



NCAT
NSW Civil &
Administrative Tribunal

NCAT Annual Report 2021–2022



Acknowledgement of Country

The NSW Civil and Administrative Tribunal (NCAT) acknowledges the ongoing connection Aboriginal people have to the land on which we work and live. We recognise our First Nations people as the traditional custodians of our Country and pay our respects to Elders past, present and emerging.



NCAT
NSW Civil &
Administrative
Tribunal

The Hon Mark Speakman SC MP
Attorney General
GPO Box 5341
SYDNEY NSW 2001

Dear Attorney,

I am pleased to submit the 2021-22 Annual Report for the NSW Civil and Administrative Tribunal.

The report summarises the Tribunal's performance and outcomes achieved during the period 1 July 2021 to 30 June 2022.

The report has been prepared in accordance with section 91 of the *Civil and Administrative Tribunal Act 2013* (NSW).

Following the tabling of the report in Parliament, it will be available for public access on the Tribunal's website at www.ncat.nsw.gov.au.

Yours sincerely,

The Hon Justice Lea Armstrong
President
NSW Civil and Administrative Tribunal

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NCAT Annual Report Structure

NCAT has structured the information in this annual report, in addition to the President’s Report and 2021-22 in Review, in three parts. First, general information concerning the Tribunal as a whole is provided by reference to the eight areas of Tribunal excellence set out in the Australia and New Zealand Tribunal Excellence Framework (June 2017) published by the Council of Australasian Tribunals. The eight areas are:

- Independence
- Leadership and Effective Management
- Fair Treatment
- Accessibility
- Professionalism and Integrity
- Accountability
- Efficiency
- User needs and satisfaction

Next, more specific information concerning each Division of the Tribunal and the Appeal Panel is contained in the Divisional and Appeal Panel Reports.

Finally, detailed information concerning certain aspects of the Tribunal’s functions and operations is provided in the appendices, as referred to in the other two parts.

President's Report

The role of NCAT

The NSW Civil and Administrative Tribunal (NCAT) facilitates access to civil justice and dispute resolution for people in NSW. NCAT has broad powers to deal with a wide range of civil disputes, including tenancy and strata, administrative review of government decisions, anti-discrimination, guardianship, and professional disciplinary matters.

Over half a million applications have been determined by NCAT since 1 January 2014, and during this reporting period (2021-22 financial year), NCAT received the second highest number of applications since its inception, maintaining its position as one of the largest and busiest tribunals in Australia.

NCAT is focused on providing efficient, fair and cost-effective outcomes for all parties that come before it. NCAT's processes for resolving disputes and reviewing administrative action allow it to deliver prompt, accessible and affordable justice.

COVID-19 reflections

During 2021-22, courts and tribunals throughout Australia continued to be affected by the COVID-19 pandemic. Despite the restrictions, disruptions and our increased workload, NCAT managed to keep its (virtual) doors open during this unprecedented period.

During the reporting period, NCAT achieved a clearance ratio of 101.1% and reduced its backlog of unresolved cases in several Divisions. This extraordinary result demonstrates the effectiveness of NCAT in responding flexibly to adapt to challenging circumstances, as well as a testament to the commitment of the Tribunal's membership and Registry staff.

Throughout the COVID-19 pandemic almost all proceedings were held virtually, either by video

conference or telephone. Until April 2022, in-person hearings were extremely limited and conducted only with my prior approval to ensure the health and safety of parties and other Tribunal users, NCAT Members and Registry staff.

One of the biggest challenges for NCAT during the COVID-19 pandemic was the availability of hearing rooms to conduct virtual hearings. Without the 70 locations normally available to conduct in-person hearings throughout the State, NCAT was restricted to using its dedicated hearing rooms with audio-visual link technology (AVL) in metropolitan locations.

I give my heartfelt thanks to all Tribunal Members for their tireless efforts in continuing to hear and determine matters during this extraordinarily difficult time. I also express my gratitude to our dedicated Registry staff for their ongoing administrative support to keep NCAT open and operational. In June 2022, the Attorney General gave further recognition to our Registry staff for their extraordinary contribution during the COVID-19 pandemic through a formal acknowledgement in NSW Parliament.

Investment in technology

NCAT's ability to maintain its high clearance rate during the COVID-19 pandemic was a direct result of our focus on investing in technology and the Tribunal's ability to adapt to rapidly changing environments with its flexible practices and processes.

During the reporting period, AVL technology was installed in additional hearing rooms, increasing NCAT's capacity to conduct virtual hearings across all Divisions and the Appeal Panel.

NCAT's virtual hearing technology enabled the Guardianship Division, Occupational Division and Appeal Panel to conduct multi-Member hearings with Members and participants joining virtually from

different locations. The Consumer and Commercial Division was able to adjust its group list processes to the new virtual hearing environment to ensure its Members could continue to hear matters in high volume.

Many types of matters before NCAT benefitted from our investment in virtual hearing technology, including shorter interlocutory proceedings.

New laptops were also distributed to all Members with the virtual hearing technology during the reporting period, allowing Members greater flexibility to conduct hearings from any location.

Tribunal membership

In October 2021, Anne Britton was appointed to the role of Deputy President and Division Head of the Guardianship Division. Anne brings a wealth of experience to NCAT as a former Principal Member in the Administrative and Equal Opportunity Division and Guardianship Division, and regularly sitting in the Occupational Division and Appeal Panel. Anne has also held a number of leadership roles through her professional life and is currently the Chair (National) of the Council of Australasian Tribunals (COAT).

Recruitment was undertaken throughout the reporting period to refresh NCAT's membership. The Attorney General appointed new Members across most Divisions following a merit-based appointment process. A number of experienced Members were reappointed for further terms.

Member training was conducted throughout the reporting period, including through virtual means. The professional development of Members plays an important role in promoting the quality and consistency of Tribunal decisions.

In addition, significant progress was made in developing NCAT's Member Reference Manual. The Manual is an internal resource providing Members with a summary of relevant case law and legislation across NCAT's wide jurisdiction. Although still in

development, the Manual is already an invaluable resource to Members and helps to ensure consistency and high-quality decision-making.

NCAT Act statutory review

During the reporting period, the Department of Communities and Justice completed a statutory review of the *Civil and Administrative Tribunal Act 2013* (NCAT Act). Section 92 of that Act requires the Attorney General to undertake a review of the NCAT Act to determine whether the policy objectives of the NCAT Act remain appropriate.

The review recommended some minor technical amendments to the NCAT Act, but in the main confirmed that the content and structure of the NCAT Act was appropriate and that the framework of the Act provides NCAT with the flexibility to tailor its practices and procedures to changing circumstances.

This flexibility was integral to NCAT's ability to successfully change and adapt in response to the COVID-19 pandemic. Our ability to continuously tailor and adjust practices and procedures allowed NCAT to maintain its services and performance standards. Again, I thank Members and Registry staff for their resilience and willingness to embrace the ongoing changes faced throughout the COVID-19 pandemic to achieve this result.

Looking forward

As we move into the post COVID-19 recovery phase, NCAT will be focused on finding an appropriate balance between utilising the flexibility of virtual hearings whilst returning to in-person hearings for final or contested hearings.

NCAT will continue to offer 'hybrid' hearings where appropriate, and endeavour to accommodate requests for virtual hearings if preferred by both parties.

NCAT also looks forward to developing the new case management system and online lodgement for the

Consumer and Commercial Division in the next reporting period.

NCAT will also continue to work with the Department of Communities and Justice's Digital Reform Program to look for further digitisation opportunities and enhancements to continuously improve the Tribunal experience for its users.

The Hon Justice Lea Armstrong

President

2021-22 in Review

70,448

Applications lodged

- 0.8% increase in applications lodged compared to 2020-21
- 813 appeals lodged

64.2%

Lodged online

- 84.4% of applications in the Consumer and Commercial Division lodged online

91,495

Hearings held

- Hearings and other listing events were held in 9 locations across NSW
- NCAT heard almost all matters virtually via telephone or video conference in response to COVID-19

71,192

Matters finalised

- 0.6% increase in finalisations compared to 2020-21
- Achieved an overall clearance ratio of 101.1%

62

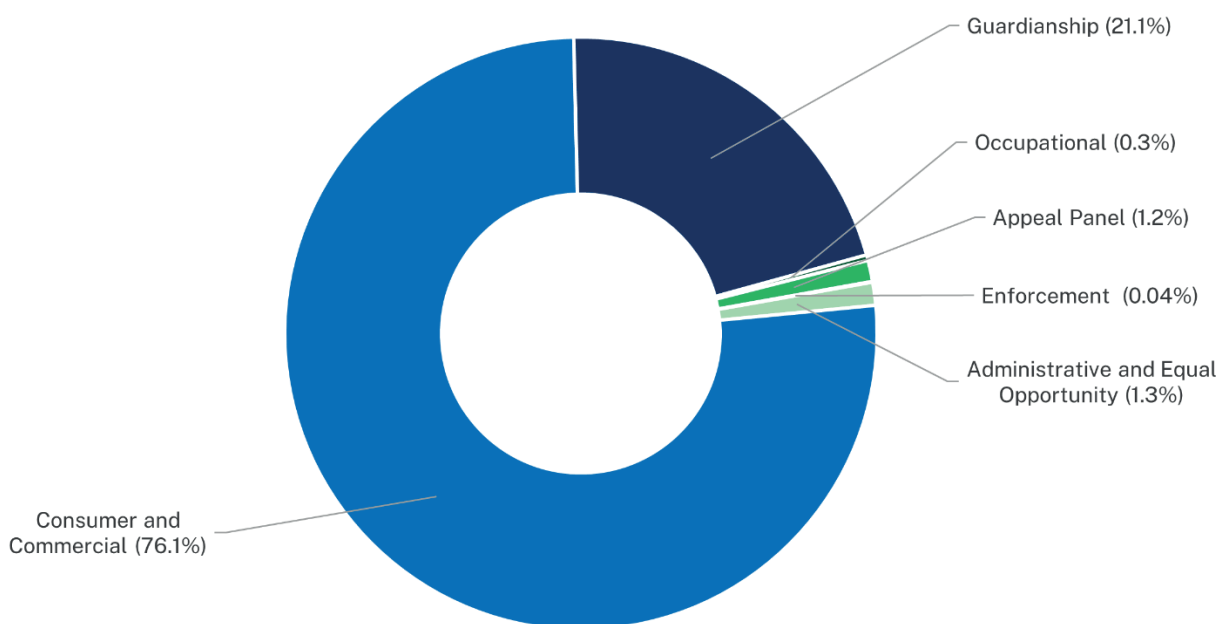
Community consultations, stakeholder group meetings, Tribunal Member and staff training sessions

1 million+

Website visits

- 1,002,085 visits to the NCAT Website
- 1,611 followers on NCAT Twitter
- 3,956 subscribers to NCAT online alerts and e-newsletters.

2021-22 Applications



DIVISION	NUMBER	% OF TOTAL
Administrative and Equal Opportunity	886	1.3%
Consumer and Commercial	53,634	76.1%
Guardianship	14,876	21.1%
Occupational	214	0.3%
Appeal Panel	813	1.2%
Enforcement (Penalties and Contempt) *	25	0.04%
TOTAL	70,448	100.0%

* Enforcement (civil penalty and contempt applications) under section 77 of the NCAT Act.

Note: In March 2021 a new case management system was implemented for the Appeal Panel. This report reflects the first full year of data sources from that system. As a result, care should be taken when comparing data with previous years' Appeal Panel data. Further statistical information is included in the Divisional and Appeal Panel Reports section of this Annual Report.

Independence

‘A tribunal’s degree of independence will influence public perception about the extent of the impartiality of the decision-making within the tribunal. This is particularly important in tribunals which deal with disputes involving the citizen and the State. Impartiality is essential for the delivery of predictable, just decisions and the acceptance of those decisions by the public.’

Australia and New Zealand Tribunal Excellence Framework – 2nd Edition 2017 p. 11

Legislative framework

NCAT is an independent tribunal established by the *Civil and Administrative Tribunal Act 2013 (NSW)* (NCAT Act). The NCAT Act contains provisions related to the establishment of the Tribunal, its jurisdiction, powers and procedures, and the appointment and removal of Members.

The objects specified in sections 3(a) and (g) of the NCAT Act include the establishment of NCAT as an independent Tribunal, the promotion of public confidence in Tribunal decision-making, and in the conduct of Tribunal Members. To fulfil its objectives, NCAT aims to deliver Tribunal services that are just, prompt and accessible and has processes in place to monitor and assess these aspects of its work. These objectives underlie NCAT’s work, its Members and Registry staff, and inform the delivery of NCAT’s services across NSW.

In their decision-making functions, Members are independent of, and not subject to the direction of the Executive, and have the same protections and immunity from suit as a Judge of the Supreme Court of New South Wales.

The independent decision-making role of the Tribunal is engaged by more than 170 separate Acts and subordinate legislation that confer broad and diverse powers on NCAT. These powers are exercised by the four Divisions and the Appeal Panel of NCAT.

A list of the enabling legislation is provided at Appendix 1. Information about legislative changes during the year is provided at Appendix 2.

Top ten matters

by volume 2021-22

- Residential tenancy and social housing matters
- Guardianship and financial management matters in relation to people with impaired decision-making capacity
- Consumer claims
- Home building matters
- Strata and community schemes, retirement village and similar matters
- Motor vehicle matters
- Administrative review of government decisions including access to government information and privacy matters
- Internal appeals
- Other commercial matters (including retail lease, agricultural tenancy and agency disputes)
- Anti-discrimination matters

Member appointments and tenure

The Tribunal’s membership is structurally separate from the legislative and executive branches of government. The NCAT Act (in Part 2 and in Schedule 2) establishes the requirements for appointment, qualifications, remuneration and other aspects of tenure applying to presidential and non-presidential Members of the Tribunal.

The President, who must be a Supreme Court Judge, is appointed to that role by the Governor of New South Wales. The Governor also appoints the Deputy Presidents of the Tribunal. Principal Members, Senior Members and General Members are appointed by the Attorney General. Aside from the President who must be full-time, Members may be appointed on a full-time or a part-time basis.

All appointments are for terms of up to five years and Members may be reappointed on the expiration of their terms. Apart from the President, Members may be removed from office by the Governor for incapacity, incompetence or misbehaviour. Members are assigned by the President to a Division of the Tribunal and may be cross-assigned by the President to other Divisions.

At 30 June 2022, the Tribunal had 273 Members, including the President, Deputy Presidents, Principal Members, Senior Members and General Members, who bring a range of qualifications, experience and expertise to Tribunal decision-making. They are located in the Sydney metropolitan and regional areas to provide flexibility and to ensure NCAT's services are available and accessible.

Apart from the appointment of current and former senior Judicial Officers as Members of the Tribunal, appointment of new Members by the Governor or the Attorney General follows a merit-based recruitment process approved by the Attorney General. The process involves widespread advertising seeking expressions of interest in appointment and the convening of an appointment committee (including a nominee or nominees of the Attorney General) which assesses applications, interviews candidates and carries out reference checks. The committee reports to the President whose duty under the NCAT Act is to provide advice concerning appointments to the Attorney General. Member recruitment activity completed during the year refreshed the Tribunal's membership. A number of existing Members were reappointed for further terms.

Whether a Member is assigned to one Division, or cross-assigned to other Divisions, depends on the needs of the Divisions in question at the particular time, as well as the expertise of the particular Member. Cross-assignment provides greater flexibility in allocating Members to hear cases, assists in developing the expertise of Members, and ensures Members' skills and experience are available where required in appropriate cases.

Administrative support

Administrative support to Tribunal Members is provided by Registry staff, under the direction of the Executive Director and Principal Registrar.

Staff operate out of NCAT Registries located in the Sydney CBD, metropolitan and regional areas. As at 30 June 2022, NCAT had 197 full-time equivalent (FTE) Registry staff.

NCAT has a strong focus on staff learning and development. During the reporting year, NCAT undertook a comprehensive training needs analysis to identify both current and future training needs for Registry staff, including managers. The results of that analysis were used to develop a Staff Learning and Development Strategy and the training programs offered to staff. The program provides online and in-person training across a broad range of topics including adapting to change, communication, cultural awareness and staff wellbeing.

The training program continues to offer a Hearing Observation Program, giving Registry staff an opportunity to observe hearings across all NCAT Divisions. Staff gain a greater understanding of how their work supports Members during hearings and user experience.

NCAT Registry managers participated in workshops as part of the NCAT Leadership Program. Some Registry managers participated in formal leadership programs offered by the Department of Communities and Justice and external providers.

Registry staff attended resilience training provided by Converge International, the Department's Employee Assistance Program provider. These sessions were well attended and provided practical techniques to assist staff deal with problems arising from the COVID-19 pandemic.

Budget and funding sources

NCAT's budget is made up of:

- Filing and other fees received by NCAT for its services allowed for under the *Civil and Administrative Tribunal Regulation 2013*
- Recurrent funding through the NSW Treasury
- Funds from various government agencies for cost recovery of work performed. Examples include:
 - NSW Public Purpose Fund which funds professional discipline matters involving legal practitioners in accordance with the *Legal Profession Uniform Law Application Act 2014*
 - NSW Department of Customer Service derived from statutory sources including the Property Services Statutory Interest Account, the Rental Bond Board, and the Home Building Administration Fund
 - NSW Treasury in conjunction with the Small Business Commissioner which provides funding to NCAT to deliver effective services that support timely resolution of disputes under the *Retail Leases Act 1994*
 - Health Professional Councils, and the Australian Health Practitioner Regulation Agency.

Appendix 5 contains NCAT's Expenditure Report for the 2021-22 financial year.

Statutory review of the NCAT Act

During the reporting period, the Department of Communities and Justice conducted a statutory review of the NCAT Act on behalf of the NSW Attorney

General. This review was conducted under section 92 of the NCAT Act. Section 92 provides that the Attorney General is to determine whether the policy objectives remain valid and whether the terms of the Act remain appropriate to secure those objectives.

As part of this review, submissions were received from a range of Tribunal users and stakeholders about NCAT's performance and recommendations to promote access to the Tribunal.

Tabled in Parliament in November 2021, the report stated that the content and structure of the NCAT Act was appropriate, given the breadth and diversity of NCAT's jurisdiction. In addition, the report stated that the NCAT Act sets out a high-level framework that provides the Tribunal with the flexibility to tailor practice and procedures to the needs of each Division, which also ensures the Tribunal is responsive to future changes.

The report recommended a number of minor and technical legislative amendments to the NCAT Act to support the efficient conduct of proceedings. Some non-legislative recommendations designed to improve the user experience are currently under consideration.

The report can be viewed on the NSW Parliament website at www.parliament.nsw.gov.au.

Leadership and effective management

‘Strong leadership within a tribunal requires the creation of a highly professional management group which is able to focus on innovation and continuous improvement as well as anticipate changes in society which may influence demands within the tribunal.

... Excellent tribunals encourage and support the head, senior decision makers, non-member tribunal administrators and tribunal members (with leadership roles) to take part in courses to improve their management skills.’

Australia and New Zealand Tribunal Excellence Framework – 2nd Edition 2017 p. 14

Leadership group

President

The current President of NCAT is the Hon Justice Lea Armstrong, whose five-year term commenced on 31 October 2018 and at which time she was also sworn in as a Judge of the NSW Supreme Court.

The President’s functions include directing the business of the Tribunal, facilitating the adoption of good administrative practices for the conduct of the Tribunal’s business, managing Members and advising the Attorney General about appointments, reappointments and removal of Members.

Division Heads/Deputy Presidents

Each of NCAT’s four Divisions is headed by a Deputy President. The Division Head is responsible for the management of matters within that Division (subject to the direction of the President), and exercises statutory functions conferred by the NCAT Act as well as functions under delegation from the President.

As at 30 June 2022, the Division Heads (full-time Deputy Presidents) were:

- Judge Susanne Cole, Head of the Administrative and Equal Opportunity Division and Occupational Division
- Mr Mark Harrowell, Head of the Consumer and Commercial Division
- Ms Anne Britton, Head of the Guardianship Division.

As at 30 June 2022, there were three part-time Deputy Presidents of the Tribunal: Acting District Court Judge Nancy Hennessy, the Hon Jennifer Boland AM and Mr Stuart Westgarth.

Executive Director and Principal Registrar

The Executive Director and Principal Registrar assists the President in the leadership and management of NCAT and undertakes statutory and other functions conferred by the NCAT Act and other legislation.

As at 30 June 2022, the Executive Director and Principal Registrar was Ms Cathy Szczygielski.

Director and Registrar Principal Registry

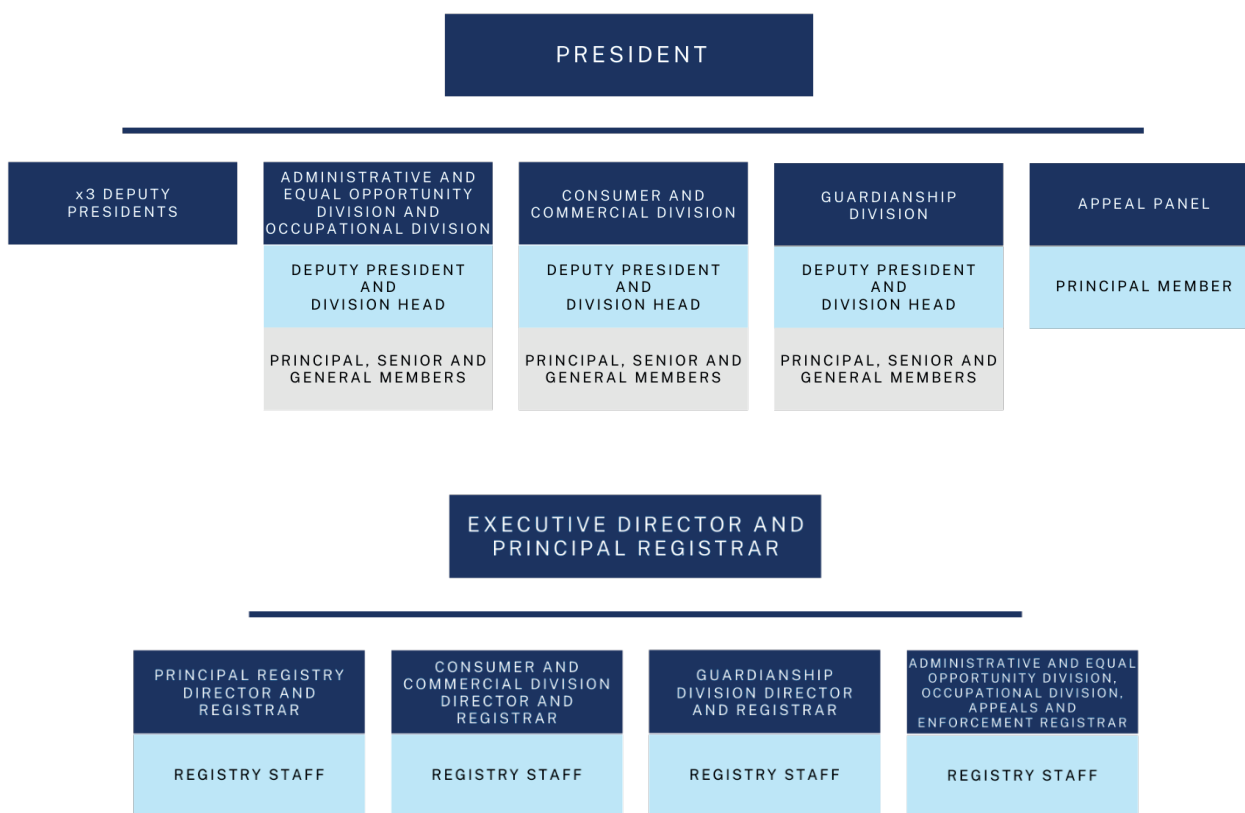
The Director and Registrar Principal Registry is responsible for managing a range of business and operational support functions for NCAT and assists the Principal Registrar.

Ms Amanda Curtin and Ms Janet Wagstaff currently job share the role of the Director and Registrar Principal Registry.

Director and Registrars

In each Division of NCAT, a Director and Registrar or Registrar is responsible for the management of Divisional Registry staff and other functions as delegated by the Principal Registrar.

NCAT Organisation Charts



As at 30 June 2022:

- Ms Pauline Green was the Director and Registrar of the Consumer and Commercial Division
- Ms Jane Pritchard was the Director and Registrar of the Guardianship Division
- Ms Louise Clegg was the Registrar of the Administrative and Equal Opportunity Division, Occupational Division, Appeals and Enforcement.

Governance

Rule Committee

The Rule Committee of the Tribunal is established by section 24 of the NCAT Act and comprises the President and the Division Heads, and any person appointed by the President. The Principal Registrar is the Secretary of that committee. Its function is to

make rules for NCAT and to ensure that the rules are as flexible and informal as possible.

The *Civil and Administrative Tribunal Rules 2014* apply to proceedings in the Tribunal. The Rules require matters to be dealt with in a way that is accessible, fair and just. In addition, the Rules assist the Tribunal and parties to resolve disputes consistently, economically and promptly. Further, the Rules promote procedural flexibility and enable the Tribunal to cater to the needs of particular parties.

In May 2022 the Rule Committee introduced a change which expanded the manner in which a notice or document may be served on, given to or lodged with NCAT.

Management committees

The following committees help to manage and guide the operations of NCAT to ensure it achieves its legislative objectives.

NCAT Executive

The NCAT Executive comprises the President, Division Heads, and the Executive Director and Principal Registrar. The NCAT Executive meets formally on a regular basis to review the performance and management of NCAT. The NCAT Executive also considers the legislation, processes, and practice and procedure relevant to the operations of NCAT.

Extended Leadership Group

The Extended Leadership Group comprises the NCAT Executive, the Principal Member Appeals, Director and Registrar Principal Registry, the Director and Registrars and Registrar of each Division. The Extended Leadership Group meets as required.

Advisory committees

Advisory committees are established to encourage innovation and improvement in specific aspects of the work of NCAT.

Professional Development Committee

The Professional Development Committee is chaired by a Deputy President and comprises representatives from each Division. The committee provides advice and makes recommendations to the NCAT Executive about the professional development of Members.

Accessibility Committee

The Accessibility Committee provides advice and makes recommendations to the NCAT Executive on improvements in the way that NCAT might deliver its services in a way that assists all users. The focus of the committee is to recognise the diversity of Tribunal users including race, culture and language, sexual orientation, gender, disability, religion or beliefs, socio-economic circumstances or geographic location.

The advisory committees did not meet during the reporting period due to the significant demands on the

Tribunal and NCAT's leadership group occasioned by the COVID-19 pandemic.

Disclosure of information

In addition to its annual reports, NCAT regularly discloses selected information on the performance of the Tribunal and the Divisions at the meetings of the NCAT Liaison Group and the Divisional Consultative Forums. The Liaison Group and the Consultative Forums are detailed in Appendix 9.

In addition, the Tribunal makes available collated, de-identified information concerning the caseload and performance of the Tribunal on request, in accordance with *NCAT Policy 3 – Provision of Statistical Data*.

Fair treatment

‘A central obligation of a tribunal is the provision of a fair hearing.

A fair hearing involves the opportunity for each party to put their case – the right to be heard – and have the case determined impartially and according to law. It involves identifying the difficulties experienced by any party, whether due to lack of representation, unfamiliarity with the law, language, culture, disability or any other matter, and finding ways to assist parties through the tribunal process.’

Australia and New Zealand Tribunal Excellence Framework – 2nd Edition 2017 p.16

Member Code of Conduct

NCAT’s Member Code of Conduct, issued by the President under section 20 of the NCAT Act, is set out in full at Appendix 4. The Code requires all Members, among other things:

- to provide a fair hearing to all parties
- to avoid circumstances that might give rise to a conflict of interest and to advise the parties of any potential conflicts that have arisen or may arise
- to conduct proceedings in a manner that is patient, courteous and respectful of all parties, representatives, witnesses, staff and others with whom the Members have to deal.

The NCAT Member Code of Conduct outlines NCAT’s recognition of the importance of fairness, dignity and respect for others in the workplace. Each person in the workplace, including staff and Members, should have a safe and secure place in which to work. NCAT does not tolerate inappropriate workplace behaviour, which includes bullying, harassment, sexual harassment, other forms of unlawful discrimination, vilification and violence.

Internal appeals

One of the most significant and effective ways in which NCAT ensures the fairness, as well as the consistency and quality, of its decisions is through the internal appeal process. Under sections 32 and 80 of the NCAT Act, parties generally have a right to appeal to the NCAT Appeal Panel from:

- decisions made by NCAT in proceedings for a general decision or an administrative review decision
- decisions made by a registrar of a kind that is internally appealable.

Most first instance decisions made by NCAT can be appealed to the Appeal Panel as of right on a question of law and, by leave of the Appeal Panel, on any other grounds. There are some limitations that constrain appeals from decisions made by the Consumer and Commercial Division (under clause 12 of Schedule 4 to the NCAT Act).

The Appeal Panel hears appeals, usually by two or three Members. Appeal Panel Members are drawn from across NCAT’s membership, but the presiding Member is usually a Presidential or Principal Member or Senior Legal Member. As at 30 June 2022, there were 71 Members from all NCAT Divisions sitting on the Appeal Panel. Registry staff provide administrative support to the Members who hear internal appeals.

NCAT’s internal appeals process permits decisions at first instance to be scrutinised and, where appropriate, corrected without the expense or time involved in bringing proceedings in the Supreme Court. This scrutiny also improves the standard and quality of decision-making and writing throughout the Tribunal. It provides Tribunal users with a cost-effective and efficient appeal mechanism. More information about the internal appeals process is included at Appendix 7.

During 2021-22, 813 appeals were lodged with the Tribunal and 863 appeals were finalised.

The *Appeal Panel Decisions Digest* is a regular publication which provides keyword summaries of internal appeal decisions and detailed summaries of significant decisions.

Service Charter and service enhancement projects

The *NCAT Service Charter* aims to give practical expression to the legislative object in section 3(e) of the NCAT Act by ensuring that decisions of the Tribunal are timely, fair, consistent, and of a high quality.

Outcomes from initiatives highlighted in this report contribute to NCAT maintaining its commitment to timely, fair, consistent, and high-quality services by:

- providing simple processes that can be readily understood, regardless of the user's education, language, experience in a legal environment or familiarity with court or Tribunal proceedings
- being accessible regardless of factors such as age, disability, cultural background, gender or geographical location
- being attentive and responsive to the needs of all, including those from multicultural communities
- communicating effectively with relevant people and organisations
- responding promptly to suggestions about practice and procedures
- receiving and responding to feedback, including comments, complaints and concerns.

Procedures and processes

Hearings in the Tribunal are, except in very limited cases, oral hearings in which parties generally participate in person or through a representative. In appropriate cases, parties, representatives or witnesses participate by telephone or video conference. Under section 50 of the NCAT Act, NCAT can decide to determine a matter without a hearing,

but only if NCAT has given the parties an opportunity to make submissions on dispensing with a hearing, taken those submissions into account, and is satisfied that the issues for determination can be adequately determined in the absence of the parties on the basis of written materials. The making of decisions on this basis is commonly described as 'on the papers'.

Due to the COVID-19 restrictions, the majority of NCAT hearings in 2021-22 were conducted by video conference, telephone or on the papers. Face-to-face hearings were limited, and up until April 2022, were only conducted with prior approval by the President.

All NCAT hearings are sound recorded. A copy of the sound recording of the hearing is made available, for a fee, to parties or their representatives upon request. Mediations, conciliations and other resolution processes are generally not sound recorded. Since October 2021, NCAT has been using Kiteworks, a secure email service to send digital copies of sound recordings to parties.

NCAT embraces a culture that supports and encourages the use of innovative and effective dispute resolution techniques.

Where a matter is not appropriate for a negotiated outcome, NCAT assists parties to focus on identifying the 'real issues' in dispute, to support an efficient hearing process and more timely resolution of the matter.

NCAT uses a range of resolution processes depending upon the nature and volume of proceedings, the requirements of the enabling legislation and the differing roles of each Division. Information about the resolution processes employed across NCAT's broad jurisdiction is at Appendix 7.

Representation before the Tribunal

The NCAT Act or the relevant enabling legislation determines whether a party requires leave of the Tribunal to be represented. Leave to be represented is

required in most matters in the Consumer and Commercial Division and the Guardianship Division. Parties are entitled to be legally represented in the Administrative and Equal Opportunity Division and the Occupational Division (and in internal appeals from these Divisions).

A large proportion of parties who appear before NCAT are self-represented. NCAT endeavours to ensure that information about the nature and conduct of proceedings in NCAT is available to assist parties understand their role, how to prepare their evidence and participate in proceedings.

Guardian ad Litem and Separate Representation

NCAT may appoint a Guardian ad Litem (GAL) or a Separate Representative to represent a person who is under the age of 18 or who is totally or partially incapable of representing himself or herself. Incapacity may result from an intellectual, psychological or physical disability, physical or mental illness or advanced age.

A party may apply to the Tribunal for the appointment of a GAL or the Tribunal may appoint a GAL on its own initiative.

GALs are most often appointed in matters before the Administrative and Equal Opportunity Division, or in Guardianship Division matters before the Appeal Panel.

The NCAT Guideline *Representatives for people who cannot represent themselves (GALs)* sets out the process to be followed when NCAT appoints GALs.

Separate Representatives, who are lawyers, are most often appointed in the Guardianship Division to represent the interests of the person who is the subject of the application.

Interpreter services

Interpreter services are provided for parties at NCAT hearings upon request. Requests for interpreters can be made on the application form, in writing or by

contacting the NCAT Registry as soon as practicable before the hearing date.

During 2021-22, approximately 4,600 parties requested interpreter services for their hearings. The top languages requested were Mandarin, Arabic, Cantonese, Korean, Vietnamese, Greek, Italian, Spanish, Persian and Macedonian.

Cultural issues

NCAT takes part in events to assist people from culturally and linguistically diverse (CALD) communities to understand the role of the Tribunal and its services. During the reporting period, NCAT was represented on the Department of Communities and Justice's Multicultural Plan working group.

Accessibility

‘Access to justice is a fundamental human right and a core principle of the rule of law. Tribunals as well as courts have an obligation to provide the community they serve with access to a fair hearing.’

‘Tribunal fees, forms and processes have an important impact on access to justice, as does the extent of information and assistance provided to parties.’

‘The location and time that a tribunal hears disputes also directly affects access to justice. Those living in regional and remote locations should have the same level of access to the tribunal as those who live in metropolitan areas.’

Australia and New Zealand Tribunal Excellence Framework – 2nd Edition 2017 pp. 17, 19 and 20

Accessing NCAT services including online

NCAT offers a wide range of services for parties with differing needs. These services have been designed so self-represented parties can readily access the Tribunal’s services. As a result, parties conduct their cases without legal representation in a significant proportion of cases.

