



# VCAT

VICTORIAN CIVIL AND  
ADMINISTRATIVE TRIBUNAL



Building on our strengths ... together.



2001-02 Annual Report

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# 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 2001 to 30 June 2002 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 ending 30 June 2002; and
- proposals for improving the operation of VCAT and forecasts of VCAT's workload in the subsequent 12-month period.

Sincerely



Murray B Kellam  
President  
30 September 2002



John Ardlie  
Chief Executive Officer  
30 September 2002

## 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).

VCAT is headed by a Supreme Court judge as President and is divided into three divisions (Civil, Administrative and Human Rights). Two County Court judges supervise the divisions as Vice-Presidents. These divisions comprise various Lists, each headed by a Deputy President. A Rules Committee appointed under the VCAT Act develops rules of practice and procedure and Practice Notes for VCAT.

VCAT provides accessible justice in the State of Victoria in respect of administrative review matters, civil disputes and human rights.

## About this Annual Report

The annual report is the major publication produced by VCAT each year. It complies with the *Victorian Civil and Administrative Tribunal Act 1998* and is used to inform government, VCAT users, students and other interested parties about VCAT's activities and achievements.

## Our Theme and Cover

In our fourth year of operation, we chose 'Building on our strengths... together' as the theme for our 2001–02 annual report to represent our continued effort toward a unified approach to dispute resolution while building on the solid foundation that we have established.

The images on the left panel of our cover symbolise some sections of the community served by VCAT. The main photo features staff member Kristie Bouquet, who is responsible for welcoming and assisting VCAT users at the front counter at 55 King Street, Melbourne.

# Profile

## Vision

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

## Purpose

Our purpose is to 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

## 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 and are appointed to head the divisions;
- 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 39 full-time members, 31 are allocated to more than one List. The remaining full-time members are specialist planners or planning lawyers who work exclusively in the Planning and Environment List.

## What We Do

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

- 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, which was created on 1 January 2002, 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.

From left, the award-winning Information Technology Team—Gabby Cappe, Glenda Vazquez, Phillip Monk, Robert Martin, David Freeman (seated), Ian Proctor and Jim Nelms. VCAT Online won national recognition when it was awarded Best in Australia in the E Commerce Implementation Division of the Australian Information Industry Association Awards. 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 withdraw applications via the Internet. More information about VCAT Online can be found on page 12.



# Highlights

## List Users

Refer to Page

- Received 89,854 applications (92,442 in 2000–01), representing a 3% decrease. 3, 4, 6
- Resolved 88,387 cases (91,480 in 2000–01) representing a decline of 3%. 3, 4, 6
- Cases pending totalled 12,253 (10,808 in 2000–01) representing an increase of 13%. 3, 4, 6
- Improved the information available on the VCAT web site. 5, 11, 13, 16
- Released Version Two of VCAT Online. 12
- Received 28,489 applications via VCAT Online, representing 41% of the total applications for the Residential Tenancies List (compared with 9% during the last nine months of 2000–01) and exceeded our target of 35%. 4, 6, 9, 12, 31
- Visitors to the VCAT web site rose from approximately 122,000 in 2000–01 to 126,700 in 2001–02. 3, 11
- Victoria Legal Aid increased the services to VCAT users by establishing the Duty Lawyer Scheme. 4, 6, 10, 18
- Expanded the digital recording system to enable Planning and Environment List hearings to be recorded for the first time. 4, 13

## Our Role

- VCAT operating expenditure increased by 7%, from \$19.73 million in 2000–01 to \$21.08 million in 2001–02. 6, 49
- The overall VCAT Mediation success rate increased from around 60% in 2000–01 to 66% in 2001–02. 16
- Established the Human Rights Division, which incorporates the Anti-Discrimination List and Guardianship List. 7, 18, 44

## Our People

- Provided all staff access to a wide variety of in-house training and training programs offered by the Department of Justice. 5, 48
- VCAT non-judicial membership increased from 174 in 2000–01 to 185 in 2001–02. 8, 47
- Initiated improvements in training and development for VCAT members through a Cultural Training Day in Echuca and a successful pilot program at Monash University. 5, 7, 47

## 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. 5, 11
- Judicial Members, Deputy Presidents, members and senior staff presented a number of information sessions to raise awareness of VCAT's services. 11
- Further improved awareness of VCAT's services in rural areas and accessibility to VCAT by country users via VCAT Online and increased country visits. 6, 10



From left, Deputy President of the Planning and Environment List Richard Horsfall and Manager Digital Recording Peter Cooper review the software designed to store digital recordings of hearing proceedings. The system records proceedings that take place inside VCAT's hearing rooms and stores the recordings onto a central computer hard drive. The system was expanded in April 2001 to enable Planning and Environment List hearings to be recorded for the first time.

# Year at a Glance

Item	2001-02	2000-01	% Change
<b>List Users</b>			
Applications received	<b>89,854</b>	92,442	(3)
Cases resolved	<b>88,387</b>	91,480	(3)
Cases pending	<b>12,253</b>	10,808	13
Percentage of cases settled by mediation	<b>66</b>	60	10
Unique visitors to VCAT web site	<b>126,700</b>	122,000	4
Hearing venues used	<b>114</b>	91	25

## Our Role

Applications received per List:

• Residential Tenancies List	<b>69,191</b>	71,541	(3)
• Planning and Environment List	<b>3,349</b>	3,138	7
• Guardianship List	<b>8,743</b>	9,036	(3)
• General List and Taxation List	<b>1,537</b>	1,372	12
• Domestic Building List	<b>829</b>	1,036	(20)
• Anti-Discrimination List	<b>469</b>	497	(6)
• Civil Claims List	<b>5,124</b>	5,243	(2)
• Real Property List	<b>31</b>	31	0
• Retail Tenancies List	<b>215</b>	203	6
• Occupational and Business Regulation List	<b>107</b>	106	1
• Land Valuation List	<b>182</b>	145	26
• Credit List	<b>77</b>	94	(18)

## Our People

Total employees	<b>160</b>	159	1
Judicial members	<b>6</b>	5	2
Full-time members	<b>39</b>	38	3
Sessional members	<b>146</b>	136	7

## The Community

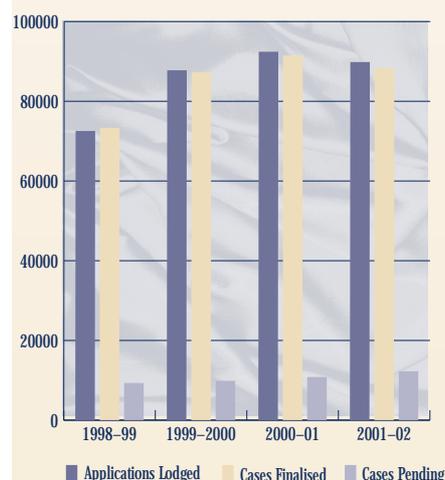
User group meetings conducted	<b>15</b>	16	(6)
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## Three Year Financial Summary

Item	2001-02	2000-01	1999-00
VCAT funding sources:			
• Appropriations (VCAT)	<b>12.15</b>	11.24	11.63
• Residential Tenancies Trust Fund	<b>6.66</b>	6.31	6.02
• Domestic Building Trust Fund	<b>1.49</b>	1.35	1.41
• Guardianship and Administration Trust Fund	<b>0.78</b>	0.83	0.90
Total:	<b>21.08</b>	19.73	19.96
VCAT operational expenditure:			
• Salaries to staff	<b>5.81</b>	5.62	5.42
• Salaries to full-time members	<b>4.10</b>	4.25	4.54
• Salaries to sessional members	<b>2.86</b>	2.59	2.62
• Salary related on-costs	<b>2.40</b>	1.50	1.82
• Operating costs	<b>5.91</b>	5.77	5.55
Total:	<b>21.08</b>	19.73	19.96

Note: The statistics quoted in this annual report in some instances vary from those given in VCAT's 2000-01 annual report. These variations are due mainly to improvements in statistical reporting, which have occurred during 2001-02, or changes in classification of cases over that time.

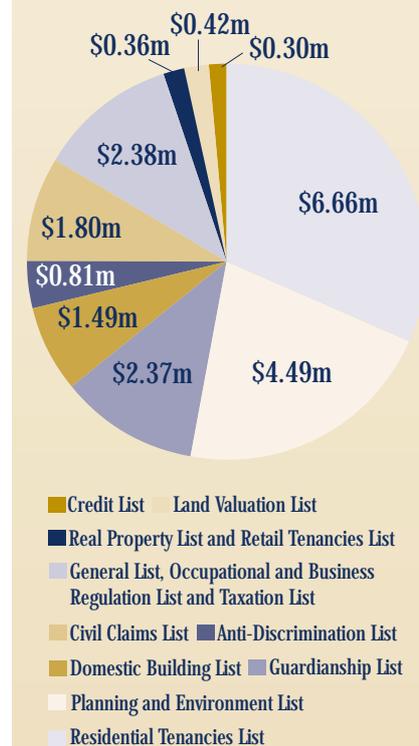
## All VCAT Cases—1998-2002



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 2001-02.

## VCAT Expenditure by List 2001-02

Total Expenditure \$21.08 Million



VCAT expenditure totalled \$21.08 million, which was divided among the Lists as shown.

# Objectives, Strategies and Results 2001–02

## List Users

### Aims and Objectives

Deliver excellence in service by being:

- Cost-effective
- Accessible and informal
- Timely
- Fair and impartial
- Consistent
- Quality decision-makers
- a structure that minimises legal costs to the user.

### Strategies

- Provide easy access for users so that their cases may be resolved quickly and conveniently.
- Ensure that cases are dealt with and resolved as quickly and effectively as possible.
- Resolve cases with fairness and objectivity.
- Provide a sufficient number of members with specialised skills to make consistent, quality decisions.

### Results

- Arranged training opportunities for mediators, such as co-mediations that enabled them to observe other mediators at work.
- Achieved a mediation settlement rate of 66%.
- Improved success rate of mediations by identifying a core group of mediators who can be offered regular mediations.
- Received 28,489 applications for the Residential Tenancies List via VCAT Online (41% of the total applications) and exceeded our target of 35%.
- Improved case flow statistical reporting to more closely monitor the status of cases.
- Developed the Order Entry System (OES) to enable Guardianship List orders to be generated.
- Finalised 80% of cases within target times, as far as the budget allowed.
- Monitored and anticipated workload to give accurate advice to government about future membership and resource needs.
- Victoria Legal Aid increased the services to VCAT users by establishing the Duty Lawyer Scheme.
- Expanded the digital recording system to enable Planning and Environment List hearings to be recorded for the first time.

### Future

- Continue to promote mediation as an important dispute resolution strategy at VCAT.
- Develop and promote the use of VCAT Online to enable more than 60% of applications to be lodged via the Internet.
- Introduce VCAT Online Version Three to allow users to view Orders about their cases.
- Finalise 80% of cases within target times.
- Publish detailed case load data about the Planning and Environment List to improve awareness of the List by the community and councils.
- Monitor and anticipate workload to give accurate advice to government about future membership and resource needs.

## Our Role

### Aims and Objectives

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

- Independent
- Responsible
- Responsive

### Strategies

- Make effective use of our role as a quasi-judicial and administrative review body in managing our affairs independently of government.
- Use our resources to resolve disputes efficiently.

### Results

- Received 89,854 applications (92,442 in 2000–01), representing a 3% decrease.
- Resolved 88,387 cases at a cost of \$21.08 million (8% fewer cases than the projected total of 96,000, largely due to Residential Tenancies List cases decreasing rather than increasing as was predicted).
- Cases pending totalled 12,253 (10,808 in 2000–01) representing an increase of 13%.
- Monitored community perception through user groups, user feedback and by monitoring the media.

### Future

- Continue to monitor community perception through user groups, user feedback and the media.
- Resolve approximately 90,200 cases within the resources provided by the Victorian Government to VCAT.
- Continue to work with government in establishing new jurisdictions on VCAT.
- Continue to lead the way in expanding and establishing alternative dispute resolution standards and processes.
- Increase our capacity to provide meaningful statistics to the community about our work.

# Objectives, Strategies and Results 2001–02

## Our People

## The Community

### Aims and Objectives

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

### Strategies

- Ensure that Registry staff have the skills necessary to perform their roles efficiently.
- Enhance the specialised skills and expertise of members to enable them to manage the dispute resolution process fairly and effectively, and to make quality decisions.

### Results

- Gave staff access to internal training and the wide range of training programs conducted by the Department of Justice (DOJ).
- Increased expenditure for training and development at VCAT by 46%.
- Conducted a cultural training day in Echuca involving 30 VCAT members in discussions with the local Aboriginal community.
- Eight members participated in a successful Monash University pilot course entitled *Decision Making for Tribunal Members*.
- Held an interactive, in-house staff conference in September 2001 and implemented several initiatives to improve the workplace environment.
- Formed a committee to identify future qualification requirements for court/tribunal administrators and passed its recommendations to the Attorney-General.
- VCAT Online won national recognition when it was awarded *Best in Australia* in the E Commerce Implementation Division of the Australian Information Industry Association Awards.
- Three staff members received Partnership Awards for their significant contribution to an ideal working environment at VCAT.

### Future

- Maintain staff access to training programs provided by the DOJ and hold an interactive, in-house staff conference in late 2002.
- Work with the Judicial College of Victoria to enhance member training and development.
- We anticipate that findings of the committee formed to identify future qualification requirements for court/tribunal administrators will be considered within the context of the Courts' Strategic Directions project to commence in 2002–03.

### Aims and Objectives

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

- User feedback
- Education

### Strategies

- Monitor the quality of the dispute resolution process through community feedback.
- Raise community awareness of the services that VCAT provides.
- Provide a state-wide service to users.

### Results

- Held user group meetings in most Lists on a regular basis to enable a valuable exchange of information.
- Monitored user complaints to identify areas needing improvement.
- Improved the information available on the VCAT web site, including information about the various Lists, fees and privacy, and improved the speed of publication of significant VCAT decisions.
- Improved access for country users via VCAT Online and increased hearing venues.
- Began a pilot program of the OES at Sunshine and Ballarat Magistrates' Courts, with limited success due to limitations in software used to communicate with the Courts.

### Future

- Continue to conduct regular user group meetings in most Lists to gather feedback from the community.
- Continue to monitor user complaints to ensure the quality of our services to users.
- Implement software upgrades to remedy the limitations of the OES software.

# President's Report

Our fourth year of operation at the Victorian Civil and Administrative Tribunal (VCAT) marked a time for consolidating our operations and building on the solid foundations that we have established since VCAT began. As a result, we increased the efficiency of our operations, achieved satisfying improvements in user service, and retained a steady, dedicated and experienced work force. At the same time, we continued to work towards our ultimate aim of offering Victorians a unified approach to dispute resolution.

## Overview of Case Load and Operating Expenditure

The high demand for VCAT's services continued in 2001–02 with only a slight decrease in case load. VCAT received 89,854 applications, reviews and referrals, which represent a decrease of 3% compared with 92,442 in 2000–01. Although the total number of applications received decreased, it is significant to note that the decrease was substantially in the high volume Lists. In the lower volume and more complex jurisdictions of planning, transport accidents, freedom of information, retail tenancies and land valuations, there have been significant increases.

We resolved 88,387 cases in 2001–02, a decrease of 3% compared with the 91,480 cases resolved in 2000–01. Cases pending rose also, totalling 12,253, representing a 13% increase compared with 10,808 cases pending in 2000–01. This is an issue of some concern requiring continuous attention.

VCAT operating expenditure increased by 7% from \$19.73 million in 2000–01 to \$21.08 million in 2001–02.

## Budgetary Concerns

Once again, budgetary concerns had a significant affect on the capacity of VCAT to list a substantial number of sessional members to hear cases. It was necessary to restrict the number of cases that could be otherwise heard because of such concerns. An appropriate strategic plan in respect of the budgetary process and the provision of funding for VCAT is necessary if we are to meet our statutory obligations with maximum efficiency. The Attorney-General has announced a review of the Courts and VCAT administrative processes and we hope that this review will provide positive results to enable a more strategically effective budgetary process.

