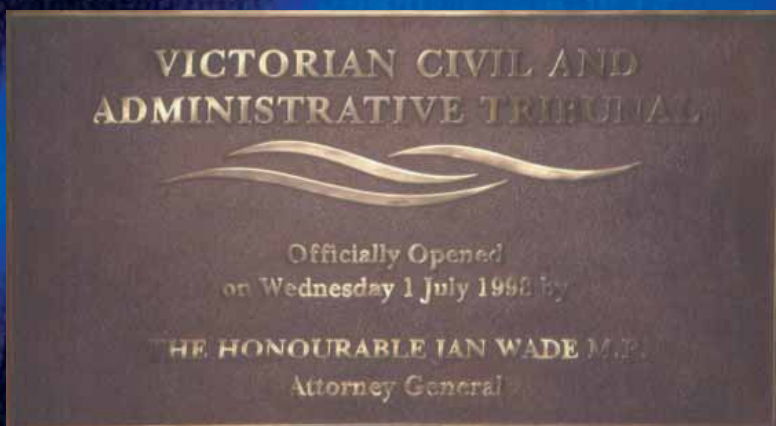




VCAT

VICTORIAN CIVIL AND
ADMINISTRATIVE TRIBUNAL



New Beginnings... Together

Inaugural 1998-99 Annual Report

Our Vision...

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

The theme for our inaugural 1998–99 Annual Report ‘New beginnings... *together*’ symbolises our commitment to a unified approach to dispute resolution in our first year of operation as the newly formed Victorian Civil and Administrative Tribunal (VCAT).

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Highlights of 1998–99

List users

- Eliminated unacceptable delays in resolving cases for the Anti-Discrimination and Planning Lists.
- Expanded accommodation at 55 King Street Melbourne by adding 17 new hearing rooms for a total of 41 hearing rooms, with extra space for members and staff, and a new front counter service.
- Received a total of 74,317 applications and resolved 74,225 cases, with a total of 9,305 cases pending.

Our role

- VCAT commenced operations on 1 July 1998. It has amalgamated 14 independently operated boards and tribunals.
- VCAT expenditure totalled \$18.3 million.
- Initiated an ongoing Business Process Review to rationalise like functions between Lists and avoid duplication.

- Streamlined case management by reorganising seven former registries into a single Registry with three sections.
- Established a specialist list within the Planning List to ‘fast track’ complex cases exceeding \$5 million in value.
- A significant change to the *Small Claims Act 1973* now allows businesses to make claims against other businesses.
- Assumed substantial new jurisdiction under the *Retail Tenancies Reform Act 1997* and *Liquor Control Reform Act 1998*.

Our people

- The reorganisation of the Registry produced staff efficiencies and enhanced career opportunities.
- Conducted training programs for members and staff.
- Participated in a review of remuneration for members, resulting in a rationalisation of previous salary packages.

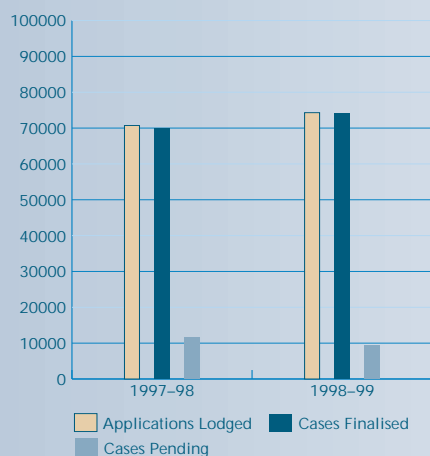
- Governor-in-Council appointed three new Deputy Presidents, two new senior members, three full-time members and 34 sessional members.
- Developed a Members’ Handbook for newly appointed members.
- Introduced opportunities for members to sit across Lists, increasing VCAT’s effectiveness and efficiency.

Community

- Established user groups in Lists to improve service delivery by encouraging feedback from the community that uses VCAT’s services.
- The VCAT web site attracted a total of 13,630 visitors.
- Presented numerous information sessions, including speeches by Judicial Members, Deputy Presidents and senior staff.

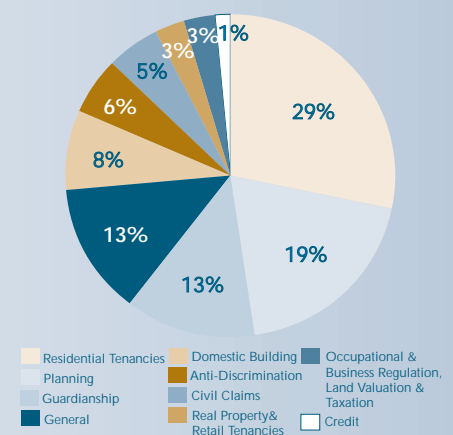
Key Performance Indicators 1998–99

ALL VCAT CASES 1997–99



One fundamental indicator of VCAT’s performance is whether cases finalised in a year equal the number of applications received, with cases pending staying at an acceptable level. While there were exceptions, this was achieved during 1998–99. In 1998–99 VCAT expenditure totalled \$18.3 million, which was divided as shown between the Lists. The Residential Tenancies List hears and determines approximately 60,000 cases annually across the State. Accordingly, substantial funds are required to support this high volume jurisdiction. A number of initiatives were funded in the Planning List to reduce waiting times and improve case flow as described by the Vice President Judge Wood on page 33.

VCAT EXPENDITURE BY LIST 1998–99
Total Expenditure \$18,274,207



NOTE: Where case load is compared between 1998–99 and 1997–98, the 1997–98 figures refer to the equivalent work of a former board or tribunal.

Who We Are

The Victorian Civil and Administrative Tribunal (VCAT) amalgamated all or part of 14 former boards and tribunals. We assist Victorians in resolving a range of disputes that involve:

- consumer matters
- credit
- discrimination
- domestic building works
- guardianship and administration
- residential tenancies
- retail tenancies

VCAT deals with disputes between people and government about:

- land valuation
- licences to carry on business, involving such business enterprises as travel agencies and motor traders
- planning
- state taxation; and
- many other administrative decisions such as Transport Accident Commission decisions and Freedom of Information issues.

VCAT provides a timely, efficient and cost-effective dispute resolution service. Its members have a broad range of specialised skills to hear and determine cases. Experienced members, including judges, legal practitioners and members with other qualifications, enable VCAT to hear the widest range of complex matters.

VCAT has two Divisions, Civil and Administrative. Each Division has a number of Lists that specialise in particular types of cases. VCAT has a five tiered hierarchy of members. The President of VCAT is a Supreme Court judge. The President is assisted by Vice Presidents who are County

Court judges. A number of Deputy Presidents are appointed and manage one or more lists. There are senior and other members who work on a full-time, part-time, or sessional basis. Members are assigned to Lists by the President. However, if a member has appropriate qualifications, he or she may be assigned to hear cases in more than one List. This allows for the most efficient use of members' time and appropriate use of their expertise.

Purpose

Our purpose is to provide Victorians with a dispute resolution service that is accessible, relatively informal, efficient and cost-effective, while maintaining a high level of quality decision-making and service excellence.

History

VCAT commenced operations on 1 July 1998 as part of an initiative to improve the operation of the justice system in Victoria by streamlining administrative structures, and increasing the flexibility of and improving the operation of tribunals.

Strategic Directions

List users

To deliver excellence in service by being:

- COST-EFFECTIVE
- ACCESSIBLE
- TIMELY
- FAIR AND IMPARTIAL
- CONSISTENT
- QUALITY DECISION-MAKERS

Our role

To effectively anticipate and meet the demands for alternative dispute resolution through being:

- INDEPENDENT
- RESPONSIBLE
- RESPONSIVE
- TIMELY

Our people

Encourage flexible and satisfied members and Registry staff through:

- SAFE AND CHALLENGING WORK ENVIRONMENT
- TRAINING AND DEVELOPMENT

Community

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

- FEEDBACK
- EDUCATION



At the opening of VCAT on 1 July 1998—From left, President Justice Kellam, Attorney-General Jan Wade MP, and Vice Presidents Judge Davey and Judge Wood.

How Cases Are Resolved—A Simplified Approach

Although all the Lists rely on the same statutory powers under the VCAT Act, each List is governed by its enabling act or acts. Therefore, the process often varies between Lists.

Variations in how cases are resolved may occur due to the nature of the cases brought to each List. Many cases may take 15 minutes to resolve, while others may take a day. In exceptional circumstances, it may take several weeks to hear a case.

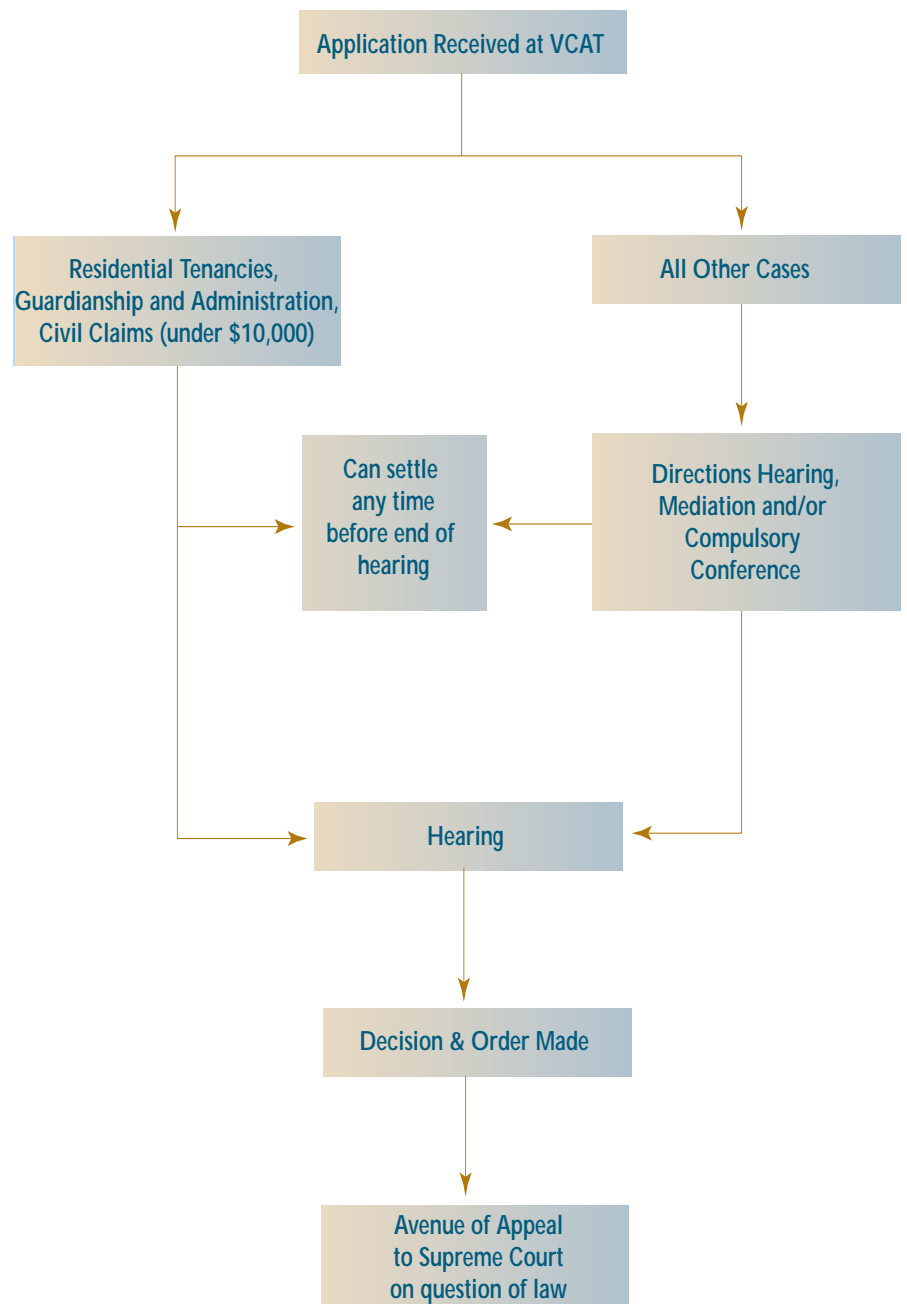
As a general guide, the flowchart opposite shows a simplified approach to the mechanisms that are established to resolve cases.

The process begins when an application is filed with the relevant List. To help settle a dispute, a mediation, directions hearing or compulsory conference may take place depending on the case. However, many cases proceed to a hearing. Hearings give parties the opportunity to call or give evidence, ask questions of witnesses and make submissions.

At the end of the hearing, a member of VCAT either gives a decision on the spot, or writes a decision after the hearing and delivers the decision as soon as possible.

The people involved in a dispute may at any time agree to resolve their differences without the need for a mediation, directions hearing, compulsory conference or a hearing. If the case does proceed to a hearing, there is still an opportunity to settle prior to delivery of the decision.

Decisions of VCAT can be appealed to the Supreme Court of Victoria on questions of law.



Overview of Objectives, Performance

Strategic Directions	Objectives
<p>List users</p> <p>To deliver excellence in service by being:</p> <ul style="list-style-type: none"> • COST-EFFECTIVE • ACCESSIBLE • TIMELY • FAIR AND IMPARTIAL • CONSISTENT • QUALITY DECISION-MAKERS 	<ul style="list-style-type: none"> • Provide a structure that eliminates or minimises legal costs to the user. • Provide easy access for users so that their cases may be resolved quickly and conveniently • Ensure cases are dealt with and resolved as quickly and effectively as possible. • Resolve cases with fairness and objectivity. • Provide members with the specialist skills required to make consistent, quality decisions.
<p>Our role</p> <p>To effectively anticipate and meet the demands for dispute resolution by being:</p> <ul style="list-style-type: none"> • INDEPENDENT • RESPONSIBLE • RESPONSIVE • TIMELY 	<ul style="list-style-type: none"> • Make effective use of our role as a quasi judicial and administrative review body in managing our affairs independently of government. • Use our resources efficiently to resolve disputes
<p>Our people</p> <p>Encourage members and Registry staff to be versatile and fulfilled by providing:</p> <ul style="list-style-type: none"> • A SAFE AND CHALLENGING WORK ENVIRONMENT • TRAINING AND DEVELOPMENT 	<ul style="list-style-type: none"> • Ensure Registry staff have the skills necessary to perform their roles efficiently. • Enhance the specialist skills and expertise of members to enable them to manage the dispute resolution process fairly and effectively and to make quality decisions.
<p>Community</p> <p>To ensure VCAT continues to raise awareness of its services and improve its service delivery to the community through:</p> <ul style="list-style-type: none"> • FEEDBACK • EDUCATION 	<ul style="list-style-type: none"> • Monitor the quality of the dispute resolution process through community feedback. • Raise community awareness of the services VCAT provides. • Provide a state-wide service to users.

Performance and Future Initiatives

Results	Future
<ul style="list-style-type: none"> Introduced a range of case management strategies (e.g. mediation) to achieve timely and cost-effective resolution. 	<ul style="list-style-type: none"> Further develop use of mediation, compulsory conferences and simplified case management procedures.
<ul style="list-style-type: none"> Built an additional 17 multi-purpose hearings rooms. Installed video conferencing service. Increased the number of rural hearings. 	<ul style="list-style-type: none"> PABX system to be installed in August 1999 to improve access and reduce telephone waiting times. Introduce electronic filing of applications by way of the internet.
<ul style="list-style-type: none"> By year's end, unacceptable delays in resolving cases were substantially reduced. 	<ul style="list-style-type: none"> Prevent unacceptable delays in case resolution.
<ul style="list-style-type: none"> Monitored community feedback from user groups and from user complaints. 	<ul style="list-style-type: none"> Improve our processes for gathering user feedback by improving our complaint handling and publishing a charter of service guarantees for users.
<ul style="list-style-type: none"> Governor-in-Council appointed 42 new members with a wide range of specialist expertise. 	<ul style="list-style-type: none"> Monitor and anticipate work load to give accurate advice to government about future membership needs.
<ul style="list-style-type: none"> Increased community perception of VCAT as an independent decision maker. 	<ul style="list-style-type: none"> Monitor community perception through user groups, user feedback and by monitoring the media.
<ul style="list-style-type: none"> Resolved a total of 74,225 cases within a budget of \$18.3 million. 	<ul style="list-style-type: none"> Resolve a total of 86,049 cases at a cost of \$18.1 million in 1999–00.
<ul style="list-style-type: none"> All staff participated in training programs concerning subjects such as legislative changes and computers. 	<ul style="list-style-type: none"> All staff will have access to the wide range of training programs conducted by the Department of Justice and to internal training
<ul style="list-style-type: none"> Members undertook training programs on topics such as mediation, decision writing, ethics and conduct of hearings. 	<ul style="list-style-type: none"> Extensive training programs for members will continue.
<ul style="list-style-type: none"> Established User Groups in Lists. By the end of 1998–99 all user groups were meeting regularly. Gave priority to responding to user complaints. 	<ul style="list-style-type: none"> Continue to use User Groups as an effective way to gather feedback from the community. Systematically monitor user complaints to discover which areas need improvement.
<ul style="list-style-type: none"> The VCAT web site was visited a total of 13,630 times, and numerous information sessions were conducted by judicial members, deputy presidents and senior staff. 	<ul style="list-style-type: none"> Expand the web site to include listings of all hearings for Residential Tenancies List. Review and improve content and quality of web site.
<ul style="list-style-type: none"> Distributed 50,000 VCAT booklets. 	<ul style="list-style-type: none"> Review and improve publications.

President's Message



During the past twenty years, the former system of tribunals has worked well. Since the introduction of the Victorian Civil and Administrative Tribunal (VCAT) on 1 July 1998, we have used that solid foundation of experience and talent to create an even better tribunal system for the benefit of all Victorians.

Challenges of amalgamation

I recognise that the process of reform rarely comes without some anxiety on the part of those involved in that reform. The amalgamation of 14 previously individual boards and tribunals has resulted in a challenging period for some of the members and staff of VCAT. I wish to acknowledge the achievements of the members of the former tribunals. Their hard work has ensured a smooth transition to VCAT.

