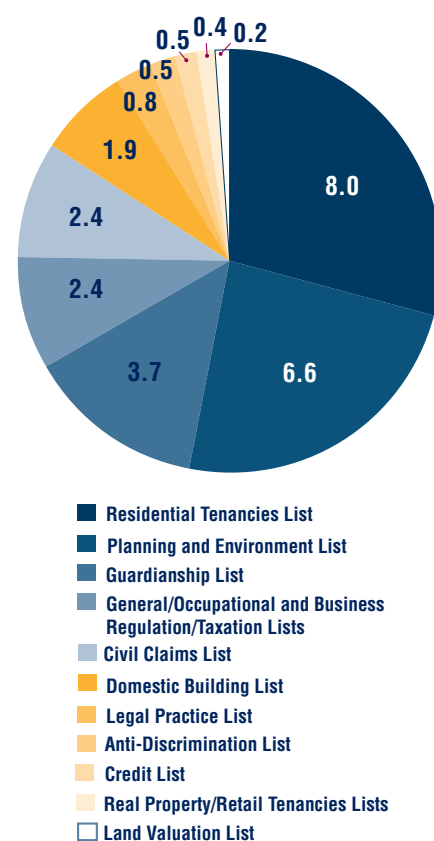
n/a=not applicable; n/c=no change

## All VCAT Cases—2002-06



A fundamental indicator of VCAT's performance, the number of cases finalised should reflect the number of applications received in a year, while the number of cases pending stays at an acceptable level. This result was achieved during 2005-06.

## VCAT Expenditure by List 2005-06 (\$M)



VCAT expenditure totalled \$27.38 million, which was divided among the Lists as shown.

# President's Report

In our last annual report, we emphasised the five values that are critical to the ongoing success of the tribunal, namely:

- timely decisions
- low cost proceedings
- expert determination
- accessible processes
- independence of operation

In our eighth year of operation, VCAT has continued to implement these values.

## Overview of Case load

Once again, we experienced an outstanding year in the efficient disposal of our case load, with 88,950 applications received, 89,475 applications finalised and 8,627 applications pending on 30 June 2006 (down by 4% from the previous period).

While applications to the Guardianship List remained constant, cases finalised increased by 4%. In the Civil Claims List, applications rose by 6% and cases finalised rose by 7%. The result for the Domestic Building List was particularly pleasing, given the often complex nature of the cases. While applications received rose by 1%, cases resolved rose by 9% and cases pending dropped by 13%. In the high volume Residential Tenancies List, cases pending dropped by 6%, reflecting the efficiency of case load management.

In case load terms, we face some challenges in 2006–07. For example, demand on the Civil Claims List and the Anti-Discrimination List are causing matters pending to rise. We are aware of and will address this situation.

In almost all of the Lists, we met or exceeded time targets we set to focus on the importance of delivering a timely service. In this Annual Report, we have published improved information on this topic.

## Budgetary Matters

VCAT has operated within the discretionary budget established at the commencement of the financial year. This budget had included a grant of \$600,000 from the Department of Sustainability and Environment, as a contribution towards the efficient operation of the Planning and Environment List. Unfortunately, this grant was ultimately not available. The Department of Justice has since met this shortfall in revenue. I acknowledge the support of the Secretary of the Department.

## Incorporation of the legal Profession Tribunal

In December 2005, the former Legal Profession Tribunal was incorporated into the tribunal, creating the Legal Practice List. Headed by Judge John Bowman, the List continued the work of the former tribunal. The new List has had a successful commencement and has heard many cases, including some major disciplinary cases.

I acknowledge the significant contributions that have been made by former members and staff of the Legal Profession Tribunal in ensuring a smooth transition of responsibilities.

## Member Remuneration

Arrangements that had been put in place following the passage of the *Judicial Salaries Act 2004* have resulted in an adjustment of the salaries of VCAT members at the same rate as other judicial officers, proving to be a satisfactory and appropriate arrangement. I acknowledge the cooperation of the Attorney-General and the Department of Justice in ensuring the appropriate remuneration of members of the tribunal.



President of VCAT Justice Stuart Morris.

## Accommodation

Hearings in the Residential Tenancies, Guardianship and Civil Claims Lists are decentralised and often heard in suburban or country locations. Often, cases in the Planning and Environment List arising in rural Victoria are heard in a country venue. The major portion of the tribunal's workload is heard at 55 King Street, Melbourne.

Although it is desirable in the long term to secure a new venue for the tribunal, preferably within the legal precinct in Melbourne, such a move will need to be determined in the context of the Government's Master Plan for the Melbourne Courts Precinct.

In the meantime, the Department of Justice has entered into arrangements in relation to the second floor at 55 King Street, which was previously vacant. Plans have been prepared to create a mediation centre on this floor, to be operated by the tribunal. The mediation centre will comprise four mediation rooms with associated breakout rooms. The plans for the second floor also involve the creation of two major hearing rooms, which would be particularly suited to substantial discipline cases and major civil disputes.



# President's Report



Vice-President Judge Bowman.



Vice-President Judge Davis.

## Professional Development

Members of the tribunal have participated in a number of programs organised by the Judicial College of Victoria. Already, the college is showing its value in the professional development of judicial officers and VCAT members.

Additionally, VCAT has conducted a wide range of professional development activities over the period, including regular seminars on matters such as natural justice, the awarding of costs and town planning issues. Further, in June 2006, VCAT operated its own decision writing course to improve the skills of members required to write written reasons for decision. Also in June 2006, a seminar was held for members deciding fair trading disputes designed to improve the skills of members in giving oral reasons for decisions. VCAT members have participated in these professional development opportunities with enthusiasm.

## Non-party Access to Files

During 2005–06, concerns about non-party access to files continued to be an ongoing issue. Last financial year, I commented that, although tribunal hearings and determinations are part of the public face of justice and should be open to scrutiny, different questions arise in the context of non-party access to tribunal files. During the year in review, initial consideration was given to whether there ought be a common legislative approach in all Victorian jurisdictions. VCAT supports such a common approach.

## Revisions to VCAT Act

A number of housekeeping amendments were made to the VCAT Act early in 2006. These amendments have assisted in streamlining aspects of VCAT's operations. It is inevitable that ongoing legislative amendment will be necessary as new

problems are identified. We look forward to working with the Attorney-General in respect of ongoing legislative reform.

## Council of Australasian Tribunals

VCAT has continued to support the Council of Australasian Tribunals (COAT), an organisation that represents and supports tribunals across Australia and New Zealand. In April 2006, COAT published a practice manual for tribunals providing guidance to members in relation to matters such as procedural fairness, conducting hearings and giving decisions. Additionally, I have supported COAT in its professional development programmes by making presentations on decision making in New South Wales and in Western Australia.

Further, members of VCAT participated in the annual tribunals conference conducted by the Australian Institute of Judicial Administration.

## Community Involvement

The tribunal continues to play an important role in educating the public and stakeholders about VCAT's jurisdictions and processes.

The tribunal's website plays an important role in this respect. During the year in review, visits to our website rose 22%, receiving 499,709 visits.

Once again, we conducted open days during planning week and law week. In addition, we cooperated with the Department of Sustainability and Environment in conducting its planning, education and training programme (PLANET). This programme is provided to councils and members of the planning community. As President, I have taken an active role in explaining the business of the tribunal to the community. Over the reporting year, I delivered a number of papers and made numerous presentations



to councils, community groups and professional groups. Additionally, I visited regional areas in an endeavour to better understand the needs of country communities.

Speaking to local councils throughout the State has been beneficial in two respects. First, it has provided the tribunal with an opportunity to explain its work and the legal constraints that apply when it makes decisions. Second, it has allowed local government to provide useful feedback to the tribunal, which we have been able to take on board to improve our service delivery.

### **Changes in Membership**

During 2005–06, the five-year terms of three full-time and eight sessional members expired.

After more than 30 years of full-time service in Victorian tribunals, Deputy President Michael Levine moved from a full-time position to a sessional position. For many years, Deputy President Levine has been in charge of the tribunal's Residential Tenancies List and the Civil Claims List (and predecessors of these lists). I acknowledge the outstanding service he has provided, particularly in promoting a culture of timeliness and accessibility. At his request, Senior Member Roger Young was reappointed as a sessional member. In addition, Senior Member Noreen Megay was reappointed as a sessional member. Stella Moraitis was appointed as a full-time member, as was our former principal registrar Ian Proctor. I place on record the tribunal's appreciation for all members who have retired from service during 2005–06.

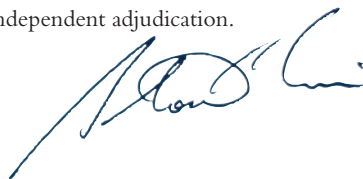
### **Acknowledgments**

The success of VCAT as an institution owes much to the cooperation of members and staff. Responsibilities and powers

within the tribunal have been devolved, together with leadership responsibilities. The full-time vice-presidents of the tribunal Judge John Bowman and Judge Sandra Davis provided me with first class support over the last year in review. The deputy presidents, who are responsible for the management of lists at the tribunal, played a crucial leadership role, while the members of the tribunal carried out their tasks diligently.

I would particularly like to acknowledge the contribution that has been made by Chief Executive Officer John Ardlie and former Principal Registrar Ian Proctor. Together with the head of central listings George Adgemis, John and Ian have been the leaders of the administration of the tribunal since its inception in 1998. Ian has since been promoted to a member and John will be retiring from service late in 2006. Their efforts over the period—indeed over the whole time that VCAT has been operational—has been outstanding. The success of the tribunal since 1998 owes much to their contribution. Finally, I thank my personal staff, Associates Teresa Bisucci, Marion Isobel and Fiona Todd, and Secretary Robyn Weeden, for their valuable support during the period.

On behalf of everyone at VCAT, I anticipate another successful year ahead as we continue to provide a service that focuses on timely, low cost, expert, accessible and independent adjudication.



Stuart Morris

*President*

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### **Papers and Formal Speeches Delivered by the President of VCAT in 2005–06**

The President of VCAT presented the following formal speeches in 2005–06:

- *Get Real on Expert Evidence* delivered at the National Environmental Law Association Conference, Canberra on 15 July 2005.
- *The Importance of Free Access to Law in a Participatory Planning Appeals System* delivered at the 7th Conference on Computerisation of Law via the Internet, Port Vila, Vanuatu on 18 November 2005.
- *The Civil and Human Rights Jurisdictions of VCAT* delivered at a seminar held by the Leo Cussen Institute, Melbourne on 23 November 2005.
- *The Practice of Government Law* delivered at the Annual General Meeting of the Law Institute of Victoria's Government Lawyers' Group, Melbourne on 5 December 2005.
- *Tribunals and Policy* delivered at the International Tribunals Workshop organised by the Centre for International and Public Law, the Australian National University in Canberra on 5 April 2006.

In addition, the President made more than 30 other presentations to local councils, community and business groups, and judicial colleagues.

For additional information on speeches and information sessions conducted, refer to page 67.

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# Chief Executive Officer's Message

I am pleased to report the administrative staff at VCAT continued their good work in support of the Government's goal to create a fairer society by providing access to justice for all, including the disadvantaged and showing respect for diversity within the community.

While VCAT has only had a short history within the State's system of justice, I estimate that VCAT impacts directly on one million Victorians annually.

In 2005–06, there were approximately 220,000 parties attending cases at VCAT. This number comprised 207,000 individuals, 13,000 companies including 100 government bodies.

Those attending the tribunal include:

- tenants, public and private landlords;
- purchasers of cars, clothes and holidays;
- people who build or renovate homes;
- those in dispute with their solicitor;
- disabled persons and their families;
- small traders and public companies;
- local government and ratepayers.

Parties appearing most frequently at VCAT are the Office of the Public Advocate, State Trustees Limited and FTL Judge and Papaleo Pty Limited regularly appearing in the Guardianship List.

The Director of Public Housing appeared in 14,000 applications before the Residential Tenancy List, and representatives of the Transport Accident Commission appear in more than 500 matters in the General List.

Estate agents make up the largest professional group appearing in the Residential Tenancies List, and town planners, architects, engineers and lawyers appear in the Planning and Environment List.

Lawyers appear in many VCAT Lists, although in small claims in the Civil Claims List, only by leave of the tribunal. Social workers and health-related case workers appear in large numbers in the Guardianship List.

These professionals, their clients and other parties are involved in the range of effective dispute resolution mechanisms in place at VCAT.

## Staff Performance Assessment

We assess staff performance according to the Government's Performance Management and Progression System. Managers consult with their staff members to plan careers, design work roles, discuss work performance against agreed criteria and determine levels of remuneration. Pleasingly, the overwhelming majority of staff were assessed as performing well in their roles.

## Employee Attitude Survey

Once again, the VCAT Registry staff responded to the Department of Justice (DOJ) annual staff survey. Where 3.5 on the 'on agreement' scale is 'positive' and 3.8 'very positive', our team scored 3.7—a pleasing result.

On an 'on agreement' scale, where 50% is regarded as satisfactory and 75% can be considered 'best practice', both VCAT and the DOJ scored 60%. Areas staff indicated needing improvement included occupational health and safety issues, staff involvement in future planning, management of 'under performance' and celebrating successes.

## Staff Conference

We developed a very successful staff conference in consultation with the VCAT Staff Focus Group in June 2006. We thank the Secretary of the Department, Penny Armytage, and the President of VCAT, Justice Stuart Morris, for attending and addressing our colleagues during proceedings. Staff were pleased their efforts in managing the administration were positively recognised by both the Secretary and the President. Importantly, the Secretary and the President encouraged the administrators to continue to identify opportunities for cost-effective improvement in all areas of service delivery.

## Financial Performance

In 2005–06, VCAT's recurrent expenditure of \$27.38 million, shared between expenditure on salaries to members (\$9.74 million), staff (\$7.22 million), salary on



Chief Executive Officer John Ardlie.

costs (\$2.61 million) and operating costs (\$7.81 million) was 11.2% higher than the \$24.63 million expended in the previous financial year. This increase compares with a percentage increase of 3.3% in the corresponding period. The transfer of the Legal Profession Tribunal, increases in Tribunal rent and increased member remuneration all contributed to the increased overall expenditure. Without the Legal Practice List costs, the increase was 8%.

## VCAT Operational Expenditure

	05-06	04-05	%
	\$M	\$M	Rise
Salaries to members	9.74	8.86	10
Salaries to staff	7.22	6.35	14
Salary related on-costs	2.61	2.54	3
Operating costs	7.81	6.88	14
<b>Total</b>	<b>27.38</b>	<b>24.63</b>	<b>11</b>

## Technology at VCAT

During the year in review, we launched the VCAT Online rewrite, expanded the use of the Order Entry System to more suburban and rural venues and became involved in the development of the Integrated Courts Management System. Additionally, we modified our Caseworks software to accommodate the new Legal Practice List and upgraded the hearing room digital recording system. We upgraded the internal electronic security system to meet changed requirements. These initiatives were achieved on time, as planned and on budget. Please refer to page 58 for more information on information technology at VCAT.

### **Additional Accommodation**

Ms Penny Armytage, Secretary of the DOJ, has approved \$1.2 million in funding to enable VCAT to lease the vacant second floor of the complex to develop two hearing rooms and a suite of mediation rooms. The works will commence in August 2006.

### **VCAT Performance Reports**

In 2005–06, we reviewed the administrative systems and procedures in place in the Domestic Building, Anti-Discrimination and Civil Claims Lists.

The reports were published on the VCAT website for reference. A statistical study of the Planning and Environment List was produced and published in August 2005. These reports confirmed that these Lists are running efficiently. In 2006, we published the first VCAT user survey, focusing on recent users of the Civil Claims List. The survey of approximately 1,450 users elicited 359 responses—sufficient for analysis.

We gleaned the following results:

- 75% indicated they were very or fairly satisfied with the outcome.
- 52% said they were successful.
- 86% said the time taken to resolve their case was about right.
- 79% said they would use VCAT again.
- 71% said staff were courteous and 15% said it was average.
- 62% said the hearing process was good and 14% said that it was average.
- 60% said the courtesy of the member during hearings was good and 11% said that it was average.

While this summary indicates a level of satisfaction for List performance, clearly we see room for improvement. We plan to develop initiatives to improve the hearing process in the List and will conduct ongoing user surveys in other Lists.

### **Acknowledgments**

I thank President Justice Morris, and Vice-Presidents Judge Bowman and Judge Davis for their leadership and counsel during the period. Their enthusiastic

approach to the business of the tribunal is a source of encouragement for all of us. I thank the Deputy Presidents and members who work ‘at the coalface’ for their ongoing cooperation and assistance.

I reiterate the words of Secretary Ms Armytage and Justice Morris in congratulating my administrative colleagues for another successful year in providing support to VCAT and assistance to tribunal users. They are competently supported by out-posted VCAT and Court officers at venues across the State.

I congratulate former Principal Registrar Ian Proctor on his appointment as a member of VCAT. Ian’s performance in his prior role was exemplary and his enthusiastic approach to achieving efficiency and improving service will remain a source of inspiration for those who follow him. I recognise and thank Richard O’Keefe, Jim Nelms, George Adgemis, Tracey Watson, Phil Monk and David Freeman for their ongoing support and their leadership and commitment to service delivery. Their competence as managers is a critical factor in the overall management and coordination of administrative systems and procedures supporting the work of the members in resolving disputes.

I recognise and thank the entire administrative team who work together to deliver the services required, very often working to strict deadlines. I consider their efforts integral in enabling the members and management to do the work of the tribunal—together, we make a great team! Ongoing thanks are due to the Protective Security Officers of the Victoria Police and the Building Security Officer who competently manage the maintenance of good order at VCAT.

Within the system of justice, we enjoy the cooperation and support of our partners, particularly the courts and agencies such as Consumer Affairs Victoria, Building Advice, Conciliation Victoria and the Dispute Settlement Centre.

The Tribunal experiences a high level of cooperation from the courts, their Chief Executive Officers and colleagues.

I recognise the strong support provided to the tribunal by Secretary of the DOJ Penny Armytage and her colleagues in Finance, Information Technology and Human Resources.

I am most grateful for the ongoing support of Executive Director Courts John Griffin and his entire team at Court Services. Their timely assistance is greatly appreciated.

I recognise the high level of service provided to VCAT users by the Office of the Public Advocate, State Trustees Limited and Legal Aid Victoria.

A big thank you to my administrative team, including Karen McNamara and Nancy Molloy, who so competently manage the day-to-day affairs of my office, and to Finance Manager Alan Karfut, HR Manager Lorraine Renouf, and colleagues Rupali Varma, Monica Guglielmi, Deborah Ziebell and Stacey Barrow.

As my time at VCAT will have concluded when this report is published, I wish to thank everyone who works at VCAT, Court Services, officers of the DOJ, professionals that appear from day-to-day, and, indeed, the users of the services we provide, for giving me the opportunity to work with so many dedicated and competent individuals who comprise VCAT. It was gratifying to be a part of the development and evolution of such a successful people-based organisation.

I will follow the successful development of the tribunal with much interest.



John Ardlie  
*Chief Executive Officer*

# Performance Plan Summary 2005–06

For some years, we have conducted detailed studies of the administrative processes of VCAT's Lists to continue our efforts to provide an accessible, informal, timely and cost-effective dispute resolution service.

We identify the causes of any issues and address them, where possible.

During 2005–06, we formalised this process and produced the following reports:

- Civil Claims List Performance Report (August 2005)
- Anti-Discrimination List Performance Report (February 2006)
- Domestic Building List Performance Report (May 2006)

We published the reports on our website, where they remain available.

In August 2005, we published the fourth edition of the VCAT Planning and Environment List Survey covering 2001–02 to 2004–05, comprising a statistical survey rather than a survey of users. Each report showed the List was operating efficiently. A summary of the highlights of the performance reports, not otherwise covered in this Annual Report, follows.

In 2006, we conducted the first formal VCAT survey of our users, focusing on the Civil Claims List. The results of the survey are published here for the first time.

## 2006 Civil Claims List Survey

We surveyed approximately 1,450 recent users of the Civil Claims List. The number of users replying to the survey totalled 359, enabling us to produce statistically meaningful results.

The gender breakdown of replies comprised 67% men and 33% women, with 51% of respondents having completed tertiary studies and 29% secondary studies.

The survey showed a high level of satisfaction with our service, particularly considering that more than 25% of respondents said they were not successful.

However, it indicated areas where we can improve our service to users.

The highlights are as follows:

- *Overall satisfaction*—75% of people were very satisfied or fairly satisfied with the outcome of their case.
- *Success*—52% of people said they were successful and 21% said both parties were successful.
- *Timeliness*—86% of people said the time taken to resolve their case was 'about right'.
- *Return to VCAT?*—79% of people said they would use VCAT again.

About the services provided by the VCAT Registry, 87% of people said our pre-hearing services were good (67%) or average (20%).

The main reasons were as follows:

- *Courtesy of our staff*—71% said this was good and 15% said this was average.
- *Guidance given on VCAT procedures*—62% said this was good and 15% said this was average.
- *Waiting time for telephone calls to us*—45% said this was good and 27% said this was average.
- *Quality of the Civil Claims List application form*—62% said this was good and 19% said this was average.

Among the users who replied, 79% were involved in cases that went to a hearing and 77% of users attended. Overall, 62% of people said the hearing process was good and 14% said it was average.

The main reasons were as follows:

- *Courtesy of the VCAT member*—60% said this was good and 11% said this was average.
- *Being informed about the hearing process*—54% said this was good and 18% said this was average.
- *Being able to put their case*—60% said this was good and 10% said this was average.
- *Being able to reply to the other party's case*—45% said this was good and 12% said this was average.
- *Understanding the outcome*—57% said this was good and 13% said this was average.

## List Reports

### *Civil Claims List Performance Report*

The report showed the List was operating efficiently. As well as providing general statistical information, we reported as follows:

- *Location of parties*—81% of parties were in Melbourne, 15% in regional Victoria and 3% interstate.
- *How disputes were resolved*—72% of matters were heard and final orders made, 26% were withdrawn and 2% were resolved through compulsory conferences.
- *The number of hearings required per case*—28% of matters were finalised with no hearing and 66% with one hearing.



- *Who was successful*—15% of applicants were fully successful, 30% were partially successful, 27% were unsuccessful and 29% of applicants withdrew their application. We assume the majority of applicants who withdrew their application did so because the respondent offered them some benefit.
- *Time taken*—we had reduced the median time from application to finalising matters by 57%, from 14 weeks in 2002–03 to eight weeks in 2004–05 and expected this result to reduce further.
- *City vs. Country*—timeliness of service in regional Victoria was very close to timeliness of service in Melbourne.

#### *Anti-Discrimination List Performance Report 2005*

The report showed the List was operating efficiently. As well as providing general statistical information we reported as follows:

- *How disputes were resolved*—of matters finalised in 2004/05, 94% were resolved without a final hearing. Of the matters finalised in 2004/05, 42% were withdrawn, 11% were dismissed and 41% were resolved at mediation.
- *Outcomes*—of the 6% that went to a final hearing, discrimination was found proven in 42% of those matters.
- *The number of hearings required per case*—80% of matters were resolved with three or less scheduled attendances at VCAT.

#### *Domestic Building List Performance Report*

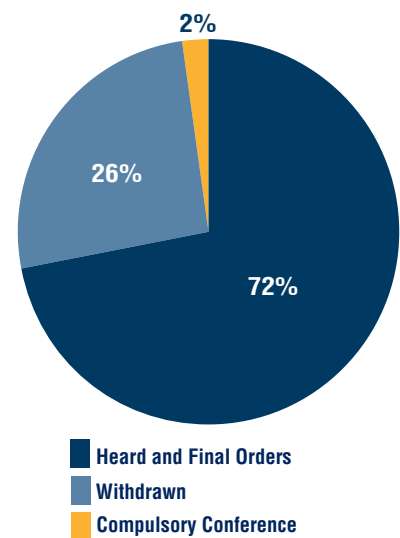
The report showed the List was operating efficiently. As well as providing general statistical information we reported about:

- *Location of the building sites*—78% were within 40 kilometers of the Melbourne CBD.
- *How matters are resolved*—85% of matters were resolved without a final hearing and decision by VCAT (68% for small claims, 90% for standard claims and 92% for complex claims).
- *How often parties come to VCAT*—63% of matters were resolved with two or less scheduled attendances at VCAT and 47% of matters were resolved with one attendance or no attendance.
- *Time taken*—the peak in finalising small claims is nine to 12 weeks from application and the hearing is usually brief (half a day to one or two days). The peak in finalising standard claims is four to eight weeks from application—the time when such claims are usually withdrawn before mediation or mediated. The peak in finalising complex claims is 37 to 40 weeks from application.

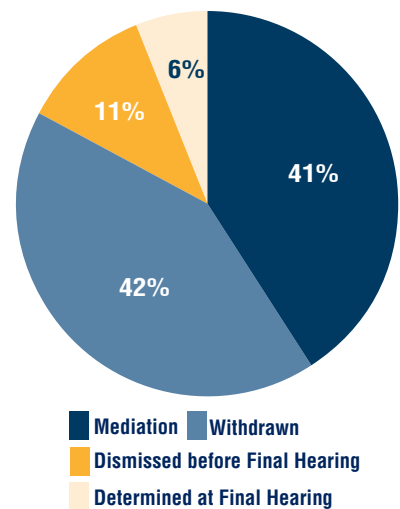
#### **Future Reports**

In August 2006, we plan to release a fifth edition of the VCAT Planning and Environment List Survey with, for the first time, a companion performance report. Further reports will then be considered.

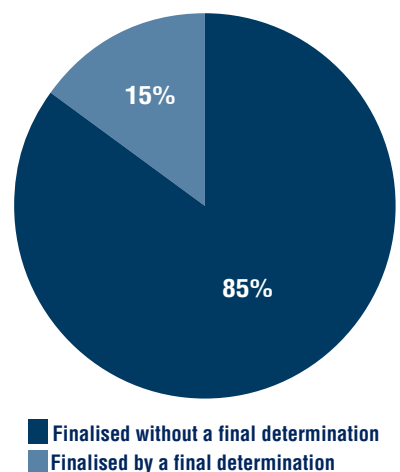
**How Matters Were Resolved (Civil Claims List)—2005–06**



**How Matters Were Resolved (Anti-Discrimination List)—2005–06**



**How Matters Were Resolved (Domestic Building List)—2005–06**



# Important Cases in 2005–06

## **Law v. MCI Technologies Pty Ltd [2006] VCAT 415 (22 March 2006)**

In this case, the applicant, who lives in Victoria, bought computer software over the phone from a company in Queensland. When it arrived, she decided that she wanted to return the goods and sought a refund. When the company refused, the applicant brought this proceeding under the Fair Trading Act 1999 (Vic), in particular those sections which allow for a ‘cooling off’ period after the conclusion of a telemarketing agreement.

The respondent claimed that the tribunal had no jurisdiction to determine the matter as the software licence agreement was exclusively governed by the laws of Queensland.

The tribunal found that that the FTA applies whenever goods or services are supplied in Victoria. It was not relevant that the supplier of these goods was based in Queensland. The tribunal then considered the strategies of the telemarketing campaign, as well as the nature of the product itself, and found that it was fair to allow a person in the applicant’s position to be refunded where they change their mind soon after the purchase. (Justice Morris)

## **Matthew Mangan v Melbourne Cricket Club [2006] VCAT 73 (8 February 2006)**

Matthew Mangan argued that he had been discriminated against on the basis of his sex in contravention of the Equal Opportunity Act 1995 in the context of his nomination for membership of the Melbourne Cricket Club. Mr Mangan’s case referred to certain provisions in the MCC rules which provided some degree of preferential treatment for female associates of long standing club members.

The MCC argued that the provisions were not discriminatory but rather a legitimate attempt to address the structural imbalances caused by the club’s policy of excluding female membership prior to 1983. Under the EOA, some kinds of discrimination are acceptable if they are directed at correcting entrenched imbalances.

The tribunal found that the MCC rule offended the Act, because the structural imbalances that the rule was directed at no longer existed at the time of Mr Mangan’s application. The decision was important because it articulated the fact that ‘special measures’ are designed to be temporary, and they reach their ‘use by’ date when the imbalance they are designed to address is corrected. (Justice Morris)

## **Mildura Rural City Council v. Minister for Major Projects [2006] VCAT 623 (19 April 2006)**

The Victorian Government is proposing to create a hazardous waste facility at Nowingi. The proposal is vigorously opposed by the local council. A panel was appointed to consider submissions on the project, one of whom was Dr Bill Russell. The Council sought a declaration from the tribunal under the Planning and Environment Act 1987 that the panel would not be capable of hearing the submissions in accordance with natural justice because Dr Russell had previously advised State ALP governments. The tribunal ruled that it was unlikely that a fair minded lay observer would reasonably apprehend that Dr Russell would not bring an impartial mind to the task. The tribunal found that the rule about bias has a different application in the context of a planning panel to that which it has in the judicial context. (Justice Morris)

## **Glenway Pl v. Glen Eira CC [2006] VCAT 300 (2 March 2006)**

VCAT granted a permit for a major activity centre in Carnegie. The conditions were largely agreed between the parties.

A contentious aspect of the proceeding was that an amendment was made to the Planning Scheme three days before the hearing, leading the Minister for Planning to intervene.

The Tribunal considered that the late amendment had important implications for the credibility of the planning system and exposed the risks inherent in late inclusions. Also, if the purpose was to stop the

development it had been unsuccessful for a number of reasons. (Deputy President Gibson and Senior Member Marsden)

## **State of Victoria v Bradto Pty Ltd & Tymbook Pty Ltd [2006] VCAT 99 (8 February 2006)**

An interlocutory injunction was granted to the State of Victoria (SOV) against Bradto and Tymbook in respect of the ‘Triangle Site’. The SOV intends to develop the site whilst currently the Respondents occupy the site pursuant to a Crown lease that the SOV alleges terminated on 31 March 2006. The interlocutory injunction essentially restrained the Respondents from obstructing access for the SOV to examine the site. The Tribunal held that the granting of the interlocutory prohibitive injunction was just and convenient. (His Honour Judge Bowman)

Application for leave to appeal this decision was refused by the Supreme Court on 5 May 2006.

## **Richard Dalla-Riva v Department of Treasury and Finance [2005] VCAT 2083 (6 October 2005)**

An application was made under the Freedom of Information Act 1982 concerning the refusal to release documents relating to the Mitcham Frankston Freeway project. The applicant sought access to the ‘Public Sector Comparator’, in which the government assesses the cost of construction of public infrastructure by a private sector entity and calculates whether it represents value for money compared with the cost of the government delivering a project itself.

In making its decision to release the document, the tribunal noted that freedom of information is an important part of our democratic framework. The tribunal highlighted the intention of the freedom of information scheme to extend the right of the community to access information in the possession of the Victorian Government, with only limited exemptions. (Judge Davis) (This decision has been appealed to the Court of Appeal).