## Review of Member Remuneration

Regrettably, the serious concerns about member remuneration remained throughout the financial year. In July 2001, the Attorney-General instructed the Department of Justice (DOJ) to undertake a further review of VCAT members' salaries. As a consequence, a further independent report has been provided to the DOJ. As at the conclusion of the financial year, no action had been taken in respect of recommendations made by either the Judicial Remuneration Tribunal in January 2001 or by the further independent review<sup>1</sup>. However, members of VCAT will, in future, have their remuneration reviewed at least bi-annually by the newly constituted Judicial Remuneration Tribunal pursuant to the *Judicial Remuneration Tribunal (Amendment) Act 2002*. This should ensure that the serious neglect that has taken place in relation to VCAT members' remuneration over the last decade will not occur in future.

## New Service for VCAT Users

In October 2001, a Duty Lawyer Scheme commenced at VCAT. Through an arrangement with Victoria Legal Aid, we established a duty lawyer's office on the ground floor of 55 King Street to assist unrepresented parties with on-the-spot legal advice. In addition, the new service has proved to be of invaluable assistance for VCAT staff in their day-to-day dealings with VCAT users. It is appropriate that I record my appreciation and admiration for the outstanding contribution now being made by Victoria Legal Aid in this regard.

## Council of Australasian Tribunals Established

At the Australian Institute of Judicial Administration (AIJA) Tribunals Conference held in Melbourne in June 2002, representatives of nearly all Australian and New Zealand tribunals met and established the Council of Australasian Tribunals. It is proposed that a National Council will be able to assist in developing best practice, performance standards and contribute generally to an increase in the standards and performance of tribunals. Consistent with its leadership role among Australian tribunals, VCAT will provide the Secretariat for the first year of the Council's operations. I have been appointed the Chair of the Interim Executive charged with establishing the Council and the State, Territory and New Zealand Chapters.

## A New Division Established

In December 2001, we established a new division of VCAT—the Human Rights Division—incorporating the Guardianship List and the Anti-Discrimination List.

Since the commencement of VCAT, we have recognised that the nature of matters dealt with by the Guardianship List and the Anti-Discrimination List is distinctly different from other disputes coming before VCAT. Of all the issues dealt with by VCAT, none are more important than those arising in relation to the disabled, vulnerable, elderly and other members of our society whose rights are protected by the legislation relevant to the jurisdiction exercised by these Lists. Accordingly, the Rules Committee decided that these Lists should be in a separate Division of VCAT, which clearly underlines the human rights issues addressed by them.

## Ensuring Accessibility

Ensuring easy access to VCAT by the community remained an important priority. Throughout the year in review, we heard cases at venues convenient to users and increased the frequency of visits to rural Victoria. In addition, we increased our video conferencing facilities. VCAT has a hearing room in the new Wodonga Court Complex. We expect that facilities will be made available for VCAT to become an integral part of the planning in any new regional court proposal.

We continued to experience improved accessibility and administrative efficiency with VCAT Online, receiving 41% of the total applications in the Residential Tenancies List, exceeding our target of 35%. In October 2001, VCAT Online won national recognition when it was awarded *Best in Australia* in the E Commerce Implementation Division of the Australian information Industry Association Awards. It was noted that "VCAT has quietly achieved what others in the industry are still talking about". Congratulations to our award-winning IT development team, including Jim Nelms, Phil Monk, Rob Martin and David Freeman, for such a tremendous achievement.

## Raising Community Awareness

We increased the number of information sessions that we conducted during the financial year to help raise community awareness about the services VCAT offers, particularly in the Planning and Environment List, Residential Tenancies List and Guardianship List. Some excellent examples

<sup>1</sup>Subsequent to the end of the financial year, the subject of this Annual Report, Cabinet approved substantial increases in remuneration for all non-judicial members of VCAT to take effect as from 8 July 2002.

# President's Report

of the success of VCAT information sessions included our part in:

- Wodonga Open Day in April 2002, with 5,000 visitors attending;
- a presentation by the Planning and Environment List held on 14 November 2001 during Planning Week, attracting 70 people; and
- Law Week in May 2002, at which we organised public presentations attended by 80 visitors.

More information about the activities of individual Lists may be found starting on page 18.

## Member Training and Development

During 2001–02, VCAT members participated in a number of significant training and development activities and initiatives, including numerous seminars relevant to the jurisdiction and processes of VCAT. In addition, members engaged in studies at Monash University, and in cultural training and AIJA seminars as referred to below and on page 47.

### Monash Studies Course

In 2000–01, we sponsored eight members to undertake a six-month pilot program conducted by the Faculty of Law at Monash University. The course, entitled *Decision Making for Tribunal Members*, is designed specifically for tribunal members with the aim of improving the quality of decision-making. The pilot program has been a great success and Monash University will offer participants a Graduate Diploma in tribunal procedures upon successful completion of the course, which is available electronically throughout Australia and Asia via the Internet. VCAT is supportive of this course as a major contribution to improving tribunal standards of professionalism.

### Cultural Training Day in Echuca

We conducted a cultural training day in Echuca involving 30 VCAT members in discussions with the local community. The aim of the program was to expose VCAT members to Aboriginal culture and to meet members of the community in their own circumstances with a view to better understanding the particular concerns in that community. We are grateful for the generosity with which the Yorta Yorta people welcomed us and to Wanda Braybrook and Kelly Faldon for arranging the program.

### The Judicial College of Victoria

The Judicial College of Victoria was established during the financial year, under the *Judicial College of Victoria Act 2001*.

As a member of the Board of the College, I look forward to the College making a significant contribution to professional development and training of VCAT members in the future.

### AIJA Tribunals' Conference

In addition, approximately 40 members participated in the AIJA Tribunals' Conference conducted in Melbourne in June 2002.

For more information about specific training, refer to individual List performance starting on page 18.

## Increased Case Volume in the Planning and Environment List

Once again, case volume in the Planning and Environment List increased significantly. Applications increased by 7% from 3,138 in 2000–01 to 3,349 in 2001–02. The number of cases that were awaiting hearing as at 30 June 2002 was 1,697, compared with 1,336 as at 30 June 2001. At the time of writing, the Planning and Environment List is severely stretched in its capacity to hear cases in a timely manner. The List will be unable to cope with the current volume of cases unless additional resources are provided in the near future.

Mediation of Planning and Environment List cases has been a major focus during the year in review. Planning cases listed for mediation totalled 418. The results are described on page 16. We believe that mediation of planning cases is being accepted increasingly by the community, although VCAT continues to meet resistance to the

mediation of Planning and Environment List disputes from some municipal councils. We intend to increase the number of mediations in the forthcoming year.

## Revolutionary Improvement in Capturing Statistics

We have seen a revolutionary improvement in our ability to capture statistical data about our activities, particularly in the Planning and Environment List. We can now generate an outcome analysis for all Planning and Environment List cases initiated. We can analyse the number of applications made to the List, the outcomes of those applications and whether they were successful, unsuccessful, resulted in a compromise or withdrawn. We include a summary of the outcome analysis on page 40 of this annual report.

We plan to provide case data for every council in Victoria early in the next financial year. We believe that the publication of this material will make a significant contribution to the understanding and transparency of the planning system in Victoria.

## Divisional Overview

The Lists in the Civil, Administrative and Human Rights Divisions of VCAT met set objectives and managed their respective case loads in a timely manner during 2001–02. The following divisional overview summarises the key highlights of each division.



From left, President of VCAT Justice Kellam with Vice-Presidents Judge Strong and Judge Bowman.

# President's Report

## Civil Division

In the Civil Division, the volume of applications received decreased by 3%. The Lists most affected by the decrease in case load were the Residential Tenancies List where there were 2,350 fewer cases initiated (a 3% decrease) and the Domestic Building List where 207 fewer cases were initiated (a 20% decrease). The drop in demand in the Domestic Building List was expected as demand generated by the 'GST building boom' decreased. However, we expect demand to increase as a result of recent changes to building insurance and the introduction of new Victorian Government dispute resolution services.

Settlement rates obtained at mediation continued to rise, with a success rate of 65% in the Domestic Building List and 67% in the Retail Tenancies List. However, many cases not settled at mediation did settle without the need for a hearing, probably as a direct consequence of negotiations between parties, leading to settlement.

## Administrative Division

In the Administrative Division, the volume of applications received increased by 9%. The Lists contributing most significantly to the rise are as follows:

- The Planning and Environment List experienced an increase of 7%, totalling 3,349 applications. This rise was anticipated, and is attributed to continuing strength in the building industry and an increased volume of permit applications in late 2001 in an attempt to predate the introduction of ResCode.
- Applications in the General List and Taxation List increased by 12%, totalling 1,537. The increase was due to a 16% rise in the number of Transport Accident Commission cases initiated, following amendments to the Transport Accident Commission Act. We will continue to consult with the Transport Accident Commission to better understand the reason for this rise in demand.
- In the Land Valuation List, applications received rose by 26%, totalling 182. In the latter part of 2000–01, the List experienced a substantial increase in the volume of applications following the completion of the general municipal valuations for 2000. Mediation was used extensively in the Planning and Environment List, where we achieved a settlement success rate of 67%.

## Human Rights Division

In the newly established Human Rights Division, incorporating the Guardianship List and the Anti-Discrimination List, applications fell by 3%. The Guardianship List experienced a 3% decrease, while the Anti-Discrimination List received 6% fewer applications.

Mediation proved to be a successful form of alternative dispute resolution in the Anti-Discrimination List with a success rate of 71%.

## Vice-President Changes

His Honour Judge Duggan's term as Vice-President in charge of the Civil and Human Rights Divisions of VCAT ceased in March 2002 and he was replaced by His Honour Judge Bowman. Judge Duggan made a major contribution to VCAT by reason of his long experience as a judge and the wisdom and common sense he applied to his leadership role. Judge Bowman's contribution in terms of leadership has been obvious and significant already. I am pleased that, although Judge Duggan has returned to his duties in the County Court, he has been re-appointed as a Vice-President of VCAT for a further five years and may be called upon to sit from time to time as required.

## New Fees Introduced

In February 2002, as a result of the DOJ's review of the fees payable for issuing proceedings at VCAT, new fees were introduced by Regulation. Up until that time, VCAT fees were the same fees charged by the previously separate boards and tribunals, which were amalgamated into VCAT in 1998. The new fees enable a consistent approach to fees across VCAT. However, one issue of significant concern remains in relation to annual administration fees payable in the administration of the estates of protected persons. Under the *Guardianship and Administration (Fees) Regulations 1986*, a \$100 annual fee is imposed upon estates with a fortnightly income exceeding \$430. This means that numerous members of the community pay \$300 over the three-year period before each administration order is reviewed merely because an administration order has been made. This is the highest fee charged in respect of any VCAT application and many VCAT users regard it as unjust and unconscionable. From our viewpoint, much administrative time is used in dealing with applications to waive the fee because of hardship. We hope that the necessity to impose this particular fee will be reconsidered by the Government in the near future.

## Overseas and Interstate Interest

During the financial year, we hosted delegations from China, Taiwan, Singapore, Indonesia and New Zealand in addition to meeting with

representatives of Queensland, New South Wales and Western Australia. Representatives in Western Australia have since established a judicially-led, amalgamated tribunal based on the VCAT model.

## Acknowledgments

I am grateful for the untiring efforts of our Rules Committee, Heads of Lists Committee, Professional Development Coordinating Committee and sub-committees, including the Mediation and Library Committees. In particular, I wish to express my admiration for the enormous contribution of our former Librarian Claire O'Dwyer. Her efforts enabled her to transcend the role of librarian in accomplishing several key initiatives, including the introduction of a fortnightly electronic knowledge management tool in compliance with legal education requirements for VCAT members. In addition, I thank four of our inaugural members of the Mediation Committee who retired from that committee: Cathy Aird, Damien Cremean, Struan Gilfillan and Annemarie Tilley. They gave most valuable service. In particular, I express my appreciation to Dr Gregory Lyons, our Principal Mediator. In my view, the fact that VCAT is at the forefront of mediation being an integral process is due to his leadership.

I wish to acknowledge with appreciation the dedication and commitment of Deputy Presidents, members, management and staff in further strengthening the solid foundation that we have established. In particular, I acknowledge the work of Chief Executive Officer John Ardlie, Principal Registrar Ian Proctor, Listings Manager George Adgemis and the Registry staff whose contributions to VCAT's success are immeasurable.

Finally, but most importantly, I wish to record my appreciation of the support given to me by His Honour Judge Strong. He has provided solid leadership of the Administrative Division and his contribution to the Planning and Environment List, in particular, has been most significant.

Together, we will embark on the year ahead with confidence that we are empowered to provide Victorians with the strength of a unified approach to dispute resolution, while delivering quality decision-making and service excellence in all of our endeavours.



Murray B Kellam  
President

# Chief Executive Officer's Message

The year in review was a period for reflecting on what we have achieved together and for establishing a strong foundation for the future. We achieved significant administrative and technology-related goals, while retaining an enthusiastic, dedicated and experienced administration team. Scheduling cases to meet changing demands, while maintaining agreed waiting times continued to be a challenge.

## Registry Restructured

A major Registry restructure took place in May 2002 to create a single Registry function with two sections—Civil and Administrative Section and Residential Tenancies and Guardianship Section. The new structure completes the VCAT Registry consolidation.

## Support at Hearing Venues

We increased the number of staff supporting VCAT users and members at suburban complexes and some rural venues. Working alongside court administrators, our staff provided local and specialist advice, particularly about VCAT procedures in the Residential Tenancies List and Civil Claims List. In time and in consultation with court administrators, VCAT registry functions will be devolved to specially trained administrators who will provide local access to VCAT services at court venues.

## Job Sharing and Flexible Work Programs

Developed as an initiative to assist staff with family-related commitments, 'job sharing' was introduced and embraced enthusiastically across the range of administrative levels at VCAT, providing a more flexible working environment designed to retain experienced staff.

To encourage staff to undertake studies, we made arrangements to design flexible work programs to meet individual and VCAT needs.

## Review of Court/Tribunal Administrator Qualifications

Supported by the Attorney-General, Justice Kellam formed a committee comprising members from VCAT, the Courts and the Department of Justice (DOJ), to identify future qualification requirements for court/tribunal administrators. The committee's recommendations were passed to the Attorney-General on 3 June 2002, recommending that the findings be considered within the context of the Courts' Strategic Directions project.

At VCAT, we look forward to the time when our staff and court employees can work across all jurisdictions, when suitable career positions become available throughout the State.

## Achievements of our Librarian

During her time at VCAT, Librarian Clare O'Dwyer reintroduced library services and

re-established the Library as the central point for disseminating knowledge to assist VCAT members. Working with the members, she improved access to Internet-based research and was responsible for the timely registration of VCAT decisions on the AustLII web site.

## VCAT Online Wins Recognition

VCAT Online was recognised by the Executive of the Australian Information Industry Association when it won the prestigious *2001 iAward—Implementation for e-Business and Internet*, sponsored by Microsoft, the Australian Financial Review and Telstra. In February 2002, VCAT Online was showcased at Adelaide's World Congress on Information Technology.

We are very proud of the achievements of our IT development team members and congratulate them on the establishment of this innovative and 'user friendly' Internet-based system. It has exceeded all expectations for the registered users and our administration. During 2001–02, 41% of all applications were registered using VCAT Online. As at June 2002, there were 560 registered users throughout Victoria. VCAT Online is described in detail on page 12.

## Inaugural Staff Conference Held

Our inaugural Staff Conference, opened by the Secretary of the DOJ Mr Peter Harmsworth, provided all administration staff with a broader knowledge of the diversity of VCAT's functions. It enabled them to discuss freely their proposals for improving the workplace and our service delivery to VCAT users.

A significant outcome from the Conference was a well supported proposal to adopt 'job rotation'. This has been introduced and has increased opportunities for multi-skilling among staff.

The Conference was developed and staged with the involvement of staff from all levels. At its conclusion, an action plan with time frames for implementation was developed, circulated and adopted.

## Acknowledgments

The administrative team at VCAT has again performed exceptionally well in managing a wide range of tasks within strict time frames. Critical to the efficient management of our business is the work of the Listing Directorate. I acknowledge and thank George Adgemis and his hard-working team for competently scheduling hearings at 55 King Street and at the many venues across Victoria.

I thank President Justice Kellam, the Vice-Presidents Judge Duggan, Judge Strong and Judge Bowman, the Deputy Presidents, members and mediators for the cooperation and strong support they have given me and the entire administration.



Chief Executive Officer John Ardlie.

I recognise the support of Peter Harmsworth, Secretary of the DOJ, Deputy Secretary Liz Eldridge, John Griffin, Executive Director, Courts and their many colleagues who assist VCAT in achieving its goals and I thank them for their contribution.