In particular, I wish to record my appreciation to the heads of the former tribunals and their members who have provided substantial help in a variety of ways, including the establishment of new rules and practice notes.

New legislation

Since passing the *Victorian Civil and Administrative Tribunal Act 1998*, Parliament has given to those of us at VCAT an opportunity to make a considerable contribution to the legal well being of Victoria. Within our jurisdiction, we have accepted this challenge to provide the Victorian people with an affordable and efficient dispute resolution service.

In meeting that challenge, we have provided opportunities for the members and staff of VCAT to broaden their horizons and maximise their career prospects in the justice system. There has been a substantial sharing of skills and experience across what were previously the boundaries of separate tribunals.

Review of progress made

A major concern at the commencement of VCAT was the delay in hearing cases. The important changes that came with VCAT enabled us to eliminate the backlog in several jurisdictions. At the time of writing, the delays that existed at the commencement of VCAT have been substantially reduced.

Changes that helped us to realise this significant achievement included:

- the ability to use members in more than one List;
- case management procedures such as mediation;
- a total of 42 new members who brought a wider range of expertise; and
- a greater number of hearing rooms being available.

Whilst I recognise that there remains much work to be done, significant progress has been achieved in our first year.

Other significant achievements included:

- A total of 74,225 cases resolved;
- Successful assimilation of the quasi-judicial function of the former Liquor Control Commission in February 1999.
- Introduction to the Civil Claims List in February of amendments to the *Small Claims Act 1973* that now allow businesses to make claims against other businesses.
- Extensive building works to create 17 new hearing rooms, two mediation rooms and public areas.

These achievements are detailed in relevant sections of this report.

Business Process Review

Once we established the basic infrastructure of VCAT, we moved on to our next major challenge of refining our processes and procedures.

In August 1998, we initiated a Business Process Review (BPR). The aim of this review was to rationalise duplicated functions within the Registry caused by the merging of a number of distinct business operations.

The remaining key challenge of the BPR is to provide coordinated control of the listing process, including the huge logistical task of allocating hearing rooms, members and cases across Victoria. I anticipate the project will take 18 months to complete. In addition to designing and implementing a central listing system, and setting up training programs for members, time will be needed to change the culture of our organisation. I am confident that the benefits of the new system will be self evident.

New appointments

During the year in review, we experienced great change with the appointment of three new Deputy Presidents, two new senior members, three full-time members and 34 sessional members. The terms of 22 members expired during the year. This caused a net increase in VCAT's membership of 20. This has given us a considerably broader range of specialist skills and expertise. I consider it a meaningful achievement that 40% of VCAT membership comprises women.

Acknowledgments

I would like to acknowledge the extraordinary efforts of our Judicial Members, the Rules Committee, heads of Lists, members, management and staff for their devotion and commitment. Together, we have made significant contributions to establishing VCAT's vision, policies and procedures, as well as its ongoing efficient management.

I would like also to congratulate His Honour Judge Pilgrim as the first member of VCAT to be appointed as a Judge of the County Court.

I wish to express my appreciation to Mr Max Barr and Mr Ian Marsden who retired at the end of the financial year. These two extremely senior and experienced members have been appointed as senior sessional members as from the date of their retirement as full-time members.

Former Crown Counsel, Her Honour Judge Jenkins provided all of us at VCAT with enthusiastic support and ongoing advice during the establishment of VCAT. This support continued after the commencement of VCAT by Her Honour accepting co-authorship of *VCAT Laws and Procedures*.

Moving forward

Our success relies on the contribution we all make to VCAT. I believe the opportunities for those members and staff who wish to make a substantial contribution are boundless. In our first year, I am proud to note that the overwhelming majority of the members and staff have demonstrated an immense capacity to cope with the disruption caused by change and the substantial challenges that we continue to face.

Achieving our vision of a better, more affordable and efficient system of tribunal justice, will be made possible only through the commitment of the community of people who make up the staff and membership of VCAT. In our first year of operation, we have met that vision, but more importantly, we have assisted those who we exist to serve—the Victorian community.



Murray B Kellam
President

30 September 1999

Chief Executive Officer's Report



The commencement of VCAT on 1 July 1998 was preceded by more than a year of planning to ensure a smooth transition from the then established boards and tribunals to VCAT.

Those boards and tribunals are described in detail on page 42.

An outstanding beginning

In a year of significant achievements, the efficient launch of VCAT's operations was the most outstanding. It was brought about in a most co-operative environment where the judicial members, Deputy Presidents and members of VCAT, supported by a committed administration, participated in the achievement of a common goal, the introduction of the Victorian Civil and Administrative Tribunal.

Business as usual

Each of the Lists has continued its business in a most professional manner, supported by the Registry administrators, many of whom have worked long hours to achieve the agreed levels of service delivery, sometimes in difficult circumstances.

A number of major projects described in this report were either in place and running at the start of VCAT or developed during this first year.

They include:

- refurbishment of VCAT's 55 King Street Melbourne premises;
- the VCAT Business Redesign Project; and
- development of the computer case management system.

Important contributions

Many people from the private sector made important contributions to these projects, including Peddle Thorpe Architects, Isis Interiors and their sub-contractors, Sievwrights Removalists, and Stanton Consulting Partners.

Numerous staff of the Department of Justice played vital roles in the establishment of VCAT. They included staff members from the Courts and Tribunals Services and the Information and Technology Branch.

The Attorney-General's Policy Division was instrumental in developing the VCAT legislation and in managing the VCAT project. I wish to acknowledge Cynthia Marwood for her work on the legislation.

Service delivery

In 1998-99, we focused on improving our services in rural locations. We now better utilise the State's Court buildings as hearing venues. Accordingly, I am grateful for the willing co-operation provided by the Chief Magistrate, Mr Michael Adams QC.

We plan to continue our established practice of conducting hearings in locations that best meet client needs. This means sitting at venues such as hospitals and special accommodation houses as required.

Looking ahead

Projects that will be important to VCAT in the coming 12 months and beyond are:

- training and development programs for staff associated with information technology;
- the introduction of a new telephone system;
- review and redrafting of forms and public documentation;
- preparation of VCAT user's video and information pamphlets; and
- the trial of digital sound recording of hearings.

Acknowledgments

I wish to place on record my grateful thanks to the Principal Registrar Ian Proctor and to the three Senior Registrars. In addition, I acknowledge the Registry staff for their performance and support during the reporting period and, in particular, the exemplary way in which they worked into the new Registry structure.

I am grateful for the ongoing commitment and support of the Secretary of the Department of Justice Mr Peter Harmsworth and his Deputy Ms Fiona Hanlon who have each demonstrated strong support during the first year of VCAT.

In particular, I thank my personal assistant Ms Mirella Scaramuzzino, the Personnel Manager Mr Gub Bergamin, Finance Manager Mr Alan Karfut and Ms Lorraine Renouf for their efficient and dedicated contribution to me and to the business of VCAT.

A handwritten signature in black ink, appearing to be 'John Ardlie'. The signature is stylized and written in cursive.

John Ardlie
Chief Executive Officer

Services to Users and Community Relationships

Hearing locations

List members conducted hearings at 52 venues throughout Victoria in 1998–99, including 55 King Street, Melbourne, suburban locations and rural centres. (Refer to inside back cover for a detailed listing of venues.) Where necessary, List members will determine cases at locations convenient to where the user resides.

Video conferencing

Video conferencing has the potential to provide greater convenience and accessibility for parties unable to attend specific hearing locations. During the financial year, VCAT conducted approximately 30 video conferences, which included links with such locations as Mildura, Warrnambool and Ballarat Courts, the USA and various prisons.

Improved front counter service

Our aim is to ensure that all VCAT users are greeted by courteous staff who will provide clear and accurate information about VCAT. To improve counter service, we:

- appointed a senior staff member to manage the counter service and to assist people arriving for hearings;
- opened a single service counter on the ground floor; and
- reviewed and significantly improved the way in which we serve customers.

Available at the counter are six staff members who have sound knowledge of all the Lists within VCAT. Waiting times for service are usually minimal.

Expansion of hearing rooms

We commissioned the fit-out of two extra floors (ground and first) in addition to the renovation of other floors occupied by members and Registry staff. The Attorney-General officially opened the new accommoda-

tion on 28 April 1999. The refurbishment provided for 17 new hearing rooms and associated public areas, extra space for members and staff, a ground floor counter, and the relocation of the Guardianship List from its former location in Carlton.

Due to the patience and diligence of members and staff who continued to operate for several months out of makeshift accommodation on the ground floor while their area was being reorganised, not a single complaint was received about the service provided.

Internet web site

The VCAT web site, in operation from 1 July 1998, attracted a total of 13,630 visitors in 1998–99. The site provided information about the VCAT legislation and rules, including the daily law list and a selection of key decisions. It provides information about each List and how to apply to VCAT, as well as links to a variety of government, judicial and legal web sites.

In the next financial year, we plan to update our web site to enable users to lodge high volume Residential Tenancies applications by way of the internet. This function will be introduced progressively for other Lists.

Information sessions

We conducted numerous information sessions during 1998–99. For example, the President spoke to organisation such as the Judicial Conference of Australia and the Property Council of Australia. In addition, both Vice Presidents, many Deputy Presidents and a number of senior staff spoke at public information gatherings.

VCAT information booklet

To notify the community about VCAT's services, we mailed out 50,000 VCAT information booklets to lawyers,



community centres, medical practitioners and others.

VCAT laws and procedure

VCAT Laws and Procedure, produced by Her Honour Judge Jenkins, Deputy President Damien Cremean and James Logan of Counsel, was created to make VCAT laws and procedures more accessible to the community.

Continuing improvement

Our vision for VCAT relies on continuing improvement to meet user demands for optimum service delivery. User groups provide an effective forum in which to discuss a range of issues affecting users of VCAT's services and are an important part of our ongoing improvement process.

Selected members from each List conduct regular user group meetings, usually on a quarterly basis. The user groups involve a broad spectrum of representatives from community and industry groups, and the legal profession who are given the opportunity to provide valuable feedback with the aim of improving the service VCAT offers.

Information Technology

At VCAT, we rely increasingly on information technology to serve our users. With the amalgamation of the former boards and tribunals on 1 July 1998, VCAT inherited four software systems. They included databases of various ages and with varying capacities to store information about cases and produce standard letters such as hearing notices and schedules.

As part of the Business Process Review (referred to on page 7), we decided to use two of those systems for the whole of VCAT. The decision to use two systems was due to the significant differences between the high volume of work of the Residential Tenancies and Guardianship Lists and the more complex processes of the other lists.

1. Tribunals Management System

The former Residential Tenancies Tribunal and Guardianship and Administration Board used the aging Tribunals Management System (TMS). By the time VCAT was created, a project to upgrade the TMS was already well under way. That system has since been successfully converted from a limited and inflexible character based system to a system with a graphical user interface (or windows) front end.

During the first months of operation of the upgraded version, known as TM, and particularly during March and April 1999, we experienced many unanticipated technical difficulties that, unfortunately, disrupted the operation of the Residential Tenancies and Guardianship Lists. However, these problems have since been resolved and the benefits of the new system are becoming increasingly evident.

By the end of 1999, TM will allow applications to be made to the Residential Tenancies List electronically by way of the internet, and the majority of orders to be printed at hearings and given to the parties forthwith. In the next financial year, this will pave the way for introducing a partially 'paperless office' in the Residential Tenancies List, thereby improving the efficiency of the Registry and its service to the public.

2. Case Management System

The former Domestic Building Tribunal used the Case Management System (CMS). On 1 July 1998, we expanded the CMS to meet the needs of the Retail Tenancies List and the Real Property List. By the end of 1999, we will upgrade the CMS to support all Lists, except Residential Tenancies and Guardianship, which will continue to rely on TM.

Telecommunications

Our telephone system represents another essential aspect of information technology at VCAT.

By early 1999, it became obvious that our telephone exchange urgently needed upgrading to:

- be Year 2000 compliant;
- provide a better telephone advice service; and
- provide enough telephone lines at VCAT to handle the increasing work load.

We will install a new telephone system in August 1999 to provide users with an improved service.



Digital recording

In November 1998, we researched the feasibility of introducing a digital recording system. The system will record proceedings in multiple hearing rooms onto a central computer hard disk, rather than using conventional cassette recording equipment.

This will enable a record to be kept of proceedings in Lists where cases were previously unrecorded.

A trial will begin during the next financial year and will involve 10 hearing rooms. If successful, digital recording will provide an efficient and cost-effective method to record hearings throughout the hearing rooms located at VCAT's Melbourne premises.

Future Outlook

In our first year of operation, we have focused primarily on establishing VCAT as an independent source of accessible justice for the benefit of the people of Victoria. The next financial year will be a time of consolidation while looking to improve the systems and procedures we have in place.

Increased use of mediation

Although the VCAT Act affords us significant power for extensive use of mediation, we have yet to maximise our capacity to use mediation as an efficient dispute resolution mechanism.

The work of the Mediation Committee has resulted in a VCAT Mediation Code of Conduct being prepared. This code will be released in the next financial year. The Mediation Committee will undertake a study in 1999–2000 of mediation work conducted in VCAT. We will then have a benchmark against which to measure future trends.

Responding to customer complaints

We consider customer complaints to be a valuable source of information about the challenges we face in providing excellent service. While striving to respond effectively to each individual complaint, we identified an opportunity to improve the way in which we collect information about complaints.

During the next financial year, we plan to implement methods of centralising the recording and reporting of all customer complaints. This will assist



us in analysing complaints to discover what they tell us about our performance.

Central listings office

We will appoint a Central Listings Coordinator in July 1999. The coordinator will maximise efficient use of VCAT's resources, allocate members to hearing venues across Victoria and manage VCAT's vehicles. For example, in rural locations, hearings will be better coordinated so that one member representing several different Lists may hear as many cases as possible during a single visit to that rural area.

In addition to overseeing the listing function, the coordinator will, in consultation with the President, develop strategies to prevent any potential case backlogs. He will ensure that any specific needs and requirements of sittings at suburban and rural locations are taken into account by List members.

Major influences

We have identified two major influences that are likely to impact on our ability to provide sufficient resources to resolve cases in the coming year.

year in review

INCREASE IN VOLUME AND COMPLEXITY OF CASES

A buoyant economy has resulted in a significant increase in Domestic Building and Planning applications during the year in review. Although the number of cases issued in the Planning List during the last five months of 1998–99 plateaued to approximately 230 cases per month, there is no guarantee that outside influences, such as the demand for pre-GST construction, may not cause further increases in the volume of both Planning and Domestic Building cases.

Furthermore, in the short to medium term, the new format planning schemes introduced in all municipalities during the last six months of 1998–99 may cause an increase in the number of applications made to the Planning List.

FAIR TRADING LEGISLATION

We anticipate that the new Fair Trading legislation, which will come into effect on 1 September 1999, may have an impact on our operations.

We propose that up to four Lists will manage Fair Trading Act proceedings. Cases under \$10,000 will be dealt with by the Civil Claims List in the same way as Small Claims Act matters. More substantial cases will be subject to a case management process, including directions hearings, mediations or compulsory conferences. It may well be that such cases will be distributed to either the Credit List, Domestic Building List or the Retail Tenancies List, depending on the nature of the claim.

We are unable to estimate accurately the likely volume of case load that will follow as a consequence of this new legislation.

Courts governance

The Department of Justice plans to establish courts governance. The aim of courts governance is, as far as practicable, to devolve to VCAT the control of the administrative functions that support the discharge of its judicial functions. The Department of Justice has

traditionally undertaken such functions.

In the climate of dramatic change that has taken place in VCAT during its first year of operation, we have not been able to adopt the concept of courts governance.

As we enter a new period of consolidation and thus achieve substantial efficiency gains, we will address the matter of courts governance.

New services for users

In the next financial year, we plan to release a charter to inform VCAT users of both the level of service they should expect and the steps they should take if they have a complaint. We plan to improve the range of information available about the functions of VCAT. We will continue to simplify procedures in VCAT.

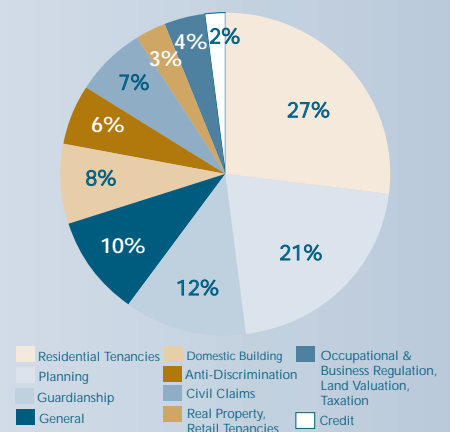
Key Performance Indicators for 1999–2001

ALL VCAT CASES 1999–2001



VCAT projects that cases finalised in 1999–00 will rise 16% compared to 1998–99. The majority of the rise will be within the Residential Tenancies List, with a significant rise within the Civil Claims List and small rises (in numerical terms) in other Lists. In 1999–00, VCAT is budgeting to spend \$18.1 million divided as shown between its Lists.

VCAT EXPENDITURE BY LIST 1999–00 Total Expenditure \$18,067,129



Leadership of VCAT

Directing VCAT

The Victorian Civil and Administrative Tribunal (VCAT) was created by the *Victorian Civil and Administrative Tribunal Act 1998* (the VCAT Act).

The VCAT Act provides that the President must be a Supreme Court Judge. It provides that a Vice President must be a Judge of the County Court.

The President and Vice Presidents of VCAT are:

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

In carrying out these functions, the Vice Presidents are subject to the direction of the President.

The President is to advise the Minister about any action that the President considers would lead to the:

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

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

Appointment of non-judicial officers

Deputy presidents, senior members and members of VCAT are appointed by the Governor in Council.

Subject to the VCAT Act, they hold five-year terms and are eligible for re-appointment.

They may resign their office as member by delivering to the Governor a signed letter of resignation.