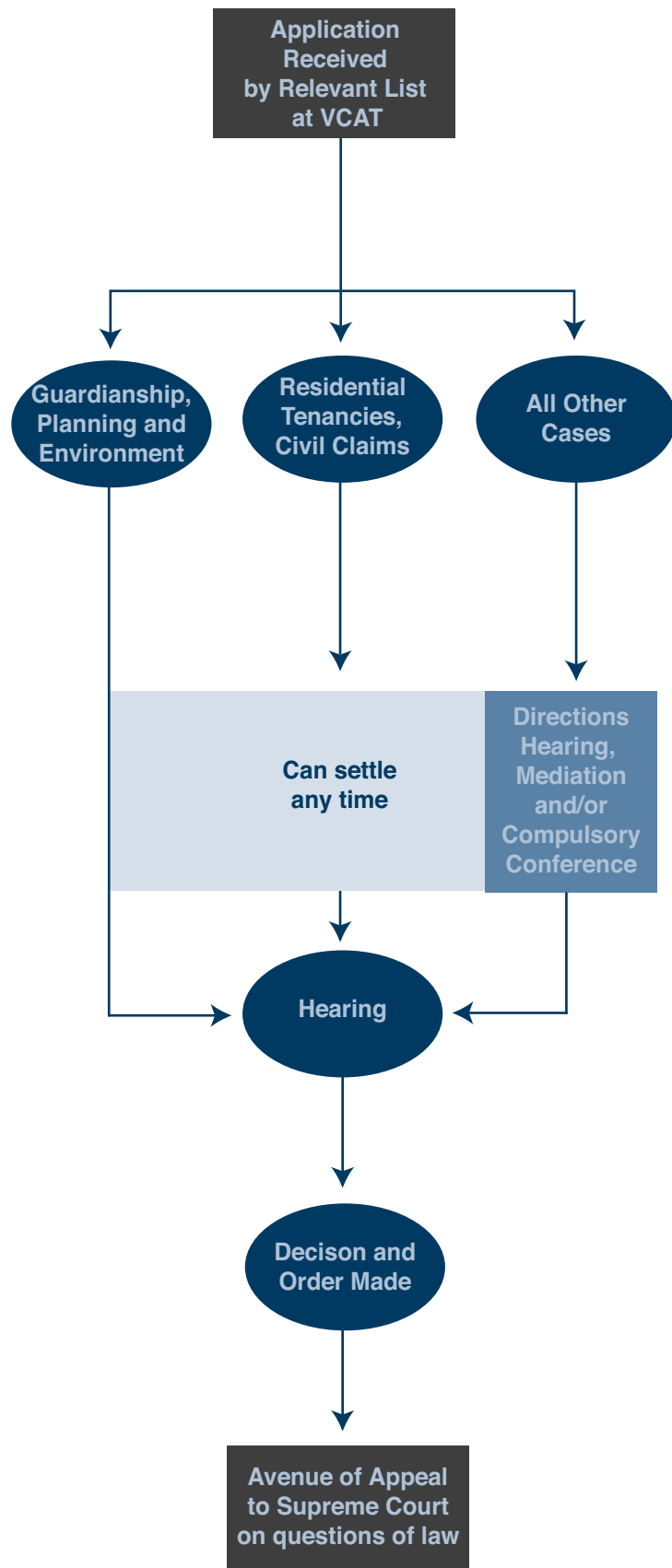
# A Simplified Approach to Resolving Cases

As a general guide, the flow chart shows a simplified approach to the mechanisms established to resolve cases. Variations in resolving cases occur due to the nature of the cases brought to each List. Cases may take from 15 minutes to as much as a day or more to resolve. Some may take several weeks due to the complex nature of the issues involved.

The process begins when a person files an application with a List. To help settle a dispute, a mediation, directions hearing or compulsory conference may take place depending on the case. However, many cases proceed directly to a hearing.

Hearings give parties the opportunity to call or give evidence, ask questions of witnesses and make submissions. At the end of the hearing, a member of VCAT either gives a decision on-the-spot, or writes a decision after the hearing and delivers the decision as soon as possible.

The people involved in a civil dispute may, at any time, agree to resolve their differences without the need for 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 delivery of the decision. Decisions of VCAT can be appealed to the Supreme Court of Victoria but only on questions of law.



Mediation plays  
an essential role  
in resolving a wide  
range of disputes.

### Statistical Profile

- Mediations listed: 1,866
- Cases finalised prior to mediation: 103
- Cases finalised at mediation: 652
- Mediation success rate: 70%
- Number of panel members: 75



## Mediation at VCAT

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.

### Mediation Services Group

The Mediation Services Group manages mediations at VCAT conducted by members of the VCAT Mediation Panel. The group includes Principal Mediator Margaret Lothian, Listings Manager George Adgemis and Emma Fray of Listings. On 30 June 2006, panel members totalled 75 mediators, compared with 48 at the end of 2004–05. The increase in the panel size is mainly due to the amalgamation of the previous Legal Profession Tribunal with VCAT to form the Legal Practice List. There are 26 mediators on the List panel, only four of whom were existing VCAT mediators. All were previously conciliators with the Legal Profession Tribunal. Some additional members have been trained to mediate in the Planning List.

### Mediation in the Lists

During 2005–06, the Lists in which mediation was used extensively were Anti-Discrimination, Credit, Domestic Building, Legal Practice, Planning, Retail Tenancies, General and Real Property Lists. With the introduction to VCAT of jurisdiction under the *Property (Co-ownership) Act 2005*, another class of matters is being referred to mediation. It is contemplated that some but not all the proceedings in this List will be mediated. In the Anti-Discrimination, Retail Tenancies and Real Property Lists, members first referred matters to directions hearings. Most anti-discrimination matters proceeded to mediation. Mediation was particularly appropriate in such cases because it afforded the parties opportunities to reach the heart

of their concerns and make positive differences in the way they dealt with each other in future negotiations. Legal Practice matters fall into three classes: Dispute, Disciplinary and Cost Agreements. Almost all Dispute matters are referred to mediation as the first step at VCAT.

In the Domestic Building List, small claims matters (involving disputed amounts up to \$10,000) went directly to a hearing and were mediated only occasionally. The first stage of standard matters (\$10,000 to \$100,000) was mediation and complex matters (more than \$100,000) went first to a directions hearing. Most complex matters went to either mediation or compulsory conference—sometimes they required both. The Planning and Environment List referred approximately 14% of its cases to mediation (20% in 2004–05).

### Statistical Profile

VCAT Mediation Services collects statistics of mediation use at VCAT. During 2005–06, 1,866 cases were listed initially for mediation (2,209 in 2004–05) of which 63% proceeded to mediation (66% in 2004–05) and 31% were adjourned or cancelled (29% in 2004–05). The mediation success rate by List ranged from 53% to 79% and the overall success rate rose from 68% in 2004–05 to 70%. This result included cases that were finalised before or at mediation as a proportion of the cases listed for mediation.

### Professional Development

Under the chairmanship of the Principal Mediator, the VCAT Mediation Committee supports the professional development of VCAT mediators.



## Community Awareness

During the financial year, Margaret Lothian and Senior Member Noreen Megay gave a seminar at VCAT as part of the Juris Doctor program and on 10 August 2005 VCAT hosted a joint seminar conducted by VCAT and Leading Edge Alternative Dispute Resolution (LEADR) entitled *Mediating with the Mentally Ill*. The speakers were VCAT member and mediator Susanne Liden, Brendan Hoystead of the Office of the Public Advocate and Ernest Treagus of LEADR.

After the success of *Donoghue vs. Stevenson: The mediation* last year, the Mediation Committee followed up with *Dr Grant and his Underpants* a moot mediation as part of Law Week 2006, based on the famous Australian case from the 1930s of *Grant vs. The Australian Knitting Mills*. In front of an

audience of approximately 60, Dr Rohan Grant (Senior Member Rohan Walker) and his solicitor Marg Runn (Marg Lothian) of the famous firm, Bookem Grabbit and Runn negotiated long and hard with Peter Mills (Senior Member Peter O’Leary) of the Australian Knitting Mills, volubly assisted by his barrister Julian Irate (Julian Ireland). Susanne Liden mediated—demonstrating the versatility of the process in more than difficult circumstances.

Marg Lothian spoke on mediation and compulsory conferences at the Law Institute of Victoria as part of the Construction Law series.

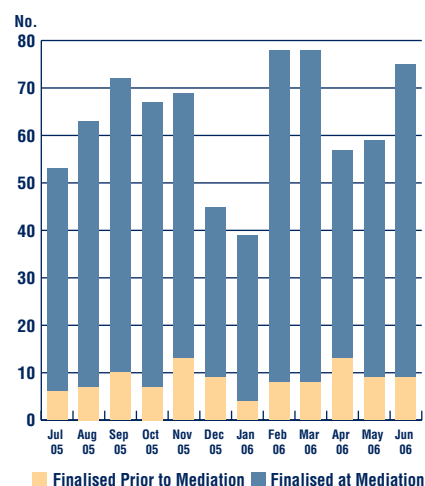
Available online at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au), the video *Working It Out Through Mediation* continued to serve as an effective resource for parties preparing to attend their first mediation at VCAT.

## A Tale of Two Proceedings

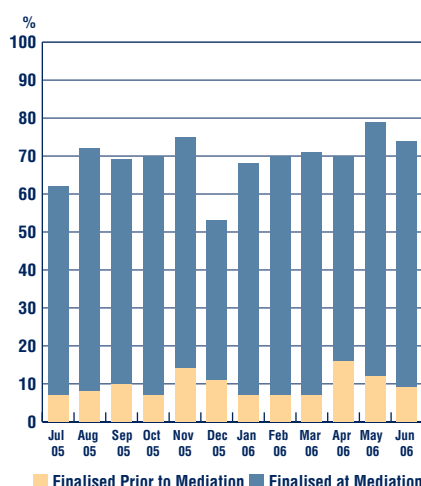
Cases of toxic costs—where the legal costs outstrip the amount in dispute—are never far from the minds of VCAT mediators and those who work with them. Two matters before VCAT involved such costs. In the first matter, a claim by home owners for approximately \$100,000 against a builder was met with a counter-claim a number of times that size. The matter went to a directions hearing where the presiding member discovered the nub of the matter involved difficult technical issues. The proceeding went to mediation before a mediator with both technical and legal skills who emphasised that if settlement were not reached, legal and other costs could be overwhelming. The matter settled with a payment by one party to the other which, although substantial, paled into insignificance when compared with likely legal costs.

In the second matter, a claim of similar size failed to settle, has had a number of additional parties joined and proceeded to a determination. It has been unsuccessfully appealed to the Supreme Court. It is hard to imagine that even the “winner” of this case is better off financially than they would have been if they could have settled early. Costs which are awarded almost never compensate fully for the legal costs incurred and never for opportunity costs and stress.

Successful Mediations—2005-06



Mediation Success Rate—2005-06



## VCAT Mediation Statistics—2005-06

List	Cases Finalised Prior to Mediation			Cases Finalised at Mediation			Mediation Success Rate (%)		
	2005-06	2004-05	2003-04	2005-06	2004-05	2003-04	2005-06	2004-05	2003-04
Anti-Discrimination List	17	11	19	93	125	126	59	76	70
Domestic Building List	41	40	39	276	282	275	66	64	66
Planning and Environment List	44	51	68	239	334	356	75	70	68
Retail Tenancies List	-	6	8	14	38	19	58	66	61
Overall	103	108	134	652	779	776	70	68	67

# We determine applications for exemption and complaints of discrimination.

## List Snapshot

### Objectives

- Resolve 60% of cases within 14 weeks of application and 80% within 23 weeks.
- Maintain a 70% settlement rate for mediations.

### Key Results

- Resolved 64% of cases within 14 weeks of application and 82% within 23 weeks.
- Achieved a 59% mediation success rate.

### Future

- Resolve 60% of cases within 14 weeks of application and 80% within 23 weeks.
- Maintain a 70% settlement rate for mediations.

### Statistical Profile

- Applications received: 451
- Cases resolved: 369
- Cases pending: 216
- Application fee: nil
- Number of members: 32



# Anti-Discrimination List

## Overview

Members of the Anti-Discrimination List determine complaints regarding breaches of the *Equal Opportunity Act 1995* (EO Act) and exemptions from the provisions of the EO Act. Initially, complainants lodge their complaints with the Equal Opportunity Commission (EOC). If the EOC declines a complaint, or determines that the complaint is not conciliable, or if its attempts to conciliate are unsuccessful, complainants may require the EOC to refer their complaints to VCAT. In addition, List members hear applications:

- made to strike out complaints on the basis that they are frivolous, vexatious, misconceived, lacking in substance or an abuse of process; and
- for interim orders to prevent a party to a complaint from acting prejudicially to conciliation or negotiation, or to VCAT's ultimate decision.

Additionally, List members hear complaints of a religious or racial vilification under the *Racial and Religious Tolerance Act 2001*. In a number of cases, the complainants invoked both Acts.

## Case Profile

In 2005–06, the number of complaints referred to VCAT totalled 341, compared with 315 complaints in 2004–05. The number of exemption applications received during 2005–06 decreased by 7%, totalling 110, compared with 118 applications in 2004–05. A significant proportion of applications involved renewals of exemptions previously granted.

The number of cases in the List resolved decreased by 18%, totalling 369, compared with 451 in 2004–05.

Cases pending increased 61%, totalling 216 on 30 June 2006, compared with 134 on 30 June 2005.

## Application Types

Complaints referred to the List claimed discrimination on the basis of race, sex, age, impairment, industrial activity, parental status or status as a carer in areas such as employment, education and the supply of goods and services.

The percentage of employment-related complaints comprised 75%, compared with 69% in 2004–05. The next highest number of complaint referrals related to the provision of goods and services at 14% (15% in 2004–05) and education at 9% (5% in 2004–05).

In 2005–06, the attribute profile of complaints referred to the List comprised:

- 23% sex discrimination and sexual harassment (29% in 2004–05);
- 38% impairment (25% in 2004–05);
- 9% race (11% in 2004–05);
- 4% victimisation (2% in 2004–05); and
- 26% other (30% in 2004–05).

## How We Dealt with Cases

Many routine exemptions were granted 'on the papers', without the necessity for a hearing. These exemptions concerned the recruitment of persons of a particular gender or particular background (usually Aboriginal or Torres Strait Islander) to positions in organisations being funded by government. The List has developed a process of notifying the EOC in relation to all exemption applications that are to be listed for hearing. Mediation continued to be a successful means of resolving disputes and List Members used it at an early stage in the process. The List achieved a 59% success rate in resolving complaints at mediation, compared with 76% in 2004–05. The mediation success rate remained high due to the considerable expertise of the List's core mediators. Although mediation was unsuccessful in a number of cases, the process significantly reduced the number of cases requiring a full hearing by enabling disputes to be settled prior to hearing.

### Timeliness

We resolved 64% of cases within 14 weeks of application and 82% of cases within 23 weeks. This result compares with 61% of cases being resolved within 14 weeks of application and 78% of cases within 23 weeks in 2004–05.

### Community Awareness

In November 2005, we made submissions to government on the final recommendations of the Scrutiny of Acts and Regulations Committee Report ‘Discrimination in the Law’.

In December 2005, we met with representatives of the EOC to discuss a number of matters and agreed upon ways of further refining the process of notification of exemption applications. Additionally, we approved proposed research to be funded by the Victorian Law Foundation to examine the processes and factors impeding or promoting successful resolution of complaints of discrimination at the EOC and at VCAT.

In March 2006, we formalised arrangements for that research at VCAT. In May 2006, we consulted with the EOC and the Department of Justice with regard to proposed amendments of the EO Act aimed at enabling the EOC to respond more effectively to systemic discrimination.

In March 2006, members of the List attended a meeting with Members of the Human Rights Consultative Committee to discuss the proposed adoption of a Charter of Rights and Responsibilities in Victoria. The majority of the provisions of the *Charter of Human Rights and Responsibilities Act 2006* will commence operation on 1 January 2007, with the remaining provisions to commence operation on 1 January 2008.

### Performance Review

VCAT prepared an Anti-Discrimination List Performance Report surveying users of the List and providing general statistical information. The report showed the List was operating efficiently. For more information, refer to page 11.

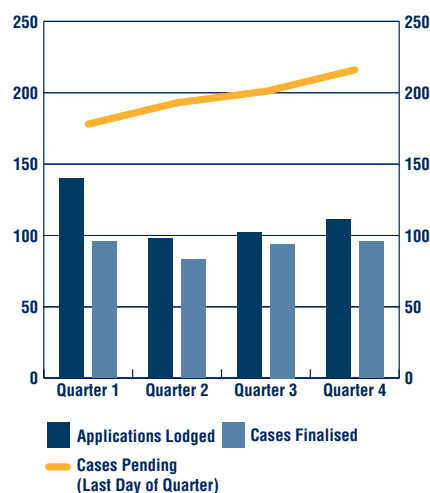
### User Group Activities

The List’s user group comprised legal practitioners who regularly represented complainants and respondents. The user group met on 29 May 2006 to discuss matters of relevance to List users, including recent VCAT decisions, the *Equal Opportunity and Tolerance Amendment Act 2005*, the model of mediation being followed by List members and directions that may assist the efficient disposition of cases at hearing.

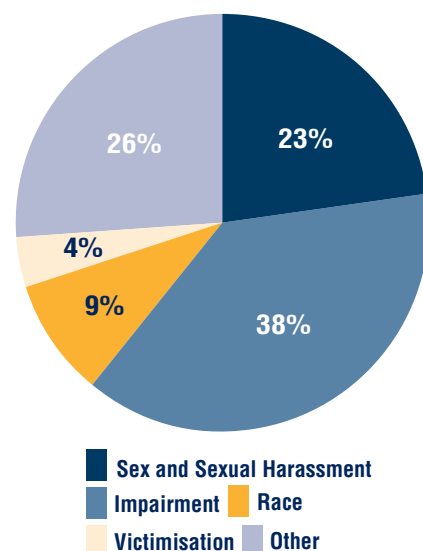
### Case Study: Impairment Discrimination against Deaf Child

The mother of a profoundly deaf child made a complaint to VCAT of impairment discrimination on behalf of her son in the area of education under the EO Act. VCAT held that the Department of Education and Training discriminated against the primary school student, whose first language is Auslan, by limiting his participation in classes teaching methods of sign language other than Auslan, and by imposing the unreasonable requirement that he receive instruction in classes without an Auslan interpreter. VCAT noted when determining whether a requirement or condition was reasonable, it must balance the requirement’s effect on the complainant with the respondent’s reasons for imposing the requirement, in particular the aim of the requirement or condition and whether the requirement or condition was a rational or logical way of achieving the particular aim. VCAT commented that teachers, as the qualified education providers, are in the best position to understand a child’s needs and although VCAT accepted that the teachers acted genuinely to best meet his educational needs, prohibited discrimination nevertheless occurred. VCAT further noted it is difficult to understand why deaf facilities for primary students are funded for teachers of the deaf only, while secondary schools are funded for teachers of the deaf and Auslan interpreters. VCAT suggested the State consider a review to address this discrepancy.

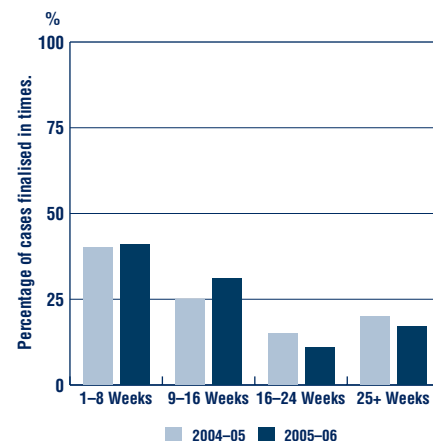
Case flow 2005–06



Complaints by Type 2005–06



Age of Matters Finalised (Median 11 Weeks)—2005–06



# We resolve disputes relating to civil claims.

## List Snapshot

### Objectives

- Resolve 60% of cases within 10 weeks of application and 80% within 14 weeks.
- Continue to resolve higher value and complex cases by compulsory conference.

### Key Results

- Resolved 75% of cases within 10 weeks of application and 87% within 14 weeks.
- Settled more than 82% of the claims exceeding \$10,000 referred to compulsory conference.

### Future

- Resolve 60% of cases within 10 weeks of application and 80% within 14 weeks.
- Continue to resolve higher value and complex cases by compulsory conference.

### Statistical Profile

- Applications received: 6,855
- Cases resolved: 6,554
- Cases pending: 1,866
- Application fee: \$32.50 (claims less than \$10,000); \$269.60 (claims \$10,000 to \$100,000); \$540.20 (claims above \$100,000)
- Number of members: 76

## Civil Claims

### Case Profile

During 2005–06, the Civil Claims List received 6,855 applications, compared with 6,448 in 2004–05, representing a 6% increase. The number of cases resolved rose, totalling 6,554, compared with 6,137 in 2004–05. On 30 June 2006, cases pending totalled 1,866, increasing by 19%, compared with 1,565 on 30 June 2005.

Cases brought to the List related to disputes between the purchasers and suppliers of goods and services of any value covering the gamut of relationships between buyers and sellers in Victoria.

The proportion of business applicants rose from 40% in 2004–05 to 43% in 2005–06. The number of respondents who were private individuals fell from 29% in 2004–05 to 28% in 2005–06. In the majority of matters, the parties represented themselves, thereby significantly reducing their legal costs.

Claims less than \$10,000 represented 90% of total applications received (91% in 2004–05), while claims between \$10,000 and \$50,000 constituted 8% (7% in 2004–05) and claims exceeding \$50,000 represented 2% (2% in 2004–05). The total value of amounts claimed by applicants increased by 24%, totalling \$64.9 million, compared with \$52.2 million in 2004–05.

### Application Types

The types of applications lodged comprised:

- 14% building (16% in 2004–05);
- 35% recovery of debts (31% in 2004–05);
- 8% services (12% in 2004–05);
- 8% motor vehicles (10% in 2004–05);
- 7% household goods (7% in 2004–05);
- and
- 27% other (24% in 2004–05).

### How We Dealt with Cases

Almost all claims amounting to less than \$10,000 were listed for hearing within two working days and the parties

were notified seven weeks in advance of the hearing date. VCAT simultaneously served the application on the respondents. Claims exceeding \$10,000 were assessed and different processes, including compulsory conferences and directions hearings, were held in some cases. Compulsory conferences for claims exceeding \$10,000 proceeded at a vigorous pace and the List succeeded in settling more than 90% of such cases.

Compulsory conferences brought together the parties to a dispute at an early stage in the proceedings, thereby avoiding considerable amounts in legal costs.

### Timeliness

We resolved 75% of cases within 10 weeks of application and 87% within 14 weeks.

This result compares with 69% of cases being resolved within 10 weeks of application and 86% within 14 weeks in 2004–05. The List achieved this outstanding result in the context of a substantial increase in the number of applications.

### Performance Review

VCAT prepared a Civil Claims List Performance Report surveying users of the List and providing general statistical information. The report showed the List was operating efficiently. For more information, refer to page 10.

### User Group Activities

The user group of the Civil Claims List met on three occasions and included representatives from Small Business Victoria, Financial and Consumer Rights Council, Consumer and Tenant Resource Centre, Consumer Law Centre of Victoria Ltd, Consumer Affairs Victoria, Victorian Automobile Chamber of Commerce, Victorian Employers' Chamber of Commerce and Industry, Australian Retailers Association Victoria, and Victoria Legal Aid.





### Case Study: A Disappointing European Package Tour

Two people aged in their early 20s took a five-week pre-paid European package tour. Everyone agreed it was an inexpensive tour. The applicants chose the tour after seeing a glossy brochure advertising ‘group shared cabin accommodation close to the centre of each city’. Additionally, the brochure said ‘Breakfasts will be plentiful and varied—cereal and bakery items, hot food, pancakes, eggs—all sufficient to set you up for a day’s sightseeing’. The tour included pre-payment for some ‘gala dinners in well-known restaurants’ and sight-seeing bus tours in some cities.

The applicants were disappointed with the tour. The camps providing their accommodation were about 20 kilometres out of most towns. Breakfast was the same every day (a roll with ham and cheese) except for two days when this meal was replaced by scrambled eggs and on one occasion a pancake breakfast. On no occasion was cereal offered on the tour. The applicants com-

plained there was never enough food and the last ones to arrive at breakfast missed out altogether. All of the restaurant dinners turned out to be in function rooms or courtyards at the back of the restaurant. For five nights, the tour stayed at a camp where the rooms were filthy and the bathrooms and toilets too foul to enter safely. The tour members sat up all night and showered in public facilities in town during the day. Sometimes, the scheduled bus sight-seeing did not take place. The applicants wanted VCAT to order that they be reimbursed for all of the costs they incurred on the tour.

VCAT found that the brochure misled the applicants about some matters and the applicants had not received what they paid for in some respects. In unusual cases, the law permits recovery of compensation for stress and anxiety—as an example for breach of contract to provide a stress-free holiday—but this situation was not one of those cases. The applicants were not entitled to such compensation or to a full refund, since they had completed their tour

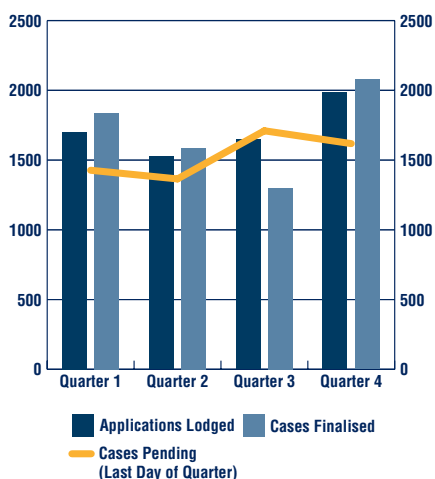
and it was very inexpensive and obviously a budget holiday. However, they were entitled to be compensated for:

- what they had spent in replacing the bus tours they had paid for and not received;
- their travel between towns and their accommodation;
- the dinners, which did not match up to the brochure; and
- what they spent on food each day to replace the breakfasts, which did not match up to the brochure.

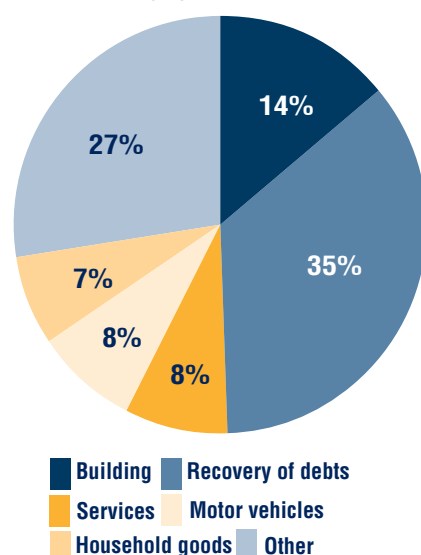
Additionally, the applicants were entitled to a full refund and expenses for the five days and nights when their accommodation was unacceptable, even for a cheap tour.

During the hearing, the tour operator said that if VCAT found against it then some of the descriptions would be removed from the next brochure.

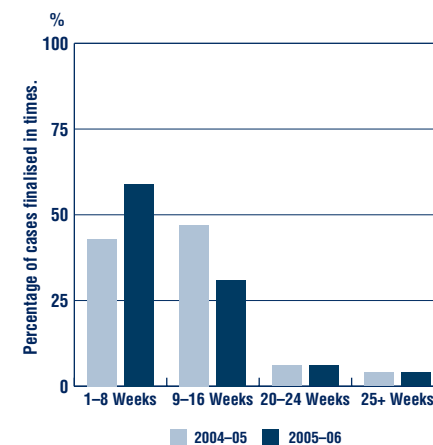
Case flow 2005–06



Applications by Type 2005–06



Age of Matters Finalised (Median 8 Weeks)—2005–06



# We resolve disputes relating to credit claims.

## List Snapshot

### Objectives

- Resolve 60% of cases within six weeks of application and 80% within eight weeks.
- Maintain settlement rate at 70% of all cases.
- Monitor effectiveness of streamlined procedures and user guidelines for List users.

### Key Results

- Resolved 75% of cases within six weeks of the application being received and 81% within eight weeks.
- Resolved repossession cases, on average, within 14 days of proof that the application had been served on the debtor.

### Future

- Resolve 60% of cases within six weeks of application and 80% within eight weeks.
- Maintain settlement rate at 70% of all cases.
- Monitor effectiveness of streamlined procedures and user guidelines for List users.

### Statistical Profile

- Applications received: 215
- Cases resolved: 225
- Cases pending: 24
- Application fee: \$32.50–\$1,080.50
- Number of members: 7

## Credit List

### Case Profile

In 2005–06, the Credit List received 215 applications, compared with 236 in 2004–05, representing a decrease of 9%. The List finalised 225 cases, compared with 231 in 2004–05, representing a 3% decrease. The number of cases pending on 30 June 2006 totalled 24, compared with 34 on 30 June 2005.

The rate of cases finalised in the List has decreased slightly. The List finalised more applications than it received, and the number of pending cases carried over from year to year continues to drop.

The majority of cases coming to the List related to requests for repossession orders, totalling 169 in 2005–06, compared with 172 in 2004–05. A credit provider must not enter residential premises to recover mortgaged goods without an order from VCAT or a court. There was a slight decrease in the number of repossession applications, reflecting the slight decrease in the number of total applications received, and there was a slight rise in the proportion of repossession applications to total applications. In 2005–06, that proportion was 79%, compared with 74% in 2004–05.

Another important element of the List's work involved applications made relating to breaches of key requirements of the Consumer Credit (Victoria) Code (the Code), which sought determinations from VCAT as to whether or not civil penalties should be imposed on credit providers.

Applications of this kind are the most complex of the applications received by the List. Typically, they involve large numbers of credit contracts and require applicants to undertake extensive sampling processes and notifications to affected debtors.

Other cases concerned applications by debtors who, because they were suffering hardship, wanted to change their obligations under a credit contract or have enforcement proceedings against them postponed, or who

claim that the transaction which led to their loan contract was unjust and should be reopened and that their contract should be set aside. The rising statutory ceiling for hardship applications does not seem to have affected the number of those applications. They remain relatively steady. It may be that this will change as awareness of the higher ceiling grows.

### Application Types

Of the 215 applications received in 2005–06, 169 (79%) comprised repossession applications. This result represents a 2% decrease, compared with 173 repossession applications received in 2004–05. Other applications related to changing contracts due to debtor hardship, setting aside contracts because the transactions that led to them were unjust and civil penalties.

### How We Dealt with Cases

Since many people who applied to the List were experiencing financial difficulty and hardship, we aimed to resolve these applications as quickly as possible. For the less complex applications, we continued the procedure of immediately referring the application to mediation, as soon as the Registry served the application on the credit provider. If mediation did not resolve the matter, we listed it for a hearing. This procedure continued to be successful and an efficient, fair and timely way of resolving matters.

At all stages in the process, List members encouraged parties to settle cases by agreement between themselves, without the need for parties to provide extensive written material or to go to a hearing.