NCAT offers some online services to enable participants to file applications and documents over the internet. Information about our services is also available from Service NSW and the NCAT website.

Applications can be lodged in person at NCAT Registries and Service NSW, by post, or using *NCAT Online* for certain applications to the Consumer and Commercial Division. During 2021-22, 84.4% of all applications received in that Division were lodged online.

NCAT Registries

There are NCAT Registries in seven locations across the State. The Principal Registry is located in the Sydney CBD and provides support services for all Divisions of the Tribunal as well as the Appeal Panel and Enforcement. Other NCAT Registries are located in metropolitan and regional areas.

NCAT Registries are usually open during business hours. The Guardianship Division provides an after-hours service where urgent hearings are required.

Website and social media

The NCAT website is the primary information point for people interested in bringing a matter to the Tribunal or finding out more about NCAT’s role and operations.

An ongoing program of website maintenance ensures the accuracy of information and identifies where improvements might be needed. Feedback received through NCAT’s online feedback form and website analytics are used to inform improvements to the website.

Social media is also used by NCAT to extend its reach to online audiences. NCAT’s social media features posts and comments about new and updated resources and forms, service news, and topical NCAT information.

Resources and assistance

A variety of online resources, including fact sheets and forms, are available on the NCAT website. The following information was added to the website during the year.

- The Coronavirus (COVID-19) information page was updated to include temporary procedural changes implemented by the President in response to the COVID-19 pandemic.

- ‘Request for a consent order form’ enables parties in proceedings in the Consumer and Commercial Division to lodge proposed draft consent orders without needing to attend NCAT in person.
- The new ‘Mental health support services’ webpage provides a list of services that can provide help to parties who may be experiencing personal distress or crisis.
- The new ‘Hearings by video conference’ webpage provides helpful information and tips for parties to ensure their virtual hearing runs smoothly.
- The new ‘Hearing preparation checklists’ webpage provides checklists to help parties prepare for their hearings in the Consumer and Commercial Division.

NCAT’s subscription services deliver regular alerts and published case digests to subscribers by email. *What’s New* email alerts offer regular updates about publications and Tribunal operations. The *NCAT Legal Bulletin* provides a summary of case law of significance to the work of NCAT. The *Appeal Panel Decisions Digest* provides keyword summaries of all Appeal Panel decisions published on NSW Caselaw. The *Guardianship Division Case Digest* provides summaries of cases of significance to the work of the Guardianship Division.

During 2021-22, 19 *What’s New* alerts were issued to 1,681 subscribers, 13 issues of the *NCAT Legal Bulletin* were distributed to 1,551 subscribers, and 13 issues of the *Appeal Panel Decisions Digest* were distributed to 636 subscribers. One issue of the *Guardianship Division Case Digest* was distributed to 88 subscribers.

Videos in community languages

In addition to written information provided in a number of languages, NCAT provides educational videos which explain the way in which a range of matters are dealt with by NCAT. The videos feature dramatised scenarios about each of the Divisions and are presented in English and four community languages.

Hearing locations and times

Tribunal hearings are usually conducted in hearing rooms co-located with NCAT Registries and in a range of court houses and other venues in more than 70 locations across metropolitan and regional areas. However, due to COVID-19 restrictions during the reporting period, NCAT held almost all hearings in regional locations by video conference or telephone.

NCAT’s principal hearing venues have been designed, where possible, to accommodate the needs of persons with disabilities (including physical disabilities, dementia, intellectual disability, brain injury or mental illness), and to provide purpose-built hearing rooms, waiting room and conference facilities.

In 2021-22, there were 91,495 NCAT hearings held across NSW. Almost all matters were heard remotely via telephone or video conference due to the COVID-19 pandemic.

Sittings usually occur within normal business hours in all locations. Urgent hearings can be held outside those hours if required. In particular, the Guardianship Division operates an after-hours service for urgent applications that need to be heard outside normal business hours. These hearings are often conducted by telephone and can be held within hours of receiving the application.

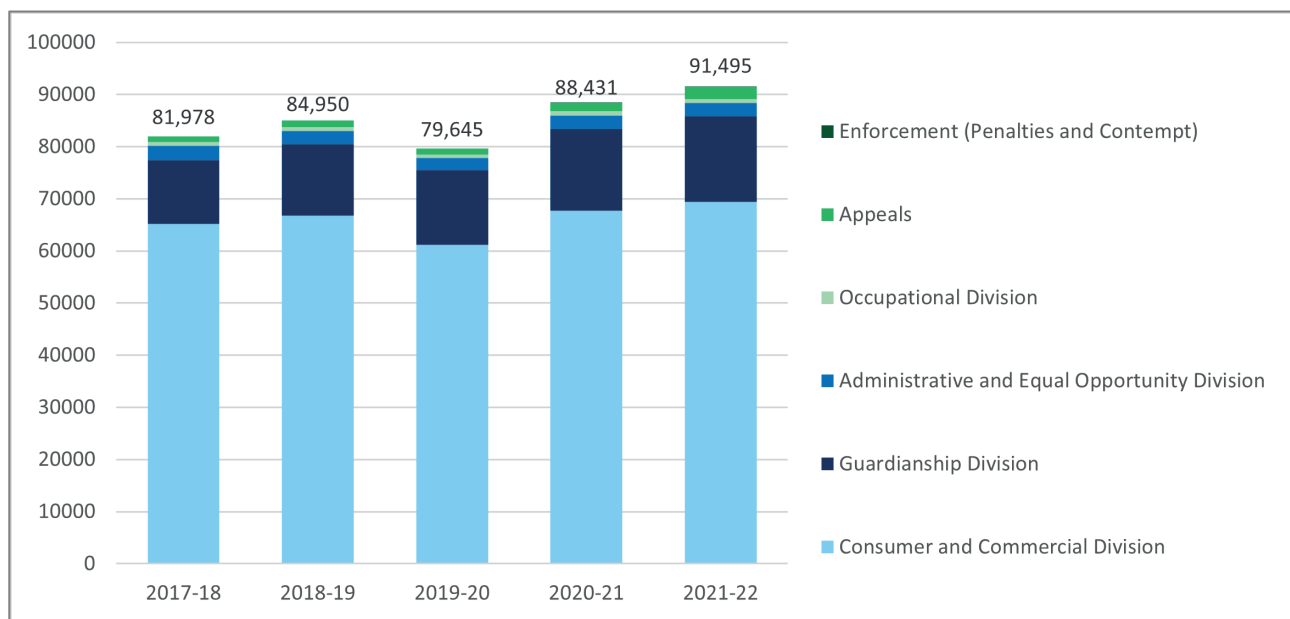
Alternative access to hearings

Video conferencing

NCAT continued its successful use of video conferencing to conduct hearings during the reporting period.

In July 2021, audio-visual link (AVL) facilities were installed in three additional hearing rooms in the John Maddison Tower used by the Administrative and Equal Opportunity Division, the Occupational Division and the Appeal Panel.

Graph 1 - Hearings and other listing events 5-year comparison



During the reporting period, the Consumer and Consumer Division and Guardianship Division increased their use of virtual hearing room software. This cloud-based technology allows Members and parties to “dial in” to the virtual hearing using any computer, laptop or tablet with internet access and a camera. In addition, upgrades were made to the virtual hearing software making it more efficient to use and improving the user experience of all participants.

NCAT’s continued investment in video conferencing allowed all Divisions and the Appeal Panel to conduct hearings throughout NSW, with limited disruption or delays to parties, significantly contributing to the 101.1% clearance ratio during the reporting period.

Telephone hearings

Prior to the COVID-19 pandemic, telephone hearings were primarily made available for parties who were unable to travel, or who, because of their location, would need to travel a significant distance and would incur substantial travel costs.

Since the start of the pandemic and throughout 2021-22, NCAT expanded its use of telephone hearings due to the restriction of in-person hearings.

Fees and charges

NCAT’s schedule of fees and charges for the filing of applications, appeals and other services as at 30 June 2022 is included at Appendix 8. The payment options available include cash, cheque, credit card and eftpos. A credit card payment authority form extends the convenience of this payment option to parties who lodge applications by post.

Pensioners or students receiving an allowance or people receiving a grant of legal aid or assistance from a community legal centre may be eligible to pay a reduced fee.

In special circumstances NCAT will consider requests for the fee payment for applications to be postponed, waived wholly or in part. Fee waiver requests are considered under clause 6 of the *Civil and Administrative Tribunal Regulation 2014*. Information about fees, including how to apply for a fee waiver, is available on the NCAT website.

Legal assistance

A variety of support services across NSW are available to assist people participating in NCAT proceedings.

The NCAT website offers information about services and organisations that offer free or low-cost legal information, advice and assistance, including those that operate referral services to lawyers who may provide pro bono legal services. Many of these organisations and services, including aged-care and disability services that provide information and help to parties involved in guardianship matters, are listed on the *Getting Help* fact sheet. This fact sheet is regularly reviewed and updated to ensure the most relevant services are included.

Legal Aid NSW provides a duty lawyer scheme for NCAT parties involved in anti-discrimination disputes and Working with Children Check matters in the Administrative and Equal Opportunity Division. Legal Aid NSW also provides legal assistance to parties appearing in residential tenancy appeals.

NCAT may refer parties to anti-discrimination matters to the NSW Bar Association's Legal Assistance Referral Scheme (LARS). LARS endeavours to match a request for legal assistance with a barrister who may be able to give advice, appear for the party or help a party settle a case.

Additional assistance

NCAT aims to ensure that parties and others involved in the Tribunal's processes receive any reasonably necessary assistance such as:

- making documents available in different formats to meet the needs of the parties
- providing flexible hearing rooms with varying degrees of formality appropriate to the jurisdiction (COVID-19 restrictions permitting)
- providing assistive listening devices or hearing loops in NCAT hearing venues
- using the National Relay Service (NRS) for parties with hearing or speech impairments
- allowing additional time for people who use Augmentative and Alternative Communication (AAC)

- providing interpreters for people from non-English speaking backgrounds, and Auslan interpreters for deaf people.

Member and staff training in the provision of such assistance is included in their respective development and training programs, as appropriate.

Members also have obligations under section 38(5) of the NCAT Act to take reasonable steps to ensure parties understand the nature of the proceedings and, if requested, to explain any procedural aspect of NCAT.

Procedural directions, guidelines and policies

Section 26 of the NCAT Act gives the President power to give binding procedural directions. In addition, the Tribunal issues guidelines and policies that provide guidance to parties about how matters are to be dealt with at the Tribunal. Procedural directions, guidelines and policies may apply across NCAT or at the Divisional level and are prepared in consultation with the Practice and Procedure Committee.

In November 2021, NCAT published a new consolidated Adjournments Guideline. This Guideline helps parties understand when a hearing can be postponed or delayed. The Guideline applies to all NCAT proceedings and replaces separate divisional resources. The consolidation of these resources makes it easier for parties to find the information they are looking for.

The following procedural directions, guidelines, policies and other documents are current and available on the NCAT website.

NCAT Procedural Directions

NCAT Procedural Direction 1 – Service and Giving Notice

NCAT Procedural Direction 2 – Summonses

NCAT Procedural Direction 3 – Expert Evidence

NCAT Procedural Direction 4 – Registrars' Powers Directions

NCAT Procedural Direction 5 – Acceptance of Home Building Claims

NCAT Procedural Direction 6 – Filing of documents

Guidelines

NCAT Guidelines

Adjournments

Internal Appeals

Representatives for people who cannot represent themselves

Administrative and Equal Opportunity Division Guidelines

Confidentiality, privacy and publication

Costs

Resolution processes

Consumer and Commercial Division Guidelines

Conciliation and hearing by the same Member

Confidentiality, privacy and publication

Costs

Home building applications

Representation

Use of electronic evidence in Tribunal proceedings

Guardianship Division Guidelines

Confidentiality, privacy and publication

Costs

Representation

Occupational Division Guidelines

Confidentiality, privacy and publication

Costs

Health Professionals Registration Appeals

Professional Discipline Matters

Resolution processes

NCAT Policies

NCAT Policy 1 – Complaints

NCAT Policy 2 – Publishing Reasons for Decisions

NCAT Policy 3 – Provision of Statistical Data

NCAT Policy 4 – Access to and Publication of Information Derived from Proceedings

NCAT Policy 5 – Member Participation in External Engagements

NCAT Policy 6 – Communicating with the Tribunal and Members

Other documents

NCAT Domestic Violence Protocol

NCAT Member Code of Conduct

NCAT Member Terms and Conditions Handbook

NCAT Service Charter

Professionalism and integrity

'The core competencies [for Tribunal Members] include:

- knowledge and technical skills;
- communication (including cultural competency and working with interpreters);
- decision-making;
- professionalism and integrity;
- efficiency; and
- leadership and management.'

Australia and New Zealand Tribunal Excellence Framework – 2nd Edition 2017 p. 20

Competency framework and performance appraisal

The *NCAT Member Competency Framework* is based on the Council of Australasian Tribunals (COAT) Tribunal Competency Framework and identifies the critical competencies, abilities and qualities required to be an effective Tribunal Member.

NCAT uses its framework to provide the basis for Member appraisals conducted in all Divisions of the Tribunal to assist Members to understand and improve their performance. It also forms part of the assessment and basis of recommendation of candidates for appointment and reappointment.

The *NCAT Member Competency Framework* identifies seven essential areas of competence: knowledge and technical skills, fair treatment, communication, conduct of hearings, evidence, decision-making, and professionalism and efficiency.

Member qualifications

Members bring legal expertise or other specialist knowledge to Tribunal decision-making. The required qualifications for Members in each category are specified in section 13 of the NCAT Act.

A list of Tribunal Members as at 30 June 2022, along with brief biographical information with qualifications and relevant experience, is provided at Appendix 3.

Code of conduct

The *Member Code of Conduct*, issued by the President, applies to all Members of NCAT. The Code provides guidance to Members in the performance of their statutory functions and assists Members in identifying and resolving ethical issues. Before they are appointed, Members are required to agree to abide by the Code of Conduct.

The *Member Code of Conduct* is kept under review to ensure currency. The latest version is published on the NCAT website and is included at Appendix 4 of this report.

Professional development, appraisal and training

During 2021-22 there were 33 professional development sessions for Members and Registry staff on a range of topics relevant to the work of the Tribunal and Registry operations.

Tribunal Members

The NCAT Member Professional Development Committee supports professional development activities throughout the year.

Member professional development activities were held on a Divisional basis with a focus on topics relevant to the work of each Division, with separate training for the NCAT Appeal Panel.

Other Member professional development activities included Member network groups, mentoring, briefing sessions, seminars and external conferences. Some NCAT Members attended the Council of Australian Tribunals (COAT) annual national conference: Tribunals reset and reinvigorate, and the COAT (NSW) conference: Accessibility and inclusive justice – What can tribunals do better.

In March 2021, management coach Glenn Dennett provided training to selected Members with leadership responsibilities. The training was designed to equip NCAT's leadership with the skills to support Members, and to give constructive feedback in the Member performance appraisal process.

Throughout the reporting period most Member professional development activities were conducted virtually with the exception of Member Induction training which was conducted with a combination of in-person and remote learning.

Members participate in regular performance appraisal processes under the supervision of the Division Head of the Member's primary Division, or the President. The process varies between Divisions, reflecting the different composition and work of each Division, but generally involves self-assessment, peer review, observation of a hearing conducted by the Member or review of a sound recording of a hearing, and review of the Member's reasons for decision.

All new Members receive an Induction Manual and participate in an Induction Program which involves attendance at training and information sessions and observing hearings.

Registry staff

Performance Management and Development Plans (PDPs) are in place for all Registry staff. The development component of these plans encourages managers and more junior staff to identify and discuss relevant professional development opportunities.

The results of a Registry staff training needs analysis undertaken during the reporting period informed

learning and development goals for inclusion in staff individual PDPs.

NCAT Registry staff participated in professional development activities provided by the Department of Communities and Justice and those outlined in the annual NCAT Staff Learning and Development Program. This year Registry staff participated in Resilience Training as part of NCAT's focus on staff wellbeing.

The NCAT Learning and Development Program includes training topics designed to support staff in their service delivery role. Training topics include adapting to change, communication, negotiating, user service, and cross-cultural awareness.

Appeals

The decisions of the Appeal Panel provide useful information and feedback to Members concerning legal and procedural issues that arise in proceedings and provide guidance to Members sitting at the Divisional level.

It is NCAT's practice to provide a copy of the Appeal Panel's decision to the Member or Members who sat on the original matter, when the decision is published. NCAT regularly prepares reports that list the decisions which have been appealed and the outcome of the appeal. In addition, most decisions of the Appeal Panel are made publicly available on NSW Caselaw, and a digest of recent Appeal Panel decisions is published on the NCAT website.

Accountability

'Tribunals serve the public through the provision of accessible, fair and efficient dispute resolution services. In delivering that service they are accountable to the public. An effective complaints mechanism is an important means of ensuring that the public's expectations of members and staff are met.

Regular stakeholder and community engagement and reporting tribunal performance helps ensure that the tribunal is accountable to the public it serves.'

Australia and New Zealand Tribunal Excellence Framework – 2nd Edition 2017 p. 22

Hearings open to the public

NCAT is required to hear cases in public unless it otherwise orders. In proceedings where sensitive or other confidential matters may be disclosed, NCAT may determine that those proceedings be conducted wholly or partly in private. This happens most often in the Guardianship Division, Administrative and Equal Opportunity Division, and Occupational Division because of the nature of functions exercised by those Divisions.

Service charter

The *NCAT Service Charter* aims to give practical expression to the legislative object in section 3(e) of the NCAT Act of ensuring that the decisions and other resolution services provided by the Tribunal are timely, fair, consistent, and of a high quality.

Complaint handling mechanism

NCAT's integrated complaint and feedback processes provide a consistent and co-ordinated approach to responding to complaints and gathering and using feedback to inform processes and service delivery. Online forms are available on the NCAT website to assist people in providing this feedback.

NCAT Policy 1 - Complaints explains the approach taken when responding to a user's complaint with the delivery of a service provided by NCAT or the conduct of Registry staff, a conciliator/mediator or a Member.

In 2021-22, NCAT received 396 complaints. This equates to a complaint in 0.56% of all matters lodged with NCAT. The most common categories of complaints received during the year were decision dissatisfaction, Member conduct, and policies and procedures. Responses to complaints include clarification about NCAT policies and procedures, providing information about avenues of appeal, and contact details for support services such as LawAccess NSW.

NCAT also used the feedback tool, *Feedback Assist*, during the reporting year which provides users with a direct feedback tool located on all NSW Government websites. In 2021-22, NCAT received 16 identified requests through the feedback tool, including compliments, complaints and suggestions.

Stakeholder engagement

NCAT recognises that regular stakeholder engagement helps ensure the Tribunal is responsive to the needs and concerns of those who use its services including the public, parties, their representatives and relevant professional or industry bodies.

There are also Divisional Consultative Forums that focus on issues concerning practice and procedure. During 2021-22 the Guardianship Division's Consultative Forum met twice, and the Consumer and Commercial Division held one tenancy consultative forum and one non-tenancy consultative forum. The Administrative and Equal Opportunity Division and the

Occupational Division each held one consultative forum.

The number of consultation forums held during the reporting period was less than usual due to COVID-19 restrictions. Telephone conferences were conducted with stakeholders where issues arose.

See Appendix 9 for a list of organisations represented on the NCAT Liaison Group and the Divisional Consultative Forums.

External forums and committees

NCAT participates in Department of Communities and Justice and external forums and committees. During 2021-22, selected senior Registry staff and Members attended meetings of the Department's Disability Employee Network, the NSW Law Society, the Office of the Public Advocate (Vic) in relation to restrictive practices in aged care, the Cultural Diversity Justice Network, and the Judicial Council on Cultural Diversity.

Publication of reasons for decisions

NCAT publishes many of its reasons for decisions on the NSW Caselaw website. The Tribunal's approach to publication of reasons for decisions is set out in *NCAT Policy 2 – Publishing Reasons for Decisions*.

Other engagement with the community

During 2021-22 Members and Registry staff participated in 62 community education and information programs. These included meetings and/or events conducted by the Australian Guardianship and Administration Council, the Newcastle branch of the NSW Law Society, Strata Community Association NSW, the NSW Law Society's Elder Law Capacity and Succession Committee and the Judicial Council on Cultural Diversity. In addition, Members spoke at various conferences, including the Singapore Academy of Law Inaugural Tribunal Conference.

Efficiency

'Tribunals should provide an efficient dispute resolution service in the sense that the tribunal is affordable and resolves disputes in an appropriate and timely way.'

Australia and New Zealand Tribunal Excellence Framework – 2nd Edition 2017 p. 24

Performance standards and monitoring

NCAT has measures in place to monitor efficiency in dealing with its workload. NCAT's efficiency and effectiveness is measured in part by the number of matters lodged and NCAT's case clearance ratio. This indicates the capacity of NCAT to manage its workload within its current resources and systems.

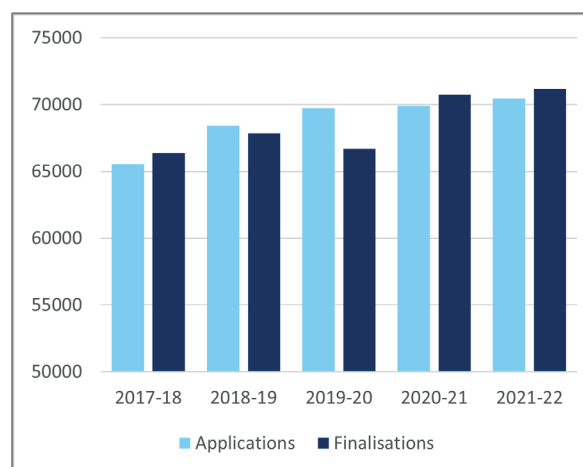
There was a 0.8% increase in the overall number of applications received by NCAT in 2021-22 compared to the previous year.

During the reporting period, increases were experienced in the Guardianship Division (4.1%) and the Administrative and Equal Opportunity Division (8%). Other Divisions experienced a reduction in the number of applications in the reporting year with a 0.2% decrease in the Consumer and Commercial Division and a 17.4% decrease in the Occupational Division. There was an increase of 2.3% experienced in the Appeal Panel.

Members of the NCAT Extended Leadership Group actively monitor lodgement volumes and trends, finalisations and the timeliness of hearings so that resources can be adjusted to maintain service delivery standards.

Standards in relation to the time to first listing and the time to finalisation are set and monitored for the various types of matters in each Division. All applications to the Guardianship Division are triaged on receipt to assess the degree of urgency and the severity of risk (if any) to the person who is the subject of the application.

Graph 2 - Applications received and finalised 5-year comparison



Applications are then allocated into risk categories based on that assessment. The risk category determines the time within which the application is to be heard and determined.

In addition, the NCAT Extended Leadership Group receives a monthly report on all unresolved matters lodged before a certain date. These matters are actively managed by each Division to ensure they are finalised as quickly as possible.

Resolution processes

A variety of resolution processes are used by NCAT to enhance the efficiency of its operations and to provide services that meet the needs of its users. These processes assist parties to resolve or narrow the issues in dispute so matters proceed more efficiently at hearing, or to reach an agreement meaning that a hearing is not required.

Examples include group lists in the Consumer and Commercial Division, mediations in the Administrative

and Equal Opportunity Division, and directions to narrow issues in the Administrative and Equal Opportunity Division, the Occupational Division, and home building matters in the Consumer and Commercial Division.

In the Consumer and Commercial Division, experienced Members and Registry staff act as conciliators in group lists and other Members act as facilitators for experts' conclaves.

Cross-assignment

Under the NCAT Act, Members are assigned to a Division. The efficiency of the Tribunal is enhanced by the President's ability to cross-assign appropriately experienced Members to other Divisions when required.

Flexibility of processes

Under section 38(1) of the NCAT Act, the Tribunal may determine its own procedure in relation to any matter for which the Act or procedural rules do not otherwise allow. This flexibility allows NCAT to act efficiently and promptly to resolve urgent matters or matters otherwise out of the ordinary.

Parties with urgent or unusual matters can request assistance from NCAT in having their matter heard urgently or in some other appropriate way.

Digitisation

NCAT continues to participate in the Department of Communities and Justice's Digital Reform Program for all courts and tribunals. The program looks for digitisation opportunities to enhance efficiency and improve the user experience.

During 2021-22, work continued under this program on the building of the new case management system and data migration for the Consumer and Commercial Division. Work is also currently underway to improve NCAT's online lodgement platform.

Table 1 - Number of applications received and finalised by Division 2021-22

DIVISION	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Administrative and Equal Opportunity	886	887	100.1%
Consumer and Commercial	53,634	54,853	102.3%
Guardianship	14,876	14,308	96.2%
Occupational	214	259	121.0%
Appeal Panel	813	863	106.2%
Enforcement (Penalties and Contempt)	25	22	88.0%
TOTAL	70,448	71,192	101.1%

User needs and satisfaction

‘Public trust and confidence in the administration of justice are essential for the acceptance by users of an individual decision that affect them. Therefore for a tribunal to be effective its users have to be satisfied that the procedures and processes adopted by the tribunal are fair.’

Australia and New Zealand Tribunal Excellence Framework – 2nd Edition 2017 p. 26

NCAT obtains information concerning Tribunal users, their needs and their level of satisfaction in a number of ways, including:

- feedback, surveys and e-newsletter subscriber numbers
- stakeholder interaction at meetings of NCAT’s Liaison Group and Consultative Forums, and external engagement at conferences and meetings
- internal appeals to the Appeal Panel
- complaints data
- NCAT website and social media analytics.

Use of NCAT website and social media

The NCAT website received 1,002,085 visits and over 2.4 million pageviews during 2021-22. The website is mobile friendly, and people can use assistive technologies to access online information. Feedback received through NCAT’s online feedback form and website analytics are used to inform improvements to the website. This feedback and the availability of enhanced website analytics were used throughout the year to improve NCAT’s website content.

Social media posts and comments about new and updated resources and forms, service news, and topical Tribunal information feature on NCAT’s Twitter account. This allows NCAT to provide information and alerts to Tribunal users and stakeholders quickly, keeping them informed and up to date on legislative and procedural changes.

Feedback, surveys and newsletters

Online feedback forms are available on the NCAT website to enable people who use the Tribunal’s services to provide comments and suggestions for improvement. NCAT also conducts surveys from time to time to gather feedback and information.

Subscription services for the *What’s New* email alert, *NCAT Legal Bulletin*, the *Appeal Panel Decisions Digest* and the new *Guardianship Division Case Digest* are available to keep people updated on the latest news from NCAT, and decisions relevant to the work of the Tribunal. By 30 June 2022, there were 3,956 subscribers to these online alerts and e-newsletters.

The *NCAT Staff Monthly Update* is a regular newsletter that informs Registry staff about issues relevant to their roles and day-to-day operations. The newsletter is designed to be used by supervisors in staff meetings to promote discussion about the topics.

Stakeholder interaction

The NCAT Liaison Group and Divisional Consultative Forums provide the opportunity for the direct provision of feedback to the Tribunal. The participation of Members and Registry staff at conferences and meetings also allows the Tribunal to receive comments and other feedback (both positive and negative) on its performance.

Internal appeals

Parties dissatisfied with a decision of NCAT can, in many cases, appeal to NCAT’s Appeal Panel. The number of appeals, the grounds of appeal and

consideration of the reasons for decision of NCAT at first instance, provide valuable insights into the quality of the Tribunal's first instance decisions and the legitimacy of the parties' dissatisfaction. Appeal Panel decisions provide guidance to Members to improve the quality of decision-making and writing throughout NCAT.

Complaints data

NCAT considers and responds to complaints in accordance with the *NCAT Policy 1 – Complaints*. Complaints data also assists to develop and improve the Tribunal's processes and provision of information.

Divisional and Appeal Panel Reports

Administrative and Equal Opportunity Division

Consumer and Commercial Division

Guardianship Division

Occupational Division

Appeal Panel

Administrative and Equal Opportunity Division

What the Division does

The Administrative and Equal Opportunity Division reviews government decisions affecting individuals and resolves anti-discrimination complaints.

Nearly 100 statutes give jurisdiction to the Division to review various decisions made by government administrators. The two statutory aims of external review of government decisions are to enhance the delivery of government services and programs, and to promote compliance by government administrators with legislation when making decisions.

The term 'equal opportunity' describes the other major function of this Division which is to resolve complaints made under the *Anti-Discrimination Act 1977*. This Act gives a remedy to people who have been discriminated against, harassed, vilified or victimised on certain grounds.

Work within the Division

The Division allocates matters to four Lists – Administrative Review, Community Services, Revenue, and Equal Opportunity.

The Administrative Review List manages the review of decisions made by administrators. These include access to government information, breaches of privacy, and decisions by the NSW Trustee and Guardian. Administrative decisions about occupational and professional licences and registration are dealt with in the Occupational Division.

The Community Services List includes matters concerning the review of decisions about whether persons should be allowed to work with children and whether authorised carers (foster carers) should lose their accreditation.

The Revenue List includes the review of decisions about state taxes, such as land tax and payroll tax.

The Equal Opportunity List manages complaints referred to the Tribunal by the President of the Anti-Discrimination Board. These include complaints about discrimination, harassment, vilification or victimisation on grounds such as race, sex, transgender status, age, disability, homosexuality and carer's responsibilities.

During 2021-22, the majority of matters were heard via audio-visual link (AVL) or telephone, with a small number of in-person hearings conducted with the President's prior approval.

Table 2 – 2021-22 Administrative and Equal Opportunity Division workload and performance

LIST	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Administrative Review	587	599	102.0%
Community Services	67	76	113.4%
Equal Opportunity	116	117	100.9%
Revenue	116	95	81.9%
TOTAL	886	887	100.1%

Workload

The Division received 886 applications this year and finalised 887 giving a clearance ratio across the whole Division of 100.1%.

The Division encourages self-represented parties to obtain legal advice and representation in appropriate cases. Both Legal Aid NSW and the Bar Association's Legal Assistance Referral Scheme (LARS) have provided much needed legal assistance to parties who meet their guidelines.

In most kinds of proceedings, parties are given an opportunity to resolve their dispute through case conference or mediation. In suitable matters, the Division provides an experienced mediator at no cost to the parties. Those matters include anti-discrimination complaints, revenue applications, applications for access to government information and privacy breaches.

COVID-19 pandemic

From time to time throughout the year, hearings in the Division were able to be convened in person. However, for much of the year, matters were heard via audio-visual link or telephone.

Members and mediators

The Division comprises the Deputy President and Division Head, Principal Members, Senior Members and General Members. All of the Members apart from the Division Head and one Principal Member work part-time. Principal and Senior Members are lawyers. General Members represent community perspectives and provide knowledge and expertise relating to their area of work.

Members participate in a program of professional development. This year that program included three twilight seminars. The program is designed to improve the knowledge and skills of Members. Members' performance is regularly appraised and feedback is given.

The Division has a group of eight expert mediators, some of whom are also Members. They conduct mediations across several Lists in the Division.

Legislation

Changes to legislation relating to the work of the Division during the year included the introduction of the following:

- *Design and Building Practitioners Act 2020*
- *Public Spaces (Unattended Property) Act 2021*.

A full list of the legislation which confers power on the Division is attached at Appendix 1.

Consultation with stakeholders

A stakeholder meeting was held in the second half of the financial year. Most of the stakeholders attended by audio-visual link.

Significant decisions

ELQ v Public Guardian [2021] NSWCATAD 184

The applicant applied for review and a stay of the respondent's decision to relocate the applicant's son to supported accommodation managed by an alternate provider. The Tribunal, in refusing the stay application, had significant regard to evidence that the applicant's son was at increased risk in continuing to remain at his initial placement and there was general agreement that the current accommodation was not suitable. In its reasons, the Tribunal explained that any decision of the Public Guardian cannot be the correct decision unless it is made having regard to the general principles set out in section 4 of the *Guardianship Act 1987*. The Tribunal observed that while much of the submissions and evidence focused on the adverse impact the decision would directly have on members of the family and indirectly on the applicant's son, the overall determinative matter rested with section 4(a) of the *Guardianship Act* which requires that paramount

consideration be given to the welfare and interests of a person under Guardianship.

The Tribunal determined that the correct and preferable decision was to affirm the Public Guardian's decision as the Public Guardian had made its decision in accordance with the principles in section 4 and the evidence overwhelmingly supported a finding that the previous accommodation should change.

ERS v Registrar of Births, Deaths and Marriages [2021] NSWCATAD 186

The applicant sought review of the respondent's decision to refuse his request to change his name for a fourth time. The applicant's reasons for wanting to change his name was due to alleged ongoing fraud using his name. Section 29B(b) of the *Births, Deaths and Marriages Act 1995* provides that the Registrar is not to register a change of name where an applicant has already had three name changes unless an exception under section 29C applies. The applicant argued that the respondent in making its decision failed to give proper consideration to these exceptions.

The Tribunal held that before exercising the discretion to allow a further change, NCAT must be satisfied that an applicant who has already changed his or her name three times has some good reason for warranting a further change to the register and that there must be some ground or circumstances over and above personal preference justifying a change. In considering whether to exercise its discretion, the Tribunal determined that it could take into account whether the proposed change of name was for the financial protection of a person. The Tribunal found that the applicant had advanced a sufficient reason for wanting to change his name, which was not based on personal preference, and set aside the respondent's decision to refuse to register the applicant's change of name.

Rafael v Chief Commissioner of State Revenue [2021] NSWCATAD 218

The respondent made a decision refusing to allow stamp duty at the concessional rate available under section 55 of the *Duties Act 1997* in relation to a transfer of interest in the title to a residential property.

The transfer of interest was from one of the two joint registered proprietors (Mr Shahaf) to the other registered proprietor (Mr Rafael). Mr Rafael applied to NCAT to review the Chief Commissioner's decision to refuse the concessional duty. As the Tribunal explained, Mr Rafael bore the onus of proving that duty at a concessional rate was available which meant satisfying NCAT that both preconditions under section 55 of the *Duties Act* had been met. The first precondition was whether the dutiable property under the transfer was, as a result of the transfer, vested in Mr Shahaf upon trust for Mr Rafael. The second precondition was whether Mr Rafael provided the whole of the money representing the purchase money of that dutiable property, with reference to section 55(1A) of the *Duties Act*.

The Tribunal found that Mr Rafael had not proved that he provided the money for the transfer of the dutiable property nor that any part of the purchase money which had been provided to him as a loan had been or would be repaid by him. The Tribunal concluded that the concessional duty under s 55 was not available to him as the pre-conditions had not been met and confirmed the Chief Commissioner's decision under review was the correct and preferable decision.

