



Your

voice



in dispute  
resolution.



2003-04  
Annual Report

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## About our Cover Theme

In our sixth year of operation, we chose *Your voice in dispute resolution* as the theme for our 2003–04 Annual Report to communicate our open and accessible approach to dispute resolution for all Victorians.

# Letter to the Attorney-General

The Hon Rob Hulls MP

Attorney-General  
55 St Andrews Place  
Melbourne 3002

Dear Attorney-General

We are pleased to present our annual report of the performance and operations of the Victorian Civil and Administrative Tribunal (VCAT) from 1 July 2003 to 30 June 2004 according to the requirements under section 37 of the *Victorian Civil and Administrative Tribunal Act 1998*.

The report includes:

- a review of the operations of VCAT and of the Rules Committee during the 12 months ended 30 June 2004; and
- proposals for improving the operation of VCAT and forecasts of VCAT's workload in the subsequent 12-month period.

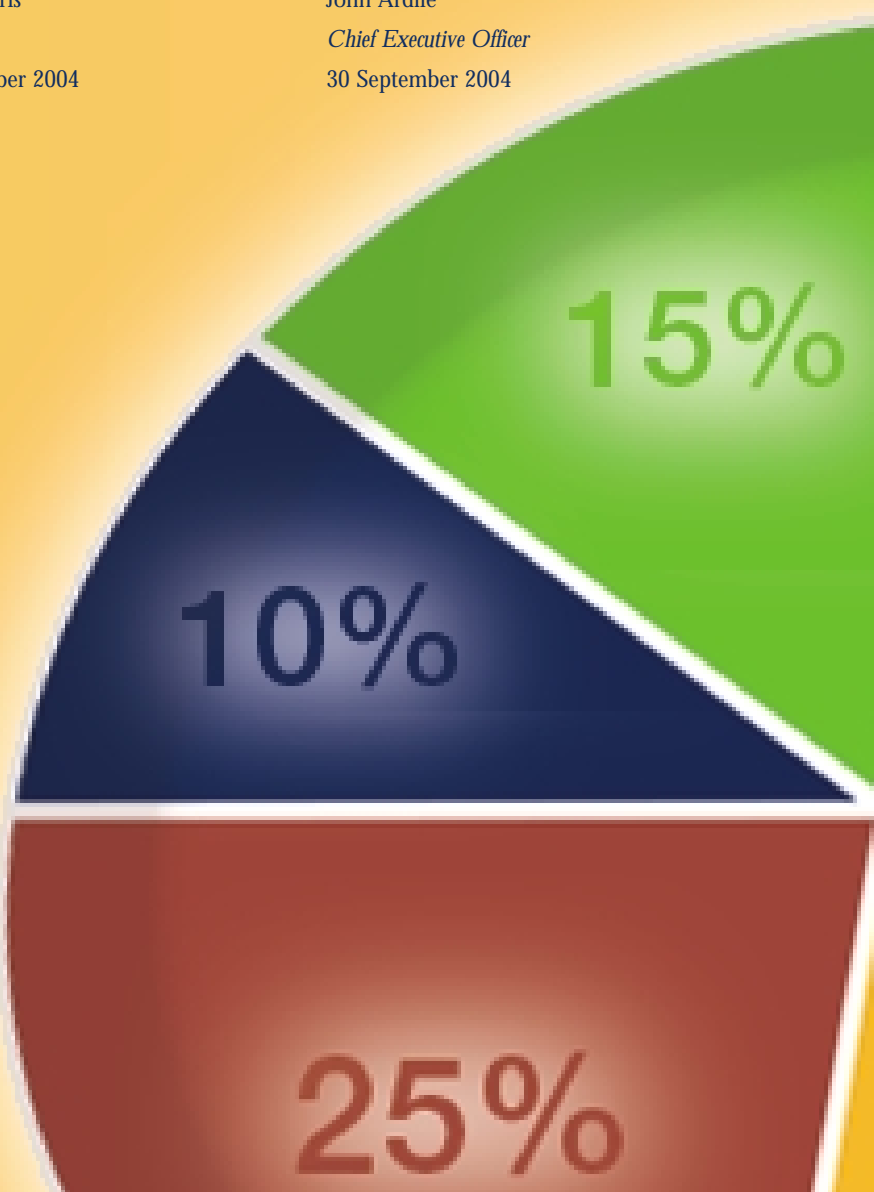
Sincerely



Stuart Morris  
*President*  
30 September 2004



John Ardlie  
*Chief Executive Officer*  
30 September 2004



# Purpose, Objectives and Background

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

## Purpose

Deliver a modern, accessible, informal, efficient and cost-effective tribunal justice service to all Victorians, while making quality decisions.

## Aims and Objectives

### List Users

Achieve excellence in our service to List users by being:

- Cost-effective
- Accessible and informal
- Timely
- Fair and impartial
- Consistent
- Quality decision-makers

### Our Role

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

- Independent
- Responsible
- Responsive

### Our People

Encourage the development of flexible, satisfied and skilled members and staff by providing:

- A safe, challenging and team-oriented work environment
- Training and development
- Appropriate use of specialised expertise

### The Community

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

- User feedback
- Education

## Background to the VCAT Act

The 1996 Department of Justice report *Tribunals in the Department of Justice: A Principled Approach* acknowledged that tribunals "are now considered to be an integral part of the justice system". On 1 July 1998, the Victorian Civil and Administrative Tribunal (VCAT) was established under the *Victorian Civil and Administrative Tribunal Act 1998* (the VCAT Act).

A Supreme Court judge heads VCAT as President and two County Court judges serve as Vice-Presidents. Deputy Presidents head the various Lists and a Rules Committee appointed under the VCAT Act develops rules of practice and procedure and Practice Notes for VCAT.

VCAT provides Victorians with accessible justice regarding administrative review matters, civil disputes and human rights.

## About this Annual Report

This Annual Report is the major publication produced by VCAT each year. It complies with the VCAT Act and is used to inform government, VCAT users, students and other interested parties about VCAT's activities and achievements.

50%

# About VCAT

## Who We Are

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

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

VCAT amalgamated all or part of 14 former boards and tribunals and comprises three divisions—Civil, Administrative and Human Rights. Each division has a number of Lists that specialise in particular types of cases.

VCAT has a hierarchy of members:

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

Members are assigned to specific Lists by the President according to their expertise and experience. If a member has appropriate qualifications, he or she may be assigned to hear cases or mediate in more than one List. This allows for the most efficient use of members' time, as well as flexible and appropriate use of members' expertise. Of the 38 full-time members, 32 are allocated to more than one List. The remaining full-time members are specialist planners or planning lawyers who work exclusively in the Planning and Environment List.

## What We Do

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

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

In our Administrative Division, 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
- other administrative decisions such as Transport Accident Commission decisions and Freedom of Information issues.

In our Human Rights Division, VCAT deals with matters relating to:

- guardianship and administration; and
- discrimination.

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

VCAT aims to provide 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 specialised qualifications, enable VCAT to hear a wide range of complex matters.



*The ground floor service staff at 55 King Street provide general advice to users about VCAT operations and hearing procedures. In addition, they assist users in filling out application forms and arriving for hearings, as well as requests that warrants of possession be issued for users of the Residential Tenancies List.*

# Year in Review



# Highlights

## List Users

Refer to Page

- Received 86,355 applications (87,107 in 2002–03), representing a 1% decrease. 6, 7
- Resolved 88,013 cases (88,803 in 2002–03) representing a decline of 1%. 6, 7
- Cases pending totalled 9,173 (10,831 in 2002–03) representing a decrease of 15%. 6, 7
- Received 46,194 applications via VCAT Online, representing 72% of the total applications for the Residential Tenancies List (compared with 62% in 2002–03). 39, 43
- Unique visitors to the VCAT web site rose 29% from 257,965 in 2002–03 to 333,549 in 2003–04. 68
- Launched the new VCAT web site, providing users with improved access to VCAT services and information. 44

## Our Role

- Introduced Operation Jaguar (see below) and, as a result, successfully eliminated the delays in the Planning and Environment List. 7, 34
- Reduced the delays in the Civil Claims List. 7, 19
- VCAT operating expenditure increased by 5%, from \$22.73 million in 2002–03 to \$23.85 million in 2003–04. 6, 7, 59
- The overall VCAT Mediation success rate remained steady at 64%. 6, 14

## Our People

- A total of 29 staff attended 22 training courses offered by the Department of Justice, providing 48 days of training, compared with 40 staff who attended 24 training courses providing 73 days of training in 2002–03. 56
- VCAT non-judicial membership decreased from 187 in 2002–03 to 153 in 2003–04. 54
- VCAT members attended training and development programs offered by the Judicial College of Victoria, Monash University and the AIA Tribunals Conference, as well as List-specific training programs, particularly in the Planning and Environment List, Residential Tenancies List and the Guardianship List. 54, 55

## The Community

- Conducted regular user group meetings across Lists aimed at improving service delivery by encouraging feedback from the community that uses VCAT's services. 42
- Judicial Members, Deputy Presidents, Members and senior staff presented a number of speeches and information sessions to raise awareness of VCAT's services. 9, 42, 50, 67

*From left, Deputy President of the Planning and Environment List Helen Gibson, Manager of Customer Service for the Civil and Administrative Section Jenny Phillips, President of VCAT Justice Morris and Senior Member Tony Liston meet to discuss the progress of Operation Jaguar, a major initiative aimed at achieving more timely case outcomes. The initiative was instrumental in successfully eliminating the delays in the Planning and Environment List. As a result, VCAT provided a better service without additional resources and within allocated budgets.*



# Important Cases

The following summary highlights important cases determined by VCAT during the financial year. For more information on individual cases, please refer to the VCAT web site at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) and the individual List performance starting on page 16 of this Annual Report.

## **Melbourne City Council v. Becton Corporation Pty Ltd & Ors [2003] VCAT 1077**

This case raised important issues relating to the validity of a decision by the Minister for Planning to approve a concept plan and a development plan for the Eastside Precinct site, located adjacent to the Jolimont railway yards. The Minister approved of the plans without the council's approval.

From a legal perspective, the importance of the decision lay in VCAT's consideration that the jurisdictional facts existed before the Minister activated approval of the plans. In addition, VCAT enunciated relevant principles relating to the question of whether the proposed plans were consistent with the original permit. (Justice Morris)

## **Taylor and Ors v. Moorabbin Saints Junior Football League & Or [2004] VCAT 158**

Three teenage girls complained to VCAT that two football organisational bodies had unlawfully discriminated against them by excluding them from competing in the under 14 and under 15 football competitions.

Due to the relative differences between the strength and stamina of older boys and girls, the decision to exclude girls from the under 15 football competition was valid under the *Equal Opportunity Act 1995*. (Justice Morris)

## **Minogue v. Department of Justice & Or [2004] VCAT 1194**

Under the *Freedom of Information Act 1982* (FOI Act), the applicant sought access to, and a copy of, every operational instruction for the prison in which he was then incarcerated. The Department refused access to certain exempt documents (such as documents concerning security matters), and granted access to the balance, but only by way of inspection, not providing copies. The applicant requested that VCAT review the

Department's decision in relation to the Department's refusal to provide copies of the non-exempt documents.

VCAT affirmed the decision of the Department. In doing so, the VCAT decision cast light upon the meaning and application of section 23(3) of the FOI Act, including whether the scope of the FOI Act can include a private prison operator and what constitutes unreasonable interference under section 23(3)(a). (Justice Morris)

## **Falun Dafa Association of Victoria Inc v. Melbourne City Council [2004] VCAT 625**

The council had refused the applicant permission to participate in the 2003 Melbourne Moomba Waterfest Parade. The applicant alleged the council breached the *Equal Opportunity Act 1995* (EO Act). The applicant specifically sought an apology from the council. VCAT upheld the application and considered the issue of relief.

VCAT found that the rights protected by the EO Act were important rights and, since the council breached those rights, an apology from the council was appropriate under section 136 of that Act. It was no obstacle that the applicant was a body corporate; the loss suffered by the applicant resulted in its members suffering considerable inconvenience preparing for an event from which it was wrongfully excluded. In addition, VCAT made important rulings on the costs provisions of section 109 of the VCAT Act. (Judge Bowman)

## **Vissenga v. Medical Practitioners Board [2004] VCAT 1044**

The applicant appealed an adverse determination of the respondent board. The circumstances leading to the board's decision and the appeal to VCAT surrounded the death of a trackside marshal at the 2001 Australian Formula One Grand Prix motor race.

VCAT set aside the findings and determination of the board, finding that the applicant had not engaged in the conduct alleged by the board. In so doing, VCAT held that neither the medical profession, nor the public, expects perfection from medical practitioners; rather, they must exercise reasonable judgment. In addition,

VCAT set down principles on the weight to be given to the findings and determination of the board. (Justice Morris)

## **Jeffrey v. Corrections Victoria & Ors [2004] VCAT 1211**

VCAT placed confidential terms of settlement on the applicant's file in error. An enterprising journalist inspected the file and included the terms of settlement in a story to be published in a newspaper. The applicant applied to stop the breach of confidence.

VCAT held that it lacked power to make an order under section 101 of the VCAT Act stopping publication of the newspaper, since a document produced to VCAT either at, or in connection with, a hearing did not contain the terms of settlement. However, relying on common law principles, VCAT granted an injunction under section 123 preventing publication and protecting the confidentiality of the terms of settlement. (Justice Morris)

## **Buttigieg v. Melton Shire Council, Minister for Planning & Ors [2004] VCAT 868**

The applicant had applied to the first respondent for a permit to use land for the purpose of a broiler farm. The council failed to determine the application, and the applicant asked VCAT to review the failure. In the course of proceedings, a preliminary legal hearing was held. VCAT heard the matter at a practice day in the Planning and Environment List. Shortly after the practice day hearing, the Minister for Planning wrote to VCAT's Principal Registrar, purporting to "call the matter in"; namely, have the matter referred to the government for decision.

The relevant law restricts the Minister's powers to call in a matter where VCAT has begun to hear the proceeding. VCAT had to determine whether the preliminary hearing amounted to a commencement of the hearing of the proceeding.

VCAT held that the proceeding did constitute a commencement and, consequently, the Minister's call-in was invalid.

The issue is currently on appeal before the Court of Appeal of the Supreme Court of Victoria. (Justice Morris)

# Year at a Glance

Item	2003-04	2002-03	% Change
<b>List Users</b>			
Applications lodged	86,355	87,107	(0.9)
Cases finalised	88,013	88,803	(0.9)
Cases pending	9,173	10,830	(15.3)
Overall mediation success rate (%)	67	64	4.7
Unique visitors to VCAT web site	333,549	257,965	29.3
Hearing venues used	103	108	(4.6)

## Our Role

Applications received per List:

• Residential Tenancies List	64,213	66,216	(3.0)
• Planning and Environment List	3,702	3,271	13.2
• Guardianship List	9,896	8,717	13.5
• General List and Taxation List	1,465	1,843	(20.5)
• Domestic Building List	839	866	(3.1)
• Anti-Discrimination List	481	464	3.7
• Civil Claims List	5,131	5,109	0.4
• Real Property List	43	35	22.9
• Retail Tenancies List	161	222	(27.5)
• Occupational and Business Regulation List	144	137	5.1
• Land Valuation List	98	124	21.0
• Credit List	182	103	76.7

## Our People

VCAT employees	176	169	4.1
Judicial members	8	7	14.3
Full-time members	38	39	(2.6)
Sessional members	116	148	(21.6)

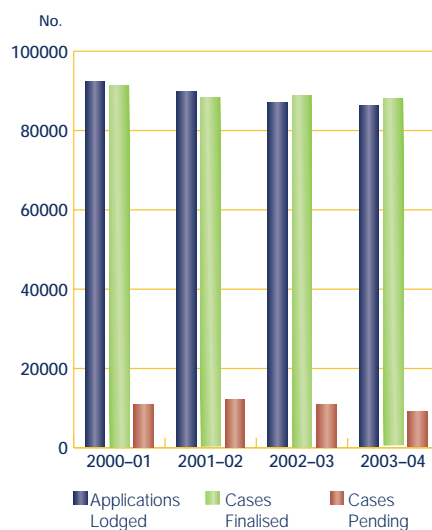
## The Community

User group meetings conducted	20	19	5.3
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## Five-Year Financial Summary

Item	2003-04	2002-03	2001-02	2000-01	1999-00
<b>VCAT funding sources:</b>					
• Appropriations (VCAT)	14.49	13.90	12.15	11.24	11.63
• Residential Tenancies Trust Fund	6.97	6.63	6.66	6.31	6.02
• Domestic Builders Fund	1.45	1.40	1.49	1.35	1.41
• Guardianship and Administration Trust Fund	0.94	0.80	0.78	0.83	0.90
Total:	23.85	22.73	21.08	19.73	19.96
<b>VCAT operational expenditure:</b>					
• Salaries to staff	6.22	5.77	5.81	5.62	5.42
• Salaries to full-time members	5.31	5.35	4.10	4.25	4.54
• Salaries to sessional members	3.30	3.18	2.86	2.59	2.62
• Salary related on-costs	2.42	2.63	2.40	1.50	1.82
• Operating costs	6.60	5.80	5.91	5.77	5.55
Total:	23.85	22.73	21.08	19.73	19.96

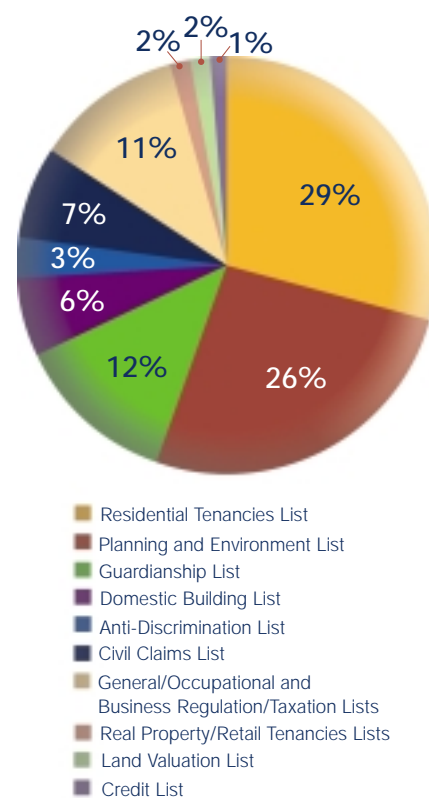
## All VCAT Cases—2000-04



A fundamental indicator of VCAT's performance is that the number of cases finalised should equal the number of applications received in a year, while the number of cases pending stays at an acceptable level. This was achieved during 2003-04.

## VCAT Expenditure by List 2003-04

**Total Expenditure \$23.85 Million**



VCAT expenditure totalled \$23.85 million, which was divided among the Lists as shown.



# President's Report

The tribunal has completed its sixth year. It is now clearly established as one of the four pillars of Victoria's justice system, together with the Supreme Court, the County Court and the Magistrates' Court.

Like the courts, VCAT plays a crucial and central role in Victoria's justice system.

The Victorian Parliament has assigned many important areas of civil disputes exclusively to the tribunal, thus limiting the jurisdiction of courts, including the Supreme Court. Examples include disputes about domestic building contracts, retail tenancies and *Water Act 1989* claims. The Parliament has also given VCAT preferred jurisdiction in fair trading and planning matters. And VCAT exercises a parallel jurisdiction to the Supreme Court in state taxation and land valuation matters.

VCAT hears many more civil cases than all of Victoria's courts combined. The tribunal also hears and determines a vast array of matters in its administrative review jurisdictions. We estimate that in the past financial year there were more than 250,000 separate parties to VCAT proceedings. It can now be said that VCAT directly affects the lives of more Victorians, more often, than any other civil jurisdiction.

VCAT plays a critical role in standing between the strong and the weak, the government and the governed, the rich and the poor. Indeed, more than one third of cases before the tribunal involve government as a party. Thus the independence of the tribunal is fundamental.

## Overview of Caseload and Operating Expenditures

We have experienced an outstanding reporting period in the efficient disposal of our caseload. A total of 88,013 applications were finalised during the year in review.

The number of applications lodged in the Planning and Environment List increased by 13% and the number of applications lodged in the Guardianship List also increased 13%. In contrast we experienced a

small decline in the number of cases in the Residential Tenancies List and a more substantial decline in the number of transport accident cases. The tribunal has coped well with these workload changes.

At the start of 2003–04 the two major problems facing the tribunal were delays in the hearing of planning matters and delays in the hearing of civil claims. Both these challenges have been met.

In August 2003 I announced Operation Jaguar, a comprehensive plan to streamline the Planning and Environment List so as to promote more timely decisions. At that time I did not anticipate a substantial increase in the number of applications in the List. Hence I announced a target of a 20% improvement in timeliness in the List.

As matters transpired, the number of applications increased by 13% over the previous financial year. Yet despite the resources available to the List remaining the same, I can report that the median time for the determination of planning matters has decreased from 22 weeks to 18 weeks, a 20% improvement.

In our last Annual Report concern was expressed about the number of outstanding claims in the tribunal's Civil Claims List and the unsatisfactory performance in the timeliness of decisions in that List. During 2003–04 these problems have been addressed and the timeliness of cases in the List has dramatically improved. In June 2003 the typical waiting time between initiating an application and its finalisation was 21 weeks; by June 2004 it was eight weeks.

I congratulate VCAT members and staff on their enthusiasm and cooperation in achieving these improvements and upon the continuing satisfactory performance of other Lists.

## Budgetary Matters

VCAT has operated within its discretionary budget. This has required discipline. The average cost of resolving disputes at VCAT is low, especially having regard to the



*President of VCAT Justice Stuart Morris.*

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

# President's Report

role the staff of the tribunal play in assisting parties to proceedings. But it is important that government continue to ensure that the tribunal is adequately funded and that growth in workload, and the addition of new jurisdictions, are properly taken into account.

I reiterate the comment made by Justice Kellam in last year's Annual Report that it is essential for an appropriate strategic financial plan to be set in place at the commencement of the financial year to enable VCAT to properly plan its expenditure for the year. It is also essential that once that plan is in place, items of expenditure incurred by the Department of Justice are not unexpectedly charged, without consultation, to the tribunal's discretionary budget.

## Member Remuneration

During the year under review we saw substantial differences between the executive branch of government and the judicial branch in relation to the determination of the Judicial Remuneration Tribunal. Fortunately, these issues were addressed by the *Judicial Salaries Act 2004* and by a public statement by the Attorney-General that the government is committed to adjusting the salaries of VCAT members at the same rate as other judicial officers. The Attorney has indicated that this will be achieved by periodically fixing members' salaries and allowances pursuant to section 17 of the VCAT Act at the time of the annual adjustments of the salaries of judges, masters and magistrates.

## Accommodation

Hearings in the tribunal's Residential Tenancies, Guardianship and Civil Claims Lists are decentralised and often heard in suburban or country locations. Cases in the Planning and Environment List that arise in rural Victoria are also usually heard in country venues. However, a substantial portion of the tribunal's workload must be heard in a central Melbourne location.

The present city venue at 55 King Street, Melbourne is subject to a lease that expires in 2008. During 2003–04 modest works have been undertaken to this venue to introduce natural light into hearing rooms and to improve the members' library. But the existing building does not provide a desirable long-term option as the tribunal's city headquarters.

Tribunals have been part of the Victorian judicial landscape for more than 40 years. Tribunals, epitomised by VCAT, are here to stay. Thus it is highly desirable that the tribunal has a central city venue that is owned and controlled by the State Government. It is also desirable that this venue be located within the courts precinct in Melbourne, since this will promote significant co-location advantages and synergies.

The Department of Justice has recently commissioned a Master Plan for the Melbourne Courts Precinct. VCAT has been closely involved in the preparation of the master plan. I envisage that a recommendation of the master plan will be the relocation of VCAT into the courts precinct by 2008. It is essential that decisions made in the coming few months bring about an orderly transition between the existing venue and a new venue at the time of expiry of the current lease.

## Digital Recording

We expanded digital recording to all hearing rooms in our Melbourne premises. All hearings conducted at Melbourne are recorded. This has brought benefits to the tribunal, by promoting orderly hearings and providing reliable evidence in the event of an appeal.

## Decision Template

Led by Senior Member Tony Liston, we introduced a new template for decisions of VCAT in those Lists that routinely provide detailed written reasons. The template is designed to make the reasons for decisions more legible, by using clean formatting and a clear font.



*Vice-President of VCAT Judge Bowman.*

*LLB (Hons) (Melb). Appointed Vice-President of VCAT, Civil Division and Human Rights Division, on 4 February 2002. Signed the Roll of Counsel of the Victorian Bar in 1968. Appointed Judge of the Accident Compensation Tribunal in 1987. Removed from office upon dissolution of the ACT in 1992. Appointed to the County Court in 2001.*

### Domestic Builders Fund

During 2003–04 the Attorney-General reduced the application fee for a domestic building dispute where the claim is less than \$10,000. The fee reduction—from \$257 to \$31—will provide greater access to justice for individuals involved in small building disputes. Further, it will facilitate the tribunal hearing these matters in its Civil Claims List, in a manner that minimises legal costs. However this reform will still mean that VCAT will be entitled to funding from the Domestic Builders Fund for the costs of determining these disputes.

### Publications

During the financial year two important new publications were produced. In conjunction with Anstat Pty Ltd, tribunal members produced a *Guardianship and Administration* volume to accompany the *VCAT Laws and Procedure* master volume. And the tribunal cooperated with barrister Jason Pizer to ensure the publication of a second edition of *Pizer's Annotated VCAT Act*.

### Judicial College of Victoria

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

### Involvement in the Community

VCAT has continued to play an active role in educating the public about its jurisdictions and processes.

The tribunal's web site has been further developed so as to facilitate the timely acquisition of accurate information about the various Lists.

We conducted an open day during Planning Week and cooperated with the Department of Sustainability and Environment in conducting its planning, education and training program (PLANET). This program is provided to councils and members of the planning community.

### Formal Speeches made by the President of VCAT in 2003–04

- *Reforms to the Planning and Environment List at VCAT*, at a seminar conducted by the Victorian Planning and Environmental Law Association in Melbourne on 13 August 2003.
- *The Experience of the Victorian Civil and Administrative Tribunal in Administering the Victorian Medical Treatment Act*, at the 28th International Congress on Law and Mental Health in Sydney on 3 October 2003.
- *The Importance of Losing*, at the Annual General Meeting of the Environment Defenders' Office on 21 October 2003.
- Address to Metropolitan Council Chief Executive Officers on 30 October 2003.
- *Reforms to the Planning and Environment List*, at the Law Institute of Victoria Annual Property Law Conference on 31 October 2003.
- *The Emergence of Administrative Tribunals in Victoria*, at the Annual General Meeting of the Victorian Chapter of the Australian Institute of Administrative Law Incorporated on 13 November 2003.
- *Melbourne 2030: From Vision to Reality*, at the Melbourne 2030 Conference held at Melbourne Park Function Centre on 20 November 2003.
- Graduation address, East Ivanhoe Primary School on 9 December 2003.
- *The Role of the Victorian Civil and Administrative Tribunal and its Future Directions*, at the Building Designers Association of Victoria Annual Conference on 20 March 2004.



President of VCAT Justice Stuart Morris speaks at a seminar conducted by the Victorian Planning and Environmental Law Association.

- *Destination Maker or Destination Breaker: The Role of the Victorian Civil and Administrative Tribunal*, at the Victorian Tourism Conference on 23 March 2004.
- *Civil Litigation: VCAT and the Courts*, at a seminar held by the Law Institute of Victoria as part of its Advanced Civil Litigation Seminar Series 2004 on 15 April 2004.
- *Third Party Appeals Against Works Approvals*, at a joint National Environmental Law Association/Victorian Planning and Environment Law Association seminar on 20 April 2004.
- *Oral Reasons for Decision*, at the 7th Annual AIJA Tribunals Conference in Brisbane on 11 June 2004.

Please refer to page 67 of this Annual Report for a list of informal presentations and speeches conducted by the President.

# President's Report

As President, I have actively explained the role of the tribunal to the community. Over the past year I have made more than 10 major speeches. I have also made numerous other presentations to councils, parliamentary committees, community groups and professional groups. And I have visited regional areas in an endeavour to better understand the needs of country communities.

I believe it is important that the leaders of Victorian institutions, such as VCAT, publicly explain the work of their bodies and defend their interests.

The tribunal has appointed a part-time media liaison officer in order to facilitate the accurate reporting of VCAT decisions and to promote better public understanding of the role the tribunal plays in the community. To this end, the tribunal also released media guidelines to assist the media in covering cases before the tribunal.

A particular focus of the year under review has been my attempt to develop strong bonds between the tribunal and local government, so that there is a mutual respect of the roles played by each of us.