I am grateful to Principal Registrar Ian Proctor, and the Senior Registrars and their colleagues for another outstanding year in which all challenges were met in an efficient manner. I congratulate recently retired Senior Registrar Wayne Richards on achieving 36 years of public service. I thank him for his significant contribution to establishing the VCAT Registry and for his considered guidance to VCAT users and staff alike. Wayne will be missed by his colleagues.

I appreciate the advice of Human Resources Manager Sam Kenny, who returned from leave, and Finance Manager Alan Karfut, who provided the President and myself with timely reports and advice. In addition, I appreciate the administrative assistance ably provided by Lorraine Renouf and Rupali Varma.

I thank my personal assistants Mirella Scaramuzzino and Jo Lawson who provided me, the members and staff with outstanding support.

In closing, I wish to recognise the significant contribution that the Judges' personal staff made to the administration of VCAT generally and particularly by being available to assist VCAT users who are involved in hearings each day. The obvious cooperative approach by members and staff supports the efficient disposition of cases and subsequent transactions. I can say confidently that the administration of VCAT has continued to serve VCAT users in an efficient and effective manner.

A handwritten signature in black ink, appearing to read 'John Ardlie'. The signature is fluid and cursive, written over a light-colored background.

John Ardlie  
Chief Executive Officer

This was a period for reflecting on what we have achieved together.

YEAR IN REVIEW

# User Services and Community Relationships

At VCAT, we consider the relationships we build with the Victorian community and the services we provide to VCAT users to be essential. This ensures that we remain easily accessible, while meeting user demands as efficiently and timely as possible.

## Central Listings

Central Listings provides coordinated control of the listing process. This involves the extensive task of allocating hearing rooms, members and cases throughout Victoria. Central Listings enables us to allocate member resources efficiently by using the expertise of members who can hear the work of more than one List. In addition, Central Listings enables constant monitoring of the listing of Judicial Members and non-judicial members, including Magistrates located throughout Victoria. This provides the highest quality and most efficient decision-making process possible.

## Hearing Locations

During 2001–02, we increased the number of hearing venues, as well as the frequency of visits to rural Victoria. VCAT members conducted hearings at 55 King Street, Melbourne, and at 114 suburban and rural locations throughout Victoria (91 in 2000–01). Refer to page 58 for a full list of hearing venues and the inside back cover for a map of Victoria that shows hearing locations.

In addition to established hearing venues, VCAT members heard cases at locations convenient to the user, including hospitals, private nursing homes and special accommodation homes.

## Magistrates as Sessional Members

To increase our presence in rural Victoria and maximise our ability to hear urgent applications, a select group of Magistrates sat as sessional members. During 2001–02, Magistrate sessional members included three Deputy Chief Magistrates in Melbourne and Magistrates located in Dandenong, Horsham, Shepparton, Bendigo, Sale and Geelong.

## Video and Telephone Conferences

VCAT users may opt to attend hearings conducted by video or telephone, particularly if they are unable to attend designated hearing locations. For a nominal fee, we can arrange video links to locations around Australia and overseas.

During 2001–02, VCAT members conducted approximately 52 video conferences (47 in 2000–01). These included links throughout Australia and New Zealand, including Hamilton, Launceston, MacKay, Mildura, Myrtleford, Portland, Swan Hill, Wangaratta, Warrnambool and Wollongong. In addition, video conferencing assisted us in managing members' time more efficiently, especially in urgent matters originating in rural areas.

Members conducted telephone conferences on a regular basis at VCAT, averaging 12 to 15 hearings by telephone each week.

## Front Counter Service

The VCAT front counter is located on the ground floor of 55 King Street. Front counter service staff members assist users with general advice about VCAT operations and hearing procedures. Tasks include assisting users in filling out application forms, arriving for hearings and asking for warrants to be prepared for orders involving residential tenancies matters.

During 2001–02, 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. A new facsimile service, introduced last financial year, continued to benefit users with timely processing of warrants. We sent the majority of warrants by facsimile directly to real estate agents, landlords or police stations. This service proved to be invaluable, particularly in urgent matters.

In addition, the front counter service provides an excellent training ground for Registry staff dedicated to specific Lists within VCAT to gain a greater understanding of how other Lists operate.

## Fifth Floor Service

At the reception desk on the fifth floor, three staff members, including two judges' tipstaves and one administrative coordinator, greet parties arriving for hearings. They assist with the efficient running of as many as 100 hearings each day, acting as the interface between the public and VCAT members. This ensures that cases are heard as scheduled.

Their tasks include recording the arrival of parties for hearings and directing them to hearing rooms. Other responsibilities include noting special requests, such as meeting with the duty lawyer on the premises, using audio visual material and taking care of security concerns.

## New Duty Lawyer Scheme

Victoria Legal Aid increased the services to VCAT users with the introduction of the Duty Lawyer Scheme. The duty lawyer, located on the ground floor of 55 King Street, assists unrepresented parties with confidential, on-the-spot legal advice, free of charge.



*Duty Lawyer Paul Fisher assists a VCAT user with legal advice. Victoria Legal Aid introduced the Duty Lawyer Scheme to VCAT users in October 2001. The duty lawyer, located on the ground floor of 55 King Street, assists unrepresented parties with confidential, on-the-spot legal advice, free of charge. In addition, the new service has proved to be an invaluable legal resource for VCAT staff in their day-to-day dealings with users, particularly with regard to complex matters.*

# User Services and Community Relationships

In addition, the new service has proved to be an invaluable legal resource for VCAT staff in their day-to-day dealings with users, particularly with regard to complex matters.

Since the service began in October 2001, the Duty Lawyer has predominantly benefited users of the Residential Tenancies List, Civil Claims List and Guardianship List.

## VCAT Web Site

The number of visitors to the VCAT web site at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) continued to rise, attracting more than 126,700 unique visitors, compared with 122,000 visitors in 2000–01, representing a 4% rise.

The site features information about VCAT legislation, Practice Notes and Rules, a list of scheduled hearings, the daily law list and key decisions. In addition, it 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.

The site receives an average of 15,000 page hits each week, with the most popular pages being the daily law list, VCAT decisions and application forms.

During 2001–02, we further improved the speed of publication of VCAT decisions, including the reasons for the decisions, as well as the electronic storage of, and access to, orders at VCAT. Refer to page 13 for more information.

## Our User Service Charter

The VCAT User Service Charter assists us to build a more focused approach toward improving services to our users. It outlines a number of service guarantees aimed at informing VCAT users of both the level of service they should expect and the steps they should take if they have a complaint. We feature the VCAT User Service Charter on page 57 of this annual report.

## User Feedback

As a means of ensuring that we continue to serve our users effectively, we record any feedback we receive, positive or negative, about VCAT's services. Most importantly, we acknowledge immediately any complaints we receive and ensure that they are redirected to the Chief Executive's Office. We lodge the details of any complaints in a database and pass this information on to the Chief Executive Officer. We initiate



*President of VCAT Justice Kellam spoke at the launch of the new VCAT mediation video entitled 'Working it out through mediation'. Attorney-General Rob Hulls MP launched the video on 15 May 2002 at Parliament House. The 15-minute video outlines the mediation process, how to prepare for mediation and how to participate in it.*

follow up action within seven to 14 days of receiving a complaint.

During 2001–02, we logged 123 complaints into the system, compared with 105 complaints received during 2000–01.

## User Groups

User groups play an essential role in our ongoing improvement process, offering an ideal forum where users of VCAT's services may discuss important issues. Selected members from each List conduct regular user group meetings, usually on a quarterly basis. The user groups comprise a broad spectrum of representatives from community and industry groups, and the legal profession. These representatives are given the opportunity to provide valuable feedback with the aim of improving the service that VCAT offers. User group activities are explained in the review of individual List performance, starting on page 18.

## Community Information Sessions

Information sessions help to raise awareness about the many services that VCAT offers, while providing a vital link to the community in which VCAT operates and serves.

## Visits by Legal Studies Students

On a regular basis, VCAT hosts visits by legal studies students to give them exposure to VCAT operations. During such visits, they attend an introductory seminar and a variety of hearings. In 2001–02, VCAT hosted visits by 21 legal student groups, including many return visits from groups that had visited during the previous financial year.

## Success of Wodonga Court Open Day

On 7 April 2002, VCAT held information sessions at the public open day for the new Wodonga Court and Police Complex. The event proved to be an overwhelming success, with 5,000 visitors in attendance.

## Planning Week

The Planning and Environment List held presentations on 14 November 2001 during Planning Week to raise awareness within the community about the work of the List. The morning and afternoon sessions attracted 70 people and covered such topics as the role of the List within VCAT, how to lodge an application for review, and how hearings and mediations are conducted.

## Sessions Conducted by VCAT Members

Judicial Members conducted a number of information sessions during 2001–02, including:

- a paper given by the President on planning issues at the National Environmental Law Association Services on 16 August 2001;
- a speech given by the President at the launch of the VCAT mediation video by the Attorney-General at Parliament House on 15 May 2002;
- an address by Judge Davey at the Planet Seminar for Law Institute Planning Group attendees during Planning Week; and
- chairing a session on the subject of Freedom of Information at the Leo Cussen Institute.

In addition, Deputy Presidents and Senior Members conducted information sessions regarding subjects specific to Lists. For more information, refer to individual List performance, starting on page 18.

# Information Technology

At VCAT, information technology plays a key role in ensuring that members and staff are able to respond to user demands as quickly and efficiently as possible. During 2001–02, we moved forward at a rapid pace, achieving several initiatives that substantially improved our ability to deliver VCAT services to users.

## Case Management

The Case Management System (Caseworks) and the Tribunals Management System (TM) enable members and staff to manage VCAT's substantial workload.

We use Caseworks and TM to:

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

## Caseworks

Caseworks provides a flexible and efficient computer database that supports all Lists of VCAT other than the Residential Tenancies List and Guardianship List. Staff use Caseworks to manage the progress of cases at VCAT from application to final decision.

Since reaching maturity on its completion in May 2001, Caseworks has operated efficiently, requiring only small improvements.

As a major benefit for our users, Caseworks allows us the flexibility to rewrite and improve much of our standard correspondence. Previously, this was a cumbersome process requiring specialised computer programming.

In addition, Caseworks has improved our statistical reporting significantly, enabling us to expand our ability to report statistics in this Annual Report to include more detailed data on timeliness.

## Tribunals Management System (TM)

TM supports the high volume Residential Tenancies List and the Guardianship List. During 2001–02 we focused on upgrading TM's ability to support the Guardianship List by expanding the Order Entry System (OES).

*Phil Monk is the Manager of Applications Development at VCAT and has been Project Director/Manager of the VCAT Online project from its earliest days. Working closely with Jim Nelms, Phil helped define the scope of the online application to ensure that the project did not become too large or complex. Phil was responsible for coordinating the efforts of the large team that was involved in getting VCAT Online off the ground. This team included the application developers, network support staff, database administrators, hardware support technicians and application testers.*



We introduced OES in the Guardianship List in April 2002 to enable its members to produce orders using personal computers installed in hearing rooms (refer below). Users can collect orders as soon as they leave the hearing room. We improved our ability to report and track compliance with VCAT orders made in the Guardianship List. This is critical in ensuring that the interests of represented persons are protected.

## VCAT Online a Major Success

VCAT Online enables registered users of the high volume Residential Tenancies List to apply to the List, generate and print notices of dispute under the *Residential Tenancies Act 1997*, view notices of hearings, and withdraw applications via the Internet. In approximately 50% of cases, users receive advice of a hearing date within seconds of lodging an application.

In addition, VCAT Online allows VCAT staff to streamline administrative tasks and production costs because it minimises data entry and automatically schedules the majority of hearings, while reducing the need for data checking.

## VCAT Online Wins Major Industry Award

The success of VCAT Online was recognised in October 2001 when it received the major industry award *2001 iAward—Implementation for e-Business and Internet* sponsored by Microsoft, the Australian Financial Review and Telstra. In February 2002, VCAT Online was showcased at the World Congress on Information Technology held in Adelaide.

## VCAT Online Use Exceeds Target

VCAT Online use rose dramatically during 2001–02. We received a total of 28,489 applications through VCAT Online, representing 41% of all applications made to the Residential Tenancies List, compared with 9% in 2000–01. As a result, we exceeded our target of 35% stated in the 2000–01 Annual Report. The Office of Housing (a major user of VCAT) began using VCAT Online in August 2001, which was a major cause of that growth.

## Version Two Successfully Released

VCAT Online Version Two was successfully released in March 2002, providing expanded online services that enable users to:

- make additional types of applications;
- view hearing notices;
- withdraw applications; and
- request warrants of possession.

## Further Improvements Planned

We are considering further improvements to VCAT Online, including allowing users to view orders of VCAT via the Internet relating to cases in which they were involved. If this development is approved, it is likely to be implemented in the next financial year.

## Order Entry System (OES)

OES enables members of the Residential Tenancies List and Guardianship List to produce orders using personal computers installed in hearing rooms. This allows orders to be produced, printed, signed and given to the parties immediately after hearings.

# Information Technology

During 2001–02, approximately 37% of all orders made in the Residential Tenancies List were produced by members of VCAT using OES. The remainder were produced by VCAT staff at the direction of members. This is a substantial increase when compared with 2000–01 when 23% of all orders made in the Residential Tenancies List were produced by members of VCAT using OES.

Since its introduction in the Guardianship List in April 2002, 41% of all orders made in the Guardianship List were produced by members of VCAT using OES. The remainder were produced by VCAT staff at the direction of members. We expect use by members in both Lists to continue to grow.

During 2001–02, OES was piloted at Sunshine and Ballarat Magistrates' Courts. However, the pilot program had limited success due to limitations in software used to communicate with the Courts. Neither VCAT nor the Department of Justice had any control over these limitations. We hope that upgrades to software will remedy this problem in the next financial year.

Due to limitations in resources, we were unable to make further progress in our goal to enable Residential Tenancies List orders involving applications for rental arrears, bonds and compensation to be produced using OES. We plan to achieve our aim in the next financial year.

## Telecommunications

Providing a quality telephone service to VCAT users plays an important role in handling an increasing workload. In June 2002, we completed the installation of call centre facilities that enabled staff from all Lists except the Guardianship List (which uses a dedicated phone line) to improve our efficiency in answering telephone calls to VCAT. We plan to install a Guardianship List call centre in 2002–03.

During 2001–02, VCAT received more than 172,500 telephone enquiries, compared with 150,000 in 2000–01. The Lists attracting the majority of calls were the Planning and Environment List and Residential Tenancies List.

## Digital Recording

The digital recording system records proceedings that take place inside VCAT's hearing rooms and enables us to keep a record of proceedings by storing the recordings onto a central computer hard drive. The system is installed in 21 hearing rooms located at VCAT's Melbourne premises. The system helps to protect the interests of both users and members participating in hearings. In addition, it monitors and improves the standard of conduct of all participants during proceedings.

In April 2001, the system was expanded to an additional 11 hearings rooms to enable Planning and Environment List hearings, as well as most Civil Claims List hearings, to be recorded for the first time.

## Computer Upgrade

In October 2001, we upgraded the majority of VCAT's computers used by its administrative staff, replacing the existing machines, which were at least three years old. The new computers have increased efficiency by enabling all software to run faster and more reliably, while reducing and simplifying maintenance requirements.

## VCAT Web Site Upgrade

We improved the information available on the VCAT web site, including information about the various Lists, fees and privacy. In addition, we improved the speed of publication of significant VCAT decisions online. The majority of VCAT's decisions where written reasons are given are made available via the Internet at

[www.austlii.edu.au/](http://www.austlii.edu.au/) soon after being published by VCAT. This site is administered by the Australasian Legal Information Institute (AustLII) and offers users access to VCAT decisions by way of search facilities.

## The Future

Future initiatives planned for 2002–03 include the following:

- Further improve case management systems, such as enabling the system to archive orders as electronic images, saving on paperwork and reducing labour costs, and eliminating postal delays by faxing notices and letters directly from Caseworks to major users.
- Subject to resolving the technical issues referred to earlier, implement a progressive roll-out of OES to suburban and rural Victorian venues.
- Aim to further improve VCAT Online to allow registered users to view VCAT orders via the Internet relating to cases in which they were involved.
- Generate and publish meaningful statistical information, such as a case outcome analysis for the Planning and Environment List.