Approximately 46% of cases were resolved in this way, compared with 53% in 2004–05. The slight decrease in the percentage of cases settled reflects the slight rise in the number of repossession applications. At the majority of repossession hearings, the debtor does not appear.



We continued our use of mediation, settling 68% of cases referred to mediation (82% in 2004–05). In 2005–06, 67 cases were referred to mediation, compared with 108 in 2004–05. The decrease in the number of matters referred to mediation reflects the decrease in total applications and the increase in the number of repossession applications where, in the majority of cases, the debtor does not contact the Tribunal and does not attend hearing. The drop in the number of cases which settled at mediation needs to be seen in the context that, increasingly, matters which do not settle at mediation settle almost immediately afterwards. The increasing number of cases resolved by an agreement between the parties not only enabled the List to handle cases more promptly and efficiently, but also constituted a benefit for debtors and credit providers by giving them a basis by which either their relationship can continue or be finalised.

### Timeliness

In 2005–06, we resolved 75% of cases within six weeks of the application being received (76% in 2004–05) and 81% within eight weeks (86% in 2004–05). There has not been any substantial change in the speed with which our cases are resolved.

Repossession applications comprised the majority of cases, which were finalised, on

average, within 14 days of the application being served on the debtor.

We continued to monitor compliance with VCAT directions so that the List received documents in a timely way. The procedure by which the Registry served an application on the respondent assisted in further reducing the time required to list cases for a mediation or hearing.

### User Group Activities

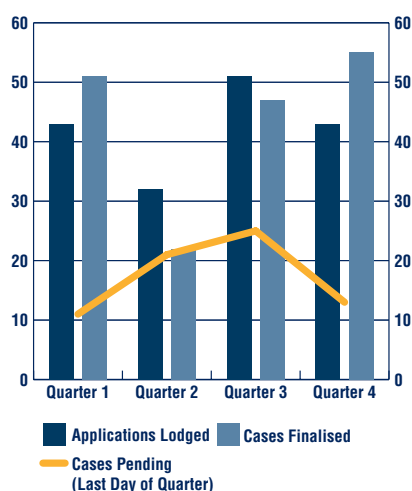
In 2005–06, the Credit List user group comprised 16 people (13 in 2004–05) representing consumers, credit providers, government and the legal profession. The group met on two occasions to discuss List procedures and potential refinements. We have found the group's feedback most helpful. In October 2005, Deputy President McKenzie attended, and was a panel member at, the 15th National Consumer Credit Conference. This conference discussed major issues and initiatives concerning credit, such as the application of electronic transactions legislation to consumer credit products, the regulation of finance brokers, and measures to respond to financial over-commitment by consumers. A summary of conference proceedings was circulated to members and mediators of the Credit List

### Unjust transaction reopened and loan contract set aside

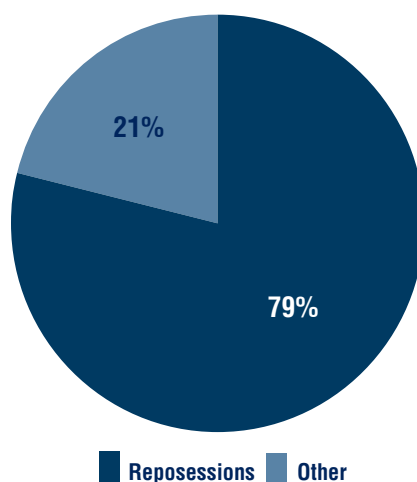
A mother and son entered into a loan contract with a lender. The son told his mother that she was guaranteeing the son's repayments under the contract. In fact, she was a co-borrower, and her car was security for the loan. The mother's first language was Italian, and she spoke limited English, had limited education, a limited ability to read, and little understanding of business and finance. The lender's manager, in whose presence the mother and son signed the contract, although believing that the mother was European and had little knowledge of business, explained the contract to her in English, did not adequately check whether she understood English or the contract, did not explain certain critical parts of the contract, and did not give her the opportunity to get her own legal advice. On the mother's application, VCAT found that the transaction was unjust and set aside the contract as against the mother.

*(Maisano vs. Car and Home Finance Pty Ltd [2005] VCAT 1755)*

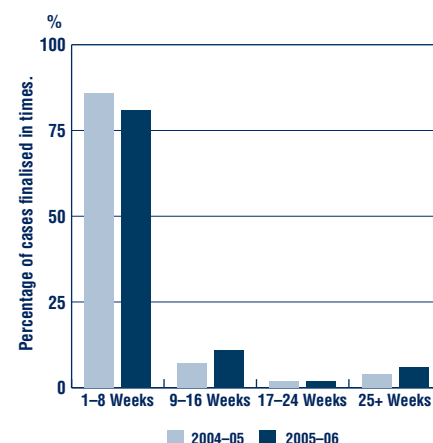
Case flow 2005–06



Applications by Type 2005–06



Age of Matters Finalised (Median 4 Weeks)—2005–06



We resolve  
disputes relating  
to domestic  
building.

## List Snapshot

### Objectives

- Resolve 60% of cases within 20 weeks of application and 80% within 35 weeks.
- Maintain settlement ratio by way of mediations and compulsory conferences.

### Key Results

- Resolved 60% of cases within 20 weeks of application and 77% of cases within 35 weeks.
- Resolved approximately 66% of cases through mediation.

### Future

- Resolve 60% of cases within 20 weeks of application and 80% within 35 weeks.
- Maintain settlement ratio by way of mediations and compulsory conferences.

### Statistical Profile

- Applications received: 831
- Cases resolved: 900
- Cases pending: 452
- Application fee: \$269.60–\$540.20
- Number of members: 18

# Domestic Building List

## Case Profile

Applications received increased by 1% from 825 in 2004–05 to 831 in 2005–06. Cases finalised increased by 9% from 826 in 2004–05 to 900 in 2005–06. Cases pending on 30 June 2006 totalled 452, compared with 521 at the end of 2004–05, representing a decrease of 13%.

## Application Types

The types of applications lodged involved:

- 68% disputes between owners and builders (71% in 2004–05); and
- 32% appeals against decisions of insurers (29% in 2004–05).

Most cases involved claims about defective and incomplete works, delays in the progress of the works, and the reasonable cost of rectification and completion works. In many cases there were complex factual, technical and legal questions to be determined, often involving multiple parties and requiring an apportionment of liability.

## How We Dealt with Cases

Many cases were expensive and time-consuming for the parties. In keeping with its objective to resolve cases efficiently, timely and cost effectively, the List continued to adopt a policy of early intervention to resolve cases as quickly as possible. All Members are concerned to ensure that the people behind the litigation are never forgotten.

Methods used to resolve cases included:

- mediations conducted by expert experienced mediators;
- compulsory conferences conducted by List members;
- the making of appropriate directions including the setting of realistic, achievable timetables, directions appointing experts under s94 of the *Victorian Civil and Administrative Tribunal Act 1998* and special referees under s95 of the Act; and

- holding expert conclaves to assist in achieving resolution in cases involving highly technical matters.

Approximately 66% of cases were resolved through mediation, compared with 64% in 2004–05.

## Timeliness

In 2005–06, 60% of cases were resolved within 20 weeks of application and 77% of cases within 35 weeks. This result compares with 55% of cases being resolved within 20 weeks of application and 72% of cases within 35 weeks in 2004–05.

Many cases involved claims about defective building work where monitoring over a six to 12-month period was often required to determine the cause of damage and the appropriate method of rectification.

## 10-Year Celebration

The 2005–06 year marked an important milestone—we celebrated ten years of the Domestic Building Tribunal/Domestic Building List since the *Domestic Building Contracts Act 1995* commenced on 1 April 1996, with a morning tea for Registry Staff and Members and a cocktail party on 31 March 2006. Justice Morris, Judge Davey (the inaugural Chairman of the Domestic Building Tribunal) and Deputy President Aird spoke about the success of the List.

## Performance Review

VCAT prepared a Domestic Building List Performance Report surveying users of the List and providing general statistical information. The report showed the List was operating efficiently. For more information, refer to page 11.

## User Group Activities

The List's user group met twice during 2005–06 and included representatives from the Building Disputes Practitioners Society, building consultants, barristers and solicitors representing diverse interests. The Society has a wide representative base including





lawyers, builders, engineers and other building practitioners.

The Deputy President met with the user group to gain industry and practitioner views on aspects of directions and case management issues and other general issues of interest to List users.

The Domestic Building List Practice Note was revised (it is now called 'PNDB1') and was introduced on 11 July 2005. It has been well received by practitioners and parties that consider it to provide comprehensive guidelines as to the practice and procedures in the List.

### Domestic Building List 2005 Performance Review

In May 2006, we released the DBL Performance Review, which considered the performance of the List in 2005 and, in particular, the following items:

- The types of applications made to the List.
- Case load (827 matters were initiated—unchanged from 2004—824 were finalised and 500 were pending on 31 December 2005).
- Who applied (52% of applicants were home owners and 34% were builders).
- Location of the building sites (78% of site locations were within 40 kilometers of

the Melbourne CBD).

- How VCAT managed the matters.
- How matters were resolved (85% of matters were resolved without a final hearing and decision by VCAT: 68% for small claims, 90% for standard claims and 92% for complex claims).
- How often parties came to VCAT (63% of matters were resolved with two or less scheduled attendances at VCAT).
- The time it took for a matter to be resolved (the median time from application to finalisation for all matters finalised was 14 weeks).
- Why some matters took a long time to resolve.
- Outcomes of hearings.

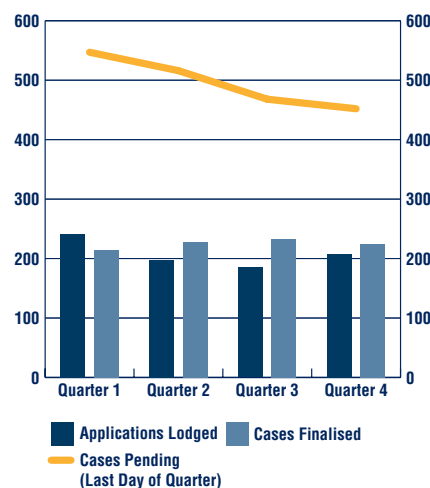
### Supreme Court Upholds VCAT Decision

The decision of the Supreme Court upholding VCAT's decision in *Moorabool Shire Council vs. Taitapanui* that a building surveyor, when issuing a building permit, owes a duty of care to subsequent purchasers of a property was upheld by the Court of Appeal in February 2006—*Moorabool Shire Council & Anor v Taitapanui & Ors [2006] VSCA 30*. Special leave to appeal to the High Court was refused in June 2006.

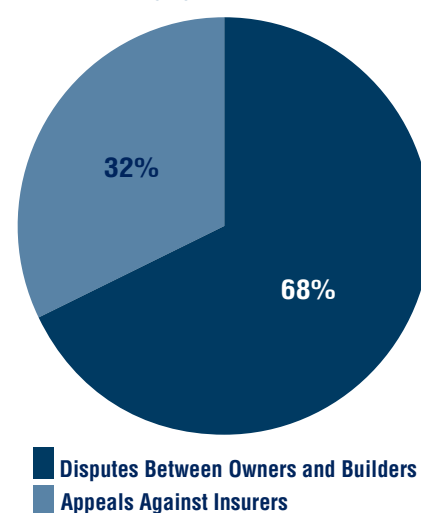
### Hot-tubbing: Concurrent Evidence

In an attempt to reduce the length and complexity of hearings, we trialled 'hot tubbing' of experts where appropriate. This technique was used effectively in a hearing where the owners' claim included some 214 defects. It became apparent that if each of the three technical experts was to give evidence in relation to each of the items, followed by the three witnesses who had provided costing estimates (a building consultant, a builder on behalf of the insurer and the 'rectifying builder') the hearing would take a significant number of days. Rather than hear evidence from each of the experts in turn, the presiding member, the parties, their experts and lawyers attended the site to discuss and observe each of the alleged defective and incomplete works. The experts developed an agreed scope of works for some of the more contentious items. The insurer revised its decision and accepted some of the previously rejected items. When the hearing reconvened at VCAT, all of the technical experts gave their evidence and comments in relation to each of the items. Subsequently, the two quoting builders and the other expert who had provided an estimate gave evidence in relation to their estimates. This simplified the process, leading to a considerable reduction in the hearing time.

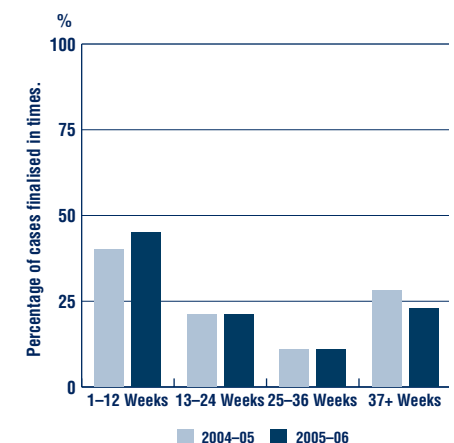
Case Flow 2005-06



Applications by Type 2005-06



Age of Matters Finalised (Median 14 Weeks)—2005-06



We resolve  
disputes relating  
to general  
matters.

## List Snapshot

### Objectives

- Resolve 60% of Transport Accident cases within 35 weeks and 80% within 55 weeks.
- Resolve 60% of FOI matters within 16 weeks and 80% within 29 weeks.

### Key Results

- Resolved 60% of transport accident cases within 35 weeks of application and 79% within 55 weeks.
- Resolved 59% of FOI cases within 16 weeks and 80% within 29 weeks.

### Future

- Resolve 60% of Transport Accident cases within 35 weeks and 80% within 55 weeks.
- Resolve 60% of FOI matters within 16 weeks and 80% within 28 weeks.

### Statistical Profile

- Applications received: 838
- Cases resolved: 962
- Cases pending: 527
- Application fee: \$0–\$269.60
- Number of members: 43



Photo source—Transport Accident Commission.

# General List

## Case Profile

The General List received a total of 838 applications in 2005–06, compared with 1,041 in 2004–05, representing a decrease of 20%. This result includes 529 transport accident cases, compared with 715 cases in 2004–05, representing a 26% decrease.

There has been a continuing reduction in the number of transport accident cases, most recently due to the introduction by the Transport Accident Commission of a protocol directed at resolving cases before they need to be lodged. Cases finalised totalled 962, compared with 1,293 in 2004–05, representing a 26% decrease reflecting the reduced lodgements. On 30 June 2006, cases pending totalled 527, representing a decrease of 19%, compared with 651 on 30 June 2005.

## Application Types

Transport accident cases made up the majority of applications lodged with the List.

Application types comprised:

- 63% transport accidents (69% in 2004–05);
- 18% freedom of information (16% in 2004–05);
- 3% false fire alarm fees (3% in 2004–05); and
- 16% other, including mental health, superannuation and criminal injuries compensation (12% in 2004–05).

## How We Dealt with Cases

Before a hearing took place, we conducted a compulsory conference for most cases. This procedure enabled List Members to discuss the issues with the aim of seeking resolution or partial resolution of the matter or identify the issues more precisely. This process continued to reduce the time required to hear matters and, in many instances, avoided the need for a hearing and reduced the number of applications to adjourn hearings. In addition, we have continued to reduce the number of directions hearings in TAC matters, since parties more frequently applied for standard orders by consent, resulting in a far more efficient use of our resources and costs savings for parties.

## Timeliness

During 2005–06, we met our performance targets, achieving greater productivity, resulting in a clearance rate of 115% (134% in 2004–05). As a consequence, many members became available to sit in other Lists, providing opportunities for further job satisfaction and efficient use of resources. We resolved 60% of transport accident cases within 35 weeks of application and 79% within 55 weeks. This result compares with 57% of cases resolved within 35 weeks and 77% within 55 weeks in 2004–05. We have achieved our performance target of 60% within 35 weeks and 80% within 55 weeks. We resolved 59% of FOI cases within 16 weeks and 80% within 29 weeks. This result compares with 71% within 20 weeks and 88% within 36 weeks in 2004–05.

## User Group Activities

During 2005–06, the List conducted two user group meetings, one for transport accident matters and one for all other General List matters. The user groups comprised representatives from the Victorian Bar, Office of the Victorian Government Solicitor, TAC, Privacy Commissioner, Health Services Commissioner, Victoria Police, Department of Human Services, Mental Health Review Board and solicitor firms practising in relevant areas. The meetings provided the opportunity to discuss any administrative issues, to clarify new practices, including for example notification procedures for third parties in FOI matters. In November 2005, the Deputy President addressed the Administrative Review & Constitutional Law Committee of the Law Institute of Victoria on her role at VCAT and career in the law.

The Deputy President was a member of the Steering Committee of the National Council of Australasian Tribunals which oversaw the publication of the Council's first publication, the *Practice Manual for Tribunals*.

## Case Study: Decision of Infertility Treatment Authority Reviewed

This case involved an application for review of the decision of the Infertility Treatment Authority (ITA) to refuse to allow the export of sperm from Victoria to the Australian Capital Territory.

In 1998, the applicant's husband died in a motor vehicle accident in Victoria. At that time, the couple resided in the ACT. On learning of her husband's death, YZ travelled to Victoria and applied to the Supreme Court of Victoria to have sperm removed from XZ's body. The Supreme Court ordered that the sperm be removed and stored in accordance with the *Infertility Treatment Act 1995*.

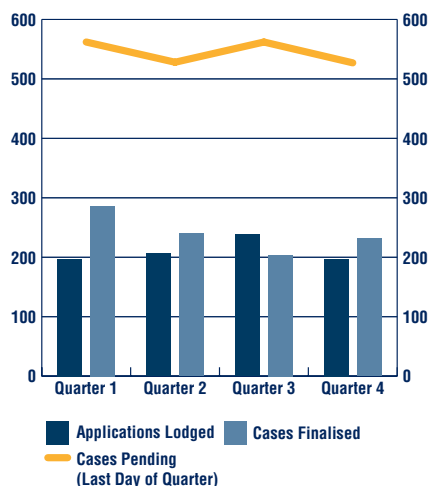
It is prohibited under Victorian law to use the sperm of a deceased man when undergoing IVF treatment without prior consent. The applicant applied to the ITA to export the sperm to another jurisdiction where the use of the sperm in this manner was not prohibited. The ITA refused to allow the export of the sperm and on 9 September

2005 an application was made pursuant to section 149 of the Infertility Treatment Act.

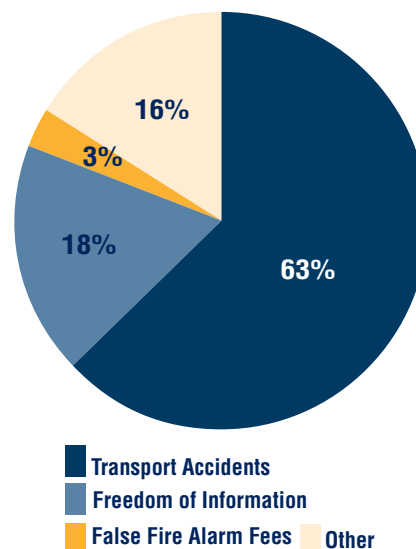
VCAT held that the discretion vested in the ITA and on review in the tribunal in relation to the export of sperm was broad. The discretion was subject to guiding principles set out in the Act. VCAT determined that, in the special circumstances of this case, it approved the transport of sperm from Victoria to the ACT or NSW. In making its determination, the tribunal discussed the application of the decision in *McBain vs. State of Victoria (2000) 99 FCR 116* in relation to the Infertility Treatment Act. Additionally, it discussed that the meaning of family, the definition of infertility and sufficiency of consent required a consideration of the circumstances.

*YZ vs. Infertility Treatment Authority [2005] VCAT 2655*

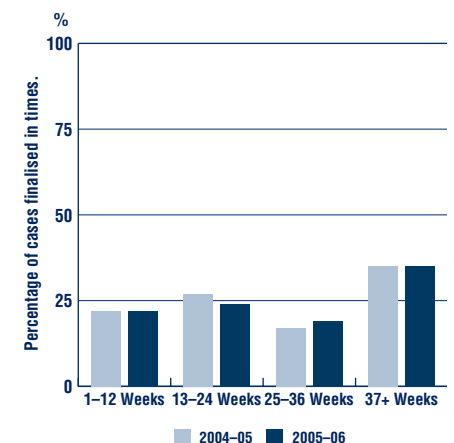
Case flow 2005–06



Applications by Type 2005–06



Age of Matters Finalised (Median 25 Weeks)—2005–06



# We hear applications for guardianship and administration.

## List Snapshot

### Objectives

- Develop VOGL to enable VCAT to exchange documents with major users.
- Resolve most cases within 24 days of application.

### Key Results

- Developed VOGL to enable VCAT to exchange documents with major users, which will go 'live' from September 2006.
- Resolved most cases within 26 days of application (27 days in 2004–05).

### Future

- Continue to provide an effective and efficient service.

### Statistical Profile

- Originating applications received: 3,242
- Re-assessments initiated: 6,104
- Cases resolved: 9,746
- Cases pending: 618
- Fee for Administration Orders: \$0–\$100 per year
- Number of members: 59



## Guardianship list

### Case Profile

The List received 3,242 originating applications, compared with 3,036 in 2004–05, representing a 7% increase. Reassessments initiated decreased by 3% from 6,297 in 2004–05 to 6,104 in 2005–06. Cases resolved increased by 4% from 9,331 in 2004–05 to 9,746 in 2005–06. On 30 June 2006, cases pending fell by 39%, totalling 618, compared with 1,018 on 30 June 2005.

### Application Types

The types of cases handled included:

- 17% guardianship orders (15% in 2004–05);
- 8% guardianship reassessments (8% in 2004–05);
- 26% administration orders (24% in 2004–05);
- 40% administration reassessments (44% in 2004–05);
- 1% advice to administrators (2% in 2004–05);
- 1% revocation of enduring powers of attorney (2% in 2004–05); and
- 7% other (6% in 2004–05).

### How We Dealt with Cases

Based on the number of sitting days at a venue, we held 43% of hearings in Melbourne (43% in 2004–05), 24% in suburban Melbourne (24% in 2004–05) and 33% at country venues throughout Victoria (33% in 2004–05). Where possible, we held hearings at venues including hospitals, nursing homes or community health centres that were as close as possible to the place where the person with a disability resided. Whenever necessary, we responded immediately to urgent or out-of-hours applications by conducting telephone hearings. Generally, we reassessed guardianship orders within one year and administration orders within three years, but we conducted early reassessments when required. In the meantime, we oversaw decisions and actions by guardians and administrators. With regard to administrators, we considered examiners'

reports about accounts lodged by administrators and took further action where necessary. Considering the represented person's best interests, we gave advice to guardians and administrators, approving or disapproving their proposed actions.

### Timeliness

The List performed in a timely manner, resolving most cases within 26 days of application (27 days in 2004–05). We dealt with applications for non-routine (early) reassessment within 31 days of application (30 days in 2004–05).

### IT Development

We continued work on the development and implementation of VOGL (VCAT Online—Guardianship List) to facilitate the transmission to Examiners of Accounts by Administrator and supporting documents via the Internet. Within the registry, we set up a special compliance team to manage this process. While implementing VOGL, the List will take the opportunity to improve other processes to ensure accuracy of data and efficient management of information, including refining forms, developing a new Financial Statement and Plan and revising standard letters, hearing notices and the Order Entry System.

### Order Entry System

The Order Entry System (OES) enables List members to produce orders using personal computers installed in hearing rooms. OES allows orders to be produced, printed, signed and given to the parties immediately after hearings. During 2005–06, List members used OES to make 8,906 orders (65%) of the 13,638 orders made in the Guardianship List.

### User Group Activities

The List's user group, comprising representatives from the Office of the Public Advocate, professional administrators, and legal aid and advice organisations, met once during 2005–06. Additionally, the List was



represented at regular meetings of a working party attached to the Disability Law Committee of the Administrative Law and Human Rights Section of Law Institute of Victoria. These meetings provided a forum for exchanging information and suggestions about the List's services. In response to feedback, we further revised application forms and information to users and continued work on revising notices of hearing and other documentation.

### Community Awareness

We held information sessions for newly appointed guardians and administrators in Melbourne and regional Victoria. In addition, we participated in information sessions with the Office of the Public Advocate and State Trustees Limited, which were attended by social workers, health care professionals and others in regional Victoria.

We issued the first edition of *Guardianship List News*, a special newsletter for private administrators designed to keep them up-to-date with new laws and procedures, and generally to help them manage the affairs of persons with a disability. The first issue included information about a new statement to examiners appointed to examine accounts

that was designed to simplify and rationalise this annual process.

We helped establish a new website for the Australian Guardianship and Administration Committee—www.agac.org.au—enabling easy access to the websites of public guardians and advocates, public trustees and guardianship boards and tribunals in every State and Territory of Australia.

### Medical Students

Based on the education series provided to social work students, together with the Office of the Public Advocate we developed an education series for final year Monash University medical students, involving visits to VCAT hearings.

### Guardianship List Seminars

List Deputy President John Billings with representatives of the Office of the Public Advocate and State Trustees Limited conducted a series of seminars in Western Victoria to better inform individuals working in health related professions about the Guardianship and Administration Act. Seminars will be conducted in all major regional centres by the end of 2006.

### Case Study: Order looks After Best Interests of Elderly Stroke Sufferer

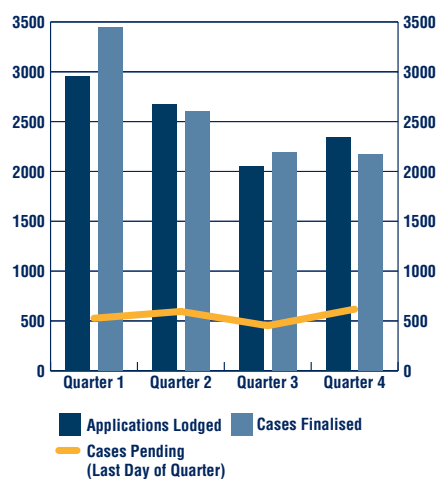
A woman aged in her 80s suffered a stroke that impaired her capacity to make decisions in her own best interests. She had no relatives in Australia, but her sister visited from abroad and the sister's granddaughter was studying here. The student applied to VCAT for a guardianship and administration order after the woman ceased contact with her family and left her home to live with a female friend and the friend's family. The student asked VCAT to appoint an independent guardian and administrator but the friend nominated herself for appointment.

The woman told VCAT she wanted her friend to be her carer; there was evidence she was well cared for. However, evidence about the conduct of the friend and her husband was in conflict. Allegations included they had disconnected her telephone, isolating her from the community, and failed to take her to medical appointments after she was discharged from hospital.

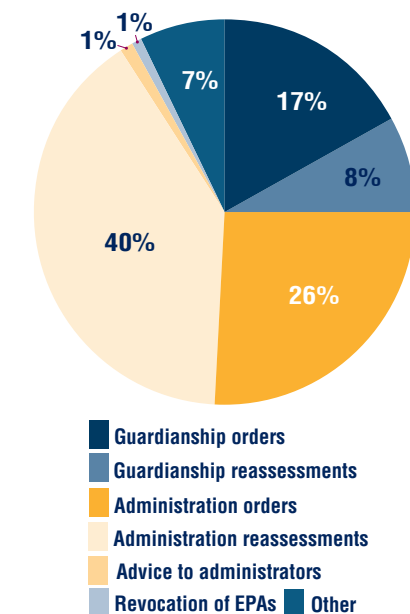
At the hearing the friend and her husband demonstrated a poor understanding of the woman's disability and its impact on her capacity. Additionally, they showed a poor knowledge of the responsibilities of guardians and administrators and the need to ensure that their interests did not conflict with the interests of the person with a disability. For instance, the friend told VCAT she wanted to be guardian and administrator so that she could sell the woman's house to buy an alternative property for the woman, the friend and the friend's son who also had a disability to occupy, with their names placed on the title.

VCAT appointed the Public Advocate as guardian and State Trustees Limited as administrator.

Case flow 2005-06



Applications by Type 2005-06



We resolve  
disputes relating  
to land valuation.

## List Snapshot

### Objectives

- Resolve 60% of cases within 18 weeks and 80% within 40 weeks.
- Continue to achieve early settlement by maximising the use of compulsory conferences.

### Key Results

- Resolved 17% of cases within 18 weeks of application and 80% within 40 weeks.

### Future

- Resolve 60% of cases within 18 weeks and 80% within 40 weeks.
- Continue to maximise the use of compulsory conferences.

### Statistical Profile

- Applications received: 94
- Cases resolved: 118
- Cases pending: 161
- Application fee: \$135.30
- Number of members: 18

# Land Valuation List

## Case Profile

The number of applications received totalled 94 in 2005–06, compared with 209 in 2004–05, representing a decrease of 55%.

Cases finalised increased by 31%, totalling 118 cases, compared with 90 in 2004–05.

Cases pending on 30 June 2006 totalled 161 cases, compared with 185 at the end of 2004–05, representing a 13% decrease.

The majority of the List's work arose from objections to municipal valuations of land for rating purposes. A significant proportion of pending applications are awaiting the outcome of the test case in *ISPT Pty Ltd vs. Melbourne City Council and Valuer-General of Victoria* (see 'Test Case' below).

*Melbourne City Council and Valuer-General of Victoria* (see 'Test Case' below).

## Application Types

In 2005–06, 99% of applications lodged involved the review of land valuations made for rating and taxation purposes, and 1% related to other applications such as farm rate classification and compulsory acquisition claims. This result compares with 93% of applications involving reviews of land valuations and 7% relating to other applications in 2004–05.

## How We Dealt with Cases

Most cases brought to the List were settled rather than contested. To encourage early settlement without the need for a full hearing, initial directions were given for the exchange of valuer and valuation information in VCAT's initial acknowledgement letters. We automatically notified the Valuer General of all applications under section 22 of the *Valuation of Land Act 1960* to ascertain at an early date if he wished to become a party.

All new applications were listed for a directions hearing on a monthly practice day date soon after lodging to make initial case management orders. Most cases were listed for a compulsory conference. A robust form of mediation, the compulsory conference identifies key issues and seeks to achieve an agreed outcome. In this way, parties may achieve significant savings in time and costs, by avoiding lengthy hearings. Cases were settled either by compulsory conference or direct negotiation, with only a small number proceeding to a final hearing.

## Timeliness

During 2005–06, 17% of cases were resolved within 18 weeks of application and 80% within 40 weeks. This result compares with 58% of cases being resolved within 18 weeks of application and 87% within 40 weeks in 2004–05. The number of cases pending was adversely affected by the number of cases adjourned pending the outcome of the test case involving the property at 114 William Street, Melbourne, described as follows.

## Test Case

In March 2006, President Justice Morris commenced hearing the case of *ISPT Pty Ltd vs. Melbourne City Council and Valuer-General of Victoria*. Continuing as at 30 June 2006, this case involves an application for reviewing the valuation of a property at 114 William Street, Melbourne. VCAT is considering two questions: Firstly, is the excavation of land below the natural surface level an improvement, which must be disregarded in assessing site the value of land? Secondly, is the sale of vacant property for the purpose of residential redevelopment a reliable guide to the site



value of land in the central business district, which is more suited to office redevelopment? Both of these questions have considerable significance to the level of land tax levied on major commercial property.