Rules Committee

The members of the Rules Committee are:

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

FUNCTIONS

The functions of the Rules Committee are:

- to develop rules of practice and procedure, and practice notes for VCAT;
- to direct the education of members of VCAT in relation to those rules of practice and procedure and practice notes; and
- any other functions conferred on it by the President

QUORUM AND MEETING PROCEDURE

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

Rules Committee



Rules Committee members, from left (standing) Judge Davey, Prof. Sallmann, Louise Jenkins, Dr Greg Lyons, Secretary. (Sitting) Judge Wood, Justice Kellam, Judge Holt, and Jane Monk.

Rules Committee members were appointed on 1 July 1998 and met on 11 occasions. Members as at 30 June 1999 are as follows:

Justice Kellam

LLB BJuris (Mon) LLM (Melb). Signed the Roll of Counsel of the Victorian Bar in 1977. Appointed Queens Counsel in 1991. Appointed a Judge of the County Court of Victoria in 1993. Appointed Justice of the Supreme Court of Victoria in January 1998.

Judge Davey

LLB (Hons) (Melb). Signed the Roll of Counsel of the Victorian Bar in 1963. Appointed Queens Counsel in 1992. Appointed a Judge of the County Court of Victoria in 1994. Appointed Chairperson of the Domestic Building Tribunal of Victoria in 1996.

Judge Wood

LLB (Melb). Signed the Roll of Counsel of the Victorian Bar in August 1974. Appointed Queens Counsel in 1994 and a Judge of the County Court of Victoria in 1997. Appointed President of the Administrative Appeals Tribunal of Victoria in 1998.

Louise Jenkins

Solicitor

BA LLB (Melb). Barrister and Solicitor of the Supreme Court of Victoria. Partner, Arthur Robinson, Hedderwicks. Member of the Legal Profession Tribunal.

Prof Peter Sallmann

Crown Counsel

LLB (Melb), M Phil (Melb). Crown Counsel for the State of Victoria.

Judge Holt

LLB (Melb). Judge of the County Court.

Jane Monk

Bachelor of Town and Regional Planning. Full-time member of VCAT working in the Planning List.

Assistance of Dr Greg Lyons

Dr Greg Lyons has served as Secretary to the Rules Committee since February 1999. The Rules Committee is grateful for his untiring assistance.

Registry Management

With the amalgamation of the former boards and tribunals, VCAT inherited seven administrative registries. Each of them had performed the administrative work of one or more of the former tribunals.

In August 1998, the VCAT Business Process Review began with the aim of using the best aspects of the former registries and creating an efficient administrative system that would better serve VCAT's users. As demand for VCAT's services rise, we aim to keep up with that demand without having to increase the size of the registries.

In March 1999, the consolidation of the seven registries into one registry with three sections. With the registries combined, we began extensive reviews to improve work practices and achieve further economies of scale.

Registry management comprised the following senior managers as at 30 June 1999:

JOHN ARDLIE

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

IAN PROCTOR

BA, LLB (ANU). Appointed Principal Registrar in November 1998. Previously a solicitor and administrator for the Federal Government in the information technology industry,



Senior Registrars, from left—Ian Proctor, Wayne Richards, Jim Nelms and Richard O'Keefe.

community legal centres, the Legal Aid Commission of Victoria and the Victorian Government. Project Manager of the VCAT Project and responsible for coordinating the work of creating VCAT.

JIM NELMS

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

WAYNE RICHARDS

Appointed Senior Registrar, Civil Section of the Registry in April 1999. Formerly Registrar of the Civil Claims List from July 1998. Joined the public service in 1966 and worked in the Finance Department of the Ministry of Housing. Appointed as an inspector in

the Consumer Affairs Bureau in 1976. Appointed Assistant Registrar of both the Residential Tenancies and Small Claims Tribunals in 1987.

RICHARD O'KEEFE

LLB (Deakin). Appointed Senior Registrar, Administrative Section of the Registry in April 1999. Previously a public servant with the Department of Justice (the then Law Department) since 1973. Qualified as a clerk of courts in 1975. Worked in a variety of suburban magistrates courts over the past 25 years. Appointed to the registry of the Administrative Appeals Tribunal in 1996.

Member Profile

The members of VCAT comprise the President and Vice Presidents who are judicial members, and non-judicial members comprising Deputy Presidents, senior members and members.

As at 30 June 1999, VCAT non-judicial membership totalled 42 full-time members and 130 sessional members.

VCAT members include legal practitioners and members of other professions such as planners, engineers, architects, medical practitioners, land valuers and real estate agents who have specialised knowledge or expertise that assist VCAT in exercising its wide range of jurisdictions.

The fact that many members are qualified to sit in a number of jurisdictions that were previously managed by separate boards and tribunals, enables VCAT to function more efficiently. The flexibility that comes with members who can serve on a variety of Lists where needed, increases VCAT's effectiveness. This enables members to acquire broader experience, as well as accumulate new perspectives and



Residential Tenancies List Deputy President John Billings conducts a training session for List members.

knowledge from exposure to a variety of jurisdictions. In addition, this offers greater career flexibility and satisfaction.

Training and Development

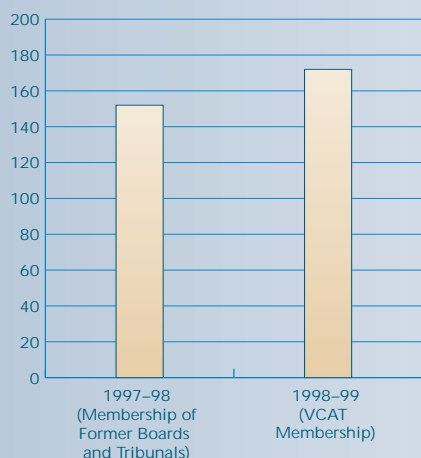
The Professional Development and Training Committee held regular meetings during the year in review and

spearheaded the following training and development programs, and events:

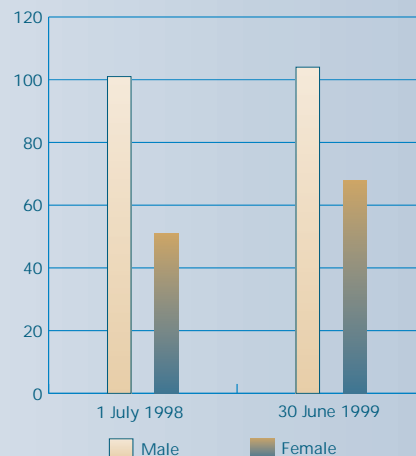
- **Mediation:** In March 1999, the Committee organised a mediation course for members conducted by Bond University. The course, which was held over three days, was attended by 30 members and proved to be an outstanding success.

Key Performance Indicators for 1998–99

MEMBERSHIP COMPARISON 1997–99



MEMBERS BY GENDER 1998–99



- **VCAT Day:** A special day was held to the review VCAT's first year of operation on the first anniversary of VCAT—1 July 1999. Following an address by the President, all Lists conducted seminars in relation to matters of specific relevance to each List.
- **Reasons for Decisions:** The Hon Justice Charles of the Court of Appeal, Supreme Court, and Deputy President Michael Macnamara presented an address on writing reasons for decisions in April 1999. The seminar was attended by more than 80 full-time and sessional members.
- **New Members' Handbook:** At the direction of the President, the Committee prepared a draft VCAT Members' Handbook. This handbook was created to fulfil a need to provide newly appointed members with a convenient guide to the practical aspects of membership. The handbook is designed to be of interest and assistance to all members as a ready reference guide.

LIST SPECIFIC TRAINING

Individual List specific training for members was conducted throughout the year in review. (Refer to the Operational Performance section for more information.)

AIJA TRIBUNALS CONFERENCE

VCAT supported the attendance and participation of many full-time and sessional members at the inaugural Australian Institute of Judicial Administration (AIJA) sponsored Tribunals Conference at Melbourne in September 1998.

Restructure of remuneration

When VCAT commenced, there were seven separate rates of pay for full-time members and numerous other rates for sessional members.

Effective from 1 July 1999, those anomalies have been resolved and VCAT now has three categories of full-time members and three categories of sessional members. This remuneration restructure came about as a result of an intensive review of remuneration conducted from January to May 1999.

Committees

HEADS OF LIST COMMITTEE

The President, Vice Presidents and Deputy Presidents meet at least monthly to discuss issues of relevance to VCAT. The Heads of List Committee has established two sub-committees:

- **Professional Training and Development Sub-Committee:** As detailed earlier, this sub-committee focuses on the professional development and training of VCAT members and comprises a number of members and outside participants.
- **Mediation Sub-Committee:** This sub-committee was appointed to supervise the training of members in mediation and to monitor the progress of mediation in VCAT. Its members produced a draft Code of Practice for mediation and are actively reviewing the effectiveness of mediation procedures.

TYPE OF MEMBER	TOTAL WOMEN	TOTAL MEN
Deputy President	4	7
Senior Member	4	5
Full-Time Member	10	12
Part-time Member (Three days per week)	1	1
Part-time Senior Member	1	-
Part-time Members	48	79
Total	68	104

Administration Staff Profile

The amalgamation of former boards and tribunals presented significant challenges in combining the strengths of the different work place cultures associated with the previously independently operated organisations. During the year in review, we began to lay the foundation for building a cohesive, focused team with shared values and a unified direction.

This involved the restructuring of seven registries into a single registry with three sections. Registry staff have become increasingly multi-skilled so that they are able to move easily between Lists and handle files from different jurisdictions with confidence.

Equal employment opportunity

We are an equal employment opportunity employer. Appointments and promotions are based on merit and staff members will receive the training and experience required to enhance their skills and abilities.

Occupational health and safety

We provide and maintain a working environment that is safe and without risk to the health and well being of all staff, members and visitors to VCAT.

Only two WorkCover claims were made to VCAT during the year in review. One WorkCover claim involved minimal time lost and the employee resumed duties on a 'return to work plan' that assisted recovery and addressed minimal changes to the employee's role. The other claim required some physiotherapy for the employee and awareness training about exercises to prevent further problems.

Staff training and development

The Department of Justice provides a Corporate Training Program that is accessible to all employees of VCAT.

Through the Department of Justice, we provide all staff with competency-based training, self-management programs, customer awareness



From left, Phillip Rosevear, Simon Huggins and George Adgemis, previously in separate registries, now work together developing central listings coordination.

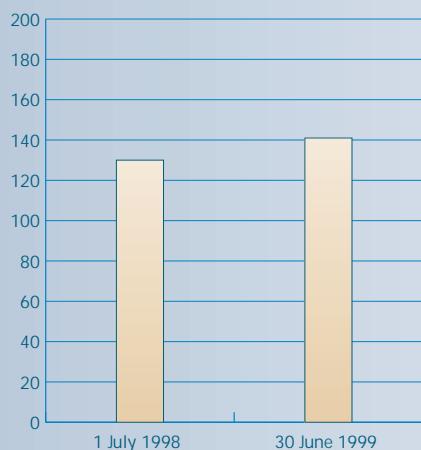
programs, Occupational Health and Safety programs and computer training.

These programs vary to accommodate changes within the work force. Employees undertook training programs during the year in review, including computer training that addressed the Y2K issue.

In-house training was required due to the changing roles and responsibilities associated with managing the new

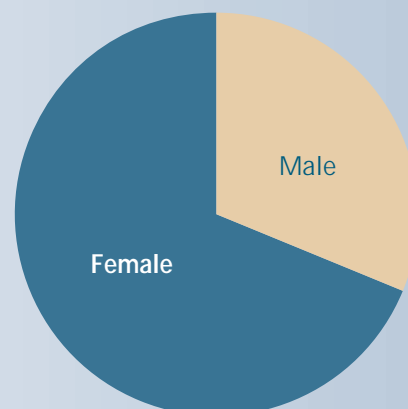
Key Performance Indicators for 1998-99

STAFF FULL-TIME EQUIVALENT 1998-99



Staff Full-Time Equivalent numbers include staff on maternity leave, leave without pay, secondments and casual roles that are cost neutral to VCAT (16 as at 30 June 1999). This number fluctuates from time to time.

STAFF BY GENDER 1998-99



TM case management computer system for the Residential Tenancies List.

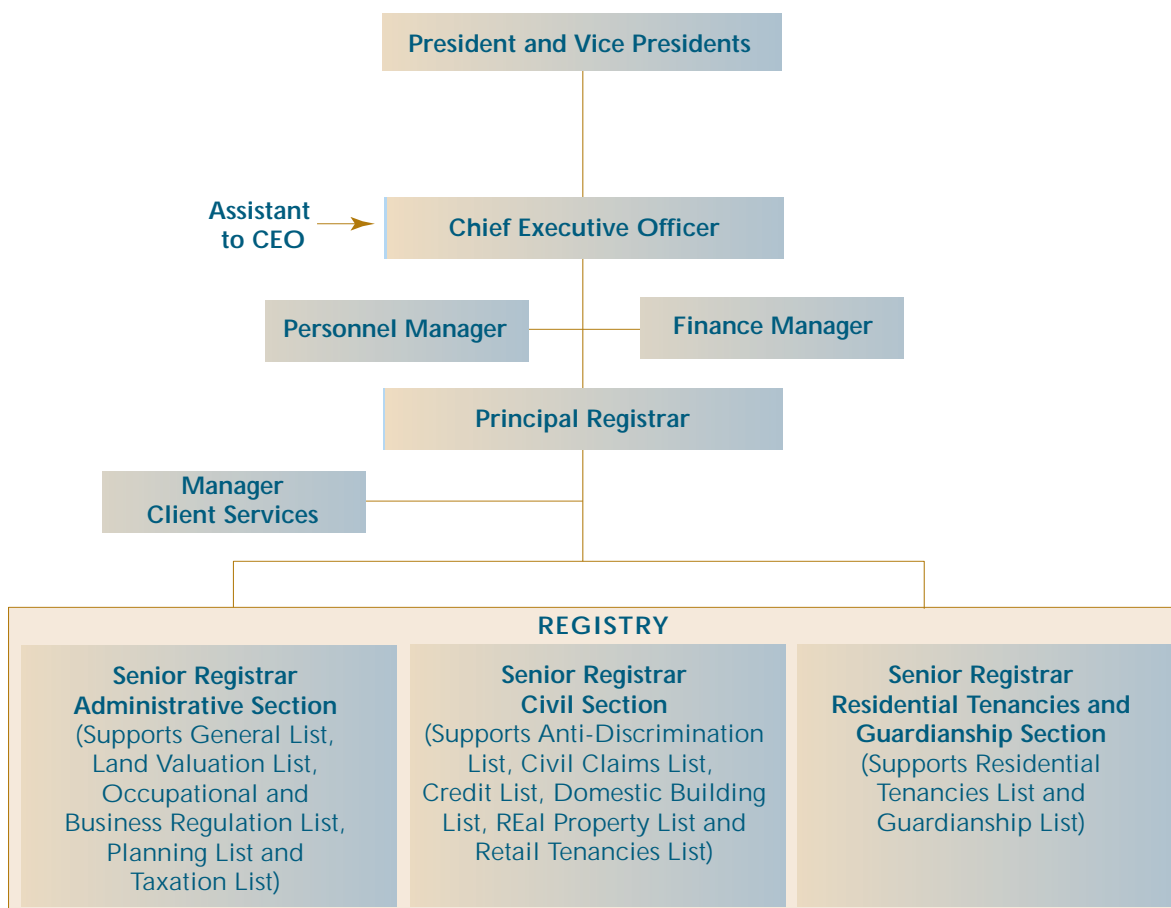
We provided ongoing training to all staff to prepare them for the changes brought about by the restructuring of the former registries. This training included on-the-job training and familiarisation of the new procedures.

Due to the problems encountered during the roll out of the new TM case management system referred to on page 10 of this report, we employed a night crew to process the backlog of orders in relation to Residential

Tenancies. The night crew worked from 6 pm to 11 pm, five nights per week, for six weeks to bring the work up to date. Staff also worked overtime on weekends to assist with the backlog.

VICTORIAN PUBLIC SERVICE (VPS) BAND	TOTAL WOMEN	TOTAL MEN
VPS-5 (Senior Management)	4	-
VPS-4 (Management)	9	1
VPS-3 (Supervisors)	8	6
VPS-2 (Administration)	13	57
VPS-1 (Administration)	10	33
Total	44	97

Organisation Structure



Introduction to the Civil Division



Prior to the amalgamation on 1 July 1998 of previous boards and tribunals to form what we now know as VCAT, these tribunals functioned as independent entities with substantial control of their own destinies. In addition, these tribunals represented a broad spread of jurisdictions that had a variety of procedures and administrative practices. It was difficult to see much commonality between such tribunals as residential tenancy, anti-discrimination, domestic building, retail tenancy and guardianship. It was indeed a relationship almost akin to 'shoes and ships and ceiling wax and cabbages and kings'.

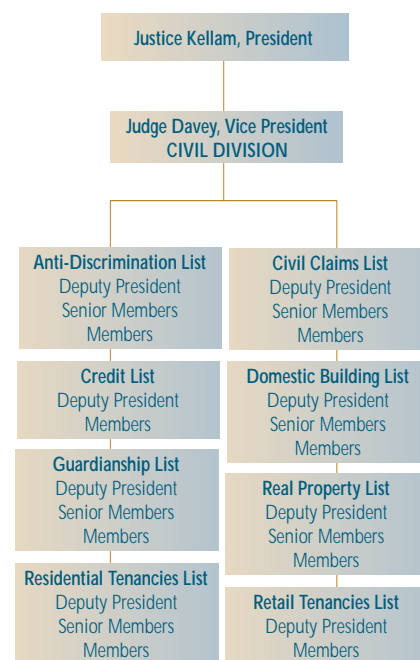
There was a degree of apprehension in many quarters when the Civil Division began its existence as to whether or not such 'unlikely bed fellows' could be managed as a group and achieve the hoped for synergies. It is a great tribute to the heads of those lists, their members and the registry staff that the transition from separate tribunals to Lists within a division of VCAT has been substantially accomplished within the first year. Members are now in many instances sitting in more than one list.

The original seven registries of the Civil Division have since been combined into two sections of the VCAT Registry—one containing Residential Tenancies and Guardianship, and the other comprising the balance of the Lists in the Division.