*Jim Nelms is the Senior Registrar of the Residential Tenancies and Guardianship Section at VCAT. He was the project champion for the development of VCAT Online. From the moment that an online interface to the Residential Tenancies List computer system was first suggested, Jim pursued the project with enthusiasm. He provided valuable input to the development team on the processes and business rules to be built into the application and assisted with testing when the project was near completion. He gave enormous support to the information technology team during the development phase and was keen to push on with the extra functionality for users now available in VCAT Online Version Two.*



# How We Resolve Cases

The VCAT Act governs the general operation of each List. However, the functions of VCAT under enabling Acts are allocated to Lists (see pages 50–52). For this reason, the process often varies among the Lists.

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

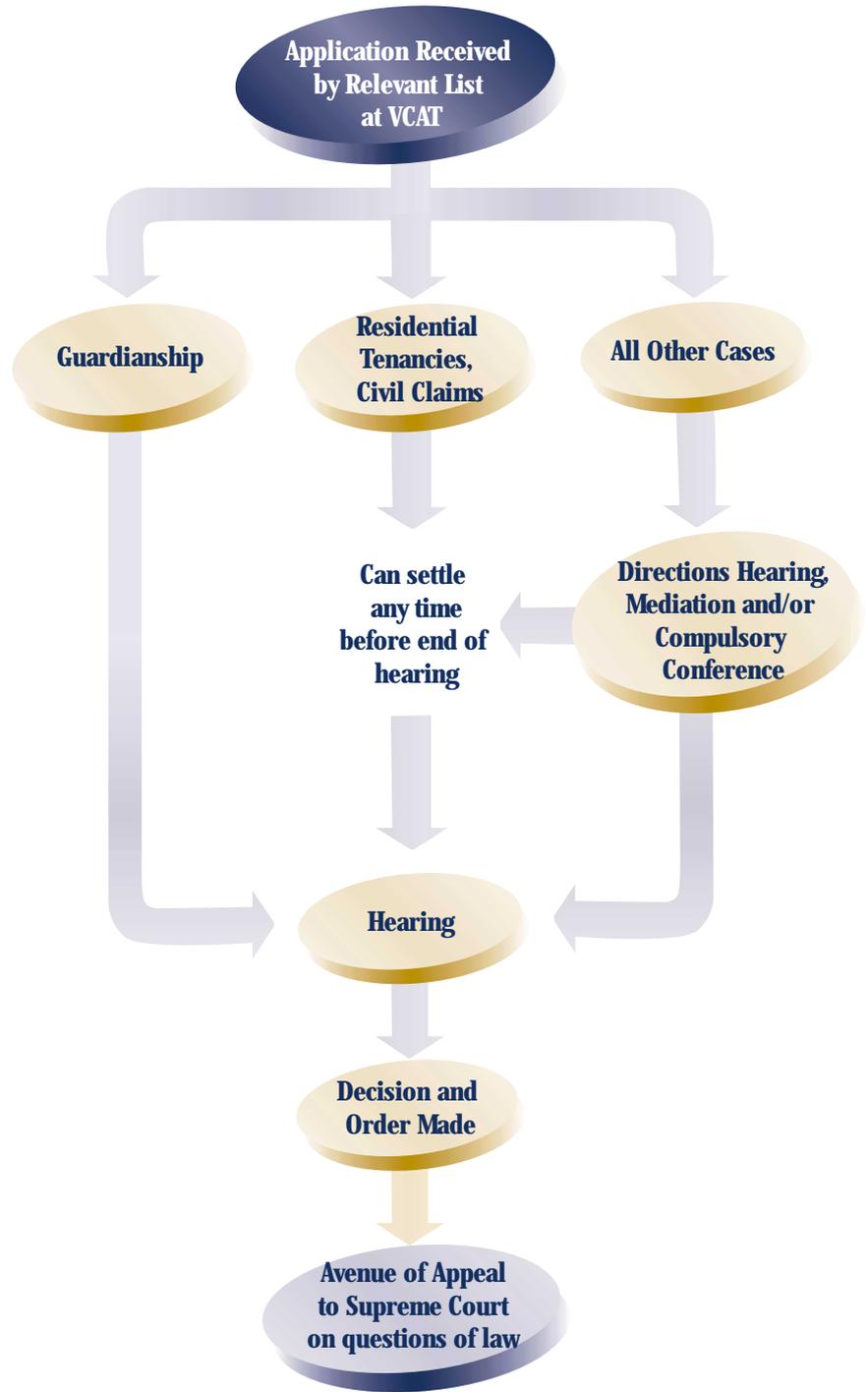
As a general guide, the flow chart opposite shows a simplified approach to the mechanisms established to resolve cases.

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

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

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

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



# Outlook for 2002–03 and Beyond

An important part of our role at VCAT is to anticipate user demands and to secure the resources necessary to meet those demands. In fulfilling this aim, we identify the major influences that may have an impact on case volume and prepare our forecasts of VCAT's workload.

## New Jurisdictions

One of VCAT's strengths is its ability to accept and integrate new jurisdictions conferred on it at a relatively low cost to Government and VCAT users.

We expect the following significant jurisdictions to commence in 2002–03:

- On 1 July 2002, Parliament conferred jurisdiction on VCAT under the *Health Records Act 2001*. The Act establishes a regime for the protection of health information held by health service providers and other organisations. It creates an enforceable right of access to, and establishes privacy standards for, health information.
- On 1 July 2002, the *Information Privacy Act 2000* conferred a review jurisdiction on VCAT in relation to a variety of matters regarding privacy and the release of personal information, such as providing individuals with the right to access and correct information about themselves.
- We expect the *Victorian Institute of Teaching Act 2001* to commence in 2002–03. This will give VCAT jurisdiction to review decisions about the registration of teachers.

The following Bills will be considered by Parliament in the Spring 2002 parliamentary session and will confer new jurisdictions on VCAT:

- *Business Licensing Legislation (Amendment) Bill*—review of decisions about restriction of public access to information on business licensing registers;
- *Land Surveying Bill*—review of decisions about registration of surveyors;
- *Local Government (Update) Bill*—review of decisions that a Councillor or member of the Council staff pay a surcharge, including where expenditure has been incurred in contravention of the law or a loss has been incurred by the misconduct of a Councillor or a member of the Council staff;
- *Sports Event Ticketing (Fair Access) Bill*—review of decision on the Minister to declare a sporting event a major sporting event;

- *Travel Agents (Amendment) Bill*—review of decisions of compensation scheme trustees concerning the payment of compensation;
- *Utility Meters (Meteorological Controls) Bill*—review of decisions of the licensing authority about a person's servicing licence. None of these jurisdictions is expected to place significant demand on VCAT's resources.

In addition, Government is reviewing retail leases legislation and other legislation, which may involve increased jurisdiction for VCAT.

We provide a complete list of jurisdictions on pages 50–52 of this report.

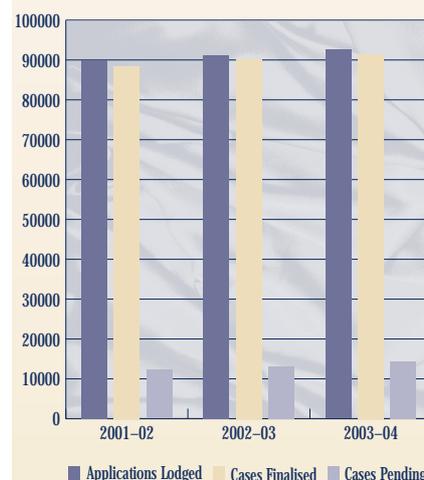
## Forecasting Case Workload

Under the VCAT Act, we are required to prepare forecasts of the workload of VCAT. We review forecasts in conjunction with the Department of Justice and the Victorian Government. In addition, we take into consideration the feedback we receive from the Lists' user groups.

We project that cases finalised in 2002–03 will increase by 2% to approximately 90,200 cases finalised, compared with 88,387 cases in 2001–02. However, the projection may not be reliable, due in part to the uncertainty about demand in the following Lists:

- Demand on the Residential Tenancies List grew by 25% over three years from 57,457 cases initiated in 1998–99 to 71,541 cases initiated in 2000–01. However, annual demand in 2001–02 dropped by 3% to 69,191 cases initiated. We do not know the reason for this decrease and it is difficult to predict the future demand trend.
- Demand on the Civil Claims List grew by a spectacular 110% over three years from 2,498 cases initiated in 1998–99 to 5,243 cases initiated in 2000–01. However, annual demand in 2001–02 dropped by 2% to 5,124 cases initiated. Presumably this is due to the introduction of an application fee in February 2002 for applications under the Fair Trading Act. It is difficult to predict the future demand trend.
- Demand on the Planning and Environment List rose by a surprising 7% from 3,138 cases initiated in 2000–01 to 3,349 cases initiated in 2001–02. We do not know if this growth will continue in 2002–03. Fluctuations in demand on VCAT's Lists are common from year to year. VCAT's overall effec-

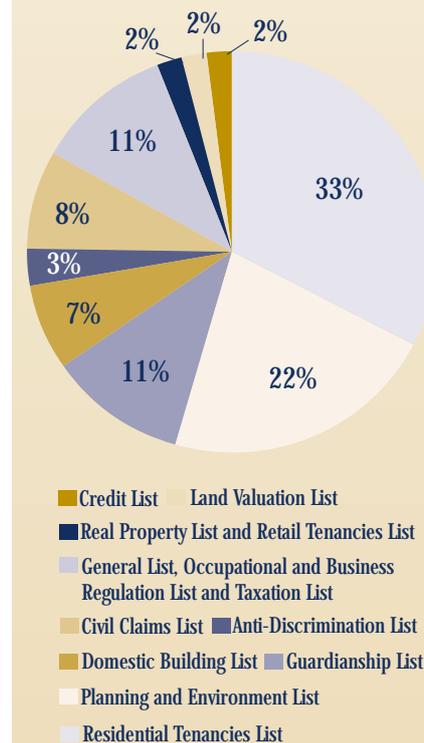
## All VCAT Cases—2001–2004



All VCAT Cases shows the expected case load demand over the next two financial years, compared with 2001–02.

## VCAT Allocation by List 2002–03

Total Allocation \$20.25 Million



As of 1 July 2002, VCAT's funding allocation for 2002–03 totals \$20.25 million, divided among the Lists as shown.

tiveness relies on its ability to shift resources among the Lists to meet changes in demand.

Details regarding the performance of each individual List begin on page 18.

As of 1 July 2002, VCAT's funding allocation for 2002–03 totals \$20.25 million.

## Mediation at VCAT

At VCAT, mediation plays an essential role in resolving a wide range of disputes informally and cost-effectively. During 2001–02, we took significant steps to strengthen the practice of mediation at VCAT, and inform VCAT users about how best to prepare for mediation and participate in mediation sessions.

Generally referred to as a form of alternative dispute resolution (ADR), we use mediation extensively in the Anti-Discrimination List, Domestic Building List, Planning and Environment List, and Retail Tenancies List. In these Lists, mediation has grown to become a mainstream process and a standard part of VCAT's case management framework.

### VCAT Mediation Services

Established in June 2001, VCAT Mediation Services comprises Dr Greg Lyons as Principal Mediator, Listings Manager George Adgemis and Regan Cupples of the Listings area. The members of VCAT Mediation Services are responsible for:

- listing mediations and assigning mediators according to their individual expertise;
- training and professional development of VCAT's mediators; and
- collecting statistics about mediation.

### Identifying Core Groups of Mediators

VCAT Mediation Services undertook a process aimed at identifying a core group of mediators for each VCAT List that makes use of mediation. In November 2001, the process was completed with seven core groups using 43 mediators (refer to list on page 17). The core groups consist of full-time members, sessional members and private mediators.

Having established the core groups of mediators, the aim of VCAT Mediation Services is to offer these mediators regular mediations so that they have opportunities to exercise and develop their mediation skills, while ensuring the quality and success of mediation outcomes.

VCAT also has a number of full-time members, sessional members and private mediators on its reserve list of mediators. Those on the reserve list may be invited to conduct mediations from time to time.

### Statistical Profile

In VCAT Mediation Services, we collect statistics that reflect the extent to which the relevant Lists at VCAT use mediation.

During 2001–02, the significance of mediation at VCAT was evidenced by 2,483 cases being

initially listed for mediation, of which 56% proceeded to mediation and 44% were adjourned or cancelled. VCAT's overall mediation success rate was 66%. This included cases that were finalised prior to or at mediation as a proportion of the cases finally listed for mediation.

The table below sets out mediation statistics, including the success rates for all Lists that conducted mediations during 2001–02.

Since 2001–02 marks the first year that VCAT has been able to present a full year's statistics regarding its mediation work, these are benchmark statistics. We plan to provide comparisons in future Annual Reports.

### Remuneration of Mediators

We standardised rates of pay for the sessional member mediators and for the private mediators. In addition, we arranged back-payments for some mediators to deal with historical anomalies.

### Professional Development

In October 2001, we invited Francis Handy, a Canadian mediator and academic, to speak to mediators about mediator standards and quality control in mediations.

In November 2001, mediators had an opportunity to view a video on mediation entitled 'Sous Chef or Sue Chef?', featuring Sir Laurence Street as the mediator.

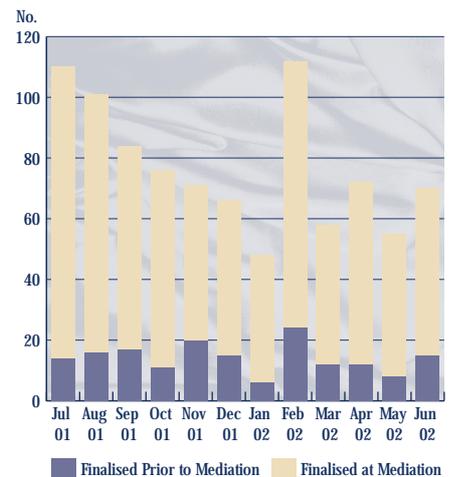
To increase the capacity of the Planning and Environment List to conduct mediations, VCAT assisted several members of that List to undertake an intensive four-day Monash University course on 'Negotiation, Mediation and Process Management' in November 2001.

During 2001–02, three editions of the VCAT Mediation Newsletter were produced to keep mediators informed of current issues.

### VCAT Mediation Statistics—2001–02

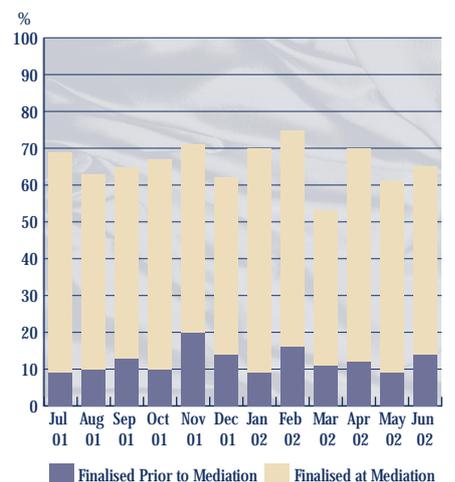
List	Cases Finalised Prior to Mediation	Cases Finalised at Mediation	Cases Not Finalised at Mediation	Mediation Success Rate (%)
Anti-Discrimination List	21	137	64	71
Domestic Building List	76	357	236	65
General List	4	11	11	58
Planning and Environment List	38	184	107	67
Retail Tenancies List	30	59	43	67
Credit List and Real Property List	1	5	10	-
<b>Overall</b>	<b>170</b>	<b>753</b>	<b>471</b>	<b>66</b>

### Successful Mediations—2001–02



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

### Mediation Success Rate—2001–02



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

# Mediation at VCAT

## Research by Tertiary Students

Two university students began research at VCAT—Stuart Wilkinson and Joel Gerschman. Mr Wilkinson, a PhD student in the Psychology Department at the University of Melbourne, is observing approximately 30 mediations as part of his research. Mr Gerschman, a final year law student at Monash University, is undertaking research on the role of lawyers in mediation.

## Visit to Papua New Guinea

In September 2001, President of VCAT Justice Kellam, Prof Greg Reinhardt, Executive Director of the Australian Institute of Judicial Administration, and Dr Greg Lyons, Principal Mediator at VCAT, spent a week in Papua New Guinea conducting three courses on mediation as part of AusAID programs. They gave a three-day course to National Court judges and to magistrates, a two-day course to lawyers in government service and a one-day program for recent law graduates.