### Changes to legislation

Amendments were made to the Valuation of Land Act with regard to applications made to VCAT for review of valuations during 2006, coming into operation on 1 July 2006. The Act provides objectors with an improved system for seeking a review at VCAT. This improvement allows an objector to lodge an application for review directly with VCAT instead of relying on the council to lodge the matter for review at VCAT on the objector's behalf.

Additionally, the new provisions provide flexibility in the award of costs. Costs under the Valuation of Land Act have been limited: the new provisions allow VCAT to consider a range of factors. Additionally, the Act allows the tribunal not to award costs if such an outcome serves the best interests of the case in the circumstances.

### Case Study: Amendment of Planning Permit Costs Developer Dearly

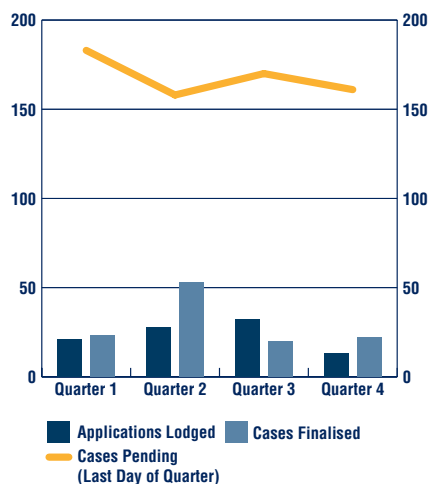
A developer bought a former service station with a planning permit for five townhouses. Council subsequently sought an amendment of the planning permit under section 87 of the *Planning and Environment Act 1987*, based upon its own mistake, to add conditions requiring a certificate of environmental audit that the land was suitable for residential use. That action cost the developer dearly in environmental audit costs, interest, and legal costs. It claimed compensation from council pursuant to section 94(2)(a) of the *Planning and Environment Act* for 'expenditure which is wasted because the permit is amended'.

Council contested the claim, arguing that the expenditure incurred as a result of the permit amendment was 'additional', rather than 'wasted'.

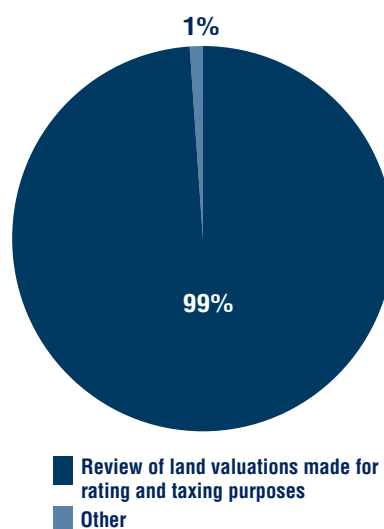
The Tribunal upheld the claim on the basis that the developer paid for a 'trouble free' block of land with an unencumbered planning permit, but as a result of the permit amendment, was left with a 'troublesome' block of land with an audit-encumbered planning permit. What he 'wasted' was the extra amount he paid for a 'trouble free' site plus permit, when, at the end of the day, he had to expend that extra amount to satisfy the amended permit-with-audit condition. (See *Keilor Homes PL vs. Brimbank CC [2005] VCAT 2079*.)

Council appealed the VCAT decision to the Supreme Court. Justice Osborn held that the VCAT's reference to 'wasted' was not that the costs of the audit were wasted expenditure as such, but that such costs reflected the wasted value of part of the price paid for the land. He went on to hold that the phrase "any of that expenditure which is wasted because the permit is cancelled or amended" requires a causal not a temporal connection, and is sufficiently broad to cover the process of cancellation or amendment and not merely the final order made by VCAT for cancellation or amendment. (See *Brimbank City Council vs. Keilor Homes Pty Ltd [2006] VSC 222*.)

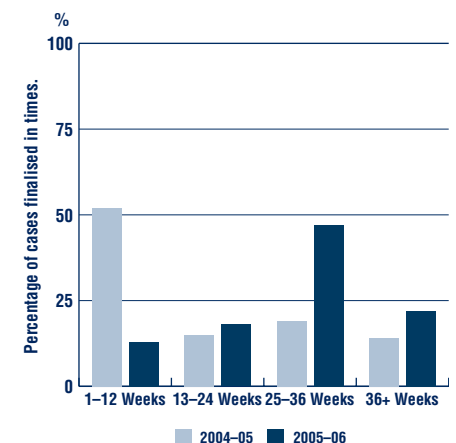
Case flow 2005-06



Applications by Type 2005-06



Age of Matters Finalised (Median 32 Weeks)—2005-06



We resolve  
disputes with  
regard to legal  
practitioners.

## List Snapshot

### Objectives

- Achieve an efficient integration of the Legal Profession Tribunal into VCAT's Legal Practice List.

### Key Results

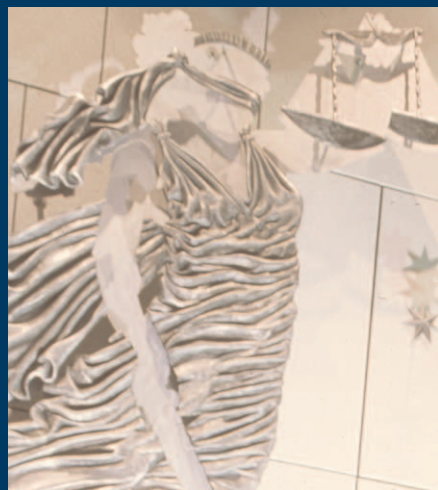
- By early 2006, the List was operating effectively. Cases transferred from the Legal Profession Tribunal on 7th December 05: 121

### Future

- Resolve 60% of cases within four weeks and 80% within 14 weeks.

### Statistical Profile

- Applications received (from 12 December 2005): 98
- Cases resolved: 125
- Cases pending: 94
- Application fee: nil
- Number of members: 37



# Legal Practice List

## Overview

On 12 December 2005, the Legal Practice List commenced operations at VCAT. The List took over the functions of the Legal Profession Tribunal, which was effectively abolished by reason of the *Legal Profession Act 2004*. Personnel from the former tribunal were transferred to VCAT, bringing with them their invaluable experience and knowledge of the law in this area. Members of the Legal Practice List hear cases involving:

- disciplinary charges brought against lawyers;
- disputes between clients and lawyers;
- applications concerning lawyers' practising certificates;
- applications concerning costs agreements; and
- applications concerning prohibition of employment of certain persons by lawyers.

As at 30 June 2006, the Legal Practice List has principally concerned itself with hearing and determining matters taken over from the Legal Profession Tribunal. Almost all of the cases dealt with have been 'run off' matters pursuant to the transitional provisions of the *Legal Profession Act 2004*. Some 'new Act' cases are beginning to be received.

## Case Profile

At its formation, the Legal Practice List took over 121 matters from the Legal Profession Tribunal and subsequently received 98 applications in 2005–06.

## How We Dealt With Cases

Before hearing any dispute between a client and a lawyer, we conduct a mediation, enabling the parties to explore avenues of settlement and resolution. This procedure has been particularly successful with a 75% resolution rate. Matters not settled at mediation were listed for hearing.

The procedure of the Legal Profession Tribunal of engaging Counsel to assist at the hearing of disputes between clients and lawyers has been retained by the Legal Practice List. This procedure is not done in relation to disciplinary matters or other applications brought before the List.

We hold compulsory conferences in relation to applications to cancel costs agreements.

This procedure enables discussion of the issues involved in the case, while moving towards resolution. Matters not settled at compulsory conference were listed for hearing.

Several lengthy disciplinary matters have been heard under the *Legal Practice Act 1996*. During 2005–06, no charges under the Legal Profession Act have been presented to VCAT for hearing.

## Timeliness

During 2005–06, 60% of cases were resolved after four weeks and 80% after 14 weeks.

Refer to the graph on page 31 for statistics regarding the age of matters pending.



### Case Study: lawyer Ordered to Provide Medical Evidence of Suitability to Practise

A lawyer was charged with five counts of misconduct in relation to trust account irregularities. He pleaded guilty to all charges. Expert psychiatric evidence was given concerning a mental disorder suffered by the lawyer, who had been suspended from legal practice since early 2004.

VCAT ordered that the lawyer could not apply for a practising certificate for a further three years and that if he did apply after this period, he needed to provide medical evidence of his suitability to practise.

### Case Study: lawyer fined and Ordered to Pay Costs

A lawyer was found guilty of unsatisfactory conduct by failing to comply with an undertaking given by him to hold money in trust by distributing it without the approval of the person to whom the undertaking was given. He was fined and ordered to pay costs.

### Case Study: lawyer fined and Ordered to Pay Costs

A lawyer was found guilty of unsatisfactory conduct by engaging in conduct in the course of legal practice that fell short of the standard of competence and diligence that a member of the public is entitled to expect from a reasonably competent legal practitioner. He was fined and ordered to pay costs.

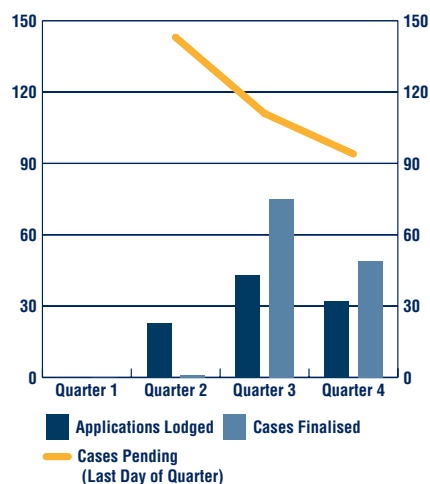
### Case Study: lawyer Ordered to Waive Second Account Presented to a Client

A lawyer was engaged to appear on behalf of a client at court. The client paid a sum of money to the lawyer but later terminated his services before the hearing. The lawyer sent the client an account for work done amounting to the sum paid.

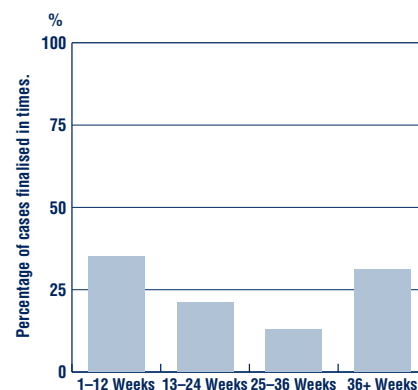
The client made a complaint to the Law Institute and the lawyer then sent him a further account.

VCAT found that the first account was proper but ordered the lawyer to waive the second account.

Case flow 2005-06



Age of Matters Finalised (Median 17 Weeks)-2005-06



We resolve cases relating to occupational and business regulation.

### List Snapshot

#### Objectives

- Resolve 60% of cases within 18 weeks of application and 80% within 25 weeks.

#### Key Results

- Resolved 56% of cases within 18 weeks of application and 74% of cases within 25 weeks.

#### Future

- Resolve 60% of cases within 18 weeks of application and 80% within 25 weeks.

#### Statistical Profile

- Applications received: 109
- Cases resolved: 119
- Cases pending: 59
- Review application fee: \$269.60
- Number of members: 44



# Occupational and Business Regulation List

## Overview

Members in the Occupational and Business Regulation List conduct reviews of decisions made by occupational and licensing bodies, including the Director of Liquor Licensing, Medical Practitioners Board, Firearms Appeals Committee and the Victorian Institute of Teaching. The List has both original and review jurisdiction. Original jurisdiction involves the conduct of disciplinary proceedings relating to a number of occupational groups. Review jurisdiction involves reviews of licensing decisions of the Business Licensing Authority, as well as decisions made by various registration boards concerning professional registrations.

## Case Profile

The number of applications received decreased by 4% in 2005–06, totalling 109, compared with 113 in 2004–05. Cases finalised remained steady, totalling 119, compared with 119 in 2004–05. The number of cases pending on 30 June 2006 totalled 59, compared with 69 on 30 June 2005; a 14% decrease.

## Application Types

The types of applications comprised:

- 30% liquor licensing (32% in 2004–05);
- 9% private agents (9% in 2004–05);
- 8% doctors (8% in 2004–05);
- 5% Victorian Taxi Directorate (8% in 2004–05);
- 3% real estate agents (10% in 2004–05); and
- 45% – included applications under the Occupational Health and Safety Act, the Nurses Act and 16 other Acts (33% in 2004–05).

In May and June, we heard the first cases in the new review jurisdiction given to VCAT by section 127 of the *Occupational Health and Safety Act 2004*.

Most other applications involved the review

of licensing decisions and disciplinary proceedings relating to a range of occupations and professions. For example, we reviewed decisions of the Medical Practitioners Board and the Psychologists Registration Board refusing to register or renew the registration of doctors and psychologists, or made determinations against them as a result of findings of unprofessional conduct. We reviewed decisions of the Director of Liquor Licensing granting or refusing to grant liquor licences, and decisions of the Business Licensing Authority cancelling, suspending or refusing to issue or renew licences to motor car traders and prostitution service providers. We also heard inquiries into the conduct of licensees under the *Liquor Control Reform Act 1998* and the conduct of estate agents under the *Estate Agents Act 1980*. Finally, we reviewed decisions of the Victorian Commission for Gambling Regulation relating to approval of premises for gaming machines.

Some delays experienced in the finalisation of cases in the List resulted from adjournment requests from the parties, particularly in liquor licensing cases. Most of these requests related to the need for more time for negotiation, or for the exchange of material, or for finalisation of proceedings elsewhere that were relevant to the case at VCAT.

## How We Dealt with Cases

List members conducted directions hearings prior to listing cases for hearing. This procedure enabled early exchange between the parties and filing of documents, together with statements of witnesses to be called at the hearing, thereby streamlining the hearing process. We were able to accommodate cases requiring an urgent hearing within a very short time frame.

### Timeliness

In 2005–06, we resolved 56% of cases within 20 weeks of application and 74% of cases within 25 weeks. This result compares with 2004–05, when we resolved 51% of cases within 20 weeks of application and 72% of cases within 25 weeks.

### New Jurisdictions

Section 127 of the *Occupational Health and Safety Act* confers review jurisdiction on VCAT in relation to a number of decisions made by WorkCover Inspectors concerning workplace risks to health and safety of employees. Decisions reviewable by VCAT include decisions by WorkCover inspectors relating to the issue, variation or cancellation of provisional improvement notices, improvement notices, non-disturbance notices and prohibition notices.

In July 2005, members of the List who are likely to hear such cases attended a seminar on the Occupational Health and Safety Act conducted by the Judicial College of Victoria.

The *Health Professions Registration Act 2005* commenced operation on 7 December 2005. Members of the List were consulted during the process that preceded the introduction of the Act. However, the provisions of the Act conferring original and review jurisdiction on VCAT will not come into operation until 1 July 2007. The Act provides a single regime for the regulation by responsible boards of health practitioners in

Victoria, including doctors, dentists, nurses, psychologists, chinese medical practitioners, optometrists, medical radiation practitioners, physiotherapists, podiatrists, chiropractors and osteopaths. Under the new Act, VCAT has original jurisdiction to hold hearings into the professional conduct of health practitioners, particularly where it is likely that cancellation of registration will be at stake. In addition, VCAT has review jurisdiction in relation to findings or determinations made by panel hearings held by the responsible boards. In the coming financial year, the List will hold extensive consultation with the various stakeholders in the new regime. We anticipate the original jurisdiction conferred upon VCAT will result in an increase in the workload of the List.

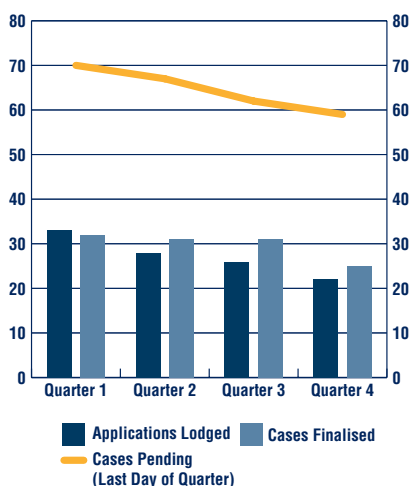
### User Group Activities

The List's user group met on 1 June 2006. Barristers, solicitors and representatives of various stakeholders involved in the List's jurisdictions attended the meetings, including the Director of Liquor Licensing, Greyhound Racing Victoria, Victorian Institute of Teaching and the Department of Consumer Affairs. Subjects discussed included recent VCAT decisions, vexatious litigants, identification of planning cases with a liquor licensing component and the new notices to be drafted by the Director of Liquor Licensing in the light of the decision of Justice Morris in *Hauer v. Lord* [2006] VCAT 739.

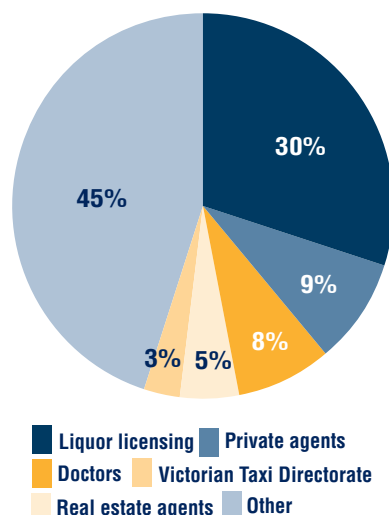
### Case Study: First for VCAT in Approving a Premises for Gaming

The matter of *Branbeau Pty Ltd v. Victorian Commission of Gambling Regulation* [2005] VCAT 2606 was the first to come before VCAT under legislation requiring the approval of premises for gaming. The Victorian Commission for Gambling Regulation dealt with an application made by the proprietor of a hotel in Drouin to install 20 gaming machines. The Commission refused the application on the grounds it was not satisfied that the net economic and social impact of approving the premises for gaming would not be detrimental to the wellbeing of the community. VCAT set aside the Commission's decision, substituting for it a decision to approve the premises as suitable for gaming. Although the function of the Tribunal is to make the correct and preferable decision, it will usually give weight to Commission decisions because of the Commission's expertise and consistency in the area of gaming. While acknowledging the social harm posed by problem gambling, VCAT found that the net economic and social impact of approval would not be detrimental to the wellbeing of the community and found the positive impacts of the proposed venue substantially outweighed the negative impacts.

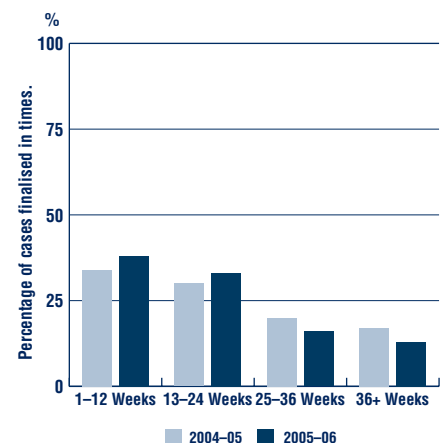
Case flow 2005–06



Applications by Type 2005–06



Age of Matters Finalised (Median 16 Weeks)—2005–06



We decide planning disputes and give leadership in applying planning policy.

## List Snapshot

### Objectives

- Resolve 60% of cases within 18 weeks of application and 80% within 26 weeks.
- Maintain in-house development program and participation in PLANET program.
- Continue to use mediation.

### Key Results

- Resolved 61% of cases within 18 weeks of application and 84% within 26 weeks.
- Achieved a 75% mediation success rate.
- Conducted in-house development program and participated in PLANET program.

### Future

- Resolve 60% of cases within 15 weeks of application and 80% within 26 weeks.
- Maintain in-house development program and participation in PLANET program.
- Continue to use mediation.

### Statistical Profile

- Applications received: 3,542
- Cases resolved: 3,602
- Cases pending: 1,305
- Application fee: \$32.50–\$1,080.50
- Number of members: 49



# Planning and Environment List

## Case Profile

During 2005–06, the case load remained stable compared with previous financial years, with no perceptible reduction in applications. The number of applications received totalled 3,542, compared with 3,515 in 2004–05, representing an increase of 1%. Cases finalised totalled 3,602, compared with 3,544, representing an increase of 2%. Cases pending on 30 June 2006 fell by 4%, totalling 1,305, compared with 1,365 at the end of 2004–05.

## Application Types

The types of applications lodged comprised:

- 20% by objectors to council decisions to grant planning permits (22% in 2004–05);
- 32% by permit applicants about council decisions to refuse permits (32% in 2004–05);
- 15% by permit applicants about council decisions to impose conditions on a planning permit application (16% in 2004–05);
- 14% by permit applicants about failure of councils to decide about a planning permit application (14% in 2004–05);
- 4% enforcement orders (4% in 2004–05); and
- 15% other (12% in 2004–05).

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

The List experienced a slight drop in the number of applications for review involving new planning permits, but an increase in applications to amend planning permits previously granted by VCAT. This result follows amendments to the *Planning and Environment Act 1987* introducing new procedures for amending permits. The new procedures do not apply to permits issued at the direction of VCAT. In those cases, an

application must be made directly to the Tribunal. VCAT has adopted a liberal approach as to what constitutes a material change in circumstances that would justify an amendment to a permit in light of these changes to the Act and to avoid inequities to permit holders where permits have been granted by VCAT. Where the amendments are minor and are consented by the responsible authority, they are dealt with ‘on the papers’ without the need for a hearing. A number of cases have continued to explore the limits to a responsible authority’s ability to make changes under secondary consent provisions contained in the permit itself (see *Westpoint Corporation Pty Ltd vs. Moreland CC [2005] VCAT 1049*).

## How We Dealt with Cases

Most cases dealt with in the List proceeded to a hearing without preliminary directions hearings. The practice days held each Friday enabled cases requiring a directions hearing to be handled expeditiously. Typically, cases required a directions hearing due to the complexity of the matter or the number of parties involved, or to resolve procedural and technical problems and preliminary points. All enforcement order applications and applications to amend permits, which cannot be dealt with ‘on the papers’, were initially referred to a practice day hearing. Mediation continued to be an important means of resolving planning disputes. During 2005–06, we referred 506 applications to mediation (690 in 2004–05), representing about 14% of all applications. The success rate for mediations during that period was 75% (70% in 2004–05). Even where mediation did not result in an agreement, it proved to be useful in narrowing the points of difference between parties and lead to an expedited hearing.

The Planning and Environment List maintained a close watch over the progress of cases through the hands-on involvement of List members in case management. This



approach facilitated timely and informed responses to correspondence and issues that would arise before a case proceeds to hearing. The case management committee played an important role in identifying key issues likely to arise at hearings and the listing requirements for each case.

### Timeliness

We resolved 61% of cases within 18 weeks of application and 84% of applications within 26 weeks. This result compares with 62% of cases being resolved within 18 weeks of application and 84% within 26 weeks in 2004–05.

The procedures and reforms instituted by Operation Jaguar, together with close case management and continual improvement to procedures within the List, continued to assist in improving timeliness. As a result, the median time from lodgement of an application for review to decision was 16 weeks during 2005–06.

### Change in Membership

In March 2006, long-serving sessional member Howard Terrill retired. VCAT appointed Cynthia Wilson, a planner with extensive local government experience, as a new sessional member. Russell Byard was reappointed as a senior member and served as Acting Deputy President while Deputy President

Helen Gibson was on long service leave during April and May 2006.

Our complement of members includes those with general planning skills, as well as design, environmental management and civil engineering expertise.

### Continual Improvement

The List continually seeks to improve the level of communication with participants in the planning system and information available to parties and VCAT. During 2005–06, the List introduced modifications to correspondence, forms and procedures to achieve this aim.

The List implemented improvements to administrative arrangements to better identify key issues involved in cases and to ensure appropriate matching of VCAT member expertise with those issues.

Professional development for members is an important aspect in achieving continual improvement of the operation of the List and the delivery of a high standard of decision making (Refer to ‘Training and Development’, page 36).

### Community Awareness

List members contributed to the improvement of industry practices and procedures by participating in industry conferences, seminars and working groups. List members

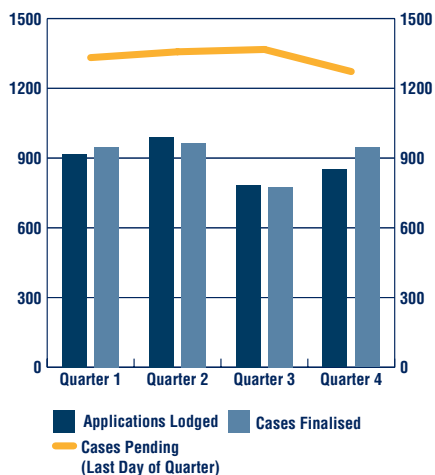
continued to participate in the Department of Sustainability and Environment's PLAN-ET program, which offers professional development for council planners, in particular. They presented sessions on subjects such as:

- Introduction to VCAT;
- Understanding Neighbourhood Character;
- Preparing Enforcement Order Applications; and
- Cross Examination Skills.

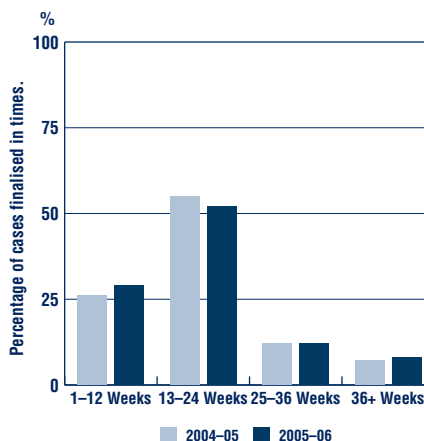
Additionally, List members have conducted Introduction to VCAT seminars for the Royal Australian Institute of Architects and third year RMIT students. At a number of seminars organised by the Victorian Planning and Environmental Law Association (VPELA), Deputy President Gibson gave presentations on expert evidence conducted in Melbourne and regional centres, and List member Naylor spoke at a VPELA Young Professionals seminar on VCAT roles and processes.

As part of Planning Week during November 2005, List members conducted a VCAT

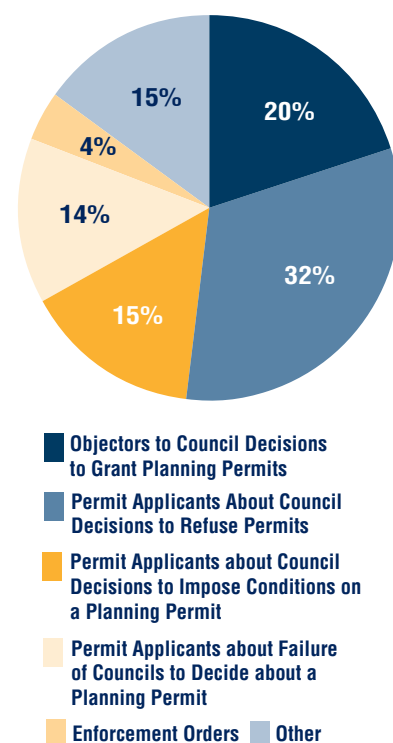
Case flow 2005–06



Age of Matters Finalised (Median 16 Weeks)—2005–06



Applications by Type 2005–06



# Planning and Environment List

## Top 20 Councils—2004–05 to 2005–06

### Number of Council Applications

	2005–06	2004–05
Boroondara City Council	216	251
Stonnington City Council	198	127
Morn. Pen. Shire Council	170	157
Port Phillip City Council	155	140
Melbourne City Council	149	81
Monash City Council	127	128
Yarra City Council	119	140
Hobsons Bay City Council	114	114
Moonee Valley City Council	111	101
Bayside City Council	110	123
Moreland City Council	101	140
Banyule City Council	100	116
Glen Eira City Council	94	115
Whitehorse City Council	92	76
Greater Geelong City Council	91	120
Darebin City Council	89	99
Maroondah City Council	77	47
Kingston City Council	74	68
Yarra Ranges Shire Council	73	62
Macedon Ranges Shire Council	72	64

## Top 20 Suburbs—2004–05 to 2005–06

### Number of Suburb Applications

	2005–06	2004–05
Melbourne	85	32
Richmond	50	43
South Yarra	48	27
Prahran	44	20
Williamstown	42	35
Hawthorn	40	36
Brighton	39	46
Kew	37	43
Brunswick	31	18
Camberwell	31	32
Northcote	31	23
Mount Waverley	30	19
St Kilda	29	25
Toorak	29	21
Croydon	26	12
Malvern East	26	19
Port Melbourne	26	26
Ascot Vale	25	14
Frankston	25	26
Boronia	24	24
Fitzroy North	23	23

open day and participated in a mock media-tion.

President Justice Morris addressed many professional, civic and local government organisations about the work of VCAT, especially this List. He visited numerous councils in metropolitan and regional Victoria to explain what VCAT does, the role it plays in the planning process and the nature of its decision-making process, often with reference to cases of specific interest to the relevant municipality. These visits provided an opportunity for dialogue with councillors and officers and were instrumental in countering adverse perceptions of VCAT.

### Training and Development

We conducted an in-house professional development program for List members arranged by the Professional Development Committee. Philip Martin chairs the Committee, joining regular committee members Tony Liston, John Bennett, Jeanette Rickards, Margaret Baird and

Mary-Anne Taranto. In addition, the Committee appreciated the input of Laurie Hewett and Sam Cimino in organising our western suburbs bus tour (see below).

The professional development program focuses on three areas:

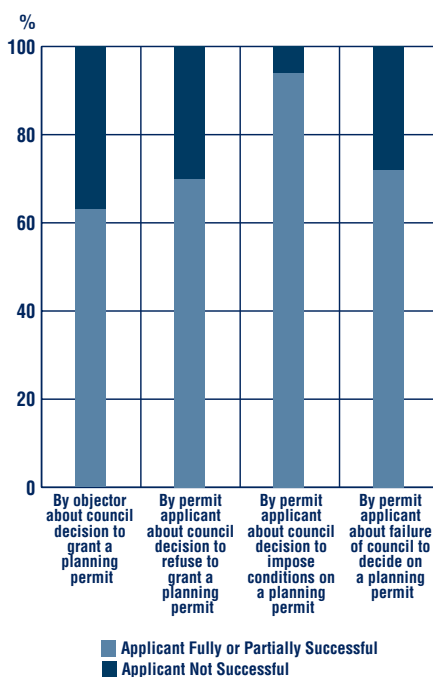
- members' skills and professional improvement;
- current topics of planning interest; and
- monitoring and review of decisions.

The Committee organises a mix of activities, including 'twilight seminars' featuring both internal and external speakers. A broader part of the Committee's role involves publicising professional development opportunities run by other relevant professional associations—we continued our 'external Conference Register' initiative, which we updated and circulated as new events arose. VCAT continued to provide funding for each full-time member to attend one conference each year. By way of example, a number of members attended the Victorian Planning and Environmental Law Association Conference at Lorne in September 2005 and the Urban Development Institute of Australia Conference in Adelaide in May 2006.

Additionally, many members attended other external professional development functions at their own cost from time to time during the period.