## Changes in Membership

During the financial year the five-year terms of a large number of members expired, including 22 full-time members. Only two of these members were not re-appointed. The strong continuity of membership has assisted the tribunal in carrying out its work; it has also enhanced the independence of the tribunal.

One of the new members appointed during 2003–04 was Deputy President Helen Gibson, who is in charge of the Planning and Environment List and the Land Valuation List. Mrs Gibson is a highly experienced planning lawyer and she has already shown her strong leadership qualities. Mrs Catherine Aird was also appointed as a deputy president during the financial year. She is in charge of the Domestic Building

List. Other new full-time members are Philip Martin and Susanne Liden.

During 2003–04 Dr Gregory Lyons retired as the tribunal's inaugural Principal Mediator. He had performed this role with distinction for several years. Dr Lyons has been replaced by Ms Marg Lothian, a sessional member with extensive experience in domestic building matters and mediation.

I wish to place on record the tribunal's appreciation of the members who have retired from service during the last year.

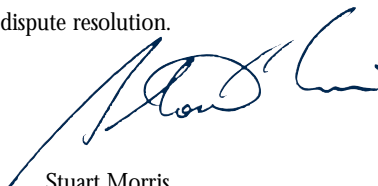
## Acknowledgements

The success of the tribunal over the past year has been a team effort. All presidential members have shown great leadership. Senior members and members have carried out their tasks capably and enthusiastically. The staff of VCAT has provided loyal and capable support. I acknowledge these contributions.

I particularly acknowledge the support of the full-time Vice-Presidents of the tribunal, Judge John Bowman, Judge Michael Higgins and Judge Barry Dove, who have shared the responsibility of managing the administrative affairs of the tribunal.

I also wish to thank my personal staff, associates Jonathan Leckie and Chris Wiseman, and secretary Robyn Weeden for their valuable support during the past year.

On behalf of everyone at VCAT, I anticipate another successful year as we continue to provide an open and accessible service for all Victorians and a voice in dispute resolution.



Stuart Morris  
*President*

# Chief Executive Officer's Message

I am pleased to commend our sixth Annual Report covering the financial year 2003–04. The year in review marks a new beginning for VCAT with the appointment of our new President Justice Stuart Morris, along with the realisation of achieving continued excellence in delivering VCAT's services within set budgets and resources.

## Financial Performance

In 2003–04, our recurrent expenditure of \$23.85 million was 5% higher than the \$22.73 million expended by VCAT in 2002–03. This rise was due to increases in member remuneration and staff salaries and a significant rise in our rental costs.

We experienced increases in member remuneration of \$0.08 million and staff salaries of \$0.45 million during the period. The relatively high rise is largely due to a new reporting requirement that we include a provision for annual leave in the figures. Salary-related on-costs decreased by \$0.21 million and operating costs increased by \$0.80 million, due to the rental increase (refer to the operating statement and financial commentary on page 59).

## Technology Development

Our Tribunal Management System (TM) underwent significant development with several initiatives coming to fruition. In particular, our IT team implemented the PDF documents project, enabling all critical documents generated by TM to be converted and stored in PDF format. Benefits gained from the project will enable us to deliver orders via VCAT Online and archive documents within VCAT using a more secure electronic format. Eventually, the project will enable us to electronically archive our records with the Public Records Office, thereby realising significant monetary and environmental benefits with fewer resources required to prepare records and the elimination of the need to store unnecessary paperwork.

Now a mature mainstream Internet system, we continued to enhance our Internet-based case initiation system VCAT Online. The system attracted an increasing number

of users during 2003–04, lodging 46,194 applications online, which represented 72% of all applications made to the Residential Tenancies List. In addition, in late 2003–04 we enabled VCAT Online to deliver VCAT Orders, thereby achieving more timely delivery. In 2004–05 we will achieve substantial savings in labour and postage costs.

We introduced a phased upgrade of the computers used by VCAT members and staff and fully established a program to replace all desktop computers every three years.

The database servers used for TM were also given a substantial upgrade, which more than doubled the storage capacity to cater for extra storage needed for the PDF Orders Project.

These and other initiatives are described in more detail on pages 43 and 44 of this Annual Report.

## Integrated Courts Management IT System (ICMS)

The Department of Justice (DOJ) is investigating the feasibility of a long-range project to establish a single integrated technology platform and set of applications for the courts known as the Integrated Courts Management System (ICMS). The system will incorporate an umbrella common user interface for court staff, online information services for court users and the community, and internal knowledge and information sharing systems for judicial officers and court staff. We support the project and are working with the DOJ and the Victorian courts.

## Acknowledgements

I gratefully acknowledge the work of VCAT's Registry team, secretaries and members of the judges' staff who have all worked cooperatively to provide the judges, members and the Victorian community with outstanding administrative support.

The trained administrators and technicians established at VCAT provide a diverse range of specialised skills, essential in managing the state wide operations of this high volume tribunal. With their enormous contributions in mind, I record my sincere



*Chief Executive Officer John Ardlie.*

# Chief Executive Officer's Message

appreciation for the untiring support provided by Principal Registrar Ian Proctor, Senior Registrars Richard O'Keefe and Jim Nelms, Listings Coordinator George Adgemis, and our entire Registry team.

I recognise the important contribution made by George and his Central Listings team, who scheduled suburban and rural circuit hearings across the state. Managing more hearing venues than any other jurisdiction, they equitably distributed full-time and sessional members throughout Melbourne and suburban and rural locations. I gratefully acknowledge their outstanding ability to accommodate members' availability and commitments.

Along with officers of VCAT, I have worked closely with Executive Director of Court Services John Griffin and his colleagues during the reporting year. Their support has been outstanding and much appreciated.

I thank the Secretary of the DOJ Ms Penny Armytage for her interest in and support of VCAT.

VCAT's members and staff truly appreciate the ongoing assistance of Court Registrars and their colleagues at venues where VCAT sits in suburban and rural Victoria. It is pleasing to experience the cooperative approach and corporate support from the other jurisdictions' administrations. I am grateful to my fellow CEOs and their colleagues for their ongoing support.

At 55 King Street, the daily assistance of the judges' tipstaves ensures that parties, particularly those who are unrepresented, are comfortably located in hearing rooms prior to hearings and that cases commence at the appointed time.

On behalf of all administrative personnel at VCAT, I wish to thank Justice Stuart Morris for his leadership and guidance during his first year as VCAT's new President. Through His Honour's leadership and dedication, he made a significant contribution, including implementing Operation Jaguar, a major initiative that successfully eliminated the delays experienced in the Planning and Environment List. In addition, his personal tour in a Victorian region effectively high-

lighted the importance of courts and tribunals sitting in regional areas throughout the State. The feedback he received will play a key role in developing future VCAT policies for the region.

In conclusion and most importantly, I wish to thank my administrative team HR Manager Sam Kenny, Finance Manager Alan Karfut, Lorraine Renouf and Rupali Varma for working tirelessly to assist VCAT members and staff throughout the year.

I wish to record my personal appreciation of my colleague Karen McNamara who so competently managed the affairs of my office and marshalled the material required for preparing this Annual Report.

I look forward to continued success, achievement and growth for VCAT during the next year of operation.



John Ardlie  
Chief Executive Officer

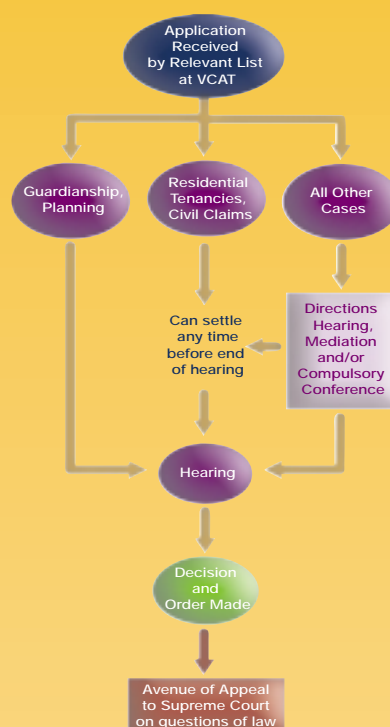
## A simplified approach to how we resolve cases.

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

The process begins when a user of VCAT's services files an application with a List. To help settle a dispute, a mediation, directions hearing or compulsory conference may take place depending on the case. However, many cases proceed 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 proceeds to a hearing, there is still an opportunity to settle prior to delivery of the decision.

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



# List Performance



# Mediation at VCAT

Alternative Dispute Resolution (ADR) gives VCAT users the best opportunity to control the outcomes of their disputes. They play a valuable role in working out practical solutions. Conventional wisdom dictates that 95% of all substantial civil cases settle before a judgment or determination. Early settlement minimises costs and disruption to the parties' lives and businesses. In addition, it maximises the likelihood that settlement will be based on the parties' interests, rather than the inevitable result of toxic costs (running out of money). ADR aims to achieve finality for the parties as early and as cost-effectively as possible.

The preferred form of ADR at VCAT is mediation, although a substantial number of matters go to compulsory conference. Compulsory conferences, as practiced in the Civil Claims, Domestic Building and Real Property Lists, are a robust, evaluative form of mediation where the member expresses a view to the parties as to the likely outcome if the matter were to go to trial. Negotiation, another important form of ADR at VCAT, is widely encouraged where matters are defended in Civil Claims and other Lists.

In December 2003, inaugural Principal Mediator Dr Gregory Lyons retired from that position and was succeeded by Margaret Lothian. The Mediation Services Group, comprising Principal Mediator Margaret Lothian, Listings Manager George Adgemis and Emma Fray of Listings, oversee day-to-day mediation at VCAT.

Primarily, members of the Mediation Core Groups conduct mediations, which comprise full-time, sessional and part-time members and independent mediators. At the end of the financial year, members of the core groups totalled 53 mediators, compared with 50 at the end of 2002–03.

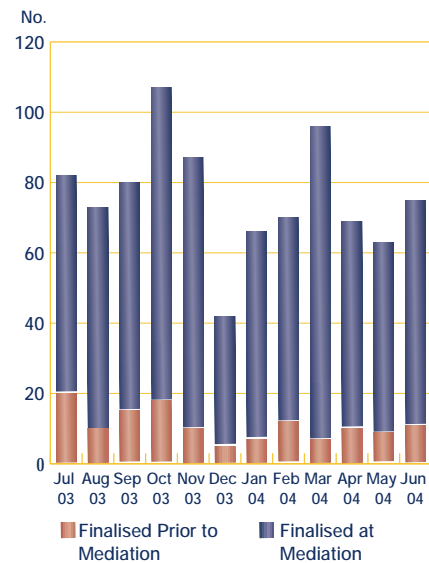
## Mediation in the Lists

During 2003–04, matters referred to mediation in the Anti-Discrimination, Credit, Retail Tenancies, General and Real Property Lists remained unchanged compared with the previous financial year. In the Anti-Discrimination, Retail Tenancies and Real Property Lists, members first referred matters to directions hearings. Most anti-discrimination matters proceeded to mediation. Mediation was particularly appropriate in such cases because it afforded the parties opportunities to reach the heart of their concerns and make positive differences in the way they dealt with each other in future negotiations.

In the Domestic Building List, small claims matters (involving disputed amounts up to \$10,000) went directly to a hearing and were only mediated occasionally. The first step for standard matters (\$10,000 to \$100,000) was mediation and complex matters (more than \$100,000) went first to a directions hearing. Most complex matters went to either mediation or compulsory conference—sometimes both. The Domestic Building List acknowledges the loss of mediator Dr Malcolm Lovegrove, through his untimely passing.

All disputes in the Retail Tenancies List were first mediated at the Office of the Small Business Commissioner. As a result, that List experienced a 27% decline in the number of proceedings commencing at VCAT. Consequently, the List no longer routinely refers matters to mediation. Whereas in previous years the majority of matters were referred to mediation, during 2003–04, the minority of matters were mediated.

## Successful Mediations—2003–04



*Successful Mediations shows, on a monthly basis, the number of VCAT cases that were finalised prior to or at mediation.*

The Planning and Environment List, continued to refer approximately 21% of its cases to mediation and increased its mediation pool by training more members.

## Statistical Profile

VCAT Mediation Services collects statistics that show mediation use at VCAT. During 2003–04, 2,336 cases were initially listed for mediation (2,493 in 2002–03), of which 64% proceeded to mediation (64% in 2002–03) and 30% were adjourned or cancelled (29% in 2002–03). The mediation success rate ranged from 61% to 70% and the overall success rate rose from 64% in 2002–03 to 67%. This result included cases that were finalised prior to or at mediation as a proportion of the cases finally listed for mediation.

## VCAT Mediation Statistics—2002–04

List	Cases Finalised Prior to Mediation		Cases Finalised at Mediation		Mediation Success Rate (%)	
	2003–04	2002–03	2003–04	2002–03	2003–04	2002–03
Anti-Discrimination List	19	18	126	111	70	70
Domestic Building List	39	44	275	231	66	58
Planning and Environment List	68	56	356	304	68	63
Retail Tenancies List	8	27	19	80	61	66
Overall	134	145	776	726	67	64



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

## Professional Development

The professional development of VCAT mediators is supported by the VCAT Mediation Committee, under the chairmanship of the Principal Mediator. During the financial year, such activities included:

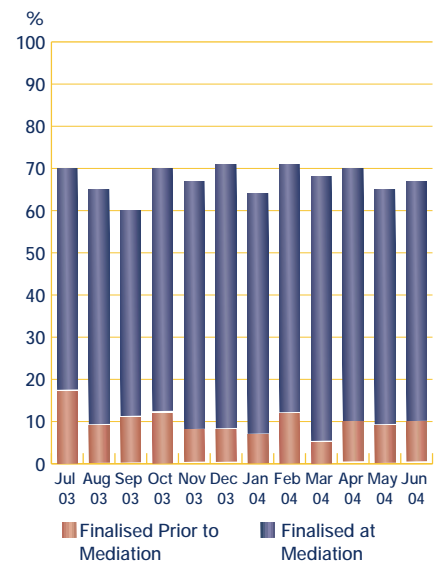
- publishing three editions of the VCAT Mediation Newsletter;
- holding a lunchtime seminar on 18 September 2003 featuring Di Bretherton and Melissa Conley Tyler of Melbourne University who spoke about *Online Dispute Resolution*;
- a seminar arranged by the Mediation Committee on 22 October 2003 on the topic *What Practitioners hope for in a Mediator* presented by barrister Melanie Young, who appeared in the Anti-Discrimination List, solicitor Rohan Bennett, who appeared in the Domestic Building List and council officer Rachael O'Neill, who appeared in the Planning and Environment List.

- a seminar arranged by the New Members and Seminars Committee on 28 April 2004 attended by members and mediators entitled *Multi-Party Mediation—the National Native Title Tribunal Experience*;
- establishing the first mentoring relationships for VCAT mediators; and
- holding the first quarterly lunch meeting featuring the topic *Accreditation of Mediators*.

## Community Awareness

During 2003–04, the video *Working It Out Through Mediation*, available online at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au), continued to be an accessible information source about mediation at VCAT, averaging 450 hits per month.

## Mediation Success Rate—2003–04



*Mediation Success Rate shows cases finalised prior to or at mediation as a percentage of those cases finally listed for mediation.*

*Principal Mediator Margaret Lothian (right) discusses a case being listed for mediation with Listings Officer Emma Fray. Margaret works, wherever possible, to minimise the 'toxic costs' that can result involving complex cases.*

*According to Ms Lothian, her work involves discovering the ideal time to mediate—too soon and the parties have insufficient information to settle, too late and the costs have been largely spent.*



# Anti-Discrimination List

## List Snapshot

### Purpose

A List in the Human Rights Division of VCAT, the purpose of the Anti-Discrimination List is to hear and determine complaints of contravention of the *Equal Opportunity Act 1995* (EO Act) and the *Racial and Religious Tolerance Act 2001* (RRT Act). Complaints under the EO Act 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, sport and the supply of goods and services. The claims also relate to sexual harassment and victimisation. Complaints under the RRT Act concern claims of unlawful racial or religious vilification.

### Objectives

- Decrease waiting times so that 60% of cases are finalised within 14 weeks of application and 80% within 23 weeks.
- Maintain the 70% mediation settlement rate.

### Key Results

- Resolved 58% of cases within 14 weeks of application and 80% within 23 weeks.
- Settled 70% of cases at mediation.

### Future

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

### Statistical Profile

- Applications received: 481
- Cases resolved: 491
- Cases pending: 153
- Application fee: nil
- Number of members: 37

### Deputy President Profile

Sandra Davis, BA (Hons), M Sc (Econ), MA, LLB (Hons) was appointed Deputy President of the Anti-Discrimination List in February 2004 and Deputy President of the Occupational and Business Regulation List of VCAT in September 2000. From May 1999 to September 2000, Ms Davis was Deputy President of the Guardianship List. In May 1998, she was appointed Deputy President of the then Administrative Appeals Tribunal. Prior to 1998, she practised administrative law, human rights and equal opportunity law, and industrial and commercial law at the Victorian Bar. In addition to Anti-Discrimination List and Occupational and Business Regulation List cases, Ms Davis regularly sits in the General List and Guardianship List.

## Case Profile—Meeting Increased Demand

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

In addition, List members hear applications:

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

In 2003–04, the number of complaints referred to VCAT totalled 400, compared with 375 in 2002–03. The number of exemption applications received during 2003–04 decreased by 9.0%, totalling 81, compared with 89 applications in 2002–03. A significant proportion of applications was for renewals of exemptions previously granted. The number of cases resolved increased, totalling 491, compared with 482 in 2002–03. Cases pending decreased, totalling 153 on 30 June 2004, compared with 163 on 30 June 2003.

### Application Types

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

The percentage of employment-related complaints comprised 71%, compared with 81% in 2002–03. The next highest number of complaint referrals related to the provision of goods and services at 23% (13% in 2002–03) and education at 4% (3% in 2002–03).

In 2003–04, the attribute profile of complaints referred to the List comprised:

- 26% sex discrimination and sexual harassment (27% in 2002–03);
- 24% impairment (23% in 2002–03);
- 10% race (8% in 2002–03);
- 9% victimisation (11% in 2002–03); and
- 31% other (31% in 2002–03).

### Case Study: Junior Football League Excludes Girls From Competition

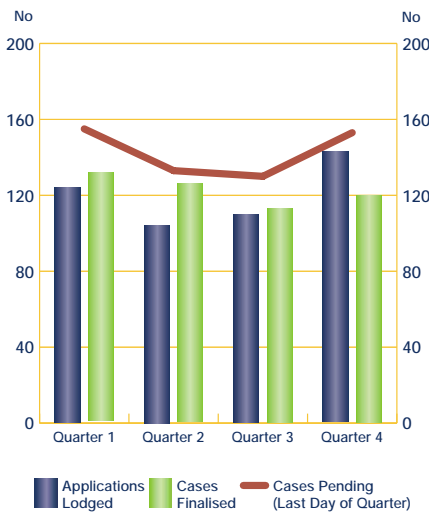
Three girls playing in under 14 and under 15 competition made a complaint against a junior football league for excluding them from that competition, under a regulation developed by Football Victoria known as the 'Female Participation Rule'. Under this rule, Football Victoria effectively excluded girls from playing in the competition beyond the season in which they turned 12 years of age.

President Justice Morris granted an interim injunction to enable the girls to play out the 2003 winter season. The full hearing of the matter took place in November 2003. In the decision handed down in February 2004, Justice Morris examined the evidence concerning the significance of differences in the strength, stamina or physique of boys and girls aged 12 to 16. Justice Morris concluded that such relative differences had not been shown to be sufficiently significant to be relevant to the participation of girls in the under 14 competition, but had been shown to be relevant to participation in such competition for under 15 year olds.

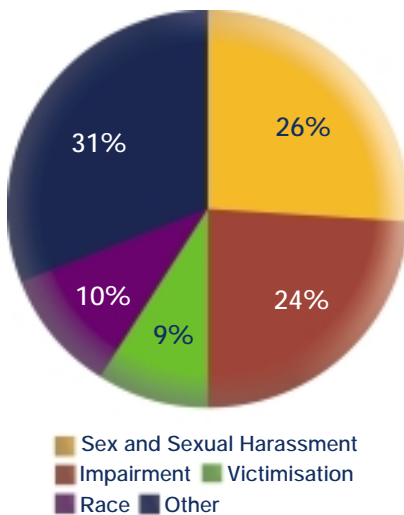
Justice Morris found the exclusion of the girl playing in under 14 competition to be unlawful, but the exclusion of the two girls playing in under 15 competition to be lawful. Justice Morris noted that his decision was not to be taken as an endorsement of the exclusion rule relating to the under 15 competition.

# We determine applications for exemption and complaints of discrimination.

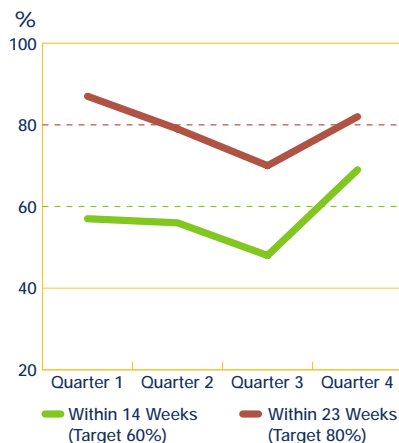
## Case Flow 2003-04



## Complaints by Type 2003-04



## Timeliness: Age of Cases Resolved Compared with 60% and 80% Targets—2003-04



## How We Dealt with Cases

In 2003-04, mediation continued to be a successful means of resolving disputes and was used at an early stage in the process. The success rate achieved in resolving complaints at mediation was 70%, compared with 70% in 2002-03. The mediation success rate remained high due to the considerable expertise of the List's core mediators. Although mediation was unsuccessful in a small percentage of cases, the process effectively laid the groundwork for settling disputes prior to hearing, significantly reducing the number of cases that required a full hearing.

## Timeliness—Meeting Targets

In 2003-04, we continued to meet our overall timeliness targets. As a result, we resolved 58% of cases within 14 weeks of application and 80% of cases within 23 weeks. This result compares with 61% of cases being resolved within 14 weeks of application and 78% of cases within 23 weeks in 2002-03. However, when considered by quarter, we only met the 60% target in quarter four.

## Community Awareness

On 25 March 2004, Deputy President Anne Coghlan presented a paper on preparing cases in the Anti-Discrimination List at the Victoria Legal Aid Conference on Equal Opportunity and Anti-Discrimination. She summarised the procedures for filing and conducting a complaint at VCAT and the provisions in relation to costs and to strike out applications. In addition, she discussed the mediation process and offered some helpful hints on ways to achieve a successful mediation.

## Changes to Procedures

We streamlined file administration so that complaints could proceed immediately to directions hearings. We further refined the listing of directions hearings to reduce the waiting times for the parties. In addition, these refinements assisted in providing orders to the parties at the conclusion of each directions hearing.

## User Group Activities

The List's user group comprised legal practitioners who regularly represented complainants and respondents. The user group met on two occasions during 2003-04 to discuss matters of relevance to List users. At the most recent meeting on 25 May 2004, the matters discussed included providing remote witness facilities, confidentiality of terms of settlements held on file, and availability of pro bono schemes of legal representation for the parties.

*At a strike-out hearing, Deputy President Sandra Davis (right) invites bench clerk Meisha Robins to hand an affidavit to the parties for amendment. The List hears applications made to strike out complaints on the basis that they are frivolous, vexatious, misconceived, lacking in substance or an abuse of process.*



# Civil Claims List

## List Snapshot

### Purpose

A List in the Civil Division of VCAT, the purpose of the Civil Claims List is to hear and determine disputes in relation to the supply of goods or services, whether for private or business use under the *Fair Trading Act 1999*, *Motor Car Traders Act 1986*, *Credit Act 1984* and *Consumer Credit Act 1995*.

### Objectives

- Reduce waiting times so that we resolve 80% of cases within 18 weeks of application.
- Resolve higher value and complex cases by compulsory conference.

### Key Results

- Resolved 68% of cases within 14 weeks of application and 81% within 18 weeks.
- Settled more than 90% of claims exceeding \$10,000 by compulsory conference.

### Future

- Resolve 60% of cases within 12 weeks of application and 80% within 16 weeks.
- Continue to resolve higher value and complex cases by compulsory conference.

### Statistical Profile

- Applications received: 5,131
- Cases resolved: 5,610
- Cases pending: 1,254
- Application fee under the *Fair Trading Act 1999*: \$31 (claims less than \$10,000); \$257 (claims \$10,000 to \$100,000); \$515 (claims above \$100,000)
- Number of members: 76

### Deputy President Profile

Michael Levine, LLB and Churchill fellow, was appointed Deputy President of the Civil Claims List in February 2003. Previously, Mr Levine was appointed Deputy President of the Civil Claims List on 1 July 1998 and Deputy President of the Residential Tenancies List on 1 September 2000. For the last 29 years, he has held positions as inaugural senior referee of the Small Claims Tribunal, inaugural chairman of the Residential Tenancies Tribunal and inaugural chairman of the Credit Tribunal. He worked as a solicitor in private practice, specialising in company liquidation and bankruptcy from 1968 to 1975. Mr Levine sits on other Lists in VCAT.

## Case Profile—Dramatic Improvement

We managed to dramatically reduce waiting times. In 2003–04, the Civil Claims List received 5,131 applications, compared with 5,109 in 2002–03, representing a slight increase. The number of cases resolved increased, totalling 5,610, compared with 4,835 in 2002–03. Cases pending fell by 28%, totalling 1,254, compared with 1,733 on 30 June 2003. We expect matters pending to further decrease in 2004–05.

Most cases brought to the List related to disputes between the purchasers and suppliers of goods and services. The proportion of business applications rose from 31% in 2002–03 to 34%. The number of respondents who were private individuals rose from 21% in 2002–03 to 24%. In the majority of matters, the parties represented themselves, thereby significantly reducing their legal costs.

Claims less than \$10,000 represented 91% of total applications received, while claims between \$10,000 and \$50,000 constituted 7% and claims exceeding \$50,000 represented 2%. The total value of amounts claimed by applicants increased by 29%, totalling \$36.9 million, compared with \$28.6 million in 2002–03.

### Application Types

The types of applications lodged comprised:

- 21% building (24% in 2002–03);
- 21% debt recovery services (15% in 2002–03);
- 18% services (13% in 2002–03);
- 11% motor vehicles (13% in 2002–03);
- 6% household goods (12% in 2002–03); and
- 23% other (23% in 2002–03).

### How We Dealt with Cases

During 2003–04, the listing process changed resulting in virtually all claims less than \$10,000 being processed within two working days and the parties being notified of a hearing eight weeks in advance. Additionally, as part of the same process, VCAT served the application on the other side. Claims exceeding \$10,000 were assessed and in some but not all cases different processes, including compulsory conferences and directions hearings were held.

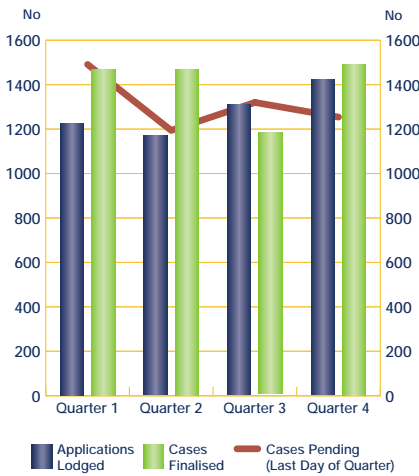
Compulsory conferences for claims exceeding \$10,000 proceeded at a vigorous pace and succeeded in settling more than 90% of such cases. Compulsory conferences brought together the parties to a dispute at an early stage in the proceedings without the need for legal advice, thereby avoiding considerable amounts in legal costs.

### Case Study: Airline Refuses to Allow Family to Board Aircraft

The applicants had booked airline tickets in Melbourne for a trip to Beirut. The applicants, their baby and a relative were returning to Melbourne from Beirut when they stopped over at a Middle Eastern airport. When checking in for the flight to Melbourne, they asked for a bassinette for the baby. The airline staff said that there were no bassinettes available and that they were all booked. An argument developed, and the airline manager refused to allow the applicants to board the aircraft. He alleged that they had abused and threatened staff and that, when taken to an interview room, the wife had assaulted a staff member. The applicants had to purchase tickets from another airline. They claimed the cost of the tickets on the basis that the respondent airline had breached its contract to carry them.

After hearing the evidence, VCAT rejected the airline's version of events, finding that the principal reason for the airline's refusal to allow the applicants to board was the affront that the manager took towards a female being so assertive. Exclusion or limitation clauses incorporated into the tickets, and relied upon by the airline, did not apply. VCAT allowed the applicants' claim in full.