We also determined that the Division should use two case management computer systems rather than one system as originally envisaged. We describe this issue in more detail on page 10. The two systems will accommodate the diversity in case management procedures required to process the bulk of VCAT's work. This is reflected in the 1998–99 figures for the Civil Division of 68,451 cases finalised, representing more than 90% of cases finalised by VCAT. It should be noted that the Residential Tenancies List finalised 57,514 of these cases.

As the case flow statistics in this report indicate, the volume of cases heard by most of the Lists has continued to grow during the year. However, I am pleased to report that all Lists now handle cases without any undue delay. In some instances, cases are dealt with as quickly as the parties are able to get them ready for hearing. The completion of the new hearing rooms and the increase in member resources, as well as administrative reform, has had a dramatic effect on the ability of VCAT to manage the case load in an efficient and timely manner.

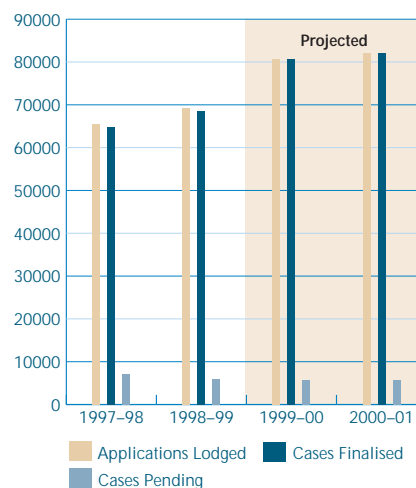
The past year has demonstrated the significant advantages that can be achieved as a result of the amalgamation. The ability to apply member and registry resources to areas in need of assistance represents a key benefit not previously available. In addition, a significant amount of work has gone into professional development, which is



available to all members. However, to realise VCAT's full potential, there is still much work to be done. With the installation of the new case management system across all Lists, the advantage of an adequate number of hearing rooms, the new registry structure and centralised listing, we can all look forward to the future with confidence.

Judge Davey
Vice President, Civil Division

CIVIL DIVISION CASE FLOW 1997–2001



Anti-Discrimination List

Objective

To determine applications for exemption and complaints of discrimination in a fair, timely and cost-effective manner.



From left, Deputy President Cate McKenzie meets with staff members Jo Cvetkovic and Louise Johnston to discuss a recent hearing.

Purpose

The Anti-Discrimination List hears and determines complaints of contravention of the *Equal Opportunity Act 1995* (EO Act). Such complaints claim discrimination on the basis of various attributes, such as sex, race, impairment, or religious belief or activity, in various areas of activity such as employment, education, and the supply of goods and services and sport. The claims also relate to sexual harassment and victimisation.

COMPLAINTS

Complaints are initially lodged with the Equal Opportunity Commission. If the Commission

Achievements

- ❑ Eliminated the backlog of complaint cases.
- ❑ Ensured that 90% of exemption applications were disposed of within 14 days of lodgement.

declines to handle a complaint, or determines that the complaint is not reconcilable or if attempts to conciliate are unsuccessful, the Complainant may require the Commission to refer the complaint to VCAT.

EXEMPTION APPLICATIONS

The List determines applications for exemption from the provisions of the EOA, and hears applications made to strike out complaints on the basis that they are frivolous, vexatious, misconceived, lacking in substance or an abuse of process.

In addition, the List receives a small, although significant, number of applications for interim orders to prevent a party to a complaint from acting prejudicially to conciliation or negotiation, or to VCAT's ultimate decision.

Case Profile

The case load of the List continues to increase in line with the rise in the number of complaints referred to VCAT. In 1998–99, the number of complaints

referred totalled 316, compared with 235 in 1997–98, representing a percentage increase of 34%. This increase corresponds to a continuing increase in the number of complaints lodged with the Equal Opportunity Commission.

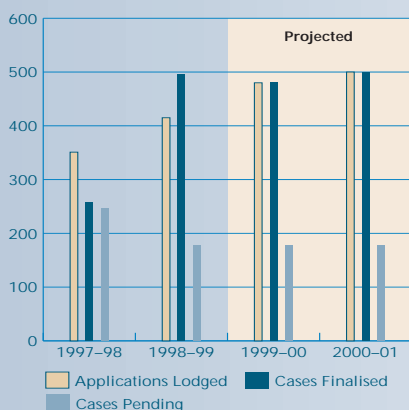
The increase may be attributed to the growing awareness of the Equal Opportunity legislation and the obligations and rights that it contains.

The numbers of exemption applications and applications to strike out complaints during 1998–99 has remained steady. A total of 99 exemption applications and 79 applications to strike out complaints were made. The List continues to deal with these applications in a timely manner.

Complaint Types

The complaints referred to the List only represent a small proportion of the complaints lodged with the Equal Opportunity Commission and do not necessarily reflect the profile of complaints lodged with the Commission.

CASE FLOW 1997–2001



CASE STUDY:

HIV-POSITIVE PLAYER REFUSED MEMBERSHIP OF A SPORTING ORGANISATION

A sporting association refused to register an HIV-positive player in its competition. In the subsequent hearing, the sporting association argued that the ban was reasonably necessary to protect the health of other players participating in the competition. VCAT was not satisfied that such discrimination was necessary. It found that the sporting association had discriminated against the player on the basis of his impairment. The sporting association consented to an order that it register the player and refrain from breaching the Equal Opportunity Act in relation to this player in the future.

When compared with 1997–98, by far the greatest proportion of complaints referred to the List relate to employment, with the grounds of gender, sexual harassment, race and impairment occurring the most frequently. Employment related complaints make up approximately two thirds of the complaints referred to the List. The second highest number of complaints relate to the provision of goods and services—slightly more than 20%.

Complaints are distributed relatively evenly across the various kinds of contraventions of the Act that can be claimed. The proportion of complaints of sex discrimination and sexual harassment is slightly higher than the proportion of other kinds of complaints.

There has been a slight rise in the number of complaints of impairment discrimination and a significant fall in the number of complaints of discrimination based on age. The proportion of complaints of race discrimination has risen compared with 1997–98.

In 1998–99, gender discrimination complaints made up 18% of the total complaints referred, sexual harassment complaints 13%, impairment discrimination complaints 18% and race discrimination complaints 12%.

Elimination of backlog and reduction of waiting times

At the commencement of VCAT in July 1998, the List had a backlog of complaints to be heard. The waiting time between complaint referral and disposition was approximately 21 months.

We set our interim target of reducing the delay from referral to disposition of complaints to 12 months for 50% of cases and 18 months for a further 40% of cases.

As events unfolded, we bettered this target. By the end of the financial year, the waiting time between complaint referral and disposition had reduced to a point where 50% of cases are now dealt with within four months of referral (the minimum time necessary to allow for filing relevant documents). We dealt with a further 40% of cases within nine months of referral.

The measures that have enabled us to achieve this result are:

- the introduction and high success rate of mediations, including directions hearings and monitoring of compliance with directions;
- improved case management procedures and monitoring of compliance with directions;
- a large increase in members who can hear cases in the List; and
- the tireless work of members and staff.

The introduction of mediation has proved to be an effective way of resolving complaints referred to the List. Its success rate is high, even where previously the Equal Opportunity Commission had been unsuccessfully in conciliating complaints. The present rate of success for mediations is approximately 50%.

During the next financial year, we aim to further streamline our proce-

dures, continue to reduce waiting times and further promote mediation as an effective means of resolving complaints of discrimination, sexual harassment and victimisation.

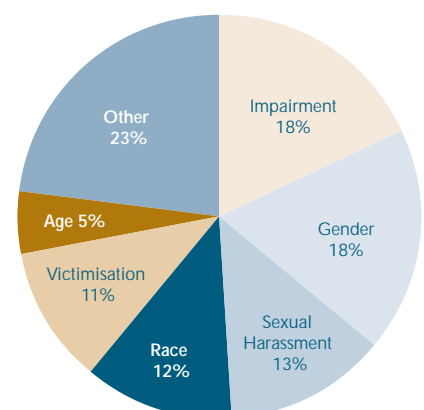
User group

Members of the List consulted with the user group about reforms in case management procedures, such as the introduction of witness statements, and received constructive feedback.

Training and development

During the year in review, Members of the List participated in a number of seminars, both those conducted by VCAT and external organisations. VCAT also hosted the Biennial Conference of Heads and Registrars of Anti-Discrimination jurisdictions in Australia and New Zealand. The conference dealt with procedural problems common to all jurisdictions represented and offered valuable suggestions about how these problems may be overcome.

COMPLAINTS BY TYPE—1998–99



The Future

- ❑ Cater to expected rise in referrals of complaints.
- ❑ Further reduce the waiting times so that at least 65% of cases are heard within four months.
- ❑ Continue to promote mediation as an effective means of resolving complaints in at least 60% of cases.
- ❑ Ensure that 90% of exemption applications are disposed of within 14 days of lodgement.

Civil Claims List

Objective

To resolve disputes relating to civil claims in a fair, informal, speedy and cost-effective manner.



From left, Member William Holloway talks with Deputy President Michael Levine about new claim forms in anticipation of changes to legislation.

Purpose

The Civil Claims List hears applications previously heard by the Small Claims Tribunal under the *Small Claims Act 1973* and some matters under the *Motor Car Traders Act 1986*, the *Credit Act 1984* and *Consumer Credit Act 1995*.

Most cases arise from disputes between the purchasers and suppliers of goods and services in relation to claims of \$10,000 or less. Parties invariably conduct their cases in this List without legal representation, thereby saving legal costs.

Case Profile

In 1998–99, the number of applications received remained steady at

Achievements

- ❑ Finalised 20% more cases compared with those in 1997–98.
- ❑ Completed almost all cases within six weeks of application with one hearing of less than two hours.

2,518, compared with 2,581 in 1997–98. The number of cases resolved totalled 3,108, compared with 2,480 in 1997–98. Cases pending totalled 215, compared with 697 at the end of 1997–98. This outstanding result was attributed to the increase in resources brought about by the introduction of VCAT.

Amendments to Small Claims Act

A significant change took place on 1 February 1999 when amendments to the *Small Claims Act 1973* allowed any individual, company or business to make a claim against any other person who carries on business. Until that date, applicants had to be consumers and not use the goods and services in connection with any business activities. About 10% of all claims are now initiated by businesses. That percentage is

expected to rise as List users become more aware that the List can hear business initiated disputes.

Timeliness

When VCAT commenced, it was the aim of the Civil Claims List to ensure that the majority of cases were completed with only one hearing of less than two hours and within six weeks of lodging the application. We have achieved this result while completing 20% more cases than in the year prior to the commencement of VCAT.

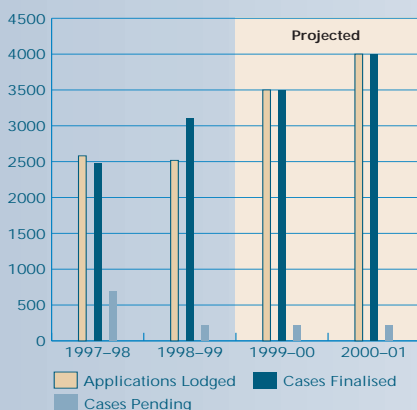
User group participation

Consistent with VCAT policy, the List established a user group that includes representatives of consumer groups, the Victorian Employers Chamber of Commerce and Australian Retailers Association.

The Future

- ❑ The Fair Trading Act commencing 1 September 1999 will mean a wider jurisdiction for the Civil Claims List.
- ❑ Continue to complete cases within six weeks of application.
- ❑ Potential for substantial increase in the number of cases.

CASE FLOW 1997–2001

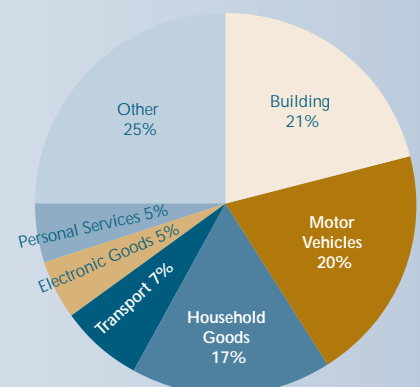


CASE STUDY: TELEPHONE DIRECTORY

ADVERTISEMENT INADVERTENTLY DELETED

A telephone directory advertiser approached a small business owner to ask if he would like to increase the size of his current advertisement in the next year's telephone directory. The business owner said "no". Inadvertently, the whole advertisement was deleted from the phone book. The parties in the case, with the assistance of the member, negotiated a settlement prior to the hearing for the alleged loss of business suffered.

APPLICATIONS BY TYPE—1998–99



Credit List

Objective

To resolve disputes relating to credit claims in a fair, informal, expedient and cost-effective manner.



Deputy President of the Credit List Anne Coghlan conducts a compulsory conference in the General List of VCAT.

Purpose

The Credit List has jurisdiction under the *Credit Act 1984* and the *Consumer Credit (Victoria) Act 1995* (the Code). The Code, which operates Australia wide, supersedes the Credit Act.

Many of the applications concern people experiencing financial difficulties and hardship. We aim to respond to such needs in a timely manner. Through the use of directions hearings, we are able to resolve matters at that time. We also use compulsory conferences to bring the parties together as early as possible and without the need to file and serve extensive written material.

Achievements

- Repossession cases were heard and determined on average within 12 days of application.

Case Profile

In 1998–99, the number of applications received totalled 328, compared with 404 in 1997–98. Cases resolved totalled 383, compared with 355 for 1997–98. The list has reduced the number of cases pending during 1998–99 from 180 to 127.

Of the 127 cases pending, 95 concern applications made to the former Credit Tribunal involving one credit provider. Those cases are awaiting the outcome of an appeal to the Court of Appeal before proceeding further. Accordingly, those cases distort the List's overall performance.

No decisions made by the Credit List since 1 July 1998 are the subject of appeal to the Supreme Court of Victoria or the Court of Appeal.

Timeliness

The statistics show that the Credit List has performed its task in a timely manner. Repossession applications were heard and determined on average within 12 days of application.

Community outreach

Masters Degree Students from Monash University studying Credit Law attended a Directions Hearing morning and participated in a round table discussion on the operation of the List.

The List held a users group meeting in March 1999 that generated useful discussion about streamlining List procedures introduced after 1 July 1998.

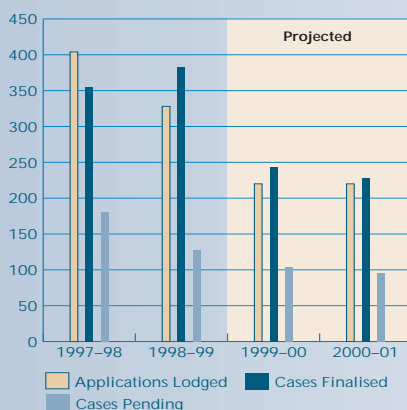
The Deputy President addressed a training session for financial counsellors organised by the Financial and Consumer Rights Council (Inc) in April 1999.

In June 1999, the Deputy President presided at a training session for La Trobe University Law students about to undertake Moot Court examinations.

The Future

- Continue to hear and determine repossession cases within 12 days of application.

CASE FLOW 1997–2001



CASE STUDY: VEHICLE REPOSSESSED BY FINANCE COMPANY

Mr N had his vehicle repossessed by a finance company. At the time he was experiencing financial difficulties. During the period before the finance company could sell the vehicle, he applied to VCAT to vary the contract due to hardship (s.68 of the Code); to re-open an unjust contract (s.70 of the Code) and for compensation for non-civil penalty contraventions (s.114 of the Code). Within five days of lodgment, the Credit List at a Directions Hearing ordered all the parties to attend a Compulsory Conference. The conference was conducted seven working days later. At that conference, VCAT not only assisted in defining the issues, but also employed mediation techniques that resulted in the return of the vehicle and the variation of the contract terms—matters that the parties themselves had been unable to negotiate, though legally represented. Mr N kept his car, which he needed to generate an income, and the finance company renegotiated a more manageable contract.

Domestic Building List

Objective

To resolve disputes relating to domestic building claims in a fair, informal, expeditious and cost-effective manner.



List member Cathy Aird conducts a directions hearing for a building dispute.

Purpose

The List resolves domestic building disputes between home owners, builders, insurers, architects and others. The functions of the List include hearing and determining:

- domestic building disputes;
- disputes relating to insurance claims concerning domestic building work;
- matters referred under the *House Contracts Guarantee Act 1987*;
- injunctions sought in relation to domestic building.

Such cases have the potential to be very expensive for the parties. Cases may

Achievements

- ❑ Resolved most small claims (under \$10,000) within 7 weeks of application.
- ❑ The median time from application to resolution for all cases was approximately 12 weeks.
- ❑ When listed for hearing, most small claims were heard or mediated in less than one day.
- ❑ Settled 66% of cases by mediation.
- ❑ Settled 53% of cases by compulsory conference.
- ❑ 10% of all cases proceeded to hearing.

involve a number of parties, such as owner, builder, engineer, architect, sub-contractor, with many issues in dispute. The aim of List members is to resolve cases expeditiously and at a minimum cost. The parties are given adequate opportunities to settle. However, if they do not settle, intensive case flow management procedures are applied.

Case Profile

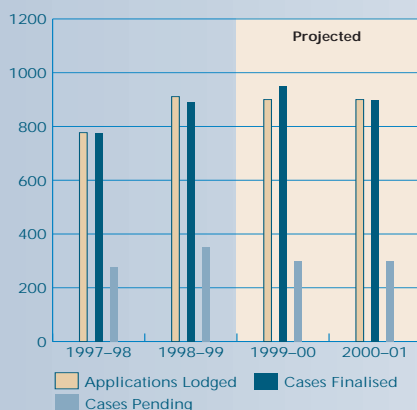
In 1998–99, the number of applications received totalled 911, compared with 777 in 1997–98, representing a percentage increase of more than 17%. This figure included 417 applications lodged by owners, 360 by builders, 45 by subcontractors and 58 by insurers. The number of cases finalised totalled 892, compared with 777 in 1997–98 and the number of matters pending totalled 315, compared with 277.