## VCAT Mediation Committee

During 2001–02, four inaugural members of the Mediation Committee retired from the committee—Cathy Aird, Damien Cremean, Struan Gilfillan and Annemarie Tilley. Their service to the committee was most valuable and we thank them sincerely. Two new members were appointed to the Committee—Ian DeLacy and Malcolm Lovegrove. They joined ongoing members Hani Greenberg, Jacky Kefford, Susanne Liden, Margaret Lothian and Greg Lyons (Chair).

Committee members met on seven occasions during 2001–02 and undertook a range of activities, including four key initiatives to provide information to VCAT users about mediation.

## Mediation Video

We initiated and supported the production of a video about mediation entitled *Working it out through mediation*. Attorney-General Rob Hulls MP launched the video on 15 May 2002 as part of Law Week. A joint production of VCAT and the Victoria Law Foundation, the 15-minute video outlines the mediation process, how to prepare for mediation and how to participate in it. We conduct daily screenings of the video at 55 King Street, Monday to Friday at 9.30 a.m. and 1.30 p.m.

We plan to produce copies of the video and make them available to VCAT users who are unable to attend a screening at VCAT's premises. The copies will be free of charge to users who agree to return them to VCAT when they attend their mediations.

The Victoria Law Foundation will market the video to a broad audience, thus promoting knowledge of mediation in the wider community.

## Mediation Brochures

We produced three brochures about mediation at VCAT. The brochures are designed to provide practical information for those attending mediations in the Anti-Discrimination List, Domestic Building List and Planning and Environment List. We plan to produce additional brochures in the next financial year.

## Web Site Expansion

We took steps to place information about mediation on VCAT's web site. As a result, VCAT's home page features a mediation 'button', linking users to material such as mediation brochures, the VCAT Mediation Code of Conduct and VCAT Mediation Newsletters.

## Participation in Law Week

We took an active part in Law Week, organising five public presentations. Four of the presentations focused on how mediation operates in the Anti-Discrimination List, Domestic Building List, Planning and Environment List and Retail Tenancies List. Approximately 80 people attended VCAT on 16 May 2002 for the presentations.

## The Future

A key priority for the Mediation Committee in 2002–03 is to arrange a two-day professional development conference for VCAT mediators. This will be an opportunity to enhance the professional skills and knowledge of mediators. The Committee will also consider establishing a user group to provide feedback on VCAT's mediation services. It will continue to use as a resource the NADRAC Report *A Framework for ADR Standards*.

## VCAT's Core Groups of Mediators

VCAT's core groups of mediators by List, comprise full-time members, sessional members and private mediators as follows:

<b>Anti-Discrimination</b>	• Hani Greenberg
• Anne Coghlan	• Julian Ireland
• Julie Dawson	• Margaret Lothian
• Maria Dudycz	• His Hon. Martin Ravech QC
• Greg Lyons	
<b>Credit</b>	<b>General</b>
• Margaret Lothian	• Roland Ball
• Michael Walsh	• Anne Coghlan
<b>Domestic Building</b>	• Robert Davis
• Cathy Aird	• John Galvin
• Marcel Alter	• Michael Macnamara
• John Anderson	• Noreen Megay
• Stan Baker	• Jacqueline Preuss
• John Coghlan	
• Jim Cyngler	<b>Planning</b>
• Ian DeLacy	• Cathy Aird
• Frances Falduti	• Margaret Baird
• Ron Gould	• Sam Cimino
• Hani Greenberg	• Struan Gilfillan
• Ian Griffiths	• Ron Gould
• Julian Ireland	• Laurie Hewet
• Les Lane	• Richard Horsfall
• Rod Lawrence	• Margaret Lothian
• Dennis Limer	• Sylvia Mainwaring
• Margaret Lothian	• Jane Monk
• Malcolm Lovegrove	• Peter O'Leary
• His Hon. Martin Ravech QC	• Jeanette Rickards
• Gerard Sharkey	• Gerard Sharkey
• Robert Vial	• Howard Terrill
• Michael Walsh	• Richard Walter
<b>Retail Tenancies</b>	<b>Real Property</b>
• Cathy Aird	• Cathy Aird
• Marcel Alter	• Jim Cyngler
• Jim Cyngler	• Frances Falduti
• Ian DeLacy	• Ron Gould
• Frances Falduti	• Julian Ireland

From left, VCAT members Susanne Liden and Jacky Kefford, and staff member John Kakos review the script for the new mediation video 'Working it out through mediation'.

Jacky and Susanne offered their assistance as script consultants for the video and John stood in as 'talent' in many of the key scenes. Their involvement with the video helped to ensure the mediation process was portrayed with realism and accuracy.



# Anti-Discrimination List

## Case Profile

List members deal with two main types of applications, complaints and exemptions. Complaints are first lodged with the Equal Opportunity Commission (EOC). If the Commission declines a complaint, or determines that the complaint is not conciliable or if attempts to conciliate it are unsuccessful, the complainant may require the Commission to refer the complaint to VCAT.

In addition, List members determine applications for exemption from the provisions of the EO Act and hear applications made to strike out complaints on the basis that they are frivolous, vexatious, misconceived, lacking in substance or an abuse of process. In addition, the List receives a small, although significant, number of applications for interim orders to prevent a party to a complaint from acting prejudicially to conciliation or negotiation, or to VCAT's ultimate decision.

In 2001–02, the number of complaints referred to VCAT totalled 370, compared with 413 in 2000–01. The number of exemption applications received during 2001–02 increased by 18%, totalling 99, compared with 84 applications in 2000–01. A significant proportion of applications was for renewals of exemptions previously granted. These have a three-year expiration period in which they can be granted.

## Application Types

Continuing the pattern from previous years, the majority of complaints referred to the List continued to be employment-related. These involved claims such as sex discrimination and sexual harassment, but with a significant number of discrimination claims based on victimisation, race and impairment.

The percentage of employment-related complaints remained at 78%, the same as in the previous financial year. The next highest number of complaint referrals related to the provision of goods and services (19%) and education (2%).

The attribute profile of complaints referred to the List in 2001–02 remained similar compared with 2000–01.

In 2001–02, complaints referred to the List were comprised as follows:

- 29% sex discrimination and sexual harassment (30% in 2000–01)
- 24% impairment (21% in 2000–01)
- 10% victimisation (11% in 2000–01)
- 10% race (11% in 2000–01)
- 27% other (27% in 2000–01)

## List Snap Shot

### Purpose

A List in the newly established 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

- Maintain waiting times so that 60% of cases are finalised within 14 weeks of application and 80% within 28 weeks.
- Maintain the 65% mediation settlement rate.

### Key Results

- Resolved 64% of cases within 14 weeks of application and 85% within 28 weeks.
- Settled 71% of cases at mediation.

## How We Dealt with Cases

The introduction of mediation in 2000–01 caused a major shift in the way we dealt with cases. Mediation was used at an early stage in the process and this approach continued throughout 2001–02. The success rate achieved in resolving complaints at mediation was 71%.

There are two reasons for this pleasing result. First, we gave great consideration to whether the particulars surrounding a complaint and defence should be required before mediation took place. Without such particulars, some respondents had found it more difficult to attend a mediation fully prepared. Second, a small core group of mediators was appointed to mediate on a regular basis in the List. The group has considerable expertise and regular mediations enhanced the quality of their skills.

## Timeliness

We continued to improve our timeliness and reached a stage where the List experienced no backlogs. Cases were listed for mediation or hearing at the earliest possible date, while allowing time for parties to prepare their cases properly.

### Future

- Maintain waiting times from application to resolution.
- Maintain a 70% settlement rate for mediations.

### Statistical Profile

- Applications received: 469
- Cases resolved: 508
- Cases pending: 181
- Application fee: nil
- Number of members: 42

### Deputy President Profile

Anne Coghlan, BA, LLB, was appointed head of the Anti-Discrimination List on 1 September 2000. Mrs Coghlan brings to her position a strong background in administrative law and tribunal management. Previously, she was Deputy President of the 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. In addition to Anti-Discrimination List cases, she regularly sits in other Lists.

In 2001–02, we resolved 64% of cases within 14 weeks of application and 85% of cases within 28 weeks. This compares with 60% of cases being resolved within 14 weeks of application and 80% of cases within 28 weeks in 2000–01.

## New Human Rights Division

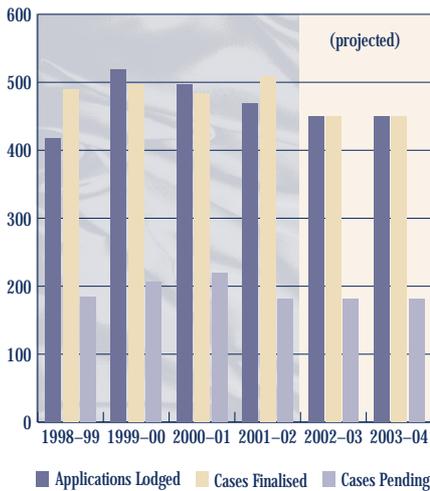
On 18 December 2001, the VCAT Rules were amended to create a new Human Rights Division comprising the Anti-Discrimination List and Guardianship List. The amendment highlights the special role these Lists play in serving disadvantaged people in Victoria and recognises the new jurisdiction conferred under the RRT Act. At the time of writing, no complaints under the RRT Act had been referred. While a new Division was created, we continued to maintain our service to parties at its highest level.

## New Duty Lawyer Scheme

The introduction of the Duty Lawyer Scheme in conjunction with Victoria Legal Aid proved to be of great benefit to List users. Many unrepresented complainants were greatly assisted, with benefit to other parties and VCAT.

# Anti-Discrimination List

Case Flow 1998–2004



In March 2002, we held discussions about the role of the duty lawyer. List members and staff of the Equal Opportunity Commission met to discuss a range of matters, including different approaches to conciliation and mediation, and how to prepare for interim order applications.

## Community Awareness

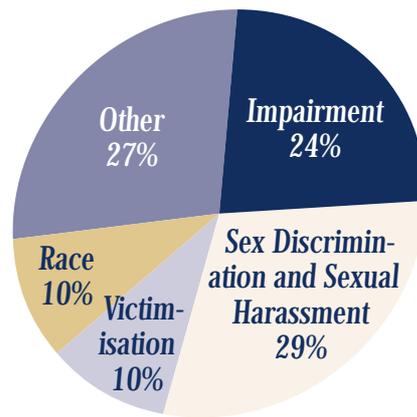
To further raise awareness about the List, Deputy President Anne Coghlan and Deputy President of the Credit List Cate McKenzie jointly presented a paper at the Australian Industrial Relations Commission Statutory Conference in February 2002. The paper explored the difficulties that can arise in conducting proceedings in which parties, including litigants and witnesses, are of non-English-speaking backgrounds.

Deputy President Anne Coghlan presented a paper entitled *Preparation of Cases in the Anti-Discrimination List* at the Law Institute of Victoria's Inaugural Workplace Relations Section Seminar in April 2002. The seminar provided an excellent opportunity for discussion and sharing ideas with members of the legal profession practising in the area of anti-discrimination.

We continued to update information available to the public, including a pamphlet and information sheets relating to mediation and List practices and procedures. We update this material regularly and it is available on the VCAT web site.

The List also hosted visits from staff of the Hong Kong Equal Opportunity Commission who were on secondment to the Victorian EOC. Such visits gave a broader perspective to the process of resolving complaints of discrimination.

Complaints by Type 2001–02



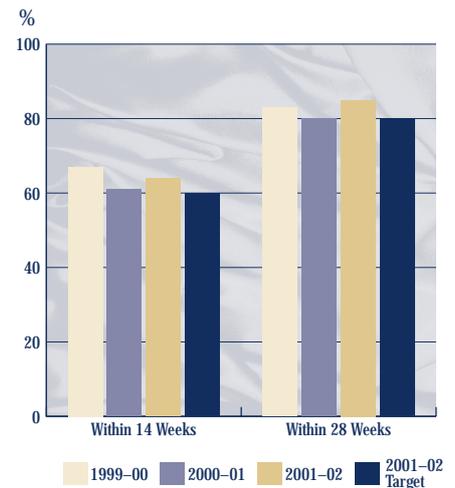
## User Group Activities

The List's user group comprised 16 participants, including legal practitioners, who regularly represented complainants and respondents. The user group met on two occasions during 2001–02 to discuss matters of relevance to users.

Subjects included discussion of difficulties that some parties had experienced where declined complaints were listed for mediation without any particulars being filed. Since some large organisations had difficulty obtaining proper instructions, List members considered more carefully whether particulars should be filed before mediation. Setting hearing dates too soon after the last date for filing material had presented some problems where filing of witness statements was delayed. We addressed this issue by allowing a two-week period after the last filing date before starting the hearing.

*The success of mediation in the List was partly due to the tireless efforts of its core mediators, among them Dr Julie Dawson. "Particularly in anti-discrimination, we handle a lot of complex and highly sensitive matters. Mediation spares people the financial and emotional cost of going through the hearing process. It offers an informal, more personal approach to resolving disputes." Ms Dawson believes the most important aspect of mediation is the process, not necessarily whether or not settlement is achieved. "My role in that process is to be impartial and listen to what the parties have to say. I am there to empower them to try and resolve the matter themselves. Whether they decide to go on to hearing or settle, it's their decision. They don't have to let someone else make the decision for them. They are an important part of the decision-making process." With a diverse, professional background, including three years with the former Anti-Discrimination Tribunal, Dr Dawson brings a wealth of knowledge and experience to her mediations and a broad understanding of the issues facing List users.*

Timeliness 2001–02



## Training and Development

During 2001–02, List members participated in several highly successful seminars conducted by VCAT, including:

- the Aboriginal Cultural Awareness Program conducted in Echuca, attended by Deputy President Anne Coghlan and Deputy President of the Credit List Cate McKenzie; and
- very successful sessions on the conduct of hearings, orders and declarations and costs.

## The Future

In 2002–03, we aim to achieve the following objectives:

- Maintain waiting times so that 60% of cases are finalised within 14 weeks of application and a further 80% within 28 weeks.
- Maintain a 70% mediation settlement rate.



# Civil Claims List

## Case Profile

In 2001–02, the number of applications received decreased slightly from 5,243 in 2000–01 to 5,124. There was also a slight decrease in the number of cases resolved, totalling 4,935, compared with 5,007 in 2000–01. Cases pending rose by 18%, totalling 1,253, compared with 1,064 on 30 June 2001.

Most cases involved disputes between the purchasers and suppliers of goods and services. The proportion of business applications continued to rise from 24% in 2000–01 to 28%. The number of respondents who were private individuals continued to rise from 13% in 2000–01 to 20%. In the main, the parties represented themselves, thereby achieving considerable savings in legal costs.

Claims under \$10,000 dominated total applications received at 91%. Claims between \$10,000 and \$50,000 made up 8% of total applications, while 2% of claims exceeded \$50,000. Applications made under the *Fair Trading Act 1999* comprised 82% of claims and 18% of claims were made under the *Small Claims Act 1973*.

The total value of amounts claimed by applicants increased by 96% to \$39.5 million, compared with \$20.1 million in 2000–01. The bulk of the rise was recorded for applications where the amount claimed was \$100,000 or more (40 in 2001–02 and 19 in 2000–01). In particular, the amounts claimed in four applications totalled \$8.7 million.

## Application Types

The types of applications lodged comprised:

- 15% building (25% in 2000–01);
- 28% services (20% in 2000–01);
- 15% motor vehicles (15% in 2000–01)
- 13% household goods (15% in 2000–01);
- 11% debt recovery services (included in 'other' in 2000–01); and
- 18% other (25% in 2000–01).

The Fair Trading Act continued to generate the substantial amount of work in the List. Because of the more extensive jurisdiction conferred by the Fair Trading Act, List members determined more complex cases involving greater monetary values.

## How We Dealt with Cases

While dealing with most fair trading disputes in a similar way to matters brought under the *Small Claims Act 1973*, the List dealt with most large value and complex claims exceeding \$10,000 at an early stage by compulsory conference. The compulsory conference, a close relative to mediation, is a form of alternative dispute resolution (ADR). The List settled 69% of claims exceeding

## List Snap Shot

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 <i>Fair Trading Act 1999</i> , the <i>Small Claims List 1973</i> , the <i>Motor Car Traders Act 1986</i> , as well as under the <i>Credit Act 1984</i> and <i>Consumer Credit Act 1995</i> .
Objectives
<ul style="list-style-type: none"> <li>• Improve waiting times by resolving 60% of cases within eight weeks and 80% of cases within 10 weeks of application.</li> <li>• Resolve higher value and complex cases by compulsory conference.</li> </ul>
Key Results
<ul style="list-style-type: none"> <li>• Resolved 32% of cases within eight weeks of application, 48% within 10 weeks and 80% within 15 weeks.</li> <li>• Settled 69% of claims exceeding \$10,000 by compulsory conference.</li> </ul>
Future
<ul style="list-style-type: none"> <li>• Reduce waiting times so that we resolve 60% of cases within eight weeks of application and 80% of cases within 12 weeks.</li> <li>• Continue to resolve higher value and complex cases by compulsory conference.</li> </ul>

\$10,000 by compulsory conference, saving many hours of hearing time and resulting in minimal legal costs to the parties.