### Case Flow 2003-04



### Timeliness—Greatly Improved

Timeliness greatly improved in 2003-04. We resolved 68% of cases within 14 weeks of application and 81% within 18 weeks. This compares with 49% of cases being resolved within 14 weeks of application and 68% within 18 weeks in 2002-03. In quarter one, 37% of cases were resolved within 14 weeks and, by quarter four, the figure was 84%.

### User Group Activities

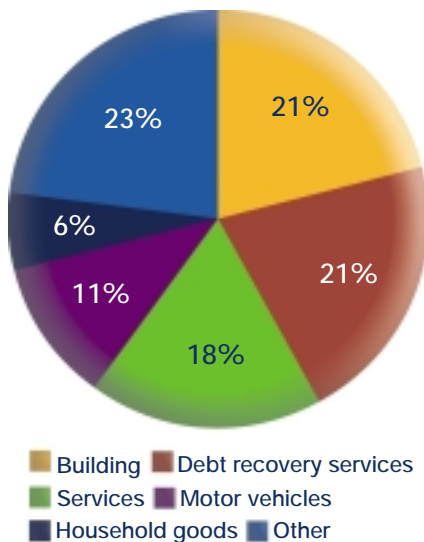
The user group of the Civil Claims List met on four occasions and included representatives from Small Business Victoria, Financial and Consumer Rights Council, Consumer and Tenant Resource Centre, Consumer Law Centre of Victoria Ltd, Consumer Affairs Victoria, Victorian Automobile Chamber of Commerce, Victorian Employers' Chamber of Commerce and Industry, Australian Retailers Association Victoria, and Victoria Legal Aid. The user group meetings provided an excellent forum for discussing issues of concern to users.

### Changes to Legislation

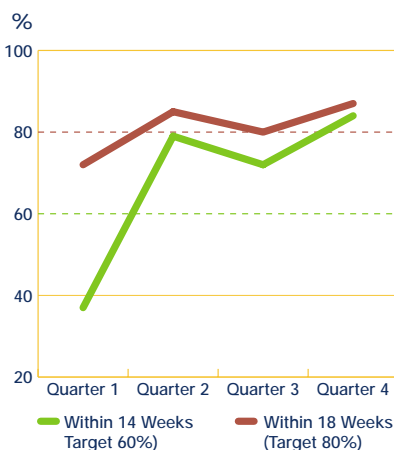
In October 2003, the Small Claims Act was abolished and replaced with a dispute provision under the Fair Trading Act. The changes to the Fair Trading Act emulate requirements that existed under the Small Claims Act, including limited representation and no costs. In addition, other amendments to the Fair Trading Act included provisions for:

- declaration of unfair terms in consumer contracts applied to contracts entered into after 8 October 2003; and
- a transfer procedure from the courts relating to purchasers of goods or services valued at \$10,000 or less. If the purchaser receives a summons in the courts, he or she can lodge an application with VCAT, pay the amount that is sought into the VCAT trust account and require the court, if it has not commenced hearing the case, to transfer the case to VCAT. The procedure allows a reduction or complete exclusion of court costs since VCAT is not able to award costs for claims less than \$10,000.

### Applications by Type 2003-04



### Timeliness: Age of Cases Resolved Compared with 60% and 80% Targets—2003-04



At the completion of a compulsory conference, Deputy President Michael Levine (standing) discusses the details of a case with (from left) Full-Time Members Alan Vassie, Annemarie Tilley and Jack Wiseman. Compulsory conferences bring together the parties to a dispute at an early stage without the need for legal advice, thereby avoiding considerable amounts in legal costs.



## List Snapshot

### Purpose

A List in the Civil Division of VCAT, the Credit List has jurisdiction under the *Credit Act 1984* and the *Consumer Credit (Victoria) Act 1995*, which incorporates into the law of Victoria the Consumer Credit (Victoria) Code (the Code) and the *Chattel Securities Act 1987*. The Code is part of a uniform Credit Code that operates Australia wide.

### Objectives

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

### Key Results

- Resolved 79% of cases within six weeks of the application being received and 86% within eight weeks.
- Resolved repossession cases within 14 days of proof that the application had been served on the debtor.
- Settled 73% of cases referred to mediation.

### Future

- Resolve 60% of cases within six weeks of application and 80% within eight weeks.
- Maintain settlement rate at 73% of all cases.
- Monitor effectiveness of streamlined procedures and user guidelines for List users.

### Statistical Profile

- Applications received: 182
- Cases resolved: 166
- Cases pending: 29
- Application fee: \$31–\$1,030
- Number of members: 8

### Deputy President Profile

Cate McKenzie, BA, LLB (Hons), was appointed Deputy President of the Credit List on 1 October 2000. Previously, Ms McKenzie was appointed Deputy President of the Anti-Discrimination List on 1 July 1998 and was appointed President of the former Anti-Discrimination Tribunal/Equal Opportunity Board in 1994. She began her career as a legal officer of the Parliamentary Counsel's Office in 1975 and was appointed Assistant Chief Parliamentary Counsel in 1986. In addition, Ms McKenzie sits regularly in the Anti-Discrimination List, Guardianship List and General List.

## Case Profile—Meeting Increased Demand

In 2003–04, the number of applications received by the Credit List rose substantially, totalling 182, compared with 103 in 2002–03—an increase of 77%. One reason for the rise may be attributed to the growing awareness of the role of the List. The List finalised a significantly larger number of cases, totalling 166, compared with 139 in 2002–03, representing a 19% increase. The number of cases pending on 30 June 2004 totalled 29, compared with 13 on 30 June 2003. The larger number of pending cases was due to a number of applications that had been stayed pending the determination of a related civil penalty application.

The majority of cases coming to the List related to requests for repossession orders, which totalled 116 in 2003–04, compared with 70 in 2002–03. A credit provider must not enter residential premises to recover mortgaged goods without an order from VCAT or a court. Another important element of the List's work involved applications made by credit providers relating to breaches of key requirements of the Consumer Credit (Victoria) Code (the Code), which sought determinations from VCAT as to whether or not civil penalties should be imposed on the credit providers. Applications of this kind are the most complex of the applications that the List receives. Typically, they involve large numbers of credit contracts and require applicants to undertake extensive sampling processes and notifications to affected debtors. Other cases concerned applications by debtors who, because they were suffering hardship, wanted to change their obligations under a credit contract or have enforcement proceedings against them postponed.

### Application Types

Of the 182 applications received in 2003–04, 116 (64%) were repossession applications. This represents a 66% increase compared with 70 repossession applications received in 2002–03. We experienced a slight rise in the number of civil penalty applications received by the List in 2003–04. In particular, for the first time in years, the Director of Consumer Affairs made two civil penalty applications to VCAT concerning alleged breaches of the Code by particular credit providers.

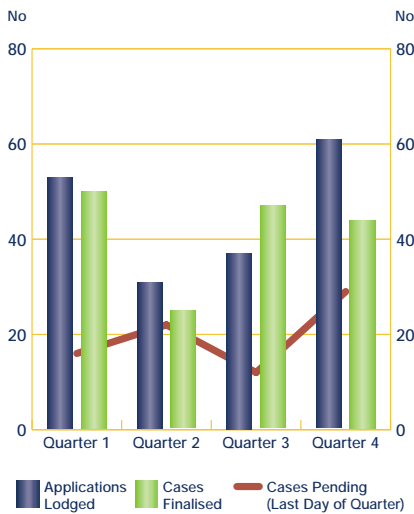
### Case Study: Request to Change Loan Contract Due to Hardship: Successful

A debtor under a loan contract became ill and then became unemployed. He owed a relatively small amount under the loan that fell into arrears. He had other financial commitments, including a house mortgage and expenses of looking after his three children who lived with him. He received a Commonwealth Government benefit and some monthly payments from his children, all of whom had recently begun to work. The debtor wrote to the lender and asked for the contract to be changed. The lender refused. VCAT was satisfied that, while he could not pay the current loan repayment of several hundred dollars per month, he could pay a loan repayment of fifty dollars a month. VCAT granted his application to change the loan contract on the ground of hardship. The period over which the loan was repayable was extended to take account of this change.

### Case Study: Request to Change Loan Contract Due to Hardship: Unsuccessful

When her partner became unemployed, a debtor under a loan contract became solely responsible for household expenses and the family's financial commitments. She had six children who lived with her. She fell into arrears under her loan contract with a substantial balance owing. The debtor wrote to the lender and asked for the contract to be changed. The lender refused. While VCAT was satisfied that she suffered hardship, which made her unable to meet her commitments under the loan contract, it was not satisfied that she would be able to repay the loan, even if the contract were changed. VCAT dismissed her application to change the contract on the ground of hardship.

### Case Flow 2003-04

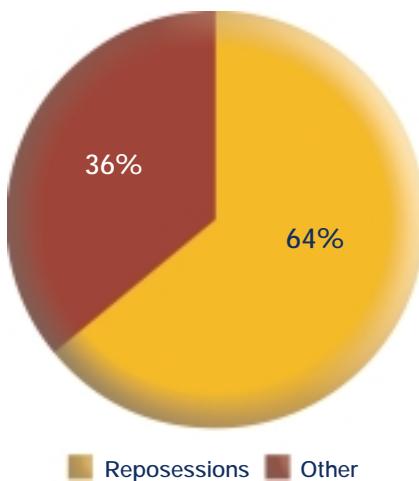


### How We Dealt with Cases

Since many people who applied to the Credit List were experiencing financial difficulty and hardship, we aimed to resolve these applications as quickly as possible. We continued the procedure for the less complex applications under which, as soon as the Registry served the application on the credit provider, we referred the application immediately to mediation. If mediation did not resolve the matter, we listed it for a hearing. This procedure continued to be successful and an efficient, fair and timely way of resolving matters. At all stages in the process, List members encouraged parties to settle cases by agreement between themselves. About 42% of cases were resolved in this way, compared with 30% in 2002-03, without the need for parties to provide extensive written material or to go to a hearing.

We increased our use of mediation, settling 73% of cases referred to mediation (70% in 2002-03). The increasing number of cases that resolve by an agreement between the parties not only enables the List to handle cases more promptly and efficiently, but also is beneficial for debtors and credit providers by giving them a basis by which either their relationship can continue or be finalised.

### Applications by Type 2003-04



### Timeliness—Exceeding Targets

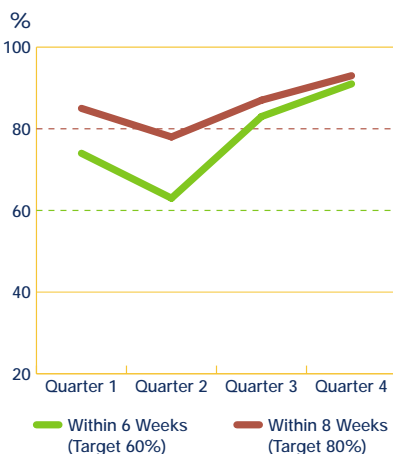
In 2003-04, we resolved 79% of cases within six weeks of the application being received (63% in 2002-03) and 86% within eight weeks (72% in 2002-03). The majority of the cases were repossession applications, which were finalised, on average, within 14 days of the application being served on the debtor.

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

### User Group Activities

In 2003-04, the Credit List user group comprised 13 people (nine in 2002-03) representing consumers, credit providers, government and the legal profession. The Group met on two occasions to discuss major changes in List procedures and how those changes were working. The group considered that six-monthly meetings were sufficient for user group discussions.

### Timeliness: Age of Cases Resolved Compared with 60% and 80% Targets—2003-04



*From left, Credit Registrar Kristie Bouquet discusses the mediation guide and video to be handed to the parties in an upcoming mediation involving a debtor hardship claim with Deputy President Cate McKenzie. Mediation proved to be an efficient, fair and timely way of resolving such matters.*



# Domestic Building List

## List Snapshot

### Purpose

A List in the Civil Division of VCAT, the purpose of the Domestic Building List is to resolve domestic building disputes among home owners, builders, insurers, architects and others. List members hear and determine:

- domestic building disputes;
- appeals against decisions of insurers under builders warranty insurance policies;
- appeals against decisions of the Housing Guarantee Fund Limited under the *House Contracts Guarantee Act 1987*, including those arising under the *House Contracts Guarantee (HHH) Act 2001*; and
- injunctions sought in relation to domestic building.

### Objectives

- Resolve 60% of cases within 20 weeks of application and 80% within 35 weeks.
- Improve the settlement ratio through mediations and compulsory conferences.

### Key Results

- Resolved 58% of cases within 20 weeks of application and 74% of cases within 35 weeks.
- Our mediation success rate increased from 58% to 65%.

### Future

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

### Statistical Profile

- Applications received: 839
- Cases resolved: 847
- Cases pending: 522
- Application fee: \$257–\$515
- Number of members: 20

### Deputy President Profile

Catherine Aird, B Ec, LLB, was appointed Deputy President of the Domestic Building List on 4 May 2004. Previously, Mrs Aird was a sessional member of the Domestic Building List and an inaugural member of the former Victorian Domestic Building Tribunal. Prior to her appointment to the Domestic Building Tribunal, she was the corporate solicitor for A V Jennings Homes for 10 years and legal officer with the RAI A Practice Division. In addition, Mrs Aird has extensive experience as a mediator both at VCAT and in private practice.

## Case Profile—Meeting Demand

The total number of applications received decreased by 3% from 866 in 2002–03 to 839 in 2003–04. Cases finalised decreased by 1% from 859 in 2002–03 to 847 in 2003–04. Cases pending totalled 522, compared with 530 at the end of 2002–03, representing a decrease of 2%.

### Application Types

The types of applications lodged involved:

- 66% disputes between owners and builders (60% in 2002–03); and
- 34% appeals against decisions of insurers (40% in 2002–03).

Most cases dealt with by List members involved claims over work delays, defective workmanship and incomplete works.

### How We Dealt with Cases

Most cases brought to the List were expensive and time consuming for the parties. Many cases that started out as small proceedings became, over time, increasingly complex and difficult. List members were aware of such issues and continued to adopt a policy of early intervention to resolve cases as quickly as possible. Methods used by members to resolve cases included:

- mediations conducted by expert mediators;
- compulsory conferences conducted by List members; and
- appropriate directions hearings, including directions appointing special referees.

Our mediation success rate increased from 58% in 2002–03 to 66% in 2003–04. The combination of mediation and compulsory conferences resulted in a reduction in the number of cases proceeding to hearing and final determination, indicating that mediation continued to have a positive impact in the List.

### Types of Cases

The types of cases dealt with by List members comprised small claims cases, standard cases and complex cases.

### Small Claims Cases

Small claims cases involved disputed amounts of less than \$10,000. We referred such cases directly to a hearing. This procedure enabled the parties to avoid costs arising out of non-attendance at mediations. However, List members reserved the power at hearings to refer cases to mediation on the day of the hearing, if appropriate.

### Case Study: Matter Involving Docklands Project Results in Retrospective Legislation Being Passed by Victorian Parliament

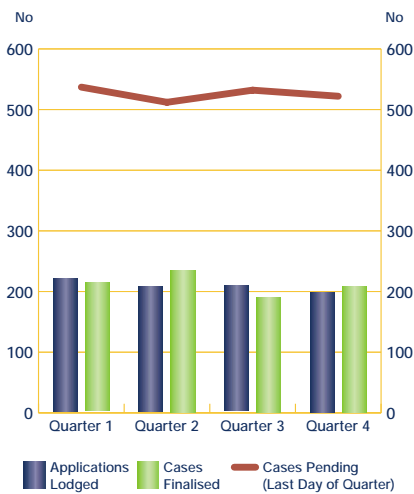
During the financial year the List dealt with several applications for injunctions. One such case involved an apartment in the Docklands project where a purchaser sought to restrain the developer from resorting to a deposit bond of 10%.

The injunction was granted on the basis that the matter came under the *Domestic Building Contracts Act 1995* (DBC Act), that there was a serious question to be tried and that the balance of convenience favoured granting the injunction.

Queens Counsel represented both parties. Subsequently, the matter has gone on appeal to the Supreme Court, which has yet to hear and determine the matter. However, in the meantime, the Victorian Parliament passed retrospective legislation dealing with the issue with effect from 1 May 1996 by excluding 'off the plan' contracts of sale from the *Domestic Building Contracts Act 1995*.



### Case Flow 2003-04



We continued this practice throughout the year in review. We transferred cases to the Civil Claims List at times when we considered it would be more convenient for the claim to be heard in that List.

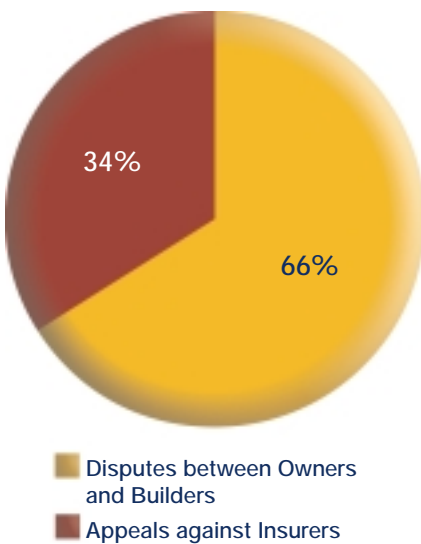
### Standard Cases

Standard cases involved disputed amounts of more than \$10,000 and less than \$100,000. They formed the majority of the List's workload and at times took nine months or more to resolve from the date the application was lodged.

### Complex Cases

Complex cases involved disputed amounts of more than \$100,000 and took more than nine months to resolve unless settled at mediation, although many settled at compulsory conference prior to or during the hearing. Such cases involved complex issues of fact and law and took longer to prepare and hear. Many of the complex cases in the List involved numerous parties. Some related to inner city apartments, others to large private homes. Many of these cases used to fall within the jurisdiction of the Supreme Court.

### Applications by Type 2003-04



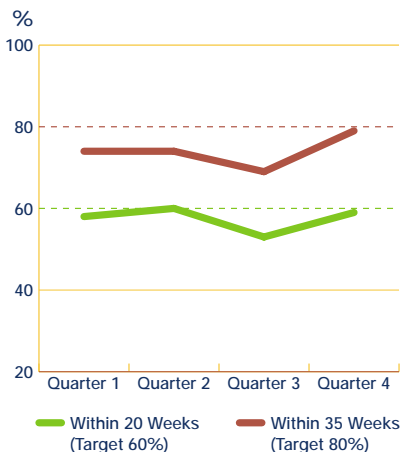
### Timeliness—Below Targets

In 2003-04, 58% of cases were resolved within 20 weeks of application and 74% of cases within 35 weeks. This compares with 61% of cases being resolved within 20 weeks of application and 79% of cases within 35 weeks in 2002-03. Although we remained below our targets during 2003-04, we aim to substantially improve timeliness in the next financial year.

### User Group Activities

The List's user group, which met on two occasions during 2003-04, comprised representatives from the Building Dispute Practitioners Society. This Society has a wide representative base and includes lawyers, builders and engineers and other building practitioners. List members met with the user group to gain industry and practitioner views on aspects of directions and general issues of interest to List users. Questions that were discussed included costs and standard procedures.

### Timeliness: Age of Cases Resolved Compared with 60% and 80% Targets—2003-04



From left, Deputy President Catherine Aird discusses an upcoming mediation with Principal Mediator and List member Margaret Lothian. Catherine and Margaret work as a team to implement early intervention processes such as mediation to achieve speedy, cost-effective resolution of domestic building disputes.



# General List and Taxation List

## List Snapshot

### Purpose

The General List and Taxation List are part of the Administrative Division of VCAT. The General List hears and determines a large variety of cases, including those relating to transport accidents, freedom of information (FOI), State superannuation and criminal injuries compensation. The Taxation List hears disputes relating to assessments made by State Government Departments with regard to the imposition of State levies and taxes.

### Objectives

- Reduce waiting times from application to resolution where possible.
- Resolve cases, where possible, using alternative dispute resolution processes.
- Consider providing orders and directions by email.

### Key Results

- Resolved 46% of transport accident cases within 35 weeks of application and 72% within 55 weeks.
- Resolved 75% of FOI cases within 20 weeks and 91% within 36 weeks.
- Resolved 40% of taxation cases within eight weeks of application and 67% within 13 weeks.

### Future

- Further reduce waiting times from application to resolution.
- Continue to use alternative dispute resolution processes where possible.

### Statistical Profile

- Applications received: 1,465
- Cases resolved: 1,953
- Cases pending: 937
- Application fee: \$0–\$257
- Number of members: 50

### Deputy President Profile

Anne Coghlan, BA, LLB, was appointed Deputy President of the General List and Taxation List on 11 February 2003. Mrs Coghlan brings to her position a strong background in administrative law and tribunal management. She is a council member of the Australian Institute of Judicial Administration, and a member of the Syllabus Advisory Committee of the Judicial College of Victoria, National Executive Council and Victorian Chapter of the Council of Australasian Tribunals. Previously, she was Deputy President of the Anti-Discrimination List and Credit List, and Deputy President of the Anti-Discrimination Tribunal. Mrs Coghlan was appointed a member of the Administrative Appeals Tribunal in 1994 and became the first National Convener of the Social Security Appeals Tribunal in 1988.

## Case Profile—Dramatic Improvement

In 2003–04, waiting lists dramatically declined with a 34% decrease in cases pending. The General List and Taxation List received a total of 1,465 applications, compared with 1,843 in 2002–03, representing a 21% decrease. This result includes 1,014 transport accident cases, compared with 1,509 cases in 2002–03—a 33% fall. Cases finalised totalled 1,953, compared with 1,620 in 2002–03, representing a 21% increase. Cases pending decreased by 34%, totalling 937, compared with 1,425 at the end of 2002–03. The fall in cases pending was attributed to a substantial reduction in the number of TAC cases pending. This result was due to a decrease in the number of TAC applications received and an increase in the number of applications disposed of by the List.

### Application Types

In the General List, transport accident cases comprised the majority of applications. In the Taxation List, applications related to State levies and taxes.

Application types dealt with in both the General List and Taxation List comprised:

- 69% transport accidents (83% in 2002–03);
- 15% freedom of information (11% in 2002–03);
- 2% false fire alarm fees (1% in 2002–03); and
- 14% other, including mental health, superannuation, criminal injuries compensation and taxation (5% in 2002–03).

### How We Dealt with Cases

With most cases, before a hearing took place, we conducted a compulsory conference, which enabled us to discuss the issues with the aim to seek resolution or partial resolution. This process continued to reduce the time required to hear matters and, in many cases, avoided the need for a hearing and reduced the number of applications to adjourn hearings.

During 2003–04, we listed cases involving the *Health Records Act 2001* and the *Information Privacy Act 2002* for mediation as a standard practice. As in the previous financial year, we resolved such matters either at mediation or prior to mediation.

### Case Study: Farmer Suffers Injuries as a Result of Transport Accident

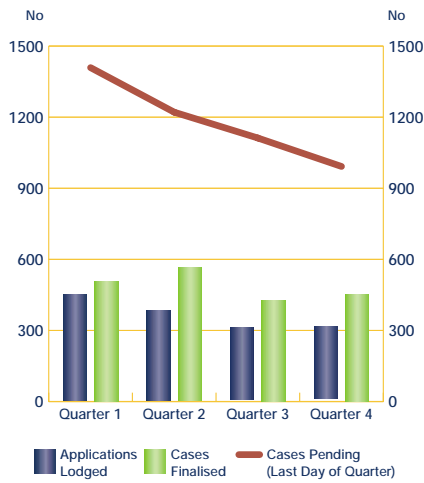
*A farmer applied to VCAT to review the decision of the Transport Accident Commission to deny compensation for serious spinal injuries she suffered in very unusual circumstances.*

*The farmer had driven her four-wheel farm bike across the farm paddocks to attend to a cow that had gone down in a paddock. The paddock was located in a bend in the local river. She dismounted her farm bike near the cow, leaving the motor running. However, some low tree branches restricted her access and she was unable to get near enough to the cow on foot. By this time, the cow had become agitated. The farmer climbed back onto the bike. As she moved the bike through its gears, the sound startled the cow and it attacked the bike. The cow pushed the bike backwards, sending the farmer and the bike over the embankment into the river, causing the farmer serious injury.*

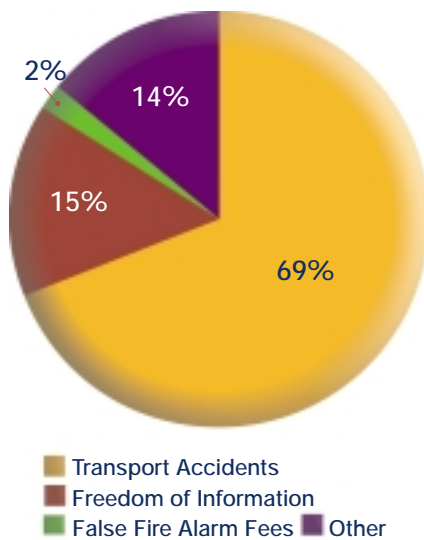
*The case involved very difficult facts and legal argument about whether the accident was in a location covered by the legislation, whether the farm bike was a motor vehicle and whether her injury was directly caused by the driving of a motor vehicle.*

*Having heard all legal argument and having considered all the facts, VCAT found the farmer had suffered her injuries as a result of a transport accident and she succeeded in her claim for compensation.*

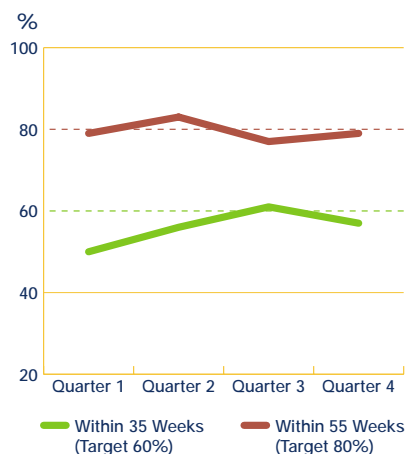
### Case Flow 2003–04



### Applications by Type 2003–04



### Timeliness: Age of Cases Resolved Compared with 60% and 80% Targets—2003–04



### Timeliness—Below Targets

In the General List, we resolved 46% of transport accident cases within 35 weeks of application and 72% within 55 weeks. This result compares with 56% of cases resolved within 35 weeks and 87% within 55 weeks in 2002–03. The high number of transport accident cases resolved in 2003–04 included many older cases, leading to a decrease in timeliness as measured in this Annual Report. We resolved 75% of FOI cases within 20 weeks and 91% within 36 weeks. This result compares with 67% within 20 weeks and 90% within 36 weeks in 2002–03.

In the Taxation List, we resolved 40% of cases within eight weeks of application and 67% within 13 weeks. In 2002–03, we resolved 22% of cases within eight weeks and 83% within 13 weeks.

### Our Achievements

We achieved a number of initiatives during the financial year, including:

- issuing revised Practice Notes for TAC and FOI applications, together with updated Notes for withdrawals and the filing and serving of documents;
- considerably reducing the number of directions hearings in TAC matters, since parties more frequently applied for standard orders by consent, resulting in a far more efficient use of our resources and costs savings for parties;
- enabling List members to provide parties with copies of orders in directions hearings, representing enormous savings in List resources; and
- working closely with other members of VCAT and the Judicial College of Victoria in preparing a program of induction for new members and an induction manual.

### User Group Activities

During 2003–04, two user group meetings were conducted, one for transport accident matters and one for all other General and Taxation List matters. The user groups comprised representatives from the Victorian Bar, Office of the Victorian Government Solicitor, Transport Accident Commission, Privacy Commissioner, Commissioner for State Revenue, Department of Human Services and Mental Health Review Board, and solicitor firms practising in relevant areas. The aim of both meetings was to discuss New Practice Directions and procedures to assist parties.

*From left, Deputy President Anne Coghlan hands List Clerk Louise Del Papa a printed copy of a computer generated order for handing to the parties. The system plays a valuable role in enabling List members to provide parties with copies of orders in directions hearings, representing enormous savings in List resources.*



## List Snapshot

### Purpose

In the Human Rights Division of VCAT, the Guardianship List makes orders that protect adults aged 18 years or more who have a disability that impairs their capacity to make decisions about themselves, their circumstances, or financial and legal affairs. The List hears and determines applications to:

- appoint guardians to make decisions about health care, accommodation and other matters;
- appoint administrators to manage financial and legal affairs;
- revoke, suspend, vary or declare invalid enduring powers of attorney; and
- consent to *special procedures* including sterilisation, termination of pregnancy, donation of non-regenerative tissue, and procedures carried out for the purposes of medical research.

We oversee decisions made and actions taken by guardians and administrators, including giving or withholding approval for their proposed actions.

### Objectives

- Resolve cases, on average, within 26 days of application.