Manuf v Secretary, NSW Ministry of Health [2022] NSWCATAD 2

The applicant lodged a complaint with the Anti-Discrimination Board alleging that he was victimised and discriminated against by his employer due to his age. The complaint was referred to NCAT for determination pursuant to 93C(b) of the *Anti-Discrimination Act 1977*. The applicant alleged that his employer had discriminated against him by failing to give him promotions or transfers because of his age. He also alleged that his employer had victimised him after he made a complaint about his supervisor.

The Tribunal, in dismissing the discrimination complaint, found that the evidence "does not establish that his application for the position was not rejected on the basis of merit, nor that he was treated less favourably than other candidates on the ground of age." Further, the Tribunal found the applicant had not

established that he was victimised by the respondent or an employee of the respondent pursuant to s 50 of the *Anti-Discrimination Act* and dismissed the victimisation complaint. The applicant sought to extend the period of discrimination to include events which occurred outside the period of the complaint however the Tribunal refused to allow the amendment as it was filed shortly before the final hearing, did not have merit and had not been raised in his initial complaint with the Anti-Discrimination Board.

Pendrick v Commissioner of Police, NSW Police Force (No 2) [2022] NSWCATAD 27

The applicants, Mr and Ms Pendrick, each applied for a Category AB firearms licence which was refused by the Commissioner of Police. The applicants both sought administrative review of that decision by NCAT. Although the applications for administrative review were filed late, NCAT extended the time to file the applications which the Commissioner did not object to. The Commissioner relied on s 11(7) of the *Firearms Act 1996* as grounds for refusing to issue a licence to the applicants on the basis that it was not in the public interest. The Commissioner also sought to rely on confidential evidence in support of its argument that it would be against the public interest to issue the applicants with a licence.

In considering whether to admit the confidential evidence, the Tribunal noted there was often a tension between the requirements of open justice and procedural fairness on the one hand and public interest in keeping information confidential on the other. Having considered the probative value of the confidential evidence, its prejudicial nature, the principles and objects of the *Firearms Act* and the relevance of the evidence to the Tribunal's task, the Tribunal Member ultimately decided to admit the confidential information as "the main reason...is that my task, when conducting these administrative reviews, is to make decisions as to the public interest and the material is relevant to those decisions." The Tribunal determined that the issue of a licence to both Mr and Ms Pendrick would be contrary to the public

interest and affirmed the Commissioner's decision to refuse the applicants a Category AB firearms licence.

Consumer and Commercial Division

What the Division does

The Consumer and Commercial Division resolves disputes in a broad range of contexts. These include disputes under the *Residential Tenancies Act 2010*, the *Fair Trading Act 1987*, the *Retail Leases Act 1994*, the *Agricultural Tenancies Act 1990*, the *Home Building Act 1989*, the *Strata Schemes Management Act 2015*, the *Retirement Villages Act 1999*, the *Residential (Land Lease) Communities Act 2013* and the *Holiday Parks (Long-term Casual Occupation) Act 2002*.

Workload

During 2021-22 the Division received 53,634 applications and finalised 54,853 giving a clearance ratio across the whole Division of 102.3%. Total finalisations decreased by 0.2% with lodgements also falling by 0.2% in the reporting period from the previous year.

The management of the Division's caseload is conducted in the following Registries: Sydney, Penrith, Liverpool, Tamworth, Newcastle and Wollongong.

COVID-19 pandemic

The operations of the Division continued to be impacted by the COVID-19 pandemic. During 2021-22 it was hoped there would be return to face-to-face hearings, however most hearings continued to be conducted virtually by telephone or video conference during the reporting period. This had the greatest impact on Group Lists where most tenancy and small claims are initially listed for conciliation and directions.

Adjustments made to the Division's processes in response to the COVID-19 pandemic, including how matters are listed, conciliated and heard, and how evidence is filed, combined with the increased use of audio-visual link (AVL) and cloud-based virtual

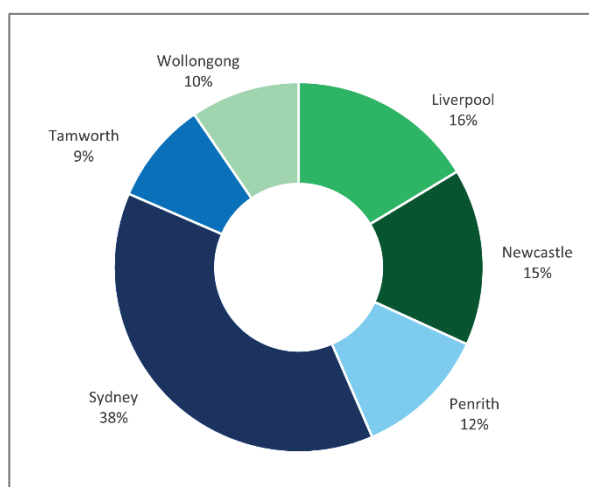
Table 3 – 2021-22 Consumer and Commercial Division workload and performance

LIST	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Tenancy	30,503	31,093	101.9%
Social Housing	11,127	11,211	100.8%
General	4,491	4,841	107.8%
Home Building	2,981	3,076	103.2%
Residential Communities	456	434	95.2%
Strata and Community Schemes*	20	22	110.0%
Community Land**	22	17	77.3%
Strata Schemes	1,498	1,438	96.0%
Motor Vehicles	1,705	1,812	106.3%
Commercial	776	845	108.9%
Retirement Villages	55	64	116.4%
TOTAL	53,634	54,853	102.3%

* The Strata and Community Schemes List ceased on 30 November 2021.

** The Community Land List commenced on 1 December 2021.

Graph 3 – Consumer and Commercial Division Workload received by Registry 2021-22



hearings for Group Lists, enabled the Division to operate efficiently during the reporting period.

During the reporting period, the Division had also reduced its backlog of unresolved cases (work on hand) from 8,681 to 7,884 applications as at 30 June 2022.

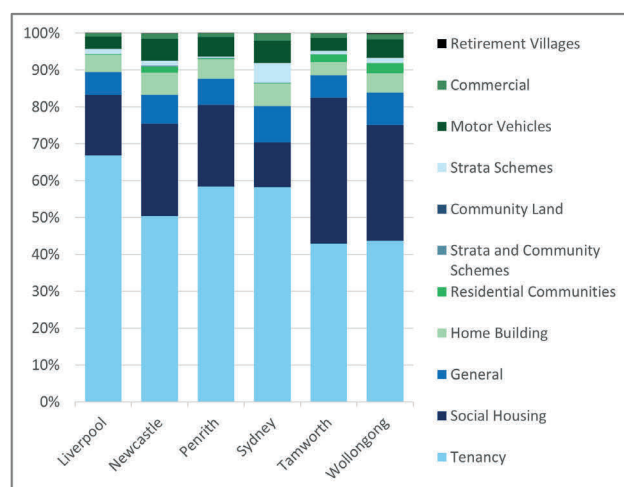
A return to a more normal level of work on hand is expected in the 2022-23 financial year as restrictions imposed during the pandemic are reduced or removed. This will occur as the Division gradually returns to in-person hearings and resumes hearing in regional New South Wales and at venues other than NCAT Registries.

Members

During the year, 14 new Members were appointed to the Division. The number of full-time and part-time Members hearing cases in the Division during the reporting period was 88. Approximately 14 Members of the Division sit on Appeal Panels.

During the year a recruitment process for part-time General Members commenced and was completed in September 2021. Recruitment for part-time Senior Members which commenced in the previous reporting period was completed in November 2021.

Graph 4 – Consumer and Commercial Division List types received by Registry 2021-22



Legislation

Changes to legislation affecting the work of the Division during the year included the introduction of the following:

- *Strata Schemes Management Amendments (Sustainability Infrastructure) Act 2020*
- *Community Land Management Act 2021.*

A full list of the legislation which confers power on the Division is attached at Appendix 1.

Consultation with stakeholders

The annual consultative forums took place in December 2021. The different forums were conducted online and combined into two events. Due to technical limitations, there were limits on participation.

The mid-year Consultative Forums took place in June and July 2021 with stakeholder representatives attending online.

Consultative forum meetings are valuable as they enable the Tribunal to convey changes to interested stakeholders which are being considered or have been made. They also enable stakeholders to raise issues or

concerns which their constituent members have experienced in the Tribunal.

Tribunal Members have also delivered presentations to stakeholder groups and to various professional bodies, including at Legalwise Conferences.

Significant decisions

Nam v Zarb [2022] NSWCATCD 87

The applicant was a landlord who sought an order for compensation against the respondent, a tenant under a residential tenancy agreement to which the *Residential Tenancies Act 2010* (NSW) applied. The landlord said that the tenant had damaged common property of the strata scheme in which the residential premises were located. The common property was damaged when the tenant entered the parking area and the tenant's car was struck by the car park's security gate, which descended on the tenant's car as it passed through the entrance.

A term of the residential tenancy agreement required the tenant not to intentionally or negligently cause or permit any damage to the residential premises. Another term required the tenant to ensure nothing was done on the residential premises which may expose the landlord to any claims or liabilities or which might give rise to an insurance claim.

The Tribunal determined that the residential tenancy agreement applied to residential premises and that the common property of the strata scheme did not form part of the residential premises under the agreement. Because the security door was common property, any damage to it by the tenant's car was not damage to the residential premises. Further, nothing had been done on the residential premises which would constitute a breach of the residential tenancy agreement entitling the landlord to damages. Lastly, the Tribunal decided that there was no other statutory or contractual duty owed by the tenant to the landlord which could be subject to a claim for damages in the circumstances. Consequently, the application was dismissed.

Bruce v The Owners – Strata Plan No. 98803 [2022] NSWCATCD 83

The applicants were the owners of a French Bulldog who were refused permission to keep the dog in the strata scheme. Permission was required by the by-laws of the strata scheme. The owners corporation refused permission for reasons including that another dog owned by the applicants was said to “bark and run up and down the fence line” and that a backyard area was “considered not conducive to an additional dog”.

The by-law in question was described as “Option B”, being one of the types of standard by-laws prescribed by the *Strata Schemes Management Regulation 2016* (NSW) which an owners corporation could adopt.

Section 157 of the *Strata Schemes Management Act 2015* (NSW) (SSMA) permits the Tribunal to make an order permitting the keeping of the dog if the Tribunal is satisfied the owners corporation has unreasonably withheld its approval.

The Tribunal examined the effect of the Court of Appeal's decision in *Cooper v The Owners–Strata Plan No 58068* [2020] NSWCA 250 (*Cooper*) as well as s 137B of the SSMA, being a section introduced after the *Cooper* decision. Section 137B provides that it is “taken to be reasonable to keep an animal on a lot unless the keeping of the animal unreasonably interferes with another occupant's use and enjoyment of the occupant's lot or the common property”.

The Tribunal determined that the terms of the by-law did not prevent the applicants, who already had one dog, from obtaining permission to keep a second dog. The Tribunal also said that, when permission was requested, it was necessary for an owners corporation to consider the particular animal for which permission was sought and whether that animal would unreasonably interfere with another occupant's use or enjoyment of the lot or common property. The Tribunal found that the decision to refuse permission to keep a second dog was unreasonable because it was based on a wrong interpretation of the by-law (namely a lot owner was limited to one animal only) and that there was no evidence to suggest the dog for which

permission was sought would unreasonably interfere with the quiet enjoyment of other occupants.

Orders were made permitting the keeping of the dog in accordance with requirements as to the location of its housing (being on the applicants' lot), supervision of the animal and cleaning of common property areas soiled by the animal.

Bonanno v Blacktown Furniture Pty Limited t/as Harvey Norman Blacktown [2021] NSWCATCD 100

The applicant was a consumer who brought a claim against the supplier of a dining table which were said to be defective, arguing the table was not of acceptable quality and breached the consumer guarantee contained in s 54 of the Australian Consumer Law (NSW) (ACL).

The Tribunal determined the applicant was a consumer within the meaning of the *Fair Trading Act 1987* (NSW) and that the sale of the dining table constituted a supply of goods to the applicant. Consequently, the Tribunal had jurisdiction to determine the claim.

The dining table was new when sold and did not, when delivered, exhibit any signs of defect. The supply included a 12-month manufacturer's warranty. However, shortly after the warranty period expired, the tabletop showed signs of cracking. The manufacturer was notified and subsequently inspected the table, expressing the view that it believed the applicant had caused the damage.

The applicant, an engineer, expressed an opinion that the table had delaminated due to poor bonding of the laminate glue which was used. The applicant contended the dining table was poorly manufactured.

The Tribunal examined the meaning of the words "acceptable quality" used in the ACL. After referring to Supreme Court and Federal Court authorities, the Tribunal considered what a reasonable consumer would regard as acceptable. The Tribunal accepted the applicant's evidence that he had not damaged the table and that the cracking of the tabletop within a period of

2 years and 4 months demonstrated the goods were not of acceptable quality.

The Tribunal made a monetary award in favour of the applicant for the replacement of the tabletop.

Millen v Skyview Homes Pty Ltd [2021] NSWCATCD 137

This application concerned the renewal of proceedings under Sch 4 cl 8 to the *Civil and Administrative Tribunal Act 2013* (NSW) (NCAT Act). The proceedings being renewed had originally been brought under the *Home Building Act 1989* (NSW).

In the original proceedings, the Tribunal ordered the respondent builder to carry out rectification work to premises owned by the applicant homeowner.

In the renewal proceedings, the applicant contended that the respondent had not complied with the work order and that the work carried out was defective. Schedule 4 cl 8 to the NCAT Act permits the Tribunal to make other orders, in this case an order for damages, if there has been non-compliance with the orders originally made.

The Tribunal considered the purpose of renewal proceedings and the operation of Sch 4 cl 8. The Tribunal referred to Appeal Panel decisions in *Blessed Sydney Constructions Pty Ltd v Vasudevan* [2018] NSWCATAP 98; *Bondarek v NSW Land and Housing Corporation* [2018] NSWCATAP 299; and *Minifie v Maxwell* [2020] NSWCATAP 30 ('Minifie'), noting that Sch 4 cl 8 provided a mechanism by which earlier orders of the Tribunal might be enforced. In doing so, the Tribunal considered the obligations of a party in whose favour the original orders were made, particularly the obligation to act reasonably to allow the respondent an opportunity to comply with the orders. The Tribunal noted that a failure to act reasonably may disentitle a person from any alternative remedy in renewal proceedings.

The Tribunal determined that the original work order had not been complied with and awarded damages for loss suffered in consequence of the non-compliance.

Guardianship Division

What the Division does

The Guardianship Division exercises NCAT's protective jurisdiction and promotes the rights of people living with decision-making disabilities. It facilitates substitute decision-making by considering and determining applications for the appointment of guardians and financial managers.

In addition, the Division reviews guardianship and financial management orders, provides consent for medical and dental treatment, reviews enduring powers of attorney and enduring guardianship appointments, and approves clinical trials to enable people with decision-making disabilities to participate.

Many decisions made by the Division have a profound effect on an individual's autonomy and ability to make decisions about critical aspects of their life.

Section 4 of the *Guardianship Act 1987* requires Members of the Division when exercising their powers

under that Act to observe a number of principles.

These include taking into account the views of people with a disability, restricting their freedom of decision-making and freedom of action as little as possible and protecting them from abuse, neglect and exploitation. At all times, the welfare and interests of people with disabilities is the paramount consideration.

Work within the Division

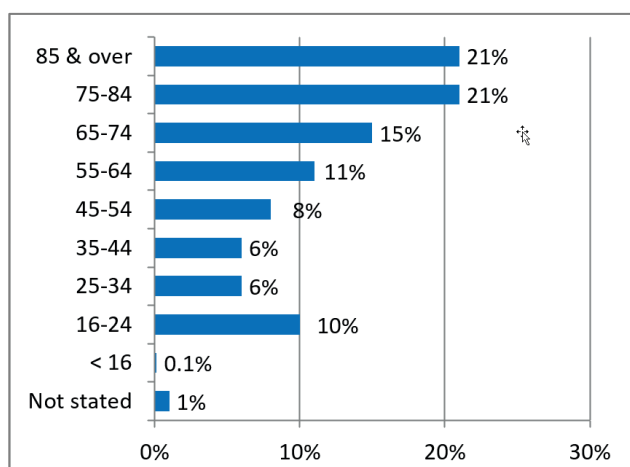
The Division uses a triage system to assess applications based on the apparent risk posed to the person the subject of the application (the subject person) or their estate. Listing priority is given to applications where the subject person is assessed at being at immediate risk (Risk Category 1).

The Division recognises the urgent nature of many applications, and provides an after-hours service, enabling applications to be determined 24 hours a day, 365 days a year.

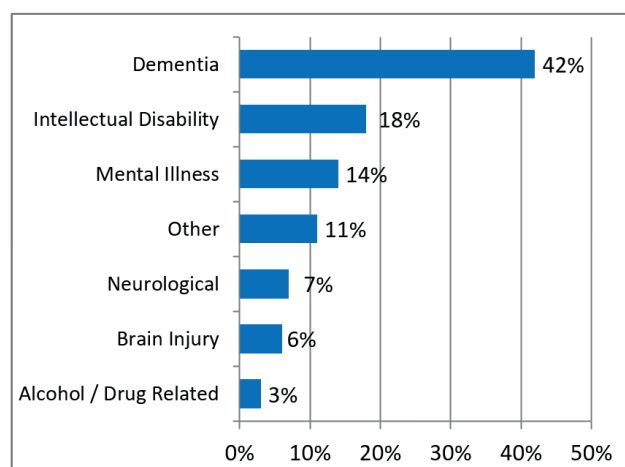
Table 4 – 2021-22 Guardianship Division workload and performance

APPLICATION TYPE	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Guardianship	4,590	4,413	96.1%
Requested Review of Guardianship	608	557	91.6%
Financial Management	3,394	3,306	97.4%
Requested Review of Financial Management	773	596	77.1%
Enduring Power of Attorney	241	245	101.7%
Enduring Guardianship	176	155	88.1%
Review/Revocation of an Enduring Power of Attorney	31	26	83.9%
Medical/Dental Consent	508	498	98.0%
Recognition of Interstate Appointment	69	68	98.6%
Clinical Trial	26	29	111.5%
Rehearing – Remittal	3	4	133.3%
Set Aside/Vary Decisions	2	0	-
Statutory Reviews (falling due in the period)	4,455	4,411	99.0%
TOTAL	14,876	14,308	96.2%

Graph 5 – Age demographic of the people the subject of application 2021-22



Graph 6 – Disability identified in applications 2021-22



Accessibility

The Division is committed to ensuring that the subject person is supported to participate in proceedings to the greatest extent possible. Whenever possible, the Division follows the guidelines developed by the Australian Guardianship and Administration Council which are designed to maximise the participation of the subject person in guardianship proceedings.

The Division’s staff endeavour to contact and encourage the subject person to attend the hearing and to provide their views about the application. To facilitate the subject person’s participation in hearings, before the COVID-19 pandemic, the Division regularly sat in regional areas.

However, throughout the pandemic most hearings were held remotely, by video conference or telephone. Reflecting the commitment to maximising the participation of the subject person, the Division continued to encourage the subject person to participate in hearings. Throughout the reporting period the subject person participated in 80% of substantive hearings, 48% by telephone and 32% by video conference.

Workload

The Division continued to experience significant growth in its workload, increasing by 4.1% from the previous

year. A two-year comparison has seen the workload of the Division increase by 15.8%. Despite this increase, and the impact of COVID-19, the Division managed to achieve a clearance ratio of 96.2%.

In the reporting period the number of applications made to the Guardianship Division grew to 10,421 for substantive orders and the Division conducted 4,455 statutory reviews of guardianship and financial management orders. The primary driver of growth continues to be Australia’s ageing population and the consequent increase in the number of people living with dementia. Additional factors contributing to the growth include: increased public awareness of abuse and exploitation of people with disabilities and elderly people as a result of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and the Royal Commission into Aged Care Quality and Safety; the ongoing structural changes within the disability sector due to the implementation of the NDIS; and the implementation of safeguards to reduce the use of restrictive practices in residential aged care facilities in response to the Royal Commission into Aged Care Quality and Safety.

Guardianship orders are time limited. The *Guardianship Act* requires that they be periodically reviewed by the Tribunal, generally every 12 months. While not time-limited, financial management orders must be reviewed if ordered by the Tribunal or on application.

During 2021-22, the Guardianship Division:

- received 4,590 applications for guardianship orders and finalised 4,413 applications. Of the appointments made 48.8% were private guardians, 49.7% the Public Guardian and 1.5% a joint appointment of a private and the Public Guardian
- received 3,394 applications for financial management orders and finalised 3,306 applications. Of the appointments made, 51% were private financial managers, and 49% the NSW Trustee and Guardian
- granted 215 requests for legal representation and appointed 562 separate representatives meaning one or more parties were legally represented in 5.2% of applications
- arranged for the attendance at hearings of 1,632 interpreters in 62 languages.

COVID-19 pandemic

The operation of the Division has been significantly affected by the COVID-19 pandemic. Throughout the reporting period, most hearings were conducted by video conference or telephone. In-person hearings required approval of the President.

A technology upgrade enabled the Division to conduct a greater proportion of hearings by video conference throughout the reporting period. The Division's experience is that hearings conducted by video conference offers parties, especially those with a hearing impairment, cognitive impairment and/or certain types of mental illnesses, a better opportunity to effectively participate in the hearing, as compared to hearings conducted by telephone.

Despite the numerous changes made to the Division's practices and procedures necessitated by the COVID-19 pandemic, together with its increased workload, the Division continued to determine urgent applications promptly.

The Division looks forward to the return of in-person hearings in line with its commitment to maximising the participation of the subject person in hearings.

Members and staff

In most cases, hearings are conducted by a three-Member panel: a Senior (Legal) Member, a Senior (Professional) Member, and a General (Community) Member.

Members of the Division are appointed on the basis of their professional and personal experience with people with disabilities and/or their legal skills and experience. Senior (Professional) Members hold professional qualifications in areas such as medicine, psychiatry, psychology and social work. General (Community) Members have direct personal and/or professional experience with people with a decision-making disability.

The multi-member panel model has a number of advantages. First, it enables the Tribunal to draw on the collective knowledge, skill and experience of its Members. This assists the Tribunal to evaluate the available evidence and to discharge its statutory obligation to ensure that all relevant material is disclosed to the Tribunal (section 38(6)(a) of the NCAT Act). Second, the Tribunal's ability to draw on its own expertise contributes significantly to the quality of its decisions. Third, in circumstances where the parties and/or other participants are in conflict and the subject matter of the application is contentious, a three-member Tribunal enables the task of managing hearings to be shared.

The Division's professional development for Members focused on topics which are relevant to the jurisdiction including working with interpreters, enhancing Member skills in conducting virtual hearings, financial issues in aged care, and the interrelationship between NCAT's protective jurisdiction and the Supreme Court's family provision, probate and equity jurisdictions.

Registry staff provide a specialist enquiry service and give information to the subject person, their family and

anyone with a genuine concern for the subject person's welfare, about the Division's procedures and the type of information likely to be required to support an application. In appropriate cases, staff assist people to identify informal solutions where problems arise with a person's decision-making capacity. This often results in an application not being made to the Tribunal and, instead, the person being supported to make their own decisions by their family and friends.

Assisting the subject person to understand NCAT's role and its procedures is a focus of the Division's enquiry service. Staff encourage the participation of the subject person by exploring with them, their families and friends, options to facilitate their participation in the hearing process. In addition, where appropriate, staff seek information about the subject person's capacity to make decisions, the support available to assist them to make decisions and the type of decisions that are likely to be required to be made in the foreseeable future.

Consultation with stakeholders

The NCAT Guardianship Division Consultative Forum met twice in the reporting period.

Members of the forum include representatives from advocacy groups, such as the Seniors Rights Service, Alzheimer's Australia NSW, the Intellectual Disability Rights Service, the NSW Council for Intellectual Disability, and key government agencies, including the NSW Public Guardian, the NSW Trustee and Guardian and the National Disability Insurance Agency. The forum provides the Division with an invaluable opportunity to engage with the disability sector and other stakeholders and to receive feedback about our practices and procedures.

In addition, the Division was represented on the Australian Guardianship and Administration Council, and the NSW Law Society Elder Law and Succession Committee.

Significant decisions

BXC [2022] NSWCATGD 2

BXC is 97 years old and over the last 70 years has been a member of a religious congregation. As BXC's health deteriorated, the Prioress of the congregation made an application to NCAT to appoint a financial manager for BXC. A financial manager has the authority to make decisions about financial affairs for someone who is incapable of making these decisions for themselves.

Upon entering the congregation, members take a 'vow of poverty' and entrust their wealth to the congregation to manage communally. The congregation is responsible for taking care of its members, including their food, housing, and health care needs. The congregation paid for BXC's accommodation in an aged care facility. The congregation also has procedures for placing members' property under the management of the congregation. BXC inherited a half-interest in a property after the death of her brother, and the congregation was seeking to sell the property so that the proceeds from the sale could be put into BXC's "patrimony account" where her money was being held on her behalf.

When deciding whether to make a financial management order, the Tribunal must apply the principles set out in s 4 of the *Guardianship Act*. Section 4 of the *Guardianship Act* requires, among other considerations, that the Tribunal consider the person's welfare and best interests, and what their wishes are. The Tribunal was satisfied that BXC needed a financial manager because she suffers from dementia and was not able to manage her own affairs. The Tribunal made a financial management order and appointed the Prioress of the congregation as BXC's financial manager. The Tribunal found that it was in BXC's best interests for a financial management order to be made for the limited purpose of selling BXC's property and allowing her to receive the proceeds of the sale. The Tribunal concluded that that order accorded with BXC's wishes because she has a personal commitment to the congregation, follows the congregation's norms and customs, and had accepted the congregation's procedures for dealing with wealth.

PZI [2021] NSWCATGD 21

A social worker made an urgent application to NCAT seeking a guardianship order to be made in relation to PZI who was a patient at a public hospital. At the time of the application, PZI was 36 weeks' pregnant. PZI has a long history of schizophrenia and poly-substance abuse and was expressing delusional thoughts about the pregnancy and her unborn child, at times not believing that she was carrying a child. The social worker was concerned that because of her conditions, PZI would not be able to consent to medical interventions during the labour and delivery of her child, which would put the health of PZI at risk.

Under the *Guardianship Act*, NCAT can appoint a guardian to make decisions about what health care or medical treatment the subject person should receive. The Tribunal found that it was in PZI's best interests to appoint a guardian to decide what health care PZI should receive and to make decisions about proposed medical treatment, where PZI was not capable of giving valid consent. The Tribunal also found that it is necessary for the guardian to be able to override any objections that PZI might have to treatment because PZI lacked insight into her condition.

The Tribunal also found that it was in PZI's best interest to give the guardian the authority to consent to the use of a "physical restraint", that is, the use of physical force to prevent or restrict a person's movement. The order specified that the restrictive practice could only be used as a last resort for the holding down of PZI's arm/s for the purpose of administering necessary medication or the taking of blood.

The guardianship order was made for three months to cover the time until PZI gave birth and the likely period of post-partum recovery.

TKQ [2021] NSWCATGD 23

TKQ is a 62-year-old man who has been diagnosed with chronic treatment resistant schizophrenia. NCAT received an application from TKQ's psychiatrist seeking the Tribunal's consent for TKQ to receive a COVID-19 vaccine.

Under Pt 5 of the *Guardianship Act*, if a medical practitioner believes that a patient is not capable of giving informed consent to receiving medical treatment, the practitioner must obtain consent from a person or body with legal authority to consent to that treatment on behalf of the patient, namely, a "person responsible", which includes a guardian, or the Tribunal.

TKQ's mother was his guardian and therefore authorised to give consent to the COVID-19 vaccine on TKQ's behalf. However, she refused to give consent due to concerns about the risks of TKQ suffering an adverse reaction from the vaccine.

NCAT is authorised to provide consent if satisfied that it is appropriate for the medical treatment to be carried out: *Guardianship Act*, s 44. NCAT can provide consent even if the patient and the patient's responsible person objects to the treatment.

NCAT found that the mother had given almost no regard to the potential impact on TKQ if he did not receive the vaccine and contracted COVID-19. Nor had she sought advice or opinions from medical practitioners. The Tribunal decided that it was appropriate to provide consent, finding that TKQ's mother was not able to make a balanced and reasoned decision about whether it was in TKQ's best interests to receive a COVID-19 vaccine.

Occupational Division

What the Division does

The Occupational Division hears and determines occupational matters in two broad categories:

- Professional discipline of health practitioners, architects, veterinary practitioners, registered certifiers, lawyers and public notaries, and
- Administrative review of decisions relating to the licensing of specified occupations.

The Division also deals with matters involving the possible non-compliance by local government councillors with their codes of conduct and pecuniary interest provisions under the *Local Government Act 1993*.

Work within the Division

The Division principally deals with professional disciplinary matters brought by statutory authorities and other professional associations against architects, health practitioners, lawyers and public notaries, veterinary practitioners, and registered certifiers.

It also hears and determines matters involving local government councillors for asserted breaches of the

pecuniary interest provisions and codes of conduct applicable to local government councillors under the *Local Government Act 1993* as well as challenges to election of councillors.

In addition, the Tribunal hears and determines matters involving Aboriginal land councillors for asserted breaches of pecuniary interest provisions and codes of conduct applicable to those councillors under the *Aboriginal Land Rights Act 1983*.

The Division exercises an appellate function in hearing appeals under the Health Practitioner Regulation National Law against decisions of the various health professional councils and national boards. The Division also exercises an administrative review jurisdiction in respect of a number of occupations including builders, taxi services and security agents.

The matters heard in this Division are frequently of significant complexity and generally require longer hearing times than in other Divisions. One of the primary functions of the Division is to protect the public by ensuring only those professionals, including doctors, other health professionals and lawyers, competent and appropriate to practise, do so.

Table 5 – 2021-22 Occupational Division workload and performance

LIST	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Administrative Review	100	104	104.0%
Health Practitioner	104	131	126.0%
Legal Practitioner and Other Professionals	10	24	240.0%
TOTAL	214	259	121.0%

Workload

During 2021-22, the Occupational Division received 214 applications and finalised 259, giving a clearance ratio across the whole Division of 121.0%. The predominant type of applications in the Division are professional disciplinary proceedings.

In health professional disciplinary matters, the ability of the Tribunal to dispose of its caseload is enhanced by the appointment of Members from the relevant professions who sit as Occasional Members. These Members provide specialist knowledge and skill to the issues requiring determination. The Tribunal panel also includes a Lay Member, whose contribution is also valuable.

Case conferencing is used to narrow issues in dispute and to reduce hearing time and costs.

COVID-19 pandemic

The Division continued to hear matters by means of audio-visual link (AVL) or telephone when conditions arising on account of the pandemic required.

Members

The Division comprises the Deputy President and Division Head, as well as Members in the Division who include Judges, Principal and Senior Members and Professional Members who are appointed as Occasional Members for a particular matter because of their professional expertise, and General and Lay Members.

In legal services matters involving disciplinary applications brought under the Legal Profession Uniform Law (NSW), the Tribunal is constituted by a three Member panel comprising a senior judicial officer or a Legal Member (barrister or solicitor depending on the discipline of the practitioner), another Legal Member (barrister or solicitor) and a General Member. Constitution of the Tribunal to hear other types of matters involving legal practitioners differs depending on the type of proceeding.

Composition of the Tribunal to hear other professional disciplinary matters is fixed by the governing legislation, and typically includes a professional from the appropriate discipline.

Disciplinary proceedings against local government councillors are usually heard by a single Member except in the case of a challenge to a councillor's election when the panel comprises three Members.

Administrative review matters involving numerous occupations including builders, taxi services and security agents are typically heard by a single Legal Member.

Legislation

There was no new jurisdiction conferred on the Division during the reporting period. A full list of the legislation which confers power on the Division is attached at Appendix 1.

Consultation with stakeholders

A stakeholder meeting was held in the second half of the financial year. Most of the stakeholders attended by AVL.

Significant decisions

Tom v Commissioner of Fair Trading [2022] NSWCATOD 130

The decision dealt with making of an interim order reinstating a builder's licence until the final determination of the substantive application. The builder was seeking reinstatement of the licence with retrospective effect. The respondent conceded that consistent with the decision in *AVS Group of Companies Pty Ltd v Commissioner of Police* [2010] NSWCA 81, it was within the scope of s 60(2) of the *Administrative Decisions Review Act 1997* (ADR Act) for the Tribunal to reinstate the licence, however, objected to reinstatement of the licence retrospectively.

Referring to the decision in *King Educational Service Pty Ltd v Chief Executive Officer of the Australian Skills Quality Authority (No 2)* [2021] FCA 183 which had cited Basten JA's dicta in *AVS*, the Tribunal ultimately found that s 60(2) is sufficiently broad to enable the Tribunal to restore a revoked licence with retrospective effect. That interpretation of s 60(2) is consistent with s 66(2)(b) which allows a final decision on a review to take effect from the date of the original decision: *ADR Act*, s 66(2)(b).

Health Care Complaints Commission v Sinnathurai [2021] NSWCATOD 102

The Health Care Complaints Commission (HCCC) sought disciplinary findings and orders against a general practitioner under the Health Practitioner Regulation National Law (NSW). Three patients had complained about the practitioner's conduct. Patient A went to a consultation in order to renew a prescription for the contraceptive pill. The practitioner conducted an unorthodox breast examination and an abdominal examination. He also made sexual comments and partially dressed and undressed Patient A himself. He handled Patient A's breasts whilst making an inappropriate comment. The practitioner did not offer the patient a sheet or a chaperone for the examination. The HCCC alleged that the practitioner was guilty of unsatisfactory professional conduct in that the conduct alleged was not a clinically necessary examination, and nor did the practitioner obtain informed consent, or explain the clinical reason for the examination.

The Tribunal found that this conduct, and the undressing of the patient, and the sexual remarks, were in breach of the relevant Code of Conduct and the Sexual Boundaries Guidelines. The practitioner's conduct amounted to unsatisfactory professional conduct.

Patient B consulted the practitioner to ascertain whether she was pregnant. Her pregnancy was confirmed with a urine test. The practitioner then examined her abdomen, advising that he was checking for an ectopic pregnancy. He then examined her breasts, saying that he was checking for cysts. He

lifted her shirt and moved her bra aside in order to get access to her breasts. He did not offer her a sheet or a chaperone.

The Tribunal found that, although a breast examination is sometimes performed in early pregnancy, the practitioner did not obtain informed consent and undertook an examination which was not a proper clinical examination. The practitioner's conduct was found to be improper and unethical conduct, and therefore constituted unsatisfactory professional conduct.