As part of this external focus, List members provided presentations at seminars run by other industry organisations, including the north-eastern suburbs bus tour organised by Tony Liston and the tour of the inner western suburbs. These half-day bus tours enabled List members to visit sites involving projects approved by VCAT to have been completed, to review the 'as built' outcome in light of the main issues arising in the hearing for each project. Both of these bus tours involved 20 plus members inspecting more than a dozen projects per tour. The tours are a great credit to both the organisational capacity of the members leading them

### Outcome Analysis of Applications to VCAT Finalized in 2005–06



The graph displays outcomes only for the major application types and for applications received and resolved during 2005–06.

and the enthusiasm of the large number of members who participated.

In another valuable initiative, the Committee hosted a meeting for Planning and Environment List members, full time Planning Panels Victoria (PPV) members and Jane Monk, who heads the Priority Development Panel. The 'twilight' seminars involved a short address by Deputy President Helen Gibson, Chief Panel member Kathy Mitchell and Jane Monk on the 'state of play' of the PPV, together with general networking. The session aimed to foster understanding of important trends in direction of the PPV and VCAT and respective approaches in areas of common overlap.

In July 2005, another twilight seminar involved a Melbourne Water speaker who addressed List members on the infrastructure implications of the February 2005 major floods. In August 2005, a representative from the Department of Sustainability and Environment spoke about the implementation of the Melbourne 2030 strategy. In September 2005, Helen Gibson and Tony Liston held a seminar regarding the important decision *Westpoint Corporation Pty Ltd v. Moreland CC* relating to secondary consent procedures. In November 2005, the List held a valuable 'Evidence: Practical Issues' twilight session led by President Justice Morris. In March 2006, sessional member Chris Harty ran a topical session on the review of native vegetation permit exemptions. During April 2006, List members heard from two external experts on the best use and understanding of photomontages in planning hearings.

Considerable emphasis is placed on ongoing improvements to the quality of decision writing. Each year for the past few years, List members have attended the annual decision writing course run by the National Judicial College of Australia. These courses have proved extremely beneficial but places are limited. Therefore, VCAT ran an in-

house decision writing workshop in conjunction with the Judicial College of Victoria during June 2006 attended by 12 List members and supported by presentations from President Justice Morris, Professor Christopher Wallace-Crabbe and other VCAT members. Participants were required to redraft a recent decision using the principles discussed at the workshop. All members found the workshop most beneficial, and it is likely to become a regular feature of the List's professional development program.

### **Outcome Analysis**

Page 36 features an outcome analysis relating to applications made to the List in 2005–06. In addition, two tables list the total number of applications received relating to the top 20 councils and top 20 suburbs where the planning site in question was located.

The graph on page 36 describes the outcome of applications to the Planning and Environment List. The 'plain English' classifications identify whether individuals making the applications were successful or were not successful. Outcomes are shown only for the major application types and for finalised applications received in 2005–06. Applications that were withdrawn are not shown. (VCAT does not record the reasons why applications were withdrawn. They may have been withdrawn for many reasons, including if a compromise was reached before VCAT heard the application).

The outcome classifications are a simplified version of more technical classifications of types of final orders made by VCAT. The percentages shown should be taken as a broad guide to the outcomes.

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### **Case Study: VCAT Grants Declaration for Use of Premises as a Place of Assembly**

The unusual case of *Alphonso v. Casey City Council* [2006] VCAT 595 concerned a replica of a small religious statue known as the Infant Jesus of Prague. The original is in the City of Prague. Some people believe that advantageous miracles can be achieved by prayer directed to the original statue. Mrs. Alphonso acquired her replica in 1992 when a relative brought it to her as a gift from Sri Lanka. Mrs. Alphonso believes that her replica likewise occasions favourable miracles if suitable prayers are offered in her home in residential Cranbourne. She has a small shrine, featuring the statue, in her living room. Over 12 years she has had people gathering for prayer meetings.

After a complaint was made the responsible authority (the council) instructed her that she would need to apply for a planning permit for a place of assembly. She did so. The responsible authority then refused to grant her a permit. She did not apply to the Tribunal for a review of that decision. Instead she applied for a declaration. The issue was whether such prayer meetings, limited as to number, times and duration, should properly be regarded as a separate use of the residential premises, apart from the use as a dwelling, so that a permit was needed; or whether such activities are to be regarded as an ancillary part of the use of the premises as a dwelling.

The decision was that such activities, limited in those ways, are really to be regarded as part of the use of the land as a dwelling, and thus not a separate use requiring a planning permit. The activity was compared with a number of other hobby or past-time activities that can be associated with the residential use of a house such as a book club, a party, a cards night and so on. A declaration to this effect was made accordingly.

# We resolve cases relating to real property, retail tenancies and taxation.

## List Snapshot

### Objectives

- Maintain acceptable waiting times from application to resolution for real property cases, retail tenancies cases and taxation cases.

### Key Results

- Resolved 55% of real property cases within 25 weeks of application and 66% within 35 weeks.
- Resolved 64% of retail tenancies cases within 12 weeks of application and 73% within 18 weeks.

### Future

- Maintain acceptable waiting times from application to resolution for real property cases, retail tenancies cases and taxation cases.

### Statistical Profile

#### Real Property List:

- Applications received: 67
- Cases resolved: 57
- Cases pending: 57
- Application fee \$269.60–\$540.20
- Number of members: 17

#### Retail Tenancies List:

- Applications received: 170
- Cases resolved: 171
- Cases pending: 78
- Application fee \$269.60–\$540.20
- Number of members: 14

#### Taxation List:

- Applications received: 32
- Cases resolved: 32
- Cases pending: 14
- Application fee \$269.60
- Number of members: 9

# Real Property, Retail Tenancies and Taxation Lists

## Case Profile

The Real Property List received 67 applications in 2005–06, compared with 71 in 2004–05, representing a 6% decrease. Cases resolved increased by 27%, totalling 57 in 2005–06, compared with 45 in 2004–05. Cases pending totalled 57 on 30 June 2006, compared with 47 on 30 June 2005.

Applications in the Retail Tenancies List decreased, resulting in 170 applications being received; a 14% decrease, compared with 197 in 2004–05. Cases resolved fell by 5%, totalling 171, compared with 180 in 2004–05. Cases pending fell by 1%, totalling 78 on 30 June 2006, compared with 79 on 30 June 2005.

The Taxation List received 32 applications in 2005–06, compared with 46 in 2004–05, representing a 30% decrease. Cases resolved decreased by 52%, totalling 32 in 2005–06, compared with 66 in 2004–05. Cases pending remained steady, totalling 14 on 30 June 2006, compared with 14 on 30 June 2005.

## Application Types

The vast bulk of applications received in the Real Property List involved jurisdiction under Part 1 of the *Water Act 1989* and certain provisions of the *Water Industry Act 1994*. Water Act proceedings primarily

related to urban or suburban flooding involving burst water mains. Other applications involved acquiring easements to facilitate subdivisions under the *Subdivision Act 1998*. A new jurisdiction commencing 1 January 2006 authorises the Tribunal to determine disputes between co-owners of land and goods under the *Property Law Act 1958*.

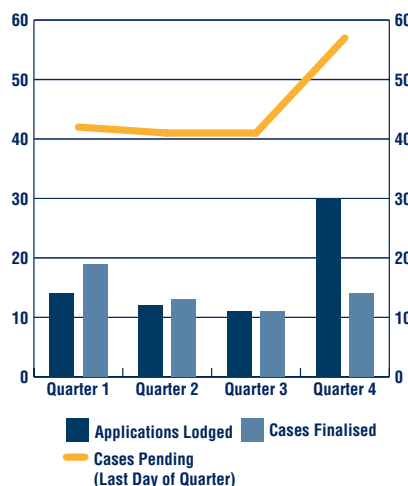
The types of applications lodged in the Retail Tenancies List involved disputes arising between landlord and tenant relating to leases of retail premises. Disputes involved alleged misrepresentation, validity of rent reviews and repair issues.

In the Taxation List, applications related to State levies and taxes, including a number of matters concerning the First Home Owner's Grant scheme.

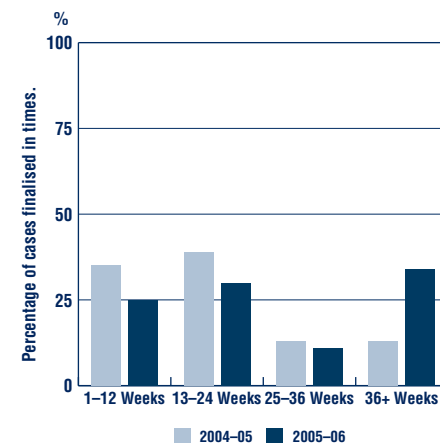
## How We Dealt with Cases

In resolving real property cases, we undertook the full set of interlocutory steps. Then, the parties exchanged their expert reports and attended a compulsory conference held by an engineering member. If the case remained unresolved, a legal and sometimes an engineering member conducted a hearing. We referred claims for modest sums under the Water Act and the Property Law

Real Property Case Flow 2005–06



Age of Matters Finalised (Median 21 Weeks)—2005–06





Act directly to mediation, thereby resolving such matters quickly and cost effectively. Most retail tenancy matters had been subject to the ADR processes of the Small Business Commissioner; therefore, we did not order mediation as a matter of course.

Occasionally, circumstances arose where the parties indicated their desire for a second mediation to take place. Proceedings, which sought injunctive relief, came directly to the List without previous processing by the Small Business Commissioner. Where urgent injunctive relief was sought, the application for a temporary injunction was heard immediately, often on the same day as the proceeding was filed.

With regard to taxation matters, we were able to accommodate special arrangements where needed by offering the parties an increased number of directions hearings. In addition, we arranged for the Commissioner of State Revenue to provide the same folder of relevant documents he must file with VCAT to each applicant for review to provide a common documentary record upon which each proceeding may be based.

### Timeliness

In the Real Property List, we resolved 55% of cases within 25 weeks of application (76% in 2004–05) and 66% within 35 weeks (87% in 2004–05).

In the Retail Tenancies List, we resolved 64% of cases within 12 weeks of application (61% in 2004–05) and 73% of applications within 18 weeks (72% in 2004–05). In managing retail tenancies cases, we are able to provide the resources necessary to hear cases efficiently. However, delays are often encountered as a result of the parties failing to prepare their cases for hearing.

In the Taxation List, we achieved a clearance rate of 100% (150% in 2004–05), which maintained the number of cases pending. The caseload of the Taxation List is very small and a small number of lengthy cases can greatly affect the result.

### User Group Activities

The Retail Tenancies user group met in December 2005 to discuss the continued relevance of mediation for disputes already mediated by the Small Business Commissioner.

No user group exists for the Real Property List or Taxation List since the workload of both Lists comprises a small number of cases.

### Case Study: Tenant Falls Into Rental Arrears and Claims Defects

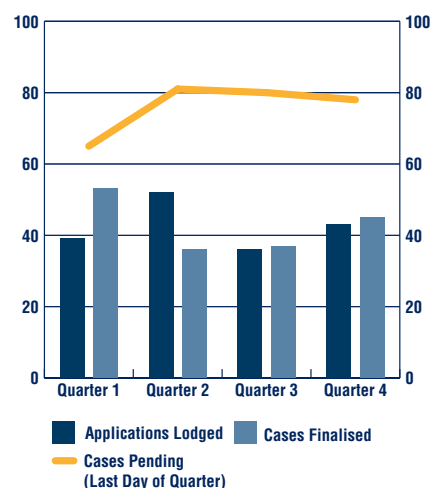
The tenant purchased a student accommodation business and entered into a 10-year lease. The tenant fell substantially into arrears in paying the rental instalments. The tenant claimed the building suffered from a variety of defects, particularly roof leaks, and the landlord denied repeated requests to have these defects repaired. The tenant also failed to pay substantial outgoings.

The landlord served a notice under Section 146 of the *Property Law Act 1958*, asserting the tenant had defaulted in paying rent, outgoings and certain costs, which the tenant was liable to pay, threatening to forfeit the leases if the defaults were not remedied. The tenant claimed that the failure to repair the roof leaks and other defects constituted a breach of the landlord's obligations under Section 52 of the *Retail Leases Act 2003* and that this breach of covenant could be relied upon by the tenant as an equitable set-off to justify the non-payment of the rent and outgoings. The landlord denied the existence of any set-off and said the lease terms excluded the tenant's ability to rely on a set-off, which obliged the tenant to pay the rent 'without deduction'.

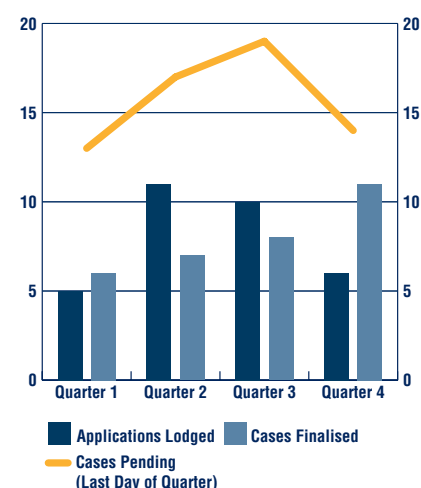
Based on similar decisions, the Tribunal concluded that the words 'without deduction' were insufficient in themselves to exclude a tenant's right to rely upon an equitable set-off. However, the tribunal considered that even if an equitable set-off were available, the tenant's set-off claim was relatively weak. Additionally, the arrears of rent and outgoings were very large. There was no evidence which would attach any particular value, let alone a value equal to or exceeding the large sum of arrears of rental and outgoings to the tenant's cross-claim for breach of the implied covenant to repair.

Since there was no serious question to be tried, VCAT dismissed the tenant's application for interim injunctive relief to protect it from eviction.

Retail Tenancies Case flow 2005–06



Taxation Case flow 2005–06



We resolve  
disputes relating  
to residential  
tenancies.

## List Snapshot

### Objectives

- Further improve and promote VCAT Online.
- Continue to produce at least 70% of orders via the Order Entry System (OES).

### Key Results

- A total of 51,776 applications were lodged using VCAT Online, representing 78% of applications.
- The average waiting time from application to resolution for all cases was 19 days.
- Approximately 50,455 orders (74% of all orders) made in the List (68,224 orders) were processed via OES, exceeding our target of 70%.

### Future

- Further improve and promote VCAT Online.

### Statistical Profile

- Applications received: 66,302
- Cases resolved: 66,495
- Cases pending: 3,157
- Application fee: \$31.70
- Typical number of cases resolved per day, per member: 20
- Number of members: 54
- Number of venues visited: 30



# Residential Tenancies List

## Case Profile

The total number of applications received increased by 1% in 2005–06, totalling 66,302, compared with 65,950 in 2004–05. Cases finalised remained steady, totalling 66,495, compared with 66,244 in 2004–05. Cases pending totalled 3,157 on 30 June 2006, compared with 3,350 on 30 June 2005, representing an decrease of 6%.

## Application Types

The people who made applications were:

- 68% landlords represented by estate agents or property managers (68% in 2004–05);
- 21% the Director of Housing (20% in 2004–05);
- 6% private landlords (7% in 2004–05); and
- 5% tenants or residents (6% in 2004–05).

Of all applications received:

- 54% related to possession orders (48% in 2004–05);
- 28% payment of bond (28% in 2004–05);
- 10% compensation or compliance orders alleging breach of duty (10% in 2004–05); and
- 8% other (15% in 2004–05).

## How We Dealt with Cases

List members resolved most applications by hearing. In some cases, parties used the alternative procedure for possession. As a result of these procedures, the Principal Registrar was able to make orders without the need for parties to attend a hearing.

## Timeliness

The average waiting time from application to resolution dropped slightly from 20 days in 2004–05 to 19 days in 2005–06. Based on the number of sitting days at a venue, we held 32% of hearings in Melbourne, 41% in suburban Melbourne and 27% at country venues throughout Victoria. Our ability to maintain timeliness was largely due to the efficient management of the List's resources across the State.

## Order Entry System

The Order Entry System (OES) enables List members to produce orders using computers installed in hearing rooms. OES allows orders to be produced, printed, signed and given to the parties immediately after hearings.

During 2005–06, OES use increased with 50,455 orders (74% of all orders) made in the Residential Tenancies List (68,224 orders) being produced by List members using OES, exceeding our target of 70%. This result compares with 2004–05 when VCAT members used OES to produce 47,517 orders (70% of all orders) made in the List (68,070 orders). Through VCAT Online, an alternative procedure module allows landlords to apply for possession and rent and disposal of bond where the address of the tenant is unknown. In this case, the Principal Registrar makes an order without the parties having to attend a hearing.

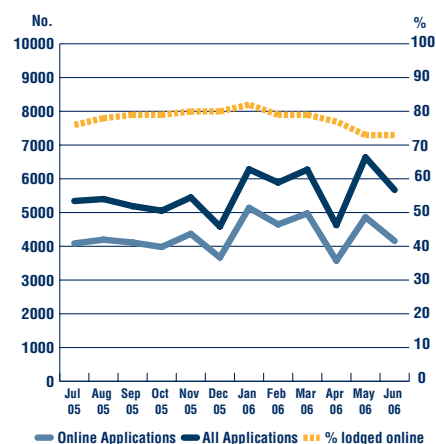
## VCAT Online

VCAT Online enables the List's registered users to complete application forms, and generate and print notices of dispute under the RT Act via the Internet, followed by immediate confirmation of lodgment and, in most cases, a hearing date. In 2005–06, 112,378 notices were created (90,040 in 2004–05) and 51,776 applications were lodged (50,201 in 2004–05) via VCAT Online. A total of 1,213 users were registered with VCAT Online as at 30 June 2006, compared with 960 users as at 30 June 2005. Refer to page 58 for more information about VCAT Online.

## User Group Activities

The List's user group comprised representatives the Office of Housing, Real Estate Institute of Victoria, Tenants Union of Victoria, Community Housing Federation of Victoria and Legal Aid Victoria. The user group met on four occasions during 2005–06 (four in 2004–05) and provided a forum for discussing issues of concern to List users.

## VCAT Online Use 2005–06—Residential Tenancies List



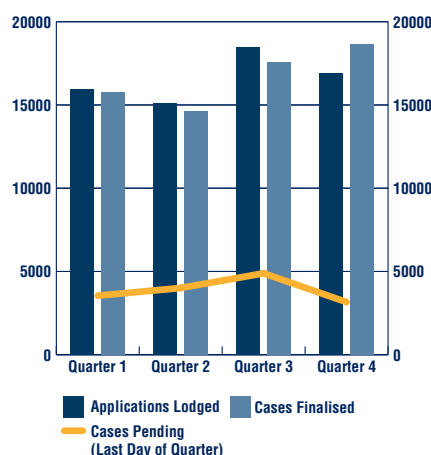
VCAT Online Use shows the number of applications and notices generated via VCAT Online since July 2005. We received a total of 51,776 applications via VCAT Online, representing 78% of all applications.

## Case Study: Notice Served to Vacate on Grounds of Non-Payment of Rent

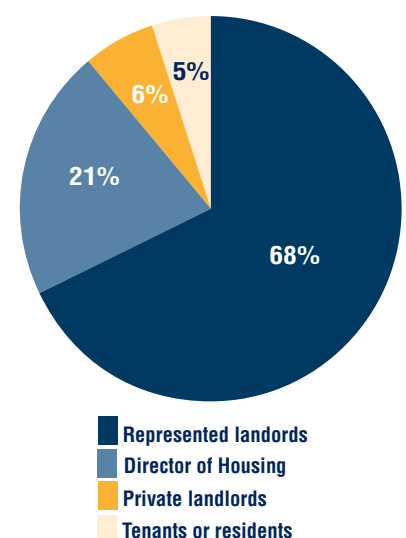
The co-landlords, Director of Housing and Aboriginal Housing Service served a notice to vacate on a tenant on the grounds of non-payment of rent. The landlords were seeking an order of possession on the basis that the tenant had been provided with many opportunities to pay the rent arrears by way of small, regular payments and that she had breached all of those agreements. The tenant gave evidence that she worked for an Aboriginal organisation, providing advice to clients, was involved with a number of other aspects of the Aboriginal community in Victoria and had frequently provided financial assistance to members of the Aboriginal community who were in financial need. As a result of many community members' reliance upon her for financial and emotional support, the tenant said, she

had breached her most recent agreement to pay her rent arrears. After receiving the notice to vacate and just before the hearing, the tenant had reduced the rent arrears from approximately \$8,000 to \$900 by obtaining a loan and had sought the advice and assistance of a financial counsellor, who had prepared a financial plan for her. In the light of this evidence, VCAT considered that satisfactory arrangements had been made to avoid financial loss to the landlord and so did not make the requested order for possession. Instead, the tribunal ordered repayment of the debt within a strict time-frame and in accordance with the financial plan and adjourned the application to the day after the first payment was due to ensure the payment had been made. Additionally, VCAT ordered that if the first payment was made, the parties need not appear on that day and adjourned the application for six months.

## Case flow 2005–06



## Applications by Type 2005–06



# Outlook for 2006–07

As an important part of our role at VCAT, we estimate user demand to ensure that resources adequately meet those demands. We prepare forecasts of VCAT's workload and consider new jurisdictions that may be conferred on VCAT to determine whether they may have an impact on case volume.

## Demand forecast

Parliament decides the types of disputes we are to resolve. Without further new major jurisdictions for VCAT, we project approximately 90,000 matters will be initiated in 2006–07, rising to approximately 92,000 matters initiated in 2008–09.

This projected growth reflects rising demand in the Civil Claims List (5% per annum), and modest growth in the Guardianship List (2% per annum) and the Planning and Environment List (2% per annum).

If our annual budget continues to reflect rising costs, we will have the capacity to finalise approximately 90,000 matters per annum 2006/2007 in a timely manner. If demand rises, we will need additional funding. Of course, we will examine whether we can meet rising demand by further improving our efficiency. In addition, we may be able to transfer resources between Lists, should demand shift (one of VCAT's strengths).

We are planning on the basis that, if needed, we will have the capacity to finalise 92,000 matters by 2008–09.

Details regarding the performance of each individual List begin on page 16.

## New Jurisdictions

VCAT has the flexibility to accept and integrate new jurisdictions at a relatively low cost to Government and VCAT users. New or potential new jurisdictions of which we are aware are as follows:

- The *Aboriginal Heritage Bill 2006* will meet the need to recognise the role of traditional owners in managing their heritage. If enacted, it will establish an Aboriginal Heritage Council, comprised of traditional owners, to provide a statewide voice for Aboriginal people on the management of cultural heritage. The council will be responsible for registering Aboriginal parties as cultural heritage decision-makers for areas in Victoria and advising the Minister for Aboriginal Affairs in relation to the protection of Aboriginal heritage. VCAT will have jurisdiction to review a variety of decisions in this area. The Bill says, "VCAT members hearing these matters must have sound knowledge of, and experience in, Aboriginal cultural heritage".
- The *Disability Services Act 2006* will reaffirm and strengthen the rights and responsibilities of people with a disability and recognise the requirement for such support across the government sector and within the community. VCAT will have a range of jurisdiction. For example, if a disability service provider refuses a request for services, we will have jurisdiction to review that decision.

- The *Health Professions Registration Act 2005* will confer new or extended jurisdiction on VCAT concerning the hearing of serious allegations of professional misconduct in the professions of medicine, nursing, dental care, chiropractic, osteopathy, optometry, podiatry, physiotherapy, pharmacy, psychology, medical radiation technology and Chinese medicine.
  - In December 2005, the Minister for Consumer Affairs announced "sweeping changes to body corporate laws" when the *Owners Corporation Act 2006* is introduced in Parliament. She announced proposed new jurisdictions for VCAT, including the power to impose small civil penalties for rule breaches and the ability to resolve disputes unresolved by owners corporations or conciliation by Consumer Affairs Victoria. Case load projections are uncertain for this major new jurisdiction.
  - From April 2006, the *Working With Children Act 2005* will require all adults involved with 'child-related work' to apply for a police check. The scheme will be phased in over five years, starting in April 2006, and will involve approximately 650,000 adults. In a very small percentage of cases, decisions made by the Secretary of the Department of Justice may be reviewed by VCAT.
- For a list of VCAT jurisdictions, please refer to page 62 of this Annual Report.



# Governance Policies

The following information describes VCAT's governance policies.

## Appointment of Members

Members of VCAT are appointed in accordance with the VCAT Act and include judicial members in the roles of President and Vice-President, and non-judicial members acting as deputy presidents, senior members and ordinary members.

### Judicial Members

The VCAT Act provides that the President must be a Supreme Court judge and a Vice-President must be a judge of the County Court. The Attorney-General recommends judicial members for appointment to the Governor in Council, after consultation with the Chief Justice and Chief Judge.

Subject to the VCAT Act, they are usually appointed for five-year terms, after which they are eligible for re-appointment. They may resign their office by delivering a signed letter of resignation to the Governor.

### Non-Judicial Members

The Governor in Council appoints deputy presidents, senior members and members of VCAT. Subject to the VCAT Act, they hold five-year terms and are eligible for re-appointment. They may resign their office by delivering a signed letter of resignation to the Governor. All deputy presidents are full-time appointments. Senior members and members may be appointed as full-time or sessional members.

## Directing VCAT

The President and Vice-Presidents of VCAT are:

- to direct the business of VCAT;
- responsible for the management of the administrative affairs of VCAT;
- responsible for directing the professional development and training of members of VCAT; and
- to determine the places and times of sittings of VCAT hearings.

In carrying out these functions, the Vice-Presidents are subject to the direction of the President, who is also responsible for advising the Minister about any action that the President considers would lead to the:

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

In carrying out these functions, the President and Vice-Presidents consult with VCAT's deputy presidents, the Chief Executive Officer and Principal Registrar through Heads of Lists meetings, meetings of other committees and, on a daily basis, with individuals as required.

## Rules Committee Members

VCAT's primary objective is to ensure access to justice for all Victorians. The Rules Committee is responsible for making VCAT's rules and Practice Notes readily accessible to VCAT users.

Members of the Rules Committee are:

- the President;
- each Vice-President;
- a full-time member of VCAT who is not a judicial member or legal practitioner, and is nominated by the Attorney-General after consultation with the President;
- a current practitioner or interstate practitioner (within the meaning of the *Legal Practice Act 1996*), nominated by the Attorney-General after consultation with the Legal Practice Board; and
- two persons nominated by the Attorney-General.

During 2004–05, a vacancy existed in the last category.

### Functions

Members of the Rules Committee are appointed pursuant to section 152 of the VCAT Act and carry out a number of important functions with regard to the leadership of VCAT.

These functions include:

- 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.

### Quorum and Meeting Procedure

The quorum of the Rules Committee is four members. A question arising at a meeting is determined by a majority of votes and the person presiding has a deliberative vote and, in the case of an equality of votes, has a second or casting vote. The Rules Committee must ensure that accurate minutes are kept of its meetings. In all other respects the Rules Committee may regulate its own proceedings.

## Ethical Standards

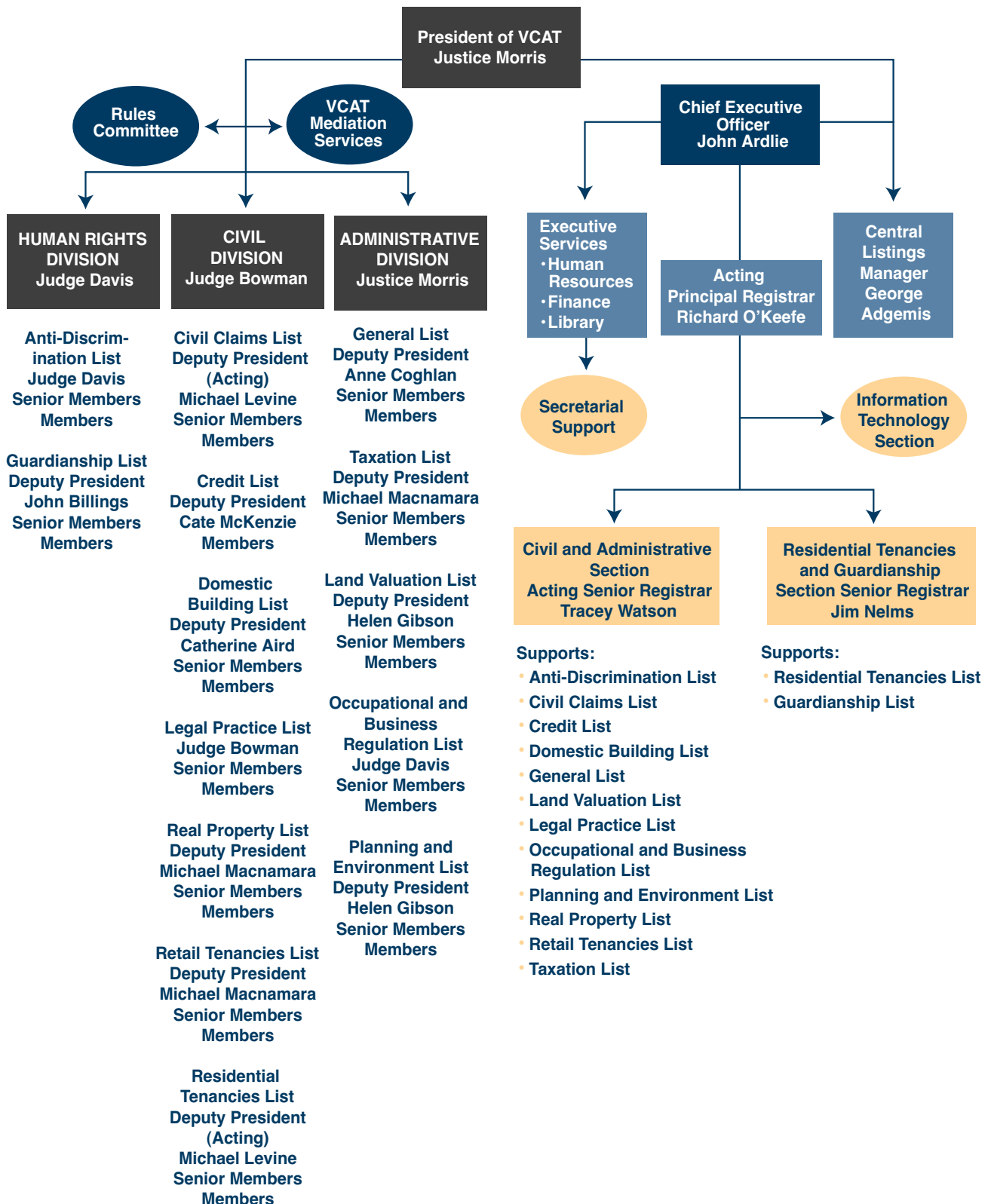
The Presidential members have taken steps to increase the knowledge and understanding of members and staff as to their ethical responsibilities. The VCAT Mediation Code of Conduct provides a guide for mediators and a way of informing parties of their rights at mediation. Refer to the VCAT web site at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) for the Mediation Code of Conduct.