### Key Results

- Resolved most cases within 30 days of application (29 days in 2002–03).

### Future

- Aim to reduce waiting times.
- Where permitted by legislation, conduct reassessments *on the papers*.
- Achieve greater efficiencies by using the Order Entry System and exchanging orders, reports and other materials with major List users electronically.

### Statistical Profile

- Originating applications received: 2,906
- Re-assessments initiated: 6,990
- Cases resolved: 9,607
- Cases pending: 1,016
- Fee for Administration Orders: \$0–\$100 per year
- Number of members: 73

### Deputy President Profile

John Billings, BA, LLB (Melb), LLM (Lond), was appointed Deputy President of the Guardianship List in September 2000. Previously, Mr Billings was Deputy President of the Residential Tenancies List. He was admitted to practice in 1980 and worked as a solicitor at Phillips Fox until 1985 when he began postgraduate study in Law at University College London. After lecturing in Law in London for two years, he returned to Melbourne in 1989 and joined the Victorian Bar. As a barrister, Mr Billings practised in civil litigation and administrative law. In 1993, he was appointed to the Refugee Review Tribunal. In March 1997, he was appointed Chairman of the former Residential Tenancies Tribunal and Senior Referee of the former Small Claims Tribunal.

## Case Profile—Meeting Increased Demand

The number of originating applications received totalled 2,906, compared with 2,580 in 2002–03, representing a 13% increase. Reassessments initiated increased by 14% from 6,137 in 2002–03 to 6,990 in 2003–04. Cases resolved increased by 10% from 8,762 in 2002–03 to 9,607 in 2003–04. Cases pending increased by 40% from 727 on 30 June 2003 to 1,016 on 30 June 2004. The significant rise in cases pending was due to a surge in cyclical reviews occurring at the end of the financial year.

### Application Types

The types of cases handled included:

- 15% guardianship orders (14% in 2002–03);
- 7.5% guardianship reassessments (7% in 2002–03);
- 23.5% administration orders (24% in 2002–03);
- 46% administration reassessments (48% in 2002–03);
- 1% advice to administrators (1% in 2002–03);
- 2% revocation of enduring powers of attorney (2% in 2002–03); and
- 5% other (4% in 2002–03).

### How We Dealt with Cases

Based on the number of sitting days at a venue, we held 46% of hearings in Melbourne (37.1% in 2002–03), 24% in suburban Melbourne (41.2% in 2002–03) and 30% at country venues throughout Victoria (21.7% in 2002–03). Where possible, we held hearings at hospitals, nursing homes or community health centres as close as possible to the person's residence. Whenever necessary, we responded immediately to urgent or out-of-hours applications by conducting telephone hearings.

Generally, we reassessed guardianship orders within one year and administration orders within three years but conducted early reassessments, if required. In the meantime, we generally oversaw decisions made and actions taken by guardians and administrators. In the case of administrators, we considered examiners' reports on accounts lodged by administrators and took action where necessary. Taking into consideration the represented person's best interests, we provided advice to guardians and administrators, approving or disapproving actions proposed by them.

### Timeliness

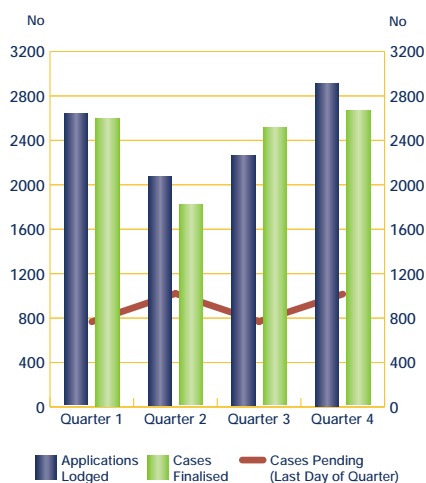
The List performed in a timely manner, resolving most cases within 30 days of application (29 days in 2002–03). We dealt with applications for non-routine (early) reassessment within 30 days of application.

### Case Study: Daughter Seeks Order Declaring Mother's Enduring Power of Attorney Invalid

The daughter of a woman in her 70s who suffered Parkinson's Disease applied under the newly amended *Instruments Act 1958* for an order revoking an enduring power of attorney (EPA) by which her mother appointed other family members. She also sought an order declaring the EPA invalid on the grounds that her mother lacked legal capacity when she made the EPA and that she was induced to make it by undue influence.

The applicant was unable to provide a copy of the EPA or any medical evidence in support of the application. She did not allege entrenched family conflict or serious, if any, financial abuse but was concerned that the attorneys would not consult her. VCAT therefore required the parties to attend a compulsory conference. The mother attended with her lawyer and said how she wanted her affairs to be managed. The possible outcomes under the legislation were discussed. The parties then had private discussions before asking VCAT for guidance about a new EPA, to be made after obtaining an up-to-date assessment of the mother's capacity and independent legal advice, which reflected the mother's wishes but also addressed all family members' concerns.

### Case Flow 2003-04

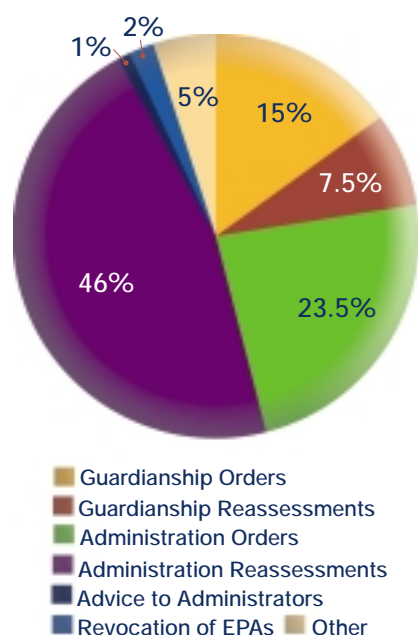


### Amendments to Legislation

The List successfully implemented the amendments to the *Instruments Act 1958*, which came into operation on 1 April 2004. The amendments have, among other things, significantly expanded the range of orders that VCAT can make in relation to enduring powers of attorney. We revised application forms and other forms, the guide for applications and information on the VCAT web site, and substantially modified the Order Entry System. We held members' conferences and staff training sessions in March 2004, and participated in community education concerning the new legislation before and after its implementation, including contributing information to the Banking and Financial Services Ombudsman March 2004 Special Bulletin. We further developed case management strategies regarding cases involving applications for revocation of enduring powers of attorney or for declarations of invalidity.

In addition, we played a role in developing proposed amendments to legislation, in particular, Part 4A of the *Guardianship and Administration Act 1958* concerning consent to procedures carried out for the purposes of medical research.

### Applications by Type 2003-04



### Accounting Refinements

We reviewed the basis on which administrators account for their management of the financial and legal affairs of represented persons. We developed and implemented a new ABA (Account by Administrator) form to replace previous forms. The ABA is designed to simplify accounting by administrators and make examining accounts more effective.

### New Volume Produced

In conjunction with legal publisher Anstat Pty Ltd, we produced a *Guardianship and Administration* volume to accompany the *VCAT Laws and Procedure* master volume. The volume includes commentary on the *Guardianship and Administration Act 1986*, the new Part XIA of the *Instruments Act 1958*, and the *Medical Treatment Act 1988*, placing emphasis on the practical operation of the legislation and List procedures.

### User Group Activities

The List's user group, comprising representatives of the Office the Public Advocate, professional administrators, and legal aid and advice organisations, met on one occasion during 2003-04. The meeting provided a forum for exchanging information and suggestions about services provided by the List. We invited key user group members to participate in the members' conferences in March.

From left, Deputy President John Billings discusses modifications to the Order Entry System with Testing and System Support Officer Glenda Vazquez and Senior Analyst Programmer Jenny Diep. Information technology played a key role in successfully implementing the changes required as a result of amendments to the *Instruments Act*.



# Land Valuation List

## List Snapshot

### Purpose

A List in the Administrative Division of VCAT, the Land Valuation List covers areas of jurisdiction that arise from 15 different statutes (refer to page 60).

### Objectives

- Keep the average waiting time from application to resolution to a minimum.
- Maximise use of alternative dispute resolution techniques to achieve early settlement of cases.
- Improve list management procedures.

### Key Results

- Resolved 21% of cases within 18 weeks of application (17% in 2002–03) and 77% within 53 weeks (74% in 2002–03).
- Settled more than 90% of cases prior to hearing.
- Introduced an initial change to procedures to achieve a proactive approach to managing cases in the List.

### Future

- Resolve cases as quickly as possible.
- Continue to achieve early settlement by maximising the use of compulsory conferences.
- Consider a practice note for the List and review procedures and correspondence with a view to improvement.

### Statistical Profile

- Applications received: 98
- Cases resolved: 119
- Cases pending: 66
- Application fee: \$129
- Number of members: 25

### Deputy President Profile

Helen Gibson, LLB (Hons), was appointed Deputy President of the Land Valuation List in April 2004. She is also Deputy President of the Planning and Environment List. Additionally, the former Deputy President of the Planning and Environment List Mr Richard Horsfall, who has been re-appointed as a Senior Sessional Member, has played a key role in managing the Land Valuation List. He was previously a senior commercial solicitor and a Commissioner of the Liquor Control Commission.

## Case Profile—Meeting Demand

The number of applications received totalled 98 in 2003–04, compared with 124 in 2002–03, representing a decrease of 21%. Cases finalised decreased by 36%, totalling 119 cases, compared with 187 in 2002–03. Cases pending fell by 24%, totalling 66 cases, compared with 87 at the end of 2002–03.

The majority of the List's work arose from objections to municipal valuations of land for rating purposes. Following the 2002 municipal revaluations, about 40 applications were made under the *Valuation of Land Act 1960* contesting site values for Melbourne CBD and St Kilda Road properties. These cases have been delayed following a recent Supreme Court decision in *Melbourne Ports v. City of Melbourne*. To expedite these applications and avoid duplication, since the advocates for the parties and the issues were the same, we will trial special case management procedures, including listing them for a series of 'group' compulsory conferences. At the time of writing, the initial conference substantially clarified the issues.

### Application Types

In 2003–04, 99% of applications lodged involved the review of land valuations made for rating and taxation purposes, and 1% other applications such as farm rate classification and compulsory acquisition claims (100% of applications involved reviews of land valuations in 2002–03).

### How We Dealt with Cases

Most cases brought to the List were settled rather than contested. To encourage early settlement without the need for a full hearing, we scheduled a directions hearing soon after lodging to make initial case management orders. For most cases, the directions hearing was followed by a compulsory conference, which offered the parties a form of alternative dispute resolution. However, we listed the smaller cases directly for hearing in the vast majority of cases. If the compulsory conference failed to result in settlement, we promptly scheduled the case for a hearing.

### Timeliness

In 2003–04, 21% of cases were resolved within 18 weeks of application and 77% within 40 weeks. This result compares with 17% of cases being resolved within 18 weeks of application and 74% within 40 weeks in 2002–03. Although we stayed below our targets in terms of List timeliness during the financial year, these targets must be considered on the basis that most cases in the List are settled without a full hearing. However, it is not uncommon for a large case proceeding to a full hearing to take more than a year to be determined. Although these cases would affect our timeliness results, such lengthy proceedings are reasonable considering the complexities and natures of the issues involved.

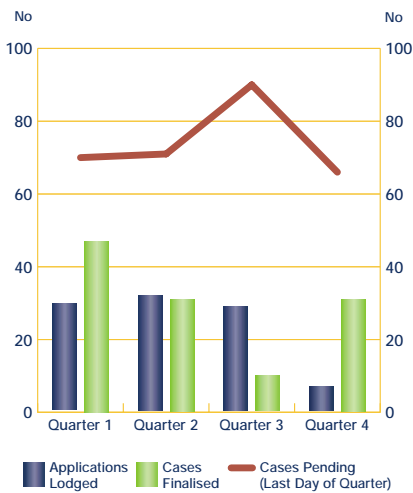
### Case Study: Owner of Small Property Used for Horse Breeding Wants Benefit of Farm Rate Classification

The owner of a small 13-hectare property, that included a residence, was used for horse breeding. The owner applied to VCAT stating he was entitled to the benefit of a farm rate classification. This typical farm rate case went to hearing. At the hearing, the issue of whether the land was used for a business that had a significant commercial purpose or character under the definition of 'farmland' in Section 3 of the *Valuation of Land Act 1960* was raised.

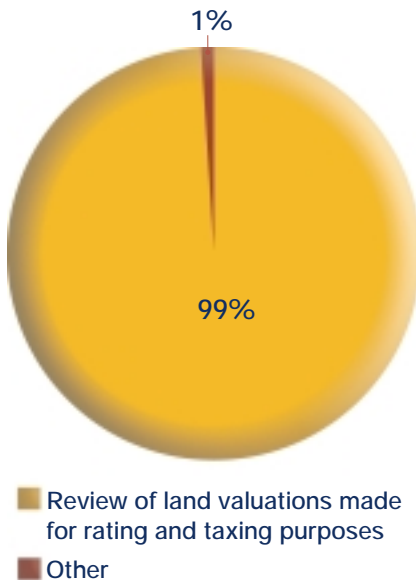
While it was acknowledged that the owner made a small profit of approximately \$3,000 per annum, turnover was low, there was only a small number of stock on the land, the owner had not kept books of account and the business was not conducted in a commercial manner.

VCAT found that the business did not meet the test under the legislation and should be rated as residential land.

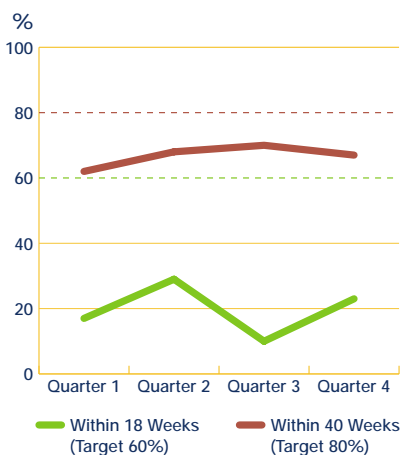
### Case Flow 2003-04



### Applications by Type 2003-04



### Timeliness: Age of Cases Resolved Compared with 60% and 80% Targets—2003-04



### Changes to Procedures

To achieve a proactive approach to managing cases in the List, we introduced an initial change to procedures. We listed all applications for a directions hearing as soon as possible after lodging. At these hearings, we made initial orders for case management and referred the case to a compulsory conference or a hearing.

### New Deputy President

Deputy President Helen Gibson took over the management of the List in April 2004, replacing Deputy President John Baker-Smith, whose term of office expired in December 2003. In the interim, former Deputy President of the Planning and Environment List Mr Richard Horsfall, who was re-appointed as a Senior Sessional Member during the financial year, played a key role in managing the List. He was previously a senior commercial solicitor and a commissioner of the Liquor Control Commission.

### Changes in Membership

Full-time members of the Planning and Environment List Russell Byard, Tonia Komesaroff, Phillip Martin and Jeanette Rickards were also allocated as members of the Land Valuation List. Experienced valuers appointed or re-appointed as sessional members of the List during the financial year included Gavan Bourke, Vicki Brown, Graeme Cleary, Brian Dudakov, Christopher Lee, Ian Robinson and Peter Zala.

### Compulsory Conferences

List members continued to conduct an intensive program of compulsory conferences to manage the List's workload. The compulsory conference is a robust form of mediation that focuses on identifying the key issues and finding an agreed outcome. In this way, parties may achieve significant savings in time and costs, since we avoid lengthy hearings.

Of the 119 cases resolved, more than 90% were settled either by compulsory conference or direct negotiation, with only a small number proceeding to a final hearing. Most cases were listed for directions hearings when it was discussed whether a compulsory conference would be useful. Usually, only smaller cases proceeded directly to a hearing without a compulsory conference. A typical compulsory conference for these cases took less than half a day. If the matter did not settle, the List member would give immediate directions regarding further conduct of the matter.

From left, registry staff Mark O'Reilly and Jenny Phillips meet with Senior Member of the List Richard Horsfall. Changes to procedures have enabled a more proactive approach to managing cases in the List by listing all applications for a directions hearing as soon as possible after lodging.



# Occupational and Business Regulation List

## List Snapshot

### Purpose

A List in the Administrative Division of VCAT, the Occupational and Business Regulation List conducts reviews of decisions made by occupational and licensing bodies, including the Director of Liquor Licensing, Medical Practitioners Board, Business Licensing Authority, Institute of Teaching, Firearms Appeals Committee and Registrar of Private Agents. The List also has original disciplinary jurisdiction under a number of statutes, including the *Liquor Control Reform Act 1998* and *Estate Agents Act 1980*. The List hears cases involving both original and review jurisdiction. Original jurisdiction involves the conduct of disciplinary proceedings relating to a number of occupational groups. Review jurisdiction involves reviews of licensing decisions of the Business Licensing Authority, as well as decisions made by various registration boards concerning professional registrations.

### Objectives

- Hear and determine 60% of cases within 20 weeks of application and 80% within 30 weeks.

### Key Results

- Resolved 66% of cases within 20 weeks of application and 83% of cases within 30 weeks.

### Future

- Resolve 60% of cases within 18 weeks of application and 80% within 25 weeks.
- We anticipate an increased number of applications for review of decisions of the Victorian Institute of Teaching in 2004–05.

### Statistical Profile

- Applications received: 144
- Cases resolved: 141
- Cases pending: 75
- Review application fee: \$257
- Number of members: 46

### Deputy President Profile

Sandra Davis, BA (Hons), M Sc (Econ), MA, LLB (Hons) was appointed Deputy President of the Occupational and Business Regulation List of VCAT in September 2000 and Deputy President of the Anti-Discrimination List in February 2004. From May 1999 to September 2000, Ms Davis was Deputy President of the Guardianship List. In May 1998, she was appointed Deputy President of the then Administrative Appeals Tribunal. Prior to 1998, she practised administrative law, human rights and equal opportunity law, and industrial and commercial law at the Victorian Bar. In addition to Occupational and Business Regulation List and Anti-Discrimination List cases, Ms Davis regularly sits in the General List and Guardianship List.

## Case Profile—Meeting Demand

The number of applications received increased by 5% in 2003–04, totalling 144 compared with 137 in 2002–03. Cases finalised increased by 33%, totalling 141, compared with 106 in 2002–03. The number of cases pending totalled 75, compared with 72 at the end of 2002–03.

### Application Types

The types of applications comprised:

- 31% liquor licensing (32% in 2002–03);
- 18% real estate agents (20% in 2002–03);
- 1% Victorian Taxi Directorate (10% in 2002–03);
- 7% doctors (6% in 2002–03);
- 3% prostitution service providers (4% in 2002–03);
- 10% private agents (4% in 2002–03);
- 1% racing (2% in 2002–03); and
- 29% other (23% in 2002–03).

Most cases involved applications to review licensing decisions and disciplinary proceedings relating to a range of occupations and professions. For example, we reviewed decisions made by the Medical Practitioners Board and the Psychologists Registration Board that refused to register or renew the registration of doctors and psychologists, or made determinations against them as a result of findings of unprofessional conduct. In addition, we reviewed decisions made by the Taxi Directorate involving its refusal to issue metropolitan hire car licences, decisions of the Director of Liquor Licensing granting or refusing to grant liquor licences, and decisions of the Business Licensing Authority refusing to issue or renew licences to motor car traders and prostitution service providers. We also heard inquiries into the conduct of licensees under the *Liquor Control Reform Act 1998*, and the conduct of estate agents under the *Estate Agents Act 1980*.

### How We Dealt with Cases

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

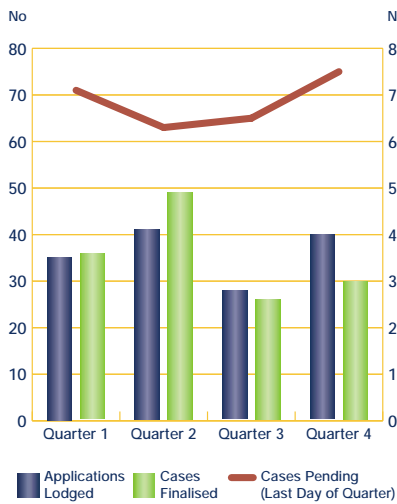
#### *Case Study: Probationary Psychologist Applies to VCAT for a Review of a Decision by the Psychologist's Registration Board*

*A probationary psychologist applied to VCAT for review of a decision by the Psychologists Registration Board refusing her application for general registration as a psychologist. The applicant had considerable experience as a psychiatric nurse and was in the process of completing a doctoral thesis in psychology. The Psychologists Registration Board required the applicant to undertake a further 80 days supervised work in the practice of psychology and to do so under the supervision of a clinical psychologist. The applicant believed she was qualified for general registration as a psychologist and should not have to undertake any further practical work.*

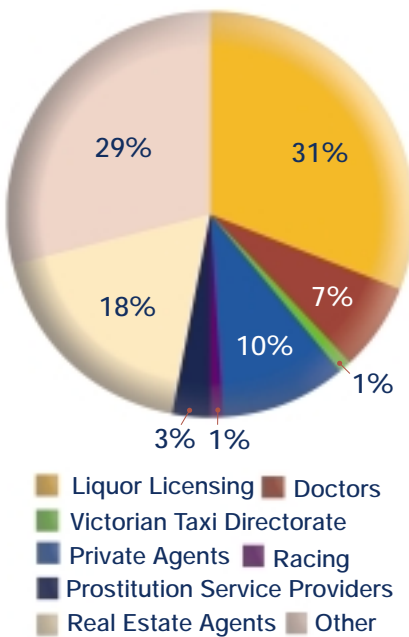
*VCAT heard the matter over three days, during which evidence was given by a number of experts, including academic and clinical psychologists, about the applicant's qualifications and workplace experience in the practice of psychology. VCAT gave oral reasons for the decision after the conclusion of the hearing in which it indicated it accepted the evidence presented on behalf of the applicant that she was qualified for general registration and ought not to be required to perform further psychology specific work before being registered. VCAT set aside the decision under review and substituted it with a decision granting the applicant general registration as a psychologist.*



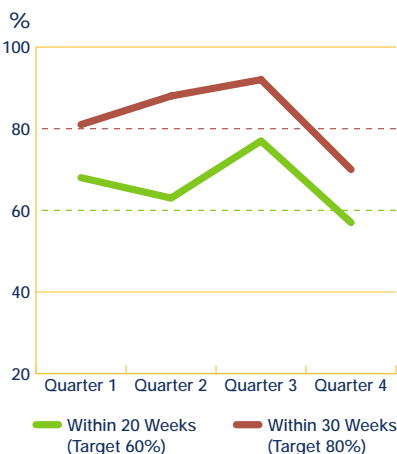
### Case Flow 2003-04



### Applications by Type 2003-04



### Timeliness: Age of Cases Resolved Compared with 60% and 80% Targets—2003-04



### Timeliness—Exceeding Targets

In 2003-04, we resolved 66% of cases within 20 weeks of application and 83% of cases within 30 weeks. This result compares with 2002-03, when we resolved 65% of cases within 20 weeks of application and 77% of cases within 30 weeks. Although the List continued to perform in a timely manner, some cases required more time for the parties to exchange and file relevant documents, which influenced the overall timeliness results. As a result, timeliness deteriorated in quarter four, but we expect to quickly improve our performance early in the next financial year.

### New Jurisdiction

The List recently heard its first application for review under the *Victorian Institute of Teaching Act 2001*. We anticipate receiving an increased number of such applications in the next financial year. We held a meeting with the Chairperson of the Institute of Teaching to discuss administrative issues and invited a representative of the Institute of Teaching to join the List's Users Group.

The *Gambling Regulation Act 2003*, proclaimed on 1 July 2004, confers limited jurisdiction on VCAT to review a number of decisions, including the cancellation of gaming permits, the refusal to grant a bingo centre operator's licence, and decisions to increase the number of gaming machines in particular venues. We anticipate the new jurisdiction will have only a small impact on the caseload of the List. We will invite the various stakeholders to join the List's User Group.

### User Group Activities

The List's user group met on 27 May 2004. Barristers and representatives of a number of the stakeholders involved in the jurisdictions of the List attended the meeting, including the Director of Liquor Licensing, the Department of Consumer Affairs, Racing Victoria and the Victorian Government Solicitor's Office. The Chairperson and an officer of the Victorian Institute of Teaching attended for the first time.

Matters discussed at the meeting included:

- access of non-parties to files in the original and review jurisdiction of the List;
- digital recording of hearings; and
- composition of the tribunal in relation to hearings in the review jurisdiction.

Deputy President Sandra Davis (seated) meets with Listings Officer Scott Vaughan (left) and Listings Coordinator George Adgemis to discuss the listing of cases for hearing. Sandra holds monthly meetings to keep track of the complex task of managing hearing dates efficiently to ensure timely case outcomes.



# Planning and Environment List

## List Snapshot

### Purpose

A List in the Administrative Division of VCAT, the Planning and Environment List:

- reviews the decisions of councils and other responsible authorities on applications made to them; and
- exercises powers conferred directly on it by the enabling legislation. Applications are made directly to VCAT, rather than to responsible authorities, for amending and cancelling permits, injunctions and declarations on matters such as the validity of permits or existing land use rights, and enforcement orders for breaches of planning schemes and permits.

There are 15 enabling acts in the List's jurisdiction (refer to page 61).

### Objectives

- Resolve 60% of cases within 20 weeks of application and 80% within 28 weeks.
- Conduct a review to improve timeliness, throughput of applications and effectiveness of mediation.
- Maintain in-house development program and participation in PLANET program.

### Key Results

- Resolved 61% of cases within 20 weeks of application and 82% within 28 weeks.
- Introduced Operation Jaguar to achieve more timely case outcomes.
- Achieved a 68% mediation success rate.

### Future

- Resolve 60% of cases within 18 weeks of application and 80% within 26 weeks.
- Maintain in-house development program and participation in PLANET program.
- Further increase use of mediation.
- Review and improve practices and procedures and public information mediums.

### Statistical Profile

- Applications received: 3,702
- Cases resolved: 3,828
- Cases pending: 1,394
- Application fee: \$31–\$1,030
- Number of members: 43

### Deputy President Profile

Helen Gibson, LLB (Hons), was appointed Deputy President in April 2004. She is also Deputy President of the Land Valuation List. Previously, Ms Gibson was Chief Panel Member with Planning Panels Victoria for eight years. She chaired many major panels and policy reviews. She was a member of the former Planning Appeals Board, Administrative Appeals Tribunal and Land Valuation Board of Review. She was a solicitor in private practice, a councillor of the former Shire of Gisborne for seven years and a member of the local water trust and sewerage authorities.

## Case Profile—Meeting Increased Demand

The number of applications received in 2003–04 totalled 3,702, compared with 3,271 in 2002–03, representing an increase of 13%. Cases finalised totalled 3,828, compared with 3,448 in 2002–03, representing an increase of 11%. Cases pending fell by 8%, totalling 1,394, compared with 1,520 at the end of 2002–03.

### Application Types

The types of applications lodged comprised:

- 22% by objectors to council decisions to grant planning permits (23% in 2002–03);
- 32% by permit applicants about council decisions to refuse permits (36% in 2002–03);
- 15% by permit applicants about council decisions to impose conditions on a planning permit application (13% in 2002–03);
- 17% by permit applicants about failure of councils to decide about a planning permit application (15% in 2002–03);
- 4% enforcement orders (4% in 2002–03); and
- 10% other (9% in 2002–03).

During 2003–04, cases covered a variety of concerns involving:

- a water pipeline for a mineral sands treatment plant;
- amenity and visual impact of small suburban unit proposals;
- large developments comprising several hundred units;
- landfills, quarries and extractive industries;
- broiler farm disputes involving odour and separation distances; and
- tram stops.

### How We Dealt with Cases

Most cases dealt with in the List proceeded to a hearing without preliminary directions hearings. Directions hearings were held at the request of parties or were ordered by VCAT due to the complexity of the matter or the number of parties involved, or to resolve procedural and technical problems and preliminary points, such as joining additional parties, adjournments or urgent hearings. Preliminary hearings assisted in resolving issues, such as whether an application to the List or granting a permit is prohibited by law or the planning scheme. These matters were dealt with mostly at the practice day conducted each Friday.

During 2003–04, we increased the use of mediation to resolve planning disputes. We referred 786 applications to mediation (690 in 2002–03), representing about 21% of all applications. The success rate for mediations during that period was 68% (63% in 2002–03). We aim to continue to actively use mediation in the next financial year with available resources.