The practitioner conceded the allegation that his medical records in relation to both Patient A and Patient B were inadequate. This amounted to unsatisfactory professional conduct.

The Tribunal found that the breast examinations of Patient A and Patient B, taken alone or together, amounted to professional misconduct.

Health Care Complaints Commission v FDE [2021] NSWCATOD 215

Disciplinary proceedings were brought by the Health Care Complaints Commission (HCCC) against the respondent, FDE. The disciplinary proceedings against FDE concerned his convictions for criminal offences in the District Court and his failure to notify the National Board that he had been charged with or convicted of those offences pursuant to sections 149C, 139B(1)(b) and 130 of the Health Practitioner Regulation National Law.

FDE was serving a custodial sentence at the time of the disciplinary proceedings and sought orders from the Tribunal preventing disclosure of his identity. FDE argued that the non-disclosure orders were to protect his own physical safety during his incarceration and, following his release in January 2022, to protect the psychological health and safety of his children. The Tribunal decided to make an interim non-disclosure order under s 64(1) of the NCAT Act and made directions for the parties to provide submissions in relation to the continuation of the non-disclosure orders.

The Tribunal determined its power under s 64 is discretionary and its exercise of the discretion requires that an applicant establish “special circumstances” justifying such an order. The Tribunal found that FDE had not established special circumstances in relation to the alleged adverse impact on his children if his identity was disclosed. The Tribunal was also not satisfied that FDE’s safety would or could be at risk after he was released from imprisonment to justify making a non-disclosure order.

The Tribunal was satisfied there were special circumstances to justify making a non-disclosure order until FDE was released from custody or taken to immigration detention. This was based on an objective risk of FDE being killed or suffering serious injury if his identity was disclosed. The Tribunal made orders prohibiting disclosure of FDE’s name or the reasons of the decision in the substantive proceedings until after FDE was to be released from custody. The Tribunal made a further order allowing the regulatory bodies to publish FDE’s name on the public register or roll if the Tribunal made any orders cancelling or otherwise affecting FDE’s registration or re-registration.

Appeal Panel

What the Appeal Panel does

The Appeal Panel is responsible for hearing internal appeals from decisions of each of the Divisions where there is a right of appeal to the Appeal Panel provided in the NCAT Act or in the enabling legislation.

The Appeal Panel is also responsible for hearing designated external appeals as provided for in the NCAT Act or the enabling legislation.

Workload

There was an increase in the number of appeals filed in the 2021-22 reporting period. The Appeal Panel received 813 appeals for the year ending 30 June 2022. In the previous year, a total of 795 appeals were received. Despite the increase of 2.3%, the overall clearance ratio for the year was 106.2%.

Appeals were received from decisions in all Divisions, the largest number being received from the Consumer and Commercial Division reflecting the high number of first instance decisions in that Division. A breakdown of statistics by Division is set out in Table 6.

Each of the Divisions manages the work by lists or order types. Table 7 on the following page is a breakdown of the appeals by list or order type.

For the 2021-22 year, 95% of matters were finalised within nine months from the date of lodgement. The Appeal Panel has a performance target to finalise 80% of all appeals within nine months from the date they are lodged. To achieve this, the Appeal Panel seeks to list all new appeals for callover within two weeks from when they are filed, urgent stay applications and other interlocutory applications being listed more quickly.

Usually, an appeal has only one callover, at which directions are made for the preparation of appeal papers and the provision of submissions by the parties. At the callover the appeal process is explained to the parties and a final hearing date is allocated. Parties can usually expect a hearing date six to ten weeks after the callover, with urgent appeals and interlocutory applications being dealt with more quickly.

Often, the party appealing lodges an application to stay the operation of the orders under appeal so that the party can be relieved of the obligation to comply with the orders pending the appeal. These applications are typically determined at the callover.

Table 6 – 2021-22 Appeal Panel workload and performance

DIVISION	APPLICATIONS	FINALISATIONS	CLEARANCE RATIO
Administrative and Equal Opportunity Division	74	69	93.2%
Occupational Division	9	10	111.1%
Consumer and Commercial Division	695	755	108.6%
Guardianship Division	33	28	84.8%
Designated External Appeals	2	1	50.0%
TOTAL	813	863	106.2%

Table 7 – 2021-22 Appeals finalised by Division list/order type

LIST / ORDER TYPE	2021-22
Administrative and Equal Opportunity	
• Administrative Review List	50
• Community Services List	7
• Discrimination List	9
• Revenue List	3
Occupational	
• Administrative Review List	7
• Health Practitioner List	1
• Legal Practitioner and Other Professionals List	2
Consumer and Commercial	
• Tenancy List	302
• Social Housing List	59
• General List	68
• Home Building List	137
• Residential Communities List	8
• Strata and Community Schemes List	1
• Strata Schemes List	73
• Motor Vehicles List	58
• Commercial List	45
• Retirement Villages List	4
Guardianship	
• Initial Order	8
• Review of Order	20
Designated External Appeals	1
TOTAL	863

Table 8 – 2021-22 Final orders made by the Appeal Panel

FINAL ORDERS MADE	2021-22	%
Allowed	163	18.9%
Dismissal	491	56.9%
Withdrawal	174	20.2%
Other	35	4.1%
TOTAL	863	100%

Table 9 – 2021-22 Appeal Panel decisions appealed to the Supreme Court or Court of Appeal*

APPEAL RESULT	2021-22	%
Dismissed	17	100%
Allowed	0	0%
TOTAL	17	100%

* These figures are for matters in which there are finalised decisions published on NSW Caselaw.

Consistently with section 37 of the NCAT Act, where appropriate, the Appeal Panel promotes the use of alternative resolution processes for the resolution of appeals. Conciliation at callovers has resulted in consent orders being made to finalise a significant number of matters. The Appeal Panel may also refer matters to the Community Justice Centres where appropriate.

Subject to the nature of the issues raised on appeal, and whether the NCAT Act or enabling legislation makes special provision for the constitution of the Appeal Panel, the Appeal Panel is usually constituted by two Members, or three Members in the most complex of matters.

Internal NCAT appeals from the Guardianship Division are constituted by three Members (two Legal Members, and one non-legal Senior or General Member) in accordance with clause 13 of Schedule 6 to the NCAT Act.

Orders and reasons for decisions of the Appeal Panel may be given on the day of the appeal. Otherwise, decisions are reserved. The service standard for publishing a decision and written reasons is 12 weeks from the date the decision is reserved, but usually decisions are published before this time. Table 8 provides a summary of the orders made.

Decisions of the Appeal Panel in its internal appeal jurisdiction may be appealed to the Supreme Court of NSW. Decisions may also be challenged by way of judicial review. These appeals and applications are assigned to the Supreme Court, or the Court of Appeal

if the Appeal Panel included a judicial officer. Table 9 sets out the number of appeals and applications finalised by the Supreme Court for the period 2021-22 and the result of those appeals.

Members

The Appeal Panel is constituted by Members at the direction of the President, assisted by the Principal Member Appeals.

Members of the Appeal Panel comprise the President, the Deputy Presidents, the Principal Members and selected Senior Members allocated by the President to the Appeal Panel. For appeals from the Guardianship Division, a non-legal General Member (who has experience with persons to whom the *Guardianship Act 1987* relates) may be included on the Appeal Panel constituted in a particular matter.

Beyond deciding the appeal in the particular matter, an important role of the Appeal Panel, through its decisions, is to provide guidance to those Members sitting in Divisions of the Tribunal concerning the conduct of hearings, the interpretation of legislation and the making of decisions.

Reserved final decisions of the Appeal Panel are typically published on NSW Caselaw. The *Appeal Panel Decisions Digest* is regularly published, updating Members on important decisions both within the Tribunal and decisions of various courts. The *Digest* is also published on the NCAT website and available as a subscription service.

Significant decisions

***Davis v Minister for Health* [2022] NSWCATAP 115**

The appellant sought a review of cl 4 and 5 of the *Public Health (COVID-19 Vaccination of Health Care Workers) Order 2021* (NSW) (PHO) which mandated the vaccination of all health workers. The Appeal Panel held that NCAT has the power to administratively review directions made by the Minister for Health under

the PHO, pursuant to s 7(7)(b) of the *Public Health Act 2010* (NSW).

In construing the terms of s 7(7)(b), the use of the words ‘any direction’ indicated that the provision should be read broadly and the Minister’s powers to “make orders” under the *Public Health Act 2010* were wide. Exercised within those broad powers, was the Minister’s ability to make specific directions. Those directions were intentionally captured in the language of s 7(7)(b) and NCAT had jurisdiction to administratively review the vaccination mandate of health workers in the PHO.

***STAR Training Academy Pty Ltd v Commissioner of Police (No 2)* [2022] NSWCATAP 98**

The Appeal Panel found that, whilst there is an onus on legally represented parties to identify a question of law when completing a notice to commence internal appeal proceedings in NCAT, to precisely identify a question of law is difficult and failure to do so was not the type of “special circumstances” which warranted an order for costs under s 60(1) NCAT Act. This was particularly so where the appellant clearly identified a question of law in its submissions.

As costs are compensatory and not punitive, the Appeal Panel considered how the appellant’s conduct throughout the proceedings warranted a costs order under s 60(1). Writing to the Tribunal without first contacting opponents or copying the respondent into correspondence was inherently likely to increase costs. This, paired with the appellant’s repeated interlocutory applications, failure to comply with directions, and agitating issues which needed to be resolved in the substantive appeal, were considered circumstances which were sufficiently unusual to enliven the discretion to award costs in favour of the respondent.

***Commissioner of Police v EMB* [2022] NSWCATAP 85**

The Appeal Panel dismissed an appeal, where the Tribunal made no error of law in its application of the ‘fit and proper’ test in s 11(3)(a) of the *Firearms Act 1996*. It found the term ‘fit and proper’ had no precise

meaning, and takes its meaning from its context, the activities in which the person is or will be engaged, and the ends to be served by those activities.

In the context of this decision, the Tribunal below accepted evidence that EMB had committed a serious breach of moral and personal integrity in committing child sexual abuse (albeit never proceeding to criminal trial). Despite this, after 14 years and positive character references demonstrating reform, the Appeal Panel affirmed adopting a wide approach to the relevance of the child sexual assault conduct to holding a firearms licence. EMB was ultimately assessed as being a fit and proper person who could be trusted to have possession of firearms without danger to public safety or to the peace and could fulfil the regulatory firearms requirements.

***Latimer v Latimer* [2022] NSWCATAP 94**

The Appeal Panel made a declaration under s 11 of the *Residential Tenancies Act 2010* (NSW) (RTA) that an agreement made between a mother and her son was not a residential tenancy agreement. The Appeal Panel held that s 9 of the RTA did not apply. Absent from the agreement was any employment contract or evidence of property maintenance which would indicate the respondent had a right to occupy in exchange for services of that nature. It was held that the agreement relied on by the son was merely an arrangement between family members and had no binding legal effect as the mother lacked the requisite mental capacity to either grant a licence to occupy or confer any legal rights on the respondent son.

***Jeray v Blue Mountains City Council* [2021] NSWCATAP 310**

The Appeal Panel allowed an appeal from the finding of NCAT at first instance, that a request for information under the *Government Information (Public Access) Act 2009* (NSW) (GIPA Act) was invalid, where the material sought was extensive, difficult to find and did not address the issue at hand.

The Appeal Panel found that the purpose of the identification requirement is to ensure an agency has sufficient information to enable it to identify, consider

and make a decision about the government information applied for. Under s 41(1)(e) of the GIPA Act, an applicant is only required to provide such information as is reasonably necessary to enable the government information applied for to be identified, and this does not require the application to be confined to a particular time frame or type of record. The ease and reasonableness of locating the information was not relevant to the validity of the application.

***The Owners – Strata Plan 2010 v Kahn* [2022] NSWCATAP 9**

A managing strata agent, who was validly appointed at first instance, gave no authority for an appeal to be commenced on behalf of the Owners Corporation. Subsequently, the Appeal Panel dismissed an application for individual lot owners to be joined to the first instance decision. It was determined there was no authority for the action and the appeal was not validly brought. The Appeal Panel held that, if it was wrong on that issue, it would still refuse the appeal where there was no utility and there was an avenue to seek relief in the Supreme Court (where there is settled law on the issue).

***Bluesfest Services Pty Ltd v The Cajun Kitchen Pty Ltd* [2021] NSWCATAP 325**

An appeal was allowed in part, to vary the orders of NCAT at first instance following the cancellation of the Bluesfest Festival due to COVID-19. The appellant, the organiser of the Bluesfest Festival, was successful in arguing that the Tribunal erred by finding it had jurisdiction under the *Frustrated Contracts Act 1978*, where the contracts expressly addressed what would happen in the event of a pandemic, thus precluding the operation of that Act.

Bluesfest was cancelled prior to its commencement, resulting in neither party receiving the benefits ultimately intended by the arrangement, other than the appellant receiving payment of the stallholder fees upfront. The Appeal Panel decided that it was appropriate for the appellant to retain 25% of these fees, to make allowance for the detriment suffered by the appellant.

Appendices

- 1** **Legislation**
- 2** **Major Legislative Change 2021-22**
- 3** **Tribunal Members as at 30 June 2022**
- 4** **NCAT Member Code of Conduct**
- 5** **NCAT Expenditure Report**
- 6** **Service Standards: Lodgement to Finalisation**
- 7** **Resolution Processes**
- 8** **Fees and charges as at 30 June 2022**
- 9** **NCAT Liaison Group and Divisional Consultative Forum Membership**

Appendix 1

Legislation

The *Civil and Administrative Tribunal Act 2013* sets out provisions related to establishing the Tribunal, how proceedings are commenced, procedures and powers of the Tribunal, and the appointment of Members.

The following Acts and subordinate legislation confer jurisdiction on the Tribunal as at 30 June 2022.

NCAT Legislation

Civil and Administrative Tribunal Act 2013

Civil and Administrative Tribunal Regulation 2013

Civil and Administrative Tribunal Rules 2014

Court Security Act 2005

Enabling Legislation

Administrative and Equal Opportunity Division

Administrative Decisions Review Act 1997

Adoption Act 2000

Agricultural Industry Services Act 1998

Agricultural Livestock (Disease Control Funding) Act 1998

Agricultural Tenancies Act 1990

Air Transport Act 1964

Animal Research Act 1985

Anti-Discrimination Act 1977

Apprenticeship and Traineeship Act 2001

Apprenticeship and Traineeship Regulation 2017

Associations Incorporation Act 2009

Australian Oil Refining Agreements Act 1954

Betting and Racing Act 1998

Betting Tax Act 2001

Births, Deaths and Marriages Registration Act 1995

Boarding Houses Act 2012

Boarding Houses Regulation 2013

Building and Construction Industry Security of Payment Act 1999

Building and Development Certifiers Act 2018

Building Products (Safety) Act 2017

Business Names (Commonwealth Powers) Act 2011

Casino Control Regulation 2009

Cemeteries and Crematoria Act 2013

Charitable Fundraising Act 1991

Child Protection (International Measures) Act 2006

Child Protection (Offenders Registration) Act 2000

Child Protection (Working with Children) Act 2012

Children and Young Persons (Care and Protection) Act 1998

Children and Young Persons (Care and Protection) Regulation 2012

Children (Detention Centres) Act 1987

Children (Detention Centres) Regulation 2015

Children (Education and Care Services) National Law (NSW)

Children (Education and Care Services) Supplementary Provisions Act 2011

Childrens Guardian Act 2019

Coal Industry Act 2001

Combat Sports Act 2013

Commons Management Act 1989

Community Gaming Act 2018

Community Housing Providers (Adoption of National Law) Act 2012 (NSW)

Community Services (Complaints, Reviews and Monitoring) Act 1993

Cooperatives (Adoption of National Law) Act 2012

Co-operative Housing and Starr-Bowkett Societies Act 1998

Criminal Records Act 1991

Crown Lands Management Act 2016

Disability Inclusion Act 2014

Dormant Funds Act 1942

Drug and Alcohol Treatment Act 2007

Education Act 1990

Education (School Administrative and Support Staff) Act 1987

Electoral Act 2017

Electricity (Consumer Safety) Act 2004

Electricity Supply Act 1995

Exhibited Animals Protection Act 1986

Explosives Act 2003

Fines Act 1996

Firearms Act 1996

First Home Owner Grant (New Homes) Act 2000

Fisheries Management Act 1994

Food Act 2003

Food Regulation 2015

Forestry Act 2012

Game and Feral Animal Control Act 2002

Gaming and Liquor Administration Act 2007

Gaming Machines Act 2001

Gas and Electricity (Consumer Safety) Act 2017

Gas Supply Act 1996

Government Information (Public Access) Act 2009

Guardianship Act 1987

Health Insurance Levies Act 1982

Health Records and Information Privacy Act 2002

Hemp Industry Act 2008

Higher Education Act 2001

Home Building Act 1989

Hunter Water Act 1991

Impounding Act 1993

Licensing and Registration (Uniform Procedures) Act 2002

Liquor Act 2007

Local Land Services Act 2013

Marine Pollution Act 2012

Marine Safety Act 1998

Motor Accident Injuries Act 2017

Motor Accidents Compensation Act 1999

Motor Vehicle Sports (Public Safety) Act 1985

Mount Panorama Motor Racing Act 1989

Native Title (New South Wales) Act 1994

NSW Trustee and Guardian Act 2009

Ombudsman Act 1974

Paintball Act 2018

Parking Space Levy Act 2009

Payroll Tax Act 2007

Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011

Personal Property Securities (Commonwealth Powers) Act 2009

Pesticides Act 1999

Photo Card Act 2005

Point to Point Transport (Taxis and Hire Vehicles) Act 2016

Police Act 1990

Poppy Industry Act 2016

Privacy and Personal Information Protection Act 1998

Private Health Facilities Act 2007

Public Health Act 2010

Public Lotteries Act 1996

Public Spaces (Unattended Property) Act 2021

Rail Safety National Law (NSW)

Registered Clubs Act 1976

Relationships Register Act 2010

Retail Trading Act 2008

Rice Marketing Act 1983

Small Business Grants (Employment Incentive) Act 2015

State Debt Recovery Act 2018
Sydney Water Act 1994
Tattoo Parlours Act 2012
Taxation Administration Act 1996
Teacher Accreditation Act 2004
Thoroughbred Racing Act 1996
Victims' Rights and Support Act 2013
Waste Avoidance and Resource Recovery Act 2001
Water Act 1912
Water Industry Competition Act 2006
Water NSW Act 2014
Weapons Prohibition Act 1998
Work Health and Safety Act 2011
Work Health and Safety Regulation 2017
Workplace Injury Management and Workers Compensation Act 1998

Consumer and Commercial Division

Agricultural Tenancies Act 1990
Australian Consumer Law (NSW)
Boarding Houses Act 2012
Community Land Development Act 2021
Community Land Management Act 2021
Contracts Review Act 1980
Conveyancers Licensing Act 2003 (only in relation to Division 3 of Part 4)
Credit (Commonwealth Powers) Act 2010
Dividing Fences Act 1991
Fair Trading Act 1987
Holiday Parks (Long-term Casual Occupation) Act 2002
Home Building Act 1989
Motor Dealers and Repairers Act 2013
Pawnbrokers and Second-hand Dealers Act 1996
Property and Stock Agents Act 2002
Residential (Land Lease) Communities Act 2013
Residential Tenancies Act 2010
Retail Leases Act 1994
Retirement Villages Act 1999

Strata Schemes Management Act 2015
Sydney Water Act 1994 (Section 58)
Uncollected Goods Act 1995

Guardianship Division

Children and Young Persons (Care and Protection) Act 1998
Guardianship Act 1987
NSW Trustee and Guardian Act 2009
Powers of Attorney Act 2003

Occupational Division

Aboriginal Land Rights Act 1983
Architects Act 2003
Building and Development Certifiers Act 2018
Design and Building Practitioners Act 2020
Commercial Agents and Private Inquiry Agents Act 2004
Conveyancers Licensing Act 2003
Fair Trading Act 1987
Health Care Complaints Act 1993
Health Practitioner Regulation (Adoption of National Law) Act 2009
Health Practitioner Regulation National Law (NSW)
Home Building Act 1989
Legal Profession Uniform Law (NSW)
Licensing and Regulation (Uniform Procedures) Act 2002
Local Government Act 1993
Motor Dealers and Repairers Act 2013
Passenger Transport Act 2014
Pawnbrokers and Second-hand Dealers Act 1996
Point to Point Transport (Taxi and Hire Vehicles) Act 2016
Property and Stock Agents Act 2002
Public Notaries Act 1997
Security Industry Act 1997
Surveying and Spatial Information Act 2002
Tattoo Parlours Act 2012

Tow Truck Industry Act 1998

Veterinary Practice Act 2003

Wool, Hide and Skin Dealers Act 2004

Appendix 2

Major Legislative Change 2021-22

Charitable Fundraising Act 1991

The amendments include provisions that enable a person who is aggrieved by certain decisions of the Secretary (Department of Customer Service) to apply to NCAT for an administrative review of such decision. Commenced 1 July 2021.

Child Protection (Working with Children) Act 2012

The amendments provide for an expanded section 26 to include persons convicted of animal cruelty offences in the lists of persons who may not apply to NCAT. The provisions also amend the NCAT Act and Regulation inserting provisions for the appointment of a member of the Guardian ad Litem Panel. Commenced 13 April 2022.

Civil and Administrative Tribunal Act 2013 (NCAT Act)

Statutory review tabled on 23 December 2021. The Review received 94 submissions from 82 different individuals and organisations. Most submissions agreed that the objectives of the NCAT Act remain valid, and that the terms of the Act generally remain appropriate for achieving them.

Civil and Administrative Tribunal Regulation 2013

Due for staged repeal on 1 September 2021.

Commercial Agents and Private Inquiry Agents Act 2004

Repealed on commencement of the *Fair Trading Amendment (Commercial Agents) Act 2016*. Commenced 1 July 2022.

Community Land Development Act 2021

Commenced on 1 December 2021. Repeals and replaces the *Community Land Development Act 1989 (NSW)*, for

the purpose of facilitating the subdivision and development of land with shared property.

Community Land Management Act 2002

Repealed and replaced the *Community Land Management Act 1989 (NSW)*, for the purpose of facilitating the subdivision and development of land with shared property. Commenced on 1 December 2021.

Electronic Transaction Act 2000

Introduced provisions to enable the remote witnessing of documents. Commenced on 29 November 2021.

Fair Trading Regulation 2019

The provisions commenced on 18 July 2022 and increased NCAT's jurisdictional limit from \$40,000 to \$100,000 by amending the prescribed amount in this Regulation.

Justice Legislation Amendment (Fees) Regulation 2022

Amended the *Civil and Administrative Tribunal Regulation 2013* to enable the annual automatic indexation of certain fees in accordance with the Consumer Price Index for Sydney published by the Australian Bureau of Statistics. Commenced 1 July 2022.

Motor Dealers and Repairers Act 2013

Statutory Review tabled on 29 November 2021. The Act establishes a scheme for the licensing and regulation of motor dealers, motor vehicle recyclers, motor vehicle repairers and tradespersons.

Residential Land Lease Community Act 2013

Statutory review tabled on 29 November 2021. The Act provides the regulatory framework for the management of permanent sites in residential land lease

communities and outlines the rights and obligations of community operators and homeowners.

Strata Schemes Management Amendment (Sustainability Infrastructure) Act 2020

Amended the *Strata Schemes Management Act 2015*. Changes impacting NCAT to commence on 1 July 2021 include provisions that will enable the Tribunal to impose a monetary penalty for contravention of an NCAT order and a requirement that an owners corporation serve all lot owners with copies of any application to NCAT concerning their scheme. Commenced on 24 February 2021.

Tattoo Parlours Act 2012

The amendment includes additional decisions where administrative review by NCAT may be sought. Commenced 13 April 2022.

Water Industry Competition Act 2006

The amendment will expand the administrative review jurisdiction of NCAT. It was assented to on 1 November 2021 but is yet to commence.

Appendix 3

Tribunal Members as at 30 June 2022

President

The Hon Justice Lea Armstrong BA (Hons) LLB (Hons) LLM

Justice Armstrong was appointed a Judge of the Supreme Court of New South Wales and President of the NSW Civil and Administrative Tribunal on 31 October 2018.

Prior to her judicial appointment, Justice Armstrong served for over three years as NSW's first female Crown Solicitor, with over 25 years' experience in government and commercial law.

Prior to being appointed as the NSW Crown Solicitor, Justice Armstrong worked as NSW Treasury's first General Counsel. Earlier in her career, Justice Armstrong served in a range of senior roles in the Crown Solicitor's Office, including as General Counsel and as an Assistant Crown Solicitor in commercial law and in administrative law. She also worked in a major Sydney commercial law firm, then Blake Dawson Waldron Solicitors. Prior to her professional life as a solicitor, Her Honour was an Associate to Justice McHugh at the High Court of Australia.

Justice Armstrong holds a Masters of Law from the University of NSW, and a Bachelor of Laws (Honours) and a Bachelor of Arts (Honours) from the Australian National University.

Deputy Presidents

The Hon Jennifer Boland AM DipLaw LLM (Syd)

The Hon Jennifer Boland was appointed as a Judge of the Family Court of Australia in October 1999. In July 2004 she was assigned as a Judge of the Appeal Division of the Court. She was appointed as an acting judge of the District Court of New South Wales until April 2021.

Jennifer Boland is presently a Deputy President of the NSW Civil and Administrative Tribunal. Before her judicial appointment to the Family Court, she was a litigation partner in the firm Corrs Chambers Westgarth and practised in the diverse areas of product liability and family law.

She is a former member and Chairperson of several not-for-profit organisations and a current Foundation Chair of a charitable foundation. In 2012 Jennifer Boland was admitted as a Member of the Order of Australia.

Anne Britton BA LLB (Syd)

Anne Britton was admitted as a lawyer in 1989 and is currently Deputy President of NSW Civil and Administrative Tribunal and head of the Tribunal's Guardianship Division.

For over two decades, Anne has held senior roles in State and Commonwealth Tribunals. Currently, Chair of the Council of Australasian Tribunals (COAT) (National) and Member of the Judicial Council on Cultural Diversity. Anne has a long-standing interest in Tribunal Member professional development and among other things has led the development of COAT's online course for new members, which was launched in 2017.

Her experience includes Senior Member (2009-2014), Administrative Appeals Tribunal, Judicial Member (1996-2006) and Deputy President (2006-2009), NSW Administrative Decisions Tribunal and Board Member (2000-2006), NSW Legal Aid Commission. Anne taught in the Masters Program at UNSW Law School and has significant experience in governance roles, including as a former director of the NSW Legal Aid Commission, the Communications Law Centre and Belvoir Street Theatre.

Judge Susanne Cole LLM LLB (Hons) GDLP

Judge Cole was sworn in as a Judge of the District Court of NSW and appointed as Deputy President of the NSW Civil and Administrative Tribunal and Division Head of the Administrative and Equal Opportunity Division and Occupational Division in February 2019.

Prior to her appointments in NSW, Judge Cole was a Judge of the District Court of South Australia for 16 years. She was the Senior Judge of the Environment Resources and Development Court of South Australia from 2010-2019, the Deputy President of the South Australian Civil and Administrative Tribunal from 2015-2017 and a Deputy President of the Equal Opportunity Tribunal of South Australia from 2002-2016.

Prior to her appointment to the bench, Judge Cole practised for 20 years as a solicitor and as counsel.

Mr Mark Harrowell BComm LLB

Mark Harrowell was admitted as a solicitor in New South Wales in 1982. He has degrees in Commerce and Law.

Presently, he is the Deputy President and Head of the Consumer and Commercial Division of the NSW Civil and Administrative Tribunal, having been appointed to that position in September 2019.

Previously, he worked in private practice having been a partner and managing partner of Abbot Tout from 1990-2007 and a partner at HWL Ebsworth from 2007-2012. He practised in the area of commercial litigation including construction law, contract and property disputes. His experience also extends to corporate law, insolvency and insurance as well as trade practices and consumer law.

In 2012 he was appointed as a part-time Senior Member of the former Consumer Trader and Tenancy Tribunal of NSW, becoming the Deputy Chairperson (Determinations) in 2013.

Following the establishment of the Tribunal in 2014 and until his appointment as Deputy President he held the position of Principal Member, initially as List Manager in the Consumer and Commercial Division, then as Principal Member Appeals.

Acting Judge Nancy Hennessy LLB (Hons) (ANU) LLM (Syd)

Judge Hennessy was appointed as an Acting Judge of the District Court on 4 February 2019 and is currently a Deputy President of the NSW Civil and Administrative Tribunal. Before her appointment as an Acting Judge, Judge Hennessy was a NSW Magistrate and Head of the Administrative and Equal Opportunity Division of the Tribunal. Her areas of expertise include administrative law, human rights and protective jurisdictions involving children and people with disabilities.

Stuart Westgarth BA LLB

Stuart Westgarth graduated in Arts and Law from the University of Sydney and has been in practice as a solicitor since 1975. He is a former Fellow of the Australian Institute of Company Directors. Mr Westgarth was a Director of Legal Super Pty Ltd until April 2016. He was a partner in Corrs Chambers Westgarth from 1980 to 2007 and Managing Partner (Sydney) from 1995-1999. He was a partner at HWL Ebsworth from 2008-2012 and President of the Law Society of NSW in 2011. His main area of practice has been in commercial litigation, particularly banking, maritime and product liability litigation.

Members

Adamovich, Barbara BA LLB LLM

Senior Member. Admitted as a solicitor in 1998. From 2008 a Legal Member of the Mental Health Review Tribunal and, since 2012, a Senior Member (Legal) of the Guardianship Division of NCAT (formerly the Guardianship Tribunal).

Ainslie-Wallace, The Hon Ann BA LLB (UNSW)

Principal Member. Admitted to the NSW Bar in December 1978. Appointed the District Court of NSW in July 1997 and was a Deputy Chair of the NSW Medical Tribunal. From 2010 to February 2022 was a judge of the Appeals Division of the Family Court of Australia until 2022. Appointed an acting judge of the District Court of NSW in 2022. Appointed Adjunct Professor of Law at UTS Sydney (2006). In 2018 awarded Doctor of Laws (honoris causa), UTS Sydney. Fellow of the Australian Academy of Law. October 2015 appointed Master Benchers of the Honourable Society of the Inner Temple. A life member of the National Judicial College of Australia and a member of its Programs Advisory Committee. A director and chair of the board of the Australian Advocacy Institute and has been a member of the teaching faculty of that Institution since its inception in 1991. A faculty member of the Advanced International Advocacy Course, Keble College Oxford.

Alamali, Nada BAEd LLB MA (TESOL)

General Member. Since 2013, Children's Registrar, NSW Department of Justice; 2009-2012, Forum Facilitator (sessional), NSW Department of Justice. 2008-2013, Senior Family Dispute Resolution Practitioner, Bankstown Family Relationship Centre; 2007-2008, Family Dispute Resolution Practitioner, Fairfield Family Relationship Centre; 2001-2007 Principal Solicitor, Nada Alamali Solicitors; 1994-2001, solicitor at various firms.

Alder, Julia BA (Syd) DipLaw GradCertJourn (UTS)

General Member. 1996-2015, litigation solicitor at various Sydney firms, including Corrs Chambers Westgarth. 2005-2012, a writer for publications including the *Law Society Journal*, *Workplace Review* and *SafetyCulture*.

Alderton, Zoe LLB

Senior Member. Admitted as a solicitor in 2014. Called to the bar in 2017. As a solicitor, worked for the Aboriginal Legal Service appearing in remote and regional courts in western NSW. Appears in a diverse range of matters including criminal matters, intentional torts, professional discipline, and coronial inquests.

Alkadamani, Rabih BEc LLB (Hons)

Senior Member. Barrister since 1994. Practices in a broad range of commercial and corporate disputes, employment law and equity.

Andelman, Larissa LLM (UNSW) MCom (UOW) BCom (UOW) DipLaw (LPAB)

Senior Member. Admitted as a solicitor in NSW in 2003. Called to the Victorian bar in 2006. Called to the NSW Bar in 2012.

Anderson, Mark BA LLB

Senior Member. Admitted as a solicitor in 1985 and as a barrister in 1990. Currently a barrister at the private Bar with over 30 years of advocacy experience and a part-time Senior Member of NCAT since 2014. Interests and experience in multicultural and Indigenous cultural issues; delivered a paper at the 6th World Congress on Family Law and Children's Rights 'Protecting the rights of indigenous and multicultural children and preserving their cultures in fostering and adoption' subsequently published in the *Family Court Review*: Vol 52 No 1, Jan 2014. Recently presented at the July 2019 Conference of The International Centre for Family Law Policy and Practice in London in relation to gender dysphoria and transgender issues. Presented on representing children at the AFCC Australian conference in Melbourne in 2017 and in Sydney August 2019. Worked as a counsellor and youth worker for the Association of Children with Learning Disabilities and with UNIFAM in his earlier years and subsequently trained and performed telephone counselling for Lifeline. Extensive work over the years in the care jurisdiction of the Children's Court and District Court, as well as regular appearances in *parens patriae* and adoption matters in the Supreme Court and Court of Appeal, and in the *Federal Family Law Act 1975* (Cth) jurisdiction.

Andronos SC, Kevin BA LLB

Senior Member. Solicitor, 1990 to 1999. Barrister 2000 to date and Senior Counsel 2014 to date.

Anthony, Lyn BA MAppPsych MAPS

Senior Member. Registered Psychologist since 1996. Has worked in Forensic, Secondary and Tertiary education and in Private Practice. Member of the Mental Health Review Tribunal since 2008 (Civil and Forensic hearings). Appointed as a Member to NCAT's Guardianship Division in 2016.

Archibald, Ian Allen BA LLB

Senior Member. Admitted as a solicitor in 1981. Practised in general law until 2001 when called to the Bar. Since then, has been in private practice principally in the areas of equity, commercial and administrative law. Has wide experience across state and federal jurisdictions.

Ash, David BA LLM

General Member. Admitted as a barrister in 1998. Currently arbitrator, barrister and nationally accredited mediator. From 1991-1995, an Editor with HarperCollins Publishers and Law Book Co; 1996-1998, Research Officer with the Judicial Commission of NSW; 2006-2010, Council Member of the NSW Bar Association, NSW; 2008 to date, contributing author to the annual NSW Civil Procedure Handbook; 2018 to date, consulting Editor to the Federal Court Reports.