SMALL CLAIMS CASES

A total of 175 small claims cases involving disputed amounts of less than \$10,000 were finalised in 1998–99. Of those cases, 139 were settled at the mediation stage, five were dismissed at hearing, seven were struck out/withdrawn at hearing and 24 resulted in an award at hearing. Within five to six weeks of application, the case is fixed for mediation, which lasts a maximum of one and a half hours, to be followed by a hearing on the same day if settlement is not achieved. Of the matters that go on to a hearing, all but a few are heard within the day allocated.

The majority of cases are referred to mediation. The List has an extensive panel of mediators from a wide range of disciplines. The settlement rate of cases resolved by mediation is 66%.

CASE FLOW 1997–2001



CASE STUDY: OWNER CONTENDS HOUSE A COMPLETE DISASTER

A builder sued a house owner for \$50,000—monies he claimed were due under the contract. The owner counter-claimed for \$150,000 and contended that the house was a complete disaster because it was built on a site with land fill. The owner maintained that the only sensible solution was demolition and re-building. The builder stated that the house was reasonably well built, although he admitted it was not perfect, and denied that the house was built on an inadequate site. After considerable discussion at the mediation, the builder agreed to buy the house from the owner for a mutually agreed price.

operational performance

STANDARD CASES

A standard case involves claims for more than \$10,000 and less than \$100,000, and where the hearing is estimated to take less than nine days. These cases, which comprise the majority of the List's work load, are usually referred to mediation before any other steps are taken in the proceeding.

COMPLEX CASES

Complex cases accounted for about 8% of total cases finalised in 1998–99. To resolve such cases, we initially refer parties to a directions hearing within two to three weeks of application prior to mediation. Complex cases generally:

- involve amounts in dispute that exceed \$100,000;
- involve complex matters of fact or law; or
- are estimated to take longer than nine days to resolve.

Often List members will order some interlocutory steps where complex legal or technical issues are in dispute. The parties may agree on a mediator should they wish to do so.

Compulsory conference

Cases settled at or prior to compulsory conference accounted for about 10% of total cases finalised in 1998–99. List members set compulsory conferences for complex matters that have failed to settle at mediation or for conventional matters where the hearing time is disproportionate to the amount in dispute. The compulsory conference proceeds in a similar way to a mediation but with the members being able to make definitive and interventional

comments rather than merely act as devil's advocate in an attempt to resolve the matter. We explore various avenues of settlement in depth. Members conduct the entire process on a confidential and 'without prejudice' basis but do not conduct the final hearing if the case does not settle.

Compulsory conferences have received mixed reactions from traditionalist advocates. However, at directions hearings a substantial number of experienced lawyers are requesting compulsory conferences—sometimes instead of mediation.

During the next financial year, List members intend to increase the use of compulsory conferences to resolve even more of the cases that would otherwise have to proceed to hearing.

Expert opinions

During the year in review, List members made use of the powers under section 94 of the *Victorian Civil and Administrative Tribunal Act 1998* relating to appointment of experts to advise VCAT members. A total number of 17 expert reports were requested in 1998–99.

A single expert saves time and resources for the parties, although it is common for conventional claims and almost universal in complex claims that the parties will appoint their own experts instead. Often VCAT members use this practice in cases where experts for the parties are themselves in dispute.

Special referees

During the year in review, VCAT members used the special referee provision in section 95 of the Act on a number of occasions. This initiative is particularly useful where the issues in a matter are overwhelmingly technical in nature.

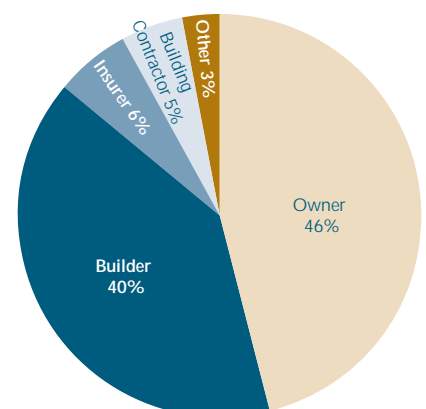
List performance

User group meetings enable participants such as insurers, building consultants and legal professionals to have an input into the operation of the List. List members greatly appreciated suggestions for improvement in procedures, many of which have been adopted.

Training and development

During the year in review, almost all members of the List who were not previously accredited mediators attended the mediation course conducted by VCAT.

SOURCE OF APPLICATIONS—1998–99



The Future

- ❑ Focus on increasing the settlement rate for mediation.
- ❑ Increase the use of compulsory conferences in all complex cases.
- ❑ Make greater use of special referees in complex cases and other cases as appropriate.

Guardianship List

Objective

To resolve matters relating to guardianship and administration orders in a fair, informal, expedient and cost-effective manner, while maintaining the dignity of the person who is the subject of the application.



Deputy President Sandra Davis (standing) discusses schedule of hearings with (from left, sitting) Peter Mansu, Sue Lalji, Simon Huggins and Tonia Ryan.

Purpose

The role of the Guardianship List is to protect adults who as result of a disability are unable to make reasonable decisions in respect of their personal circumstances or estate.

The List hears and determines applications in respect of disabled adults for:

- the appointment of guardians to make personal lifestyle decisions;
- the revocation or suspension of Enduring Powers of Attorney relating to medical treatment under section 5 of the *Medical Treatment Act 1988*.

Achievements

- Most cases were heard and determined within six weeks of application.
 - The former Guardianship and Administration Board was successfully integrated into VCAT.
- consent to major medical procedures such as sterilisation, termination of pregnancy and donation of non-regenerative tissue;
 - the appointment of administrators to manage financial and legal affairs; and
 - the revocation of financial Enduring Powers of Attorney under section 118 of the *Instruments Act 1958*.

Our concerns

Our relocation and subsequent transition to a new computer system resulted in some delays in processing applications and reviews. However, by the end of the financial year the new system was operating efficiently. We anticipate the backlog that developed during that time will be cleared by the end of August 1999.

New leadership

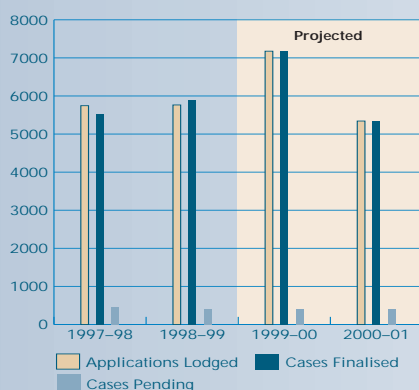
On 7 April, Deputy-President Lansell Pilgrim, who was the President of the former GAB since 1993, was appointed a Judge of the County Court of Victoria. Sandra Davis, a barrister and sessional member of the former GAB since 1995, and Deputy President of the former Administrative Appeals Tribunal (AAT) since 1998, succeeded Judge Pilgrim as Deputy President in charge of the Guardianship List. Mrs Davis is also assigned to the General, Anti-Discrimination, and Occupational and Business Regulation Lists of VCAT.

Case profile

In 1998–99, the number of original applications, reviews or existing orders remained steady at 5,764, compared with 5,745 in 1997–98. Cases resolved rose slightly, totalling 5,899, compared with 5,528 in 1997–98. Cases pending decreased, totalling 397, compared with 460 in 1997–98.

Members hear up to one third of cases in metropolitan and rural Victoria at nursing homes, hospitals, special care accommodation and, occasionally, in local courts to suit the convenience of the person who is the subject of the application.

CASE FLOW 1997–2001
(Guardianship and Administration Only)



CASE STUDY: 80-YEAR-OLD MOTHER REFUSES ASSISTANCE AND FAILS TO PAY BILLS

An application for guardianship and administration was made by a daughter in respect of her 80-year-old mother who was in hospital after a fall at home. Her mother had been refusing all assistance for some time and had also failed to pay any of her bills, resulting in disconnection of all utilities, including the telephone. She was diagnosed with alcohol-related brain damage and recommended for placement in supported accommodation. She had no funds other than the pension. At the hearing she said she wanted to be left alone. VCAT appointed the daughter limited guardian to make decisions concerning her mother's health care and accommodation, and administration of her financial affairs.

New legislation

Substantial amendments to the *Guardianship and Administration Act 1986* (GA Act) resulted in the *Guardianship and Administration (Amendment) Act 1999* (GAA Act), which received Royal Assent in June 1999. The new legislation is expected to be proclaimed in January 2000. The Deputy President is a member of the Department of Justice Implementation Committee, which is organising the implementation of the amendments.

The GAA Act creates a new instrument, the enduring power of guardianship, which enables the appointor to select a person to make health care and lifestyle decisions for the appointor should he or she lose the capacity to make such decisions. In addition, the new legislation will enable persons closely connected to the appointor, such as family members, to give consent to routine medical and dental treatment. However, VCAT consent will be required for special procedures that include:

- procedures that will render the patient permanently infertile;
- procedures that involve the transplantation of tissue from a patient;
- termination of pregnancy; and
- participation by the patient in any medical research.

In addition, the GAA Act provides for the registration of interstate orders.

As a result of the amendments, List functions will expand in 2000 to hear and determine applications for:

- revocation of enduring powers of guardianship;
- consent to conduct special procedures; and
- determining disputes concerning medical or dental treatment.

We are developing an expedited procedure to enable, where appropriate, disabled persons to participate in medical research. During 1998–99, we started preparing new application forms and

orders. By January 2000, we anticipate that all the required documents will be available electronically by way of the internet, and most orders will be prepared and issued at the end of hearings.

Training and development

A training session for new members was held in June. Speakers from the Office of the Public Advocate and State Trustees addressed members on their respective roles in the jurisdiction. Workshop sessions were held on the List's procedures and forms. A brief introduction concerning the amendments to the GA Act was provided to members.

Community outreach

The List's user group comprises representatives from such groups as the Office of the Public Advocate, State Trustees, Mental Health Legal Centre, the Oasis Program and the Open Door Program, as well as the Disability Co-ordinator of the Melbourne Magistrates' Court. This group meets from time to time to discuss issues of relevance to the jurisdiction of the List. In addition, the Deputy President corresponds regularly with managers of regional advocacy groups who wish to address specific issues of concern.

Community education

During the next financial year the Deputy President will be delivering a number of talks to various professional groups to explain the new amendments and procedures. In addition, she will contribute to the material that will be released by the Department of Justice and the Office of the Public Advocate at the time of the proclamation.

The Future

- Ensure the expanded jurisdiction is used to enhance the dignity and lifestyle of people with a disability.
- Meet the challenges posed by the amendments to legislation.
- Continue to hear and determine most cases within six weeks of application.
- Continue to refine procedures to improve access to VCAT.
- Conduct meetings with community groups to discuss the new legislation.

Internal reviews

Although the integration into VCAT resulted in the loss of the right to a merits review before the General List, section 61 of the GA Act was preserved. This has enabled VCAT to review decisions using a different member of VCAT where persons are aggrieved or believe there are new circumstances to consider. This avoids the necessity of costly application to the Supreme Court for leave to appeal on a question of law. Guardianship orders are generally reviewed within 12 months and administration orders are reviewed within three years. In some cases where administration is concerned, none of the parties request a formal hearing and members conduct the reviews by referring to the documents filed with VCAT.

Objectives for the future

We plan to conduct a training sessions for List members in November 1999 to focus on the changes as a result of the amendments, as well as procedures for dealing with applications arising out of the amendments. In addition, we will focus on reviewing the processing of applications, reviews and orders to ensure the efficient functioning of the List.

We plan to more clearly organise our hearings in regional areas into regular circuits so as to ensure timely access to our services for all potential users who reside in regional areas.

We will conduct meetings with user groups, regional advocacy groups and other professional groups to discuss the new legislation and methods of improving access to VCAT.

Real Property List

Objective

To resolve matters relating to real property claims in a fair, expedient and cost-effective manner.

Purpose

The Real Property List began operations on 1 July 1998. The principal area of jurisdiction of the List is claims for damages and other relief under Part 1 of the *Water Act 1989*. The List has exclusive jurisdiction with respect to damages and disputes relative to flows of water. The List also has jurisdiction to resolve disputes as to estate agent's commission referred to it by the Office of Fair Trading and with respect to the acquisition of easements as part of the subdivision process under Section 36 of the *Subdivision Act 1998*.

Case Profile

In 1998–99, the number of applications received totalled 31. Cases resolved totalled 37 and cases pending totalled 21. A number of these cases were originated in the former Administrative Appeals Tribunal (AAT), which explains why more cases were resolved in 1998–99 than were received. While a number of matters were commenced under the Estate Agents Act only one matter proceeded to a final determination. The other matters were settled or withdrawn. A

Achievements

- Successfully integrated real property cases from the former AAT to VCAT.

small number of matters commenced under the Subdivision Act were settled or withdrawn.

Levels of business under the Water Act have been relatively small in the course of the year. Victoria is in the midst of three very dry years and accordingly there have been few applications arising out of broadacre flooding. Most applications have related to allegations of suburban flooding from burst water mains.

The pattern of cases issued in VCAT has been characterised by relatively small sums in dispute and only limited engineering issues. In such instances, VCAT members encouraged the use of mediation rather than incurring the substantial cost of completing the full range of interlocutory steps.

Despite efforts at case management, a small number of matters begun in the former AAT remain unresolved.

The Future

- Devise creative methods of dealing with a small number of difficult cases where the parties appear to lack the resources for their case to be heard in a conventional manner.
- Continue to implement innovative case management.

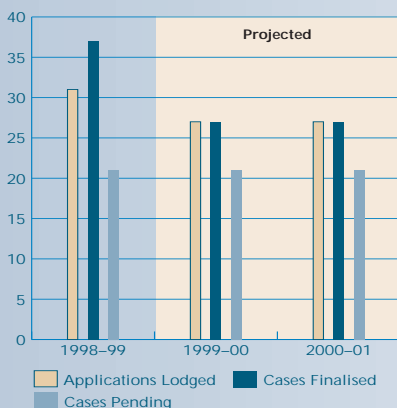
There may be a number of reasons for this. However, it is most likely that the parties involved have limited resources to fund legal costs and consultants fees.

List members will use intensive case management to resolve the impasse created by these difficulties. VCAT has among its members a number of qualified engineers whose expertise can be applied to this task in a creative manner.

Improved efficiency

The transfer of the jurisdiction to this List has enabled a number of innovations to improve efficiency. For example, all final hearings are now recorded and statutory amendments now require an engineer as part of the List only where engineering issues arise.

CASE FLOW 1997–2001



Residential Tenancies List

Objective

To resolve matters relating to residential tenancies in a manner that is fair, informal, quick and inexpensive to the parties.



From left, member Jackie Kefford, Deputy President John Billings and Jan Szuba review hearing locations for 1999–00.

Purpose

The Residential Tenancies List receives, hears and determines applications made under the *Residential Tenancies Act 1997* (RT Act).

Applications arise from disputes between landlords and tenants, rooming house owners and residents, caravan park, or caravan owners and residents, and others.

The RT Act provides for the inexpensive and quick resolution of disputes. The monetary jurisdiction conferred on the List is \$10,000, although parties may authorise the List in writing to hear and determine an application for a higher amount.

Achievements

- ❑ Established the mechanism to resolve disputes under the *Residential Tenancies Act 1997*.
- ❑ Received a total of 59,234 applications of which more than 57,500 of these cases were finalised.
- ❑ The average waiting time from application to finalisation was 29 days.
- ❑ Developed and established a new computerised case management system.

The majority of applications cover such subjects as possession orders, compensation and payments of bonds. In many cases, applicants and respondents present their own case.

Case Profile

In 1998–99, the number of applications totalled 59,234, compared with 55,587 in 1997–98, representing an increase of 6%. The reason for the increase can be attributed to major changes in the RT Act, including:

- introduction of the Alternative Procedure for Possession and for payment of bonds; and
- establishment of the Residential Tenancies Bond Authority.

In former years, the Residential Tenancies Tribunal experienced a growth of 5–8% in the number of applications received.

Total number of applications lodged comprised 58% made by a landlord represented by an estate agent or

property manager, 10% made by private landlords, 25% made by the Director of Housing, 5% made by tenants or residents and 2% made by others. All applications received comprised 68% possession, 14% payment of bonds, 10% compensation or compliance orders (alleging breach of duty) and 8% other.

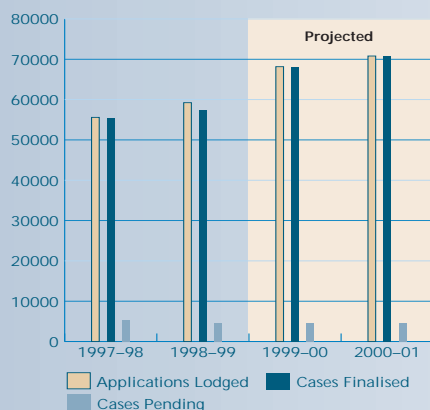
Key objectives

The List's main objectives during 1998–99 were to:

- exercise the new jurisdiction under the RT Act; and
- manage an orderly transition from the former Tribunal structure to the new arrangements within VCAT.

This was achieved internally through member and registry staff training before and after 1 July 1998. List members participated in seminars for VCAT users and their representatives, such as property managers and tenancy workers. We also produced guidelines and other materials for members.

CASE FLOW 1997–2001



CASE STUDY: LANDLORD APPLIES FOR POSSESSION ORDER

A landlord applied to VCAT for a possession order after giving the tenant a 14-day notice to vacate on the grounds of unpaid rent. The tenant had paid rent regularly for almost two years until about three weeks before the landlord gave her the notice to vacate. At the hearing, the landlord proved that the notice was valid. The tenant gave evidence that she had not paid the rent because she had been hospitalised for a short time and had medical and hospital bills to pay. With VCAT's assistance, the landlord and tenant negotiated an agreement where the tenant would remain in the premises and pay the rent owed by instalments. Both parties expressed satisfaction with the result.

CASE STUDY: RESIDENT APPLIES FOR AN ORDER TO CARRY OUT URGENT REPAIRS

A rooming house resident applied to VCAT for an order that the rooming house owner carry out urgent repairs to a dangerous electrical fault in the resident's room. VCAT listed the case for hearing within two business days after the application was made. At the hearing, the resident proved that repairs were required and that the rooming house owner had refused to pay for them to be done. VCAT ordered the rooming house owner to have the repairs carried out immediately and preserved the resident's right to return to VCAT and claim compensation if the repairs were not done.