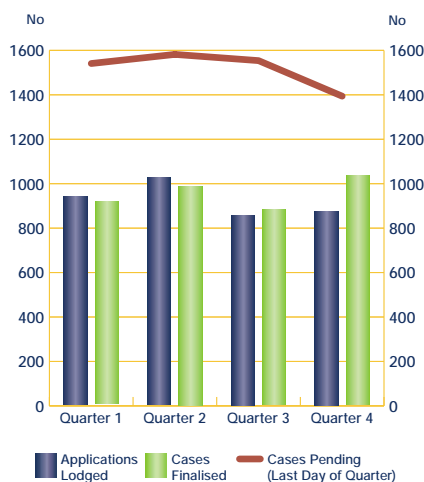
### Case Study: VCAT Upholds Council's Grounds in Refusing an Application for a Permit to Construct a Dog Boarding Kennels for 150 Dogs

An application was made for a permit to construct dog boarding kennels with breeding and training for 250 dogs on a 4,256 hectare property. The number of dogs was amended at the time of hearing to 150. The property was located in a rural zone and, although no overlays applied, the property was in an irrigation district. An irrigation channel ran through the middle of the property and a drain ran along the western and southern boundary. Surrounding land was used for dairy farming and horse breeding. Objectors' concerns related to noise, the affect on animals, amenity and polluted runoff into the irrigation channel.

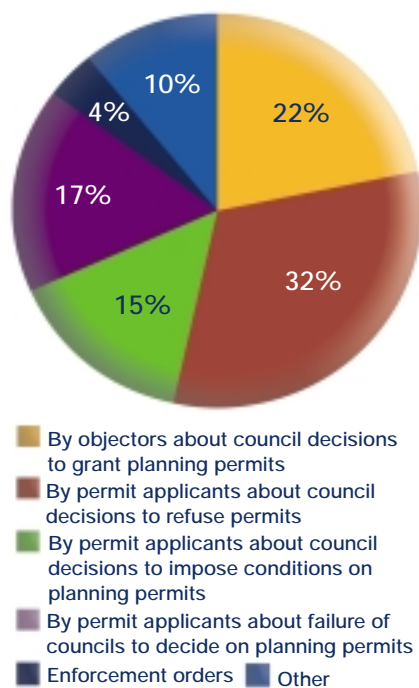
VCAT upheld the Council's grounds in refusing the application stating that it failed to meet the objectives of the State and Local Policy Framework in the planning scheme. While it was considered that the use of land for dog breeding, boarding and training in a rural zone was an enterprise that could be considered appropriate, the size, intensity and location of the particular proposal and its relationship to nearby residences and rural activities was considered inappropriate and likely to have a detrimental impact, particularly on water quality and from noise and odour.

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

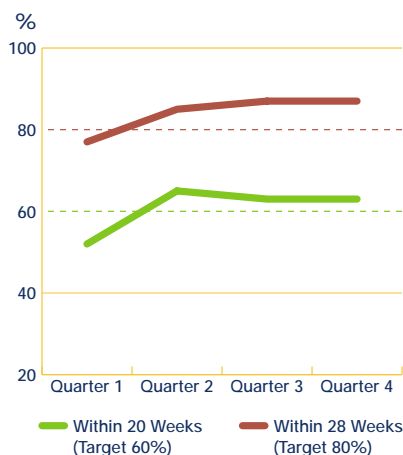
## Case Flow 2003-04



## Applications by Type 2003-04



## Timeliness: Age of Cases Resolved Compared with 60% and 80% Targets—2003-04



## Timeliness—Meeting Targets

In 2003-04, our timeliness improved substantially and we expect this trend to continue. We resolved 61% of cases within 20 weeks of application and 82% of applications within 28 weeks. This result compares with 41% of cases being resolved within 20 weeks of application and 72% within 28 weeks in 2002-03.

Operation Jaguar proved instrumental in achieving these results. Operation Jaguar comprised a series of measures designed to streamline the various processes involved with the List's decision making from lodgement of an application for review to the decision. (Refer to Operation Jaguar on page 34 for more information.)

## New Deputy President

Helen Gibson was appointed Deputy President of the Planning and Environment List in April 2004. Helen brings to the List a wealth of planning and legal experience in a wide cross-section of planning and environment related fields. In her previous role as Chief Panel Member with Planning Panels Victoria at the Department of Sustainability and Environment, Ms Gibson played a leading role in introducing new format planning schemes throughout Victoria, and managed the conduct of panels for planning scheme amendments, environment effects inquiries and Ministerial advisory committees. She chaired many major panels and policy reviews such as the Victoria Planning Provisions (VPP) Advisory Committee, the *Good Design Guide* and *VicCode 1 Review*, Craigieburn Bypass Advisory Committee, Waverley Park redevelopment and Commonwealth Games Village Advisory Committee. Most recently she has been a member of the Metropolitan Strategy Reference Group, the Development Contributions Steering Committee and the Victorian Stormwater Advisory Committee.

## Change in Membership

Richard Horsfall retired as Deputy President of the List in April 2004 and was appointed as a senior sessional member. Since he became head of the List in 1999, Mr Horsfall has guided the List with great resolve through a critical and formative period. He made a major contribution to the development of the Practice Notes that govern the administration of the List.

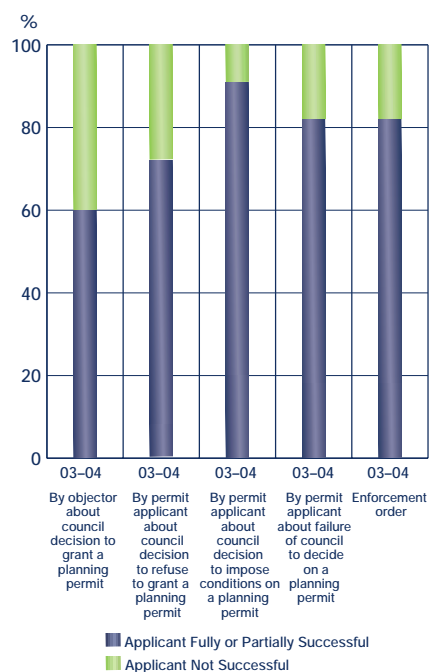
Philip Martin joined the List as a full-time legal member in February 2004. Mr Martin is also a fully qualified planner. Since 1994, he has worked as the Planning and Environment Partner at the national firm of Gadens Lawyers (formerly Purves Clarke Richards). His practice included numerous VCAT planning appeals, many large due diligence projects involving major property developments and acquisitions, local government and compulsory acquisition matters, contamination issues, subdivisions and leasing work. From 1990 to 1994, he was involved in planning and property work at several law firms in Melbourne and Adelaide.

*Deputy President Helen Gibson conducts a practice day as part of Operation Jaguar. A major initiative aimed at achieving more timely case outcomes, Operation Jaguar was instrumental in successfully eliminating the delays in the Planning and Environment List, resulting in a better service without additional resources and within allocated budgets.*



# Planning and Environment List

## Outcome Analysis of Applications to VCAT Finalised in 2003–04



Outcomes are shown only for the major application types and for those applications received in 2003–04 that have been resolved.

## Operation Jaguar

In October 2003, we introduced Operation Jaguar, a major initiative aimed at achieving more timely outcomes within the List. Operation Jaguar comprised a series of measures to streamline the various processes involved with the List's decision making from lodgement of an application for review to the decision. Some of the specific measures included:

- *Practice days*—Held regularly each Friday, practice days are generally conducted by the President or Deputy President and enable matters that can and should be heard and determined quickly to be accommodated without prejudice to the general operation of the List. A Practice Note was prepared setting out the procedures for bringing on a matter at the practice day, including a key provision that, other than for extremely urgent matters, an application to have a matter considered on a Friday practice day can be made eight days before the proposed hearing.
- *Prompt hearing procedure*—A procedure that enables a final hearing of certain categories of appeal, which the List can and should hear promptly, to be disposed of at the practice day. A prompt hearing procedure may be used in applications for reviewing matters, such as a requirement by a responsible authority to give notice or for more information. If the matter cannot be dealt with promptly (within an hour) the practice day is used as a directions hearing and the List will fix a time for a more detailed hearing of the matter.
- *Enforcement orders*—All applications for enforcement orders are listed for a practice day hearing immediately following the expiry of the 14-day period in which a respondent may object to granting an order. While this will not necessarily be the final hearing, it enables the List to assess the urgency of the matter, whether any interim relief is appropriate and to give directions.
- *Reforms to processes involving applications for review of permit decisions*—The List adopted a number of changes to administrative processes in certain cases to speed up the process, reduce delays and obtain information in a timely way.

Since its introduction, Operation Jaguar has been responsible for a reduction in the average time taken between lodgement and decision. One of its most visible outcomes has been the success of practice days—it was not unusual for the List to deal with 15 to 20 cases in a single practice day. This not only expedited the decision making process but also freed List members for other tasks. Other improvements that flowed from Operation Jaguar included the increased number of oral decisions delivered by members. This meant that parties knew the outcome of their case immediately following the hearing or within several days. Where considered written reasons were required, members concentrated on writing shorter decisions, which also improved the timeliness of decision making.

## Plan Substitution

A survey of planning cases, which was conducted between October and December 2003 as part of Operation Jaguar, revealed that the practice of substituting plans at the appeal stage is working satisfactorily. Of the 379 cases surveyed, an application to amend plans was made in 93 cases. In 89 of the 93 cases, the application was unopposed by all other parties. In the remaining four cases, the application was granted on three occasions. However, the circumstances that existed in these cases made the application to amend non-contentious.

## Community Awareness

To raise community awareness of the List's activities, List members participated in industry seminars and working groups and worked with members of industry professional associations.

List members continued to participate in the Department of Sustainability and Environment's PLANET program. The program offers professional development for council

## Top 21 Councils—2002–04

Council	Number of Applications	
	2003–04	2002–03
Boroondara	246	177
Yarra	224	216
Mornington Peninsula	207	160
Port Phillip	203	215
Stonnington	194	189
Monash	138	99
Glen Eira	123	134
Darebin	114	84
Bayside	113	162
Hobsons Bay	112	97
Moreland	103	110
Banyule	102	101
Greater Geelong	98	59
Whitehorse	94	64
Melbourne	88	93
Moonee Valley	85	89
Kingston	84	64
Casey	81	62
Yarra Ranges	71	81
Frankston	67	35
Knox	67	60

## Top 20 Suburbs—2002–04

Suburb	Number of Applications	
	2003–04	2002–03
Richmond	78	58
Hawthorn	64	37
Kew	44	39
Brighton	42	59
Toorak	38	36
Williamstown	37	43
Northcote	35	24
Fitzroy North	34	16
South Yarra	34	46
St Kilda	34	43
Brunswick	31	28
Camberwell	31	22
Port Melbourne	31	33
South Melbourne	31	27
Mount Waverley	30	19
Prahran	30	34
Reservoir	30	18
Elwood	29	51
Malvern East	29	19
Albert Park	28	18

planners, in particular, and assists in strengthening the List's public profile. Members presented sessions on subjects such as *Introduction to VCAT*, *Understanding Neighbourhood Character*, *Preparing Enforcement Order Applications* and *Cross Examination Skills*.

As part of Planning Week, List members conducted an open day on 20 November 2003 and participated in a mediation information day for the public. (Refer to page 42 for more information.)

The President addressed many professional, civic and local government organisations about the work of VCAT, especially the Planning List. In May Justice Morris undertook a two-day visit to Bendigo, one of a series of planned visits throughout regional Victoria, where he presided over local planning hearings, and met with councils and members of the legal profession.

### User Group Activities

Participants in the List's user group represent a wide range of municipal, industry and professional groups. The user group met on one occasion during 2003–04, providing List members the opportunity to advise users of developments within the List and obtain constructive feedback on issues such as amendment of plans, notices about hearings and adjournments, and the operation of practice days.

### Training and Development

We continued an in-house professional development program for List members. The program included presentations by outside professionals and promoted discussion on topics such as bushfire prevention and mitigation, neighbourhood character, middle suburban development, heritage issues, native vegetation protection, environmental management plans, conducting hearings and issues of natural justice.

Members attended a variety of industry and external conferences and seminars, including the Australian Institute of Judicial Administration Tribunals' Conference, the Australian Conference of Planning and Environmental Courts and Tribunals, the Planning Institute of Australia Conference and the Urban Development Institute of Australia Conference.

With the assistance of VCAT, four List members continued their participation in the Monash University Diploma in Law course *Decision Making for Tribunal Members*, which included online segments. A total of 19 List members have attended a Bond University advanced mediation seminar.

### Outcome Analysis

Information relating to applications made to the List in 2003–04 are shown opposite. The two tables show the total number of applications received relating to the top 21 councils and top 20 suburbs where the planning site in question was located, out of a total of 75 councils and 696 suburbs appearing in VCAT's records.

The graph on page 34 describes the outcome of applications to the Planning and Environment List. The 'plain English' classifications identify whether individuals making the applications were successful or were not successful. Applications that were withdrawn are not shown.

Outcomes are shown only for the major application types and for those applications received in 2003–04 that have been resolved. While VCAT does not record the reasons why applications were withdrawn, they may have been withdrawn for many reasons, including if a compromise was reached before VCAT heard the application.

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

# Real Property List and Retail Tenancies List

## List Snapshot

### Purpose

The Real Property List and the Retail Tenancies List are part of the Civil Division.

The Real Property List hears claims under Part 1 of the *Water Act 1989* with respect to damages and disputes relating to unreasonable flows of water. The List resolves claims for acquisition of easements under Section 36 of the *Subdivision Act 1998*, as well as matters referred by the Office of Fair Trading relating to estate agents' commissions in accordance with the *Estate Agents Act 1980*.

In the Retail Tenancies List, the *Retail Leases Act 2003* gives the List exclusive jurisdiction to hear and determine disputes between landlords and tenants of retail premises as defined. The List's jurisdiction extends to disputes between former landlords and tenants and disputes arising under former leases. The List has the same jurisdiction as the Supreme Court has to grant relief against forfeiture to a tenant of retail premises. The *Fair Trading Act 1999* also gives the List general jurisdiction over a wide class of commercial disputes including landlord and tenant disputes.

### Objectives

- Reduce waiting times from application to resolution for real property cases.
- Maintain acceptable waiting times for most retail tenancies cases.

### Key Results

- Resolved 64% of real property cases within 25 weeks of application and 73% within 35 weeks.
- Resolved 56% of retail tenancies cases within 12 weeks of application and 72% within 18 weeks.

### Future

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

### Statistical Profile

#### Real Property List:

- Applications received: 43
- Cases resolved: 44
- Cases pending: 21
- Application fee \$250–\$515
- Number of members: 19

#### Retail Tenancies List:

- Applications received: 161
- Cases resolved: 157
- Cases pending: 62
- Application fee \$250–\$515
- Number of members: 16

### Deputy President Profile

Michael Macnamara, BA (Hons), LLB (Hons), was appointed Deputy President of the Real Property List and Retail Tenancies List of VCAT on 1 July 1998. Previously, Mr Macnamara was appointed Deputy President of the Administrative Appeals Tribunal in 1994 and, on two occasions, Acting Chairman of the Credit Tribunal until those tribunals were abolished on 30 June 1998. He was admitted to practice as a barrister and solicitor of the Supreme Court of Victoria in 1977. Mr Macnamara was a member of the Victorian Bar from 1978 to 1979 and a partner in the firm Corrs Chambers Westgarth and its predecessors from 1981 to 1994. During that time, he specialised in banking and finance, litigation and property law.

## Case Profile—Meeting Demand

The Real Property List received 43 applications in 2003–04, compared with 35 in 2002–03, representing a 23% increase. Cases resolved increased by 26%, totalling 44 in 2003–04, compared with 35 in 2002–03. Cases pending totalled 21 on 30 June 2004, compared with 22 at the end of 2002–03.

Applications in the Retail Tenancies List fell by 27%, totalling 161 applications, compared with 222 in 2002–03. Cases resolved fell by 31%, totalling 157, compared with 227 in 2002–03. Cases pending rose by 7%, totalling 62, compared with 58 on 30 June 2003. On 1 July 2003, the Victorian Government introduced a Small Business Commissioner to assist with resolving retail tenancies disputes, resulting in decreased demand in the Retail Tenancies List.

### Application Types

During 2003–04, the majority of applications received in the Real Property List involved jurisdiction under Part 1 of the *Water Act 1989* and certain provisions of the *Water Industry Act 1994*. Water Act proceedings primarily related to urban or suburban flooding involving burst water mains, sewerage back-ups and blocked gutters. Other applications involved acquiring easements to facilitate subdivisions under the *Subdivision Act 1998* and disputes with planning authorities.

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

### How We Dealt with Cases

In resolving real property cases, we undertook the full set of interlocutory steps. Then, the parties exchanged their expert reports and attended a compulsory conference held by an engineering member. If the case remained unresolved, a legal and an engineering member conducted a hearing. We referred claims for modest sums under the Water Act directly to mediation, thereby resolving such matters quickly and cost-effectively.

### Case Study: Long-Term Tenants Favour CPI and Resist Market Review

Two companies controlled by members of the same family were the tenants and operators of a community supermarket. The building was let to earlier tenants for a five-year term. The lease provided options to renew the lease for five further terms, each of five years. Over the years, there were various changes to the leasing arrangements, including further options to renew with the result that if the tenants exercised all the options they would be entitled to remain in possession until April 2022.

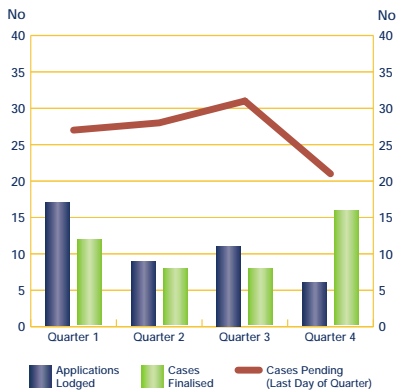
The lease provided for an annual rental review to 'the current market rent' but no provision was made should the parties disagree with the rent review. Elsewhere in the lease, a provision was made for reviewing the rent annually by reference to the Consumer Price Index (CPI). Until 2002, the rent was adjusted according to CPI. However, in 2002, the landlord demanded a far higher rent based upon what it considered market rental.

The landlord contended that, on its true construction, the lease required market reviews rather than indexation reviews, that the reference to the CPI was too uncertain to be given effect to and that there be a review to market by a valuer nominated by the Institute of Valuers and Land Economists. Finally, the landlord contended that since the indexed rental was tens of thousands of dollars below the annual market rental the tenants were guilty of unconscionable conduct in resisting the landlord's request for a review to market.

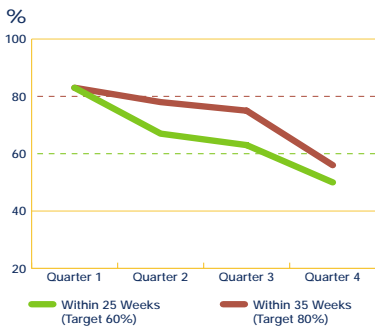
VCAT held that the reference to CPI in the lease would be given effect at the expense of the incomplete provisions to be found in the body of the lease relative to market reviews and that the tenants were not to be regarded as having acted unconscionably in resisting an application for a market review.

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

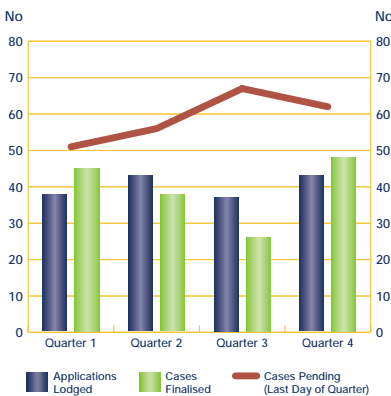
## Real Property Case Flow 2003–04



## Real Property Timeliness: Age of Cases Resolved Compared with 60% and 80% Targets—2003–04



## Retail Tenancies Case Flow 2003–04



## Retail Tenancies Timeliness: Age of Cases Resolved Compared with 60% and 80% Targets—2003–04



Most retail tenancy matters had already been subject to the ADR processes of the Small Business Commissioner. Therefore, we did not order mediation as a matter of course. Occasionally, we provided for mediation in circumstances where the parties indicated their desire for a second mediation to take place. Proceedings, which sought injunctive relief, came directly to the List without previous processing by the Small Business Commissioner. Where urgent injunctive relief was sought, the application for a temporary injunction was heard immediately, often on the same day as the proceeding was filed.

## Timeliness—Real Property: Below Targets; Retail Tenancies: Meeting Targets

In the Real Property List, we resolved 64% of cases within 25 weeks of application and 73% within 35 weeks. This result compares with 66% of cases being resolved within 25 weeks of application and 79% of cases within 35 weeks in 2002–03. The caseload of the Real Property List is very small and a small number of lengthy cases can greatly effect the result.

In the Retail Tenancies List, we resolved 56% of cases within 12 weeks of application and 72% of applications within 18 weeks in 2002–03. This result compares with 66% of cases within 12 weeks of application and 87% of applications within 18 weeks in 2002–03.

## Changes to Procedures

In close liaison with the Small Business Commissioner, the List achieved a smooth introduction of the *Retail Leases Act 2003*. As part of this process, we reviewed the role of alternative dispute resolution (ADR) in the Retail Tenancies List in light of the ADR program administered by the Small Business Commissioner. As a result, we introduced changes to our procedures that allowed for a second mediation to take place only if requested by the parties.

## User Group Activities

The Retail Tenancies user group met on one occasion during 2003–04 to discuss the progress in the implementation of the Retail Leases Act and other issues raised by users.

No user group exists for the Real Property List since the workload of the List is quite small.

*From left, Small Business Commissioner Mark Brennan meets with Deputy President Michael Macnamara. In close liaison with Mr Brennan, the List achieved a smooth introduction of the Retail Leases Act.*



# Residential Tenancies List

## List Snapshot

### Purpose

A List in the Civil Division of VCAT, 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.

### Objectives

- Resolve cases, on average, within 26 days of application.
- Increase the number of applications made via VCAT Online to 70%.
- Produce at least 65% of all orders via the computerised Order Entry System (OES) and expand OES to users in suburban and country venues.

### Key Results

- A total of 46,194 applications were lodged using VCAT Online, representing 72% of applications.
- The average waiting time from application to resolution for all cases was 20 days (23 days in 2002–03).
- Approximately 45,604 (68% of all orders) made in the List (66,611 orders) were processed via OES, compared with 57% in 2002–03.

### Future

- Further improve and promote VCAT Online.
- Produce at least 70% of orders via OES.

### Statistical Profile

- Applications received: 64,213
- Cases resolved: 65,050
- Cases pending: 3,644
- Application fee: \$31
- Typical number of cases resolved per day, per member: 20
- Number of members: 68
- Number of venues visited: 32

### Deputy President Profile

Michael Levine, LLB, Churchill fellow, was appointed Deputy President of the Residential Tenancies List on 1 September 2000. Previously, Mr Levine was appointed Deputy President of the Civil Claims List on 1 July 1998. He was re-appointed as Deputy President of that List concurrent with the Residential Tenancies List in February 2003. For the last 29 years, he has held positions as inaugural senior referee of the Small Claims Tribunal, inaugural chairman of the Residential Tenancies Tribunal and inaugural chairman of the Credit Tribunal. He worked as a solicitor in private practice, specialising in company liquidation and bankruptcy from 1968 to 1975. Mr Levine sits on other Lists in VCAT.

## Case Profile—Meeting Demand

The total number of applications received decreased by 3% in 2003–04, totalling 64,213, compared with 66,216 in 2002–03. Cases finalised fell by 4%, totalling 65,050, compared with 68,103 in 2002–03. Cases pending totalled 3,644 on 30 June 2004, compared with 4,481 on 30 June 2003, representing a decrease of 19%. The decline in applications received may be attributed to increased vacancy rates in the rental property market.

### Application Types

The types of applications lodged comprised:

- 68% landlords represented by estate agents or property managers (65% in 2002–03);
- 20% the Director of Housing (23% in 2002–03);
- 6% private landlords (6% in 2002–03);
- 5% tenants or residents (5% in 2002–03); and
- 1% other parties (1% in 2002–03).

Of all applications received:

- 51.5% related to possession orders (59% in 2002–03);
- 27% payment of bond (23% in 2002–03);
- 9.5% compensation or compliance orders alleging breach of duty (8% in 2002–03); and
- 12% other (10% in 2002–03).

### How We Dealt with Cases

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

### Timeliness

The average waiting time from application to resolution decreased from 23 days in 2002–03 to 20 days in 2003–04. The improvement in timeliness was largely due to the increased use of VCAT Online.

### Order Entry System

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

#### Case Study: Both Landlord and Tenant Apply to VCAT at the End of Tenancy

*At the end of a three-year tenancy, both landlord and tenant had applications before VCAT. The landlord applied to retain the bond of \$1,000 for compensation to replace stained carpet in the main bedroom and to repair and repaint two damaged walls in the living room.*

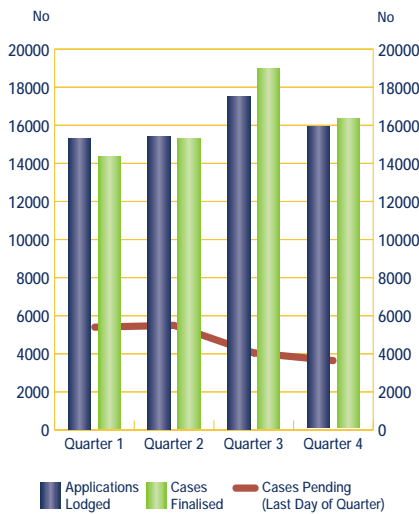
*The tenant had installed security screens and a pay TV dish and improved the garden area, all with the consent of the managing agent. These improvements had not been removed when the tenancy terminated. The tenant applied to have the cost of the improvements offset against the landlord's bond claims.*

*VCAT pointed out that under the RT Act, fixtures or renovations must be removed and made good by a tenant at the end of the tenancy. However, the landlord had re-let the premises and, if the improvements were removed, the new tenants could require the landlord to replace them.*

*The landlord and tenant reached an agreement in relation to the value of the improvements. That amount was subtracted from the compensation ordered to the landlord.*



### Case Flow 2003-04

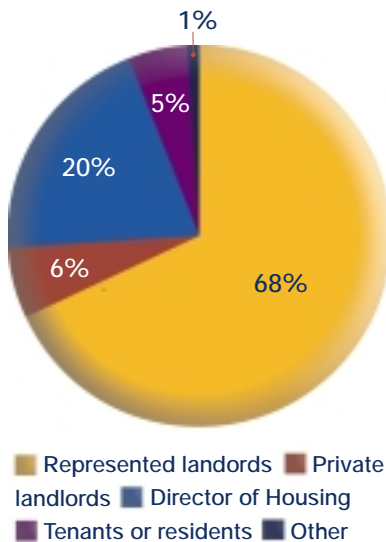


During 2003-04, OES use increased by 21% with 45,604 orders (68% of all orders) made in the Residential Tenancies List (66,611 orders) being produced by List members using OES, exceeding our target of 65%. This result compares with 2002-03 when 57% (38,842) of all orders made in the Residential Tenancies List (69,541 orders) were produced by VCAT members using OES. We further expanded OES to the Mildura Magistrates' Court.

### VCAT Online

VCAT Online enables the List's registered users to complete application forms, and generate and print notices of dispute under the RT Act via the Internet, followed by immediate confirmation of lodgment and, in most cases, a hearing date. In 2003-04, 70,887 notices were created (50,535 in 2002-03) and 46,194 applications were lodged (41,137 in 2002-03) via VCAT Online. A total of 860 users were registered with VCAT Online as at 30 June 2004, compared with 731 users as at 30 June 2003. Refer to page 43 for more information about VCAT Online.

### Applications by Type 2003-04



### New Initiatives

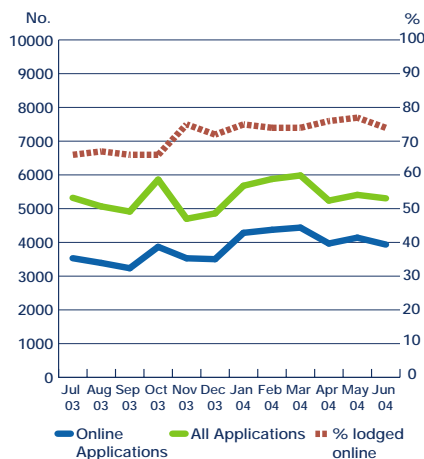
We introduced several new initiatives during the financial year, including:

- reviewing and updating information available on the web site about the List;
- enabling users to check the progress of their claims using VCAT Online;
- a PDF orders online system that enables users to view their orders online as they are made without having to wait for their orders to arrive via post; and
- placing the orders of possession default procedure online, thereby removing the need for a hearing for those cases.