Bailey AM SC, Ian BArch DipLaw (BAB)

Senior Member. A practising architect from 1970-1980. Admitted to the Bar in 1983 and appointed Senior Counsel in 2004. Practised in all states and territories as counsel in construction disputes. Arbitrator, mediator, construction lawyer and university lecturer. 2000-2014, Co-Director of Studies of Construction Law Masters University of Melbourne. 2004 to date Professorial Fellow Melbourne Law School.

Bailey, Robyn BA (Languages) LLB LLM NMAS Cert IV (Inv)

Senior Member (Guardianship, Consumer and Commercial, and Administrative and Equal Opportunity Divisions). Admitted to the Bar in 1988 and as a solicitor in 1989. Nationally accredited Mediator; Director - Exploresolutions Pty Ltd; Senior Member - Veterans' Review Board; Senior Member - ACT Civil and Administrative Tribunal; Assessor and Arbitrator; Former facilitator, Defence Abuse Response Taskforce; Regular Judge at the annual International Chamber of Commerce Mediation Competition (Paris).

Bain, Margaret BSc (Psych) M Clin Psych M Clin Neuropsych

Senior Member. Qualified as a Clinical Psychologist in 1995 and as a Clinical Neuropsychologist in 2002. Previously qualified as a registered nurse. Experience as a clinical neuropsychologist and clinical psychologist primarily in acute hospital settings in neurology, HIV, and consultation liaison psychiatry services. Member of the Australian Commission on Safety and Quality in Health Care Cognitive Impairment Advisory Group 2016 - 2019. Fellow of the Australian Psychological Society College of Clinical Neuropsychologists (CCN) and College of Clinical Psychologists (CCLP). Past Chair of CCN NSW and past CCN National Executive Committee Member.

Baird, Dr Ameer PhD MPsych (Clin Neuro) BA (Hons)

Senior Member. Clinical neuropsychologist with over 20 years' experience in clinical and research positions in Australia and overseas in London and Paris. Currently based in Newcastle with a private practice and sees adults for diagnostic and medicolegal neuropsychological assessments. Published over

40 scientific articles, book chapters and 2 books. Currently undertaking a Juris Doctor/ Diploma of Legal Practice at the University of Newcastle. Appointed to the Mental Health Review Tribunal in 2021.

Balla, Acting Judge Audrey BA LLB (UNSW)

Principal Member. Admitted as a solicitor in 1979. Acting Justice of the Supreme Court of the ACT, Acting Judge of the District Court of NSW. Author of legal texts covering insurance law, motor accidents and industrial accidents.

Barnes, Shenagh LLB (Hons) LLM (Hons)

Senior Member. Many years of experience in the law, including as a legal practitioner, academic, tribunal member and judge.

Barnes, Dr Susan BA (Hons1) PhD

Anthropology

General Member. Research interest in violence and abuse. Now retired. 2005-2010, Disability Advocate; 2010-2016, NSW Manager Disability Advocacy at People with Disability Australia (PWDA); 2015-2020, Community Member of NCAT in the Guardianship Division. Reappointed in 2021 as a Community Member for a further five years.

Barnetson, Diane BA BLegStud MIR

General Member. Since 1982 has worked in the Consumer Claims Tribunal and its subsequent Tribunals. Has also worked as an Industrial Advocate, as a Member Mental Health Review Tribunal, Social Security Appeals Tribunal, Migration Review Tribunal, Refugee Review Tribunal and as a conciliator at Human Rights and Equal Opportunity Commission. Has taught legal studies at TAFE and Wollongong University.

Bartley, Glynis LLB BSW GDLP

Senior Member. Admitted as a solicitor in 1996. Qualified as a social worker in 1986. From 1986-1988, District Officer, NSW Department of Family and Community Services. 2001-2004, Investigation Officer NSW Ombudsman. 2004-2014, Member and Senior Member of the Social Security Appeals Tribunal. 2014-2017, full-time Member of the Migration and Refugee Tribunals, then the Migration and Refugee Division of the Administrative Appeals Tribunal.

Bartrop, John BCom LLB (UNSW)

General Member. Appointed in January 2019. Admitted as a solicitor in 1978. Commercial Litigation Partner of a national law firm from 1984 to 2012. Practice included appearing in all Courts and Tribunals and undertaking mediations. Held various management positions including Managing Partner, Practice Group Coordinator and Board Member. Currently volunteer at a community legal centre.

Bassett, Graham BA DipEd MInfoTech LLB (Hons)

General Member. After being Head of Information Technology at various Sydney schools, he was admitted as a barrister in both Queensland and NSW in 2002. He had a general practice in Byron Bay until 2014 in areas such as crime, intellectual property, family provision and contract. Lectures from time to time in Cyberlaw and Intellectual Property at Southern Cross University. 2007-2014, member of the Consumer Trader and Tenancy Tribunal and NCAT for the Northern River area of NSW. From 2014, director of the Bath (UK) based company, George Wood Movie Limited. Reappointed to NCAT in Sydney (and occasionally to do hearings in regional areas) in late 2017.

Beale, Dr Ivan MSc PhD

Senior Member. Adjunct Associate Professor, UNSW. Psychology Research Consultant. From 1990-1997, Associate Professor and Director, Professional Psychology Unit and Learning Assessment Centre, University of Auckland. 2005-2016, Aftercare board member. Since 2005, Member of the Mental Health Review Tribunal. 2001-2014, Professional Member of the Guardianship Tribunal.

Bell SC, Adam FCIArb BA (Hons) LLB (Hons) BAppSc AssocDegAppSc

Senior Member. Admitted as a solicitor in 1982 and admitted to the Bar in 1990. Appointed Senior Counsel in 2003. Nationally accredited mediator. Expertise in equity, commercial law, administrative law, arbitration and mediation.

Berry, Dr Alexis BSc (Hons) MBBS FAFRM

Senior Member. Admitted as a Fellow of the Australasian Faculty of Rehabilitation Medicine, a faculty of the Royal Australasian College of Physicians in 2012. Currently a Staff Specialist in Rehabilitation Medicine in the Disability Assessment and Rehabilitation Team. From 2017, a professional Member of NCAT's Guardianship Division.

Bishop, Elizabeth LLB MTax

Senior Member. Admitted to the Bar in 2009. Appointed to the AEOD and the Appeal Panel in July 2021. Member of Ground Floor Wentworth Chambers. Member, Business Law Section, Law Council of Australia. Member, Society of Trust and Estate Practitioners. Fellow, Tax Institute of Australia. Member, Women's Lawyer Association of NSW. Recognised in Doyle's Guide (leading tax barrister) and the International Tax Review (Women in Tax). Expertise spans a broad range of areas, including administrative law, revenue law, trusts and proceeds of crime.

Black, Mirriam BSW MSW

General Member. Social Work Field Supervisor UWS, Director Capacity Australia, 2010-2013 NSW Government Home Care

Advisory Board Member, formerly CEO Parkinson's NSW, formerly NSW Manager Family Support, Dementia Australia NSW, formerly Coordinator and Counsellor, NSW Dementia Information and Counselling Service.

Blair, April BA LLB

General Member. Admitted as a lawyer in New South Wales on 15 May 2009. Panel Member, Public Panel of Assessors for Queensland Civil and Administrative Tribunal (2020) and Australian Financial Complaints Authority (2019). Practising solicitor for Legal Aid NSW in various roles including management positions. Non-executive director and chair of the Future Funding Committee (2019 – present).

Blake AM SC, Garth BA LLM (Syd)

Senior Member. Barrister from 1984 to 2020, and in 2002 appointed Senior Counsel. Practised at trial and appellate levels in federal and state jurisdictions with a focus on commercial law and equity. 2002, Churchill Fellowship, to investigate church policy and practice in addressing child sexual abuse in Australian churches. 2018, Member of the Order of Australia, for significant service to the Anglican Church of Australia, particularly to child protection policy and professional standards, and to the law. Various roles in the Anglican Church of Australia since 1998, particularly relating to the protection of children and professional standards. International roles in the Anglican Communion since 2007; currently chair of the Anglican Communion Safe Church Commission.

Blaxland, Wendy BSW

Senior Member. Inaugural honorary secretary ADARDS, (now Dementia Australia). Court Visitor, 1994-2003, for Office of Protective Commissioner (now TAG). Extensive experience, in a variety of social work roles, in community and hospital settings, working with people living with dementia and other neurocognitive disorders, their families and carers.

Bliim, Steven DipLaw SAB

General Member. Admitted as a solicitor in 1984. Most recently, three years as Principal Solicitor of a Community Legal Centre. 2012-2014, Solicitor General of the Republic of Nauru. 20 years at the Bar and 14 years as a solicitor.

Bluth, Dennis LLB LLM BA (Syd)

Senior Member. Admitted as a solicitor in 1977. Was a partner with HWL Ebsworth for over 25 years. Specialises in all areas of property law. Accredited property lawyer by the Law Society of NSW. Recognised in Doyle's Guide as a 'recommended' New South Wales property and real estate lawyer. Member, the Law Society Property Committee, and the General Practice Section of the Law Council of Australia.

Former member, the Property Services Advisory Council. Named 'Lawyer of the Year' for Leasing Law in Best LawyersTM Australia 2019 edition. Former Chair General Practice Section, Law Council of Australia.

Bolt, Mary BA (Hons) (Syd) LLB (UNSW)

General Member. 2003, College of Law Exemptee Program. 1999-2013, part-time member of the Administrative Decisions Tribunal sitting in the General Division, Equal Opportunity Division and Community Services Division. 2014 to date, General Member of NCAT in the Occupational Division and Administrative and Equal Opportunity Division. Also sits on appeal matters from the Guardianship Division.

Booby, Rhonda BA MA(Psych) LLB (Hons) EMPA (Merit) DipEd DipLegPrac

Senior Member. Admitted as a solicitor in NSW in 1999. Currently, Legal Member, Mental Health Review Tribunal; 2015-2017 appointed to the State Parole Authority. 2014-2015, part-time Law Reform Commissioner.

Boxall, Andrew BA LLB (Syd) DSU (Paris II) MA (UNSW) GradDip Art History (Adelaide)

Senior Member. Solicitor (NSW 1977, England & Wales 1982, WA 1987, Victoria 1989, Hong Kong 1989). Consultant, Allens Linklaters. Member, Superannuation Complaints Tribunal, 2016-2020. From 1986-2016, Partner, Allens Linklaters; since 1995, Director, Waratah Receivables Group; 2004-2013, Director, UnitingCare Ageing, Western Region; 1996-2004, Director Transparency International; 2005 to date, Trustee, AMF Australia Foundation.

Boyce, Philip DipLaw (SAB) LLM

Senior Member. Admitted as a solicitor in 1977. 1982-1997, Partner, Haille Paine Solicitors, Bowral and Moss Vale; 1997-2016, Principal, Philip Boyce & Associates, Bowral; 2014 to date, full-time Senior Member appointed to Consumer and Commercial Division, Administrative and Equal Opportunity Division and Appeal Panel; 2006-2013, Senior Chairperson, Local Land Boards of NSW; 2003-2006, Judicial Member, Administrative Decisions Tribunal of NSW; 2006, Solicitor for Registrar General, Acting General Legal Counsel and Head of Legal Division, NSW Department of Lands.

Boyce, Stuart MFireSafeEng MAIBS

General Member. JP, Grade A1 PCA and Grade A1 Accredited Certifier at the Buildings Professional Board since July 1998. Currently Founding Company Director at BCA Logic. Over 27 years' experience providing practical and innovative Building Code consultancy advice across numerous sectors and building types. Consultancy advice includes Building Code Compliance, Fire Engineering, Accessibility Compliance and other Building Legislative advice.

Boyd-Boland, Stephen LLM (Syd)

Senior Member. Solicitor for over 25 years. Extensive experience in commercial law, property law and estate planning. Previously a lawyer at Ashurst's (then Blake Dawson Waldron), an in-house lawyer at a large corporation and a lawyer at a mid-size law firm. Currently a solicitor/director in a boutique general practice. An accredited mediator with significant experience in dispute resolution. On the NSW Law Society panel of mediators, a Notary Public and also sits as a Member of the Personal Injury Commission.

Briggs, Phillip BArch (Hons1) PhD MDR FRAIA MIAMA

General Member. Chair NSW Chapter AIA Senior counsellors, Referee NSW District and Supreme Courts, Expert determiner, Arbitrator, Conciliator, Mediator. 1980 to date; Member of each NSW Tribunal having jurisdiction for resolution of building disputes to current membership of NCAT.

Bullock, Suellen Mitchell BSocStud (Syd)

General Member. Career is a mixture of social work, corporate management and administrative law review: Social Worker at Royal South Sydney Hospital and Rehabilitation Centre; Social Worker, NSW Legal Services Commission; Senior Social Worker QLD Legal Aid Office; Investigation Officer NSW Ombudsman's; Executive Officer, NSW Ombudsman's Office; Part-time Senior Member Veteran's Review Board; Deputy Principal Member Social Security Appeals Tribunal; Deputy Division Head Administrative Appeals Tribunal, Social Security and Child Support Division; Internal Ombudsman with the Internal Ombudsman Shared Service with Cumberland City, Inner West and City of Parramatta Councils.

Burke, Mary MA (Special Education) (Macq) MPsychol (UNSW)

Senior Member. Registered Clinical Psychologist. Currently, an independent consultant in Disability Services. From 1995, Professional Member of the NSW Guardianship Tribunal. Primary focus is the positive and effective management of complex challenging behaviour.

Burnet, Dr Heike MBBS (Germany) AMC FRACP

Senior Member. Staff Specialist in Geriatric Medicine at Royal Prince Alfred and Balmain Hospital providing acute/subacute inpatient medical care.

Burton SC FCIArb, Gregory BA (Hons) LLB (Hons) (Syd) BCL (Oxon) FCIArb FRI

Senior Member. Admitted to the NSW Bar in 1989 and appointed Senior Counsel in 2004. Senior Counsel in private practice. Arbitrator, mediator, expert determiner, court referee; auDA dispute resolution panel for domain names;

1990, founding and current editor, Journal of Banking and Finance Law and Practice; co-author, Banker and Customer in Australia; Procurator (church counsel) Presbyterian Church of Australia; 1980-1983, formerly solicitor Freehills (now HSF); 1984-1985, associate to Hon Justice Deane, High Court of Australia; 1987-1988, lecturer in law, Australian National University (ANU).

Butler, Rex

General Member. Qualified in law, commercial dispute resolution, mediation and criminology. Previously a Member of the Consumer, Trader and Tenancy Tribunal and other similar Tribunals for 27 years.

Camden, Jodie LLB (UNSW)

General Member. Graduated Bachelor of Laws University of NSW October 1999. Holds a post-graduate certificate in Management from Macquarie Graduate School of Management 1998. Admitted to practice as a solicitor February 2002. Practices as a Government Solicitor predominantly in employment law matters in NSW government agencies. Currently appointed as a member of the Law Society of NSW Government Solicitor's Committee and Diversity & Inclusion Committee, with past appointments to the Legal Technology Committee, Professional Conduct Committee and Employment Law Committee. A long-term member of the Institute of Public Administration Australia (NSW). Appointed as a General Member of NCAT's Consumer and Commercial Division in December 2018, with further appointment for a period of 5 years from December 2020.

Campbell, Cathy DipLaw (LPAB)

General Member. Called to the NSW Bar in 1998. After a successful career on the production side of commercial television, obtained employment with insurance litigation law firm Max Connery and Co while studying law part-time. Practised as a solicitor with a varied practice in civil work generally, with a particular emphasis on legal professional negligence. Previously a Member of the Consumer Trader and Tenancy Tribunal. Involved with the young persons' charity Stepping Stone House, Sydney.

Carter, Dr Tanya Lorraine BVSc (Syd) MSc IAWEL (Edin) MANZCVS (Animal Welfare) FRCVS

General Member. An experienced small animal veterinarian who established her own veterinary practice in Haberfield, Sydney and is also a wildlife researcher. Published author and presenter on veterinary ethics. Master's degree in international animal Welfare Ethics and Law. Past President of the Animal Welfare Chapter of the Australian and New Zealand College of Veterinary Scientists (ANZCVS), President of the Welfare and Ethics Special Interest Group of the

Australian Veterinary Association (AVA), Chair of the AVA's Animal Welfare Trust, member of a number of animal ethics committees. Former Member of NSW Veterinary Surgeons Board and Administrative Decisions Tribunal. Member of the NSW Kangaroo Management Advisory Panel and Chair of the NSW GWIC Animal Welfare Committee.

Charles, David BA LLM

Senior Member. Admitted as a solicitor in 1981. Admitted as a barrister in 1991. Over 35 years of experience in civil litigation as a practising solicitor and barrister. Appointed as Strata Schemes Adjudicator in 2012. Volunteered as a duty barrister from time to time at the Downing Centre, Local Court, under the NSW Bar Association Duty Barrister Scheme.

Chenery, Terry LLB Dip Mgt Dip QA

General Member. Managing Director Altitude Strategies Pty Ltd 2019 – current. CEO Link-Up (NSW) 2013 – 2019. Executive Director Legal, Land, and Culture, Aboriginal Affairs NSW 2009 – 2013. Executive Director Aboriginal Justice Advisory Council (AJAC) 2006 – 2009. Part-time Member Housing Appeal Committee 2006 – 2009. Senior Investigation Officer NSW Ombudsman 1999 – 2006.

Chenoweth, Bruce MBBS (Monash) DPM RCS RCP (London) MRCPsych

Senior Member. Raised in Mackay, educated at Wesley College Melbourne, I was in the second intake of medical students at Monash Uni. Early experience as a General Practitioner in Mackay, then Psychiatry training in the UK. Returned as Deputy Director Psychiatry at Royal Brisbane Hospital then worked in the child abuse unit at the Mater Hospital Brisbane. 17 years in Adolescent Mental Health and the Early Psychosis Unit in Newcastle with an inexorable drift to Intellectual Disability Mental Health from 1991. Years of consulting to group homes, large residentials, and regional and rural centres followed. 10 years with the Developmental Assessment Unit at St George Hospital and involvement with NSW Health and UNSW Dept of 3DN. Teaching and training of junior colleagues in Developmental Psychiatry has been a privilege and a joy.

Christie, Alec BA (Hons) LLB (Hons) GradDip European Union Law

Senior Member in the Administrative and Equal Opportunity Division. Admitted as a solicitor in 1989 in New South Wales and the Commonwealth. A partner of the Digital Law and Privacy & Cyber teams at Clyde & Co practising in the areas of information technology (including in relation to Big Data analytics, AI, VR/AR and IoT), digital transformation, e-commerce (including online marketing), Blockchain, smart contracts and distributed ledgers, Cloud computing, sourcing and open-source software. However, Alec specialises in (and is

most recognised by peers and a number of legal directories for) data privacy and cyber security across both the public and private sectors and a range of industries.

Claridge, Julie BA LLM

Senior Member. Admitted as a solicitor in 1988. 1990-2004 Special Counsel, Minter Ellison. Extensive experience in the community sector with particular interest in people with mental illness, intellectual disability or who are homeless.

Clark, Katrina BSc LLB

General Member. Admitted as a solicitor in 1985. Assigned to the Guardianship Division and Consumer and Commercial Division of NCAT. 1994-2003, General Counsel of Accenture (ANZ); 2008-2011, board member Carers NSW; 2002-2012, board member of the Association with Children with Disability NSW, serving as President 2007-2008.

Clayton, Dr Mark Dip Teach BEd MA (Special Education) PhD

Senior Member. Director, Behaviour Change Consulting and NDIS Registered Behaviour Clinician. Professional Member of the Guardianship Tribunal. Independent Specialist for Restrictive Practices, NSW Department of Communities and Justice (Contracted). Member of the Association for Applied Behaviour Analysis. Member of the Association for Positive Behaviour Support.

Cody, Christine BA LLB LLM

Senior Member. Appointed in 2010 as a Member of the Migration and Refugee Review Tribunal (now Administrative Appeals Tribunal) and appointed in 2019 as a Senior Member (Legal) of the Guardianship Division of NCAT. Additional 16 years' experience as a litigation solicitor in Sydney and London (including family law, discrimination, refugee, human rights law; Inquiry solicitor). Work with the NSW Ombudsman and in international organisations (Rwanda, Canberra, Sydney). Extensive experience working with vulnerable people.

Coleman SC, The Hon Acting Judge Ian BA LLB (Syd) MA (UWS) MSustAgric (Syd)

Principal Member. Barrister at Law 1975-1991; Trial judge - Family Court 1991-1999; Judge Advocate - Australian Defence Force 1992-1997; Part-time commissioner, Australian Law Reform Commission 1993-2003; Appeal Division judge - Family Court 1999-2013; Barrister at Law (Australia and Fiji) 2013 to date; Adjunct Professor, School of Law Western Sydney University 2013-2017; Member South Katoomba RFS, Katoomba RSL, Blue Mountains Conservation Society, Wentworth Falls Golf Club.

Conley, Jennifer BA LLB

Senior Member. Admitted as a solicitor in 1993. Previous experience as a solicitor in civil and administrative law with Legal Aid and community legal centres. Prior to the commencement of NCAT, appointed to the Guardianship Tribunal and the Administrative Decisions Tribunal. Currently also appointed to the Mental Health Review Tribunal.

Connelly, Janice BA LLB LLM

Senior Member. Admitted as a solicitor in 1989. Nationally accredited as a mediator in 2009. Extensive Court and Tribunal experience. Currently an assessor and arbitrator for the Local Court of NSW, a Senior Member (Legal) of the Guardianship Division of NCAT, a Presiding Legal Member of the Mental Health Review Tribunal and a mediator with the Personal Injury Commission.

Connor, Elaine BA (Hons) MPsy (Clin) LLB (Hons)

Senior Member. Qualified as a psychologist in 1979; Admitted as a solicitor in 1992. Extensive experience in guardianship jurisdictions in Victoria and NSW. Experience in a variety of legal roles and in advocating for people with disabilities. Currently also appointed as a Legal Member of the Mental Health Review Tribunal.

Cook, Larissa Baker BA (Hons) LLB GAICD

Senior Legal Member (Guardianship Division) since December 2020. Admitted as a solicitor in 1993. Legal Principal of Baker Cook Advisory. Over 30 years' experience as a solicitor and advocate in-house and in private practice in Australia and internationally. Specialising in product liability litigation in relation to pharmaceuticals and medical devices, the defence of personal injury and professional negligence matters in healthcare and class actions, commissions of inquiry and Royal Commissions in relation to financial services. Graduate of the Australian Institute of Company Directors and an experienced Non-Executive Director.

Cootes AM, Janene BSocStudies

General Member. Qualified as a social worker in 1977. Executive Officer, Intellectual Disability Rights Service. Appointed to the Guardianship Tribunal of NSW in 2002.

Corley, Susan LLB LLM BSc (Hons) PhD

General Member. Admitted as a solicitor in 1985. Currently also a Senior Research Associate at UNSW. From 1985-1992, solicitor with Mallesons, Stephen Jacques; 1994-2000, Legal Counsel and then Senior Legal Counsel with AMP Ltd; 1994-2013, part-time member of the Consumer Trader and Tenancy Tribunal and its predecessor tribunals.

Cowdroy AO KC, The Hon Acting Judge**Dennis LLB (Syd) LLM (KCL) Dip Air and Space Law (Lond)**

Principal Member. Called to the Bar in 1971. Currently, Deputy President, Administrative Appeals Tribunal; formerly Chair of the Australian Electoral Commission; Inaugural Integrity Commissioner for the ACT; Reporting Officer Section 154 Australian Defence Force. From 1971 – 1997 practising barrister; appointed Queens Counsel 1989; Justice of the Land and Environment Court 1998 – 2006; Justice of the Federal Court of Australia 2006 – 2014; Presidential Member Administrative Appeals Tribunal 2010 – 2014; Additional Justice of the Supreme Court of the Australian Capital Territory 2007 – 2014; Acting Justice of the Supreme Court of the Territory 2014 – 2017; Judge Advocate to the Australian Defence Force and member of the Defence Force Discipline Appeal Tribunal; Acting District Court Judge 2017 – 2021. Appointed as a member of the Independent Parliamentarians Expenses Authority (Commonwealth) 2022.

Crawford, Dr Julia

General Member. Small animal veterinarian with 33 years' experience. Past President of the NSW Division of the Australian Veterinary Association, Chair of the Veterinary Nursing Group National Industry Advisory Group and a Director of the Australian Veterinary Association.

Crowley, Debbie

General Member. Since 1990, involved in community organisations that provide disability services or fund disability services. Experienced foster carer.

Currie, John BA LLB (Syd) LLM (Lond)

Senior Member. Admitted as a solicitor NSW in 1975; subsequently in other states, England and Wales. From 1990-1993, Member of Council and Committee Chairman Law Society of NSW; 1988-1993, Partner Corrs Chambers Westgarth; 1993-2013, Partner and Head of Practice Henry Davis York; 2001-2013, Adjunct Professor of Law, University of Sydney; Since 1995, Deputy Chairman, Lawyers Assistance Program; 1993-2013, Judicial Member, Administrative Decisions Tribunal NSW; 2010-2013, Legal Member, Guardianship Tribunal.

Curtin SC, Greg BA LLB

Senior Member. Admitted as a solicitor in 1987, a barrister in 1989 and appointed senior counsel in 2010. Experienced trial and appellate barrister whose practice included a wide range of commercial and common law cases.

D'Arcy, Jennifer BComm LLB (UNSW)

Senior Member. Currently a Senior Member (Legal) in the Guardianship Division of NCAT from 2006 and a legal member

of the Mental Health Review Tribunal. Previously a legal member of the Social Services and Child Support Division of the Administrative Appeals Tribunal. Experience in working in private practice and in community legal centres.

Davidson, Patricia BEd (SpecEd) MSpecEd

General Member. Qualified as a special education teacher in 1974. Over 40 years' experience working with people with disabilities in the fields of education and the community. 14 years' experience with the Public Guardian as a principal guardian, regional manager and assistant director.

Davison, Steven

General Member. Qualified in psychology and public health with experience in community mental health services, forensic and occupational psychology, tribunals, state and federal public agencies and non-governmental organisations (NGOs).

De Jersey, Sancia

General Member. Holds a mediation qualification from the Institute of Australian Mediators and Arbitrators. Her principal area in private practice of about 20 years was commercial litigation. Appointed a Member of the Consumer Trader and Tenancy Tribunal in 2012, and then appointed to NCAT.

Deane, Megan BA LLB (UNSW) LLM (Melb)

Senior Member. Admitted as a solicitor in NSW in 1996. Former member of the Migration Review Tribunal 2000-2015, Refugee Review Tribunal 2005-2015 and Social Security Appeals Tribunal 2009-2011. Accredited Mediator.

Dinnen, Deborah BA LLB LLM

Senior Member. Barrister practising in administrative law, employment and industrial law, inquests and inquiries.

Dixon SC, Harry BA LLB LLM

Senior Member. Admitted to practice as a Solicitor in 1979; admitted to the Bar in 1988 and appointed Senior Counsel in 2000. Areas of Practice at the Bar include Administrative Law, Alternative Dispute Resolution and Mediator, Civil and Human Rights and Discrimination, Employment Law and Industrial Law.

Djekovic, Dr Kate MBBS BPsych (Hons) FRACP

Senior Member. Staff Specialist Geriatrician at Concord Repatriation General Hospital, providing acute and subacute inpatient care and care in outpatient clinics. Particular interests include assessment and management of cognitive disorders and behavioural and psychological symptoms of dementia.

Drennan, Jeniffer BA LLB (Hons) FRI

General Member. Formerly an NCAT conciliator. Nationally accredited mediator since 2007 (NMAS). Currently Chair of Resolution Institute Newcastle Professional Development Group - a group actively promoting the advancement of a diverse range of dispute resolution models in the wider community.

Dubler SC, Dr Robert LLB (Hons1) (Syd) BEc (Hons1) (Syd) LLM (Hons1) (Cantab) PhD (Syd)

Senior Member. Admitted as a solicitor in 1986. Called to the bar in 1990. Appointed senior counsel in October 2004. LEADR accredited mediator, 2012.

Duffy, Dr Francis PhD MSW BSW (Hons) Grad Cert Social Development

Senior Member. Previous full-time and current casual Lecturer in Social Work and Policy Studies, University of Sydney. Sessional social work academic at Charles Sturt University. Research areas include ageing, disability and social work practice. Previously a senior social worker and team leader at St Vincent's Hospital for 10 years. Board director with Charingfield Residential Aged Care Facility, Waverley for 9 years and previous board director of Abbeyfield Australia, community housing. Counsellor at Relationships Australia since 2020 – Royal Commission into Institutional Responses to Child Sexual Abuse – Redress; Men's Behavioural Change; Mental Health and older people (COVID-19 program).

Dunn, Sarah LLB (Hons)

Senior Member. Sitting in the Administrative and Equal Opportunity Division and the Occupational Division. Admitted as a solicitor in 1991. Commercial Litigation Partner at Freehills (now Herbert Smith Freehills) 1999-2011. Partner of KPMG and KPMG Law 2013 -2020 specialising in taxation disputes.

Durack SC, Philip BJuris LLB BCL

Senior Member. Senior Counsel at the Sydney Bar with over 34 years' experience as a solicitor and counsel in commercial and general litigation.

Eftimiou, Maritsa BA LLB

General Member. Admitted as a barrister to the Supreme Court of NSW, 1983. From 1999-2007, Member of the Migration and Refugee Review Tribunal; 2003-2012, Member of the State Parole Authority of NSW.

Eggleton, Dr Kylie BA (Hons1) LLB BMed MD FRACGP

Senior Member. Works as a general practitioner in private practice with special interest in aged care and disability sectors. Admitted as a solicitor of the Supreme Court of NSW

in 1999. Former local government and environmental lawyer and Associate to Justice RN Talbot.

Ellensohn, Maria MSM (Germany)

Senior Member. Qualified as social worker in 2002. Extensive experience in the disability and health sectors. Appointed as a Member of the Guardianship Division of NCAT in 2021.

Ellis SC, Graham BComm LLB FIAA FCPA

Senior Member. Holds the senior qualifications of an actuary, accountant and barrister. Admitted as a barrister in 1980. Served as a judge of the senior trial court and senior appellate court in Papua New Guinea 1990-1992 and 2009-2011.

Epstein-Frisch AM, Belinda BSW MSW

General Member. Adviser to the Independent Advisory Council of the National Disability Insurance Scheme (2014 to current); Consultant, National Support Agency, Disability Support Organisation Program (2014-2017); Member, National People with Disability and Carer Council (2008-2013); Deputy Chair, National Disability and Carer Ministerial Council (2006-2008); Convenor, Disability Safeguards Coalition (1997-2007); Senior Systemic Advocate, Institute for Family Advocacy and Leadership Development (1994-2014).

Fairlie, David BA LLB LLM

Senior Member. 1975 as a Legal Practitioner; 1984-2008 partner, Mallesons Stephen Jaques; 2009-2020, General Counsel, Competitive Foods Australia Pty Limited. 1994, President, Law Society of NSW; 2016-2020 chair, Disciplinary Tribunal Chartered Accountants Australia and NZ. 2010-2013, Judicial Member Administrative Decisions Tribunal; 2006-2019, Director, Australian Centre for International Commercial Arbitration.

Fela, Richard BA (Behavioural Science)

General Member. 2000-2003 ADaHC Residential Support Worker. 2003-2007 Child Protection Case Worker, Community Services. 2007-2016 Principal Guardian NSW Public Guardian. 2016-2018 Community Visitor. 2016-2021 Community Member Guardianship Division NCAT. 2019-2021 Director Dundaloo Foundation.

Ferreira, Ingrid

General Member. Over 30 years' experience in business administration, customer service, middle management. Involved with Down Syndrome NSW and Special Olympics. Works for IDRS; this position puts her in contact with people with intellectual disability, many of whom are incapable of making essential life decisions.

Fogg, Sarah

General Member. Community Member in the Guardianship Division with over 30 years' experience working for older people's advocacy organisations, services that support older people to live as independently as possible, and government.

Foreman AM, Emeritus Professor Philip BA MLitt MEd PhD FACE FAPS

General Member. Dean of Education, University of Newcastle, 2001-2007. Life Member Royal Institute for Deaf and Blind Children; Life Member Australian College of Educators. Chair, NSW Institute of Teachers, 2007-2013. Member, Administrative Decisions Tribunal; 2007-2013, Member, NCAT 2014 to present. Publications include Education of Students with an Intellectual Disability: Research and Practice (2009) and Inclusion in Action (6th edition, 2021). Currently, Emeritus Professor, University of Newcastle. Appointed as Member, Order of Australia, 2013 for services to tertiary education and to people with a disability.

Fougere, Christine LLB

Principal Member. Admitted as a solicitor in 1994. Currently a Principal Member of NCAT's Guardianship Division. Previously, Deputy President of the former Guardianship Tribunal and Legal Member since 2006. From 2012-2016, Legal Member of the Mental Health Review Tribunal. Extensive experience in administrative, discrimination and human rights law.

French, Philip BA (Hons) LLB (Hons) GDLP

Senior Member. Admitted as a solicitor in 2007. Currently, also a Legal Member of the Mental Health Review Tribunal. Extensive experience in the provision of community legal services to persons with disability.

Frost, Stephen BA (Hons) DipLaw (BAB) FTI

Senior Member. Admitted as a lawyer in 1989. From 1995 to 2008, a partner in the business advisory firm KPMG; 2006 to 2017, member of the Commonwealth Administrative Appeals Tribunal; 2010 to 2013, Judicial Member of the former NSW Administrative Decisions Tribunal.

Furness SC, Gail BA (Qld) LLB (Hons) LLM (Melb)

Senior Member. Called to the Bar in 1997, appointed Senior Counsel in 2010. Appointed Inspector of the ICAC from 1 July 2022.

Gardner, Michelle LLB GDLP

Senior Member. Admitted as a solicitor in 2000. Extensive Tribunal experience. Currently, also a Legal Member of the Mental Health Review Tribunal and a Legal Member of the Victorian Civil and Administrative Tribunal. Previously a Senior Member of the Social Security Appeals Tribunal.

Gardner, Patrick BSc (Psych) JD

General Member. Admitted as a solicitor in the Supreme Court of NSW in 2011. Experience having worked as a solicitor in private practice and in-house. Prior to appointment to NCAT, a long-term volunteer and board member in the community legal sector.

Gatland, Jill BA (Hons) (Syd) LLB (UNSW)

Senior Member. Admitted as a solicitor in 1999 and as a barrister in 2013. Currently, a barrister in private practice with chambers at 11th Floor St James Hall. Formerly principal litigator for the Australian Taxation Office. Expertise in administrative law, equity, commercial law and taxation and revenue law.