The application rate has increased since February 1999. In addition, the new legislation required List members to hear particular cases within two business days after the application was made.

To keep pace with the increase and delays to a minimum, while ensuring that the level of service to List users did not diminish, the List identified and addressed a number of requirements:

- Increased the number of members able to hear and determine applications under the RT Act.
- Scheduled additional sitting days in regional Victoria.
- Conducted hearings by telephone or video link more frequently.
- Upgraded the computerised case management system.

List performance

The List's user group meets four times per year. Participants include representatives from the Office of Housing, Real Estate Institute of Victoria, Tenants Union of Victoria, and VCAT members and registry staff. The user group enables participants to make suggestions regarding the operation of the List. Positive outcomes resulted from this process, including:

- amendment of the VCAT Rules governing the lodgement of applications;
- uniform method of calculating rent;
- information published to assist parties on topics, including giving notices and other documents; and
- refining procedures to streamline the submission of proofs in undefended cases.

The List encourages discussion to obtain contributions and feedback regarding proposals for changes to List procedures and operation of the Registry.

The List experienced considerable difficulties with the introduction in April 1999 of our upgraded computerised case management system known as TM, which is referred to elsewhere in this report. Changes to the system were required to make it Year 2000 compliant, and also convert it from a character based system to one with a Windows environment.

For some weeks there were unacceptable delays, especially in producing and distributing orders. Remedial action taken included the introduction of a night shift in addition to the normal day shift for approximately six weeks to reduce the backlog in producing orders. By the end of the financial year, we overcame most of the technical problems and the new system was functioning satisfactorily.

Training and development

In addition to attending general VCAT professional development activities, List members participated in monthly conferences, and List specific training and professional development sessions. Members prepared and discussed research papers and decisions of interest with a view to improving the quality and consistency of decision-making.

In anticipation of the order entry system described in 'The year ahead', members were given essential computer training.

Newly appointed members and some members from other Lists were given training in residential tenancies applications.

The Future

- Continue the process of rationalising and refining List processes and procedures.
- Give particular attention to Rules and Practice Notes designed to expedite the business of the List.
- Increase accessibility to List users by way of ESD and List publications.
- Enhance public awareness through seminars and appropriate publications.

The year ahead

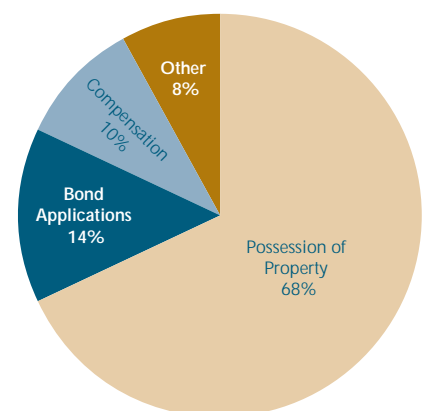
TM will enable us to develop and incorporate two additional modules to improve the speed and quality of service delivery:

- an order entry system (OES), designed for members to produce copies of orders for the parties at the conclusion of hearings; and
- electronic service delivery (ESD), designed to enable identified List users to generate and print notices under the RT Act and lodge applications electronically by way of the internet.

Other significant initiatives planned for the coming year include:

- updating the List's telephone assistance service with an improved telephone system that will reduce waiting times.
- producing commentary on the RT Act in conjunction with publishers Anstat Pty Ltd; and
- public conferences for List users with papers and workshops to be presented by members and senior registry staff.

APPLICATIONS BY SUBJECT—1998-99



Retail Tenancies List

Objective

To resolve matters relating to retail tenancies claims in a fair, expedient and cost-effective manner.

Purpose

A newly formed List under VCAT, the Retail Tenancies List exercises jurisdiction under the *Retail Tenancies Reform Act 1998* (RTF Act), which came into force on 1 July 1999. The RTF Act gives jurisdiction to VCAT. Previously, disputes between landlords and tenants under retail leases were matters within the jurisdiction of the courts.

Several classes of premises are excluded from the jurisdiction, for example, premises with a floor area exceeding 1,000 square metres, franchised businesses where the landlord is the franchisor and premises where the tenant is a public company. The RTF Act excludes disputes involving claims by landlords solely for rent arrears or in relation to statutory rent reviews.

Case Profile

In 1998–99, the number of applications received totalled 157. The volume of business in the List has been relatively light and the speed of disposition of matters relatively rapid. A total of 122 matters were finalised with 33 matters pending.

Achievements

- Most cases were heard and determined within 17 weeks of application.
- More than 65% of cases were settled at mediation.

Applications are divided into one of three streams. Matters in which the sum claimed is less than \$15,000 are dealt with using a small claims procedure. Standard claims of more than \$15,000 and up to \$100,000 are referred first to mediation and then to a directions hearing. Approximately 65% of cases were settled at mediation. Complex matters involving claims of more than \$100,000 are referred initially to a directions hearing. List members have the discretion to re-allocate matters to a more appropriate stream notwithstanding the quantum in dispute. Where necessary, List members may grant urgent interim relief.

Changes to legislation

Early hearings in the List explored the delineation of the List's powers and the width of its jurisdiction. An early

case decided that the List did not have the powers bestowed by the *Trade Practices Act 1974* enabling State and Federal courts to vary or set aside leases entered into as a result of misleading or deceptive conduct.

This deficiency will be remedied by the *Fair Trading Act 1999*, which will come into force on 1 September 1999. That act will enable the List to use powers like those bestowed upon the courts in appropriate cases. As a result, a large increase is expected in the number and complexity of retail tenancy disputes in the next financial year.

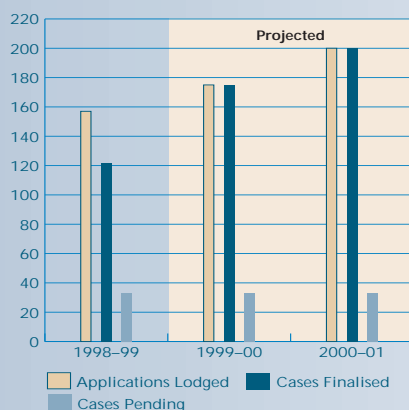
User group meetings

The List's user group met during the financial year and involved users such as landlord and tenants organisations who made valuable contributions.

The Future

- Continue to hear and determine most cases within 17 weeks of application.
- Continue the intensive use of mediation.
- Plan for any increase in work load caused by the *Fair Trading Act 1999*.
- Increase accessibility for urgent applications.

CASE FLOW 1997–2001



CASE STUDY: LANDLORD APPLIES FOR POSSESSION ORDER

A tenant of a retail premises sought an injunction restraining a landlord from re-entering the premises when the lease expired. The tenant argued that although the parties did not formally exercise an option to extend the lease, there was an agreement to extend the lease that should be fulfilled by the landlord. The application for the injunction was heard by VCAT the following day. A temporary injunction was granted. In restraining the landlord from re-entering the premises, VCAT further ordered the parties to attend mediation the following week. The matter settled at mediation and the agreement between tenant and landlord was incorporated in an order of VCAT.

Introduction to the Administrative Division



The work of the Administrative Division for the greater part of the period under review was in those areas previously undertaken by the Administrative Appeals Tribunal (AAT). The AAT was comprised of four divisions—General, Taxation, Planning and Land Valuation. These divisions comprise four of the five Lists in the Administrative Division.

In recognition of new jurisdictions pertaining to business and occupational matters, the Occupational and Business Regulation List was created within the Administrative Division. The quasi-judicial work of the Prostitution Control Board, Travel Agents Licensing Authority, Motor Car Traders Licensing Authority and Estate Agents Disciplinary and Licensing Appeals Tribunal was transferred to this List upon VCAT's inception.

In February, the quasi-judicial functions of the former Liquor Licensing Commission was added to the List. Since planning applications are usually necessary in relation to liquor licence applications, it can be readily appreciated that the conduct of both proceedings jointly within the Division, rather than separately as in the past, is a

major benefit both in terms of cost and time. Already cases of this nature have been conducted in this manner and with success.

The past year has seen the elimination of delays in the hearing of planning cases. In July 1998, a period of 24 weeks elapsed between filing of an application for review and its hearing. By January, the period increased to 27 weeks. However, by late June 1999, most cases were decided within 14 weeks of VCAT receiving the application. At the time of writing, many of the cases are now decided in 10 to 12 weeks. This is the result of a number of factors: additional members, improved case management, more and longer sitting times and more hearing rooms. Applications in this List have plateaued at 230 to 240 applications received per month since February 1998 and this level is expected to continue for the foreseeable future.

Innovations include the use of mediation and the establishment of a special list—the 'commercial list'—for cases exceeding \$5 million in value. It has been a most successful initiative. Cases are managed and decisions published within four weeks of the conclusion of the hearing. Mediation has also been of benefit to these cases.

The Taxation and Land Valuation Lists, though not as busy as the other Lists, continue to function well. The General List has seen significant improvement in the reduction of delays in cases relating to motor car related personal injuries.

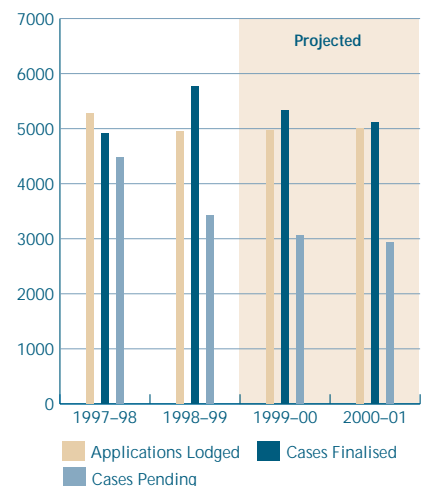
VCAT conducts regular meetings with representatives who have an interest in particular areas of the Division to provide a forum for the exchange of views. These meetings enable VCAT to facilitate a more efficient and responsive service to the community.



The past year has been a challenging one. A new Tribunal has been established. Additional jurisdictions have been conferred, new members have been appointed and the Registry has been radically remodelled and streamlined. I am pleased to report that everyone in this Division is meeting the challenges presented to them.

Judge Wood
Vice President, Administrative Division

ADMINISTRATIVE DIVISION CASE FLOW
1997-2001



General and Taxation Lists

Objective

To resolve matters relating to general and taxation claims in a fair, expedient and cost-effective manner.



From left, Senior Member Rowland Ball, Deputy President John Galvin and Administration Officer Sandra Avgeris discuss hearing requirements.

Purpose

Transport accident cases represent the dominant share of applications in the General List. The rest of the jurisdiction covered by this List is vast in its variety (refer to page 44), of which the principal areas are freedom of information (FOI), superannuation and criminal injuries compensation. The Taxation List hears disputes about assessments made by State Government Departments in the imposition of State levies and taxes such as stamp duties, payroll tax, and petroleum and tobacco business franchises.

Case Profile

In 1998–99, the number of applications received by the General List

Achievements

- ❑ Excluding transport accident cases, most cases were heard and determined within 16 weeks of application.
- ❑ Most taxation applications were heard and determined within 14 weeks of application.

totalled 1,927, compared with 2,589 in 1997–98, representing a decrease of about 25%. Cases finalised totalled 2,843, compared with 2,796 in 1997–98. Cases pending totalled 1,961, compared with 2,878 in 1997–98, representing a 32% decrease. The drop in applications and therefore cases pending, is due to changes to dispute resolution by the Transport Accident Commission (TAC). The number of applications received included a number of significant FOI cases. The number of applications received by the Taxation List totalled 20, compared with 27 in 1997–98.

Timeliness

Since the amalgamation, there has been a significant improvement in the rates at which we process, hear and determine applications. In cases other than transport accident cases, the delay from application to hearing was

reduced from 20 weeks to 11 weeks. At the end of 1998–99, most transport accident cases were resolved within 43 weeks from the time of application. This result included a 26-week moratorium during which the parties prepared their cases. The List is reviewing the relevant practice note with the aim to further reduce numbers of preliminary proceedings and the duration between lodgment and hearing for these cases.

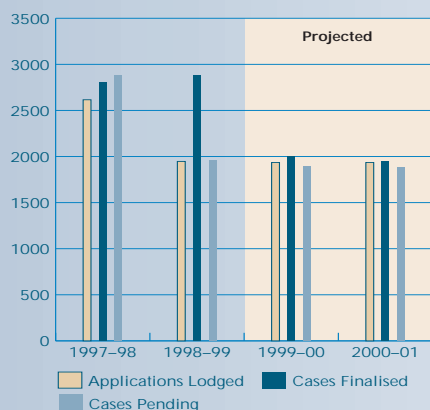
Training and development

In March, the General List conducted a two-day conference at the Monash Mount Eliza Business School, which was attended by almost every sessional and full-time member. Papers were delivered by legal and medical experts and valuable discussion took place. The conference also provided an opportunity for members to meet and discuss a variety of issues in a team building atmosphere.

The Future

- ❑ Substantially reduce the average time taken to resolve transport accident cases.
- ❑ Introduce new case management procedures for transport accident cases.

CASE FLOW 1997–2001



CASE STUDY: TELEPHONE DIRECTORY

Mr A was injured in a transport accident. As a result of the accident, Mr A suffered neurological, orthopaedic and psychological injuries. The Transport Accident Commission determined that his resultant permanent impairment was 12%. Being of the view that it was more likely in the order of 25%, Mr A applied to VCAT to review the determination. The matter was referred to a directions hearing where it was determined probable that all psychological injury was secondary to physical injuries (and thereby excluded by the legislation from inclusion in assessment of impairment) and that the major area of dispute was orthopaedic injury. Accordingly, the matter was referred to a compulsory conference with a view to canvassing settlement or partial settlement. After discussion, the issues of psychological and neurological injuries were resolved and the matter was set down for hearing on the merits only on the issue of orthopaedic impairment. The hearing ultimately ran for two days instead of a likely four days had all of the original issues remained in dispute.

Land Valuation List

Objective

To resolve matters relating to land valuation claims in a fair, expedient and cost-effective manner.



From left, Liz Srour, Antonella Giardina, Paul Donovan and Helen Conroy meet with Deputy President Richard Horsfall to discuss List procedures.

Purpose

Formerly incorporated in the Planning Division of the AAT, the Land Valuation List covers general areas of jurisdiction that arise from 15 different statutes but the main body of work consists of:

- reviewing land valuations for rating and taxing purposes;
- reviewing land classifications for differential rating purposes; and
- determining disputes concerning compensation for land acquisition.

The principal work of the List for the year under review arose from the valuation of land after compulsory acquisition under the *Land Acquisition and Compensation Act 1986* and the hearing of applications for review of valuations made by municipalities for

Achievements

- Most applications were heard and determined within 39 weeks of application.

rating purposes dealt with under the *Valuation of Land Act 1960*.

Case Profile

In 1998–99, the number of applications received totalled 62, compared with 113 in 1997–98, representing a percentage decrease of 45%. A total of 157 cases were finalised and 37 cases are pending. The volume of work for the year has been low and many applications were settled before hearing. The work of the List is, to some extent, cyclical depending on the timing of municipal valuations of land for rating purposes. An increase in the volume of applications can reasonably be expected after the next round of municipal valuations.

Timeliness

Most cases were heard and determined on average within 39 weeks of application. Delays were often caused by parties seeking adjournment for negotiation purposes. To deal with cases in an

expeditious manner, List members are increasingly using directions hearings and compulsory conferences prior to listing cases for hearing. This practice assists the hearing process and can facilitate settlement, as well as ensure that each party is aware of the opposing party's case and evidence before the hearing begins. The List varies this practice for smaller cases, such as reviewing classifications of land for differential rating purposes.

Significant events

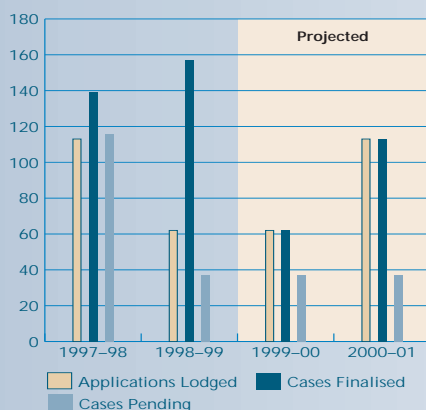
There were several significant events that occurred during 1998–99:

- In February 1999, Mr Richard Horsfall became Deputy President.
- Problems relating to timely delivery of decisions have been overcome.
- Section 22B of the *Pipelines Act 1967* relating to objections to compulsory acquisition of native title rights and interests has been added to the jurisdiction of the List.

The Future

- Use mediation to enhance opportunities for early resolution of disputes.
- Continue to conduct user group meetings to improve service delivery.
- Continue to review procedures.
- Shorten time to resolve cases.

CASE FLOW 1997–2001



CASE STUDY: RATEPAYER SEEKS RATING CLASSIFICATION AS 'FARM LAND'

A ratepayer using his small rural property as a residence, and for alpaca raising and breeding, sought rating classification as 'farm land' to reduce his rates. A hearing was held where he succeeded in satisfying the test under the *Valuation of Land Act 1960* that the property was primarily used for 'grazing', despite the contention of the local council that the supplementary feeding required by these animals in Australia disqualified the property as being 'farm land'.

Occupational and Business Regulation List

Objective

To resolve matters relating to occupational and business regulation claims in a fair, expedient and cost-effective manner.



From left, Senior Registrar Richard O'Keefe advises Deputy President John Baker-Smith on a procedural issue.

Purpose

A newly formed List under VCAT, the principal work of the Occupational and Business Regulation List during the year under review arose from the *Estate Agents Act 1980*, *Liquor Control Reform Act 1998*, *Medical Practice Act 1994*, *Nurses Act 1993*, *Private Agents Act 1966*, *Prostitution Control Act 1994* and *Transport Act 1983*.