### User Group Activities

The List's user group comprised representatives the Office of Housing, Real Estate Institute of Victoria, Tenants Union of Victoria and Rooming House Issues Group. The user group met on four occasions during 2003-04 (four in 2002-03) and provided a forum for discussing issues of concern to List users. The meetings assisted us in advising changes to VCAT Online, including the way we notify users of scheduled hearings and the introduction of online PDF orders.

### VCAT Online Use 2003-04— Residential Tenancies List



VCAT Online Use shows the number of applications and notices generated via VCAT Online since July 2003. We received a total of 46,194 applications via VCAT Online, representing 72% of all applications and exceeding our target of 70%.

Deputy President Michael Levine (seated) meets with sessional members (from left) Susan Borg, June Good and Hugh Davies to review the List's roster of sessional members. Despite handling the vast majority of VCAT's cases, the List operates smoothly and efficiently thanks to the invaluable assistance of the List's sessional members that make up the majority of the List's membership.



# Serving our Community



# User Services and Community Relationships

## Central Listings

The staff of Central Listings manage and control the listing process. This important function enables hearing rooms, VCAT members and cases to be allocated throughout Victoria most efficiently.

## Hearing Locations

During 2003–04, VCAT members conducted hearings at 55 King Street, Melbourne, and at 103 suburban and rural locations throughout Victoria (108 in 2002–03). Refer to the inside back cover of this Annual Report for a map of Victoria showing hearing locations.

Wherever possible, VCAT members heard cases at locations convenient to the user. Such venues included hospitals, private nursing homes and special accommodation homes.

## Magistrates as Sessional Members

We use a select group of magistrates to sit as sessional members. This effectively increases our presence in rural Victoria and maximises our ability to hear urgent applications. During 2003–04, magistrate sessional members included two Deputy Chief Magistrates in Melbourne and magistrates located in Horsham, Shepparton, Bendigo, Sale and Geelong.

## Hearings Conducted by Video and Telephone

VCAT users may attend hearings conducted by video or telephone if they are unable to attend established hearing locations. In addition to providing added convenience for users, such hearings help to manage members' time more efficiently, especially when hearing urgent matters originating in rural areas. For a small fee, we can arrange video links to locations around Australia and overseas.

During 2003–04, VCAT members conducted approximately 60 video conferences (73 in 2002–03), including links throughout Australia. Members conducted telephone conferences on a regular basis at VCAT, averaging six to eight hearings by telephone each week.

## Access for the Hearing Impaired

We offer hearing loop access in four hearing rooms at 55 King Street for hearing impaired users attending VCAT hearings.

## Ground Floor Service

The ground floor service staff at 55 King Street provide general advice to users about VCAT operations and hearing procedures. In addition, they assist users in filling out application forms and arriving for hearings, as well as helping users of the Residential Tenancies List in requesting that warrants of possession be issued.

During 2003–04, waiting times for the high volume task of preparing warrants continued to be minimal, taking an average of 15 minutes to process. Staff prepared between 25 and 30 warrants per day and used a facsimile service that benefited users with timely processing of warrants directly to real estate agents, landlords and police stations.

## Fifth Floor Service

Staff members of the fifth floor service at 55 King Street welcome parties arriving for hearings. They comprise one judges' tipstave and one administrative coordinator. They assist the public and VCAT members with as many as 100 hearings each day recording the arrival of parties for hearings and directing them to hearing rooms.

## Victoria Legal Aid Duty Lawyer

The Victoria Legal Aid duty lawyer resides on the ground floor of 55 King Street. The duty lawyer assists unrepresented parties with confidential, on-the-spot legal advice, free of charge. In addition, the duty lawyer provides a valuable legal resource for VCAT staff in their day-to-day dealings with users, particularly with regard to complex matters. During 2003–04, the duty lawyer mainly benefited users of the Residential Tenancies List, Civil Claims List and Guardianship List.

*Bronwyn Corr greets a VCAT user at the fifth floor reception desk. Staff members of the fifth floor service assist VCAT members, welcome parties arriving for hearings and direct them to hearing rooms.*



### User Groups

User groups play a vital role in our ongoing improvement process, offering a forum where representatives of VCAT users may discuss important issues. Members of most Lists conduct regular user group meetings, usually on a quarterly basis. The user groups make up a broad spectrum of representatives from community and industry groups, and the legal profession. User group meetings give representatives the opportunity to provide valuable feedback with the aim of improving the services that VCAT offers. This Annual Report features user group activities in each individual List report, starting on page 16.

### Information Sessions

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

The following information details some of our major activities. For lists of some of the major speeches and information sessions conducted, please refer to pages 9, 50 and 67 of this Annual Report.

### Visitors to VCAT

Legal groups, international groups, and tertiary and high school students visit VCAT frequently to observe how we operate. We accommodate such visits with an introductory seminar and access to our hearings. In 2003–04, VCAT hosted approximately 40 visits (38 in 2002–03).

### Planning Week

The Planning and Environment List held an open day on 20 November 2003 during Planning Week to raise awareness about the work of the List. The sessions attracted approximately 50 people (30 in 2002–03) and covered such topics as the role of the List within VCAT, the nature of merits review, how to lodge an application for review, and how hearings and media-tions are conducted.

### Sessions Conducted by VCAT Members and Staff

During 2003–04, VCAT staff conducted approximately 40 presentations to the community, including professional groups, schools and service clubs. Deputy presidents and senior members of the Guardianship List, Credit List, Residential Tenancies List, and Planning and Environment List conducted List-specific sessions. Some examples of information sessions included presentations to representatives of:

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

### Sessions Conducted by the President

President of VCAT Justice Morris presented a number of formal speeches and informal speeches and presentations during 2003–04, including:

- *Reforms to the Planning and Environment List at VCAT*, at a seminar conducted by the Victorian Planning and Environmental Law Association in Melbourne on 13 August 2003; and
- *The Experience of the Victorian Civil and Administrative Tribunal in Administering the Victorian Medical Treatment Act*, at the 28th International Congress on Law and Mental Health in Sydney on 3 October 2003.

For a list of formal speeches conducted, please refer to page 9 of this Annual Report and page 67 for a list of informal presentations and speeches.

*President Justice Stuart Morris conducts a site inspection for a planning matter he heard in Bendigo on 19–20 May 2004. Justice Morris conducted a tour of regional Victoria designed to highlight the importance of courts and tribunals sitting in regional areas throughout the State. Speaking during his Bendigo visit, Justice Morris said the feedback gathered during his tour would play a key role in the development of future VCAT policies for the region.*



# Information Technology

## IT Snapshot

### Objectives

- Launch the PDF Project in the Residential Tenancies List and Guardianship List.
- Expand digital recording to all hearing rooms at 55 King Street.
- Expand a trial to use email to deliver notices of hearings and VCAT orders to our users, thereby achieving savings and improved service delivery.
- Upgrade the remaining outmoded computers used by the majority of VCAT members.

### Key Results

- Expanded the scope of VCAT Online to allow users to view and print orders made on their applications 24 hours after completion of the order.
- Expanded digital recording to all hearing rooms at 55 King Street.
- Expanded the provision of VCAT orders to parties in the Planning and Environment List via email.
- Launched a new version of the VCAT web site.
- Upgraded all computers used by VCAT members.
- Laid the groundwork to electronically archive orders of the Residential Tenancies List and Guardianship List with the Public Records Office.

### Future

- Expand the types of applications that can be made via VCAT Online.
- Rewrite and further expand VCAT Online.
- Continue developing TM to better support the Guardianship List.
- Begin electronic archiving of Residential Tenancies List and Guardianship List orders with the Public Records Office.
- Conduct an improvement program for Caseworks.
- Further upgrade computers used by VCAT members and staff and work with the Department of Justice to implement important software upgrades.

## Case Management

To manage VCAT's significant workload, we operate a computer case management system that comprises Caseworks and the Tribunal Management System (TM). Caseworks and TM are efficient, reliable systems and are critical to our operations.

VCAT members and staff use Caseworks and TM to:

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

### Caseworks

Although Caseworks is a mature, efficient system requiring little maintenance and development beyond finetuning, we intend to conduct improvements as the need arises.

### TM

In 2003–04, TM underwent substantial development. In doing so, we completed the following major projects:

- We introduced the PDF Documents Project to convert and store all critical documents into PDF format. This project included the conversion to PDF of all VCAT orders back to 1999 in both the Residential Tenancies List and Guardianship List. This project was a precursor to delivering orders via VCAT Online and also for a 2004–05 project aimed at electronically archiving orders of the Residential Tenancies List and Guardianship List with the Public Records Office.
- On 1 April 2004, we implemented a range of changes to the Order Entry System (OES) to cater for legislative requirements of the *Instruments Act 1958* relevant to

orders made within the Guardianship List, including changing the process used for:

- collecting financial information from administrators appointed by the Guardianship List; and
- collecting fees charged by the Guardianship List.

### VCAT Online

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

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

In approximately 50% of cases, users receive advice of a hearing date within seconds of lodging an application.

Now a mature mainstream Internet system, VCAT Online attracted an increasing number of users during 2003–04. Users lodged 46,194 applications online, representing 72% of all applications made to the Residential Tenancies List, compared with 62% in 2002–03.

Late in 2003–04, we enabled VCAT Online to deliver VCAT Orders, thereby reducing delivery times. In addition, we expect to achieve substantial savings in postage costs.

In 2004–05, we intend to:

- expand VCAT Online to allow the use of the Alternative Procedure for Possession (APP) via VCAT Online;
- improve the quality and legibility of the written information sent to tenants;
- allow applications to be more quickly decided, particularly in regional areas, thereby increasing VCAT's efficiency; and

- rewrite VCAT Online using up-to-date programming language. Developed four years ago, VCAT Online was constructed using the Department of Justice standard software available at the time. Over time, the software could become difficult to maintain.

### Order Entry System (OES)

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

During 2003–04, OES use in the Residential Tenancies List increased, with 45,604 orders (68% of all orders) being produced by VCAT members using OES (57% in 2002–03). In the Guardianship List, members produced 8,121 orders (65% of all orders) using OES (50% in 2002–03). VCAT staff produced the remaining orders generated by these Lists as directed by the members. Members access OES at Magistrates' Courts in Ballarat, Dandenong, Frankston, Geelong, Heidelberg, Ringwood and Sunshine. We further expanded OES to the Mildura Magistrates' Court.

### Computer Hardware Upgrade

We upgraded all computers used by VCAT members and fully implemented a program to replace all desktop computers every three years.

In addition, we gave the database servers used for TM a substantial upgrade, which more than doubled the storage capacity to cater for extra storage needed for the PDF Orders Project.

In 2004–05, we plan to upgrade all computers used by VCAT staff. In addition, we will upgrade the operating systems for all computers used by VCAT members and staff, in partnership with the Department of Justice.

### Telecommunications

During 2003–04, VCAT received approximately 209,000 telephone enquiries (210,000 in 2002–03). The Lists attracting the majority of calls were the:

- Residential Tenancies List (28%);
- Planning and Environment List (21%);
- Guardianship List (21%); and
- Civil Claims List (12%).

### VCAT Web Site Upgrade

In February 2004, we launched the new VCAT web site, providing users with improved access to VCAT services and information. Using a simple structure and layout, which conforms to global disabled access standards, including comprehensive searching, the web site continued to present VCAT with a high profile web presence.

### Digital Recording

The digital recording system records proceedings that take place inside VCAT's hearing rooms and stores those recordings onto a central computer hard drive. During 2003–04, the system was expanded to all 41 hearing rooms located at VCAT's Melbourne premises. The system helps to protect the interests of both users and members participating in hearings, with the added benefit of monitoring and improving standards of conduct by all participants during proceedings and to assist in the event of an appeal.

*From left, PDF Documents Project team members Gabby Cape (Loathier Pty Ltd), Jim Nelms, Phil Monk, Regina Komkha, Jenny Diep, Rob Martin (Loathier Pty Ltd) and Janet Street. The project was developed to enable all critical documents generated by TM to be converted and stored in PDF format.*



# Outlook for 2004–05

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

## Demand Forecast

Parliament decides the types of disputes we are to resolve. Assuming it does not confer new major jurisdictions on VCAT, we project approximately 86,000 matters will be initiated in 2004–05, rising to approximately 88,000 matters initiated in 2005–06 and 2006–07.

The rise in demand could principally be in the Guardianship List, where we project annual growth of 2%. In the Planning and Environment List, we project annual growth of 5%, compared with the trend experienced since 1997–98 of 6% per annum.

If our annual budget continues to reflect rising costs, including salary adjustments, we will have the capacity to finalise approximately 86,000 matters per annum in a timely manner. If demand does rise, we may need to seek additional funding. However, we will examine whether we can, to an extent, meet this challenge by further improving our efficiency. In addition, we may be able to transfer resources between Lists should demand shift, which is one of VCAT's strengths.

We are planning on the basis that, if needed, we will have the capacity to finalise 88,000 matters in 2006–07. Details regarding the performance of each individual List begin on page 13. As of 1 July 2004, VCAT's funding allocation for 2004–05 totalled \$23.42 million.

## New Jurisdictions

At VCAT, we have the flexibility to accept and integrate new jurisdictions at a relatively low cost to Government and VCAT users.

During the reporting year, the Attorney-General announced reforms to the regulation of the legal profession, which will involve transfer of some functions of the Legal Profession Tribunal to VCAT planned for 1 July 2005. We will work with stakeholders on this issue and expect the transfer to require additional funding.

In 2003–04, Consumer Affairs Victoria published *Future Directions Paper Bodies Corporate*. The paper describes calls for a dispute resolution process empowering body corporate members to resolve most issues without making application to a tribunal or court, which we support. It proposes a dispute resolution process with the final stage being an expert court or tribunal, which could resolve more complex technical and legal issues.

We advised the Minister for Consumer Affairs that VCAT would be well placed to take on the role of tribunal and provide expert services in an accessible, affordable, just and efficient manner.

For a list of VCAT jurisdictions, please refer to pages 60–61 of this Annual Report.

## VCAT Strategic Planning as a Part of the Victorian Justice System

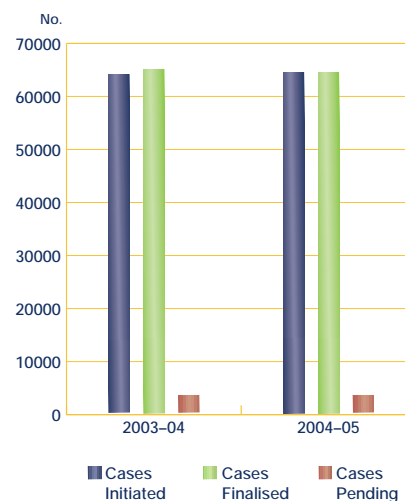
While VCAT is an independent body, it is also part of Victoria's justice system. As such, we seek to work cooperatively with other components of the system for the benefit of Victorians.

The Attorney-General developed the Justice Statement project to provide a framework for long-term strategic change in his portfolio. The project will provide a work program for the next five years and a general outlook for the next 10 years.

A complementary project controlled by the heads of jurisdictions was established to develop a Courts Strategic Directions (CSD) framework.

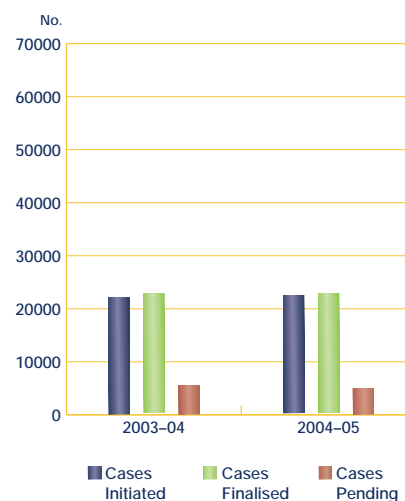
We will work with the courts and the Government to support the Justice Statement and the CSD.

## Residential Tenancies Cases—2003–04 to 2004–05



*Residential Tenancies Cases shows the expected caseload demand for only the Residential Tenancies List during the next financial year, compared with 2003–04.*

## Cases in All Other Lists—2003–04 to 2004–05



*Cases in All Other Lists shows the expected caseload demand for cases in other Lists, excluding Residential Tenancies List cases, during the next financial year, compared with 2003–04.*

# Organisational Profile





# Governance Policies

The following information describes key details about VCAT's governance policies.

## Appointment of Members

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

## Judicial Members

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

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

## Non-Judicial Members

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

All deputy presidents are full-time appointments. Senior members and members may be appointed as full-time or sessional members.

## Directing VCAT

The President and Vice-Presidents of VCAT are:

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

In carrying out these functions, the

Vice-Presidents are subject to the direction of the President. The President is responsible for advising the Minister about any action that the President considers would lead to the:

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

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

## Rules Committee Members

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

Members of the Rules Committee are:

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

## Functions

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

- developing rules of practice and procedure and Practice Notes for VCAT;

- regulating the availability and procedure for inspecting and obtaining copies of the register of proceedings and proceeding files;
- directing the training of VCAT members in relation to those rules of practice and procedure and Practice Notes;
- establishing the divisions of VCAT; and
- any other functions conferred on it by the President of VCAT.

## Quorum and Meeting Procedure

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

## Ethical Standards

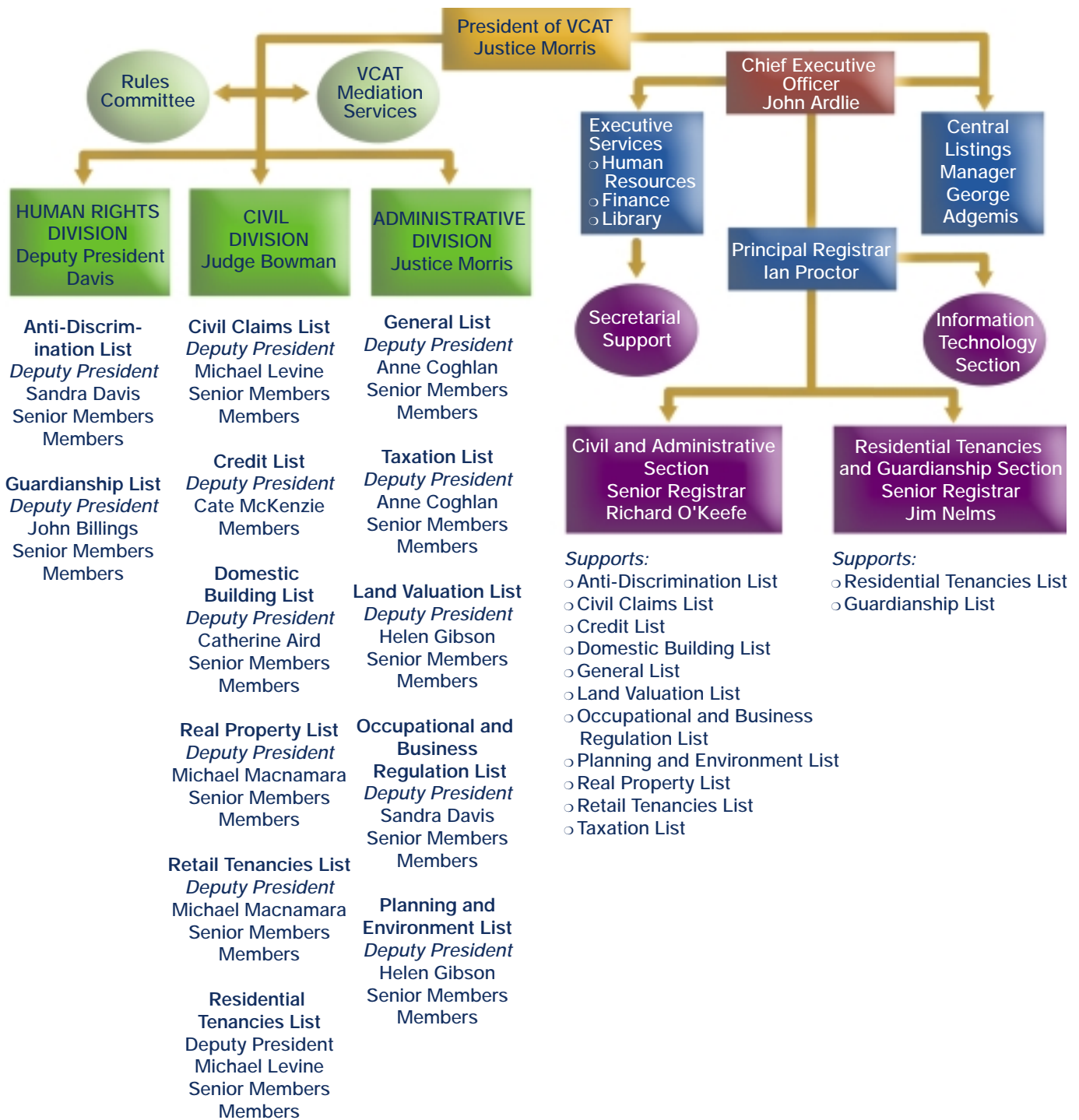
The Presidential members have taken steps to increase the knowledge and understanding of members and staff as to their ethical responsibilities. The VCAT Mediation Code of Conduct provides a guide for mediators and a way of informing parties of their rights at mediation. The Mediation Code of Conduct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

## Rules Committee Meetings

Member	Held	Attended
Justice Morris	8	8
Judge Davey*	8	2
Judge Strong*	8	3
Judge Bowman	8	7
Judge Higgins*	8	0
Judge Duggan*	8	0
Sandra Davis	8	7
Margaret Baird	8	7
Louise Jenkins	8	3
Prof Sallmann	8	6

\*Judge Davey, Judge Higgins, Judge Strong and Judge Duggan are full-time Judges of the County Court who remain as Vice-Presidents of VCAT and are able to be called upon to sit if required.

# Organisational Structure as at 30 June 2004



# Rules Committee Report

## Membership

The Rules Committee comprises VCAT's judicial members, a full-time member who is not a legal practitioner, a current legal practitioner and two persons nominated by the Attorney-General.

Refer to page 47 of this Annual Report for meeting attendance during 2003–04.

## Activities

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

During 2003–04, the committee met on eight occasions. The committee approved major amendments to the Planning and Environment List practice notes under Operation Jaguar. In addition, the committee substantially revised the practice notes of the General List and modified the Victorian Civil and Administrative Tribunal Rules 1998 to give VCAT greater flexibility in assigning members and proceedings between Lists.

New jurisdictions were assigned to appropriate lists. The review of procedures relating to accessibility of VCAT files is ongoing.

## The Future

The Rules Committee will continue to amend the rules of VCAT and produce consistent and easily understood practice notes and explanatory guides.

During 2004–05, the main focus of the committee will be on monitoring the substantial amendments made during 2003–04. In addition, the committee will finalise the review of procedures relating to access to VCAT files.

*Rules Committee Members—(Seated, from left) Vice-President Judge Bowman and President Justice Stuart Morris. (Standing, from left) Secretary Jonathan Leckie, Louise Jenkins, Professor Sallmann, Sandra Davis and Margaret Baird.*



# Registry Management

The VCAT Registry comprises a team of about 130 people who work with members and other staff to effectively serve the demands of VCAT's users. The majority work at 55 King Street, Melbourne; some work at Magistrates' Courts when VCAT members hold hearings.

The Registry is made up of a:

- Residential Tenancies and Guardianship Section, supporting the high volume Residential Tenancies List and the Guardianship List;
- Civil and Administrative Section, supporting the 11 other smaller volume Lists; and
- Listing Directorate that is responsible for allocating members and managing hearing venues.

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

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

The Registry played an important part in many of the achievements described in this Annual Report. More specifically, we:

- implemented the Victorian Government's new *Performance Management and Progression System*, enabling staff to plan their career, work role, level of performance and how they can improve and increase their remuneration;
- increased staff resources to enable us to reduce the waiting time for telephone enquiries; and

- set performance benchmarks to assist in monitoring our performance. For example, where possible, we operate on the principle that work reaching an area in the morning should be completed that same day.

## Registry Management

Registry management comprised the following senior managers as at 30 June 2004:

### John Ardlie

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

### Ian Proctor

BA, LLB (ANU). Appointed Principal Registrar in November 1998. Previously a solicitor and administrator for the Federal Government, community legal centres, the former Legal Aid Commission of Victoria and the Victorian Government. Project Manager of the VCAT Project responsible for coordinating the work that established 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.

### 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

## Presentations made by Senior Registry Staff in 2003–04

### Ian Proctor

- *Introduction to VCAT* to the Williamstown Rotary Club on 4 August 2003.
- *VCAT's Role in BACV* at the Building Advice and Conciliation Victoria Briefing on 10 October 2003.
- *VCAT's Anti-Discrimination List* to the Victorian Employers Chamber of Commerce and Industry Equal Opportunity Forum on 20 November 2004.
- *Introduction to VCAT* at the Victoria Legal Aid Duty Lawyer Seminar on 28 November 2003.
- *Dry Cleaning Disputes at VCAT* to the Dry Cleaning Institute of Australia on 31 March 2004.
- *Introduction to VCAT* at the Leo Cussen Institute Seminar on 2 April 2004.

### Jim Nelms

- *Summary Orders—more for less or a natural justice nightmare?* at the 5th Australasian Residential Tenancies Conference, Christchurch, New Zealand on 16 October 2003.

### David Provan

- *Introduction to the Residential Tenancies (Amendment) Act 2002* to the Real Estate Institute of Victoria (REIV) on 3 July 2003.
- *VCAT Online* to the Outer Eastern Property Managers Group on 14 August 2003.
- *Introduction to VCAT* at Swinburne University on 10 November 2003.
- *Presenting a Case at the Residential Tenancies List of VCAT* to the REIV Property Management Conference 2004 on 3 May 2004.

Magistrates' Courts over the past 25 years. Appointed to the Registry of the Administrative Appeals Tribunal in 1996.

### George Adgemis

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



*Registry senior management, from left, Listings Coordinator George Adgemis, Senior Registrar Richard O'Keefe, Principal Registrar Ian Proctor, Senior Registrar Jim Nelms and Chief Executive Officer John Ardlie.*



*Registry managers, from left, Sue Lalji, Tony Jacobs, Justin McHenry, Tracey Watson and David Provan.*

# Committee Profile

## Heads of Lists Committee

The Heads of Lists Committee facilitates the coordination of the tribunal. As at 30 June 2004, committee members comprised the President of VCAT Justice Morris, Vice-President Judge Bowman and the Deputy President of each List.

The Heads of Lists Committee met to discuss key issues regarding the day-to-day work of List members, such as caseload, finance, training and changes in legislation impacting on VCAT.

## Professional Development Coordinating Committee

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

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

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

## Mediation Committee

The Mediation Committee makes recommendations to enhance mediation and undertakes the development of VCAT mediation and mediators. Committee members met on seven occasions during 2003–04 and included:

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

During 2003–04, committee members:

- obtained a pay rise for sessional and part-time mediators, in line with VCAT sessional members;
- published three editions of the Mediation Newsletter;
- hosted lunch-time presentations and evening seminars for VCAT mediators; and
- through Greg Lyons, contributed to the United Nations Forum on Online Dispute Resolution to be hosted at Melbourne University in July 2004.

In December 2003, inaugural Principal Mediator Dr Gregory Lyons retired and was replaced by Margaret Lothian, a member of the Domestic Building List of VCAT. Mediation committee members acknowledge their gratitude to Dr Lyons for his role as chair and inaugural Principal Mediator.

*From left, Judicial College of Victoria Program Manager Ali Fulscher takes new members Emma Bridge and Philip Martin on a tour of VCAT's hearing rooms. Ms Fulscher developed the first induction program prepared and delivered especially for new VCAT members in conjunction with the New Members and Seminars Committee.*



## Library Committee

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

The Library Committee comprised eight members who held two meetings during 2003–04. Major activities involved the expansion and renovation of the VCAT Library, the contribution to AustLII (Australian Legal Information Institute) and media activities as detailed below.

As the result of a decision that VCAT remain at 55 King Street for the next four years, a plan to expand and renovate the library area was approved. The main library will remain on the fourth floor and branch libraries will be placed in the common areas on the first and sixth floors containing selected essential resource materials.

In June 2004, work began to expand the fourth floor library to increase space for additional shelving and to provide workstations for sessional members and social interaction. The project will be completed in July 2004.

The VCAT Library has primary responsibility for publishing VCAT decisions to AustLII. During 2003–04, VCAT contributed \$10,000 to AustLII for goodwill and support and in the expectation of some favourable consideration of VCAT suggestions to AustLII. VCAT is ninth on the list of frequency of hits for all jurisdictions, exceeded in Victoria only by the Supreme Court.

During 2003–04, VCAT Librarian and Committee Chair Clare O'Dwyer took on the role of media liaison officer for VCAT. Her tasks have included organising media activities on behalf of President Justice Morris including:

- press conference, radio and print interviews;
- providing media guidelines to the press and on the VCAT web site;
- organising a regional tour to Bendigo with the assistance of Michael Soto who accompanied the judge;
- distributing VCAT media releases; and
- providing an ongoing contact point for all metropolitan and regional media.