Geikie, Neil LLB MA (Social Theory) GDLP

Senior Member. Guardianship Division. General Member; Consumer and Commercial Division. Admitted as a solicitor in 1990. NSW Court Arbitrator (2001 to current). Member of the Professional Conduct Advisory Panel of The Law Society NSW (2010 to current). Nationally Accredited Mediator (2013 to current). Principal of ReSolution Mediation. Enduring interest in social equity, social equality and cultural evolution.

George, Dr Katrina BA LLB (UNSW) PhD (Syd) GAICD

General Member. Admitted as a solicitor in 1994. Solicitor in private practice until 2000. Senior Lecturer, School of Law, Western Sydney University until 2013, with research and teaching interests in criminal law, torts, health law and ethics. Principal of an independent girls' school between 2013 and 2020. Graduate of the Australian Institute of Company Directors.

Giurissevich, Anthony BA LLB (Syd)

Senior Member. Admitted to the Supreme Court NSW and High Court in 1976. Currently, consultant lawyer in Sydney mid-tier firm. Past Legal Member of Social Security Appeals Tribunal and Veterans' Review Board. Current Member of Mental Health Review Tribunal.

Given, Fiona BA (Hons) LLB

General Member. Fiona Given has lived experience of disability and is a keen advocate for people who have little or no speech. Fiona works as a Research Assistant at the University of Technology Sydney and serves on the boards of Side By Side Advocacy and Assistive Technology Australia.

Goldstein, David BJuris LLB

Senior Member. Admitted as a barrister and solicitor in Western Australia, 1979. Admitted as a solicitor in NSW, 1983. Admitted as a solicitor in Hong Kong in 2006. Senior Member

(part-time) Civil and Administrative Tribunal, Consumer and Commercial Division and at NCAT since 2012.

Goodman SC, Scott BSc LLB (Hons) LLM

Senior Member. Solicitor from 1989-2001, including as a partner of a national law firm, specialising in commercial litigation including taxation litigation. Called to the bar in 2001 and appointed senior counsel in 2016. Mediator. Over 30 years' experience in a wide range of commercial litigation matters and in commissions of inquiry, including ICAC and the Banking Royal Commission. Appointed Federal Court Judge in November 2021.

Goodman-Delahunty, Prof Jane BA TTHD JD PhD

General Member. Admitted to the bar in 1983, qualified as an experimental cognitive psychologist in 1986 (USA), as a registered psychologist in 2005 (Australia), and accredited as a mediator in 1994 (USA) and 2002 (Australia). Currently, Professor, Newcastle Law School, University of Newcastle. From 2002-2013, Commissioner, NSW Law Reform Commission; 2007-2013, mediator, NSW Department of Commerce; 1992-2001, administrative judge, US Equal Employment Opportunity Commission; From 2007, General Member of NCAT. Elected Fellow of the American Psychological Association.

Gracie, Malcolm R BA LLB (Hons1)

Senior Member. Barrister - admitted 1989. Arbitrator - (former) Fellow CIArb, Fellow ACICA, Grade 1 Arbitrator Resolution Institute. ACCC - NBNC National Arbitrator Pool; Minister for Industry and Resources - Mining and Petroleum Onshore Acts Arbitration Panels; Economic Regulation Authority of WA - Railway Access Arbitration Panel; NT Minister for Mining and Industry- Member of the Mediators Panel under the Petroleum Regulations 2020 (NT). Supreme and District Court Arbitration and Expert Determination Panels. Lieutenant Commander Royal Australian Navy (Reserve Legal Officer). Defence Force Registered Mediator. Memberships: NSW Bar Association; Honourable Society of Lincoln's Inn (UK).

Grant, Christopher BEc LLM GradDipEd

Senior Member. Admitted as a solicitor in 1989. Solicitor for over 25 years working in community legal centres, NSW Legal Aid and private firms. From 2014-2016, worked with the Royal Commission into Institutional Responses to Child Sexual Abuse. Main areas of practice are criminal law, family law and children's law.

Grassi, Dr Tanya MBBS (Hons) BSc Vet (Hons)

General Member. Currently a Lecturer at University of NSW. Long-term lived experience as a carer and advocate for people living with a disability. Deputy Editor of the Medical Journal of

Australia over various periods between 1999-2013. Lecturer in Medicine at UNSW since 2011.

Green, Dr Jenny BEd MA PhD GradCert (Higher Education) MAICD

General Member. Chair of Macquarie Community College. Board member of the Australian Centre for Disability Law. Consultant and academic. An academic and practitioner with 30 years' experience in not-for-profit organisations and disability.

Griffin, Michael LLB LLM

Senior Member. Brigadier (Retd), Principal of Griffin Consulting, Former Integrity Commissioner and Agency Head of the Australian Commission for Law Enforcement Integrity, Former Director of Military Prosecutions, Former Australian Crime Commission Examiner, 30 plus years legal practice, 40 plus years military service, Inaugural Chair of Veterans Centre Australia

Halbert, Jennifer BA LLB

Senior Member. 1991 admitted as a solicitor of the Supreme Court of NSW and in the High Court of Australia. Nationally Accredited Mediator. From 1991 practised as a solicitor in private practice, as a Reviewer for the Office of the Legal Services Commissioner (OLSC), a solicitor and senior solicitor for the Women's Legal Resources Centre (WLRC). From 2003 to 2019, Registrar of the Family Court of Australia (FCOA) and the Federal Circuit Court (FCC). 2006-2016, Regional Appeal Registrar Eastern Region. Since 2016, appointed to the Guardianship Division and the Consumer and Commercial Division of NCAT in 2017.

Halstead, Adam MLLP AssocDegLaw

General Member. Part-time member of the Consumer and Commercial Division. Solicitor, Notary Public and part-time member of the Administrative Appeals Tribunal. Formerly member of the Social Security Appeals Tribunal, partner at Goldbergs Lawyers with a practice in commercial law, general legal practice as principal of Bradfield Mills Solicitors and solicitor-advocate at Legal Aid NSW.

Halstead, Nathan MBuildSurv (UWS) GradDip FireEng (VU) MTech Env Eng (UTS) JP

General Member. With more than 27 years of experience in building regulations and fire safety projects in the construction industry. Significant expertise in delivering large and complex projects across all sectors of industry, including complex performance-based compliance solutions and fire safety engineering. Registered as an Unrestricted Building Surveyor within NSW. Nationally, an Accredited Member of the Australian Institute of Building Surveyors. Fire safety credentials include being registered in NSW as a Certifier –

Fire Safety; and as an Accredited Practitioner Fire Safety Assessment, enabling him to assess all 36 Fire Safety Measures as required by the Fire Protection Accreditation Scheme. Registered Professional Engineer - Fire Safety in three states: NSW, Queensland and Victoria. Also registered in NSW as a Design Practitioner – Fire Safety Engineering. As Managing Director of the AED Group,

Hamilton, Renae BA LLB (Syd)

Senior Member. Admitted as a solicitor in 1996. Over 25 years' experience in litigation and dispute resolution in private practice, specialising in insurance litigation, predominantly personal injury matters involving catastrophic injury, psychological injury, and more recently historical sexual abuse matters. Currently Special Counsel at Wotton+Kearney. Senior Member of NCAT's Guardianship Division since 2021.

Handebo, Simon BBus LLB LLM (Applied Law) GradDipFDRP

Senior Member. Admitted as a solicitor in 2011. Has worked extensively in the areas of family law and child protection. Recently worked for the Children's Court of NSW and currently for the Federal Circuit and Family Court of Australia. Gained specialist accreditation in family law in 2017. Extensive experience in alternative dispute resolution.

Hanstein, Sharon BA LLB LLM

General Member. Admitted as a solicitor in 1994. From 2001 to 2010, a solicitor with Blake Dawson Waldron and the Australian Government Solicitor. From 2012, a Member of the Consumer, Trader and Tenancy Tribunal and NCAT.

Harris, Philip CSM RFD psc(r) BA LLM

General Member. Principal of a private legal practice in Tamworth specialising in property law and conveyancing, business and commercial law, and wills, deceased estates, powers of attorney and guardianship.

Harvey, Danae BA (Hons) LLB

General Member. Has worked in community legal centres in the Hunter and Illawarra regions of NSW from 1993-2003. In 1999 accredited as a mediator through Lawyers Engaged in ADR (LEADR). 2002-2013, appointed to the Consumer Trader and Tenancy Tribunal; 2005-2008, Mental Health Review Tribunal. Currently appointed as Assessor in the Small Claims Division of the Local Court since 2003, and to NCAT's Consumer and Commercial Division since 2014.

Hausfeld, Dr Steven BA (Hons) PhD LLB

General Member. Admitted as solicitor in 2001, called to the Bar in 2003. Practised at Bar in ACT and NSW until June 2019. 1975-1984, tutor and lecturer in psychology, Macquarie University; 1984-1998, Commonwealth public servant.

Hayes, Elayne BA

General Member. Qualified mediator through LEADR, 2013-2016. Voluntary work with University of Western Sydney Law School since 2011. 1983-1987, Social Security Appeals Tribunal Sydney; 1993-1997, Director of Human Resources, Centrelink; 1999-2000, Social Security Appeals Tribunal Canberra; 2001-2006, Director of Human Resources and Communications, Department of Health and Ageing; 2006-2010 and 2013-2018, General Member, Veterans' Review Board; From 1998, a General Member of the Occupational Division of NCAT; since 2002 a General Member of the Equal Opportunity Division of NCAT; and since 2016, a General Member of the Childrens Guardian area.

Healy, Aine

General Member. Guardianship Division. Consultant with professional and lived expertise in disability, inclusion, social policy, communications and advocacy. Previously with Every Australian Counts, NSW Council for Intellectual Disability and IDEAS, along with volunteer roles in community organisations.

Hennings, Simon BA LLB (Syd)

General Member. Admitted as a solicitor 1989. Currently, full-time Member of NCAT. 2002-2005, part-time Member of Consumer, Trader and Tenancy Tribunal; 2006-2013, full-time Member of Consumer, Trader and Tenancy Tribunal; Since 1994, Committee Member Camden Show Society; Since 2001, Community Member for the Community Consultative Committee Camden Gas Project.

Herberte, Jillian BSW (UNSW) EMPA (ANU)

General Member. Extensive experience at Executive Director level within the former Department of Family and Community Services. Oversight of service delivery and reform in Child Protection, Out of Home Care, Disability and Housing services. Experience in interdepartmental committees and internal program review.

Higgins, Sigrid BA LLM

Senior Member. Admitted as a solicitor in 1983 and called to the NSW Bar in 1999. Graduate Certificate in Dispute Resolution 2000. Practised as a barrister until 2020 and now practising as a solicitor. Part-time Judicial Member and Deputy President of the former NSW Administrative Decisions Tribunal until 2013; 2008-2013, Member, Defence Honours and Awards Appeals Tribunal; 2005-2012, Patent and Trade Marks Disciplinary Tribunal; 2002-2005, Legal Member of the NSW Chiropractors' Registration Board; 1995-1997, Executive Secretary of the International Commission of Jurists (Geneva, Switzerland); 1991-1993, Manager and Senior Lawyer, Commerce Commission (Wellington, New Zealand), and Principal Legal Officer and Senior Assistant Director in the Office of the Commonwealth Director of Public Prosecutions;

1983-1987, Principal Legal Officer (Criminal Law Policy) Commonwealth Attorney General's Department.

Houlahan, Lynn Mary BA Psych PGDipPsych MSpecEd DipWelfare JP

Senior Member. Registered psychologist. Currently an Independent Decision Maker with the National Redress Scheme for victims of child sexual abuse; 1996 to date, NSW Mental Health Review Tribunal; 2013-2017, psychologist/commission officer with Royal Commission into Institutional Responses to Child Sexual Abuse; 1995-2013, deputy chairperson, NSW Housing Appeals Tribunal; 1996-2008, Professional Member, Administrative Decisions Tribunal. Formerly, regional co-ordinator and was previously an area manager, DOCS Disability and Child Protection Services.

Isenberg, Naida

Senior Member. Formerly served on the Administrative Appeals Tribunal, Veterans' Review Board, the Migration and Refugee Review Tribunals and the Defence Honours and Awards Appeals Tribunal. Has a long legal background at a senior level in both the Commonwealth and NSW governments, as well as in the private sector. Holds the rank of Lieutenant-Colonel in the Australian Army Legal Corps. Served on the board of two charities, one of which is the War Widows Guild.

Isenberg RFD, Ret. COL Norman BA LLB DipEd

Senior Member. Admitted as a solicitor in 1976. Consultant lawyer. Public Notary since 1993. Accredited Business Law Specialist for over 20 years. Officer Australian Army Reserve for over 30 years including Panel Leader, Army Reserve Lawyers Panel NSW. Retired as Colonel, 2013. Formerly Chartered Tax Advisor, Fellow Australian Institute of Company Directors, Member Society of Trust and Estate Practitioners, Member Legal Consultative Committee to NSW Minister for Co-operatives. Member, Law Society NSW, Legal Education Committee.

Jarrett, Dr Mardi MBBS (Hons) FRACGP MPH DRANZCOG

Senior Member. General Practitioner, principal of a private medical practice, with special interests in community and residential aged care; women's health; palliative care and spinal cord injured patients. Since 2007 a hearing member and assessor for the Medical Council of NSW, conducting review processes for doctors following complaints. An occasional professional member of NCAT, Occupational Division for hearings regarding professional misconduct by doctors.

Jay, David BSc (Hons) LLB (Hons)

Senior Member. Admitted to New South Wales Bar in 2004. Currently, practising barrister in commercial disputes, equity

and tax law. Has presented papers for the Law Society's CLP programs on environmental law and family provision claims. Qualified mediator and acts as a Contributions Assessor for the Dust Diseases Tribunal. Before admission to the Bar, acted as a solicitor and in-house counsel for a private company. Member, Francis Forbes Society for Australian Legal history. Former tipstaff for Justice Peter Young.

Jayasinghe, Dr Marappulige PhD LLM LLB (Hons)

General Member. Civil law solicitor, Doctor of Philosophy (University of New England (2018)), practising for Legal Aid NSW. Conducted community legal education sessions and developed resource tools for the assistance of clients escaping domestic violence and fee dispute complaints. Represented clients before Local Courts, Administrative Appeals Tribunal, NSW, and Housing Appeals Committee.

Johnston, Susan BSocStud MPH

General Member. Guardianship and Appeal Divisions since 2014. 2007-2014 Community Member of Guardianship Tribunal. 2008-2018 Board Director of Evergreen Life Care (aged care facility). 1994-2020 Member of Mental Health Review Tribunal. 1982-2018. Over 15 years' experience as an accredited Social Worker in mental health, homelessness and HIV services and 20 years' experience as a human services consultant providing policy, planning and program evaluation services to government and non-government agencies.

Jones, Neil BBus LLB ADipAg

Senior Member. Originally working in agriculture, admitted as a Solicitor of the Supreme Court of NSW and the High Court of Australia in 2002. Principal of a legal practice in Orange. Panel solicitor for Legal Aid NSW in areas of Mental Health advocacy, crime (duty, summary and indictable), family law and childcare and protection (children and adult panels).

Kearney, James BSc LLB (Hons1)

Senior Member. Pursued a career as a scientist before being admitted as a solicitor in 1985. Admitted as a barrister in 1986 and has practised as a barrister at the private bar in NSW since then. Nationally Accredited Mediator and since 2009 a contributions assessor and mediator with Dust Diseases Tribunal of NSW; Chair of the MAIF Tribunal in 2017-2019; in 2016 appointed Senior Legal Member of NCAT sitting in the Guardianship and Appeal Panel Divisions.

Kennedy, Claudia BA DipEd DipRC MA

Senior Member. Qualified as a rehabilitation counsellor in 1983, MASRC. Worked in disability practice, policy and education since 1980 at CRS, WorkCover, ADHC and University of Sydney.

Kennedy, Nicole BTech (Marine Engineering) MIS MIL JD

General Member. Practised experience as a generalist solicitor and Principal solicitor in the Community Legal sector, particularly in FVPLS organisations working in all areas of law. Experience as a Tenant Advocate.

Kinsey, Graham LLB

General Member. Admitted as a barrister in 1976. Admitted as a solicitor in 1981. 1974-1977, legal clerk and legal officer with Corporate Affairs Commission; 1977-1986, legal officer and then manager of the Legal Services Branch, Department of Consumer Affairs. 1986, solicitor in private practice with John Orford & Associates; 1987-2014, sole practitioner; 2014-2017, Koutzoumis Lawyers. 2009-2013, part-time Member, Consumer Trader and Tenancy Tribunal. From 2014, part-time General Member of NCAT's Consumer and Commercial Division.

Landau, Dr Peter MB BS (Hons) (Syd) FRACP

Senior Member. Current clinical appointment as Senior Staff Specialist in Geriatric Medicine, Westmead Hospital. Other positions held at Westmead include; Director Physician Training 1992-2000, Director Clinical Training 1993-2002, Director Stroke Service 2003-2017, Head, Geriatric Medicine Department 2005-2017, Clinical Director, Critical Care & Medicine 2013-2019. Councilor, Postgraduate Medical Council of NSW 1995-2005. Member of Guardianship Tribunal 1988-1995

Laurence, Kerrie BA Educational Psychology

General Member. Community Member with NCAT since 2002. Currently, member of NORPG (National Older Person's Reference Group) within the Older Person's Advocacy Network (OPAN), the peak advocacy body for aged care services. Experience in education services for adults and children with an intellectual disability (TAFE and Department of Education); aged care service assessment and accreditation (Quality Assessor, Age Care Standards and Accreditation.); and extensive experience in child protection with Department of Communities and Justice (Communities), most recently managing a team investigating abuse in out-of-home care. Previous Member of Social Security Appeals Tribunal and the Veteran's Review Board.

Law, Dr Jane Sarah MBBS MMsci (Epidemiology)

Senior Member. Qualified in 1983 in UK. Trained and worked as a GP for over 17 years in Australia. Special interest in adults with Intellectual Disability Medicine, working at the NSW Developmental Disability Health Unit for 19 years. Currently

working with the same population as an outreach service with Intellectual Disability Healthcare.

Le Breton, John Vincent

General Member. Experience managing government and non-government services supporting people with disabilities. Community Member in Guardianship Division since 2007. Member Mental Health Review Tribunal since 2016. Former Director of the NSW Office of the Public Guardian and former Director of Victims Services NSW. Former Member Administrative Decisions Tribunal. Former member NSW Ministerial Reference Group on Person Centred Approaches and former Co-chair NSW Ombudsman's Committee on Community Living.

Le Poer Trench, The Hon Acting Judge Mark

Principal Member. Appointed as a Judge to the Family Court of Australia in October 2001. Prior to appointment, His Honour spent 20 years practising at the NSW Bar, predominately in family law, appellate advocacy, children's matters and de facto relationships. His Honour is currently a mediator and arbitrator for family law matters, and a member of the Australian Institute of Family Law Arbitrators and Mediators. His Honour is a member of the Family Law Section of the Law Council of Australia.

Leal, Suzanne BA (Hons) LLB (Syd)

Senior Member. Admitted as a solicitor in 1992. Former Member of the Migration Review Tribunal (2001-2015), Refugee Review Tribunal (2004-2015); and Judicial Member of the Administrative Decisions Tribunal (2004-2015). Presenter, Writing Better Judgments program for the National Judicial College of Australia.

Lethbridge SC, Robert LLB

Senior Member. Barrister (15 June 1979). Appointed Senior Counsel in 2001. Chairman NSW Bar Association Family Law Committee 2021/2022 and continuing. Member NSW Bar Association Diversity and Equality Committee 2020/2021 and continuing. Australian National University LLB. Practice Areas: Family Law, Appellate. Specialises in complex Australian and International property and parenting matters and is a qualified Mediator. Expertise as a trial lawyer as well as in the appellate division of the Family Court. Has appeared in the NSW Supreme Court Court of Appeal and in the High Court of Australia. Trains other lawyers in trial and appellate advocacy for the Australian Institute of Arbitrators.

Levine, Judith BA LLB (Univ. Medal) (UNSW) LLM (NYU)

Senior Member. Admitted as a lawyer in NSW (2000) and New York (2003). Independent arbitrator in domestic and international contract, investor-state and sports disputes,

including in Australia, England, France, Hong Kong, Singapore and Switzerland. Vice-President, Australian International Commercial Arbitration Centre. Member, National Sports Tribunal. Member, Commonwealth Secretariat Arbitral Tribunal. Previously Senior Legal Counsel at the Permanent Court of Arbitration; attorney at White & Case in New York; judicial clerk at the International Court of Justice; assistant adviser to the Commonwealth Attorney-General, judge's associate at the High Court of Australia.

Levingston, John BA LLB (ANU)

General Member. Member of NCAT and CTTT since 2010. Commonwealth Public Service 1977-1981 including OIC NSW Consumer Protection, Trade Practices Commission 1980-1981. Admitted to the High Court and Supreme Courts of the ACT, NSW and Victoria. Private practice since 1981 as a Solicitor (15 years) and a Barrister (25 years); Accredited Mediator (NMAS); Arbitrator; Costs Assessor and Review Panellist NSW Supreme Court. Previously honorary positions as Adjunct Professor of Law at the University of Canberra; Conjoint Professor of Law at the University of Newcastle. Author of legal texts published by The Federation Press Sydney: The law of affidavits (2013), and The law of tribunals (2016).

Limbury, Ashley BEc(SocSc) (Hons) (Syd) MBA (UTS)

General Member. Currently, in private practice as a dispute resolution consultant and strategic facilitator with experience in commercial, workplace, discrimination and family law matters. Fellow of Resolution Institute and accredited in 2003. Accredited as a family dispute resolution practitioner in 2009. Appointed as a Defence Force Restorative Engagement Facilitator 2017 and a Guardian ad Litem NSW in 2005. Mediator and General Member of the NCAT Administrative and Equal Opportunity Division.

Little, Joanne BA LLB (Hons) (Syd)

Senior Member. Admitted to the legal profession in New South Wales in 2002. Admitted to the legal profession in England and Wales in 2009 and called to the Bar in 2010. Over 20 years' experience as a legal practitioner with experience as an advocate, in private practice within Australia (Allens Linklaters), private practice internationally having practised in London, Paris and Amsterdam (Freshfields Bruckhaus Deringer) and solicitor in-house (St. George Bank and Westpac Banking Corporation). Specialising in commercial litigation, banking and finance, insurance, insolvency, Corporations Act and equity.

Lo Surdo SC, Anthony BA LLM (Syd) FCIArb FACICA FRIArb1AdvMed

Senior Member. Legal practitioner since 1987. Called to the NSW Bar in 1996 and appointed Senior Counsel in 2011. A

predominantly commercial silk in private practice with chambers in Sydney, Melbourne, Darwin, London and Dubai. Regularly appointed as an arbitrator and mediator internationally and domestically. A member of leading world arbitral institutions including ACICA, ADGM, AIAC, CAS, DIAC, KCAB, HKIAC, LCIA, QICCA, SAC, SIAC & THAC. A Grade 1 Arbitrator, Advanced Mediator and Expert Determiner (Resolution Institute). Registered in PNG as an international and domestic arbitrator and accredited as a mediator instructor and coach. Accredited as an international mediator by the International Mediation Institute and as a mediator by the Singapore International Mediation Institute. Specialist sports lawyer with experience in selection, anti-doping, disciplinary and governance disputes. Member of the Court of Arbitration for Sport, National Sports Tribunal (Cth), Racing Appeals Tribunal (NSW), Football Australia Judicial Bodies and Chair of the Football NSW Appeals Tribunal.

Longley, Wendy BSc (Hons) MA MSc PhD

Senior Member. Qualified as a clinical neuropsychologist in 1987. Fellow of the Australian Psychological Society's College of Clinical Neuropsychologists. Senior Member (Professional) of the Guardianship Division since 2014. Also working as a clinical neuropsychologist at the War Memorial Hospital, Waverley, since 2015. PhD completed successfully in mid-2019 in the area of neuropsychological rehabilitation at Sydney University, Department of Medicine. 1987-1993, Clinical Neuropsychologist, Concord Hospital. 1993-2013, Senior Clinical Neuropsychologist, Multiple Sclerosis Australia (NSW). Ongoing, guest lecturer and/or clinical supervisor at Sydney University, Macquarie University, University of Technology Sydney, and the Australian National University.

Love, Elizabeth BSW BA MMHlth (Older Person)

Senior Member. Currently the Social Worker at Wolper Jewish Hospital. 20 years social work experience at St Vincent's Hospital (Sydney) and Guy's and St Thomas Hospital (London) in the areas of immunology and infectious diseases, aged care, disability and older people's mental health. Casual academic at the University of Sydney, Faculty of Social Work (2013 -2018) and board member of Charingfield, residential aged care facility (2015- 2018).

Lucy, Dr Juliet BA (Hons1) LLB (Hons1) PhD

Senior Member. Admitted as a legal practitioner in 2005; called to the bar 2012. Barrister, Maurice Byers Chambers. From 2008- 2012, senior solicitor, NSW Crown Solicitor's Office. 2006-2007, solicitor, Clayton Utz (Brisbane). 2004-2006, research associate to President, Administrative

Decisions Tribunal. 2000-2003, lecturer, Western Sydney University

Ludlow, Christa BA (Hons) LLB MA MSc (CoachPsych)

Senior Member. Admitted as a solicitor in 1994. Nationally Accredited Mediator. Certificate IV in Workplace Investigations. Principal Consultant, WEIR Consulting. Workplace investigator, coach and mediator. From 2006-2013, Assistant Crown Solicitor, Employment Law, NSW Crown Solicitor's Office.

Lynch, Anne BA (Syd) LLB (UTS)

General Member. Admitted as a solicitor in 1994. Worked in private legal practice and with an insurance company in dispute resolution. Most recently employed as a conciliator at NCAT with employment primarily in Tribunals since 2001. Extensive experience in mediation and alternative dispute resolution.

Lynch, Joanne BA LLB

General Member. Admitted as a solicitor in 1988. Registrar Children's Court of NSW 2015-current, Member Consumer Trader and Tenancy Tribunal (CTTT) 2002-2013, solicitor regional practice 1989-2002, trainer at Riverina Institute of TAFE 2002-2019, sessional lecturer Charles Sturt University 2013-2015

Lyne, Elizabeth BBus CPA GAICD

General Member. Currently, board director, Marathon Health Ltd; Trustee, NSW Responsible Gambling Fund. Past board director, Murrumbidgee Primary Health Network. Past board director, Murrumbidgee Medicare Local Ltd. Past board director, Riverina Division of General Practice and Primary Health Ltd.

Maclean, Dr Jennifer BSc PhD LLB

General Member. Admitted as a solicitor in 2002. 2003-2006, legal officer at Legal Aid NSW; 2007 to date, held a number of senior legal roles in Federal and State government departments, including the Federal Department of Human Services, and NSW Department of Justice.

Maher, Maryanne BA LLB MBA Dip Lab Rels GAICD

General Member. Admitted as a solicitor of the Supreme Court of New South Wales in 1989. Practised in major law firms prior to joining a management consulting organisation and a medical research institute. Currently working in and has many years' experience in the non-profit sector. Extensive experience as a consumer representative in Australian Medical Research. A community member for Health Professional

Councils Authority and Medicines Australia, Code of Conduct Appeals Committee.

Martin, Meredith BA (Hons) DipEd MEd PhD
Senior Member. Currently consultant in disability, welfare, mental health, criminal justice sectors. Part-time lecturer, Sydney University. Member of Mental Health Review Tribunal. Professional Member of the Guardianship Tribunal. Ministerial Advisory Committee on Literacy and Numeracy (2012-2017) and NSW Board of Studies (2002-2017).

Marzilli, Claudio BA (UNE) BCom LLB MCom (UNSW) GCDR (UTS)

General Member. Appointed as Member of NCAT's Consumer and Commercial Division since its establishment. Former Member of the Social Security Appeals Tribunal (1986-2002), Mental Health Review Tribunal (1995-1998), Residential Tribunal (1999-2002), Fair Trading Tribunal (2000-2002) and Consumer Trader and Tenancy Tribunal (2002-2013). Legal practitioner; accountant (audit inspector); and senior lecturer in accounting and law. FCPA to 2004 and FCA to 2009.

Massey, Vaughan DipLaw (SAB) PGDip Conflict Resolution

Senior Member. Admitted as a solicitor in 1979. Currently sole practitioner in private practice. Experience appearing as a separate representative before NCAT's Guardianship Division and in matters before the Mental Health Review Tribunal over several years. Engaged in the study and practice of alternate dispute resolution since 1985. Ministerial appointment to the Council of the University of New England, 1984-1987. Volunteer solicitor and Member of the Management Committee of Macquarie Legal Centre, various times 1998-2004.

Matheson, Alice AEd BA (Hons) Clinical Psychology MA (Hons) Clinical Neuropsychology

Senior Member. Nine years' experience as a clinical psychologist in the public sector. Qualified as a clinical neuropsychologist 1981. Extensive experience in the assessment of all forms of brain impairment and cognitive rehabilitation. Currently a Fellow of the Australian Psychological Society College of Clinical Neuropsychology (CCN), Senior Member of the Guardianship Division of NCAT, and Senior Member of the ACT Civil and Administrative Tribunal.

Matkovich, Nicholas BA LLB MBA

Senior Member. Admitted as a Solicitor in the NSW Supreme Court in 1978, and subsequently admitted to practice in all States and Territories of Australia. Executive Certificate in Insurance, Fellow of ANZIIF and Fellow of ALUCA. Currently a

Partner and an Insurance Practice Group Leader of the national law firm HWL Ebsworth. Notary Public.

McAteer, John BA (Macq) MA (Macq) BLegS (Macq) GDLP (UTS)

Senior Member. Legal practitioner (Australian Lawyer) admitted 2001 solicitor NSW and Commonwealth. Currently, solicitor in sole practice, board member, NFP social housing provider, Liveable Australia Foundation. From 2009-2011, NSW Privacy Commissioner; 2006-2009, Registrar Victims Compensation Tribunal; 2002-2006, solicitor advocate, NSW Attorney General's; 1996-2002, senior investigator, NSW Ombudsman. Qualified mediator.

McAuliffe, Jane BA (Hons) MA DPsych (Clinical Neuropsychology)

Senior Member. Qualified as a Clinical Neuropsychologist in 1987. Currently, a clinical neuropsychologist in both public and private rehabilitation and aged care services. Since 2008, engaged in clinical trials for the treatment of dementia within the Hornsby Ku-ring-gai Hospital Research Unit. A fellow of the Australian Psychological Society College of Clinical Neuropsychologists (CCN) and, from 2016-2018, Chair of the NSW CCN.

McCalman, Maz BA LLB

General Member. Lawyer (volunteer) previously with the Hunter Community Legal Centre (Newcastle). Member of the Mental Health Review Tribunal since 2016. Board member Psychologist Board – Australian Health Professional Regulation Authority (AHPRA) since 2017. Past roles - CEO non-government community organisations. Senior Executive in Queensland and NSW – Housing and Disability.

McCarthy, Shaun BA LLB PhD

Senior Member. Admitted as a lawyer in the Supreme Court of NSW in 1988. Director, University of Newcastle Legal Centre and Program Convenor of Practical Legal Training Program at the University of Newcastle. From 2005 a Legal Member of the NSW Guardianship Tribunal and NCAT Guardianship Division.

McCue, Margaret LLM (UNSW)

General Member, part-time, appointed to the former Consumer Trader and Tenancy Tribunal in 2011. Admitted as a solicitor in 1988. Currently, a commercial lawyer practising in Macquarie Street Sydney. Nationally accredited mediator appointed to the Personal Injury Commission in 2020, and the former Workers Compensation Commission since 2011. Current appointment as a Local Court Arbitrator and executive board member of the Australian Dispute Resolution Association (ADRA). Participated in a number of mentoring programs for the advancement of women in law at the University of NSW; University of Wollongong and Notre Dame University, Sydney.

In May 2017, completed the Company Directors course conducted by the Broken Bay Institute. Has held the following appointments: Non-executive board member of local chamber of commerce; Governor of a perpetual care entity; Director of a co-educational school; Chair of the board of strata scheme "The Oxley", Elizabeth Bay.

McDonald, Scott BA LLB FAICD

Senior Member. Consumer and Commercial Division. Also commercial litigation partner and board member at Sparke Helmore Lawyers, specialising in complex corporate, insolvency and competition disputes as well as private international law, international commercial arbitration and pro bono disputes. Sits on and/or advises boards (including not for profits) and facilitates the legal education modules on directors' duties to members of the Australian Institute of Company Directors in the AICD Company Directors' Course. Also Deputy Chair of St John Ambulance Australia (NSW) since 2017.

McFarlane, Mary Beth BA LLB Dip Legal Practice

General Member. Appointed to the Consumer and Commercial Division in 2021. Admitted as a solicitor in 2009. Even balance of time spent working between private and public sectors, with an extensive background in prosecutions. Current Legal Member of the Mental Health Review Tribunal.

McGirr, Patrick Dip Teach (UNSW) MMgmt (UWS) MComm (Hons) (WSU)

General Member. Background in education and later senior management roles in human services spanning both government and private sector organisations. Experience in social research, identifying needs, and delivering service responses including aged/dementia care. 15 years' experience as an Associate Lecturer in Business (Western Sydney University). Key teaching/research areas were strategic/financial analysis and leadership development at MBA level. Lived experience (30+ years) formally supporting a person with a dual diagnosis of psychosocial and intellectual disability. Working knowledge of the role of a Private (Financial) Manager and current know-how in negotiating through NDIS processes.

McIlhatton, Susan BA LLB

Senior Member. Admitted as a solicitor in 1983. Previously senior solicitor Legal Aid Commission, Senior Member Refugee Review Tribunal, Deputy District Registrar Federal Court of Australia, Member Consumer Trader and Tenancy Tribunal, Deputy President Guardianship Tribunal.

Mclvor, Kirsty BComms (Journalism) Cert IV Workplace Training and Assessment

General Member. Communication professional having worked as a journalist, producer and foreign correspondent for the ABC and Chief Communication UNICEF in Bangladesh and Indonesia. Runs own communication consultancy. Over 19 years' experience, knowledge and insight into the needs of a person with disability. Alumni Sydney Leadership Australia.

McMahon, Karen BA LLB LLM

Senior Member. Admitted as a solicitor in 1992. Over 25 years' experience in litigation and dispute resolution in private practice, government and community sector. Specialised practice in health law between 2001-2016. Past Member of NSW Law Society Medico-Legal Liaison Committee. Legal Member with the Mental Health Review Tribunal and NCAT's Guardianship Division since 2016.

McPhee, Dr Brenda MBBS (Syd)

Senior Member. Currently, General Practitioner at Macquarie Fields Women's Clinic and Leichhardt Women's and Community Health Centre. From 1994-2005 Professional Member, Social Security Appeals Tribunal; General Practitioner, Bankstown Women's Health Centre from 1992-2014 and at WILMA, Campbelltown Women's Health Centre from 2003-2018.