## Timeliness

We resolved 32% of cases within eight weeks of application, 48% within 10 weeks and 80% within 15 weeks. This compares with 24% of cases being resolved within eight weeks of application and 38% of cases within 10 weeks in 2000–01.

We now aim to hear and determine 80% of claims within 12 weeks. We consider this period from lodgment to determination to be an appropriate balance between the desire to have cases dealt with as quickly as possible, while ensuring that the parties have sufficient time to prepare for the hearing.

## New Members Appointed

We welcomed Alan Vassie to the List in May 2002 as a full-time member, after serving as a sessional member since 1997. Mr Vassie was admitted to practice in 1969 and signed the Bar Roll in 1977. He has made a substantial contribution to the List through his written decisions, publications, mediations and contributions to professional development at conferences.

## Statistical Profile

- Applications received: 5,124
- Cases resolved: 4,935
- Cases pending: 1,253
- Application fee under the *Fair Trading Act 1999*: \$30 (claims less than \$10,000); \$250 (claims \$10,000 to \$100,000); \$500 (claims above \$100,000)
- Number of members: 72

## Deputy President Profile

Mary Urquhart, B Ed (Art) Dip Law BAB, MAICD, was appointed Deputy President of the Civil Claims List on 1 June 2001. Mrs Urquhart was appointed to VCAT as a Senior Member in February 1999 and frequently sat in the Occupational and Business Regulation List and Guardianship List of VCAT. Mrs Urquhart has a strong background in licensing matters. Prior to joining VCAT, she was the Deputy Commissioner of the Liquor Licensing Commission. She practised law as a Barrister in both New South Wales and Victoria. Mrs Urquhart was appointed to the Board of Directors, Dental Health Services Victoria in 1997 and served as the legal member of the Ethics in Clinical Research Committee of the Royal Dental Hospital from 1997 to 2000.

In addition, eight new sessional members were appointed to the List during 2001–02. We expect Alan's appointment, along with the new sessional members, to assist greatly in handling an increasingly complex workload.

## New Legislation

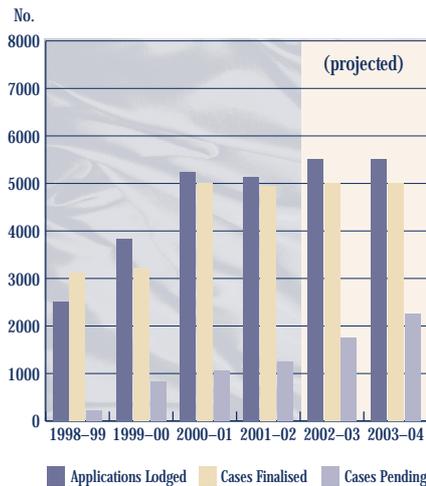
*The Fair Trading (Unconscionable Conduct) Act 2001* commenced in December 2001. The Act amends the *Fair Trading Act 1999* to insert new sections 8A and 8B, which effectively replicate section 51 AC of the *Trade Practices Act 1974*.

The new provisions prohibit unconscionable conduct in business transactions (trader versus trader disputes). Because a dispute under the new section 8A will be a "fair trading dispute" it will come within the jurisdiction of the Fair Trading Act. In addition, a contravention of section 8A causing loss and damage will entitle the person suffering the loss and damage to compensation under section 159 of the Fair Trading Act and possibly to remedies under section 158(3).

The principal reason for the amendment was to give small traders access to VCAT.

# Civil Claims List

## Case Flow 1998–2004



The amendments have not, to date, had a noticeable impact on the case load of the List.

## Introduction of Fees

After consultation with the Victorian community, the State Government introduced fees for applications in the Civil Claims List. Since 1 February 2002, applications made under the Fair Trading Act for claims:

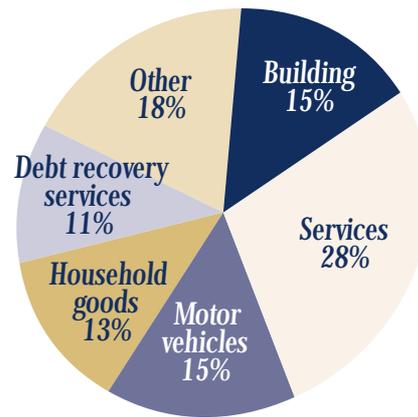
- less than \$10,000 attracted a fee of \$30;
- \$10,000 or more but not over \$100,000 attracted a fee of \$250; and
- above \$100,000 a fee of \$500 was charged.

The new fees appeared to have reduced ongoing monthly demand on the List. In the first six months of 2001–02, 2,813 matters were initiated. By contrast, 2,311 matters were initiated in the second half—a decrease of 18%. However, monthly applications have increased since the List received a low number of 332 applications in February 2002. We will keep this situation under review.

## Funding Issues

As a result of the Fair Trading Act, cases coming to the List have become increasingly more complex due to the high monetary values involved. In 2000–01, we received 369 applications where the amount claimed was \$10,000 or more. In 2001–02, this number rose by 34% to 494 applications. As a consequence, more complex cases are requiring significantly more time to be heard and determined. Lengthy hearings impact on waiting times if sufficient numbers of members are not readily available. This requires adequate funding. In 2002–03, we intend to review our funding requirements with the aim of ensuring that adequate funding is available for members to meet the demand for the List's services.

## Applications by Type 2001–02



## Training and Development

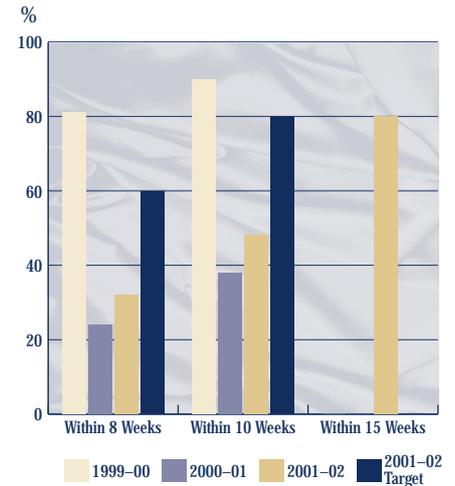
Deputy President Mary Urquhart held professional development conferences for members and sessional members in August and November 2001. A well received highlight was an address and paper by Michael Heaton QC on the potential ramifications of the Fair Trading Act and amendments to it.

In June 2002, senior member Bernadette Steele conducted a staff training session organised by Civil Claims Case Manager Liz Yeates. The purpose of the training session was to assist staff who process applications to better understand the role that other Victorian organisations play in assisting consumers.

## User Group Activities

The user group of the Civil Claims List met on three occasions and included participants from a number of consumer groups. Representatives from Small Business Victoria, Financial and Consumer Rights Council, Consumer and Tenant

## Timeliness 2001–02



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 newcomers, Legal Aid were among those who contributed to the success of the meetings.

Agenda items and discussion included the impact of new fees on applications made under the Fair Trading Act, and the role of the new Duty Lawyer Scheme in assisting consumer litigants.

## The Future

Our objectives for 2002–03 will be to:

- provide services to regional areas;
- address funding issues so that adequate resources are available to hear cases;
- maintain waiting times by resolving 80% of cases within 12 weeks of application; and
- use compulsory conferences to resolve higher value and complex cases.

*Ramona Saldana has been with the Department of Justice (DOJ) for nearly 14 years. Since joining the Residential Tenancies Tribunal in 1988, she has worked mainly in the areas of residential tenancies and civil claims. Previously, she worked in documentation and customer service, subsequently becoming the Customer Service Supervisor. Currently, she is Listings Officer for the Civil Claims List responsible for listing a large volume of cases to be heard. This involves liaising with members, the Listings Manager and other listings officers to ensure that cases are listed within appropriate time frames and according to various listing requirements. Ramona's extensive experience with the DOJ assists her in such a demanding role and she strives to maintain a high standard of service to VCAT members and users.*



# Credit List

## Case Profile

In 2001–02, the number of applications received by the Credit List continued a downward trend, totalling 77, compared with 94 in 2000–01 and 110 in 1999–2000, representing a decrease of 18%. The number of cases finalised for 2001–02 also fell, totalling 81, compared with 96 in 2000–01—a 16% decrease.

These decreases are, in part, due to the number of cases finalised in 2000–01 being unusually high because of finalising a large number of older cases in that period, as well as a significant decrease in applications received in 2001–02.

The List continued to finalise more cases than it received. The number of pending cases on 30 June 2002 totalled 27, compared with the 53 matters pending at the end of 2000–01.

An important element of this List's work is dealing with applications made by credit providers in respect of breaches of key requirements of the Code, which seek a determination from VCAT as to whether or not a civil penalty should be imposed. 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 extensive sampling processes and notifications to affected debtors to be undertaken.

During 2001–02, the List finalised all but seven applications pending at the commencement of the VCAT Act involving applications made by financial institutions regarding possible breaches of the Credit Act. Some were settled and others incorporated into new consolidating applications filed with VCAT.

## Application Types

The majority of cases coming to the List related to requests for repossession orders. A credit provider must not enter residential premises to recover mortgaged goods without an order from VCAT or a court. Other cases concerned breaches by a credit provider of requirements of the Code or the Credit Act, where a civil penalty may be imposed on the credit provider. 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.

Of the 77 applications received in 2001–02, 49 (64%) were repossession applications. This represents a 30% decrease compared with 70 repossession applications received in 2000–01.

## List Snap Shot

**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**

- Hear and determine repossession cases within 12 days of proof that the application has been served on the debtor.
- Resolve 50% of cases by settlement through mediation, directions hearing or compulsory conference.

**Key Results**

- Resolved 62% of cases within six weeks of proof of service of application and 69% within eight weeks.
- Resolved repossession cases within 14 days of proof that the application had been served on the debtor.
- Settled approximately 56% of all cases prior to hearing.

There was a significant decrease in the proportion of repossession applications to total applications received. In addition, we experienced a corresponding rise in the number of applications by credit providers relating to civil penalties and applications made by debtors on the ground of hardship.

## 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. Depending on their complexity, applications were either given a hearing date as soon as VCAT received proof that they were served on the other parties, or were listed for a directions hearing at which we set a timetable for future steps in the proceeding.

At all stages in the process, List members encouraged parties to settle cases by agreement between themselves. About 56% of cases were resolved in this way, without the need for parties to provide extensive written material or to go to a hearing. Where appropriate, we referred cases to compulsory conferences at which a member of

**Future**

- Ensure waiting times from application to resolution remain short.
- Maintain settlement rate at more than 50% of all cases.
- Monitor effectiveness of new streamlined procedures and user guidance measures.

**Statistical Profile**

- Applications received: 77
- Cases resolved: 81
- Cases pending: 27
- Application fee: \$30–\$1,000
- Number of members: 4

**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.

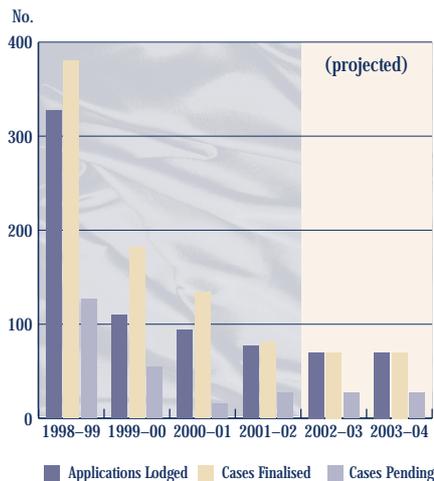
the List helped the parties to reach a settlement of the case. During the financial year, we continued to use mediation as an alternative form of dispute resolution. However, relatively small numbers of cases were referred to mediation. This reflects the large number of cases that settled before the initial directions hearing/compulsory conference. Of the cases referred to mediation 62% settled at mediation. We expect the use of mediation to increase during 2002–03.

## Timeliness

Continued improvements to our computer system during 2001–02 enabled more accurate reporting and better monitoring of compliance with set timetables. In 2001–02, we resolved 62% of cases within six weeks of the application being served and 69% of cases within eight weeks. The majority of the cases were repossession applications, which were finalised, on average, within 14 days of proof that the application had been served by the applicant on the debtor.

# Credit List

## Case Flow 1998–2004



## Procedures Streamlined

During the financial year, we implemented a review of our procedures for users of the List. This resulted in a simplified set of application forms and user guides concerning List procedures, mediations and hearings to assist the public in understanding List procedures.

In October 2001, the VCAT Rules were amended to give effect to the streamlined List procedures. Significant amendments to the Rules related to the information that will be contained in applications to the List and the procedure for inspecting proceeding files in the List.

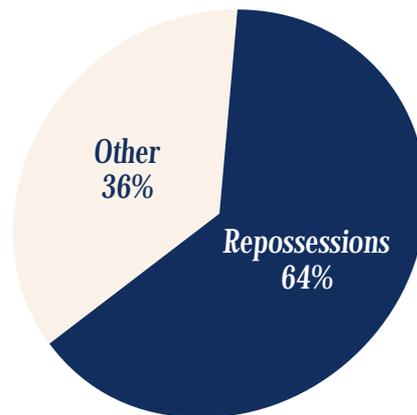
## Review of Fee Structure

As a result of a general review of VCAT fees, the fees charged for applications to the List changed from 1 February 2002. After a consultation process and circulation of a regulation impact statement to interest groups, the review resulted in the introduction of new VCAT Fees Regulations. The Regulations increased the fee applying to most applications in the List from \$25 to \$30, and also increased a number of other application fees. The new fees are set out in the new application forms and on the VCAT web site.

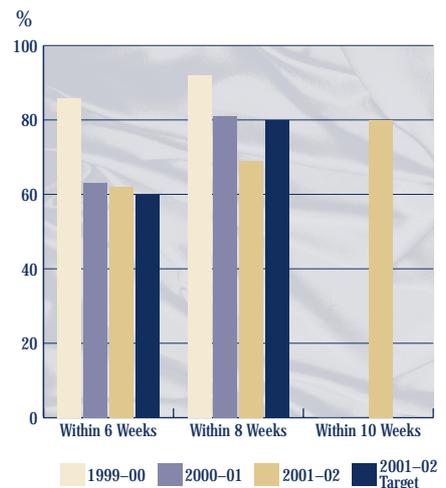
## User Group Activities

The Credit List user group comprises nine people representing consumers, credit providers, government and the legal profession. The Group met in June 2002 to discuss the streamlined List procedures and the new application forms and user guides. We valued the comments made by the user group. In the future, its members will meet twice a year, and at other times as required, to discuss major changes in List procedures and matters of importance to the List's users.

## Applications by Type 2001–02



## Timeliness 2001–02



## Community Awareness

Deputy President Cate McKenzie conducted a seminar about the new List procedures and application forms for Registry staff. In 2002–03, she will arrange a seminar about the new List procedures and forms in consultation with Consumer and Business Affairs Victoria. The aim of the seminar will be to raise awareness of the work of the List among representatives of credit providers, consumers and the legal profession.

## Training and Development

List members attended general VCAT seminars on matters such as mediation, VCAT's order making powers and VCAT's practices as to the awarding of costs. The costs seminar was particularly well attended and included an overview of the practices used in awarding costs in each List, including the Credit List. During the financial year, no major

developments occurred in credit law requiring additional specific training for members of the List.

## The Future

Our objectives for 2002–03 will be to:

- ensure that waiting times from application to resolution remain short;
- increase the percentage of cases that will be resolved by settlement, and increase the use of mediation for that purpose;
- monitor the effectiveness of new procedures and application forms and guides for users of the List; and
- conduct seminars and make User Guides to the List available to the public to raise awareness of the work of the List and how it provides a simple, cost-effective and prompt way of resolving credit disputes.