## Rules Committee Meetings

<i>Member</i>	<i>Held</i>	<i>Attended</i>
Justice Morris	6	6
Judge Bowman	6	5
Judge Davis	6	6
Margaret Baird	6	4
Louise Jenkins	6	3
Prof Sallmann	6	0

\* Judge Strong attended two meetings, although he was not allocated to VCAT.

# Organisational Structure as at 30 June 2006



# Rules Committee Report

The Rules Committee comprises VCAT's judicial members, a full-time member who is not a legal practitioner, a legal practitioner and two persons nominated by the Attorney-General. Refer to page 43 of this Annual Report for additional information and meeting attendance during 2005–06.

## Membership

As at 30 June 2006, the Rules Committee comprised the following members:

### *Justice Morris*

BEC (Hons), LLB (Hons). Appointed President of VCAT on 10 June 2003. Signed the Roll of Counsel of the Victorian Bar in 1976. Appointed Queen's Counsel in 1991. Appointed Justice of the Supreme Court of Victoria on 8 April 2003.

### *Judge Bowman*

LLB (Hons). Appointed Vice-President of VCAT, Civil Division, on 4 February 2002. Signed the Roll of Counsel of the Victorian Bar in 1968. Judge of the Accident Compensation Tribunal from 1987 to 1992. Appointed to the County Court in 2001.

### *Judge Davis*

BA (Hons), M Sc (Econ), MA, LLB (Hons). Appointed Vice-President of VCAT, Human Rights Division, on April 2005. Appointed Judge of the County Court on 26 October 2004. Appointed Deputy President of the Anti-Discrimination List in February 2004 and Deputy President of the Occupational and Business Regulation List of VCAT in September 2000. (See page 24 or 38.)

### *Other Judicial Members*

Judge Duggan, Judge Higgins, Judge Strong, Judge Davey and Judge Wood are full-time Judges of the County Court who remain as Vice-Presidents of VCAT

and members of the Rules Committee and are able to be called upon to sit if required.

### *Prof Peter Sallmann*

LLB, M Phil. Admitted as a barrister and solicitor of the Supreme Court of Victoria 1973. Appointed Director of the Civil Justice Review Project in 1977. Crown Counsel for the State of Victoria 1998 until 2005. Professor, Faculty of Law at Monash University.

### *Louise Jenkins*

BA LLB. Appointed on 1 July 1998. Barrister and Solicitor of the Supreme Court of Victoria. Partner, Arthur Robinson, Hedderwicks. Practises extensively in the litigation area for major Australian companies as well as a range of international insurers. She is a member of the Legal Practice List and a Trustee of Law Aid.

### *Margaret Baird*

Bachelor of Town and Regional Planning. Member Planning and Environment List. Appointed to the Rules Committee on 24 June 2003. Previously, consultant, strategic planner and sessional independent panel member.

## Activities

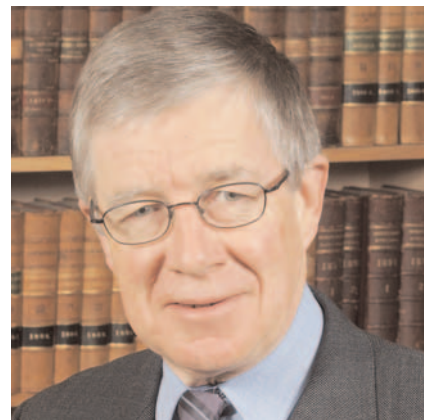
The Rules Committee amends the rules and practice notes of VCAT in response to procedural reform, changes in jurisdiction and as new legislation is allocated to VCAT's Lists.

During 2005–06, the committee met on six occasions. As an example of its work, the committee approved Amendment No 16 to the VCAT Rules. The amendment dealt with matters such as:

- the revocation of specific rules declared invalid by the Supreme Court in *The Herald and Weekly Times Limited vs. The Victorian Civil and Administrative Tribunal* [2005] VSC 44;



Justice Morris.



Judge Bowman.



Judge Davis.

# Rules Committee Report



Louise Jenkins.



Margaret Baird.

- substitution of Rule 4.09 so that the tribunal may require a party to submit to a medical, psychological or other examination by an expert whom another party proposes to call as a witness in the proceeding, if the mental or physical condition of a party is a relevant consideration; and
- an update to the enabling enactments contained in Schedule 1 of the Rules.

## Practice Notes

In July 2005, the Rules Committee approved a new practice note for the Domestic Building List. The preparation of this practice note involved wide consultation with members and with the List's user group.

Amendments were made to practice notes in the Planning and Environment List to facilitate electronic lodgement to the tribunal of draft permit conditions by responsible authorities and establish procedures for dealing with new provisions in the *Planning and Environment Act 1987*.

## New Jurisdictions

The *Health Professions Registrations Act 2005* was allocated to the Occupational and Business Regulation List by resolution of the Rules Committee in May 2006. The Act consolidates various Acts concerned with the regulation and registration of health practitioners in Victoria. VCAT can hear applications referred to it from the various responsible boards and can then make findings and determinations in accordance with specific provisions of the Act. Additionally, VCAT may hear applications for review by health practitioners who are the subject of a decision of a board or panel.

The *Working with Children Act 2005* was allocated to the Occupational and Business Regulation List in August 2005. The purpose of this Act is to protect children by ensuring that individuals who work with, or care for children, are suitable to do so. A determination concerning an individual's suitability to work with children is made by a government agency. VCAT's jurisdiction in relation to this Act is to provide a process for the review of a decision of a government agency regarding the suitability of an individual to work with children.

The *Property (Co-ownership) Act 2005* amended the *Property Law Act 1958* to provide for the transfer of jurisdiction of disputes relating to the co-ownership of land and goods from the Supreme Court and County Court to VCAT. Part IV provides a mechanism for the termination of the co-ownership of land and goods if co-owners fail to agree on the manner in which the co-ownership should be terminated. The new Part applies to all land in Victoria that is co-owned. The remedies available to the tribunal include sale of land or goods and the division of the proceeds and/or the physical division of the land or goods.

## The Future

During 2006–07, the Rules Committee will continue to amend the Rules of VCAT and produce consistent and easily understood Practice Notes and explanatory guides.



# Registry Management

The VCAT Registry comprises a team of about 130 people who work with members and other staff to serve the needs of VCAT's users. The majority of staff work at 55 King Street, Melbourne, and others work at the Magistrates' Courts where VCAT holds hearings.

The Registry comprises:

- Residential Tenancies and Guardianship Section, supporting these two high-volume Lists;
- Civil and Administrative Section, supporting the 12 other smaller volume Lists; and
- Listing Directorate charged with the complex task of allocating members and managing hearing venues.

In the VCAT Registry, we aim to provide an efficient and streamlined service by:

- providing advice to our users by telephone and at the counter about how VCAT operates;
- helping users to lodge applications to VCAT;
- sending correspondence to users, such as letters about cases, hearing notices and VCAT orders;
- allocating members to deal with the extensive daily case load;
- arranging and servicing hearing venues across Victoria; and
- working to improve VCAT's administrative processes.

## Registry Management

Registry management comprised the following senior managers as at 30 June 2006:

### *John Ardlie*

Appointed Chief Executive Officer in July 1998. Formerly a career Clerk of Courts. Joined Courts Management Division of the former Attorney-General's Department in 1984. Held various management roles within the administration of the State's justice system, including Deputy Director, Court Operations, and Manager of Courts and Tribunal Services.



Chief Executive Officer John Ardlie.

### *George Adgemis*

Appointed Listings Manager in July 1999. Previously held roles as the Principal Registrar of the State Coroner's Office and Director of Criminal Trial Listings, qualified as a Clerk of Courts in 1983 and worked in a number of suburban Magistrates' Courts.

### *Richard O'Keefe*

LLB. Acting Principal Registrar appointed June 2006. Appointed Senior Registrar, Administrative Section of the Registry in April 1999. Previously a public servant with the DOJ (the then Law Department) since 1973. Qualified as a Clerk of Courts in 1975. Worked in a variety of suburban Magistrates' Courts over a 25-year period. Appointed to the Registry of the Administrative Appeals Tribunal in 1996.

### *Jim Nelms*

Appointed Senior Registrar, Residential Tenancies and Guardianship Section of the Registry in April 1999. Joined the former Ministry of Consumer Affairs in 1989. Appointed Registrar of the Small Claims Tribunal and Residential Tenancies Tribunal in 1991.

### *Tracey Watson*

Appointed as Acting Senior Registrar in June 2006. Joined the Department of Justice in 1988. Worked in a variety of courts, such as the Supreme Court, Melbourne Magistrates' Court and other Magistrates' Courts. Qualified as a Clerk of Courts in 1990. Commenced at the Administrative Appeals Tribunal of Victoria in 1990, which became part of VCAT in 1998.



Listings Manager George Adgemis.



Acting Principal Registrar Richard O'Keefe.



Senior Registrar Jim Nelms.



Acting Senior Registrar Tracey Watson.

# Registry Management



Acting Registrar Jenny Phillips.



Registry Manager Tony Jacobs.



Registry Manager Sue Lalji.



Registry Manager Justin McHenry.

## Changes to Registry Management

In June 2006, Principal Registrar since late 1998 Ian Proctor was appointed as a member of VCAT, necessitating the following appointments:

- Richard O'Keefe as acting principal registrar;
- Tracey Watson as an acting senior registrar; and
- Jenny Phillips as an acting registrar.

The position of principal registrar was advertised.

As described elsewhere in this Annual Report, John Ardlie announced his forthcoming retirement in early 2006–07, once the position of Chief Executive Officer is filled.

## Major Activities

The Registry played an important role in many of the achievements described in this Annual Report. In addition, we implemented or continued the following initiatives:

### *Legal Practice List*

In December 2005, the former Legal Profession Tribunal was amalgamated to form the Legal Practice List of VCAT. This seamless amalgamation included the transfer of the existing caseload, registrars and support staff to 55 King Street Melbourne. The transferred staff have been placed in various roles across the registry and have settled well into VCAT.

### *Guardianship List Review*

In late 2005, a proposal was made to reorganise the work of some of the registry staff who support the Guardianship List. The proposal focused on better serving the represented persons, administrators, and the lives of all of those whom the Guardianship List touches. After consultation, we decided to organise List operations into three teams:

- one team focusing on initial applica-

- one team on matters where a professional administrator has been appointed (such as State Trustees Ltd); and
- one team for when a private administrator has been appointed (say a family member).

We hope these teams produce significant improvements in service in 2006–07.

### *Performance Reports*

An initiative of the registry has been the production of performance reports about various VCAT Lists over the last few years. They allow us to examine the administrative efficiency of VCAT and make improvements. In 2005–06 we started publishing the reports on our website about the Civil Claims List (August 2005), Anti-Discrimination List (February 2006) and Domestic Building List (May 2006). See pages 10–11 for more information.

### **Employee Attitude Survey**

The Department of Justice conducts annual employee attitude survey. The Registry scored well in the 2006. On an 'agreement scale' (where above 3.5 is positive and above 3.8 is very positive), we scored 3.7. The Department of Justice as a whole scored 3.6. On an 'agreement score' (where above 50% is satisfactory and 75% and above can be considered 'best practice'), both VCAT and the Department of Justice scored 60%. Areas where the survey indicates we need to improve are discussed below.

### **Linking Performance**

For the third year, staff have worked within the Victorian Government's Performance Management and Progression System. We link the individual performance agreements to Registry targets, enabling staff to plan their career, work role, level of performance and how they can improve and increase their remuneration.

# Committee Profile

## **Heads of Lists Committee**

The Heads of Lists Committee comprised the President of VCAT Justice Morris, Vice-Presidents Judge Bowman and Judge Davis and the Deputy President of each List. The Heads of Lists Committee met monthly to discuss key issues regarding the day-to-day work of List members, such as case load, finance, training and changes in legislation, affecting VCAT.

## **Planning and Environment List Professional Development Committee**

The Planning and Environment List Professional Development Committee comprised Philip Martin as Chair and regular committee members Tony Liston, John Bennett, Jeanette Rickards, Margaret Baird and Mary-Anne Taranto. Additionally, Laurie Hewett and Sam Cimino helped to organise the western suburbs bus tour (see below).

The Committee continued to meet every two months to organise a range of activities, particularly twilight seminars featuring internal and external speakers. A broader part of the Committee's role was publicising professional development opportunities run by other relevant professional associations, including the Conference Register initiative. In conjunction with VCAT, this initiative provided funding for each full-time Planning and Environment List member to attend one conference each year. A number of the List's Members attended the Victorian Planning and Environment State Conference at Lorne in September 2005. Many List members attended other external professional development functions at their own cost from time to time during the year.

The committee's external focus involved various List members providing presentations at seminars run by other industry organisations. In addition, the List contin-

ued to host groups of junior planners visiting the Tribunal for educational purposes as part of the Department of Sustainability and Environment (DSE) PLANET training program.

Two highlights included the North-eastern suburbs bus tour organised by Tony Liston and the tour of the inner western suburbs. These half-day bus tours enabled List members to visit sites where projects approved by VCAT had been completed to review the 'as built' outcome in light of the main issues arising in the hearing for each project. Both of the tours were well organised and each involved more than 20 members inspecting more than a dozen projects per tour. These tours were a credit to both the organisational capacity of the members leading them and the enthusiasm of the large number of members who participated in them.

Another valuable initiative, the committee hosted full-time Planning Panels Victoria (PPV) Members and Jane Monk (a past committee member who heads the Priority Development Committee) in November 2005. The twilight session involved Deputy President Helen Gibson, PPV Chair Kathy Mitchell and Jane Monk each doing a short address on the 'state of play' for their organisation, together with general networking. We hope we can further strengthen our important links with these other organisations as we move forward.

Other activities included:

- In July 2005, a Melbourne Water speaker addressed a twilight seminar on the infrastructure implications of the February 2005 major floods.
- In August 2005, a DSE planning manager spoke at a twilight seminar on the implementation of the Melbourne 2030 strategy.

- In September 2005, Helen Gibson and Tony Liston led a twilight seminar regarding their recent important *Westpoint Corporation v Moreland CC* decision on 'secondary consent procedures'.
- In November 2005, President Justice Morris led a valuable *Evidence: Practical Issues* twilight session.
- In March 2006, List Sessional Member Chris Harty ran a topical twilight session on the review of native vegetation permit exemptions.
- During April 2006, we heard from two external experts on the best use and understanding of photomontages in planning hearings.

It is pleasing to report that our professional development finished the year on a strong note for two reasons. First, we made arrangements for a significant number of List members to attend a national conference for planning members and judges (the ACPECT conference) in September 2006, at which three of our members are expected to present. Secondly, Justice Morris has arranged an internally-run workshop on *Writing Reasons* in which a number of List members will participate.

## **Professional Development Coordinating Committee**

Members of the Professional Development Coordinating Committee (PDCC) review and guide activities concerning:

- mediation;
- the VCAT Library; and
- new members and seminars.

Prior to a meeting of the PDCC, committee members submit reports of their activities since the previous meeting. These reports are incorporated into the minutes of the PDCC. At each PDCC meeting, members discuss the work in progress of each committee.



# Committee Profile

## *Mediation Committee*

The Mediation Committee makes recommendations to enhance mediation and undertakes the development of VCAT mediation and mediators. Committee members met on seven occasions during 2005–06 and included:

- Marg Lothian, Chair, Principal Mediator and senior member;
- Cathy Aird, Deputy President of the Domestic Building List;
- Laurie Hewet, Jacky Kefford, Susanne Liden and Peter O'Leary, full-time VCAT members;
- Dr Gregory Lyons, part-time member and academic;
- Struan Gilfillan, architect and sessional member;
- Jim Cyngler and Julian Ireland, barristers and mediators in private practice; and
- Marcel Alter, Ian De Lacy, Frances Falduti, Hani Greenberg and Jeffrey Kiddle solicitors and mediators in private practice.

Greg Lyons and Hani Greenberg resigned as members of the Committee. The contributions of both have been of immense value to VCAT mediation and VCAT mediators. The Committee has welcomed new committee members, Frances Falduti, Laurie Hewet and Jeffrey Kiddle.

During 2005–06, committee members:

- published two editions of the Mediation Newsletter;
- hosted lunch-time presentations and evening seminars for VCAT mediators;
- made available mentoring and debriefing for VCAT mediators;
- enabled novice mediators to sit in on certain VCAT mediations as a service to the mediation community; and
- performed the moot mediation *Dr Grant and His Underpants* as its contribution to Law Week.

## *Library Committee*

In association with VCAT librarian Clare O'Dwyer, members of the Library Committee ensure that the VCAT library offers an efficient service to VCAT members. The library provides books and electronic access to resources, current awareness bulletins, legal research training as well as an opportunity to enrich relationships among VCAT members.

The Library Committee comprised 13 members who held six meetings during 2005–06.

The main library is located on the fourth floor and branch libraries containing selected essential resource materials occupy the common areas on the first and sixth floors. Bill Swannie, VCAT Associate manages the VCAT library on the sixth floor. The VCAT library reviewed and incorporated parts of the Legal Professional Tribunal library into its collection in December 2005.

As one of its main responsibilities, the VCAT Library publishes over 2500 VCAT decisions to AustLII every year. There are now over 17,000 VCAT decisions available to the public via the AustLII website. During 2005–06, VCAT contributed \$10,000 to AustLII for goodwill and support, and AustLII upgraded the VCAT search engine facility on the website. VCAT is ninth on the list of frequency of hits for all jurisdictions, exceeded in Victoria only by the Supreme Court.

## *New Members and Seminars*

New Members and Seminars Committee members organise and hold seminars designed specifically for VCAT members on matters of interest to VCAT.

The committee comprised Deputy Presidents Anne Coghlan and Cate McKenzie and the committee co-opts other members as required. The Judicial College of Victoria greatly assisted the committee during the financial year by arranging speakers for seminars. The committee aims to coordinate its program to take account of other seminars, such as those held by the Judicial College and the VCAT Mediation Committee.

During 2005–06, the committee held three seminars. The first, at which President Justice Morris was speaker, related to recent significant rulings by Justice Morris concerning the *Racial and Religious Tolerance Act 2001* (Vic) and the awarding of costs to lay people who conduct their own cases before VCAT. The second and third seminars were given by Tony Jacobs, one of VCAT's registrars with responsibility for conducting taxation of costs. They related to costs orders and costs taxations.



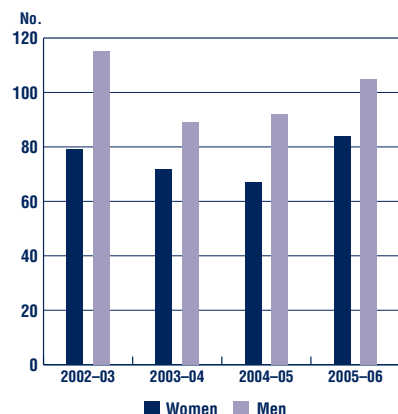
# Member Profile

The Judicial members of VCAT comprise the President and seven Vice-Presidents. Two of the Vice-Presidents are located at VCAT at all times. The non-judicial members comprise Deputy Presidents, Senior Members and Members. As at 30 June 2006, VCAT non-judicial membership increased by 27% from 149 in 2004–05 to 181 in 2005–06, comprising 38 full-time members (37 as at 30 June 2005) and 143 sessional members (112 as at 30 June 2005). VCAT members include legal practitioners and members of other professions, such as planners, engineers, architects, medical practitioners, land valuers and real estate agents who have specialised knowledge or expertise to assist VCAT in exercising its wide range of jurisdictions.

## Cross-Membership

VCAT functions efficiently due to the contributions of many members who are qualified to sit in a number of jurisdictions previously managed by separate boards and tribunals. This flexibility of cross-membership enables members to serve on a range of Lists where needed, increasing VCAT's overall effectiveness. Concurrently, members acquire broader experience, as well as accumulate knowledge from exposure to a variety of jurisdictions. In turn, this

## Members by Gender—2002–03 to 2005–06



approach offers greater career flexibility and career satisfaction.

## Member Remuneration

Members are entitled to receive remuneration and allowances that are fixed by the Governor in Council. Remuneration and allowances in 2005–06 totalled \$9.74 million, compared with \$8.86 million in 2004–05.

## Training and Development

VCAT members attended a wide range of training and development programs during 2005–06. We continued an in-house professional development program for List members. The program included presentations by outside professionals and promoted discussion on topics such as hearing procedure.

Members attended a variety of industry and external conferences and seminars, as follows:

- The 23rd AIJA Annual Conference, held in Wellington, New Zealand on 7–9 October 2005, attended by Deputy President Anne Coghlan and IT Coordinator David Freeman, with the theme *Technology, Communication, Innovation*.
- The 9th Annual AIJA Tribunals Conference held in Canberra on 6–7 April 2006, attended by Justice Morris, Judge Davis, Anne Coghlan, Gerard Butcher, Bernadette Steele, Genevieve Nihill, Malcolm Howell, Ann McGarvie, Bill Holloway, Jack Wiseman, Susan Liden, Kay Kirmos and Sue Burdon-Smith.



Rohan Walker is a Senior Member of VCAT, sitting principally in the Domestic Building and Anti-Discrimination Lists. Additionally, he hears major cases in the Civil Claims List. Formerly, he was Deputy President of the Anti-Discrimination Tribunal and Member of the Small Claims and Residential Tenancies Tribunals. Previously, he was a member of the Victorian Bar practising in commercial law, equity and civil litigation. He has been a Senior Member of VCAT since its inception.



Sessional Member Mary-Anne Taranto is a qualified town planner and has qualifications in environmental management. With more than 16 years of experience, she joined the Tribunal in 2004 following extensive local government practice in the areas of strategic and statutory planning.

# Member Profile



Full-Time Member Stella Moraitis is a former barrister specialising in civil and commercial work. She joined the tribunal as a Sessional Member in 1998, sitting primarily in the Civil Claims, Residential Tenancies and Guardianship Lists. Ms Moraitis was appointed a Full-Time Member in 2005.



Senior Member Tony Liston has been a town planner for 34 years, including 17 years with a variety of municipalities. Tony brings considerable experience in town planning to VCAT.

"I have a passion for the quest to understand how physical, social and economic issues impinge upon people and the places in which they live. I believe that town planning is primarily concerned with the future and can and should be used to manage change and competing interests to achieve the best possible future. The Tribunal in its Planning and Environment Lists can play an important part in this role."

Members of VCAT usually act as individual decision makers.

"Decision making depends on information. I actively use new technology at VCAT, which enhances Member access to information. Additionally, decision making can be isolating. For a long time, I have participated in the development of a collegiate atmosphere and social life among members."

- VCAT members participated in seminars conducted by the Judicial College of Victoria (JCV) including Reasons for Decision and Judgment Writing.
- Working closely with the JCV, VCAT continued its ongoing induction program for new members. During the financial year, the program was available online through the JCV initiative Judicial Officers Information Network (JOIN).
- With the assistance of VCAT, one List member participated in the Monash University Diploma in Law course Decision Making for Tribunal Members, which included online segments.

Additionally, members of the Planning and Environment List attended numerous in-house professional development programs and an extensive variety of industry and external conferences and seminars organised by the Planning and Environment List Professional Development Committee. (Refer to page 49 for a comprehensive listing). For more information regarding List-specific training, refer to the reports on individual Lists, starting on page 16 of this Annual Report.

## *List-Specific Training*

Many of the Lists at VCAT conducted individual List-specific training for members to strengthen the specialised expertise of its members.

In June 2006, members of the Occupational and Business Regulation and Planning and Environment Lists attended a decision-writing workshop held in conjunction with the Judicial College of Victoria.

Type of Member	2005-06		2004-05		2003-04	
	Women	Men	Women	Men	Women	Men
Judicial Member (Full-Time)	1	2	1	2	-	3
Judicial Member (Sessional)	-	1	-	-	-	-
Judicial Member (On Call)	-	4	-	5	-	5
Deputy President	5	2	4	3	5	3
Senior Member	5	8	5	7	4	7
Sessional Senior Member	1	8	-	6	1	8
Full-Time Member	9	9	8	9	9	10
Sessional Member	63	71	49	60	53	53
<b>Total</b>	<b>84</b>	<b>105</b>	<b>67</b>	<b>92</b>	<b>72</b>	<b>89</b>

# VCAT People

As at 30 June 2006, the number of employees increased from 179 in 2004–05 to 197 in 2005–06. This total comprised six senior managers, 23 managers and supervisors and 168 administration staff. Staff numbers included 16 people on maternity leave, leave without pay or secondments and we employed 32 part-time and six casual staff.

On the 12 December 2005, the Legal Profession Tribunal transferred to VCAT, which included 13 staff and a variety of its functions were transferred to VCAT under the *Legal Profession Act 2004*.

## Wages and Superannuation

Employee wages totalled \$7.22 million in 2005–06, compared with \$6.35 million in 2004–05. A new Victorian Public Service (VPS) Agreement was approved and certified on 1 March 2006 and will remain in place until 1 March 2009. The agreement specifies terms and conditions of employment for all staff and is a continuation from the previous VPS Agreement 2004, incorporating performance management and progression plans for all staff. This program recognises and rewards eligible staff who demonstrate sustained improvement in accordance with agreed progression criteria with an average 2% salary increase from 1 July 2006.

Additionally, staff will be provided with a 3% salary increase effective from

1 October 2006. This Agreement is common to all non-executive employees in all Public Service Departments and agencies. The structure provides staff with an opportunity for career progression through clearly defined criteria. In addition, the agreement increases pay equity and emphasises staff development and job growth.

Staff members are eligible for superannuation benefits provided through various funds, which includes a choice of superannuation funds, including the State Superannuation Funds (revised and new) and VicSuper fund.

## Employee Relations

VCAT is an equal employment opportunity employer. Through our recruitment process, we are committed to selecting the best applicants, consistent with merit and equity principles. We update staff on current issues and developments with regard to sexual harassment and broader harassment and discrimination issues within the workplace by conducting in-house seminars, access to J-NET, workshops and circulating relevant literature. We support the balance between domestic and work commitments and employ 32 officers who work on a permanent part-time basis.



Anielle Ollivier was nominated by work colleagues to receive the VCAT Recognition Award, presented to her at the 2006 Staff Conference. Anielle was nominated due to her willingness to assist others and shows initiative with regard to adopting new ideas to make workloads easier. Anielle is hard working and dedicated to achieving a better workplace for everyone.



Jonathan Hildebrand began his career at VCAT in September 2003, after completing an Arts degree at Melbourne University. He started out as part of a small team in the Appeals Costs Fund Registry located at VCAT. Jon successfully obtained a position in the Civil Claims Registry and has since embraced opportunities to move across the VCAT Registry to expand his skills and experience. Jon has worked in a number of areas in the tribunal, including the customer service area, until he joined Central Listings as the Listings Officer for civil claims.



# VCAT People



Blaga Sajkoska was nominated by work colleagues to receive the VCAT Recognition Award, presented to her at the 2006 Staff Conference. Blaga commenced at VCAT in August 2005 and since her first day she has proven to be hardworking, an excellent team member and regularly uses her initiative to assist VCAT clients. Blaga is always helpful, patient and willing to follow up enquiries where possible. She has recently enrolled in the Court Administrators' Course at Victoria University and transferred to Heidelberg Court as part of the associated training for the course.



In January 1983, Rita Torrelli began working with the Residential Tenancies Tribunal, then part of Consumer Affairs. Rita has been with VCAT since inception, bringing extensive experience in the operations of the residential tenancies legislation. Recently, Rita has taken on a new role as Manager, Professional Team, within the Guardianship List.

## Occupational Health and Safety

We aim to provide and maintain a safe working environment that nurtures the health and wellbeing of all staff, members and visitors to VCAT. During 2005–06, A contractor conducted trial emergency procedures and to provide regular instruction to Tribunal fire wardens. Regular reviews and testing of emergency and evacuation procedures are carried out and Victoria Police Protective Service Officers provide building security. All staff using screen-based equipment are provided with the appropriate ergonomic and protective equipment, including eye-sight testing every two years. All eye examinations are carried out in accordance with the procedures set out in the VCAT (Department of Justice) policy guidelines by a qualified person. VCAT accepted two new WorkCover claims during 2005–06, resulting in 53 lost work days. This result compares with no work days lost from one claim in 2004–05. A total of 75 judicial and staff members took advantage of the flu vaccination program conducted at VCAT. We organised an independent, qualified OH&S professional to conduct a walk-through risk assessment of VCAT in June 2005. A follow-up inspection was carried

out in February 2006, when the OH&S consultant returned to VCAT to inspect the work place.

## Training and Development

The Department of Justice Corporate Training Program is accessible to all VCAT employees. These programs provide opportunities for personal and career development within VCAT and the Department of Justice. The courses offer competency-based training in self-management, writing skills, cultural awareness, manager as a coach, occupational health and safety and computer training. A total of 60 training courses provided 75 days of training for 73 staff members. This result compares with 52 training courses providing 60 days of training for 45 staff members in 2004–05. These figures include 20 staff who attended a program for *Managing Angry Clients*, specifically developed for courts and tribunals staff, to enhance the ongoing issue of court and tribunal security for staff, members and users.

## Youth Employment Scheme

VCAT actively participates in the Youth Employment Scheme, a joint venture between the Victorian Government and employers, designed to provide job opportunities for young Victorians aged between 16 and 24 years. In addition to employing five new trainees during this financial year, the two trainees who were employed under this program in 2004–05 have obtained ongoing employment at VCAT.

## Staff Numbers and Composition by Victorian Public Service (VPS) Grade

VPS Grade	2005–06		2004–05		2003–04	
	Women	Men	Women	Men	Women	Men
VPS Grade 6	1	6	–	5	–	5
VPS Grade 5	5	2	3	3	2	3
VPS Grade 4	3	2	2	2	3	4
VPS Grade 3	30	7	27	8	22	6
VPS Grade 2	97	35	82	34	91	31
VPS Grade 1	6	3	8	3	5	4
<b>Total</b>	<b>142</b>	<b>55</b>	<b>122</b>	<b>55</b>	<b>123</b>	<b>53</b>

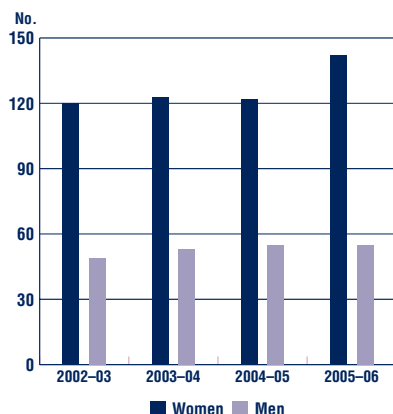


## Staff Survey

The Department of Justice conducted a staff survey in January 2006 to determine staff satisfaction within the workplace and to identify any areas of staff concerns and identify opportunities for improvement. Staff rated the following areas highly:

- staff understanding their job responsibilities;
- sexual harassment and bullying are not tolerated;
- staff plan to still be working at the Tribunal in 12 months time;
- a balance between work and personal life is supported at VCAT;
- focus on delivering on commitments at VCAT;
- staff have broadened their skills and knowledge in their current roles; and
- staff treat each other with respect at VCAT.