## New Members and Seminars

Members of the New Members and Seminars Committee arrange and run seminars for VCAT members. The topics chosen for the seminars depend upon the preferences indicated by members in an annual survey conducted by the committee members. The survey also evaluates the success of the seminar program and the level of satisfaction by members with the format and content of the previous program.

The committee comprised three members who held one general policy and directions meeting during 2003–04. As a result of responses to the survey conducted early in 2003, the Committee hosted three seminars in 2003–04 covering the following topics:

- Natural Justice—Developments in the Tribunal Context
- Multi-Party Mediation
- Oral Decisions—Tips on Technique

All seminars were well received by the 40 members and mediators participating, who provided positive feedback.

In addition, the committee conducted one new member training session in conjunction with the Judicial College of Victoria. The committee will continue its partnership with the college in conducting training sessions in the future.

During the next financial year, committee members will continue to arrange seminars on topics chosen according to member preferences and update the manual for new members.

# Member Profile

The Judicial members of VCAT comprise the President and seven Vice-Presidents. Two of the Vice-Presidents are located at VCAT at all times. The non-judicial members comprise Deputy Presidents, Senior Members and Members. As at 30 June 2004, VCAT non-judicial membership totalled 38 full-time members (39 in 2002–03) and 115 sessional members (148 in 2002–03). VCAT members include legal practitioners and members of other professions, such as planners, engineers, architects, medical practitioners, land valuers and real estate agents who have specialised knowledge or expertise to assist VCAT in exercising its wide range of jurisdictions.

## Cross-Membership

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

## Member Remuneration

Members are entitled to receive remuneration and allowances that are fixed by the Governor in Council. Remuneration and allowances in 2003–04 totalled \$8.61 million, compared with \$8.53 million in 2002–03.

## Training and Development

VCAT members attended a wide range of training and development programs during 2003–04. We continued an in-house professional development program for List members. The program included presentations by outside professionals and promoted discussion on topics such as bushfire prevention and mitigation, neighbourhood

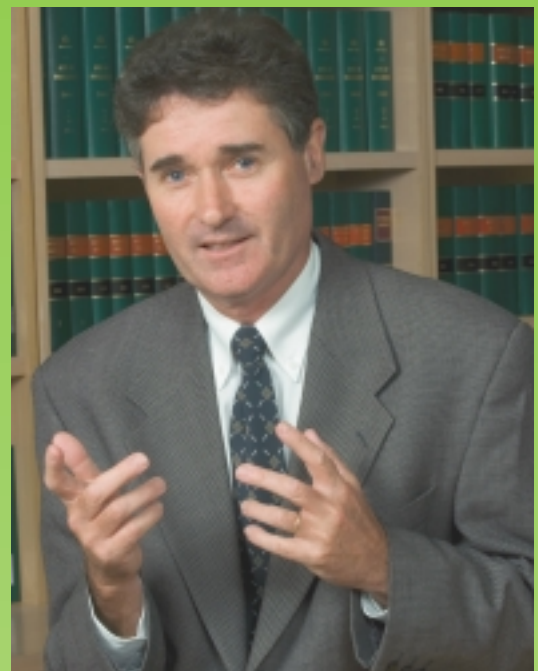
*Senior Member Bernadette Steele balances family life with a wide variety of work at VCAT by working on a 48/52 basis. This entitles Bernadette to an additional four weeks leave without pay.*

*"Two full-time working parents and four school age children with many interests make us a busy household. I can take a day as leave for a school sports day or concert, a music or dance exam, parent-teacher interviews or reading with the prep class. With careful planning, I can spend time with the family during school holiday periods. That sort of time is invaluable—without it, I wouldn't be able to balance family life with the wide variety of work I am offered as a senior member at VCAT."*



*Sessional Planning Member John Keaney is a qualified Town Planner who has run his own town planning and research practice since 1985. His practice provides a statutory, strategic and consultative planning service to a limited number of rural and regional municipalities in Victoria. The firm has prepared and exhibited a number of schemes and has been involved in the preparation of the Municipal Strategic Statement, local polices, zone and overlay schedules for these schemes.*

*"The sessional nature of my VCAT appointment provides me with the flexibility to continue to conduct my private practice while undertaking VCAT duties, principally in metropolitan Melbourne."*



Type of Member	2003–04		2002–03		2001–02	
	Women	Men	Women	Men	Women	Men
Judicial Member (Full-Time)	-	3	-	3	-	3
Judicial Member (On Call)	-	5	-	4	-	3
Deputy President	5	3	4	6	4	7
Senior Member	4	7	4	5	4	5
Sessional Senior Member	1	8	1	6	1	4
Full-Time Member	9	10	9	11	9	10
Sessional Member	53	53	61	80	62	79
<b>Total</b>	<b>72</b>	<b>88</b>	<b>79</b>	<b>115</b>	<b>80</b>	<b>111</b>



character, middle suburban development, heritage issues, native vegetation protection, environmental management plans, conducting hearings and issues of natural justice.

Members attended a variety of industry and external conferences and seminars, including the Australian Conference of Planning and Environmental Courts and Tribunals, the Planning Institute of Australia Conference and the Urban Development Institute of Australia Conference. In addition, 14 members and staff attended the Australian Institute of Judicial Administration Tribunals' Conference held in June 2004 in Brisbane (10 in 2002–03).

With the assistance of VCAT, several List members continued their participation in the Monash University Diploma in Law course *Decision Making for Tribunal Members*, which included online segments. A further two List members attended a Bond University introductory mediation course.

#### List-Specific Training

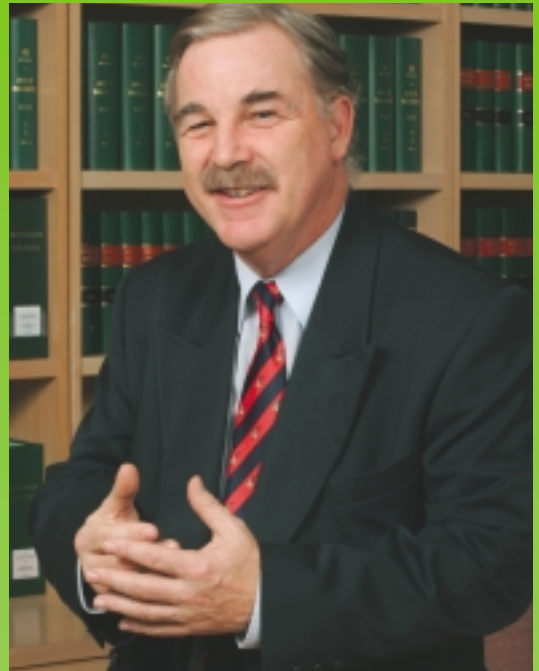
Individual List-specific training for members was conducted by many of the Lists, particularly the Planning and Environment List, Residential Tenancies List and Guardianship List.

The Planning and Environment List conducted an in-house professional development program and a variety of industry and external conferences and seminars.

On 12 September 2003, a joint session of approximately 50 members of the Residential Tenancies List and the Civil Claims List was held in the Judges Conference Room of the County Court, in association with the Judicial College of Victoria, to discuss the implications of changes to legislation in both Lists.

To successfully implement the amendments to the *Instruments Act 1958*, the Guardianship List held members' conferences and staff training sessions in March 2004, and participated in community education concerning the new legislation before and after its implementation.

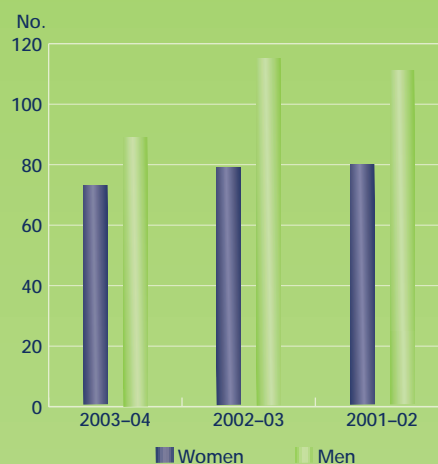
*Full-Time Member William (Bill) Holloway is an experienced, long-term member of VCAT. A past member of the Residential Tenancies and Small Claims Tribunal, he was Deputy Chairman of the Credit Tribunal. He regularly sits in country and suburban venues on four Lists—Residential Tenancies, Civil Claims, Domestic Building and Guardianship. He is married, with two school-age children. He has an interest in medical ethics and sport. Passionate about cricket, he coaches his son's cricket team.*



*Sessional Member Dr Maria Dudycz enjoys flexible work hours, enabling her to easily mix family commitments with her work schedule. With both law and medical degrees, she is ideally suited to her role at VCAT. She has raised three children while working as a doctor and is a member of the Guardianship List, Occupational and Business Regulation List and Anti-Discrimination List. "VCAT provides a family-friendly workplace with great registry back up, listing cooperation and senior staff support that work around my family commitments." Dr Dudycz also serves on the National Breast Cancer Centre Board and chairs the Victorian division of the Australian College of Legal Medicine and the Advisory Panel on the Marketing of Infant Formula.*



Members by Gender—2000–03



# VCAT People

As at 30 June 2004, the number of employees increased from 169 in 2002–03 to 176 in 2003–04. This total comprised five senior managers, 40 managers and supervisors, and 131 administration staff.

Staff numbers included 21 staff on:

- maternity leave;
- leave without pay; or
- secondments.

Staff numbers also included eight casual staff and 30 part-time staff.

The full-time staff equivalent figure increased from 153.4 in 2002–03 to 156.3 as at 30 June 2004.

## Wages and Superannuation

Employee wages totalled \$6.22 million in 2003–04, compared with \$5.77 million in 2002–03. The Victorian Public Service Agreement 2004 provided staff with a 3% salary increase effective 1 March 2004. The Agreement will provide further increases until 2007.

Staff are eligible for superannuation benefits provided through various funds, including the Government Superannuation Office and VicSuper.

## Employee Relations

The Victorian Public Service (Non-Executive Staff) Agreement 2001 provided for a career structure and work organisation review. On 1 November 2004, a new career structure was implemented that provides staff with an opportunity for career progression

through clearly defined progression criteria. In addition, it will increase pay equity and emphasise staff development and job growth.

The Victorian Electoral Commission conducted a ballot on a proposed agreement during May 2004. The vote was in favour of the Agreement and the Australian Industrial Relations Commission certified the 2004 Victorian Public Service Agreement on 2 June 2004. The Agreement specifies terms and conditions of employment for the period up to 1 June 2007 with an option to extend the agreement for a further 12 months. The Agreement covers all non-executive employees in all Public Service Departments and agencies.

## Equal Employment Opportunity

VCAT is an equal employment opportunity employer. Through our recruitment process, we are committed to selecting the best applicants, consistent with merit and equity principles. We updated staff on current issues and developments with regard to sexual harassment and broader harassment and discrimination issues within the workplace by conducting seminars, workshops and circulating relevant literature.

## Occupational Health and Safety

We aim to provide and maintain a safe working environment that nurtures the health and wellbeing of all staff, members and visitors to VCAT. During 2003–04, we

reviewed and tested emergency and evacuation procedures and building security on a regular basis. A total of two new WorkCover claims were accepted by VCAT during 2003–04, resulting in seven work days lost. This result compares with 13 work days lost from then existing claims in 2002–03.

A total of 103 staff, members and judges took advantage of the flu vaccination program conducted at VCAT.

## Training and Development

The Department of Justice (DOJ) provides a Corporate Training Program that is accessible to all VCAT employees. The program offers competency-based training, self management programs, cultural awareness programs, occupational health and safety programs and computer training.

A total of 22 training courses were attended by 29 staff members, providing 48 days of training. These figures include a total of 10 staff who attended a program for managing angry clients developed specifically for courts and tribunals staff to address the ongoing issue of court and tribunal security.

## Youth Employment Scheme

VCAT was an active participant in the Youth Employment Scheme, a joint venture between the Victorian Government and employers, designed to provide real job opportunities for Victorians aged between 16 and 24. In addition to employing five new trainees during 2003–04, both trainees employed during 2002–03 were successful in obtaining further employment with VCAT.



*From left, Finance Officer Ron Mackie and Finance Manager Alan Karfut discuss the budget implications of the recent changes to the Victorian Public Service Agreement 2004. The agreement provides staff with a 3% salary increase effective 1 March 2004 and further increases until 2007.*

### Staff Survey Conducted

We conducted a staff survey in November 2003 with the aim to determine staff satisfaction within the workplace and identify opportunities for improvement.

Since last measured in 2002, performance increased significantly in the areas of staff understanding the process for resolving workplace issues, encouraging work-life balance and providing an open and trusting atmosphere. Some of the areas rated highly by staff included:

- access to departmental communication systems;
- staff have an understanding of job responsibilities;
- management are approachable, accessible and supportive;
- flexible working arrangements are considered fairly;
- the workplace is free from discrimination—sexual harassment and bullying are not tolerated; and
- staff feel safe in their working environment.

Areas requiring improvement included:

- listening to staff views;
- providing on-the-job training; and
- providing adequate feedback on work performance.

A staff focus group (see below) will continue to meet during 2004–05 to address these issues and concerns.

### Staff Focus Group Established

As part of our response to the issues raised in the staff survey, we formed a Staff Focus Group to develop strategies to address the areas where improvements could be made. The group met regularly throughout the year and contributed to the implementation of a number of significant programs, including a staff recognition program, staff rotation program and an enhanced induction program.

### Staff Numbers and Composition by Victorian Public Service (VPS) Band/Grade\*

2003–04			2002–03		2001–02		
VPS Grade	Women	Men	VPS Band	Women	Men	Women	Men
VPS Grade 6	-	5	VPS-5	-	5	-	5
VPS Grade 5	2	3	VPS-4	5	5	4	5
VPS Grade 4	3	4	VPS-3	13	8	13	8
VPS Grade 3	22	6	VPS-2	94	24	85	19
VPS Grade 2	91	31	VPS-1	8	7	16	5
VPS Grade 1	5	4					
<b>Total</b>	<b>123</b>	<b>53</b>		<b>120</b>	<b>49</b>	<b>118</b>	<b>42</b>

\*A new career structure was introduced across the Victorian Public Service on 1 November 2003. The structure changed from a five-level structure to a six-level structure. Staff translation was based on salary and work value.

From left, the newly established Staff Focus Group—(seated) Karen Collins and Kate Day (standing) from left, Sam Kenny, Lorraine Renouf, Lee Morison, Carmen Gonzales and Peter Mansu.

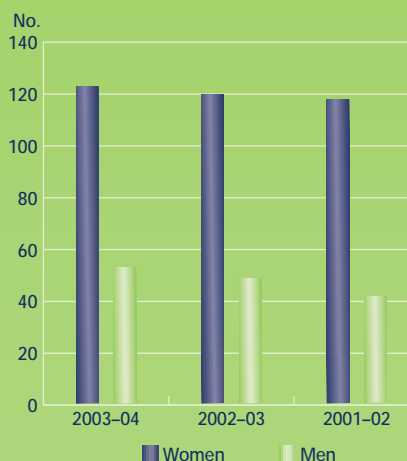
We formed the Staff Focus Group to develop strategies to address the areas where improvements could be made as part of our response to the issues raised in the staff survey.

(Absent—Louise Johnston and Peter Anderson.)



### Staff Numbers by Gender

Staff Numbers by Gender includes staff on maternity leave, leave without pay, secondments and casual roles (29 as at 30 June 2004) and 30 part-time staff. This number fluctuates from time to time.



# Appendices



# Operating Statement and Financial Commentary

The following information summarises VCAT funding sources and expenditure for 2002–03 and 2003–04.

	2003–04	2002–03
<b>Funding</b>	<b>(\$M)</b>	<b>(\$M)</b>
VCAT funding sources:		
Appropriations	14.49	13.90
Residential Tenancies Trust Fund	6.97	6.63
Domestic Builders Fund	1.45	1.40
Guardianship and Administration Trust Fund	0.94	0.80
Total:	23.85	22.73
<b>Expenditure</b>		
VCAT operational expenditure:		
Salaries to staff	6.22	5.77
Salaries to full-time members	5.31	5.35
Sessional members	3.30	3.18
Salary related on-costs	2.42	2.63
Operating costs	6.60	5.80
Total:	23.85	22.73
<b>VCAT Expenditure Allocated by List*:</b>		
Residential Tenancies List	6.97	6.62
Planning and Environment List	6.25	5.54
Guardianship List	2.98	2.64
General List, Occupational and Business Regulation List, and Taxation List	2.71	2.65
Domestic Building List	1.45	1.40
Anti-Discrimination List	0.75	0.90
Civil Claims List	1.70	1.69
Real Property List and Retail Tenancies List	0.37	0.39
Land Valuation List	0.37	0.49
Credit List	0.30	0.42
Total:	23.85	22.73

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

## Financial Performance

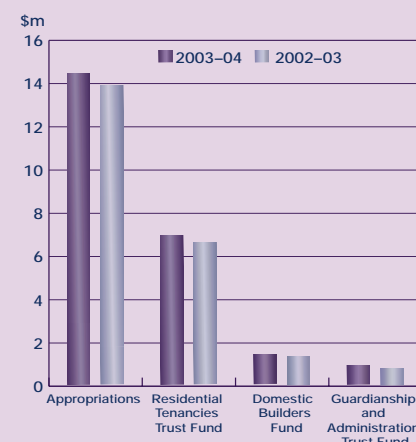
In 2003–04, VCAT's recurrent expenditure of \$23.85 million divided among expenditure on salaries to full-time and sessional members (\$8.61 million), staff salaries (\$6.22 million), salary related on-costs (\$2.42 million) and operating expenses (\$6.60 million) was 5% higher than the \$22.73 million expended by VCAT in 2002–03. We experienced increases in member remuneration of \$0.08 million and staff salaries of \$0.45 million. The rise is largely due to a new reporting requirement that we include provision for annual leave in the figures. Salary-related on-costs decreased by \$0.21 million and operating costs increased by \$0.80 million due to a significant rise in our rental costs.

## VCAT Funding Sources

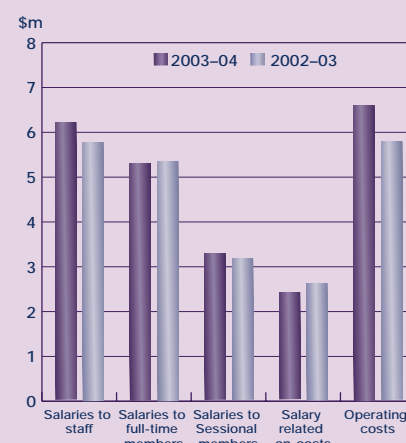
VCAT's funding in 2003–04 was provided by the following sources:

- Victorian Government appropriations (\$14.25 million) either directly from the Department of Justice or by way of other departments that make contributions to VCAT. These sources fund all but those Lists funded by trust funds as described below. This funding includes revenue of \$1.35 million generated by those Lists through the receipt of application fees.
- The Residential Tenancies Trust Fund established under the *Residential Tenancies Act 1997*, which wholly funds the Residential Tenancies List (\$6.97 million).

## VCAT Funding Sources—2002–03 to 2003–04



## VCAT Operational Expenditure—2002–03 to 2003–04



- The Domestic Builders Fund established under the *Domestic Building Contracts Act 1995*, which wholly funds the Domestic Building List (\$1.45 million).
- The Guardianship and Administration Trust Fund established under the *Guardianship and Administration Act 1986*, which partially funds the Guardianship List (\$0.94 million).

## VCAT Audited Accounts

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

# Legislation Defining VCAT Jurisdiction

As at 30 June 2004, the following legislation gave jurisdiction to VCAT:

## Administrative Division

### 1. GENERAL LIST

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

- *Accident Compensation Act 1985*;
- *Adoption Act 1984* section 129A(1)(a) (decisions regarding fitness to adopt and approval to adopt);
- *Births, Deaths and Marriages Registration Act 1996*;
- *Children and Young Persons Act 1989*;
- *Community Services Act 1970*;
- *Country Fire Authority Act 1958*;
- *Dangerous Goods Act 1985*;
- *Domestic (Feral and Nuisance) Animals Act 1994* section 98(2) (declaration and registration of dangerous dogs);
- *Drugs, Poisons and Controlled Substances (Amendment) Act 1997*;
- *Emergency Management Act 1986*;
- *Emergency Services Superannuation Act 1986*;
- *Equipment (Public Safety) Act 1994*;
- *Estate Agents Act 1980* section 81(5A) (claims against guarantee fund);
- *Freedom of Information Act 1982*;
- *Gaming No. 2 Act 1997*;
- *Health Act 1958* section 125 (compensation for seizure of property);
- *Health Records Act 2001*;
- *Hospitals Superannuation Act 1988*;
- *Industrial and Provident Societies Act 1958*;
- *Infertility Treatment Act 1995*;
- *Information Privacy Act 2002*;
- *Livestock Disease Control Act 1994*;
- *Local Authorities Superannuation Act 1988*;
- *Local Government Act 1989* sections 38(2A) and 48 (decisions of the Municipal Electoral Tribunal), section 133 (decision of the Minister imposing a surcharge) and clause 7 of Schedule 5 (decisions of returning officers concerning how-to-vote cards);
- *Lotteries Gaming and Betting Act 1966* section 7A (decisions of the Victorian Casino and Gaming Authority under Part 1);
- *Mental Health Act 1986* sections 79 (decision of the Chief General Manager), 120 (decisions of the Mental Health Review Board);
- *Metropolitan Fire Brigades Act 1958*;
- *Motor Car Traders Act 1986* section 79 (claims against the guarantee fund);
- *Occupational Health and Safety Act 1985*;
- *Parliamentary Salaries and Superannuation Act 1968*;
- *Road Transport (Dangerous Goods) Act 1995*;
- *State Employees Retirement Benefits Act 1979*;

- *State Superannuation Act 1988*;
- *Superannuation (Portability) Act 1989*;
- *Tertiary Education Act 1993*;
- *The Constitution Act Amendment Act 1958*;
- *Transport Accident Act 1986*;
- *Transport Superannuation Act 1988*;
- *Travel Agents Act 1986* section 46 (claims against approved compensation schemes);
- *Victims of Crime Assistance Act 1996*;
- *Victoria State Emergency Service Act 1987*;
- *Victorian Plantations Corporation Act 1993*;
- *Vocational Education and Training Act 1990*.

### 2. LAND VALUATION LIST

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

- *Flora and Fauna Guarantee Act 1988* section 43(12) (claims for compensation);
- *Gift Duty Act 1971* section 36(1)(a) (so much of the decision of the Commissioner as relates to the value of land);
- *Health Services Act 1988* section 67 (compulsory acquisition of land);
- *Land Acquisition and Compensation Act 1986*;
- *Land Tax Act 1958* section 25(1)(a) (so much of decision of the Commissioner as relates to the value of land);
- *Local Government Act 1989* section 183 (differential rating);
- *Mildura College Lands Act 1916* section 2(ec) (decision of the Valuer-General on value of land);
- *Mineral Resources Development Act 1990* section 88 (compensation for loss caused by work under a licence);
- *Pipelines Act 1967* section 22B (objections to compulsory acquisition of native title rights and interests);
- *Planning and Environment Act 1987* sections 94(5) (compensation as a result of order to stop development or cancellation or amendment of permit) and 105 (compensation for loss caused by reservation of land, restriction of access or road closure);
- *Probate Duty Act 1962* section 19A(1)(a) (so much of the decision of the Commissioner as relates to the value of land);
- *Stamps Act 1958* section 33B(1)(a) (so much of decision of the Commissioner as relates to the value of land);
- *Subdivision Act 1988* section 19 (valuation of land for public open space);
- *Valuation of Land Act 1960* Part III (disputes on the value of land);
- *Water Act 1989* section 266(6) (setting tariffs, fees under tariffs, valuation equalisation factors and valuations).

### 3. OCCUPATIONAL AND BUSINESS REGULATION LIST

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

- *Adoption Act 1984* section 129A(1)(b) (decisions regarding approval of adoption agencies);
- *Agricultural and Veterinary Chemicals (Control of Use) Act 1992*;
- *Architects Act 1991*; Sch. 1, Part 1 cl. 2(ha)
- *Barley Marketing Act 1993*;
- *Biological Control Act 1986*;
- *Children's Services Act 1996*;
- *Chiropractors Registration Act 1996*;
- *Consumer Credit (Victoria) Act 1995* Part 4 (registration of credit providers) and section 371(1) (permission, including conditions, to a disqualified person to engage or be involved in finance broking);
- *Dairy Industry Act 1992*;
- *Dangerous Goods Act 1985*;
- *Domestic (Feral and Nuisance) Animals Act 1994* section 98(1) (registration of premises to conduct a domestic animal business);
- *Education Act 1958* section 55 (endorsement of a school to accept overseas students);
- *Estate Agents Act 1980* except sections 56B(1) (see Real Property List) and 81(5A) (see General List);
- *Extractive Industries Development Act 1995* sections 39 (quarry manager's certificates) and 40 (panel inquiry into quarry manager's fitness);
- *Farm Produce Wholesale Act 1990* section 20 (licensing of wholesalers);
- *Finance Brokers Act 1969*;
- *Firearms Act 1996* section 182 (decisions of the Firearms Appeals Committee);
- *First Home Owner Grant Act 2000*;
- *Health Services Act 1988* section 110 (decisions of the Minister or Chief General Manager under Part 4);
- *Liquor Control Reform Act 1998*;
- *Lotteries Gaming and Betting Act 1966* section 10D (licensing of amusement machine operators);
- *Marine Act 1988* section 85 (cancellation and suspension of certificates and licences);
- *Meat Industry Act 1993* section 24 (licences to operate meat processing facilities, alteration of buildings);
- *Medical Practice Act 1994* section 60 (registration and discipline of medical practitioners);
- *Mineral Resources Development Act 1990* sections 94 (mine manager's certificates) and 95 (panel inquiries into fitness of mine managers);
- *Motor Car Traders Act 1986* except sections 45 (see Civil Claims List) and 79 (see General List);
- *Nurses Act 1993* section 58 (registration and discipline of nurses);

- *Occupational Health and Safety Act 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);
- *Optometrists Registration Act 1996* section 58 (registration and discipline of optometrists);
- *Osteopaths Registration Act 1996* section 56 (registration and discipline of optometrists);
- *Physiotherapists Regulation Act 1998*;
- *Podiatrists Registration Act 1997* section 56 (registration and discipline of optometrists);
- *Prevention of Cruelty to Animals Act 1986* section 33 (licensing of scientific establishments and breeding establishments);
- *Private Agents Act 1966*;
- *Professional Boxing and Martial Arts Act 1985* (licences, permits and registration);
- *Prostitution Control Act 1994*;
- *Public Transport Competition Act 1995*;
- *Seafood Safety Act 2003*;
- *Second-Hand Dealers and Pawnbrokers Act 1989* sections 9B and 14 (correction of register);
- *Therapeutic Goods (Victoria) Act 1994* section 71 (licensing of wholesale supply);
- *Trade Measurement Act 1995* section 59 (licensing and discipline);
- *Transport Act 1983* except section 56 (see Land Valuation List);
- *Travel Agents Act 1986* except section 46 (see General List);
- *Veterinary Practice Act 1997* section 55 (registration and discipline);
- *Victorian Institute of Teaching Act 2001*;
- *Victoria State Emergency Service Act 1987* section 31(2)(d); Victoria State Emergency Service Regulations 1995 regulation 12 (discipline of members);
- *Vocational Education and Training Act 1990* section 81 (registration of non-college providers); and
- *Wildlife Act 1975*.

#### 4. PLANNING AND ENVIRONMENT LIST

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

- *Catchment and Land Protection Act 1994* section 48 (land use conditions and land management notices);
- *Conservation, Forests and Lands Act 1987* section 76 (variation and termination of land management cooperative agreements);
- *Environment Protection Act 1970*;
- *Extractive Industries Development Act 1995* except sections 39 and 40 (see Occupational and Business Licensing List);
- *Flora and Fauna Guarantee Act 1988* sections 34(3), 41 and 41A (interim conservation orders);
- *Heritage Act 1995*;
- *Litter Act 1987* section 8G (litter abatement notices);

- *Local Government Act 1989* sections 185 (imposition of a special rate or charge) and 185AA (imposition of a special rate or charge);
- *Mineral Resources Development Act 1990* except sections 88 (see Land Valuation List), 94 and 95 (see Occupational and Business Regulation List);
- *Planning and Environment Act 1987* except sections 94(5) and 105 (see Land Valuation List);
- *Plant Health and Plant Products Act 1995* section 39 (costs and expenses of inspectors);
- *Subdivision Act 1988* except sections 19 (see Land Valuation List), 36 and 39 (see Real Property List);
- *Transport Act 1983* section 56 (decisions of the Public Transport Corporation or Roads Corporation): Transport (Roads and Property) Regulations 1993 regulation 18;
- *Water Act 1989* except sections 19 (see Real Property List) and 266(6) (see Land Valuation List);
- *Water Industry Act 1994* except section 74 (see Real Property List).