The List has a combination of both original jurisdiction and jurisdiction to hear matters on review. Examples of the original jurisdiction involve the conduct of disciplinary proceedings in relation to a number of occupational groups. Examples of the review jurisdiction are conducting reviews of licensing decisions of the Business Licensing Authority regarding estate agents, motor car traders, prostitution service providers and others.

Achievements

- Most cases were heard and determined within 20 weeks of application.
- New liquor jurisdiction incorporated from 17 February 1999.

Case Profile

In 1998–99, the number of applications received totalled 146. The number of cases closed totalled 45, with 101 cases pending.

Timeliness

Applications were heard and determined on average within 20 weeks of application. To deal with cases in a timely manner, List members conducted directions hearings prior to listing cases for hearing. This enabled an early exchange between the parties and filing of documents intended to be relied upon at the hearing, together with statements of witnesses to be called at the hearing. Such a practice assisted the smooth conduct of the hearing and, in some cases, facilitated early settlement prior to hearing.

New legislation

A major achievement during the year in review was the smooth incorporation of a new liquor jurisdiction into the List from 17 February 1999.

The Future

- Continue to hear and determine most cases within 20 weeks of application.

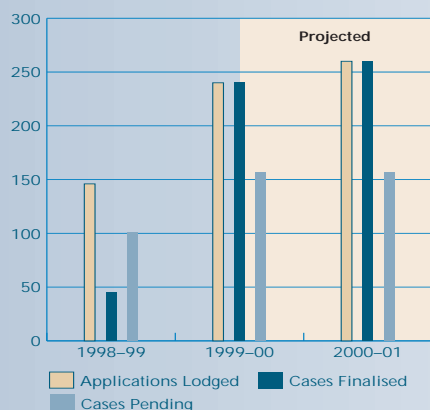
Applications received have included disciplinary proceedings initiated by the Victoria Police. These cases were part of the List's original jurisdiction, and applications for review of decisions of the former Liquor Licensing Commission and the newly established position of Director of Liquor Licensing. Where appropriate, List members conducted joint hearings of related liquor and planning matters where common issues arose, thus avoiding duplication.

The year ahead

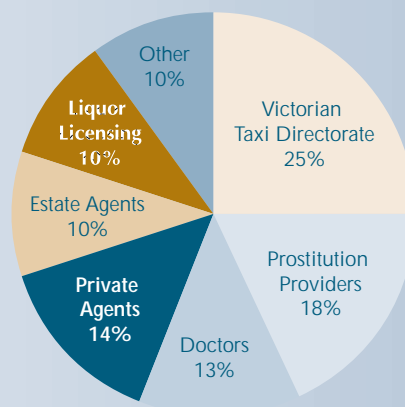
In the coming financial year, we anticipate the following events to occur:

- New jurisdiction, such as the *Dental Practice Act 1999*.
- Identify further opportunities for the use of mediation.
- Establish a specific user group for the liquor jurisdiction.

CASE FLOW 1997–2001



APPLICATIONS BY SUBJECT—1998–99



Planning List

Objective

To resolve planning disputes quickly, informally, fairly and to provide leadership in the consistent application and interpretation of planning policy



Deputy President Julia Bruce (standing) discusses planning issues with (from left, sitting) Jenny Phillips, Pam Redwood and Patricia Fernando.

Purpose

The Planning List deals with both:

- review jurisdiction—reviewing the decisions of Responsible Authorities and other authorities on applications made to those authorities; and
- original jurisdiction, in which the List exercises powers conferred directly on it by the enabling legislation. The original application is first made directly to VCAT, rather than to a Responsible Authority or other authority.

There are 15 enabling acts within the List's jurisdiction, including the *Planning and Environment Act 1987*, the *Local Government Act 1989* and the *Environment Protection Act 1970*.

Achievements

- Most cases are now heard and determined within 14 weeks of application (38% more cases were finalised in 1998–99 than 1997–98).
- Establishment of a specialist list—the 'commercial list'—for cases exceeding \$5 million in value.
- Increase in volume of cases resolved.

Case Profile

In 1998–99, the number of applications received increased to 2,802, compared with 2,547 in 1997–98, representing an increase of 10%. Cases finalised totalled 2,695, compared with 1,958 in 1997–98, representing a rise of 38%. Cases pending totalled 1,300, compared with 1,469 in 1997–98.

Key issues

Two objectives governed much of the activity of the List during the year:

- the transition from the former Tribunal to VCAT;
- the transition from the old enabling legislation to the new VCAT Act, and associated amendments to the Acts, with as little disruption as possible to parties.

Both objectives were achieved successfully.

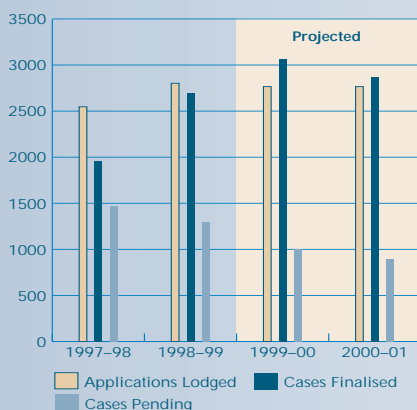
A greater challenge was to reduce the unacceptable delays in resolving cases.

Timeliness and dissolution of backlog

On 1 July 1998, the number of cases in the Planning List awaiting disposition was 1,432 and rising. The number of cases disposed of exceeded 200 in the List's first month of operation. This number had not been achieved in the previous 12 months of operation, and was not consistently reached every month by VCAT until November 1998. Since then it has been exceeded in every month except January 1999. In March 1999, more than 300 cases were disposed of—85% higher than the result achieved in March 1998.

This enabled the elimination of unacceptable delays, since more cases were being finalised than were being lodged. This result was achieved despite a significant increase in new applications and substantial disruption from the final stage of the building work for the new hearing rooms and Registry offices.

CASE FLOW 1997–2001



CASE STUDY: COUNCIL REFUSES APPLICATION FOR A CONSTRUCTION PERMIT

An application for a permit for construction of a residential development to which the Good Design Guide applied was made. The application was advertised by the Council and one objection was received. The Council refused the application. The permit applicant lodged an application to VCAT to review the Council's decision. The objectors lodged a written submission, which was taken into account by VCAT, but did not appear at the hearing. The applicant was given leave to amend the permit application by substituting a modified plan. It was noted that none of the adjoining neighbours had objected. An inspection of the site and surrounding area was conducted. VCAT decided that the proposal was an appropriate use and development for the site; it was at a modest density and used existing on-site vegetation to limit any impact on neighbours. It was found to be a site-responsive design that would be pleasant to live in and would not result in any detrimental impacts on neighbours. The application was allowed and a permit was directed to be issued subject to conditions, which included some requirements for further modifications to the amended plans.

The turnaround continued with cases pending being reduced to 1,300 cases at the end of June 1999. Although the number of cases yet to be finalised remained high, the number did not impact directly on waiting times. It included many cases in which the Permit Applicant had sought adjournment, or the parties had themselves required an adjournment after the start of a hearing.

Reduction in waiting times

The reduction in waiting time and improved rate of completion of cases (as described on page 33) was due to three factors:

- Full-time members increased their case load, making a substantial commitment to deal with more cases and, where possible, to shorten the period between completion of hearing and decision.
- Two additional new full-time members, together with a number of new sessional members, were appointed to VCAT and assigned to the Planning List during the year.
- A number of members from other Lists, particularly legal members, were assigned by the President to the Planning List to sit part time, generally with a planner or an engineer.

The Planning List has benefited from the support of the Attorney-General in making resources available to increase the number of both sessional and full-time members.

We confidently expect that the average waiting time between application and disposition of an ordinary review decision about a planning permit will not rise above 14 weeks and, in many cases, will be shorter.

New 'commercial list' established

While these initiatives were taking effect, we took action to ensure applications for major commercial projects, or those that had a substantial community element, were not hampered by exces-

sive delays. To achieve this aim, VCAT established a commercial list in October 1998. Many of the commercial list cases settled prior to hearing. We considered the special streamlining of such applications justified so that the community benefit of substantial investment in a worthy project would not be lost solely through delay. The number of such cases was not so great as to delay the ordinary business of the List.

A number of other initiatives have been undertaken in case management, with the intention that once a hearing is fixed, the dates given will not be lost by such matters as a party's failure to give proper notice of relevant issues, or a last minute decision to seek an amendment of the permit application. Hearing times are being reduced by requiring parties to exchange material at the earliest opportunity, thereby minimising the reading of repetitious material by parties and their witnesses.

Use of mediation

The Planning List has begun conducting mediations provided for under the VCAT Act. While the numbers of cases mediated is not large compared with the number of hearings, many mediations successfully resolved disputes. The mediation process is valued by the participants for its combination of structured negotiation and informality, and the opportunities to suggest creative solutions. Mediation will continue to be offered. VCAT has continued mediation training so that most List members are now qualified mediators.

VPP planning scheme

This financial year has seen the introduction of the first planning

schemes based on the Victoria Planning Provisions (VPP) model. Fortunately, the introduction of the new schemes has been gradual, which has assisted assimilation of the new model. The List will take a leading role in applying these policies and interpreting the more difficult provisions.

Community outreach

The List has a user group that comprises representatives of the major professional institutions, including the Royal Australian Planning Institute, the Local Planners' Association of Victoria, development industry groups and the Department of Infrastructure. This forum provides an opportunity for VCAT to receive feedback, as well as for the member institutions to be informed about List progress and to be consulted about proposed changes to the management of List procedures.

The VCAT web site provides access to information about List functions and significant VCAT decisions. Planning List decisions are reported electronically on the Austlii web site, and in book form in the *Victorian Planning Reports*.

The President, Vice President Judge Wood and a number of List members have spoken at planning seminars or contributed papers to conferences during the year.

Future outlook

During 1999–2000, the List will introduce case management techniques to improve effectiveness of directions hearings and ensure that comprehensive witness statements are exchanged between the parties a reasonable time before the hearing.

The Future

- Further reduce the time taken for most cases to be heard and determined from 14 weeks to 10 weeks from application.
- Make and decide applications for amendment of plans before the hearing day.
- Ensure witness statements are exchanged between parties before the hearing day.
- Continue the recently introduced practice of hearing planning and liquor applications as one case.

VCAT Operating Statement for the year ended 30 June 1999

The Minister for Finance has determined under the *Financial Management Act 1994* that the financial statements of the Victorian Civil and Administrative Tribunal (VCAT) be consolidated and included in the

annual report of the Department of Justice. The following information summarises our expenditure in 1998–99. Please note that no comparative figures are included in the financial results since 1998–99 represents the

first year of operation of the Victorian Civil and Administrative Tribunal (VCAT). Comparisons against previous years' performance will be reported in future annual reports.

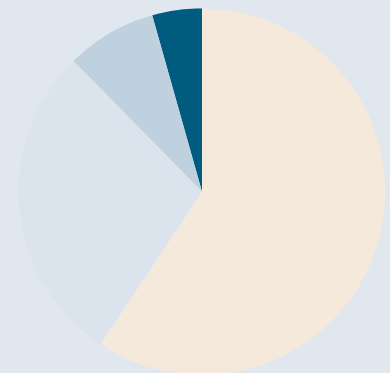
FUNDING

VCAT Funding Sources (Budget)	1998–99 Actual (\$)
Appropriations (VCAT)	10,844,674
Residential Tenancies Trust Fund	5,169,996
Domestic Building Trust Fund	1,459,537
Guardianship and Administration Trust Fund	800,000
Total	18,274,207

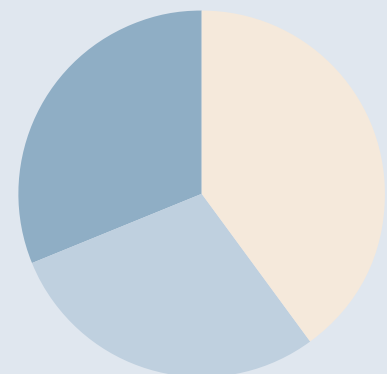
EXPENDITURE

VCAT Expenditure by List	1998–99 Actual (\$)
Residential Tenancies List	5,169,996
Planning List	3,535,035
Guardianship List	2,340,263
General List	2,398,019
Domestic Building List	1,459,537
Anti-Discrimination List	1,044,643
Civil Claims List	961,110
Real Property/Retail Tenancies Lists	532,517
Occupational and Business Regulation List,	
Land Valuation List and Taxation List	560,866
Credit List	272,222
Total	18,274,207

VCAT Expenditure—Operational Breakdown	1998–99 Actual (\$)
Members	7,294,800
Staff	5,284,630
Operating Costs	5,694,777
Total	18,274,207



■ Appropriations (VCAT)
■ Residential Tenancies Trust Fund
■ Domestic Building Trust Fund
■ Guardianship and Administration Trust Fund



■ Members
■ Staff
■ Operating Costs

VCAT Operating Statement for the year ended 30 June 1999

In 1998–99, VCAT's recurrent expenditure of \$18.3 million was divided between expenditure on members salaries (\$7.3 million), staff salaries (\$5.3 million) and operating expenses (\$5.7 million).

This expenditure included the following one-off expenditure:

- approximately \$400,000 required to address the backlogs in the Planning List and the Anti-Discrimination List as described elsewhere in this report. A major part of this expense was the cost of engaging sessional members to hear cases; and
- the creation of VCAT brought about a range of one-off expenditure on the printing of stationery, new application forms, the purchase of many copies of legislation and other items (\$100,000).

VCAT's funding in 1998–99 was provided from the following sources:

- Victorian Government—Appropriations (\$10.8 million), either directly from the Department of Justice or by way of other government departments that make contributions to VCAT, which fund all but those Lists funded by trust funds as described below. This funding included revenue of approximately \$780,000 generated by those Lists:

- The Residential Tenancies Trust Fund established under the *Residential Tenancies Act 1997*, which wholly funds the Residential Tenancies List (\$5.2 million);
- The Domestic Building Fund established under the *Domestic Building Contracts Act 1995*, which wholly funds the Domestic Building List (\$1.5 million); and
- The Guardianship and Administration Trust Fund established under the *Guardianship and Administration Act 1986*, which partially funds the Guardianship List (\$800,000, including \$300,000 relocation costs).

Our budget strategy for 1999–2000 is to achieve efficiencies in our operations to enable us to meet growing demand by finalising more cases (projected at 86,049 cases finalised for 1999–2000, an increase of 16% compared with the 74,225 cases finalised in 1998–99, with a minimal rise in the recurrent budget.

VCAT's accounts are audited and published as part of the Department of Justice's accounts, which are published in the Annual Report of the Department of Justice.

Tribunals and Boards Amalgamated During 1998–99

From	To
Administrative Appeals Tribunal of Victoria	General List, Land Valuation List, Occupational and Business Regulation List, Planning List, Real Property List and Taxation List
Anti Discrimination Tribunal	Anti Discrimination List
Credit Authority	Credit List, Occupational and Business Regulation List
Credit Tribunal	Credit List
Domestic Building Tribunal	Domestic Building List
Guardianship and Administration Board	Guardianship List
* Liquor Licensing Commission (quasi-judicial functions only)	Occupational and Business Regulation List
Motor Car Traders Licensing Authority (quasi-judicial functions only)	Occupational and Business Regulation List
Prostitution Control Board (quasi-judicial functions only)	Occupational and Business Regulation List
Small Claims Tribunal	Civil Claims List
Estate Agents Disciplinary and Licensing Appeals Tribunal (quasi-judicial functions only)	Occupational and Business Regulation List
Estate Agents Licensing Authority (quasi-judicial functions only)	Occupational and Business Regulation List
Residential Tenancies Tribunal	Residential Tenancies List
Travel Agents Licensing Authority	Occupational and Business Regulation List

*VCAT assumed the quasi-judicial function of the former *Liquor Licensing Commission* on 17 February 1999.

Glossary of Terms

AAT

The former Administrative Appeals Tribunal.

Compulsory conference

A List member conducts a compulsory conference to hear submissions from all parties. The compulsory conference proceeds in a similar way to a mediation but with the members being able to make definitive comments rather than merely act as devil's advocate in an attempt to resolve the matter. Members conduct the entire process on a confidential and without prejudice basis.

Directions Hearing

A directions hearing outlines the steps that the parties must take in order to get their case ready to be heard. This may include establishing the points of claim or responsible authority.

Hearing

Hearings take place before a member of VCAT. Hearings are conducted in a relatively informal atmosphere where the parties have the opportunity to call or give evidence, ask questions of witnesses and make submissions.

Interlocutory steps

Steps taken in between the time an application is received and a hearing. Any dispute that occurs along the way is called an interlocutory matter. For example, a dispute before the hearing about producing privileged information.

Mediation

Mediation is an efficient and cost effective way to settle various types of disputes. A mediator brings the parties together and guides them to reach an agreement.

Responsible Authorities

Responsible Authorities are persons or bodies who are responsible for the administration or enforcement of a planning scheme. The most common Responsible Authority is a municipal council.

User Group

User groups provide an effective forum to discuss a range of issues affecting users of VCAT's services. Selected members from each List conduct regular user group meetings, usually on a quarterly basis. The user groups involve a broad spectrum of representatives from community groups, and industry and legal professionals who are given the opportunity to provide valuable feedback with the aim of improving the service VCAT offers.

VCAT

The Victorian Civil and Administrative Tribunal.