## Staff Numbers by Gender—2002–06



Staff Numbers by Gender includes staff on maternity leave, leave without pay, secondments and casual roles (197 as at 30 June 2006) including 32 part-time staff. This number fluctuates from time-to-time.

Staff suggested the following areas for improvement:

- opportunities for staff to develop their careers within the Department of Justice;
- staff being consulted in a meaningful way on Health and Safety issues;
- taking time to acknowledge and celebrate success at VCAT; and
- job opportunities are filled on the basis of merit.

## Staff Focus Group

To respond to the issues raised in the staff survey, the Staff Focus Group developed strategies to address the areas where we could make improvements. The group met on 10 occasions and contributed to the implementation of a number of programs, including:

- more first aid officers;
- provision of meeting rooms for staff and managers;
- improving record archive processes;
- staff and members photos placed on VCAT bulletin board; and
- staff rotation throughout registry.

## Court Registrars

The Department of Justice introduced a standardised qualification for Court Registrars to address inconsistencies in recruitment standards, training approaches and competency level of registry staff within and across Victorian jurisdictions.

To achieve this, the Department of

Justice with the Magistrates Court, County Court, Supreme Court and VCAT, in conjunction with Victoria University and the Clerk of Courts Group have developed a nationally accredited Certificate IV traineeship in Government (Court Services). To develop the skills and competencies essential to fulfilling the functions of a Court or Tribunal Registrar.

During 2005–06, four trainees from VCAT have enrolled in this program.

The course will involve on-the-job training, classroom-based learning and private study. Trainees will study 15 subjects during the two year duration of the course and they will be subject to assessment during and at the conclusion of the course. Two staff members have successfully completed their first year on the way to becoming a Court Registrar.

## The Future

The 2006 Employee Attitude Survey showed we need to continue to address important issues, including:

- giving the highest priority to occupational health and safety;
- offer staff the opportunity to comment on our future plans;
- strive to manage staff performance issues; and
- giving more attention to celebrating our successes, which can be forgotten in our busy environment.

# User Services

## Central listings

The staff of Central Listings manage and control the listing process. This important function involves the efficient use of hearing rooms and VCAT members and allocation of cases throughout Victoria.

### *Hearing Locations*

During 2005–06, VCAT members conducted hearings at 55 King Street, Melbourne, and at 98 suburban and rural locations throughout Victoria (101 in 2004–05). Refer to the map of Victoria featured on the inside back cover of this Annual Report for hearing locations. Wherever possible, VCAT members heard cases at locations convenient to the user. Such venues included hospitals, private nursing homes and special accommodation homes.

### *Magistrates as Sessional Members*

VCAT uses a select group of magistrates to sit as sessional members. This process effectively increases our presence in rural Victoria and maximises our ability to hear urgent applications. During 2005–06, magistrate sessional members included two Deputy Chief Magistrates in Melbourne and magistrates located in Horsham, Shepparton, Bendigo, Moe and Geelong.



## Video and Telephone Hearings

If VCAT users are unable to attend established hearing locations, they may attend hearings conducted by video or telephone. For a small fee, we can arrange video links to locations around Australia and overseas. In addition to providing added convenience for users, such hearings help to manage members' time more efficiently, especially when hearing urgent matters originating in rural areas. During 2005–06, VCAT members conducted approximately 46 video conferences (48 in 2004–05), linking locations throughout Australia, as well as overseas. Members conducted telephone conferences on a regular basis at VCAT, averaging four to six telephone hearings each week.

## Access for the Hearing Impaired

We offer hearing loop access in all hearing rooms at 55 King Street for hearing impaired users attending VCAT hearings. In addition to this advancement, we make a DVD player available for use by the parties upon request, allowing users to present their cases in a format designed to assist users and VCAT members. Four hearing rooms at VCAT contain audio visual equipment.



## Ground Floor Service

The ground floor service staff at 55 King Street provide general advice to users about VCAT operations and hearing procedures. In addition, they assist users in filling out application forms and arriving for hearings, as well as help users of the Residential Tenancies List in requesting that warrants of possession be issued. During 2005–06, waiting times for the high volume task of preparing warrants continued to be minimal, taking an average of 15 minutes to process. Staff prepared between six to eight warrants per day and operated a facsimile service benefiting users with timely processing of warrants directly to real estate agents, landlords and police stations.

## Fifth Floor Service

Staff members of the fifth floor service at 55 King Street welcome parties arriving for hearings. Coordinator Scott Vaughan and Administrative Officer Sally Wallace assist the public and VCAT members with as many as 100 hearings each day and up to 300 people by recording the arrival of parties for hearings and directing them to hearing rooms.

## Victoria legal aid duty lawyer

The Victoria Legal Aid duty lawyer resides on the ground floor of 55 King Street. The duty lawyer assists unrepresented parties with confidential, on-the-spot legal advice, free of charge. Additionally, the duty lawyer provides a valuable legal resource for VCAT staff in their day-to-day dealings with users, particularly with regard to complex matters. During 2005–06, the duty lawyer mainly benefited users of the Residential Tenancies List, Civil Claims List and Guardianship List.

# Community Relationships

## User Groups

User groups play a vital role in our ongoing improvement process, offering a forum where representatives of VCAT users may discuss important issues. Members of most Lists conduct regular user group meetings, usually on a quarterly basis (refer to individual Lists for more information). The user groups make up a broad spectrum of representatives from community and industry groups, and the legal profession. User group meetings give representatives the opportunity to provide valuable feedback, with the aim of improving the services that VCAT offers.

## Information Sessions

Information sessions provide an essential link to the community and help to raise awareness about the many services VCAT offers. VCAT members, including judicial members, and key staff regularly conduct information sessions covering various topics important to users.

The following information details some of our major activities. For more details of major speeches and information sessions conducted, please refer to pages 7 and 67–68 of this Annual Report.

### *Guardianship List Seminars*

We will continue to hold Guardianship List seminars at regional centres across the State for the benefit of health industry professionals. During 2005–06, seminars were held in the Western District and further seminars were planned for the remainder of the State and timed to be completed by the end of 2006.

These seminars were conducted by the Deputy President of the Guardianship List, Mr John Billings. The Office of the Public Advocate and the Office of State Trustees Limited each provided representatives to accompany Mr Billings on the circuit to better inform health-related professionals about the operation of the Guardianship and Administration Act, the

Tribunal, Office of the Public Advocate and State Trustees Limited.

### *Visitors to VCAT*

Legal groups, international groups, and tertiary and high school students visit VCAT frequently to observe how we operate. We accommodate such visits with an introductory seminar and access to our hearings. During 2005–06, 543 students from 27 schools visited VCAT.

### *Planning Week*

The Planning and Environment List held an open day on 9 November 2005 during Planning Week to raise awareness about the work of the List. The sessions attracted approximately 55 people (60 in 2004–05) and covered such topics as the role of the List within VCAT, how to lodge an application for review, and how hearings and mediations are conducted.

### *Sessions Conducted by VCAT Members and Staff*

During 2005–06, VCAT staff conducted presentations to the community, including professional groups, schools and service clubs. Deputy presidents and senior members of the Guardianship List, Credit List, Residential Tenancies List, and Planning and Environment List conducted List-specific sessions. Some examples of information sessions included presentations to representatives of:

- the Real Estate Institute of Victoria and tenants groups;
- consumer credit and banking and finance industries; and
- the medical profession and other related professions.

Registrars attended and addressed:

- the TAC Law Offices at the Transport Accident Commission;
- community based groups at Highett and Dingley;
- the Sudanese Community in Ringwood; and
- various suburban Property Management Groups.



Department of Justice Secretary Ms Penny Armytage addresses VCAT administrators at their conference in June 2006.

## Media Liaison

VCAT Librarian Clare O'Dwyer is the Media Manager for VCAT. During 2005–06, VCAT appeared in the metro and regional media more than 1,500 times and received more than 1,200 enquires. National television media requested coverage as follows:

- 10 April 2006—A Current Affair 'The Peoples Court' segment showing real life civil claims cases.
- 22 March 2006—*Law vs. MCI Technologies P/L (Civil Claims)* [2006] VCAT 415.
- 8 February 2006—*Mangan vs. Melbourne Cricket Club (Anti-Discrimination)* [2006] VCAT 73.
- 20 December 2005—*XY vs. Infertility Treatment Authority (General)* [2005] VCAT 2655.
- 8 August 2005—*Osland vs. Department of Justice (FOI) General* [2005] VCAT 1648.

Clare managed media activities on behalf of President Justice Morris and VCAT including:

- press conference, radio and print interviews;
- VCAT Planning Open Day;
- VCAT media releases; and
- serving as an ongoing contact point for all metropolitan and regional media.



# Information Technology

## IT Snapshot

### Objectives

- Launch the VCAT Online rewrite early in 2005–06.
- Make a major contribution to the creation and implementation of the Integrated Courts Management System.
- Further expand the delivery of the Order Entry System to suburban and rural venues.

### Key Results

- Launched a completely rewritten version of VCAT Online.
- Made significant contribution to the development of specifications for the Integrated Courts Management System.
- OES installed in hearing rooms at Dandenong, Frankston, Heidelberg and Werribee Magistrates' Courts.
- Significantly improved the ability of TM to support the Guardianship List.
- Modified Caseworks to support the Legal Practice List from December 2005.
- Video conferencing facility at VCAT upgraded (ICMS project).
- Hearing room digital recording system upgraded.
- Achieved substantial hardware and communications and infrastructure upgrades, many at the initiative of the DOJ.
- Completed the planning for VCAT Online—Guardianship List.

### Future

- Focus on the development of ICMS.
- Implement VCAT Online Guardianship List (Stage 1).
- Develop and implement VCAT Online Guardianship List (Stage 2).
- Develop and implement VCAT Online—Case Information (VOCI).

From left, Systems Analyst Janet Sreet, Manager VCAT Applications Phil Monk, Former Principal Registrar and IT Manager Ian Proctor, worked together to build and test substantial changes to TM to include the follow-up functions required to drive VOGL.

### Case Management

To manage VCAT's significant workload, we operate a computerised case management system comprising Caseworks and the Tribunal Management System (TM). Caseworks and TM are efficient, reliable systems and are critical to our operations. VCAT members and staff use Caseworks and TM to:

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

#### Caseworks

Caseworks is a mature, efficient system requiring little maintenance and development beyond fine tuning. In 2005–06, we implemented a major change by modifying Caseworks to support the introduction of the Legal Practice List.

#### TM

We continued to develop TM, incorporating the following changes:

- To an extent, VCAT Online—Residential Tenancies List had become a victim of its own success. With up to 4,500 applications being made online each month the ageing software was causing problems for users. As we foresaw this issue, a rewrite of the system was well advanced. While we had hoped to

release it in early 2005–06, its implementation was delayed to late 2005–06. As at 30 June 2006, the system had been implemented and was operating well.

- We substantially completed the new VOGL (VCAT Online Guardianship List) web application, designed to provide an online interface between the State Trustees and VCAT for the purpose of examining Annual Accounts by Administrators.
- We built and tested substantial changes to TM to include the follow-up functions required to drive VOGL.
- We implemented vital maintenance and changes to the TM system in both the Guardianship List and Residential Tenancies List.

### VCAT Online

VCAT Online enables registered users of the high volume Residential Tenancies List to:

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

In 49% of cases, users receive advice of a hearing date within seconds of lodging an application. During 2005–06, VCAT Online attracted an increasing number of users who lodged 51,776 applications online, representing 78% of all applications made to the Residential Tenancies List, compared with 76% in 2004–05.





### **Order Entry System (OES)**

OES enables members of the Residential Tenancies List and Guardianship List to produce and print orders that can be signed and given to the parties immediately after hearings.

During 2005–06, OES use in the Residential Tenancies List increased, with 50,445 orders (74% of all orders) being produced by VCAT members using OES (70% in 2004–05). In the Guardianship List, members produced 8,906 orders (65% of all orders) using OES (65% in 2004–05). VCAT staff produced the remaining orders generated by these Lists as directed by the members.

### **Hardware Upgrades**

In consultation with the Department of Justice (DOJ), the following communications infrastructure and computer upgrades occurred:

- The re-written VCAT Online was deployed onto new higher performance servers, replacing the outdated six-year old machines.
- The TM system was moved to a high capacity corporate level server with a noticeable improvement in performance.
- Tested an upgrade of our PABX upgrade and call centre management system (Qmaster) with a roll-out expected in August 2006.
- Participated in various DOJ initiatives, including a major data centre relocation.
- Completely upgraded the video conferencing facility as part of the ICMS project.

### **Telecommunications**

During 2005–06, VCAT received approximately 210,000 telephone enquires (200,000 in 2004–05). The following Lists attracted the majority of calls:

- 29% Residential Tenancies List (28% in 2004–05);

- 20% Planning and Environment List (21% in 2004–05);
- 20% Guardianship List (20% in 2004–05); and
- 16% Civil Claims List (14% in 2004–05).

### **VCAT Website**

Our website is a vital source of information for our users and for members and staff at VCAT. During 2005–06, we made continual improvements to the website, including restructuring web pages for most Lists at VCAT and additional pages for the new Legal Practice List (see page 30).

### **Digital Recording**

The digital recording system records proceedings taking place inside VCAT's hearing rooms and stores those recordings onto a central computer hard drive. The system allows VCAT users to order printed transcripts (at their cost) and VCAT members to use voice recordings. Transcripts may be an important source of information in the event of an appeal. The recordings protect the interests of both users and members participating in hearings, with the added benefit of monitoring and improving standards of conduct by all participants during proceedings. In 2005–06, we received 427 requests for transcripts from VCAT users (447 in 2004–05) and 241 requests for copies of voice recordings from VCAT members (178 in 2004–05).

### **The Future**

The Victorian Government has funded the development of the Integrated Courts Management System (ICMS) to establish a single integrated technology platform and set of applications for the courts and VCAT. First, this project envisages ICMS being implemented in the courts with VCAT to follow in 2008–09. The ICMS team, the courts and VCAT undertook substantial work during 2005–06. Tenders for the planned new case management

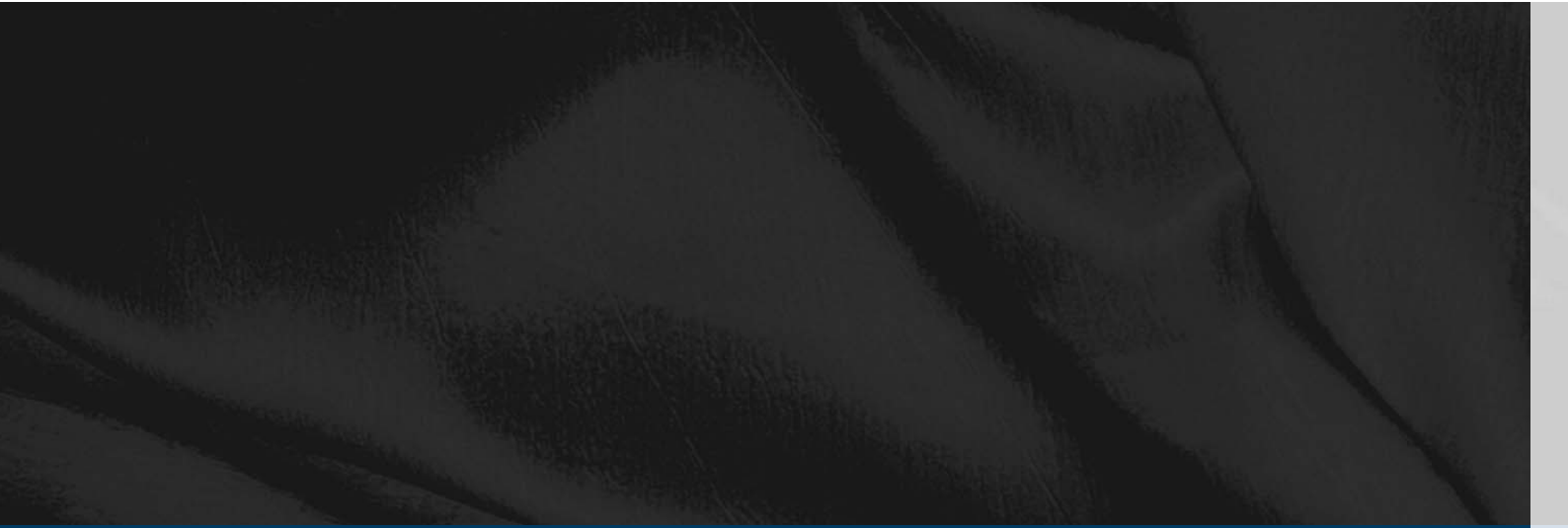
system closed on 1 June 2006. VCAT welcomes this major development and anticipates having significant input as it develops.

In the immediate future, our users demand we continue to improve services and the DOJ expects us to be innovative. We will continue in-house focused IT projects, evaluated on the basis that they can provide a significant short-term returns such as:

- VCAT Online—Guardianship List (VOGL) to use the Internet to improve administrative process in parts of the Guardianship List. We are testing Stage One for implementation early in 2006–07.
- With tests underway for VOGL Stage One, we intend to develop a specification for VOGL Stage Two to support communication between VCAT and the main professional stakeholders, including:
  - State Trustees Ltd (as administrators for approximately 8,000 disabled people);
  - FTL Flinders Trustees Group (as administrators for approximately 1,000 disabled people); and
  - Office of the Public Advocate with statutory oversight of all (approximately 15,000) VCAT guardianship and administration cases.

If the specification supports further development, VCAT will seek an ICMS assessment and authorisation for the project to proceed.

- We see great merit in implementing VCAT Online—Case Information (VOCI) in 2006–07 to allow our users of all other VCAT Lists Internet access to case information. We have a specification and have requested an ICMS assessment and authorisation for the project to proceed.



# Appendices

# Operating Statement and Financial Commentary

The following information summarises VCAT funding sources and expenditure for 2004–05 and 2005–06.

	2005–06 (\$M)	2004–05 (\$M)
<b>Funding</b>		
<i>VCAT funding sources:</i>		
Appropriations	15.69	14.99
Residential Tenancies Trust Fund	8.00	7.32
Domestic Builders Fund	1.91	1.63
Guardianship and Administration Trust Fund	1.00	0.70
Legal Practice List	0.78	0.00
<b>Total:</b>	<b>27.38</b>	<b>24.63</b>
<b>Expenditure</b>		
<i>VCAT operational expenditure:</i>		
Salaries to staff	7.22	6.35
Salaries to full-time members	5.87	5.26
Salaries to sessional members	3.87	3.60
Salary related on-costs	2.61	2.54
Operating costs	7.81	6.88
<b>Total:</b>	<b>27.38</b>	<b>24.63</b>

## VCAT Expenditure Allocated by List\*

Residential Tenancies List	8.00	7.32
Planning and Environment List	6.60	6.55
Guardianship List	3.68	3.13
General List, Occupational and Business Regulation List, and Taxation List	2.40	2.46
Civil Claims List	2.38	1.91
Domestic Building List	1.91	1.63
Legal Practice List	0.78	0.00
Anti-Discrimination List	0.50	0.53
Credit List	0.47	0.40
Real Property List and Retail Tenancies List	0.43	0.41
Land Valuation List	0.23	0.28
<b>Total:</b>	<b>27.38</b>	<b>24.63</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.

## Expenditure

In 2005–06, VCAT's recurrent expenditure of \$27.38 million divided among expenditure on salaries to full-time and sessional members (\$9.74 million), staff salaries (\$7.22 million), salary related on-costs (\$2.61 million) and operating expenses (\$7.81 million) was 11.2% higher than the \$24.63 million expended by VCAT in 2004–05.

## Funding

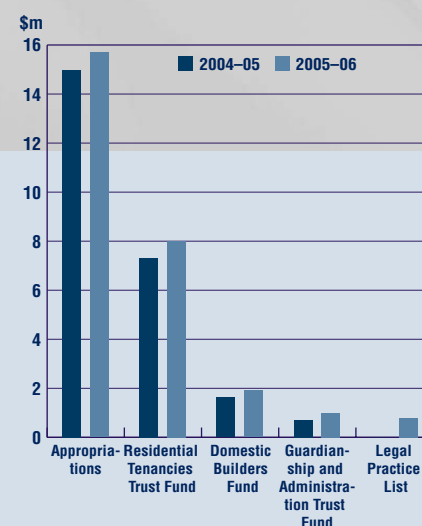
The following sources provided VCAT's funding in 2005–06:

- VCAT received Victorian Government appropriations (\$16.47 million) either directly from the Department of Justice

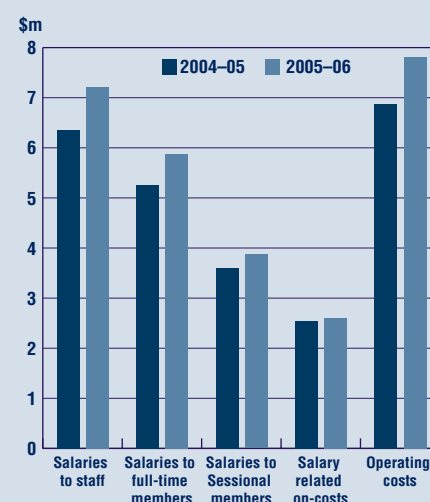
or by way of other departments making contributions to VCAT. These sources fund all but those Lists funded by trust funds, as described below. This funding includes revenue of \$1.40 million generated by those Lists through the receipt of application fees.

- The Residential Tenancies Trust Fund, established under the *Residential Tenancies Act 1997*, wholly funds the Residential Tenancies List (\$8.00 million).
- The Domestic Builders Fund, established under the *Domestic Building Contracts Act 1995*, wholly funds the Domestic Building List (\$1.91 million).

VCAT Funding Sources—2004–06



VCAT Operational Expenditure—2004–06



- The Guardianship and Administration Trust Fund established under the Guardianship and Administration Act 1986, which partially funds the Guardianship List (\$1.0 million).

## VCAT Audited Accounts

VCAT's accounts are audited and published as part of the accounts of the Department of Justice, which are published in the Annual Report of the Department of Justice. These figures may vary from the information published in VCAT's Annual Report due to adjustments made after the publication of this Annual Report.

# Legislation Defining VCAT Jurisdiction

As at 30 June 2006, 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:

- *Accident Compensation Act 1985.*
- *Adoption Act 1984* section 129A(1)(a) (decisions regarding fitness to adopt and approval to adopt).
- *Associations Incorporation Act 1981.*
- *Births, Deaths and Marriages Registration Act 1996.*
- *Cemeteries and Crematoria Act 2003.*
- *Children and Young Persons Act 1989.*
- *Community Services Act 1970.*
- *Co-operatives Act 1996.*
- *Country Fire Authority Act 1958.*
- *Dangerous Goods Act 1985.*
- *Domestic (Feral and Nuisance) Animals Act 1994* section 98(2) (declaration and registration of dangerous dogs).
- *Drugs, Poisons and Controlled Substances Act 1981.*
- *Electoral Act 2002.*
- *Electricity Safety Act 1998.*
- *Emergency Management Act 1986.*
- *Emergency Services Superannuation Act 1986.*
- *Equipment (Public Safety) Act 1994.*
- *Estate Agents Act 1980* section 81(5A) (claims against guarantee fund).
- *Fisheries Act 1995.*
- *Freedom of Information Act 1982.*
- *Fundraising Appeals Act 1998.*
- *Gambling Regulation Act 2003.*
- *Gas Safety Act 1997.*
- *Health Act 1958* section 125 (compensation for seizure of property).
- *Health Records Act 2001.*
- *Infertility Treatment Act 1995.*
- *Information Privacy Act 2000.*
- *Livestock Disease Control Act 1994.*

- *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 7 of Schedule 5 (decisions of returning officers concerning how-to-vote cards).
- *Melbourne and Metropolitan Board of Works Act 1958.*
- *Mental Health Act 1986* sections 79 (decision of the Chief General Manager), 120 (decisions of the Mental Health Review Board).
- *Metropolitan Fire Brigades Act 1958.*
- *Motor Car Traders Act 1986* section 79 (claims against the guarantee fund).
- *Occupational Health and Safety Act 2004.*
- *Parliamentary Salaries and Superannuation Act 1968.*
- *Road Management Act 2004.*
- *Road Transport (Dangerous Goods) Act 1995.*
- *Sports Event Ticketing (Fair Access) Act 2002.*
- *State Employees Retirement Benefits Act 1979.*
- *State Superannuation Act 1988.*
- *Superannuation (Portability) Act 1989.*
- *Tertiary Education Act 1993.*
- *Transport Accident Act 1986.*
- *Transport Superannuation Act 1988.*
- *Travel Agents Act 1986* section 46 (claims against approved compensation schemes).
- *Victims of Crime Assistance Act 1996.*
- *Victoria State Emergency Service Act 2005.*
- *Victorian Plantations Corporation Act 1993.*
- *Victorian Qualifications Authority Act 2000.*

### 2. Land Valuation List

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

- *Flora and Fauna Guarantee Act 1988* section 43(12) (claims for compensation).
- *Health Services Act 1988* section 67 (compulsory acquisition of land).
- *Land Acquisition and Compensation Act 1986.*
- *Land Tax Act 1958* section 25(1)(a) (so much of decision of the Commissioner as relates to the value of land).
- *Local Government Act 1989* section 183 (differential rating).
- *Mildura College Lands Act 1916* section 2(ec) (decision of the Valuer-General on value of land).
- *Mineral Resources Development Act 1990* section 88 (compensation for loss caused by work under a licence).
- *Pipelines Act 1967* section 22B (objections to compulsory acquisition of native title rights and interests).
- *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).
- *Subdivision Act 1988* section 19 (valuation of land for public open space).
- *Valuation of Land Act 1960* Part III (disputes on the value of land).
- *Water Act 1989* section 266(6) (setting tariffs, fees under tariffs, valuation equalisation factors and valuations).

### 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:

- *Adoption Act 1984* section 129A(1)(b) (decisions regarding approval of adoption agencies).
- *Agricultural and Veterinary Chemicals (Control of Use) Act 1992.*



- *Architects Act 1991*; Sch. 1, Part 1 cl. 2(ha)
  - *Biological Control Act 1986*.
  - *Children's Services Act 1996*.
  - *Chinese Medicine Registration Act 2000*.
  - *Chiropractors Registration Act 1996*.
  - *Consumer Credit (Victoria) Act 1995* Part 4 (registration of credit providers) and section 37I(1) (permission, including conditions, to a disqualified person to engage or be involved in finance broking).
  - *Dangerous Goods Act 1985*.
  - *Dental Practice Act 1999*.
  - *Domestic (Feral and Nuisance) Animals Act 1994* section 98(1) (registration of premises to conduct a domestic animal business).
  - *Education Act 1958* section 55 (endorsement of a school to accept overseas students).
  - *Estate Agents Act 1980* except sections 56B(1) (see Real Property List) and 81(5A) (see General List).
  - *Extractive Industries Development Act 1995* sections 39 (quarry manager's certificates) and 40 (panel inquiry into quarry manager's fitness).
  - *Firearms Act 1996* section 182 (decisions of the Firearms Appeals Committee).
  - *Gambling Regulation Act 2003*.
  - *Health Professions Registration Act 2005*.
  - *Health Services Act 1988* section 110 (decisions of the 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).
  - *Medical Practice Act 1994* section 60 (registration and discipline of medical practitioners).
  - *Mineral Resources Development Act 1990* sections 94 (mine manager's certificates) and 95 (panel inquiries into fitness of mine managers).
  - *Motor Car Traders Act 1986* except sections 45 (see Civil Claims List) and 79 (see General List).
  - *Nurses Act 1993* section 58 (registration and discipline of nurses).
  - *Occupational Health and Safety Act 2004* section 59(6) Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 1994 regulation 28 (certificates of competency, authorisation of certificate assessors).
  - *Optometrists Registration Act 1996* section 58 (registration and discipline of optometrists).
  - *Osteopaths Registration Act 1996* section 56 (registration and discipline of osteopaths).
  - *Physiotherapists Registration Act 1998*.
  - *Podiatrists Registration Act 1997* section 56 (registration and discipline of podiatrists).
  - *Prevention of Cruelty to Animals Act 1986* section 33 (licensing of scientific establishments and breeding establishments).
  - *Professional Boxing and Combat Sports Act 1985* (licences, permits and registration).
  - *Prostitution Control Act 1994*.
  - *Psychologists Registration Act 2000*.
  - *Public Transport Competition Act 1995*.
  - *Racing Act 1958*.
  - *Second-Hand Dealers and Pawnbrokers Act 1989* sections 9B and 14 (correction of register).
  - *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 Land Valuation 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 1987* section 31(2)(d); Victoria State Emergency Service Regulations 1995 regulation 12 (discipline of members).
  - *Victorian Institute of Teaching Act 2001*.
  - *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:
- *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* except sections 39 and 40 (see Occupational and Business Licensing List).
  - *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 Development Act 1990* except sections 88 (see Land Valuation List), 94 and 95 (see Occupational and Business Regulation List).
  - *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

# Legislation Defining VCAT Jurisdiction

(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): Transport (Roads and Property) Regulations 1993 regulation 18.
- *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 (Petroleum Products) Act 1979*.
- *Business Franchise (Tobacco) Act 1974*.
- *First Home Owner Grant Act 2000*.
- *Land Tax Act 1958* with the exception of section 25(1)(a) to the extent that the decision of the Commissioner relates to the value of land.
- *Pay-Roll Tax Act 1971*.
- *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).
- *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* sections 25 (compensation for extinguishment of security interest).
- *Consumer Credit (Victoria) Act 1995* except Part 4 and section 37I(1) (see Occupational and Business Regulation List).
- *Credit Act 1984*.
- *Credit (Administration) Act 1984*.

### 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*.

### 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*.
- *Property Law Act 1958* part IV.
- *Sale of Land Act 1962* section 44.
- *Subdivision Act 1988* sections 36 and 39 (other disputes).
- *Water Act 1989* section 19 (civil liability arising from various causes).

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

### 6. Residential Tenancies List

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

- *Fair Trading Act 1999*.
- *Housing Act 1983*.
- *Housing (Housing Agencies) Act 2004*.
- *Landlord and Tenant Act 1958*.
- *Residential Tenancies Act 1997*.
- *Retirement Villages Act 1986*.

### 6. 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:

- *Guardianship and Administration Act 1986*.
- *Instruments Act 1958* section 118.
- *Medical Treatment Act 1988* section 5C (enduring powers of attorney).
- *Mental Health Act 1986* section 86 (decisions for major medical procedures).
- *Trustee Companies Act 1984*.