*Emilie Arnold and Jo Lawson offer invaluable assistance to the List on a job sharing basis in the role of Executive Assistant/Credit List Registrar. In a well coordinated effort, Emilie and Jo perform case management functions subject to the directions of the Principal Registrar and the Senior Registrar of the Civil and Administrative Registry, as well as assisting Deputy President Cate McKenzie. They deal with litigants and their representatives, maintain case files, monitor compliance with timetables and arrange for cases to be listed for hearing. If parties cannot attend a hearing, Emilie and Jo arrange telephone conferences. In addition, Emilie and Jo work with the Deputy President in hearing cases for the Anti-Discrimination List, Guardianship List, Civil Claims List and General List.*



# Domestic Building List

## Case Profile

The total number of applications received decreased by 20% from 1,036 in 2000–01 to 829 in 2001–02. The result in 2000–01 was unusually high due to disputes arising from increased building activity that occurred before the GST was introduced. Cases finalised increased by 16% from 829 in 2000–01 to 965 in 2001–02 as a result of a backlog of applications lodged in 2000–01 being finalised. Cases pending totalled 460, compared with 596 at the end of 2000–01, representing a decrease of 23%. Cases pending continued to be affected by uncertainties over the collapse of the insurance companies HIH and FAI.

## Application Types

The types of applications lodged involved:

- 66% disputes between owners and builders (67% in 2000–01); and
- 34% appeals against decisions of insurance companies (33% in 2000–01).

Most cases brought to the List involved claims over work delays, defective workmanship, and defective or incomplete works.

## How We Dealt with Cases

Potentially, domestic building cases are very expensive and time consuming for the parties. Often these cases involved numerous claims and a large number of parties with many issues in dispute. List members were aware of the parties' needs and aimed to resolve cases quickly and at a minimum cost. We encouraged parties to settle at the earliest opportunity by using one of the following procedures:

- mediation conducted by one of the List's core group of mediators;
- a compulsory conference conducted by a List member; or
- at or following a directions hearing.

Cases in the List continued to be divided into small claims, standard and complex cases.

## Small Claims Cases

Small claims cases involved disputed amounts of less than \$10,000. Previously, we referred such cases automatically to mediation and only to a hearing, on the same day, if they failed to settle. During 2001–02, we instituted a change in procedures by sending small claims cases directly to a hearing. This enabled parties to avoid costs arising out of non-attendance at mediations. However, the member still had power at a hearing to refer the case to a mediator on the day of the hearing, if appropriate.

## List Snap Shot

### 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;
- disputes relating to insurance claims concerning domestic building work;
- matters referred under the *House Contracts Guarantee Act 1987* including those arising under the *House Contracts Guarantee (HIH) Act 2001*; and
- injunctions sought in relation to domestic building.

### Objectives

- Reduce waiting times so that 60% of cases are resolved within 20 weeks of application and 80% within 35 weeks.
- Maintain the settlement rate of approximately 65% of all cases.
- Continue to examine ways to streamline procedures conducted prior to hearing.
- Establish performance benchmarks.

### Key Results

- Resolved 60% of cases within 20 weeks of application and 79% of cases within 35 weeks.

- Achieved a settlement rate of approximately 65% of all cases.
- Further simplified standard directions.
- Dealt with cases arising out of HIH collapse.
- Identified a core group of mediators.

### Future

- Resolve 60% of cases within 20 weeks of application and 80% within 35 weeks.
- Increase settlement ratio through mediations and compulsory conferences.
- Further refine pre-hearing procedures.
- Work towards performance benchmarks.

### Statistical Profile

- Applications received: 829
- Cases resolved: 965
- Cases pending: 460
- Application fee: \$250–\$500
- Number of members: 20

### Deputy President Profile

Damien Cremean, PhD (Law), LLB (Hons), BA (Phil), was appointed Deputy President of the Domestic Building List on 1 July 1998. Dr Cremean is an Associate Professor at Deakin University, teaching subjects that include construction law. Previously, he was appointed Deputy Chair of the Domestic Building Tribunal in 1996 and practised as a barrister for 20 years.

## 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 often 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. Unless settled at mediation or compulsory conference, these cases took more than nine months to resolve. This is because they involved complex issues of fact and law and took longer to prepare and hear. Many of the complex cases in the List related to inner city apartments involving numerous parties.

## Timeliness

In 2001–02, 60% of cases were resolved within 20 weeks of application and 79% of cases within 35 weeks. This compares with 60% of cases being resolved within 22 weeks of application and 80% of cases within 38 weeks in 2000–01. Resolution slowed marginally by the continued flow of cases arising from increased building

activity prior to the introduction of the GST. Also affecting resolution times was a backlog to resolve cases involving HIH and FAI.

To improve timeliness while dealing with an unusually high number of GST-related disputes and finalising the backlog of applications, we employed initiatives at directions hearings aimed at reducing delays, such as settlement techniques.

## Simplified Standard Directions

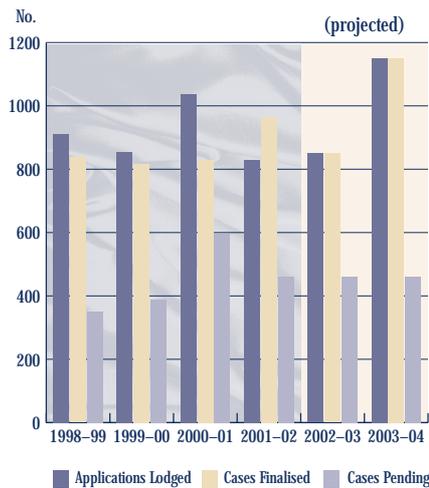
We further simplified our standard directions in an effort to seek improvements to procedures prior to hearing. We made our standard directions easier to read by making them more concise and writing them in 'plain English'. Initially, we attempted to minimise the number of directions hearings by setting out a full timetable for all necessary steps at the first hearing. This proved successful in some cases but not in others. We identified different strategies for different cases. In this regard, input from the user group was valuable.

## Dealing with HIH and FAI Cases

Dealing with the cases arising out of the HIH and FAI collapse was stayed pending the

# Domestic Building List

Case Flow 1998–2004



implementation of the government strategy to deal with the claims against the insurers. Initially, we were concerned that this would cause a backlog that would place a strain on the List's resources. This did not eventuate since the claims came through the List process at a manageable rate.

## Establishing Benchmarks

We aimed to establish performance benchmarks. However, apart from case throughput, worthwhile indicators of the List's performance were difficult to measure. Targets such as conducting only two directions hearings per case are goals to be achieved but only where appropriate. Quality of outcomes was not necessarily indicated by the number and success of appeals because of the limited scope of appeal. Litigant satisfaction was difficult to measure quantitatively, although we gained valuable feedback from the user group.

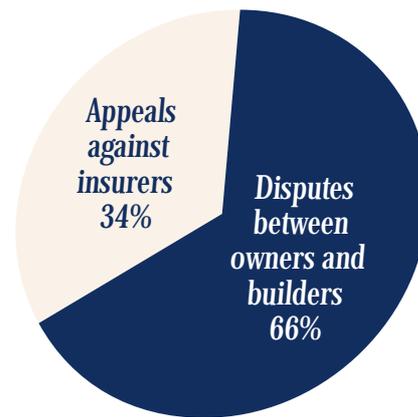
## Core Group of Mediators Identified

A core group of mediators was identified for the List, comprising mediators experienced in the jurisdiction of the List. This further strengthened the quality and success of mediations in the List.

## Domestic Building Fund

The Domestic Building Fund, which is set up under statute, finances the activities of the List. In addition, the Fund finances the activities of other government agencies. The List's resources were strained during 2001–02 due to the surge in work arising from increased disputes related to increased building activity prior to the introduction of GST. To avert delays in finalising cases, the Domestic Building Fund provided additional funding to the List.

Applications by Type 2001–02



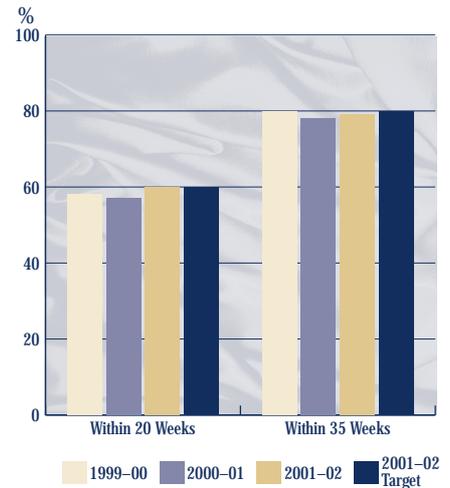
## Membership Changes

During 2001–02, full-time members formed the core of the List's membership. This approach increased our capacity to deal with the case load. In addition, it enabled List members to develop greater expertise in hearing domestic building disputes. However, we also engaged part-time members with domestic building experience and expertise to hear cases from time to time.

## User Group Activities

The user group of the Domestic Building List, which met during 2001–02, comprised representatives from the Building Dispute Practitioners Society. This Society has a wide representative base and includes lawyers and building consultants, including builders and engineers and others. We moved to establish the Society as the List's user group after combining the existing user group and practitioner group.

Timeliness 2001–02



List directions are under constant review. List members met with the user group to gain industry and practitioner views on aspects of the directions. Questions that were discussed included the use of witness statements and joint meetings of experts.

## Training and Development

During 2001–02, informal meetings of members were conducted to enable members to exchange views and discuss common problems. In particular, List members discussed settlement techniques and cost matters.

## The Future

Our objectives for 2002–03 include the following initiatives:

- further improve the settlement ratio;
- refine compulsory conference techniques;
- simplify pre-hearing procedures; and
- establish and maintain realistic performance benchmarks.

*Helen Cotronis works in VCAT's Civil Registry in case management, concentrating her role primarily in the area of domestic building. Her duties include supervising case files and liaising with List members, including Deputy President Damien Cremean. Some of the tasks she performs include ensuring that files are prepared for hearing and delivered to List members on a daily basis. Often, Helen deals directly with members of the public and the legal profession. She guides them on List procedures and the steps that need to be taken to follow through on applications to the List, ensuring that all parties in a matter are ready to proceed. Helen assists in the listing process and attends to important administrative tasks such as ensuring all correspondence and court documents are placed with the relevant file, ready for List members to review. She also prepares orders and performs the duties of a bench clerk inside VCAT's hearing rooms.*



# Guardianship List

## Case Profile

The number of originating applications received totalled 2,419, compared with 2,303 in 2000–01, representing a 5% increase. Re-assessments initiated decreased by 6% from 6,733 in 2000–01 to 6,324 in 2001–02. Cases resolved increased by 12% from 8,357 in 2000–01 to 9,328 in 2001–02. Cases pending decreased by 49% from 1,195 on 30 June 2001 to 610 on 30 June 2002. Fluctuations in these results are due primarily to refinements made to the method of gathering statistics for the List.

## Application Types

The types of cases handled included:

- 13% guardianship applications (12% in 2000–01);
- 7% guardianship re-assessments (7% in 2000–01);
- 24% administration applications (22% in 2000–01);
- 43% administration re-assessments (48% in 2000–01);
- 5% advice to administrators (0% in 2000–01);
- 2% approval of delegation by Public Advocate (00% in 2000–01);
- 2% revocation of enduring powers of attorney (2% in 2000–01); and
- 4% other (9% in 2000–01).

## How We Dealt with Cases

List members conducted hearings in Melbourne and at suburban and country venues throughout Victoria. The Guardianship List serves the public 24 hours per day, seven days per week. In urgent cases, List members conduct hearings at hospitals, nursing homes or other suitable locations or by telephone or video link. During 2001–02, the percentage of cases originating in the country remained the same at 27%. List members conducted hearings for these cases at locations closest to where the represented people resided.

## Timeliness

The List performed in a timely manner, resolving most cases within 26 days of application, compared with 29 days in 2000–01. In part, this result can be attributed to adjustments to the time normally allocated to hear new applications. In addition, cases for routine re-assessment were generally re-assessed within the specified time.

## Monitoring Guardians and Administrators

We monitored the actions and decisions of guardians and administrators, giving them advice, or giving or withholding approval for action they proposed to take. With regard to administration orders, we examined annual financial statements lodged by administrators or followed up examination reports prepared by examiners appointed by

## List Snap Shot

### Purpose

A List in the newly established Human Rights Division of VCAT, the purpose of the Guardianship List is to protect adults who, as result of a disability, are unable to make reasonable decisions about their personal wellbeing or financial and legal affairs. We hear and determine applications to:

- appoint guardians to make personal decisions, including health care and accommodation;
- appoint administrators to manage financial and legal affairs;
- revoke financial Enduring Powers of Attorney (EPA) under section 118 of the *Instruments Act 1958*;
- consent to major medical procedures such as sterilisation, termination of pregnancy, donation of non-regenerative tissue and procedures carried out for the purposes of medical research.

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

### Objectives

- Further reduce waiting time from application to resolution.
- Finish revising standard letters and forms.
- Implement Order Entry System and related computer management systems.

### Key Results

- Resolved most cases within 26 days of application (29 days in 2000–01).

VCAT. In appropriate cases, we required administrators to respond to examination reports and, where necessary, conducted early re-assessment hearings.

## Services to Rural Victoria

We secured venues throughout rural Victoria and assigned List members to hearings, in advance, to enable long-term planning and the most efficient use of our resources. In addition, we published hearing dates for 2002 in the Law Calendar for venues throughout Victoria for the benefit of applicants and their representatives.

## Changes to Legislation

In April 2002, the *Guardianship and Administration (Amendment) Bill 2002* was introduced to the Victorian Parliament to amend the *Guardianship and Administration Act 1986* (GA Act). We expect the Bill to be passed in the Spring session of Parliament. The main features of the Bill are to:

- remove impediments to the efficient performance by VCAT of its operations under the GA Act; and

- Completed revision of standard letters and forms.
- Successfully introduced Order Entry System.

### Future

- Maximise use of Order Entry System.
- Implement changes associated with anticipated new legislation.

### Statistical Profile

- Originating applications received: 2,419
- Re-assessments initiated: 6,324
- Cases resolved: 9,328
- Cases pending: 610
- Fee for Administration Orders: \$0–\$100 per year
- Number of members: 70 (*inc. Magistrates*)

### Deputy President Profile

John Billings, BA, LLB (Melb), LLM (Lond), was appointed Deputy President of the Guardianship List on 1 September 2000. Previously, Mr Billings was Deputy President of the Residential Tenancies List. He was admitted to practice in 1980. Mr Billings 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.

- amend the definition of 'patient' in Part 4A of the GA Act, enabling substitute consent to be given to medical and dental treatment for adults with a disability (permanent, long-term or otherwise) subject to safeguards.

The List was represented in working parties that recommended legislative reform, which resulted in this Bill and a proposal for significant legislative amendments concerning enduring powers of attorney under the *Instruments Act 1958*.

## Changes to Information and Procedures

We revised all standard letters and forms, and updated and expanded information provided to users via VCAT's web site.

We participated with the Office of the Public Advocate (OPA) in revising its publications, including information for administrators appointed by VCAT and information about the Guardianship List for translation into community languages.

We revised accounting documents used by administrators, making them simpler and clearer to use for both administrators and examiners.

# Guardianship List

We improved arrangements for administrators who report directly to VCAT by aligning their accounting period with the financial year. In addition, we took steps to enable State Trustees Limited to examine financial statements formerly examined by VCAT, at no cost to represented persons, to streamline operations and provide for independent examinations.

In consultation with the registries of equivalent boards and tribunals throughout Australia, we joined efforts to enable mutual recognition of interstate orders and the speedy transmission of case information where authorised. Along with OPA, we took part in an initiative by the Australian Banking Industry Ombudsman (ABIO) to publish a special bulletin concerning disability, incapacity and banking issues for bank staff, consumer representatives, disability legal centre staff, and bank customers and their families facing disability and incapacity issues.

## Streamlined Process for Fees

We continued our efforts to streamline the process for collecting annual administration fees and determining applications for the fee to be waived or reduced. In October 2001, we published reasons for decision in a case that provided general guidance for administrators concerning when VCAT may, in its discretion, waive or reduce the annual administration fee. We advised administrators of the general principles.

## National Guardianship and Administration Conference

Together with OPA and with the support of State Trustees Limited, we held a National Guardianship and Administration Conference in Melbourne in October 2001. Approximately 300 delegates from Australia and overseas attended the conference, which included a workshop designed to assist those who apply to VCAT in preparing applications and presenting their cases at hearings.