Legislation Defining VCAT Jurisdiction

The following legislation gives jurisdiction to VCAT as at 30 June 1999:

CIVIL DIVISION

1. General List

The functions of VCAT under the following enabling enactments are allocated to the general list of the administrative division:

- (a) Accident Compensation Act 1985;
- (b) Adoption Act 1984 section 129A(1)(a) (decisions regarding fitness to adopt and approval to adopt);
- (c) Births, Deaths and Marriages Registration Act 1996;
- (d) Children and Young Persons Act 1989;
- (e) Community Services Act 1970;
- (f) Country Fire Authority Act 1958;
- (g) Dangerous Goods Act 1985;
- (h) Domestic (Feral and Nuisance) Animals Act 1994 section 98(2) (declaration and registration of dangerous dogs);
- (i) Drugs, Poisons and Controlled Substances (Amendment) Act 1997;
- (j) Emergency Management Act 1986;
- (k) Emergency Services Superannuation Act 1986;
- (l) Equipment (Public Safety) Act 1994;
- (m) Estate Agents Act 1980 section 81(5A) (claims against guarantee fund);
- (n) Freedom of Information Act 1982;
- (o) Gaming No. 2 Act 1997;

- (p) Health Act 1958 section 125 (compensation for seizure of property);
- (q) Hospitals Superannuation Act 1988;
- (r) Industrial and Provident Societies Act 1958;
- (s) Infertility Treatment Act 1995;
- (t) Livestock Disease Control Act 1994;
- (u) Local Authorities Superannuation Act 1988;
- (v) Local Government Act 1989 sections 38(2A) and 48 (decisions of municipal electoral tribunal), section 133 (decision of the Minister imposing a surcharge) and clause 7 of Schedule 5 (decisions of returning officer concerning how-to-vote cards);
- (w) Lotteries Gaming and Betting Act 1966 section 7A (decisions of Victorian Casino and Gaming Authority under Part 1);
- (x) Mental Health Act 1986 sections 79 (decision of Chief General Manager), 120 (decisions of Mental Health Review Board);
- (y) Metropolitan Fire Brigades Act 1958;
- (z) Motor Car Traders Act 1986 section 79 (claims against guarantee fund);
- (za) Occupational Health and Safety Act 1985;
- (zb) Parliamentary Salaries and Superannuation Act 1968;
- (zc) Road Transport (Dangerous Goods) Act 1995;
- (zd) State Employees Retirement Benefits Act 1979;
- (ze) State Superannuation Act 1988;
- (zf) Superannuation (Portability) Act 1989;

- (zg) Tertiary Education Act 1993;
- (zh) The Constitution Act Amendment Act 1958;
- (zi) Transport Accident Act 1986;
- (zj) Transport Superannuation Act 1988;
- (zk) Travel Agents Act 1986 section 46 (claims against approved compensation schemes);
- (zl) Victims of Crime Assistance Act 1996;
- (zm) Victoria State Emergency Service Act 1987;
- (zn) Victorian Plantations Corporation Act 1993;
- (zo) Vocational Education and Training Act 1990.

2. Land Valuation List

The functions of VCAT under the following enabling enactments are allocated to the land valuation list of the administrative division:

- (a) Flora and Fauna Guarantee Act 1988 section 43(12) (claims for compensation);
- (b) Gift Duty Act 1971 section 36(1)(a) (so much of the decision of the Commissioner as relates to the value of land);
- (c) Health Services Act 1988 section 67 (compulsory acquisition of land);
- (d) Land Acquisition and Compensation Act 1986;
- (e) Land Tax Act 1958 section 25(1)(a) (so much of decision of the Commissioner as relates to the value of land);
- (f) Local Government Act 1989 section 183 (differential rating);
- (g) Mildura College Lands Act 1916 section 2(ec) (decision of Valuer-General on value of land);

Legislation Defining VCAT Jurisdiction

(h) Mineral Resources Development Act 1990 section 88 (compensation for loss caused by work under a licence);

(ha) Pipelines Act 1967 section 22B (objections to compulsory acquisition of native title rights and interests);

(i) Planning and Environment Act 1987 sections 94(5) (compensation as a result of order to stop development or cancellation or amendment of permit) and 105 (compensation for loss caused by reservation of land, restriction of access or road closure);

(j) Probate Duty Act 1962 section 19A(1)(a) (so much of the decision of the Commissioner as relates to the value of land);

(k) Stamps Act 1958 section 33B(1)(a) (so much of decision of the Commissioner as relates to the value of land);

(l) Subdivision Act 1988 section 19 (valuation of land for public open space);

(m) Valuation of Land Act 1960 Part III (disputes on the value of land);

(n) Water Act 1989 section 266(6) (setting tariffs, fees under tariffs, valuation equalisation factors and valuations).

3. Occupational and Business Regulation List

The functions of VCAT under the following enabling enactments are allocated to the occupational and business regulation list of the administrative division:

(a) Adoption Act 1984 section 129A(1)(b) (decisions regarding approval of adoption agencies);

(b) Agricultural and Veterinary Chemicals (Control of Use) Act 1992;

(c) Architects Act 1991; Sch. 1, Part 1 cl. 2(ha)

(d) Barley Marketing Act 1993;

(e) Biological Control Act 1986;

(ea) Chiropractors Registration Act 1996;

(f) Consumer Credit (Victoria) Act 1995 Part 4 (registration of credit providers) and section 37I(1) (permission, including conditions, to a disqualified person to engage or be involved in finance broking);

(g) Dairy Industry Act 1992;

(h) Dangerous Goods Act 1985;

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

(j) Education Act 1958 section 55 (endorsement of school to accept overseas students);

(k) Estate Agents Act 1980 except sections 56B(1) (see real property list) and 81(5A) (see general list);

(l) Extractive Industries Development Act 1995 sections 39 (quarry manager's certificates) and 40 (panel inquiry into quarry manager's fitness);

(m) Farm Produce Wholesale Act 1990 section 20 (licensing of wholesalers);

(n) Finance Brokers Act 1969;

(o) Firearms Act 1996 section 182 (decisions of Firearms Appeals Committee);

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

(pa) Liquor Control Reform Act 1998;

(q) Lotteries Gaming and Betting Act 1966 section 10D (licensing of amusement machine operators);

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

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

(t) Medical Practice Act 1994 section 60 (registration and discipline of medical practitioners);

(u) Mineral Resources Development Act 1990 sections 94 (mine manager's certificates) and 95 (panel inquiries into fitness of mine managers);

(v) Motor Car Traders Act 1986 except sections 45 (see civil claims list) and 79 (see general list);

(w) Nurses Act 1993 section 58 (registration and discipline of nurses);

(x) Occupational Health and Safety Act 1985 section 59(6) Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 1994 regulation 28 (certificates of competency, authorisation of certificate assessors);

(y) Optometrists Registration Act 1996 section 58 (registration and discipline of optometrists);

(z) Osteopaths Registration Act 1996 section 56 (registration and discipline of optometrists);

(za) Podiatrists Registration Act 1997 section 56 (registration and discipline of optometrists);

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

Legislation Defining VCAT Jurisdiction

(zba) Private Agents Act 1966;
 (zc) Professional Boxing and Martial Arts Act 1985 (licences, permits and registration);
 (zd) Prostitution Control Act 1994;
 (ze) Public Transport Competition Act 1995;
 (zf) Second-Hand Dealers and Pawnbrokers Act 1989 sections 9B and 14 (correction of register);
 (zg) Therapeutic Goods (Victoria) Act 1994 section 71 (licensing of wholesale supply);
 (zh) Trade Measurement Act 1995 section 59 (licensing and discipline);
 (zi) Transport Act 1983 except section 56 (see land valuation list);
 (zj) Travel Agents Act 1986 except section 46 (see general list);
 (zk) Veterinary Practice Act 1997 section 55 (registration and discipline);
 (zl) Victoria State Emergency Service Act 1987 section 31(2)(d); Victoria State Emergency Service Regulations 1995 regulation 12 (discipline of members);
 (zm) Vocational Education and Training Act 1990 section 81 (registration of non-college providers);
 (zn) Wildlife Act 1975.

4. Planning List

The functions of VCAT under the following enabling enactments are allocated to the planning list of the administrative division:

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

(b) Conservation, Forests and Lands Act 1987 section 76 (variation and termination of land management co-operative agreements);
 (c) Environment Protection Act 1970;
 (d) Extractive Industries Development Act 1995 except sections 39 and 40 (see occupational and business licensing list);
 (e) Flora and Fauna Guarantee Act 1988 sections 34(3), 41 and 41A (interim conservation orders);
 (f) Heritage Act 1995;
 (g) Litter Act 1987 section 8G (litter abatement notices);
 (h) Local Government Act 1989 sections 185 (imposition of special rate or charge) and 185AA (imposition of special rate or charge);
 (i) Mineral Resources Development Act 1990 except sections 88 (see land valuation list), 94 and 95 (see occupational and business licensing list);
 (j) Planning and Environment Act 1987 except sections 94(5) and 105 (see land valuation list);
 (k) Plant Health and Plant Products Act 1995 section 39 (costs and expenses of inspectors);
 (l) Subdivision Act 1988 except sections 19 (see land valuation list), 36 and 39 (see real property list);
 (m) Transport Act 1983 section 56 (decisions of the Public Transport Corporation or Roads Corporation): Transport (Roads and Property) Regulations 1993 regulation 18;
 (n) Water Act 1989 except sections 19 (see real property list) and 266(6) (see land valuation list);

(o) Water Industry Act 1994 except section 74 (see real property list).

5. Taxation List

The functions of VCAT under the following enabling enactments are allocated to the taxation list of the administrative division.

(a) Business Franchise Acts;
 (b) Debits Tax Act 1990;
 (c) Financial Institutions Duty Act 1982;
 (d) Gift Duty Act 1971 with the exception of section 36(1)(a) to the extent that the decision of the Commissioner relates to the value of land;
 (e) Land Tax Act 1958 with the exception of section 25(1)(a) to the extent that the decision of the Commissioner relates to the value of land;
 (f) Pay-Roll Tax Act 1971;
 (g) Probate Duty Act 1962 with the exception of section 19A(1)(a) to the extent that the decision of the Commissioner relates to the value of land;
 (h) Stamps Act 1958 with the exception of section 33B(1)(a) to the extent that the decision of the Commissioner relates to the value of land;
 (i) Taxation Administration Act 1997.

Legislation Defining VCAT Jurisdiction

CIVIL DIVISION

1. Anti-discrimination List

The functions of VCAT under the following enabling enactment are allocated to the anti-discrimination list of the civil division: Equal Opportunity Act 1995.

2. Civil Claims List

The functions of VCAT under the following enabling enactments are allocated to the civil claims list of the civil division:

(aa) Fair Trading Act 1999;

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

(b) Small Claims Act 1973.

3. Credit List

The functions of VCAT under the following enabling enactments are allocated to the credit list of the civil division:

(a) Chattel Securities Act 1987 sections 25 (compensation for extinguishment of security interest) and 26 (compensation in relation to registrable goods);

(b) Credit Act 1984;

(c) Credit (Administration) Act 1984;

(d) Consumer Credit (Victoria) Act 1995 except Part 4 and section 37I(1) (see occupational and business regulation list).

4. Domestic Building List

The functions of VCAT under the following enabling enactments are allocated to the domestic building list of the civil division:

(a) Building Act 1993;

(b) Domestic Building Contracts Act 1995;

(ba) Fair Trading Act 1999;

(c) House Contracts Guarantee Act 1987.

5. Guardianship List

The functions of VCAT under the following enabling enactments are allocated to the guardianship list of the civil division:

(a) Guardianship and Administration Act 1986;

(b) Instruments Act 1958 section 118;

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

(d) Mental health Act 1986 section 86 (decisions for major medical procedures)

(e) Trustee Companies Act 1984.

6. Real Property List

The functions of VCAT under the following enabling enactments are allocated to the real property list of the civil division:

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

(ab) Fair Trading Act 1999;

(b) Subdivision Act 1988 sections 36 and 39 (other disputes);

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

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

7. Residential Tenancies List

The functions of VCAT under the following enabling enactments are allocated to the residential tenancies list of the civil division: Residential Tenancies Act 1997.

8. Retail Tenancies List

The functions of VCAT under the following enabling enactments are allocated to the retail tenancies list of the civil division:

(a) Fair Trading Act 1999;

(b) Retail Tenancies Reform Act 1998.

Contact Details and Hearing Locations

Contact Details

VCAT

Victorian Civil and Administrative
Tribunal
55 King Street
Melbourne 3000

E-mail: vcat@vcat.vic.gov.au

Web Site: www.vcat.vic.gov.au

See back cover for contact numbers
for each List.

How to Apply

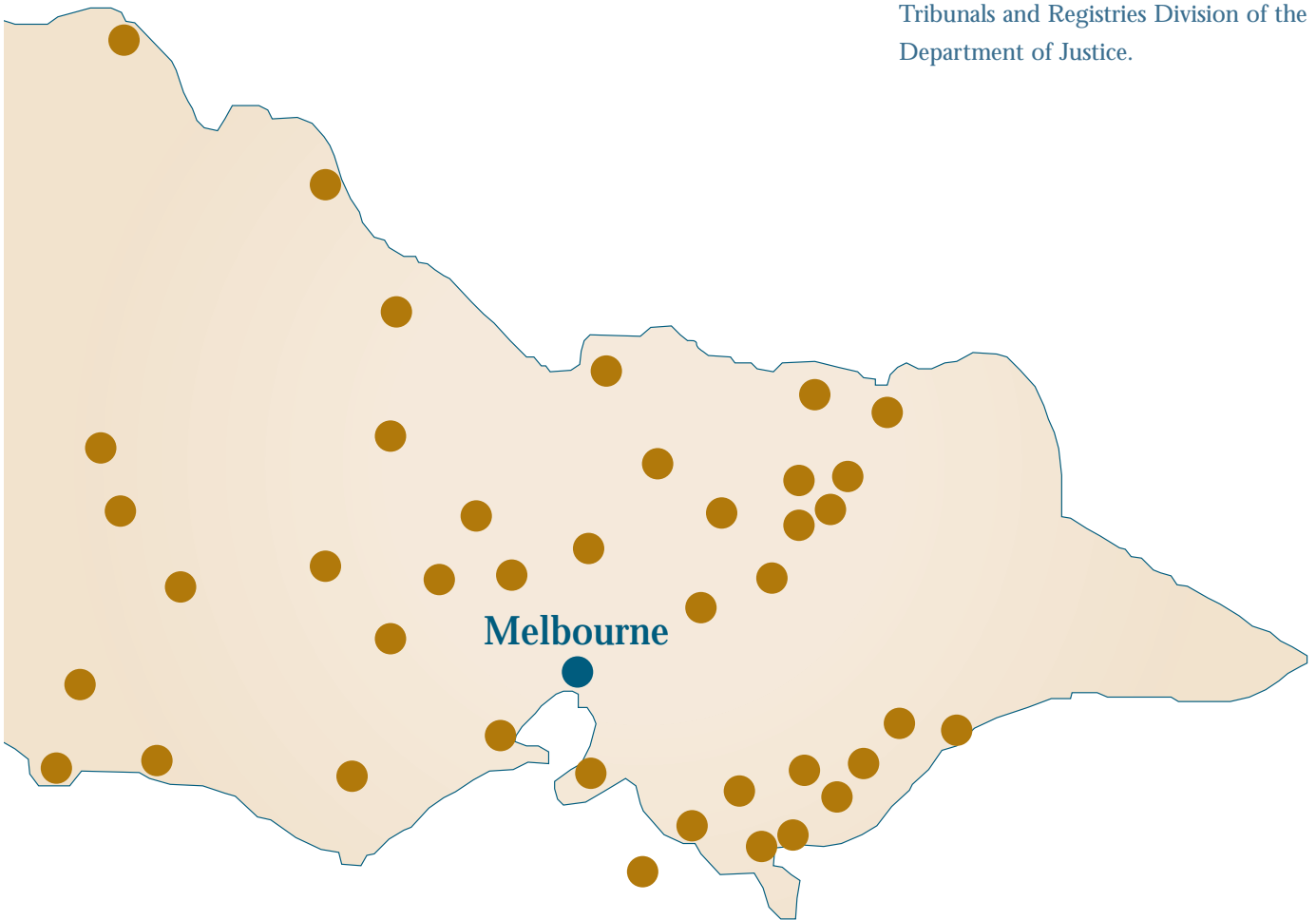
Contact VCAT and ask for an application form. Alternatively, you can pick up an application form from VCAT at 55 King Street, Melbourne, Victoria 3000.

We plan to introduce new technology progressively to allow Victorians to fill out application forms by way of the internet.

Hearing Locations

We conduct hearings at 55 King Street Melbourne as well as at Carlton, Caulfield, Cheltenham, Dandenong, Frankston, Heatherton, Kew, Macleod, Ringwood and Werribee.

In addition, we visit the rural locations listed below. Details concerning country sittings are contained in the Law Calendar produced by the Courts, Tribunals and Registries Division of the Department of Justice.



List of Rural Hearing Locations

- | | | | | | |
|---------------|---------------|---------------|---------------|--------------|-----------------|
| • Bairnsdale | • Colac | • Kerang | • Mildura | • Sale | • Wangaratta |
| • Ballarat | • Cowes | • Kilmore | • Moe | • Seymour | • Warracknabeal |
| • Beechworth | • Echuca | • Korumburra | • Morwell | • Shepparton | • Warragul |
| • Benalla | • Geelong | • Kyneton | • Mount Eliza | • St Arnaud | • Warrnambool |
| • Bendigo | • Hamilton | • Leongatha | • Myrtleford | • Stawell | • Wodonga |
| • Bright | • Healesville | • Mansfield | • Portland | • Swan Hill | • Wonthaggi |
| • Castlemaine | • Horsham | • Maryborough | • Rutherglen | • Traralgon | |

Anti-Discrimination List
Tel: 9628 9900
Fax: 9628 9988

Civil Claims List
Tel: 9628 9830
Fax: 9628 9988
1800 133 055
(within Victoria)

Credit List
Tel: 9628 9790
Fax: 9628 9988

Domestic Building List
Tel: 9628 9999
Fax: 9628 9988

General List
Tel: 9628 9755
Fax: 9628 9788

Guardianship List
Tel: 9628 9911
Fax: 9628 9822
1800 136 829
(within Victoria)

Land Valuation List
Tel: 9628 9766
Fax: 9628 9788

Occupational and Business Regulation List
Tel: 9628 9755
Fax: 9628 9788

Planning List
Tel: 9628 9777
Fax: 9628 9788

Real Property List
Tel: 9628 9960
Fax: 9628 9988

Residential Tenancies List
Tel: 9628 9800
Fax: 9628 9822
1800 133 055
(within Victoria)

Retail Tenancies List
Tel: 9628 9960
Fax: 9628 9988

Taxation List
Tel: 9628 9770
Fax: 9628 9788



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Melbourne 3000

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