#### 5. TAXATION LIST

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

- *Business Franchise Acts*;
- *Debits Tax Act 1990*;
- *Financial Institutions Duty Act 1982*;
- *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;
- *Land Tax Act 1958* with the exception of section 25(1)(a) to the extent that the decision of the Commissioner relates to the value of land;
- *Pay-Roll Tax Act 1971*;
- *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;
- *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;
- *Taxation Administration Act 1997*.

### Civil Division

#### 1. CIVIL CLAIMS LIST

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

- *Fair Trading Act 1999*;
- *Motor Car Traders Act 1986* section 45 (rescission of agreement of sale of motor car);
- *Small Claims Act 1973*.

#### 2. CREDIT LIST

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

- *Chattel Securities Act 1987* sections 25 (compensation for extinguishment of security interest) and 26 (compensation in relation to registrable goods);
- *Credit Act 1984*;
- *Credit (Administration) Act 1984*;
- *Consumer Credit (Victoria) Act 1995* except Part 4 and section 37I(1) (see Occupational and Business Regulation List).

#### 3. DOMESTIC BUILDING LIST

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

- *Building Act 1993*;
- *Domestic Building Contracts Act 1995*;
- *Fair Trading Act 1999*;
- *House Contracts Guarantee Act 1987*.

#### 4. REAL PROPERTY LIST

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

- *Estate Agents Act 1980* section 56B(1) (disputes about commission and outgoings);
- *Fair Trading Act 1999*;
- *Subdivision Act 1988* sections 36 and 39 (other disputes);
- *Water Act 1989* section 19 (civil liability arising from various causes);
- *Water Industry Act 1994* section 74 (liability of licensee).

#### 5. RESIDENTIAL TENANCIES LIST

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

- *Residential Tenancies Act 1997*.

#### 6. RETAIL TENANCIES LIST

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

- *Fair Trading Act 1999*;
- *Retail Tenancies Reform Act 1998*.

### Human Rights Division

#### 1. ANTI-DISCRIMINATION LIST

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

- *Equal Opportunity Act 1995*; and
- *Racial and Religious Tolerance Act 2001*.

#### 2. GUARDIANSHIP LIST

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

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

# VCAT Member Directory as at 30 June 2004

## *List(s) Assigned*

### Judicial Members

#### President

The Honourable Justice Stuart Morris

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

His Honour Judge J Bowman

His Honour Judge B Dove

#### Vice-Presidents (On Call)

His Honour Judge J Duggan

His Honour Judge M Higgins

His Honour Judge M Strong

His Honour Judge F Davey

His Honour Judge T D Wood

**Total Judicial Members: 8**

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

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

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

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

Davis, Sandra G, Gen, **AD**, **OBR**

Gibson, Helen P, LV

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

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

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

**Total Deputy Presidents: 8**

#### Senior Members

Byard, Russell P, Real P, LV

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

Liston, Anthony P

Lyons, Dr Gregory AD, Gen, G

Megay, Noreen Gen, G, OBR, T, CC

Monk, Jane P

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

Scott, Robert Res T, CC, Gen, G

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

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

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

**Total Senior Members: 11**

#### Senior Sessional Members

Ball, Rowland Gen, DB, CC, P

Barr, Max P

Cooney, Lillian Gen, AD

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

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

Gould, Ron P, Real P, DB, Ret T, OBR

Horsfall, Richard P, LV, OBR, DB

Marsden, Ian P

Sharkey, Gerard P, Real P

**Total Senior Sessional Members: 9**

#### Full-Time Members

Baird, Margaret P

Barker, Heather Res T, CC, G

Bennett, John P

Carruthers, Maureen G, AD

Cimino, Sam P, OBR

Hadji Georgiou, Nicholas P

Hewet, Laurie P

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

Kefford, Jacquelyn Res T, CC, C, G

Komesaroff, Tonia P, LV

Lambrick, Heather Res T, CC, G, OBR

Liden, Susanne Res T, CC, G, AD

Martin, Philip P, LV

O'Dwyer, Daniel Res T, CC, AD, DB, G, OBR, C

O'Leary, Peter P, OBR

Rickards, Jeanette P, LV

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

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

Wajcman, Jack Res T, CC

**Total Full-Time Members: 19**

#### Sessional Members

Adams, John P, CC, Res T

Alexander, Dr Renata Res T, CC

Anagnostou, Chryssa Gen, G, AD

Angell, Sally CC, Res T, OBR, Real P, Ret T

Armitage, Roderic OBR

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

Barrand, Pamela Res T, CC, G

\*Barrow, Brian G, CC, Res T, Gen, OBR

Barton, Terence G

Baxter, Pauline OBR

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

Borg, Susan Res T, CC, AD, G

Bourke, Gavan LV

Bridge, Emma Res T, CC, G

Brown, Vicki LV

Bryant, Tannetje P

Burdon-Smith, Susan Res T, CC, G

Burgess, Zena AD, G

Cleary, Peter LV

Clothier, Bryan Res T, CC

Colbran, QC Michael G

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

Cremean, Bernadette AD, CC, Res T

Croft, Dr Clyde T

Davies, Hugh CC, Res T

Davies, Vicki P

Dawson, Julie AD, G

Dickman, Sharron Dr OBR

Dillon, John Gen, OBR, Res T, CC

Dudakov, Brian LV

Dudycz, Dr Maria AD, G, OBR

\*Dugdale, John Phillip G, CC, Res T, Gen, OBR

Duggan, Anne G

Dunlop, John OBR

Eccles, Desmond (Assoc Prof) P

Eggleston, Peter Res T, CC



**List(s) Assigned****List(s) Assigned**

Ferres, Dr Beverley	AD, G, OBR
Fong, Christina	P
Gibson, Geoffrey	T
Gilfillan, Struan	P
Glover, Dr John	Gen, T
Good, June	Res T, CC, G
Gordon, Michelle	AD, CC, Gen, G, OBR
Gorman, Lois	G, OBR
Graves, Phillip	G
Hamilton, Dr Catherine	OBR, AD
Hancock, Elisabeth	LV
Harvey, Margaret	G, AD, CC, Res T
Hastings, Malcolm	Gen, CC, G, Real P, Ret T, Res T
Hawkins, Annabel	Res T, CC, G
Hendtlass, Jane	Res T, CC, G, AD
Howe, Prof Renata	P
Ireland, Damien	OBR
Keaney, John	P
Keddie, Ann	P
King, Janice	G, AD
Kirmos, Kay	Res T, CC
Klempfner, Yolanda	AD
Klingender, Jessica	CC, Res T
Kominos, Angela	Res T, CC, AD, G
Laidler, Terrence	OBR, AD
*Lambden, Elizabeth Anne	G, CC, Res T, Gen, OBR
Langton, Robert	CC, Res T, DB
Lee, Christopher	LV
Lightfoot, Brian	CC, Res T, Ret T, Real P, G
Lothian, Margaret	DB, Ret T, CC, Res T, G, P, Real P
Louden, David	OBR
Lulham, Ian	CC, DB, Res T
Lush, Jennifer	Gen, G, AD, OBR
Mainwaring, Dr Sylvia	P, AD, Real P
McCabe, Edmund	Res T, CC, G
MacDonald, Dr David	OBR, G
*McDonald, Timothy John	G, CC, Res T, Gen, OBR
McFarlane, Timothy	G
McGarvie, Ann	Res T, CC, G
McGregor, Irene	CC, G
Moraitis, Stella	Res T, Gen, CC, G
Mulcahy, Peter	P, Real P
*Muling, Daniel John	G, CC, Res T, Gen, OBR
Naylor, Rachel	P
Nihill, Genevieve	Res T, CC, G
Norman, Kathryn	Res T, CC, G
Osborn, Jane	P
Ozanne-Smith, Eleanor (Prof)	OBR
Perlman, Janine	Res T, CC, AD
Phillips, Robert	CC, Res T
*Popovic, Jelena	G, CC, Res T, Gen, OBR
Price, Roland	Res T, CC
Quirk, Anthony John	P, Real P
*Raleigh, Steven	G, CC, Res T, Gen, OBR
Read, Michael	P

Reilly, Daniel	OBR
Richards, Keith	Gen, CC, DB, G, Real P, Ret T, Res T
Robinson, Ian Carlisle	LV
Rowland, Linda	Gen, Res T, CC, G, AD
Shnookal, Toby	DB, Ret T
Soldani, Angela	Res T, CC, G
Terrill, Howard	P, Real P
*Von Einem, Ian Maxwell	G, CC, Res T, Gen, OBR
Walsh, Michael	DB, CC, Res T
Warren, Lindsay	CC, Res T, Ret T, G
Wentworth, Elisabeth	AD, CC, C, Gen, Res T
West, Lynda	Gen, CC, G, Res T, AD
Williams, Charles	Gen, OBR, AD, G
Zala, Peter	LV
Zemljak, Francis	AD

**Total Sessional Members: 106****Overall Total: 161 (89 Males, 72 Females)****List of Abbreviations**

AD (Anti-Discrimination) C (Credit) CC (Civil Claims) DB (Domestic Building) G (Guardianship) Gen (General) LV (Land Valuation) OBR (Occupational and Business Regulations) P (Planning) Real P (Real Property) Res T (Residential Tenancies) Ret T (Retail Tenancies) T (Taxation)

\*(Magistrate)

# Access to Files and Your Privacy at VCAT

We store information about people who are involved in cases at VCAT in our register and in individual case files. The register includes file numbers and a collection of VCAT orders, and may include the names, addresses and telephone numbers of parties involved in cases. Generally, we keep the information for seven years.

Victorian Law governs what information in these files may be made available to the public. It balances the principle that justice should be administered in public with principles of privacy. The following answers some of the most commonly asked questions about who can obtain such information from VCAT.

## Who Can Read VCAT Orders?

We keep permanent records of written orders of VCAT and make them available to the public, except in the Guardianship List where there are limitations. Usually, orders name the people concerned but do not record details such as addresses and telephone numbers. The decisions may summarise evidence given to VCAT.

Except in the Civil Claims List, Guardianship List and Residential Tenancies List, if a decision includes written reasons for the decision, we publish the decision on the Internet web site [www.austlii.edu.au/au/cases/vic/VCAT/](http://www.austlii.edu.au/au/cases/vic/VCAT/). To find a decision, anyone can search the Internet using a person's name recorded in the decision.

In addition, we publish details of cases of high public interest on the VCAT home page at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au).

Orders are available on request by contacting the individual Lists using the telephone numbers provided on the back cover of this Annual Report.

## What Files can be Inspected?

Most information held at VCAT is available to any person who identifies a particular case and asks to inspect the file. Generally, files are available with regard to matters involving anti-discrimination, civil claims, domestic building, land valuation, planning and environment, residential and retail tenancies, transport accidents and other cases. In most cases, files are restricted in matters relating to credit, freedom of information, guardianship and administration, occupational and business regulation and taxation.

If you wish to see a VCAT file about a case you are involved in as a party, there is no fee. Otherwise, a fee of \$25 for the first file and \$4 for each additional file inspected in the same session is charged.

## Will Information about Me Be Told to Others?

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

## Which Files Are Not Available to the Public?

This is a summary of the VCAT Act and Rules restricting access to the VCAT register and VCAT files. The VCAT Rules are set out in full via the VCAT Internet home page at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au).

## Anti-Discrimination List

While a person may only inspect and copy the file after the complaint to which the proceeding relates has been referred to VCAT, almost all files are open for inspection because almost all Anti-Discrimination List files at VCAT are about referrals to VCAT.

## Credit List

Files are usually open to other parties in a case with VCAT's permission, because parties may only inspect or copy a file if VCAT is satisfied that:

- (a) the material relates directly to that party; and
- (b) access to the material would involve reasonable disclosure of the personal affairs of a person.

Inspection of files by people who are not parties to the case is restricted because a person other than a party may inspect or copy a file only if VCAT is satisfied as stated in (b) above.

## Freedom of Information Files

All files about proceedings under the *Freedom of Information Act 1982* are not open for inspection or copying by any person.

## Guardianship List

### Inspecting the Register

Anyone may inspect and obtain a copy of the part of the register relating to a case limited to:

- the number identifying the case;
- the date of commencement;
- the names of the parties,
- a reference to the statutory provision conferring the relevant jurisdiction on VCAT; and
- particulars of any final determination or order of VCAT.

## Inspecting a File

The proposed represented person or represented person may inspect or obtain a copy of the file relating to his or her case. However, VCAT may be satisfied that the proposed represented person or represented person should not be entitled to inspect or otherwise access all or any part of the file (including a part of a document in the file) because this would:

- cause serious harm to that person or to the health or safety of another person;
- involve the unreasonable disclosure of information relating to the personal affairs of any person; or
- breach a confidentiality provision imposed by a person who supplied information that is contained in that part of the file.

VCAT may permit a person who is representing the proposed represented person or represented person to inspect or obtain a copy of a file relating to the case, or have access to any document that is not available to the proposed represented person or represented person.

Before the hearing, any party other than the proposed represented person or represented person may inspect and obtain a copy of the application form, the report from the Public Advocate, the report from the administrator and all other documents that contain adverse criticism of him or her, but only if VCAT is satisfied that this would not:

- cause serious harm to the health or safety of another person;
- involve the unreasonable disclosure of information relating to the personal affairs of any person; or
- breach a confidentiality provision imposed by a person who supplied information that is contained in the documents or document.

After the hearing, any party other than the proposed represented person or represented person may inspect and obtain a copy of the file relating to the proceeding, limited to all documents that were relied on by VCAT in making the decision, unless VCAT is satisfied that such inspection or access by that party would:

- cause serious harm to the health or safety of another person;
- involve the unreasonable disclosure of information relating to the personal affairs of any person; or
- breach a confidentiality provision imposed by a person who supplied information that is contained in the documents.

A person other than a party shall not be entitled to inspect and obtain a copy of any part of the file relating to the proceeding except to the extent (if any) that VCAT authorises the person to do so.

Unless VCAT orders otherwise, a person must not publish or broadcast, or cause to be published or broadcast, any report of a proceeding under the *Guardianship and Administration Act 1986* that identifies, or could reasonably lead to the identification of, a party to a proceeding.

## Occupational and Business Regulation List

Inspection of files is restricted because no person may inspect a file relating to a case, except to the extent that VCAT authorises its inspection by the party or other person.

## Taxation List

Inspection of files is restricted because no person may inspect a file relating to a case, except to the extent that its inspection has been authorised by VCAT or by the Commissioner of Taxation.

# User Service Charter

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

## Our Purpose

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

## What We do

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

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

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

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

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

We provide services throughout Victoria, including holding mediations and hearings at our main premises at 55 King Street Melbourne, in many Magistrates' Courts and at other locations, as required.

We deal with a wide range of people including litigants, witnesses, lawyers, government and other tribunals and courts.

## Who We Are

VCAT is made up of a judge of the Supreme Court of Victoria (its President), judges of the County Court of Victoria (its Vice-Presidents), members of VCAT and mediators who conduct mediations and hearings.

VCAT has a Registry at 55 King Street, Melbourne. The Registry has an information counter on the ground floor and provides advice by telephone. Registry staff attend hearings conducted by VCAT at suburban Magistrates' Courts. Information about VCAT is available through Magistrates' Courts.

## Our User Service Standards

We aim to abide by the following user service standards:

- Assist people in disputes to resolve their differences within published times.
- Serve you promptly and courteously, whether at VCAT's main offices or at other venues such as Magistrates' Courts.
- Answer your telephone calls promptly and aim to answer your questions during that call.
- Provide you with an accurate explanation of VCAT procedures.
- Make information on VCAT processes and procedures available by means of explanatory brochures, through the VCAT web site and advice from staff.
- Ensure that all VCAT facilities are safe, accessible and convenient to use.
- Ensure that all VCAT staff wear name badges.

You have a right to:

- fair and helpful assistance, including appropriate arrangements to cater for special access or cultural requirements;
- be provided with an interpreter where necessary;
- have your privacy respected and keep your information confidential, unless disclosure is authorised by the law;

- a fair and just mediation and/or hearing in a safe environment; and
- receive timely decisions by VCAT.

You have a responsibility to:

- give us complete and accurate information as is appropriate in your situation;
- comply with any directions or orders of VCAT; and
- behave courteously and peaceably in and around VCAT venues.

## If You are Satisfied

Our aim is to ensure that all VCAT users are greeted by courteous staff who will provide clear and accurate information about VCAT.

If we have pleased you with our level of service, then please let us know. We value your feedback, either in person, by mail, telephone, fax or email. (Refer to the contact details provided on the back cover of this Annual Report.)

## If You are not Satisfied

We take your complaints seriously and will respond quickly. If necessary, we will also use the information that you provide to improve our service to all of VCAT's users by changing the way we work. To make a complaint, please contact us either in person, by mail, telephone, fax or email.

## If You Need More Information

Further information about our services is contained in a series of informative brochures that are available free from VCAT. Information is also available on our Internet site at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au).

Written feedback about:

- members of VCAT (the people who hear and decide disputes) may be addressed to the President of VCAT; and
- the administrative services provided by VCAT may be addressed to the Principal Registrar of VCAT.

# Speeches and Information Sessions Conducted

Date	Member	Subject/To	Date	Member	Subject/To
Jul 2003	Peter O'Leary	<i>Who Certifies the Certifier—Pre-Lodgement Certification Process</i> to the Victorian Planning and Environmental Law Assoc.	25–26 Mar 2004	Jane Monk	Presentation to work experience students of RMIT
3 Jul 03	M Levine, W Holloway and D Provan	<i>Amendments to the Residential Tenancies Act Seminar</i> to the Real Estate Institute of Victoria	Apr 2004	Jane Monk and Sam Cimino	<i>Introduction to VCAT</i> to the PLANET Program (DSE)
16 Jul 2003	Richard Horsfall	<i>Enforcement Issues at VCAT</i> at the PLANET Program, Department of Sustainability and Environment (DSE)	1 Apr 2004	John Billings	<i>Neuropsychologists as Expert Witnesses</i> at the Multiple Sclerosis Society
24 Jul 2003	Jane Monk	<i>Introduction to VCAT</i> to school students attending PIA Careers Expo	28 Apr 2004	W Holloway	<i>VCAT Act; Applications, Hearings and Adjudgments; Representation and Preparation for Hearings; Orders, Reasons, Review Hearings, Appeals and Enforcement; Mock Hearings</i> to the Tenants Union
8 Aug 2003	John Billings	<i>Role of the Guardianship List</i> at the Australian College of Critical Care Nurses' Symposium	28 Apr 2004	Helen Gibson	<i>The Role of Local Government in Relation to Sustainability</i> at the Maddocks Lawyers Sustainability Seminar
15 Aug 2003	Richard Horsfall	Acted as Presiding over Moot Tribunal in enforcement order applications at the Enforcement Officers Association	May 2004	Jane Monk and Sam Cimino	<i>Introduction to VCAT</i> to the PLANET Program (DSE)
26 Aug 2003	W Holloway	<i>Vic Parks Convention in Beechworth</i> to the Caravan Parks Association of Victoria	3 May 2004	W Holloway	<i>Future Directions, Property Management 2004 and Presenting a Case at VCAT</i> to the Real Estate Institute of Victoria
27 Aug 2003	H Lambrick	<i>Mock Hearings plus Questions and Answers</i> to the Tenants Union	6 May 2004	Richard Horsfall	<i>Evidence in VCAT</i> at the PLANET Program (DSE)
Sep 2003	John Billings	<i>Role of the Guardianship List</i> at the Ausmed Publications Conference	28 May 2004	Tonia Komesaroff and Tony Liston	<i>The Role of Local Government in Relation to Sustainability</i> at the Maddocks Lawyers Sustainability Seminar
Oct 2003	Jane Monk and Sam Cimino	<i>Introduction to VCAT</i> to the PLANET Program (DSE)	DATE	Robert Scott	<i>Role of the Guardianship List</i> at the Mildura and Rumbalara Aboriginal Cooperatives, Mooroopna, and Psychiatric Services, Warrnambool
21 Oct 2003	John Billings	<i>Neuropsychologists as Expert Witnesses</i> at the Peter James Centre	<b>Presentations and Informal Speeches by President:</b>		
Nov 2003	Jane Monk and Sam Cimino	<i>Introduction to VCAT</i> to the PLANET Program (DSE)	5 Aug 2003	Victorian Bar, Planning and Environment section	
20 Nov 2003	Richard Horsfall	VCAT Open Day	29 Aug 2003	Administrative Review Council	
24 Nov 2003	Jane Monk	VCAT Planning and Environment List Open Day	6 Oct 2003	Victorian Bar Readers	
Feb 2004	Jeanette Rickards	<i>Balancing independence and applying policies</i> at the Australian Conference of Planning and Environmental Courts and Tribunals (ACPECT) 2004 Conference, Hobart	17 Nov 2003	Melbourne Conversations at Federation Square	
5 Feb 2004	Jane Monk	Presentation to work experience students of the Royal Melbourne Institute of Technology (RMIT)	19 Nov 2003	Building Dispute Practice Group dinner	
20 Feb 2004	R Phillips	<i>VCAT Hearing Preparation and Procedure</i> to the First National Manager's state wide seminar in Bendigo	5 Feb 2004	Farewell dinner for Deputy President John Baker-Smith	
24 Feb 2004	John Billings	<i>Decision Making in Medical Treatment</i> at the Royal Melbourne Hospital and Box Hill Hospital	17 Feb 2004	Bayside City Council	
26 Feb 2003	Richard Horsfall	<i>Mediation at VCAT</i> at the ACPECT 2004 Conference, Hobart	18 Feb 2004	Residential Property Outlook Workshop, Property Council of Australia	
26 Feb 2004	Gerard Sharkey	<i>Mediation</i> at the PLANET Program	24 Feb 2004	Kingston City Council and Frankston City Council	
26 Feb 2004	John Bennett	<i>Wind farms and other modern forms in Victorian Rural Landscapes</i> at the ACPECT 2004 Conference, Hobart	27 Feb 2004	Australasian Conference of Planning and Environment Courts and Tribunals, Hobart	
27 Feb 2004	Tony Liston	<i>Modern Forms in the Landscape: Urban Forms</i> at the ACPECT 2004 Conference, Hobart	3 Mar 2004	Victorian Planning and Environmental Law Association Executive	
27 Feb 2004	Jane Monk	ResCode training to the PLANET Program (DSE)	15 Mar 2004	Victorian Bar Readers	
11 Mar 2004	John Billings	<i>Decision Making in Medical Treatment</i> at the Royal Melbourne Hospital and Box Hill Hospital	18 Mar 2004	Conference of Guardianship List members of VCAT	
			18 Mar 2004	Induction seminar for new members of VCAT	
			22 Mar 2004	Inquiry into Sustainable Urban Design for New Communities in Outer Suburban Areas—Victorian Parliament	
			7 Apr 2004	University of Melbourne, Masters of Urban Planning, guest lecture	
			27 Apr 2004	Community forum on town planning, Malvern Town Hall	
			18 May 2003	Bendigo region local councils	
			4 Jun 2004	Oral Decisions at Magistrates' Intensive workshop	
			8 Jun 2004	Manningham City Council	

# VCAT Web Site

You can find out everything you need to know about VCAT by visiting the VCAT web site at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au).

This site features information about:

- VCAT legislation, Practice Notes and Rules;
- a list of scheduled hearings;
- the daily law list; and
- a selection of key decisions.

In addition, it includes the streaming video *Working It Out Through Mediation*, and provides details about each List, including information about how to apply and enables users to download and print application forms. It also offers links to a variety of government, judicial and legal web sites.

## VCAT Online

VCAT Online, our interactive service for the high volume Residential Tenancies List, enables registered users to lodge their applications electronically, as well as to create and print notices of dispute. Simply visit the VCAT web site at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) for more details about this service.

We plan to introduce this new technology progressively to other Lists within VCAT to enable Victorians to complete application forms via the Internet.

## Visitation

The number of visitors to the VCAT web site at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) rose 29%, attracting 333,549 unique visitors, compared with 257,965 visitors in 2002–03.

During the financial year, the site received approximately 28,000 visits per month with 475,000 hits across all pages. The most popular web pages included:

- VCAT Online;
- the daily law list;
- VCAT decisions; and
- application forms.

In addition, the site includes information about VCAT legislation, Practice Notes and Rules, a list of scheduled hearings, and links to a variety of government, judicial and legal web sites.

File Edit View Favorites Tools Help

Back Forward Stop Refresh Home Search Favorites History Mail Print Edit

Address <http://www.vcat.vic.gov.au/CA256DBB0022825D/HomePage?ReadForm&1=Home%26%3D> Go Links

VCAT Online | Decisions | FAQ's | Media | Links | Site Map | Contact Us

# VCAT

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

 search

**Home**  
About VCAT  
Fees/Forms/Brochures  
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Legislation/Practice Notes  
Mediation  
Anti-Discrimination  
Civil Disputes/Small Claims  
Domestic Building  
FOI/TAC & Other Claims  
Guardianship & Admin.  
Planning & Environment  
Residential Tenancies  
Other Disputes at VCAT

Welcome to the **Victorian Civil and Administrative Tribunal (VCAT)**.

VCAT deals with disputes about:

- > purchase and supply of goods and services
- > discrimination
- > domestic building works
- > guardianship and administration
- > residential tenancies
- > consumer credit and retail tenancies.

VCAT also deals with disputes between people and government in areas such as:

- > planning and land valuation
- > licences to carry on businesses (including travel agents, motor car traders and others)
- > State taxation
- > many other government decisions (such as Transport Accident Commission decisions and Freedom of Information issues).

**What's New**

**Media Release 22 June 2004**  
Guideline Judgments in VCAT's Planning and Environment List

**Media Release 16 June 2004**  
Re-appointment of members

**General List - TAC Applications**  
Practice Notes - General List

VCAT  
Copyright Disclaimer Privacy  
Last Updated: 28/6/2004

# How to Apply and Map of Hearing Locations

## How to Apply

Applying to VCAT is easy. You may request an application in a variety of ways:

- simply call or write to VCAT and ask for an application form;
- visit us at 55 King Street, Melbourne, Victoria to pick up an application form;
- download and print an application form via the VCAT web site at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au); or
- lodge your application to the Residential Tenancies List via VCAT Online at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au).

## Main Office

Victorian Civil and Administrative Tribunal (VCAT)

55 King Street  
Melbourne 3000

Email: [vcat@vcat.vic.gov.au](mailto:vcat@vcat.vic.gov.au)

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

Refer to the back cover of this Annual

Report for the contact numbers of individual Lists.

## Hearing Locations

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

Details concerning country sittings are contained in the Law Calendar, which is produced by the Court Services section of the Department of Justice.



Visit our web site below or contact the individual Lists:

**Anti-Discrimination List**

Tel: 9628 9900

Fax: 9628 9988

**Civil Claims List**

Tel: 9628 9830

Fax: 9628 9988

1800 133 055 (within Victoria)

**Credit List**

Tel: 9628 9790

Fax: 9628 9988

**Domestic Building List**

Tel: 9628 9999

Fax: 9628 9988

**General List**

Tel: 9628 9755

Fax: 9628 9788

**Guardianship List**

Tel: 9628 9911

Fax: 9628 9822

1800 133 055 (within Victoria)

**Land Valuation List**

Tel: 9628 9766

Fax: 9628 9788

**Occupational and Business**

**Regulation List**

Tel: 9628 9755

Fax: 9628 9788

**Planning and Environment List**

Tel: 9628 9777

Fax: 9628 9788

**Real Property List**

Tel: 9628 9960

Fax: 9628 9988

**Residential Tenancies List**

Tel: 9628 9800

Fax: 9628 9822

1800 133 055 (within Victoria)

Registered users can access

VCAT Online through the

web site.

**Retail Tenancies List**

Tel: 9628 9960

Fax: 9628 9988

**Taxation List**

Tel: 9628 9770

Fax: 9628 9788

*A quick, easy and low-cost way to have your case heard.*

VCAT

Victorian Civil and Administrative Tribunal

55 King Street

Melbourne 3000

Email: [vcat@vcat.vic.gov.au](mailto:vcat@vcat.vic.gov.au)

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

VCAT Administration:

Tel: 9628 9700

Fax: 9628 9891

TTY: 9628 9926



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