# VCAT Member Directory as at 30 June 2006

## List(s) Assigned

## List(s) Assigned

### Judicial Members

#### President

The Honourable Justice Stuart Morris

#### Vice-Presidents (Full-Time)

His Honour Judge John Bowman

Her Honour Judge Sandra Davis

#### Vice-President (Sessional)

His Honour Judge Eugene Cullity

#### Vice-Presidents (On Call)

His Honour Judge James Duggan

His Honour Judge Michael Higgins

His Honour Judge Michael Strong

His Honour Judge Frederick Davey

**Total Judicial Members: 8**

### Deputy Presidents *(Primary List Highlighted in Bold)*

Aird, Catherine **CC, DB, G, P, Real P, Res T, Ret T**

Billings, John **CC, G, Res T**

Coghlan, Anne **C, CC, G, Gen, Res T, T**

Gibson, Helen **LV, P**

Macnamara, Michael **AD, C, CC, DB, Gen, LV, OBR, P, Real P, Ret T, T**

McKenzie, Cate **AD, C, CC, G, Gen, OBR**

Steele, Bernadette **Res T, CC, G, Real P, AD, Gen, OBR, DB, Ret T**

**Total Deputy Presidents: 7**

### Senior Members

Baird, Margaret **P**

Byard, Russell **LV, P, Real P**

Davis, Robert **AD, CC, DB, Gen, OBR, P, Real P, Ret T, T**

Howell, Malcolm **LP, CC, OBR, Gen**

Lambrick, Heather **Res T, CC, G, OBR**

Liston, Anthony **P**

Lothian, Margaret **DB, Ret T, CC, Res T, G, P, Real P**

Lyons, Dr Gregory **AD, G, Gen**

Monk, Jane **P**

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

Scott, Robert **CC, G, Gen, Res T**

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

Walker, Rohan **AD, CC, DB, G, Gen, P, Res T, Ret T**

**Total Senior Members: 13**

### Senior Sessional Members

Ball, Rowland **CC, DB, Gen, P**

Cremean, Dr Damien **CC, DB, G, Gen, OBR, Real P, Res T, Ret T, T**

Galvin, John **G, Gen, OBR, Res T, T**

Horsfall, Richard **DB, LV, OBR, P**

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**

Sharkey, Gerard **P, Real P**

Young, Roger **DB, Real P, Ret T, CC, Res T, P, LV**

**Total Senior Sessional Members: 9**

### Full-Time Members

Barker, Heather **CC, G, Res T**

Bennett, John **P**

Butcher, Gerard **LP, CC, OBR, Gen**

Carruthers, Maureen **AD, G**

Cimino, Sam **OBR, P**

Hadji Georgiou, Nicholas **P**

Hewet, Laurie **P**

Holloway, William **CC, DB, G, Gen, P, Res T**

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

Komesaroff, Tonia **LV, P**

Lambrick, Heather **CC, G, OBR, Res T**

Liden, Susanne **AD, CC, G, Res T**

Martin, Philip **LV, P**

Moraitis, Stella **Gen, CC, G, Res T**

Naylor, Rachel **P**

O'Leary, Peter **P, OBR**

Proctor, Ian **RT, G, Gen, CC**

Rickards, Jeanette **LV, P**

Tilley, Annemarie **AD, CC, G, Gen, Res T**

**Total Full-Time Members: 19**

### Sessional Members

Alexander, Dr Renata **CC, Res T**

Alsop, David **P**

Armitage, Roderic **OBR**

Auty, Dr Kathryn **AD, CC, DB, G, Gen, Res T**

Barrand, Pamela **CC, G, Res T**

Barton, Terence **G**

Batrouney, Roger **LP**

Bilston-McGillen, Tracey **P**

\*Bolster, Douglas **CC, G, Gen, OBR, Res T**

Borg, Susan **AD, CC, G, Res T**

Bourke, Gavan **LV**

Bridge, Emma **CC, G, Res T**

Brophy, Maurice **LP**

Brown, Vicki **LV**

Burdon-Smith, Susan **CC, G, Res T**

Burgess, Zena **AD, G**

Calabro, Domenico **Res T, CC**

Campbell, Heather **LP**

Caputo, Joseph **LP**

Carew, Megan **P**

Chase, Gregory **P**

Cherrie, Debra **LP**

Cleary, Peter **LV**

Coldbeck, Peter **CC, G, Gen, OBR, Res T**

Cooney, Lillian **LP**

Coulson Barr, Lynne **LP**

Counsel, Caroline **LP**

Cremean, Bernadette **AD, CC, Res T**

Croft, Dr Clyde **T**

David, Graeme **P**

Davies, Hugh **CC, Res T**

# VCAT Member Directory

## List(s) Assigned

Davies, Vicki	P
Davine, Diarmid (Derry)	LP
Davis, Dr Julian	G, OBR
Dawson, Julie	AD, G
Dillon, John	CC, Gen, OBR, Res T
Doherty, John	CC, G, Res T
Dudakov, Brian	LV
Dudycz, Dr Maria	AD, G, OBR
Duggan, Anne	G
Dunlop, John	OBR
Eccles, Desmond	OBR, P
Eggleston, Peter	CC, Res T
Evans, Robert	P
Ferres, Dr Beverley	AD, G, OBR
Fong, Christina	P
Farkas, Michael	LP
Garantziotis, Aristomenis (Manny)	LP
Gerber, Paula	AD, CC, DB
Gibson, Geoffrey	T
Gilfillan, Struan	P
Glover, Dr John	Gen, T
Good, June	CC, G, Res T
Gordon, Michelle	AD, CC, G, Gen, OBR
Gorman, Lois	G, OBR
Grainger, Julie	CC, G, Res T
Graves, Phillip	G
Grayling, Jennifer	LP
Hancock, Elisabeth	LV
Hannebery, Elaine	LP
Harper, Patricia	LP
Harrison, Fiona	LP
Harty, Christopher	P
Harvey, Margaret	AD, CC, G, Res T
Hastings, Malcolm	CC, G, Gen, Real P, Res T Ret T
Hawkins, Annabel	Res T, CC, G
Hendtlass, Jane	AD, CC, G, Res T
Horan, Anthony	LP
Howe, Renata	P
Ireland, Damien	OBR
Jenkins, Louise	LP
Jopling, Peter, QC	LP
Keaney, John	P
Keddie, Ann	P
Kirmos, Kay	CC, Res T
Klingender, Jessica	CC, Res T
Kominos, Angela	AD, CC, G, Res T
Laidler, Terrence	AD, OBR
*Lambden, Elizabeth	CC, G, Gen, OBR, Res T
Langton, Robert	CC, DB, Res T
Lasry, Lex, QC	LP
Lee, Christopher	LV
Levin, David, QC	LP
Lightfoot, Brian	CC, G, Real P, Res T, Ret T
Lindsay, Fiona	LP
Lipson, Mark	LP
Louden, David	OBR

## List(s) Assigned

Lulham, Ian	CC, DB, Res T
Mainwaring, Dr Sylvia	AD, P, Real P
McCabe, Edmund	CC, G, Res T
MacDonald, Dr David	G, OBR
*McDonald, Timothy	CC, G, Gen, OBR, Res T
McGarvie, Ann	CC, G, Res T
McGregor, Irene	CC, G
McKenzie, Susanne	LP
McNamara, Kenneth	P
Mulcare, Rosemary	LP
Myers, Dr. Paul	LP
Nihill, Genevieve	CC, G, Res T
Norman, Kathryn	CC, G, Res T
Overall, Genevieve	LP
Ozanne-Smith, Eleanor	OBR
Page, Rodney	LP
Perlman, Janine	AD, CC, Res T
Phillips, Robert	CC, Res T
Pitt, Margaret	P
Pizzey, Geoffrey	P
*Popovic, Jelena	CC, G, Gen, OBR, Res T
Price, Roland	CC, Res T
Quirk, John	P, Real P
Rae, David	P
*Raleigh, Steven	CC, G, Gen, OBR, Res T
Rapke, Jeremy	LP
Read, Michael	P
Reilly, Daniel	OBR
Richards, Keith	CC, DB, G, Gen, Real P, Res T, Ret T
Robinson, Ian	LV
Ryan, Christopher	LP
Rowland, Linda	AD, CC, G, Gen, Res T
Shattock, Peter	LP
Soldani, Angela	CC, G, Res T
Taranto, Mary-Ann	P
Tyers, Judith	LP
*Von Einem, Ian	CC, G, Gen, OBR, Res T
Wajcman, Jack	Res T, CC
Walsh, Michael	CC, DB, Res T
Walter, Richard	P
Warren, Lindsay	CC, G, Res T, Ret T
Wentworth, Elisabeth	AD, C, CC, Gen, Res T
West, Lynda	AD, CC, G, Gen, Res T
Williams, Robert	AD, G, Gen, OBR
Wilson, Cynthia	P
Zala, Peter	LV
Zemljak, Francis	AD

**Total Sessional Members: 142**

**Total Members: 180 (104 Males, 84 Females)**

### 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 Regulations) P (Planning) Real P (Real Property)  
 Res T (Residential Tenancies) Ret T (Retail Tenancies) T (Taxation)

\*(Magistrate)



# Speeches and Information Sessions Conducted

## Formal Speeches made by the President of VCAT in 2005–06

- *Get Real on Expert Evidence* delivered at the National Environmental Law Association Conference, Canberra on 15 July 2005.
- *The Importance of Free Access to Law in a Participatory Planning Appeals System* delivered at the 7th Conference on Computerisation of Law via the Internet, Port Vila, Vanuatu on 18 November 2005.
- *The Civil and Human Rights Jurisdictions of VCAT* delivered at a seminar held by the Leo Cussen Institute, Melbourne on 23 November 2005.
- *The Practice of Government Law* delivered at the Annual General Meeting of the Law Institute of Victoria's Government Lawyers' Group, Melbourne on 5 December 2005.
- *Tribunals and Policy* delivered at the International Tribunals Workshop organised by the Centre for International and Public Law, the Australian National University in Canberra on 5 April 2006.

## Presentations and Informal Speeches by the President: in 2005–06

- 19 Jul 2005—Presentation to Shires of Golden Plains, Moorabool, Central Goldfields, Pyrenees and Hepburn at Creswick.
- 11 Aug 2005—Presentation to the Western Region Councils' Forum at Sunshine.
- 12 Aug 2005—Presentation at Broadmeadows Court to registrars of the Magistrates Court.

- 18 Aug 2005—*Being an Expert Witness* delivered at offices of Phillips Fox, Lawyers, (EIANZ function) at Melbourne.
- 8 Sep 2005—Chaired the discussion on *Melbourne 2030—Trial or Triumph?* at Victorian Planning and Environment Law Association Conference at Lorne.
- 23 Sep 2005—Chaired *The Conduct of VCAT Hearings*, which included a mock contested VCAT hearing at Leo Cussen Institute, Melbourne.
- 4 Oct 2005—Presentation to Borough of Queenscliffe at Queenscliffe.
- 6 Oct 2005—Address to the Heritage Council and staff from Heritage Victoria, particularly regarding expert evidence, at offices of Heritage Victoria, Melbourne.
- 6 Oct 2005—Presentation at Shire of Yarra Ranges at Lilydale.
- 11 Oct 2005—Address at the launch of Monash University Articles Guide at Monash University Law Library.
- 27 Oct 2005—Presentation at Members' Briefing Luncheon, Committee for Geelong at Geelong.
- 9 Nov 2005—Presentation at Victorian Civil and Administrative Tribunal Open Day for Planning Week.
- 23 Nov 2005—Led discussion *What do we want and when do we want it?* Industry Breakfast Forum, Building One Victoria, at Melbourne.
- 29 Nov 2005—Presentation at Victorian Civil and Administrative Tribunal seminar regarding the Robin Fletcher case.
- 29 Nov 2005—Presentation at Victorian Civil and Administrative Tribunal seminar on *Evidence: Practical Issues*.
- 7 Feb 2006—Address the Local Government Planning Network meeting at City of Whitehorse, Box Hill.
- 15 Feb 2006—Presentation at Shire of Macedon Ranges at Kyneton.
- 17 Feb 2006—Presentation at the HIA President's Luncheon at Melbourne.
- 24 Feb 2006—Presentation at NSW motor accident assessors conference regarding the making of oral decisions, at Sydney.
- 7 Mar 2006—Presentation at *Sustainability Briefing: The Need for Consistency in ESD* of the Property Council of Australia, at Melbourne.
- 9 Mar 2006—*Curiosities and Anomalies in Non-Metropolitan Planning* delivered at Managing Sustainable Development in Regional Communities Conference, facilitated by the City of Ballarat.
- 29 Mar 2006—Presentation to Melbourne University planning students on VCAT and planning.
- 11 Apr 2006—Presentation on future directions of VCAT at VCAT Managers' Conference, Melbourne.
- 9 May 2006—Presentation to Law Institute of Victoria Council regarding current issues relating to VCAT at Melbourne.
- 26 May 2006—*Oral Reasons for Decisions* delivered at the Annual Conference of the Council of Australasian Tribunals, NSW Chapter, Sydney.
- 29 May 2006—*The Role and Performance of VCAT* delivered at the WA State Administrative Tribunal, Perth.

# Speeches and Information Sessions Conducted

- 29 May 2006—*The Architecture of Argument* delivered at the WA State Administrative Tribunal, Perth.
- 29 May 2006—*Oral Reasons for Decisions* delivered at the WA Chapter of COAT, Perth.
- 13 Jun 2006—Presentation at Law Institute of Victoria, Melbourne at the Seminar for Young Lawyers *Appearing before VCAT*.
- 15 Jun 2006—*The Architecture of Argument* delivered at the VCAT written reasons seminar, Melbourne.
- 16 Jun 2006—*Leadership at VCAT* delivered at the VCAT Staff Conference, Melbourne.
- 16 Jun 2006—*Oral Reasons in Fair Trading Cases* delivered at the VCAT fair trading seminar, Melbourne.
- 21 Jun 2006—Presentation on *The Role of VCAT* to Queensland Attorney-General and the Justice Caucus, at Melbourne.
- 21 Jun 2006—Presentation to the Commercial Litigation Specialist Study Group at the Law Institute of Victoria, Melbourne regarding *Commercial Disputes at VCAT*.

## **Presentations by Deputy President Aird**

- 17 May 2006—*The Domestic Building List: 10 Years On* to the Building Disputes Practitioners Society.
- 19 May 2006—*Proportionate Liability: a VCAT Perspective* to the Judicial College of Victoria Workshop on Proportionate Liability.

- 27 May 2006—*Keeping out of Trouble: How to avoid conflict and resolve disputes* to the Master Builders' Association of Tasmania State Conference, Launceston.
- 1 June 2006—*Building Disputes at VCAT* to the Law Institute of Victoria, Construction Law Seminar 2.
- 16 June 2006—VCAT Domestic Building List Conference with Professional Indemnity Insurers.

## **Presentations by Senior Member Iothian**

- 19 October 2005—*Getting Out of Trouble* to the Women's Group of the Master Builders' Association of Victoria.
- 1 June 2006—*Deadly Sins at Mediation* to the Law Institute of Victoria, Construction Law Seminar 2.
- 16 June 2006—VCAT Domestic Building List Conference with Professional Indemnity Insurers.

## **Presentations by Deputy President John Billings**

- 22 July 2005—*Medical Treatment Act* to the Leo Cussen Institute
- 2 September 2005—*Dilemmas in Assessing and Protecting Aged Persons with a Disability* to the Kingston Centre Aged Psychiatry.
- 10 October 2005—*Protecting the Vulnerable: the Role of VCAT's Guardianship List and the Role of Lawyers* to the LIV.
- 29 March 2006—*Wills, Estates and Succession Planning* to Lexis/Nexis.
- 11 April 2006—*Role of VCAT Guardianship List* to the Broadmeadows Health Service.

- 8 May 2006—*Role of VCAT Guardianship List* to the Forum with OPA and STL at the Portland Court.
- 9 May 2006—*Role of VCAT Guardianship List* to the Forum with OPA and STL at the Moyne Health Services, Port Fairy.
- 9 May 2006—*Role of VCAT Guardianship List* to the Forum with OPA and STL at the South West Healthcare, Warrnambool.
- 10 May 2006—Information session for newly-appointed guardians and administrators Geelong Court.
- 15 May 2006—Information session for the Ken Collins and Leo Cussen Institute at the 13th Annual Wills and Probate Conference Crown Palladium.

## **Other VCAT Members and Staff**

- 31 March 2006—Sessional Member Edward Mc Cabe gave a presentation on *VCAT and Guardianship List* to the Forum for social workers and community groups at the Victoria Legal Aid (Horsham Office).
- 6 April 2006—Staff member Robert Scott spoke on the *Role and Function of VCAT Guardianship List* to the Goulburn Valley Mental Health Service at the Shepparton Law Courts.

# Access to files, Publications and Information

## Access to files and Your Privacy at VCAT

VCAT stores information about people who have been involved in cases at VCAT in its register (including file numbers, names of parties and orders of VCAT) and in its proceeding files about individual cases. Those involved in the case give information to VCAT, which can include names, addresses and telephone numbers. Generally, VCAT orders that decide a proceeding (final orders) are kept permanently and other information will be kept for five years. The VCAT Act governs what information is available. It balances the principle that justice should be administered in public with principles of privacy. The following summary explains who can obtain such information from VCAT.

### *Who Can Read VCAT Orders?*

All VCAT orders are generally available to the public. Usually, orders name the people concerned but do not record such details as addresses and telephone numbers. The decisions may summarise evidence given to VCAT.

Some orders may allow a reader to discover a party's home address because some orders record the address of a rental property (Residential Tenancies List) or home renovation or building (Domestic Building List and Planning and Environment List), or the

address for local government rates (Land Valuation List) because the address is part of the dispute. Since the orders usually record names of parties, a reader may be able to discover a party's home address. If parties are concerned, they should make application to VCAT asking that orders not allow for a home address to be discovered. This action must be taken before any orders are made. Except in the Guardianship List, if a decision includes written reasons for the decision, VCAT publishes the decision via [www.austlii.edu.au/au/cases/vic/vcat/](http://www.austlii.edu.au/au/cases/vic/vcat/). If an individual searches the Internet using a person's name recorded in the decision, he or she may find that decision.

Additionally, VCAT publishes a small number of significant decisions from any List on its home page at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au).

In individual cases, VCAT may restrict or deny access to orders under section 144 of the VCAT Act (orders on the register) and section 146 of the VCAT Act (orders on the files).

### *Who Can Read VCAT Proceeding Files?*

VCAT proceeding files can hold the original application to VCAT, VCAT's orders, correspondence between the parties and VCAT, plus documents provided to VCAT by the parties. This information held at VCAT is generally available to any person who identifies a particular case and asks to

inspect the file. The exception created by law are files concerning the *Freedom of Information Act 1982*, which are not open for inspection or copying by any person (VCAT Act—Schedule 1, Clause 30).

In individual cases, VCAT may restrict or deny access to files under section 146 of the VCAT Act. The parties to cases may apply to VCAT to have access to the proceeding file.

Generally, requests from a party for access to a file will be immediately granted in all Lists but the Guardianship List. Files about proceedings finalised more than one year prior may not be available for a day while the file is retrieved from the off-site archive.

Requests for Guardianship List files will be referred to a VCAT member to decide whether or not to grant access.

Any request from a non-party for access to a file in the following VCAT Lists—Civil Claims, Domestic Building, General (excluding FOI), Land Valuation, Planning and Environment, Real Property, Residential and Retail Tenancies—will be subject to retrieval from archiving. These requests may be referred to a VCAT member.

# Access to files, Publications and Information

## Access to files

Any request from a non-party for access to a file in Lists where parties regularly raise concerns about protection of their privacy—Anti-Discrimination, Credit, General (health records and privacy), Guardianship, Occupational and Business Regulation and Taxation—will be referred to a VCAT member who will consider whether a direction should be made under section 146(4)(b) of the VCAT Act.

The Court of Appeal has suggested guidelines setting out the process VCAT might follow when considering applications by a non-party for access to a proceeding file.

These guidelines involve the following considerations:

Natural justice must be afforded to a non-party seeking access to a VCAT file. VCAT should give written notice to a person seeking access if it proposes to give a direction that would deny them access to the file and to invite the person to put forward an argument in writing as to why access should not be denied. At this stage, VCAT should advise the person of any adverse matter relating to that person, which VCAT proposed to take into account. This process enables the person to address any such adverse matter. There would be no need to involve the parties to the proceeding in this process unless, after considering the arguments put forward by the person seeking access, VCAT proposed to allow the person access to the file. At that point, the parties would be given the opportunity to express their views on whether access should be permitted.

VCAT has adopted this practice when considering file access requests from a non-party.

## *Will VCAT Tell Others About The Information It Holds?*

In most situations, apart from publishing decisions, repeating anything said or done at a public hearing of VCAT or allowing the public to search the register and files, VCAT is prohibited by law from disclosing information about you to the public.

## *Am I Allowed to Publish Information Discovered from VCAT Orders or Files?*

The only restriction that applies by law is that unless VCAT orders otherwise, a person must not publish or broadcast or cause to be published or broadcast any report of a proceeding under the *Guardianship and Administration Act 1986* that identifies, or could reasonably lead to the identification of, a party to the proceeding.

## Publications and Information

The following publications and information about VCAT are available to the public:

- Annual Report
- VCAT Act
- VCAT Information Booklet

In conjunction with ANSTAT Pty Ltd, other VCAT related publications include:

- VCAT Freedom of Information
- VCAT Domestic Building
- VCAT Residential Tenancies
- VCAT Laws and Procedure

Other relevant publications include:

- Kyrou and Pizer Victorian Administrative Law
- Victorian Planning Reports
- Victorian Administrative Reports
- Pizer's Annotated VCAT Act

In addition, the VCAT website contains links to VCAT legislation, Practice Notes and Rules, as well as guides to each List and application forms that may be downloaded. Many VCAT decisions can be found on the Australasian Legal Information Institute (AustLII) database at

[www.austlii.edu.au/au/cases/vic/VCAT/](http://www.austlii.edu.au/au/cases/vic/VCAT/)

## Publication of Determinations and Orders

For the guidance of those who may wish to bring proceedings, VCAT publishes many decisions that relate to important issues.

These decisions are available on request by contacting the individual Lists, using the telephone numbers provided on the back cover of this Annual Report, or by visiting the VCAT web site at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) or the AustLII database referred to previously.

## Freedom of Information

Access to proceeding files is governed by the VCAT Act as described on page 69. VCAT is not subject to the *Freedom of Information Act 1982*.



# User Service Charter

This User Service Charter tells you about VCAT and the service that you can expect from us.

## Our Purpose

To provide Victorians with a tribunal that delivers a modern, accessible, informal, efficient and cost-effective civil justice service.

## What We do

We assist Victorians in resolving a range of private disputes that involve:

- consumer purchases (whether private or business);
- credit;
- discrimination;
- domestic building;
- guardianship and administration;
- residential tenancies; and
- retail tenancies.

In addition, VCAT deals with disputes between people and government or bodies created by government about:

- freedom of information;
- licences to work in professions, including working as doctors, travel agents and motor car traders;
- planning;
- transport accident injury compensation; and
- a large variety of other administrative decisions, such as rates charged by councils, state taxation issues and fire brigade charges for false alarms.

Many disputes brought to us are resolved after a legal hearing. However, in many cases the people agree to a solution either among themselves or through mediation held by us.

We provide services throughout Victoria, including holding mediations and hearings at our main premises at 55 King Street Melbourne, in many Magistrates' Courts and at other locations, as required.

We deal with a wide range of people including litigants, witnesses, lawyers, government and other tribunals and courts.

## Who We Are

VCAT is made up of a judge of the Supreme Court of Victoria (its President), judges of the County Court of Victoria (its Vice-Presidents) and members of VCAT.

VCAT has a Registry at 55 King Street, Melbourne. The Registry has an information counter on the ground floor and provides advice by telephone. Registry staff attend hearings conducted by VCAT at suburban Magistrates' Courts. Information about VCAT is available through Magistrates' Courts.

## Our User Service Standards

We aim to abide by the following user service standards:

- Assist people in disputes to resolve their differences within published times.
- Serve you promptly and courteously, whether at VCAT's main offices or at other venues such as Magistrates' Courts.
- Answer your telephone calls promptly and aim to answer your questions during that call.
- Provide you with an accurate explanation of VCAT procedures.
- Make information on VCAT processes and procedures available by means of explanatory brochures, through the VCAT web site and advice from staff.
- Ensure that all VCAT facilities are safe, accessible and convenient to use.
- Ensure that all VCAT staff wear name badges when in public areas of VCAT.

You have a right to:

- fair and helpful assistance, including appropriate arrangements to cater for special access or cultural requirements;
- be provided with an interpreter where necessary;
- have your privacy respected and keep your information confidential, unless disclosure is authorised by the law;
- a fair and just mediation and/or hearing in a safe environment; and
- receive timely decisions by VCAT.

You have a responsibility to:

- give us complete and accurate information as is appropriate in your situation;
- comply with any directions or orders of VCAT; and
- behave courteously and peaceably in and around VCAT venues.

## If You are Satisfied

Our aim is to ensure that all VCAT users are greeted by courteous staff who will provide clear and accurate information about VCAT.

If we have pleased you with our level of service, then please let us know. We value your feedback, either in person, by mail, telephone, fax or email. (Refer to the contact details provided on the back cover of this Annual Report.)

## If You are not Satisfied

We take your complaints seriously and will respond quickly. If necessary, we will also use the information that you provide to improve our service to all of VCAT's users by changing the way we work. To make a complaint, please contact us either in person, by mail, telephone, fax or email.

## If You Need More Information

Further information about our services is contained in a series of informative brochures that are available free from VCAT. Information is also available on our Internet site at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au).

Written feedback about:

- members of VCAT (the people who hear and decide disputes) may be addressed to the President of VCAT; and
- the administrative services provided by VCAT may be addressed to the Principal Registrar of VCAT.

# VCAT Website

Visit the VCAT website at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) where you can find out everything you need to know about VCAT.

The website features information about:

- VCAT legislation, Practice Notes and Rules;
- the daily law list; and
- a selection of key decisions.

In addition, the streaming video *Working It Out Through Mediation*, which provides details about each List, including information about how to apply and enables users to download and print application forms. It also offers links to a variety of government, judicial and legal web sites.

## VCAT Online

VCAT Online, our interactive service for the high-volume Residential Tenancies List, enables registered users to lodge their applications electronically, as well as to create and print notices of dispute. Simply visit the VCAT web site at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) for more details about this service.

We plan to introduce this new technology progressively to other Lists within VCAT to enable Victorians to complete application forms via the Internet.

## Visits

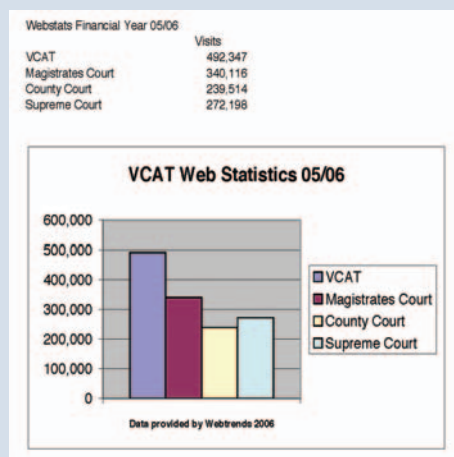
During 2005–06, the number of visits to the VCAT website rose by 22%, totalling 499,709, compared with 411,237 visits in 2004–05 and 57%, compared with 405,615 visitors in 2003–04.

During the financial year, the site received approximately 41,642 visits per month.

The most popular web pages included:

- VCAT Online;
- the daily law list;
- VCAT decisions; and
- Residential Tenancies.

Other popular web pages included Planning and Environment, Civil Claims and application forms and brochures.



VCAT Online
Decisions
FAQ's
Media
Links
Site Map
Contact Us





search

- Home
- About VCAT
- Fees-Forms-Brochures
- Daily Law List
- Legislation-Practice Notes
- Mediation
- Anti-Discrimination
- Civil Disputes-Small Claims
- Domestic Building
- FOI-TAC and Other Claims
- Guardianship and Admin
- Planning and Environment
- Residential Tenancies
- Other Disputes at VCAT

Welcome to the **Victorian Civil and Administrative Tribunal (VCAT)**.

VCAT deals with disputes about:

- ▶ purchase and supply of goods and services
- ▶ discrimination
- ▶ domestic building works
- ▶ guardianship and administration
- ▶ legal profession services
- ▶ residential and retail tenancies
- ▶ consumer credit.

VCAT also deals with disputes between people and government (State/Local) in areas such as:

- ▶ planning and land valuation
- ▶ licences to carry on businesses (including travel agents, motor car traders and others)
- ▶ State taxation
- ▶ many other government decisions (such as Transport Accident Commission decisions and Freedom of Information issues).

**What's New**

**Occupational and Business Regulation List decisions**  
A.B. Oxford Cold Storage Company Pty Ltd v Victorian WorkCover Authority and Esso Australia Pty Ltd and another v Victorian WorkCover Authority

**Civil Claims List decision**  
Director of Consumer Affairs v AAPT Limited

**New forms and guides**  
Planning and Environment List

**Legal Profession Tribunal now a part of VCAT**  
Updated details now available

**VCAT fees rise**  
New fees from 1 July 2006

# Heading.

# How to Apply and Map of Hearing Locations

## How To Apply

Applying to VCAT is easy. You may request an application in a variety of ways:

- simply call or write to VCAT and ask for an application form;
- visit us at 55 King Street, Melbourne, Victoria to pick up an application form;
- download and print an application form via the VCAT web site at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au); or
- lodge your application to the Residential Tenancies List via VCAT Online at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au).

## 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)  
Web Site: [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)  
Refer to the back cover of this Annual Report for the contact numbers of individual Lists.

## Hearing locations

We conduct hearings at 55 King Street, Melbourne, as well as at Cheltenham, Dandenong, Frankston, Heidelberg, Kew, Ringwood, Sunshine and Werribee. In addition, we visit the rural locations listed on the map below. Details concerning country sittings are contained in the Law Calendar, which is produced by the Court Services section of the Department of Justice.





# A quick, easy and low-cost way to have your case heard.

## How to Contact Us

Visit our web site below or contact the individual Lists:

### VCAT

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

### Anti-Discrimination List

Tel: 9628 9900  
Fax: 9628 9988

### Civil Claims List

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

### Credit List

Tel: 9628 9790  
Fax: 9628 9988

### Domestic Building List

Tel: 9628 9999  
Fax: 9628 9988

### General List

Tel: 9628 9755  
Fax: 9628 9788

### Guardianship List

Tel: 9628 9911  
Fax: 9628 9822  
1800 133 055 (within Victoria)

### Land Valuation List

Tel: 9628 9766  
Fax: 9628 9788

### Legal Practice List

Tel: 9628 9081  
Fax: 96289988

### Occupational and Business Regulation List

Tel: 9628 9755  
Fax: 9628 9788

### Planning and Environment List

Tel: 9628 9777  
Fax: 9628 9788

### Real Property List

Tel: 9628 9960  
Fax: 9628 9988

### Residential Tenancies List

Tel: 9628 9800  
Fax: 9628 9822  
1800 133 055 (within Victoria)  
Registered users can  
access VCAT Online through the web site.

### Retail Tenancies List

Tel: 9628 9960  
Fax: 9628 9988

### Taxation List

Tel: 9628 9770  
Fax: 9628 9788



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



Residential Tenancies List