Mobbs, Karen BA LLB

Senior Member. Admitted as a solicitor in 1989 with over 30 years of legal experience gained in both the private and public sectors, including in senior positions at Commonwealth, state and local government levels

Moir, Jillian BA (Hons) LLB GDLP BSc (Psychology)

Senior Member. Admitted as a solicitor in 1993. Former Senior Member, Veteran's Review Board and Member of the Social Security Appeals Tribunal/Administrative Appeals Tribunal. Many years' experience in mediation and conciliation.

Molony, Peter

Senior Member. Admitted as a barrister and solicitor of the Supreme Court of Victoria in 1980. Admitted as a barrister of the Supreme Court of NSW in 1986. From 1999-2002, Senior Member Fair Trading Tribunal; 2002-2013, Judicial Member Administrative Decisions Tribunal; 2002-2011 Senior Member Guardianship Tribunal; 2013-2016 Senior Member NCAT.

Montgomery, Stephen BScAgr LLB (Hons) GDLP

Senior Member. Legal Practitioner since 1992. Currently a solicitor. From 1999-2002, Member, Fair Trading Tribunal of NSW; 2002-2007, Member, Consumer Trader and Tenancy

Tribunal; 2001-2013, a Judicial Member of the Administrative Decisions Tribunal; 2014 to present, Senior Member NCAT.

Moran, Peter LLB

Senior Member. Admitted as a solicitor in 1983. Currently, a Partner in law firm Colin Biggers & Paisley with over 39 years' extensive experience in insurance, reinsurance and commercial litigation. Lawcover panel solicitor for 32 years. Regularly presents papers and seminars on risk management to the legal profession and conducts training sessions for regional legal practitioners throughout NSW. From 2016 to date, Senior Member NCAT.

Moss, Deborah BLegStud

General Member. Admitted as a solicitor in 1987, as a barrister in 1995. From 2002-2014, Member, Consumer Trader and Tenancy Tribunal. Since 2014, General Member of NCAT's Consumer and Commercial Division.

Moujalli, Daniel Anthony BEc LLB (Hons) (Syd)

Senior Member. Admitted as a solicitor in Australia in 1996 and in England & Wales in 1999. Practising as a barrister in NSW and ACT since 2007. Adjunct lecturer with the College of Law Sydney since 2018. Author and presenter of various papers on legal practice and procedure.

Mulvey, Craig BCom LLM

Senior Member. Current barrister in private practice. Appointed as a Senior Legal Member Guardianship Tribunal NSW, 2010 – 2014. Since 2014, appointed as a Senior Member NCAT in the Guardianship, Administrative and Equal Opportunity and Occupational Divisions and the Appeal Panel. Past board member and co-convenor of the Inner-City Legal Centre. Current chair and board member of the Intellectual Disability Rights Service. Member of the NSW Bar Associations Legal Aid Committee and past member of the Elder Law Committee.

Murray, Dr Maree

General Member. Teaches Law at the University of Technology, Sydney. Expertise in Diversity and Inclusion. Previously was Director of the Wingara Mura Leadership Program, and Deputy Director of Diversity and Inclusion, at the University of Sydney. Experience as an Industrial Relations academic, in research and evaluation, and in conducting workplace arbitration and mediation.

Newman, Jennifer BA GradCert Indigenous Research

General Member. PhD candidate, Institute for Social Justice ACU; teaching Aboriginal Studies in a range of settings.

Nicholls, Nicholas BA (Hons) LLB (Syd)

Senior Member. Admitted as solicitor in NSW and Barrister and Solicitor in the ACT. Judge with the Federal Circuit Court 2004-2020.

Nightingale, Anna BN LLB (Hons)

General Member. Admitted as a solicitor in NSW 2002. Since 2014, a panel member with the Australian Financial Complaints Authority in general insurance, life insurance, banking, investments and superannuation and Specialist Reserve Legal Officer with the Royal Australian Air Force. Since 2017, General Member of NCAT's Consumer and Commercial Division.

O'Carrigan, Patrick FRAIA AIAMA

Senior Member. Registered architect and urban designer with over 25 years' experience in private and public sectors. Qualified as an arbitrator. Former Member, Administrative Decisions Tribunal with an interest in ethics and governance.

O'Dowd, Norman James BA LLB MPA

Senior Member. Admitted as a legal practitioner in 1993. Gained specialist accreditation in family law in 1999. Worked for Legal Aid NSW, providing representation to children and young people in the family law courts. Extensive mediation experience. Recently worked at UTS and The College of Law, teaching in the areas of family law, ethics law and justice, foundations of law and legal and professional skills. Also employed as a research associate on projects related to cross border surrogacy arrangements, and family violence and self-representation in the family law system.

Organ, Lynne LLB

Senior Member. Admitted as a solicitor in 1985. Currently, Member, Mental Health Review Tribunal. From 1986-2001 worked in a Community Legal Centre, Legal Aid and private practice; 2001-2015 specialised in the area of health law at the Health Care Complaints Commission and in private practice including disciplinary work, medical negligence and inquests. From 2017 committee member Lawyers Assistance Program.

Oxenham, Melanie BSW

General Member. Member of Australian Association of Social Workers (AASW). Former Official Community Visitor; Employed by the Public Guardian 1997-2012. Project Officer, Planning Ahead Tools website 2011-2012. Policy Officer/Mentor- NSW Supported Decision-Making Pilot 2012-2017. Facilitator/trainer NDIS awareness 2015-2017.

Paull, Christine BA LLB LLM

Senior Member. Admitted as a solicitor in 1979. Currently a part-time Senior Member in the Consumer and Commercial

Division of NCAT. From 2003-2013, Senior Member, Consumer Trader and Tenancy Tribunal.

Pearson, Linda BA LLM MPP

Principal Member. Admitted as a solicitor in 1981. From 2009-2016, a Commissioner of the Land and Environment Court of NSW; 2005-2009, Senior Lecturer Faculty of Law, University of NSW. Former Judicial Member of the Administrative Decisions Tribunal and Presiding Member of the Guardianship Tribunal. Currently, Adjunct Professor, Faculty of Law University of NSW.

Perrignon, Richard BA (Hons) LLB (Syd)

Senior Member. Admitted as a solicitor of the Supreme Court of NSW in 1987 and as a barrister-at-law in 2002. From 2008-2014, judicial member of the Administrative Decisions Tribunal while practising at the Bar. Since 2010, a Member of the Workers Compensation Commission. Appointed as Senior Member, NCAT 2014 in the Administrative and Equal Opportunity Division and Appeal Panel. He is a nationally accredited mediator and mediates cases before the Appeal Panel and in other Divisions of the Tribunal. As a barrister, he appears as Crown Prosecutor for the Commonwealth of Australia in jury trials for offences under Commonwealth law.

Pickering, Edwina BSW MIR

General Member. Previous employment with National Disability Services and NSW Ombudsman, and as a consultant in the health and community sectors. Member of Guardianship Tribunal since 2014.

Pinto, Susan Marie BA (Hons) LLB MA (Criminology)

Senior Member. Admitted as a legal practitioner in 1999. Previous experience in criminal intelligence and as a legal officer in refugee law. First appointed as a Tribunal member on the Administrative Appeals Tribunal in 2003 and reappointed until 2017, specialising in migration and refugee law. Appointed to the Hong Kong Torture Claims Appeal Board in mid 2017 and reappointed until September 2022 assessing applications for asylum in Hong Kong. Appointed to the Nauru Refugee Status Review Tribunal in 2018 and reappointed until December 2021, undertaking applications for persons seeking asylum. Appointed as a senior legal member of Guardianship Division of NCAT in March 2021.

Pirina, Christina BSc (Macq) LLB (Hons II) (Syd) LLM (UNSW)

General Member. Admitted to practice in 2005, with experience in a range of government, not-for-profit and private sector roles. Principal Solicitor at Macarthur Legal Centre, since 2014. Accredited mediator and Family Dispute Resolution Practitioner (FDRP). Casual academic at Western

Sydney University (2015-2017) and mediation/FDR coach at the College of Law (since 2015).

Porter, Lyn GradDipSocSc (Community Services)

General Member. Currently appointed as an Official Community Visitor. Many years of experience working in the areas of domestic violence, child protection investigation and monitoring the conduct of service provision in the Disability and Out of Home Care Sectors.

Priestley, William BA LLB

General Member. Barrister and mediator with over 25 years' litigation experience, with expertise in building disputes, wills and estate matters, personal injury disputes, consumer disputes and employment disputes. Registered with Commonwealth Attorney-General's Department as an accredited Family Dispute Resolution Practitioner, and on the NSW Supreme Court's list of approved mediators. Member of Australian Mediators Association.

Raif, Kira BA LLB LLM

Senior Member. Appointed as a member to the Migration and Refugee Review Tribunals in 2006 and a Senior Member in 2011. Presently a Senior Member of the AAT. Prior to Tribunal appointments, worked in private practice specialising in immigration law.

Ransome, Kay BA (Hons) LLB (Hons)

Senior Member. Admitted as a solicitor in NSW in 2008. Legal Member, Disciplinary Appeal Board, Institute of Actuaries of Australia. Member, Torture Claims Appeals Board and Adjudicator, Non-refoulement Claims Petition Office, Hong Kong. Lawyer whose primary expertise is administrative law. Many years' experience in tribunals, including as Chairperson of the former Consumer Trader and Tenancy Tribunal and as Principal Member, former Refugee Review Tribunal and Migration Review Tribunal.

Ringrose, John DipLaw (Syd)

General Member. Barrister at Law admitted May 1970. Currently, practising as a barrister in Sydney, Nationally Accredited Mediator since 2007. District Court Arbitrator 1998-2007. Supreme Court Arbitrator 2001-2004.

Riordan, Michelle LLB

Senior Member. Currently, Manager of Legal Education, Office of the General Counsel, Workers Compensation Independent Review Office. Previously a solicitor in private practice from 1987-2013, including a lengthy period of partnership in a law firm based in Sydney; 2005-2013, a Judicial Member of the Administrative Decisions Tribunal.

Roberts, Susan BA LLB (Hons)

Senior Member. Admitted as a solicitor in 1989. Currently, a consultant in the management and governance of institutions and organisations in the human rights and social justice field. From 1994-2010, various roles at the Australian Human Rights Commission including Director, Legal Services and Executive Director.

Robertson, David LLB BEc BCL

Senior Member. Admitted as a solicitor in 1986 and as a barrister in 1991. Practised in all areas of commercial law with a focus on banking, insolvency and building and construction. Appeared in courts and tribunals at all levels, in both NSW and interstate, including numerous mediations and arbitrations. Rhodes Scholar. Awarded the Rupert Cross Prize at Oxford University.

Rogers, Linda BSW LLB

Senior Member. Admitted as a solicitor in 1996. Practised in government and community legal sectors and as a sole practitioner with a focus on guardianship, mental health and administrative law. Former Member of Social Security Appeals Tribunal (2008-2014). Member of the Law Society of NSW Elder Law, Capacity and Succession Committee (2017-2019). Part-time sessional academic at university (2017-2020).

Rose, Jeffrey BCom LLB (UNSW) GDLP (UTS)

General Member. Admitted as a solicitor in 1994. Appointed as a Notary Public in 2002. Called to the Bar in 2011. Currently, a barrister in private practice (since 2011) and a Legal Officer with the Royal Australian Navy (since 2012).

Ross, Katherine BA BLegS

Senior Member. Admitted as a solicitor of the Supreme Court of NSW in 1987. 1991-2009, partner, Dunn Ross Lawyers; 2010-2011, Special Counsel, Harris Wheeler Lawyers. Past President, Disability Advocacy (NSW). Past part-time lecturer and tutor, University of Newcastle.

Rosser, Kim MA LLB (UNSW) LLM (Hons) (UTS)

Principal Member. Admitted as a solicitor of the Supreme Court of NSW in 1988. Currently a Principal Member of the Tribunal, sitting in the Consumer and Commercial Division and on the Appeal Panel. 2006-2013, Member Consumer Trader and Tenancy Tribunal. Previously a Senior Member of the Refugee Review Tribunal and a Member of the Social Security Appeals Tribunal.

Roushan, Shahyar BA LLB GDLP

Senior Member. Admitted as a solicitor and barrister in 1997. Since 2015, Senior Member of the Commonwealth Administrative Appeals Tribunal. Previously, Member and then

Senior Member of the Refugee Review Tribunal and the Migration Review Tribunal.

Royer, Rosemary BSocStud (Syd) GradCertEdStud (Disability) (Newc)

General Member. Qualified social worker. Has extensive experience at a senior level over many years in government and non-government organisations working with vulnerable families, children and young people. Developed statewide policy and implemented services across health and disability services. Appointed in 2014 to NCAT's Administrative and Equal Opportunity Division as a General Member, and to the Guardianship Division in 2016.

Ruschen, Katherine BA LLB (Hons)

General Member. Over 20 years' experience as a solicitor, including 10 years as a partner of both boutique and mid-tier law firms. Specialist commercial and insurance litigation and dispute resolution lawyer, with a focus on professional malpractice and professional misconduct. Has represented healthcare and legal professionals in several high-profile Coronial Inquests and Royal Commissions and before professional disciplinary bodies. Appointed as an External Merit Reviewer for the State Insurance Regulatory Authority (SIRA). Holds a mediation qualification from the Australian Disputes Centre.

Ryan, Moira Cynthia BEc Dip Ed LLB LLM (Applied Fam)

Senior Member. Admitted as a Solicitor of Supreme Court of NSW and High Court in 1992 and Nationally Accredited Mediator (2012-current). In private practice for 21 years and a Registrar in the Family Court of Australia and Federal Circuit Court of Australia for 8 years. Appointed to the Guardianship Division of NCAT in November 2021.

Sarginson, Gregory BA LLB LLM (Syd)

Senior Member. Admitted as a solicitor in 1994. Admitted to the NSW Bar 2003. Barrister; Lecturer, University of Sydney Law Extension Committee. From 2005-2015, reporter, NSW Council of Law Reporting; From 2005 to date, lecturer, University of Sydney Law Extension Committee; From 2014 to date, contributor, NSW Civil Procedure Handbook (Thomson Reuters).

Sarofim, Elizabeth LLB (Hons1) BSc (Molecular Biology) GAICD

Senior Member. Held senior roles in state and federal government agencies prior to moving to commercial legal practice and ultimately becoming a Partner. Practised at Ashurst, Baker McKenzie and Dentons and was Head of the Competition practice. Sits on various Boards, is an adjunct

senior lecturer, and head of Competition and Regulation editorial at Thomson Reuters.

Scarlett OAM RFD, Stephen BA LLM
GradDipCrim DipSocSc

Senior Member. Admitted as a solicitor in 1971. Admitted to the NSW Bar in 2017. Accredited Mediator NMAS. Magistrate. 1998-1995, Local Court of NSW; 1995-2000, Senior Children's Magistrate Children's Court of NSW; 2000-2013, Judge of the Federal Magistrates Court of Australia; 2013-2016, Judge of the Federal Circuit Court of Australia; 2017 to date, Senior Member of NCAT in the Occupational and Administrative and Equal Opportunity Divisions; 2015, awarded the Medal of the Order of Australia; 1964-2006, served in the Army Reserve and retired with the rank of Colonel.

Searson, Jean-Anne BA (Hons) LLB (Hons)
(Syd) GDLP (College of Law)

General Member. Admitted as a solicitor of the Supreme Court of NSW in 1999. Also a Legal Member of the NSW Mental Health Review Tribunal. Practised as a solicitor in private practice in rural NSW and at Legal Aid NSW.

Sheahan AO, Terence William BA LLB FRSN

Principal Member. Served in the NSW Parliament 1973-1988, including as a Cabinet Minister 1980-1988, in a range of portfolios including Attorney General 1984-1987. Later served as a Judge of the NSW Land and Environment Court 1997-2019, and President of the NSW Workers Compensation Commission 2001-2007. Appointed as an Officer in the General Division of the Order of Australia in 2002. The citation referred to his service to the law, especially in the area of ADR, to the Parliament of NSW, and to organisations involved in health and aged care, education, human rights, and the environment.

Shipp, Bernie BA LLM

Senior Member. Admitted as a solicitor of Supreme Court of NSW in 1983, nationally accredited mediator in 2011. Member of Council of Australian Tribunals and the Law Society of NSW. From 1998-2006, Member, Social Security Appeals Tribunal; 2000-2013, Member, Guardianship Tribunal; 2001-2011, Member, Consumer Trader and Tenancy Tribunal. Senior (Legal) Member of NCAT in the Guardianship Division and Commercial and Consumer Division since 2014.

Shub, Oscar BCom LLB

Senior Member. Solicitor with 45 years of experience as a litigator and partner in major law firms around the world. Recognised mediator having trained through LEADR and a former chair of LEADR. Former Chair, Health Practitioners Competence Assurance and now Principal Member, NCAT in the Occupational and Administrative and Equal Opportunity Divisions.

Simon, Theresa BA DipEd LLB

Principal Member. Admitted as a solicitor in 2002. Currently a Principal Member of the New South Wales Civil and Administrative Tribunal (NCAT). Was previously appointed as a Principal Member to the Consumer and Commercial Division and currently appointed as Principal Member to the Administrative and Equal Opportunity Division. Also cross appointed to Appeals and Guardianship Division. Practised as a solicitor in private practice in Western Sydney and established the Home Building Advocacy service at Macquarie Legal Centre. From 2008-2011, lectured in Law at Western Sydney University; 2011-2013, appointed as a Family Dispute Resolution Practitioner with Legal Aid; Previously a secondary school teacher in Western Sydney.

Simpson, James BA LLB LLM GCDR

Senior Member. Admitted as a solicitor in 1977. Currently, Senior Advocate, Council for Intellectual Disability. From 1986-1991, principal solicitor, Intellectual Disability Rights Service; 1994-1997, Deputy President, Community Services Appeals Tribunal; 2002-2016, presiding Member, Mental Health Review Tribunal. Justice medal 2002 – Law and Justice Foundation of NSW.

Sindler, Michelle BA (Hons1) LLM

Senior Member. Admitted as a solicitor in New South Wales (1985) and in all other Australian states and territories (1990) and in England and Wales (2007). Currently, an independent arbitrator working in Australia, the Asia-Pacific and in Europe. From 1990-2001, partner at Minter Ellison in Sydney; 2001-2007 partner of a major law firm in Switzerland; 2008-2010, partner of a major law firm in the UK; 2010-2013, Chief Executive Officer of the Australian International Disputes Centre (now the ADC) and Secretary-General of ACICA, the Australian Centre for International Commercial Arbitration.

Slack-Smith, Gemma BSW LLB

Senior Member. Degrees in law, social work and frontline management and a Churchill Fellowship recipient. Admitted as a solicitor in 2006. Extensive experience in child protection law. Significant experience working with, and for, disadvantaged clients with mental health, family violence and drug and alcohol challenges. Extensive litigation experience representing children and adults with physical, mental and intellectual disabilities. Member of the NSW Children's Legal Issues Committee. Legal Member with the Guardianship Division of NCAT since 2016.

Smith, Holly LLM

General Member. Admitted as a solicitor in 2005 with experience in community and government practice, working in various areas of law. Recent years have been working as Registrar of the Local Court.

Smith OAM, Dr Margaret BA (Hons) MPsychol PhD FAPsS

General Member. Qualified as a community psychologist in 1977, registered psychologist AHPRA Psychology Board of Australia and Fellow of the Australian Psychological Society. Currently, community psychologist working with non-government mental health advocacy groups and a part-time member of the Mental Health Review Tribunal. From 2000-2008 Associate Professor in criminology and social work at the University of Western Sydney. Advocacy and consultancy work in disability, mental health reform and women's health programs since 1980.

Smith, Peter DipLaw (BAB)

General Member. Admitted as barrister in 1988. From 1999 Member of Residential Tribunal; 2002, Member of Consumer, Trader and Tenancy Tribunal; 2014, Member of NCAT.

Smith, Stephen BA MHA (UNSW) LLM SJD (Syd)

General Member. First career was in hospital management and took up law as a mature age student. After some years as solicitor in private practice went into academic work and took early retirement as a tenured senior lecturer at a city law school. Major interests were law and the health professions, administrative law and consumer law. Was for some years head of the university student law service. Was a part-time Member of the Fair Trading Tribunal and Consumer Trader and Tenancy Tribunal before appointment to NCAT.

Spencer, Dr Margaret RN BTheol BSW PhD

General Member. Qualified as a social worker in 1996. Awarded doctorate in 2007. Lecturer & Director of Field Education, Social Work Program, Faculty of Arts and Social Sciences, University of Sydney.

Stahel, Wendy BA (Psychology)

General Member. Community Member in Guardianship Division since November 2021. Worked for public broadcasters for over 30 years (BBC, SBS & ABC). Volunteer currently working with agencies in Sydney LGA to assist clients being re-housed. Carer and advocate for dementia sufferers since 2014.

Staples, Melissa BA (Hons) MPsychol

Senior Member. Registered psychologist with specialist endorsement in the areas of neuropsychology and clinical psychology. Qualified as a psychologist in 1990. Currently, a private consultant. Has been a Professional Member of the Guardianship Tribunal since 2006.

Stares, Glenda BA LLB GDLP

Senior Member. Admitted as a solicitor in the NSW Supreme Court in 2006. Over 16 years' experience as a lawyer working

with Legal Aid NSW and Shoalcoast Community Legal Centre as well as running own private practice. Many years of relevant experience acting as a separate representative and legal representative before the Guardianship Division and Mental Health Review Tribunal.

Starke, Alana LLB (Hons) Executive MBA GAICD

Senior Member. Admitted as a Solicitor in 1996. Worked in both the public and private sectors at an executive level and across a wide range of legal areas including litigation, child protection, GIPA, privacy, corporate governance and commercial law. Formerly General Counsel FACS, Sydney Water Corporation and Sydney Ferries (within Transport for NSW). Extensive previous experience at King & Wood Mallesons.

Steer, Charlotte BA LLB (Syd) GCULT (UNSW)

Senior Member, Guardianship Division and Consumer and Commercial Division. Admitted as a lawyer in 1988. Associate to the Hon Michael McHugh AC KC on the High Court of Australia in 1989. Experience as a lawyer at Legal Aid in NSW and ACT, NSW Anti-Discrimination Board and Seniors Rights Service, and Conference Registrar at AAT. Nationally accredited mediator. Teaching Fellow, UNSW Law and Justice, since 1996. Tribunal Member since 1997 on Residential Tenancies Tribunal, Residential Tribunal, Fair Trading Tribunal, Consumer, Trader and Tenancy Tribunal.

Stevenson, The Hon Acting Judge Jan BA/LLB (UNSW)

Principal Member. NSW Barrister specialising in Family Law and Child Protection 1981-2001. Justice of the Family Court of Australia 2001-2021.

Stewart, Leanne BSW (UNSW)

General Member. Currently, consultant in aged and community care. From 1982-1991, Department of Social Security, social worker Moree, Dee Why, then Deputy Area Manager Sydney; 1991-1993. Home Care Service of NSW, Regional Manager, Sydney Metropolitan; 1993-1996, Anglican Retirement Villages Operations Manager. Community Member of the Guardianship Division NCAT since 2001, and Appeals Panel since 2016.

Sutherland, Stuart LLB GDLP LLM

General Member. Admitted as a solicitor in 2003. Currently a Principal in a law firm based in Newtown. Worked extensively in private practice in commercial, consumer, conveyancing, mental health, family and criminal law. From 2005, Panel Member for Legal Aid NSW and co-author of 'Children Under the Family Law Act, Lawyers Practice Manual New South Wales', Redfern Legal Centre. 2013-2014, volunteer solicitor

with the Intellectual Disability Rights Service. Previously a casual lecturer in criminal law at the University of Western Sydney.

Suthers, Aaron LLB

Principal Member. Accredited specialist (Family Law). Accredited mediator, NMAS - FDRP. 1995, admitted to legal practice. Formerly a Director of Cheney Suthers Lawyers, Orange. From 2006-2009, Member, Guardianship and Administration Tribunal (Qld); 2009-2014, Member, Queensland Civil and Administrative Tribunal; 2014-2018, Senior Legal Member, NCAT.

Stubbs, Kerry BA (Hons2.1) MA (Hons1) Grad Cert Writing MAICD

General Member. Currently non-Executive Director on a number of Boards, including Northcott Innovation Ltd, Healthy North Coast Ltd and member of the Board of Trustees and Deputy Chancellor of Western Sydney University. Previous CEO of Northcott, a large disability services provider. Previous Executive Director of St Vincent's Hospital. Many years experience in equal employment opportunity research and work, and in multicultural issues. Previous Chair of the National Accreditation Authority for Translators and Interpreters (NAATI). Member of NSW Government Domestic Violence and Sexual Assault Council and the Federal COVID-19 Disability Advisory Committee.

Sword, Donald

General Member. Extensive experience in the delivery of services to people experiencing homelessness, and expertise in mental health and drug and alcohol services. Served as an Official Community Visitor appointed by the Minister for Disability Services, and as an Official Visitor to the hospital at Long Bay Correctional Centre. Member of the NSW Legal Aid Review Committee, the Justice Disability Advisory Council, and the State Parole Authority.

Taylor, Susan BSocStud

Senior Member. Qualified as a social worker in 1973. 1992-2015, worked on Marrickville and Canterbury Acute Care Mental Health Teams; 1988-1992, manager of service providing support for people with multiple sclerosis; 1996-2011, Member of the Social Security Appeals Tribunal; 2002-2006, Member of the Mental Health Review Tribunal; 1992 to date, Professional Member of the Guardianship Tribunal.

Thew, Penelope BA LLB (UNSW) GDLP MLLR (Syd) Advanced Advocacy Course (Oxford)

General Member. Admitted to the New South Wales Bar, 2005. Admitted as a solicitor of the Supreme Court of New South Wales, 2000. Currently practising at the New South Wales Bar. From 2000 -2005 worked as a solicitor in private practice and

performed an Internship with the International Labour Organisation in Geneva, Switzerland; 1997-1999, worked with the former Human Rights and Equal Opportunity Commission.

Thode, Sabine BEc (Syd) DipLaw BSAB

Senior Member. Called to the Bar in 1999. A full-time Senior Member of the Consumer and Commercial Division, Member of the Appeal Panel, cross-appointed to the Administrative and Equal Opportunity and Guardianship Divisions.

Thompson, Dr Susan MBBS FRANZCP RANZCP AIRS

Senior Member. Child, adolescent, adult and family psychiatrist working for many years in inpatient and outpatient public mental health settings, private practice and for Relationships Australia. Currently, Professional Member of NCAT's Guardianship Division and a Psychiatrist Member, Mental Health Review Tribunal.

Thompson, John BComm (Ec) LLB

General Member. Solicitor and Public Notary. 1975-1980, investigator with Trade Practices Commission; 1980-1988, lawyer with NSW government agencies; 1984, Private Secretary to Attorney General of NSW; 1988-2018, barrister; 2018-present, solicitor and public notary.

Thomson, Bruce BA Dip FP FIAA

General Member. A self-employed independent consulting actuary with experience in risk management, investment, insurance and complaint mediation. Board and Committee member of charitable and local sporting associations. Former chair of a retirement village.

Tibbey, Amanda BJuris LLB LLM (UNSW) Grad Cert in Management (UWS)

Senior Member. Admitted as Solicitor in 1987, called to the Bar in 2004 practising in equity, commercial and administrative law. 2014 to date, Senior Legal Member, NCAT Guardianship Division; 2015 to date, cross appointed to Administrative and Equal Opportunity Division and Commercial and Consumer Divisions of NCAT. Nationally accredited mediator, appointed to Supreme and District Court panels of Mediators; Contributing author, Thomsons Civil Practice and Procedure, 2012 to date. 2013-2014, Chair, Women Barrister's Forum; 2014-2016, Member, NSW Bar Association Professional Conduct Committee; 2007- 2008, Member, NSW Bar Association Human Rights Committee; 2020 to date Member of Advisory Committee, Francis Forbes Society for Australian Legal History; 2008 to date, Visitor, Australian College of Theology; 2012 to date, Executive Member, NSW Ecumenical Council, 2021 to date, Chancellor, Riverina Diocese, Anglican Church of Australia.

Timbs, Kathleen BA LLB

General Member. Former Member, Social Security Appeals Tribunal (2009 - 2015) and Administrative Appeals Tribunal (2015 - 2018). Admitted as Solicitor of the NSW Supreme Court in 1994, practised as solicitor for Legal Aid (Child Support Unit), investigator/conciliator for the Human Rights and Equal Opportunity Commission (1996 - 1999) and held managerial and legal positions with Australian Broadcasting Authority and ACMA.

Titterton OAM, Robert BComm LLB MArtsMgt

Senior Member. Former Principal Member. Admitted as a solicitor in 1988 and barrister in 1992. Sits in the Occupational Division and Consumer and Commercial Division as well as the Appeal Panel. Former member of the Administrative Appeals Tribunal (Cth) and NSW Consumer Trader and Tenancy Tribunal.

Toohy, Jill BJuris LLB

Senior Member. Admitted as a solicitor and barrister in WA, 1981. Former member and Registrar of the Refugee Review Tribunal; Senior Member, Human Rights, State Administrative Tribunal (WA); Senior Member, General Division, Administrative Appeals Tribunal with responsibility for NDIS Division. Currently sessional member Personal Injury Commission; Deputy Principal Member, Nauru Refugee Status Review Tribunal.

**Topolinsky, Vadim BE (Structural) (UTS)
FIEAust (NPER) FNIFI**

General Member. Structural engineer and consultant with over 25 years' experience in structural, civil, forensic and remedial engineering. Engineering practitioner of many years with experience in residential, commercial and industrial projects. He was a past accredited mediator with the Department of Fair Trading and LEADR, an Accredited Certifier (Structural and Civil) Environmental Planning and Assessment Act 1979 and a Member of the Accreditation Committee, Building Professionals Board (2009).

Towney, Gina BA LLB

General Member. Admitted as a solicitor in 2001. Currently a Member of the Hong Kong Torture Claims Appeal Board, hearing matters in relation to refugee claims. 2012-2017, Member of Administrative Appeals Tribunal; 2010-2012, Member of the Independent Protection Assessment Office; 2008-2011, Member of the Social Security Appeals Tribunal; 2017, lecturer in Administrative Law, University of NSW; 2001-2008, worked as a solicitor, including at the Women's Legal Centre, Legal Aid and Law Access NSW.

Tyson, Matthew BCL (Oxon) (Hons1)

Senior Member. Barrister, 8 Selborne Chambers. Lieutenant-Commander, Royal Australian Navy.

Ulman, Gary LLB LLM MA

Senior Member. Admitted as a solicitor in 1975. Currently a solicitor and nationally accredited mediator. Former Chair of Resolution Institute and former President, The Law Society of NSW.

Vrabac, Nick BA LLB

Senior Member. 10 years' experience as a solicitor with the government and private practice. 2002-2010, Deputy Chairperson, Consumer Trader and Tenancy Tribunal. Volunteer with the Sydney Olympics and the World Youth Day. Secretary/Vice President of a National League Soccer Club for seven years.

**Walker, Professor Emeritus Geoffrey LLB
(Hons2) (Syd) LLM SJD (Penn) LLD (Qld)**

Senior Member. Admitted to the Bar, 1965. From 2004-2009, Executive Deputy President, Administrative Appeals Tribunal; 2012-2014, Judicial Member, Administrative Decisions Tribunal; 2015 to date, Senior Member, NCAT. Translations of five major French historical works on Australia have been catalogued by the State Library of New South Wales and are available online for public use.

**Watson, Margaret BA (Welfare Studies) Cert
Somatic Psychotherapy**

General Member. Counsellor, Post Adoption Resource - the Benevolent Society. From 1975-1972 Welfare Manager, The Smith Family; 1982-1994 Member, Social Security Appeals Tribunal; 1990-2018 NSW Guardianship Tribunal full and part-time staff member; 2002-2010 Part-time Member, Guardianship and Administration Tribunal (Qld)/Queensland Civil and Administrative Tribunal 2002-2010. 2008-date, Member of Guardianship Tribunal/NCAT.

**Watts AM, The Hon Acting Judge Garry BA
LLB**

Principal Member. 1976 to 2005 senior partner in the largest private family law firm in Australia. Involved in many committees and working groups, for example as a member of the Family Law Council and as Chairman of the Family Law Section of the Law Council of Australia. Has regularly provided continuing legal education to the profession. In 2005 was appointed as a Justice of the Family Court of Australia and in 2018 as a permanent member of the Appellate Division of the Family Court. Retired from the court in 2022.

West AM, Dr Carolyn MBBS (Hons) DCH

Senior Member. Qualified as a medical practitioner in 1969. VMO Spina Bifida Service, RPAH, 1982-2018. Staff Specialist, The Children's Hospital at Westmead, Director, Spina Bifida Service, 1979 to 2011. Medical Advisory Committee, Allowah Children's Hospital, 1990 to 2016. Guardianship Tribunal, 1989 to the present. Member of Order of Australia for services to disability especially Spina Bifida, 2007.

Willcox, Chris BSc (Psych) (Hons) MPsych (Clinical) GCPSM

Senior Member. Guardianship Division. Chair of the NSW Board of the Psychology Board of Australia and Deputy President of the Psychology Council of New South Wales. Clinical psychologist who worked in mental health for over 30 years having been the Head of Psychology for the Hunter New England Mental Health and co-chair of the NSW Health Psychology Advisory Network. Clinical Associate Professor in the School of Psychology at the University of Newcastle where he teaches in the under and postgraduate psychology programs. Previously taught into and been a psychotherapy educator for the HNET psychiatry training program.

Wilson, Lucinda BCom (Hons) LLB (Hons)

Senior Member. Barrister for 10 years before being appointed full-time Consumer and Commercial Division Senior Member. Had a civil and criminal practice at the Bar and conducted jury trials as both Crown Prosecutor and defence counsel. Previously on the Equal Opportunity Committee of the Bar Association and on the board of various non-profit organisations and Community Legal Centres.

Woods, Harry BA (Syd) Dip Law (SAB)

Senior Member. Admitted to practise as a Solicitor of the Supreme Court of New South Wales in 1994. Practised as Barrister in New South Wales since 2000, regularly representing clients across a broad spectrum of commercial law matters, including general commercial disputes, building and construction, administrative law, employment and industrial law, consumer law and trade practices disputes, as well insolvency and bankruptcy matters.

Woolf, Dr Claudia BPsych (Hons) MPsych (ClinNeuro) PhD

Senior Member. Project Coordinator for the Cognitive Intervention Implementation Working Group of the Australian Dementia Network Memory Clinic Initiative, The University of Sydney. Clinical Neuropsychologist at Prince of Wales Hospital. Clinical Neuropsychologist at St Vincent's Hospital Sydney. May 2013 – April 2015 Research Assistance with the Dementia Collaborative Research Centre, University of New South Wales. Australian Health Practitioner Regulation Agency professional membership.

Wroth, Dr Melanie MBBS (Syd) FRACP

Senior Member. Senior Staff Specialist Geriatrician at RPA Hospital managing acute inpatient medical care and providing a geriatrics consultation service throughout the hospital. Chief Clinical Advisor to Aged Care Quality and Safety Commission since May 2019. Member of the Medical Council of NSW for hearings resulting from complaints about medical practitioners 2000-2019.

Zammit, Peta LLB BSocSc

Admitted as a solicitor of the Supreme Court of NSW in 2005. Accredited as a mediator by the College of Law in 2020. Principal areas in private practice were insurance and commercial litigation.

Ziegler, Deborah BA LLB

Senior Member. Admitted as a solicitor in 1996. Currently a nationally accredited mediator. 1996-1997, Associate to the late Hon Justice Burchett, Federal Court of Australia; 1997-2011, solicitor and senior associate at Freehills (now Herbert Smith Freehills); 2011-2012, forum facilitator at Forum Sentencing NSW; 2011-2012, Member, Consumer Trader and Tenancy Tribunal.

Zraika, Malek LLB GDLP Acc Spec (Comm Lit)

General Member. Admitted as a solicitor in NSW in 2007, former Principal of Cogent Lawyers 2013-2022, National Practice Director of Civil & Commercial Litigation for Armstrong Legal 2022 to present. Accredited Specialist in Commercial Litigation, with a special focus on competition and consumer protection, equity, torts, building and construction 2019 - present. Former committee member of the Law Society of NSW Public Law and Litigation Practice Committees 2019 – 2021. Also holds trade qualifications and expertise in automotive fault diagnosis since 1993 to present.

Appendix 4

NCAT Member Code of Conduct

1. This Code of Conduct is issued by the President of the NSW Civil and Administrative Tribunal pursuant to section 20 of the *Civil and Administrative Tribunal Act 2013* (the NCAT Act). It applies to all Members of the Tribunal, including occasional Members. The Code may be reviewed from time to time to ensure its relevance.

Purpose

2. This Code seeks to provide guidance to Members in the performance of their statutory functions as Members of the Tribunal and to assist Members in identifying and resolving ethical issues as they may arise.
3. A further purpose of this Code is to provide Tribunal users with information by reference to which to assess Members' conduct.

Upholding the Objects of the NCAT Act

4. The objects of the NCAT Act include:
 - ensuring that the Tribunal is accessible and responsive to the needs of all of its users;
 - enabling the Tribunal to resolve the real issues in proceedings justly, quickly, cheaply and with as little formality as possible;
 - ensuring that the decisions of the Tribunal are timely, fair, consistent and of a high quality;
 - ensuring that the Tribunal is accountable and its processes are transparent and open;
 - promoting public confidence in Tribunal decision-making and the conduct of Tribunal Members.
5. Members are to perform their duties and conduct themselves consistently with these objects.

General Responsibilities

6. Tribunal Members have the following general responsibilities both in their activities as a Member and in their personal activities:
 - to uphold the law, including being aware of and complying with legislation dealing with privacy, discrimination and corruption;
 - to uphold the highest standards of integrity, truthfulness, and honesty.

Tribunal Values

7. In performing their duties, Members should at all times strive to give effect to the following values (derived from 'A Guide to Standards of Conduct for Tribunal Members' issued by the Administrative Review Council).

Respect for the Law

8. Members should, while acting as a Tribunal Member and while performing functions associated with membership, demonstrate respect for all aspects of the law.
9. In particular, Members should:

- at all times while performing Tribunal duties comply with the law in relation to the conduct of hearings, the determination of matters and interactions with other Members, Tribunal staff and Tribunal users;
- ensure that all decisions and determinations are legally well founded.

Fairness

10. Fairness requires a Tribunal Member to make unbiased, impartial decisions and to give all parties the opportunity to put forward their positions.
11. More specifically, Members are to:
 - apply the law equally, and act in an impartial manner in the performance of their decision making functions, so that their actions do not give rise to a legitimate apprehension of bias or amount to actual bias;
 - advise the parties of any matter or circumstance which might give rise to bias or conflict of interest or a perception of bias or conflict of interest and determine whether in the circumstances it is appropriate to continue to conduct or determine the proceedings;
 - refrain, other than during a hearing or in exceptional circumstances, from any communication (either oral or in writing) or association during the course of proceedings with a party, legal representative or witness in the absence of the other party or parties or their representatives;
 - abide by the principles of procedural fairness, in particular, by ensuring that parties have a reasonable opportunity to present their case and to answer the case against them;
 - be aware of and address appropriately barriers such as language, cultural background, lack of literacy or disability which are likely to impede parties in presenting their case.
12. In addition, Members should:
 - if engaged in another profession, occupation or business, take care to ensure that those activities do not conflict with or undermine the discharge of their responsibilities as Members;
 - refrain from partisan political activity which is directly related to the work of the Tribunal or which may impinge upon the perception of impartiality of the Member or the Tribunal (including, for example, being a member of a registered political party).

Independence

13. Tribunal Members are to perform their duties independently, free from external influence and free from the fear of adverse consequences.
14. Members should not allow themselves to be put in a position where their independence may be compromised or be perceived to be compromised.
15. Where part-time Members have a professional practice in addition to being Members of the Tribunal, they:
 - cannot appear before the Tribunal as a representative of a party or other person;
 - cannot advise individuals or bodies concerning Tribunal proceedings or potential proceedings involving those individuals or bodies; and
 - cannot act for or against or provide services to individuals or bodies who are litigants before them in the Tribunal.

Respect for Persons

16. Members are to conduct proceedings in a manner that is patient, courteous and respectful of all parties, witnesses, representatives, staff and others with whom Members have to deal.

17. In particular, Members are to:

- demonstrate patience, courtesy and respect in their own conduct and demeanour;
- communicate in a clear, plain manner so as to be understood by the parties;
- control the proceedings in such a way as to create an environment in which participants can and are encouraged to treat other participants courteously and respectfully;
- be aware of and responsive to cultural and other sensitivities in relation to forms of address, conduct and dress.

18. The Tribunal recognises the importance of fairness, dignity and respect for others in the workplace. Each person in the workplace, including staff and Members, should have a safe and secure place in which to work. The Tribunal does not tolerate inappropriate workplace behaviour, which includes bullying, harassment, sexual harassment, other forms of unlawful discrimination, vilification and violence.

Diligence and Efficiency

19. Members are to be diligent and timely in the performance of their duties. They should take reasonable steps to maintain and enhance the knowledge, skills and personal qualities necessary to the performance of their duties.

20. In particular, Members should:

- conduct proceedings and make decisions with due rigour, diligence and intellectual honesty;
- perform their duties in the Tribunal so as to resolve matters in a timely and appropriate manner with a view to ensuring that the Tribunal's proceedings are efficient, effective and inexpensive;
- provide oral reasons for decision where appropriate and deliver reserved decisions within the NCAT Divisional standards, except where the complexity or difficulty of the matter requires otherwise;
- undertake and participate in professional development and training programs to enhance relevant knowledge and skills;
- keep informed of developments in substantive and procedural matters within the jurisdiction of the Tribunal relevant to their duties;
- support and encourage, where possible, the professional development of colleagues;
- become proficient in the use of technology including the Tribunal's computerised case management system, digital provision of documents, the Tribunal's intranet, digital sound recording facilities, and other technological developments implemented by the Tribunal.

21. In order to promote the efficient conduct of proceedings, Members should:

- clearly identify the issues and orders in dispute;
- facilitate the resolution or narrowing of issues in dispute, where appropriate;
- adjourn proceedings only when necessary in the interests of justice and fairness;
- ensure that any interlocutory orders and applications do not unnecessarily delay the final determination of proceedings;
- ensure that evidence is confined by reference to the issues in dispute, and that it is given as concisely as is reasonably possible.

Integrity

22. Members, in carrying out their duties as Members, are to act honestly and truthfully.

23. In particular, Members must:

- not knowingly take advantage of or benefit from information, not publicly available, obtained in the course of performing their Tribunal functions;
- not use their position as a Member improperly to gain or seek to gain any advantage or benefit for themselves or any other person;
- be scrupulous in the use of Tribunal resources;
- not disclose any confidential information otherwise than as permitted by law;
- refrain from conduct which would bring the Tribunal into disrepute.

Accountability and Transparency

24. Members are accountable for their decisions and actions taken as Members and have a responsibility to be open and frank about their decisions, actions and inaction in relation to their duties.
25. In particular, Members are to:
- participate in performance evaluations conducted by the Tribunal;
 - co-operate fully in complaint investigations carried out by the Tribunal.

Responsibility of the Tribunal Head and Heads of Divisions

26. It is the responsibility of the President together with the Heads of each of the Divisions to assist Members to comply with the Code of Conduct and to perform their responsibilities as Tribunal Members through the provision of appropriate training, leadership and support.

Particular Issues

Gifts, Benefits and Hospitality

27. Where gifts or benefits are offered, or social invitations extended, by parties or representatives in Tribunal proceedings, to Members in their capacity as such, these should, as a general rule, be declined.
28. If a gift is proffered to a Member, in his or her capacity as a Member, in circumstances where it cannot be or it is inappropriate for it to be declined, it should be handed to the Principal Registrar for inclusion in the Tribunal's gift register and appropriate disposition. Donating the gift to a charity, using the gift for the benefit of Members or staff generally or publicly displaying the gift in the Tribunal's premises may be appropriate, depending on the circumstances.

Corrupt Conduct

29. If a Member becomes aware of an instance of behaviour that could be corrupt conduct, maladministration, or criminal conduct, relating to the Tribunal, the Member should report it promptly to the Principal Registrar or the President, and also, if appropriate, to the Independent Commission Against Corruption.

Post Service Conduct

30. After ceasing to be a Member of the Tribunal it is expected that a former Member:
- would continue to behave in a way that upholds the integrity and good reputation of the Tribunal;
 - would not appear before the Tribunal as a representative where to do so would contravene the Barristers' Rules, the Solicitors' Rules or any other similar applicable professional rules;
 - would not use or take advantage of confidential information obtained in the course of his or her duties as a Member.

Complaints

31. Complaints in relation to Members will be dealt with as outlined in NCAT Policy 1 - Complaints.

Compliance with the Code

32. If a Member does not comply with the Code, the President may direct the Member to take specified action to rectify his or her conduct or determine that further work not be allocated to the Member until the breach is rectified. In cases of serious breach the President may refer a matter to the Attorney General or recommend that the Member not be reappointed at the expiration of their term. Whether such action will be taken will depend on factors such as the seriousness of the conduct in question, whether there is a pattern of such conduct, the intent of the Member concerned and the effect of the conduct upon the Tribunal or others.
33. The Code of Conduct does not stand alone but forms part of the accountability framework within which both the Tribunal and the Members operate. It is complementary to the Tribunal's procedures and policies, including the Member professional development framework and the Tribunal's complaints process.

Appendix 5

NCAT Expenditure Report

The following NCAT Expenditure Report applies to the period of 1 July 2021 to 30 June 2022.

SALARY AND RELATED PAYMENTS	\$'000
Salaries (staff and full-time members (comprising judicial officers and statutory appointees))	15,535
Statutory appointees (part-time members)	19,777
Contractors (agency temporary staff)	589
Annual leave and sick leave	2,708
Overtime	9
Long service leave	300
Superannuation	3,464
Workers compensation	392
Payroll tax	2,024
Fringe benefit tax	25
Other	1
Subtotal	44,824
OPERATIONAL EXPENSES	\$'000
Office accommodation	7,111
Postage and couriers	472
Telephones	531
Electricity gas	381
Minor computer purchases and consumables	106
Fees	318
Training and development fees	37
Travel expenses*	8
Printing	207
Interpreters	581
Publication	109
Insurance	249
Maintenance#	721
Minor miscellaneous	23
Subtotal	10,854
Depreciation	2,621
Ex-Gratia payments	0
Impairment on receivables – JusticeLink	135
Total operational expenses	58,434

* Travel expenses were affected by restrictions in place regarding travel to contain the spread of COVID-19.

#Maintenance includes an amount of \$413,429 related to makegood expenses for rented premises that is still under investigation at the time of this report.

Note: This appendix is based on information supplied by Strategic Finance, Department of Communities and Justice. The Audit Office had not completed the audit of the Department's financial statements when this information was supplied.

Appendix 6

Service Standards: Lodgement to Finalisation

The following tables show the service standards for the resolution of matters by each NCAT Division, as indicated from lodgement to finalisation, during the period of 1 July 2021 to 30 June 2022.

Administrative and Equal Opportunity Division

LIST	SERVICE STANDARD	TARGET	MET TARGET %	TOTAL VOLUME	VARIATION TO TARGET
Administrative Review List	9 mths	80%	77%	599	-3%
Community Services List	9 mths	80%	70%	76	-10%
Equal Opportunity List	9 mths	80%	89%	117	9%
Revenue List	9 mths	80%	89%	95	9%

Consumer and Commercial Division

LIST	SERVICE STANDARD	TARGET	MET TARGET %	TOTAL VOLUME	VARIATION TO TARGET
Tenancy List					
<i>Termination</i>	4 wks	80%	69%	16,034	-11%
<i>Non-termination</i>	8 wks	80%	69%	15,059	-11%
Social Housing List					
<i>Termination</i>	4 wks	80%	65%	7,595	-15%
<i>Non-termination</i>	8 wks	80%	80%	3,616	0%
General List	12 wks	80%	79%	4,841	-1%
Home Building List					
<=\$30,000	16 wks	80%	73%	1,999	-7%
>\$30,000	18 mths	80%	89%	875	9%
<i>Other</i>	16 wks	80%	76%	202	-4%
Residential Communities List					
<i>Termination</i>	6 wks	80%	40%	53	-40%
<i>Non-termination</i>	20 wks	80%	63%	381	-17%
Strata and Community Schemes List					
<i>Adjudication</i>	16 wks	80%	73%	11	-7%
<i>Hearing</i>	16 wks	80%	82%	11	2%
Community Land	24 wks	80%	94%	17	14%
Strata Schemes List					
<i>Group</i>	16 wks	80%	79%	301	-1%
<i>Special</i>	24 wks	80%	76%	1,137	-4%
Motor Vehicles List	16 wks	80%	80%	1,812	0%
Commercial List	16 wks	80%	67%	845	-13%
Retirement Villages List	16 wks	80%	56%	64	-24%

Guardianship Division

LIST	SERVICE STANDARD	TARGET	MET TARGET %	TOTAL VOLUME	VARIATION TO TARGET
Risk Category 1	3 days	80%	98%	288	18%
Risk Category 2	20 days	80%	98%	392	18%
Risk Category 3	60 days	80%	95%	9,683	15%
Risk Category 4	100 days	80%	86%	3,945	6%

Occupational Division

LIST	SERVICE STANDARD	TARGET	MET TARGET %	TOTAL VOLUME	VARIATION TO TARGET
Administrative Review List	9 mths	80%	90%	104	10%
Health Practitioner List	12 mths	80%	73%	131	-7%
Legal Practitioner and Other Professionals List	12 mths	80%	50%	24	-30%

Appeals

LIST	SERVICE STANDARD	TARGET	MET TARGET %	TOTAL VOLUME	VARIATION TO TARGET
Appeals	9 mths	80%	95%	863	15%

Enforcement (Penalties and Contempt)

LIST	SERVICE STANDARD	TARGET	MET TARGET %	TOTAL VOLUME	VARIATION TO TARGET
Enforcement (Penalties and Contempt)	9 mths	80%	95%	22	15%

Appendix 7

Resolution Processes

NCAT has a wide and flexible power to resolve disputes other than by adjudication. These processes are referred to in the legislation as 'resolution processes'. A resolution process is any process in which the parties to proceedings are assisted to resolve or narrow the issues between them. This is achieved through the application of appropriate dispute resolution strategies, which reflect the differing nature of disputes and the varying skills and knowledge of the parties.

In the Occupational Division, where the focus is on professional discipline, there is little scope for the use of resolution processes other than narrowing the issues in dispute. While resolution processes other than adjudication have been trialled in the Guardianship Division, the protective nature of proceedings in that Division means that special care must be taken. There is more scope for resolution processes to be used in the Administrative and Equal Opportunity Division where mediation is routinely used to assist parties resolve their issue.

Resolution processes such as expert conclaves, negotiation and conciliation are used extensively in the Consumer and Commercial Division.

Conciliation

Conciliation is routinely used to resolve disputes in the Consumer and Commercial Division. It is a confidential process which brings parties together to discuss the issues in an informal manner and explore options to settle the dispute.

Conciliation is closely linked to the hearing process. Agreements reached by parties during conciliation can be turned into enforceable consent agreements by the Tribunal.

Mediation

Schedule 1 to the *Civil and Administrative Tribunal Regulation 2013* defines mediation as a structured negotiation process in which the mediator, as a neutral and independent party, assists the parties to a dispute to achieve their own resolution of the dispute.

Mediation is offered for suitable anti-discrimination matters, and applications to review government decisions in relation to access to information, privacy, and state revenue matters. It is a confidential, informal problem-solving process managed by an independent mediator. The mediator manages the process but does not take sides or give an opinion about the case.

The Community Justice Centre (CJC) can provide mediation for parties to proceedings before NCAT. Parties can refer themselves directly to the CJC and in some instances Members and/or Tribunal staff can suggest that parties consider accessing mediation services offered by the CJC.

Conclave

In the Consumer and Commercial Division, a conclave is a joint meeting between experts engaged by the applicant and the respondent. This resolution method is usually used in the Home Building List. During a conclave, the experts discuss the issues on which they have prepared reports with a view to clarifying matters in dispute, reaching agreement where possible and narrowing the issues to be determined. The conclave is usually held on-site and is facilitated by a Tribunal Member.

Case conference

In the Administrative and Equal Opportunity Division, some matters are listed for a preliminary session where the Tribunal Member explores ways to resolve the proceedings or narrow the issues in dispute. These preliminary sessions are called 'case conferences' and are used in reviews of government decisions about access to information, privacy, and in anti-discrimination matters.

Directions hearings

Matters may be listed for directions hearings to prepare for the substantive hearing. They are usually short in duration and may be used if there is a need to establish jurisdiction, identify issues in dispute, set a timeframe for the hearing or make directions for the exchange of evidence. All parties are required to attend directions hearings and to comply with procedural directions.

Types of hearings

Matters are listed for hearing according to the type of application and nature of the dispute. Notices of Hearing are issued to parties in advance of their hearing. They provide information such as the type of hearing event they will be attending and what they need to do to prepare for their hearing.

Group lists

A group list is where a number of Consumer and Commercial Division cases are listed together before a Tribunal Member.

When both parties appear at the hearing, they are encouraged to resolve their dispute through conciliation. If only one party appears, ex-parte orders (i.e. orders made where the other party is not in attendance) may be made or the application may be dismissed by the Tribunal Member. If conciliation is unsuccessful the case proceeds to hearing.

Sometimes, if the parties need to obtain further evidence, or the hearing will take further time, the matter can be adjourned to a hearing on a later date.

Hearings

Hearings are listed for a specific length of time where the issues in dispute will be finally determined and a decision made. These hearings can run for an hour or several days, depending on the complexity, the nature of the jurisdiction and the issues in dispute.

Matters are listed for hearing according to the type of application and nature of the dispute. Notices of Hearing are issued to parties in advance of their hearing. They provide information such as the type of hearing event they will be attending and what they need to do to prepare for their hearing.

The number of Tribunal Members hearing a matter depends on the Division in which the application was lodged. Hearings in the Consumer and Commercial Division are usually conducted before a single Tribunal Member while the majority of applications in the Guardianship Division are before a panel of three Members. Some Tribunal Members are Community Members who represent community perspectives and provide knowledge and expertise relating to their area of work.

NCAT's hearings are open to the public unless a specific order is made closing the hearing. Public hearings ensure that the Tribunal's processes are transparent. NCAT's hearing lists are published on the NCAT website, with the exception of matters heard in the Guardianship Division.

Internal appeals

This process permits decisions at first instance to be scrutinised and, where necessary, corrected without the expense or delay involved in bringing proceedings in the District Court or the Supreme Court. This scrutiny also improves the standard of decision-making and writing throughout the Tribunal.

Under section 32 of the NCAT Act, parties have a right to lodge an internal appeal from:

- Any decision made by the Tribunal in proceedings for a general decision or an administrative review decision

- Any decision made by a registrar of a kind that is internally appealable.

In most cases, internal appeals can be lodged as of right on any question of law. An appeal on other grounds can be lodged if the Appeal Panel grants leave, subject to the limitations on internal appeals against decisions of the Consumer and Commercial Division in clause 12 of Schedule 4 to the Act.

The Appeal Panel which hears any internal appeal will in most cases be made up of two or three Members from across the Divisions. At least one of the Members will be a lawyer.

Not all Tribunal decisions are internally appealable. Some matters NCAT's internal appeal jurisdiction does not extend to include:

- Decisions made in the Occupational Division relating to the following professions: medical practitioners, health professionals (nurses, psychologists, physiotherapists and similar professions), legal practitioners, veterinary practitioners, architects, registered surveyors, accredited certifiers
- Decisions made in the Occupational Division in relation to applications for dismissal of councillors from civic office
- Decisions in proceedings for the exercise of the Tribunal's enforcement jurisdiction
- Decisions of the Tribunal in proceedings for the imposition of a civil penalty in exercise of its general jurisdiction
- Decisions of an Appeal Panel
- Decisions of the Tribunal under the *Child Protection (Working with Children) Act 2012*.

Exclusions to internal appeal are set out in the Divisional Schedules to the NCAT Act and in some of the specific laws giving jurisdiction to NCAT.

Some Divisional decisions that are not subject to an internal appeal may be appealed to the Land and Environment Court, the Supreme Court or the Court of Appeal. A decision of the Guardianship Division may be

appealed either to the Appeal Panel or the Supreme Court, but not to both.

Information about lodging an appeal is provided in *NCAT Guideline 1 – Internal Appeals*. This Guideline and the application forms are available on the NCAT website. NCAT appeal decisions are generally published to the NSW Caselaw website and a selection are published in the *NCAT Legal Bulletin*.

The *Appeal Panel Decisions Digest* can be subscribed to for monthly keyword summaries of Appeal Panel decisions.

Set aside or vary Tribunal decision

In some instances, a party to proceedings may apply to NCAT to set aside or vary a Tribunal decision after the matter is finalised. The grounds for an application to set aside or vary Tribunal decisions are contained in Part 3 of the *Civil and Administrative Tribunal Regulation 2013*. Dissatisfaction with the decision is not a sufficient reason to request that the Tribunal decision be set aside or varied.

Applications to set aside or vary a Tribunal decision may be decided on the papers, that is in the absence of the parties and based on the information provided on the application form and any written submissions provided by the parties.

The Tribunal will not grant an application to set aside or vary a decision unless the other party has been notified, received a copy of the application and given a reasonable opportunity to respond. The Tribunal will consider all responses before making a decision.

Reinstatements

If an applicant or appellant failed to appear in the proceedings and the matter was dismissed, the Tribunal may reinstate proceedings if it considers that there is a reasonable explanation for that failure.

An application for reinstatement must be made within 7 days of the orders made dismissing the proceedings.

NCAT may extend this time if there are special circumstances.

Reinstatement applications may be listed for hearing or decided on the papers based on the written material provided. Before making a decision, NCAT will send a copy of the application to the other parties seeking their view on having the application reinstated.

Appendix 8

Fees and charges as at 30 June 2022

Administrative and Equal Opportunity Division and Occupational Division

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
Administrative review application	\$107	\$214	\$27
<ul style="list-style-type: none"> required to be determined by 2 or more Members* 	\$223	\$446	\$56
<ul style="list-style-type: none"> under the <i>Apprenticeship and Traineeship Act 2001</i> 	No fee	No fee	No fee
<ul style="list-style-type: none"> under the <i>Community Services (Complaints, Reviews and Monitoring) Act 1993</i> 	No fee	No fee	No fee
General application or external appeal	\$107	\$214	\$27
<ul style="list-style-type: none"> to be determined by 2 or more Members* 	\$223	\$446	\$56
<ul style="list-style-type: none"> to be determined by Appeal Panel 	\$438	\$876	\$110
<ul style="list-style-type: none"> under the <i>Aboriginal Land Rights Act 1983, Anti-Discrimination Act 1977, Local Government Act 1993, Legal Profession Uniform Application Act 2014, Public Notaries Act 1997 or Dormant Funds Act 1942</i> 	No fee	No fee	No fee
Health Practitioner List matters	No fee	No fee	No fee

* Refer to section 27 and relevant Divisional Schedules of the *Civil and Administrative Tribunal Act 2013*.

Consumer and Commercial Division

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
Residential proceedings	\$52	\$104	\$13
General consumer or commercial proceedings			
<ul style="list-style-type: none"> Claims not more than \$10,000 (or no amount) 	\$52	\$104	\$13
<ul style="list-style-type: none"> Claims over \$10,000 to \$30,000 	\$108	\$216	\$27
<ul style="list-style-type: none"> More than \$30,000 	\$279	\$558	\$70
Strata schemes			
<ul style="list-style-type: none"> General application in strata proceedings 	\$108	\$216	\$27
<ul style="list-style-type: none"> General application for orders in strata proceedings and interim orders when lodged at the same time 	\$216	\$432	\$54
Community schemes			
<ul style="list-style-type: none"> General application in community schemes proceedings 	\$90	\$180	\$23
<ul style="list-style-type: none"> General application for orders in community schemes proceedings and interim orders when lodged at the same time 	\$180	\$360	\$45
Retail leases	\$107	\$214	\$27
Renewal of proceedings	Same as original application	Same as original application	Same as original application

Guardianship Division

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
Guardianship proceedings	No fee	No fee	No fee

Other application fees (all Divisions)

MATTER TYPE	STANDARD FEE	CORPORATION FEE	REDUCED OR CONCESSION FEE
Internal appeal	\$438	\$876	\$110
Set aside application	\$108	\$216	\$27
Reinstatement application	Same as original application	Same as original application	Same as original application

Explanatory notes

Corporation fee – applies to all organisations defined as a *corporation* by section 57A of the *Corporations Act 2001*. Corporations that lodge an application with the incorrect fee will be contacted and will be required to pay the correct fee.

Reduced or concession fee – applies to eligible pensioners or individuals in receipt of a grant of legal aid or assistance from a community legal centre. The concession rate is set at 25% of the full fee (round up or down to the nearest whole dollar amount).

Residential proceedings – matters about tenancy, social housing, residential communities, retirement villages and boarding houses.

General consumer or commercial proceedings – matters about agent commissions and fees, agricultural tenancy, consumer claims, conveyancing costs, dividing fences, holiday parks, home building, motor vehicles, pawnbrokers and second-hand dealers, and uncollected goods.

Other services

SERVICE	FEE
Copy of sound recording (for each hearing event)	\$45
Application for issue of a summons (for production of or to give evidence, or both)	\$48
Request for the production to Tribunal of documents held by court	\$55
Retrieval of any document or file from archives	\$85
Copy or certified copy of decision or written reasons	\$85
Request by a non-party to inspect public access documents	\$45 [#]
Photocopying of documents where a Tribunal staff member makes the copies	\$2 per sheet

[#] Payment of fee is applicable per finalised matter. Fee is for inspection only and is payable in addition to any charges for the photocopying of documents.

Appendix 9

NCAT Liaison Group and Divisional Consultative Forum Membership

NCAT Liaison Group

Community Legal Centres Group NSW
Health Care Complaints Commission
Health Professional Councils Authority
Law Society of NSW
Legal Aid NSW
NSW Bar Association
Real Estate Institute of NSW
Redfern Legal Centre
Synapse (formerly Brain Injury Association NSW)
Tenants' Union of NSW

Administrative and Equal Opportunity Division

Aboriginal Legal Service (NSW/ACT) Limited
Anti-Discrimination Board of NSW
Association of Children's Welfare Agencies (ACWA)
Australian Taxi Drivers Association
Firearms Registry
Independent Liquor & Gaming Authority
Information and Privacy Commission NSW
Kingsford Legal Centre, UNSW Law - Community Legal Centres NSW
Law Society of NSW
Legal Aid NSW
Liquor and Gaming NSW
Local Government NSW
NSW Bar Association
NSW Crown Solicitor's Office
NSW Department of Communities and Justice
NSW Department of Education
NSW Fair Trading
NSW Office of the Children's Guardian
NSW Police Force
NSW Trustee and Guardian
Point to Point Transport Commission
Public Interest Advocacy Centre Ltd

Revenue NSW

Transport for NSW

Barristers from Selborne and Wentworth Chambers

Consumer and Commercial Division

Tenancy Consultative Forum / Aboriginal Consultative Forum

Aboriginal Affairs NSW
Aboriginal Housing Office
Aboriginal Legal Services
Anaiwan Local Aboriginal Land Council
Argyle Community Housing
Bungree Aboriginal Association
CHOICE
Civil Law Service for Aboriginal Communities
Common Equity NSW
Community Housing
Community Housing Industry Association NSW
Department of Communities and Justice
Department of Customer Service
Dtarawarra Aboriginal Resource Unit
Estate Agents Co-operative
Gandangara Local Lands
Homelessness NSW
Housing NSW
Inner Sydney Tenants' Advice & Advocacy Service, Redfern Legal Centre
Jemmeson Fisher
Law Society of NSW
LawAccess NSW
Legal Aid NSW
Mission Australia
Murra Mia Tenant Advocacy Service
NSW Aboriginal Land Council
NSW Bar Association
NSW Fair Trading

NSW Federation of Housing Associations Inc.
Property Owners Association of NSW
Public Interest Advocacy Centre
Public Tenants Council (Central Sydney)
Real Estate Institute of NSW
Redfern Legal Centre
Southern Sydney Tenants Advice and Advocacy Service
Western Sydney Community Legal Centre
Western Sydney Tenants Service

Commercial / General / Motor Vehicles Consultative Forum

Australian Consumers Association
Australian Manufacturing Workers Union
Community Relations Commission
Consumer Credit Legal Centre
Department of Finance and Services
Financial Counsellors Association of NSW
Homelessness NSW
Institute of Automotive Mechanical Engineers
Jemmeson Fisher
Law Society of NSW
LawAccess NSW
Legal Aid NSW
Motor Traders Association
NSW Bar Association
NSW Fair Trading
Redfern Legal Centre

Home Building Consultative Forum

Australian Institute of Building
Bannermans
Civil Contractors Federation
Department of Communities and Justice
Department of Customer Service
Housing Industry Association
Institute of Building Consultants NSW
Institution of Engineers Australia
Law Society of NSW
LawAccess NSW
Macquarie Legal Centre
Master Builders Association
Master Painters Association
Master Plumbers Association of NSW
National Electrical & Communications Association of NSW

NSW Bar Association
NSW Fair Trading
Owners Corporation Network
Property Owners Association of NSW
Royal Australian Institute of Architects
Russo and Partners
Strata Community Australia (NSW)
Suncorp
Swaab Attorneys
Swimming Pool and Spa Association of NSW

Residential Communities Consultative Forum

Affiliated Residential Park Residents Association (ARPRA)
ARPRA Central Coast Residents Association
Caravan and Camping Industry Association NSW
Combined Pensioners and Superannuants Association of NSW Inc.
Department of Customer Service
Independent Park Residents Action Group of NSW
Land Lease Living Industry Association NSW
LawAccess NSW
Law Society of New South Wales
Park and Village Service
Port Stephens Park Residents Association
Senior Rights Service
Tenants Union of NSW
Tweed Residential Parks Homeowners Association
Western Sydney Community Legal Centre
Western Sydney Tenants Service

Retirement Villages Consultative Forum

Aged and Community Services NSW and ACT
Aged Care Association Australia (NSW)
Bougainvillea Retirement
Council on the Ageing NSW
Department of Customer Service
LawAccess NSW
Law Society of NSW
Leading Age Services Australia NSW-ACT
NSW Fair Trading
Older Persons Tenancy Service – Combined Pensioners and Superannuants Association of NSW
Public Interest Advocacy Centre
Retirement Villages Residents Association

Seniors Rights Service
The Aged-Care Rights Service
Wesley Mission

Strata Consultative Forum

Australian College of Community Association Lawyers
Australian Resident Accommodation Managers
Association (ARAMA)
Bannermans Lawyers
Department of Customer Service
Housing Industry Australia
LawAccess NSW
Law Society of NSW
NSW Fair Trading
Older Persons Tenants Services – Combined Pensioners
and Superannuants Association
Owners Corporation Network
Property Council of Australia
Property Owners Association of NSW
Strata Community Australia (NSW)

Guardianship Division

Aboriginal Legal Services (NSW/ACT)
Dementia Australia
Department of Communities and Justice
Disability Advocacy Service, NSW Trustee and Guardian
Disability Council NSW
DCJ Legal - Child Protection Law
First Peoples Disability Network (Australia)
Intellectual Disability Rights Service
Law Society of NSW
Leading Age Services Australia
Legal Aid NSW
Mental Health Coordinating Council
Mental Health Review Tribunal
Multicultural Disability Advocacy Association of NSW
(MDAA)/NSW Network of Women With Disability
National Disability Insurance Agency
National Disability Services
NSW Bar Association
NSW Carers Advisory Council
NSW Council for Intellectual Disability
NSW Ministry of Health
Office of the Public Guardian
People With Disability - PWD Australia
Seniors Rights Service

Synapse
The Benevolent Society

Occupational Division

Australian Medical Association (NSW) Limited
Australian Health Practitioner Regulation Agency
(AHPRA)
Avant Mutual Group Limited
Building Professionals Board
Bartier Perry Lawyers
Health Professional Councils Authority (HPCA)
Hicksons Lawyers
HWL Ebsworth Lawyers
Law Society of NSW
MDA National
Medical Indemnity Protection Society (MIPS)
Medical Insurance Group (MIGA)
Meridian Lawyers
NSW Architects Registration Board
NSW Bar Association
Health Care Complaints Commission
NSW Nurses and Midwives Association
Office of Local Government
Office of the Legal Services Commissioner
Veterinary Practitioners Board of NSW
Barristers from Culwulla, Denman, Level 22, Maurice
Byers, New, St James Hall, Wardell and Wentworth
Selborne Chambers



NCAT
NSW Civil &
Administrative Tribunal

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