## Order Entry System (OES)

The new Order Entry System (OES) did not proceed in December 2001 as anticipated due to technical difficulties. However, a test version was available by January 2002 followed by full implementation in April 2002. By the end of 2001–02, most technical issues had been successfully addressed. The system has been successfully used in Melbourne and at a suburban Magistrates' Court. In June 2002, 41% of all orders made in the Guardianship List were produced by members of VCAT using OES. The remainder were produced by VCAT staff at the direction of members. Use by members is expected to continue to grow, although issues concerning the use of the system outside Melbourne are yet to be resolved.

## Community Awareness

In addition to attending the National Guardianship and Administration Conference, List members participated in public information sessions organised by OPA and other agencies. We made special arrangements throughout the year to inform the medical research community about legislation and VCAT procedures, and in November 2001 we held a forum for professional administrators. In May 2002, the List was represented at information sessions for members of the Aboriginal community in regional Victoria.

## User Group Activities

The List's user group comprised 12 members and included representatives from OPA and legal aid and advice organisations, as well as professional administrators. In 2001–02, the group did not meet formally. However, we kept user group members informed of major developments. We plan to hold meetings early in each new financial year,

enabling us to give a more comprehensive report on the List's operations, including improved statistical reporting.

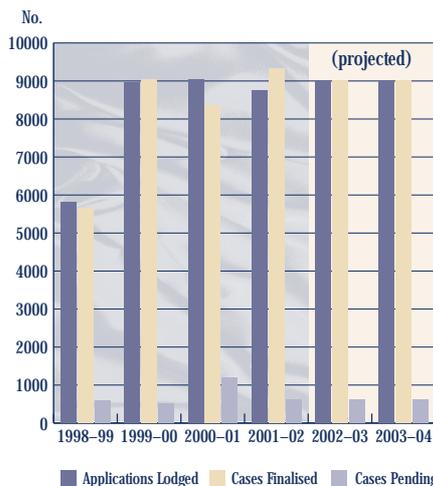
## Training and Development

New Members assigned to the List received formal training during 2001–02. In addition, from April 2002 List members received training in connection with the OES. We expect all List members to undertake intensive training as a result of amendments to the GA Act and other anticipated legislation.

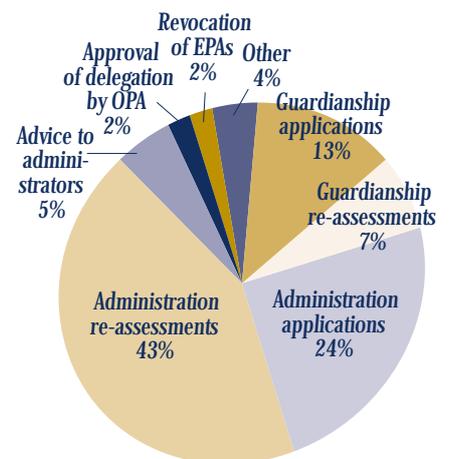
## The Future

We will continue our efforts to improve the List's case management system, including enhancing the OES and making it more widely available. Statistical reporting and access to data will remain a priority. The adaptation of letters and forms and member training following legislative amendments will also be a priority.

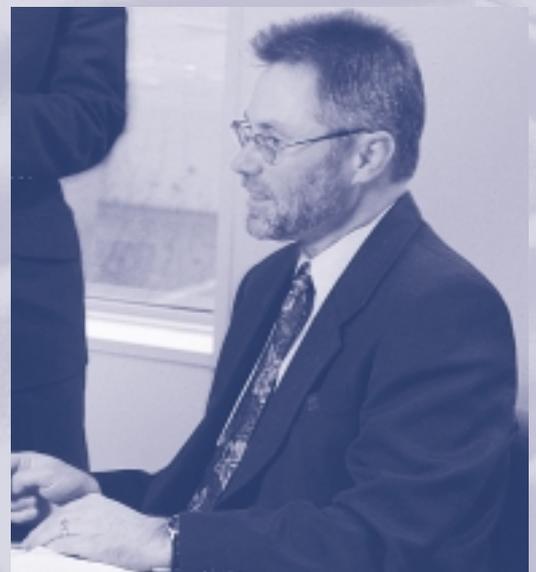
## Case Flow 1998–2004



## Applications by Type 2001–02



*Simon Huggins is Listing Officer and general supervisor for the Guardianship List. His main role involves overseeing the scheduling of hearings. Simon also maintains contact with personnel at hospitals, nursing homes, court houses and other hearing venues throughout metropolitan Melbourne and regional Victoria to ensure that hearings are scheduled in a timely manner and at locations that are most convenient to the List's clients, their families and professional persons involved in their care. Simon assisted the List in a major project in which hearing venues and schedules for 2002 were to be published for the first time in the Law Calendar for the convenience of users. From time to time, Simon serves as Acting Registrar of the Guardianship List.*



# Real Property List and Retail Tenancies List

## Case Profile

The Real Property List received the same number of applications in 2001–02 as in 2000–01, totalling 31. Cases resolved rose by 55% from 22 in 2000–01 to 34 in 2001–02. The increased use of early mediation played a part in this increase. Cases pending fell by 12% from 26 at the end of 2000–01 to 23 on 30 June 2002.

Applications in the Retail Tenancies List rose by 6%, totalling 215 applications, compared with 203 in 2000–01. Cases resolved rose by 9%, totalling 221, compared with 202 in 2000–01. Cases pending fell by 8%, totalling 70, compared with 76 on 30 June 2001.

## Application Types

During 2001–02, applications received in the Real Property List principally involved jurisdiction under Part 1 of the *Water Act 1989* and certain provisions of the *Water Industry Act 1994*. Traditionally, these Water Act proceedings have involved flooding disputes between primary producers with respect to broadacres, especially in the north of the State. Since 1996, comparatively dry conditions in that area have resulted in relatively few such disputes in recent years. This trend continued during 2001–02. Water Act proceedings mainly related to urban or suburban flooding involving such incidents as burst water mains, sewerage back-ups and blocked gutters.

Other applications involved acquiring easements to facilitate subdivisions under the Subdivision Act and disputes under the Act with planning authorities. During the financial year, there were no referrals under the Estate Agents Act and there was only a small number of Subdivision Act matters.

The types of applications lodged in the Retail Tenancies List involved disputes arising between landlord and tenant in relation to leases of retail premises. Disputes related to 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. Once those steps were completed, the parties exchanged their expert reports and attended a compulsory conference held by an engineering member. If the case remained unresolved, a hearing was conducted, usually before a legal and an engineering member.

## List Snap Shot

**Purpose**

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

### **Real Property List**

The Real Property List settles claims under Part 1 of the *Water Act 1989* with respect to damages and disputes relating to unreasonable flows of water. The List also 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*.

### **Retail Tenancies List**

The Retail Tenancies List derives its jurisdiction from the *Retail Tenancies Reform Act 1998* (RTR Act) and *Fair Trading Act 1999* (FT Act).

Under the RTR Act, the List hears and determines disputes between landlords and tenants relating to retail tenancies leases only where the parties remain in a relationship of landlord and tenant. Disputes between landlords and former or prospective tenants are excluded. The jurisdiction has no monetary limit but a 'retail premises lease' must be for a period of not less one year and the premises must have a floor area of not more than 1,000 sq m. Leases where the tenant is a public company or a subsidiary of a public company are excluded.

The FT Act creates a much wider jurisdiction, giving the List power to hear and determine disputes between suppliers and purchasers of goods and services, including interests in properties. Therefore, the statute gives a general landlord and tenant jurisdiction. Since the jurisdiction was granted in more general terms than the RTR Act and is not dependant upon the legal concept of 'privity of estate', the FT Act enables the List to determine disputes between landlords and former or prospective tenants.

### **Objectives**

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

We referred claims for modest sums under the Water Act directly to mediation, without having to comply with the usual interlocutory steps. We experienced continued success with this process in achieving a speedier and more economical disposition of small matters.

To streamline proceedings with respect to retail tenancies matters, we ensured that:

### **Key Results**

- Resolved 65% of real property cases within 40 weeks of application (60% in 2000–01) and 76% within 53 weeks (80% in 2000–01).
- Resolved 61% of retail tenancies cases within 13 weeks of application and 80% within 22 weeks (same as 2000–01).

### **Future**

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

### **Statistical Profile**

#### **Real Property List**

- Applications received: 31
- Cases resolved: 34
- Cases pending: 23
- Application fee \$250–\$500
- Number of members: 19

#### **Retail Tenancies List**

- Applications received: 215
- Cases resolved: 221
- Cases pending: 70
- Application fee \$250–\$500
- Number of members: 15

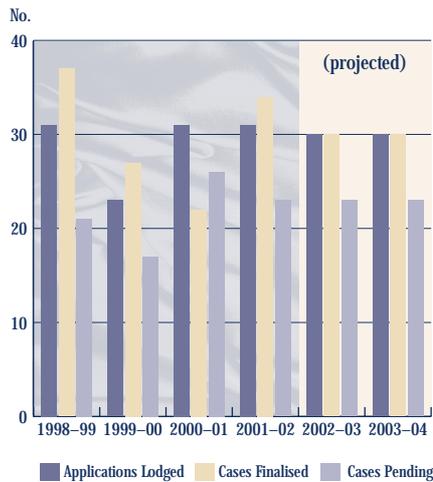
### **Deputy President Profile**

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 real property law.

- claims of \$15,000 or less were dealt with by mediation or, if necessary, fixed for hearing and determined on the same day;
- claims exceeding \$15,000, but less than \$100,000, were referred to mediation or, if unresolved, the standard interlocutory steps were applied and a hearing was scheduled; and

# Real Property List and Retail Tenancies List

## Real Property Case Flow 1998–2004



- claims exceeding \$100,000 were referred first for a directions hearing.

Alternatively, List users were able to apply for urgent interim injunctive relief. Such applications were heard immediately, often on the day that they were made.

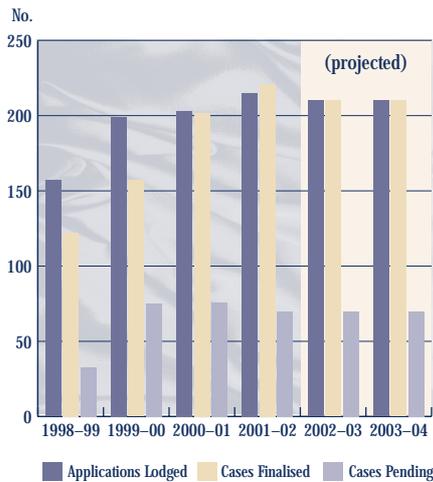
### Timeliness

In the Real Property List, we resolved 65% of cases within 40 weeks of application and 76% within 53 weeks. This compares with 57% of cases being resolved within 40 weeks of application and 78% of cases within 53 weeks in 2000–01. The case load 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 61% of cases within 13 weeks of application and 80% of applications within 22 weeks in 2001–02, the same result as in 2000–01.

In both Lists, timeliness was largely the result of accommodating the desire of parties to negotiate for substantial periods before a case was listed for hearing. In both Lists, we were able to accommodate requests for urgent hearings.

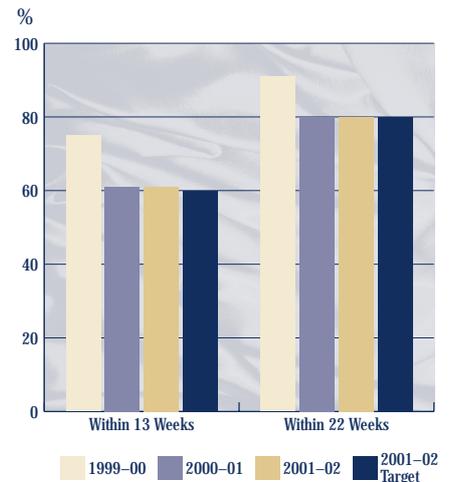
## Retail Tenancies Case Flow 1998–2004



### Law Reform

In 2001–02, the Minister for Small Business completed an extensive program of public consultation, including the publication of two papers. We anticipate that a Retail Tenancies Bill will be introduced into the Victorian Parliament in 2002, changing both the substantive law of landlord and tenant with respect to retail shops and the procedure for the determination of disputes between the parties to retail leases. One proposal under consideration is the establishment of a conciliation service to which disputes must be submitted prior to referring them to VCAT. This will diminish the number of proceedings commenced in the Retail Tenancies List.

## Retail Tenancies Timeliness 2001–02



### User Group Activities

The Retail Tenancies user group met once during 2001–02. The principal item of business was a briefing from a representative of the Minister for Small Business upon the progress of proposals for further retail tenancy reform.

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

### The Future

Our objectives for 2002–03 include the following initiatives:

- Achieve a smooth introduction of any further legislative reforms.
- Reduce waiting times from application to resolution for real property cases.
- Maintain waiting times for most retail tenancies cases.

*Claire Harvey provides administrative assistance for the Retail Tenancies List and the Real Property List. She deals with all administrative matters in these Lists except listings and arranging mediations. In her spare time she pitches in to assist with file administration in the Civil Claims List. Claire comes from Bendigo and was educated at Creek Street Christian College and later at Bendigo Senior Secondary College. She came to Melbourne in 1999 to study for a year at La Trobe University and then undertook studies in Criminal Justice Administration at RMIT University, graduating with a Bachelor of Arts with a distinction. She then worked for eight months at the Office of the Victorian Government Solicitor before coming to her present role at VCAT in 2001.*



# Residential Tenancies List

## Case Profile

The total number of applications received decreased by 3% in 2001–02, totalling 69,191, compared with 71,541 in 2000–01. Cases finalised decreased by 5% from 71,621 in 2000–01 to 67,843 in 2001–02. Cases pending totalled 6,368 on 30 June 2002, compared with 5,020 on 30 June 2001, representing an increase of 27%. The rise was caused by a one-off drop in cases finalised in June 2002. At that time, 4,871 cases were finalised, compared with the usual number per month of more than 5,500 cases finalised.

## Application Types

The types of applications lodged comprised:

- 64% landlords represented by an estate agent or property manager (64% in 2000–01);
  - 6% private landlords (8% in 2000–01);
  - 24% the Director of Housing (23% in 2000–01);
  - 5% tenants or residents (4% in 2000–01); and
  - 1% other parties (1% in 2000–01).
- Of all applications received:
- 57% related to possession orders (60% in 2000–01);
  - 23% payment of bond (22% in 2000–01);
  - 10% compensation or compliance orders alleging breach of duty (12% in 2000–01); and
  - 10% other (6% in 2000–01).

## How We Dealt with Cases

Members resolved most applications made to the List by hearing. In some cases, they used default procedures to finalise cases. These included an 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 increased slightly from 23 days in 2000–01 to 24 days in 2001–02. The complexity of the cases affected timeliness, which varied depending on such factors as:

- whether the proceedings were defended;
- the number of parties; and
- the number and nature of claims involved.

Legal and factual controversy and conflicting evidence also contributed to the complexity of cases.

## List Snap Shot

### 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

- Maintain the waiting times from application to resolution.
- Increase the number of applications made via VCAT Online to 35%.
- Produce at least 60% of all orders via OES and expand OES to users in suburban and country venues.

### Key Results

- A total of 28,489 applications were lodged using VCAT Online, representing 41% of applications (9% in 2000–01).
- The average waiting time from application to resolution for all cases was 23 days (23 days in 2000–01).
- Approximately 27,000 (37%) of all orders made in the List (approximately 72,500 orders) were processed by members of VCAT using OES, compared with 23% in 2000–01.

### Future

- Further improve and promote VCAT Online.
- Produce at least 50% of all orders via OES.

### Statistical Profile

- Applications received: 69,191
- Cases resolved: 67,843
- Cases pending: 6,368
- Application fee: \$30
- Typical number of cases resolved per day, per member: 20
- Number of members: 62
- Number of venues visited: 32

### Deputy President Profile

Michael Levine, LLB and 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. For the last 27 years, he has held positions as the first senior referee of the Small Claims Tribunal, first chairman of the Residential Tenancies Tribunal and the first 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.

## Review of RT Act Results in Bill

Deputy President Michael Levine participated in a review of the RT Act that involved a number of stakeholders, in addition to the Residential Tenancies List of VCAT. As a result of the review, a Bill is before the Victorian Parliament. It will make a number of changes affecting the List. The changes will involve the area of the Rental Bond Board caravan parks and rooming houses and residential tenancies generally. We expect that the changes to the RT Act will commence in 2003.

## Order Entry System

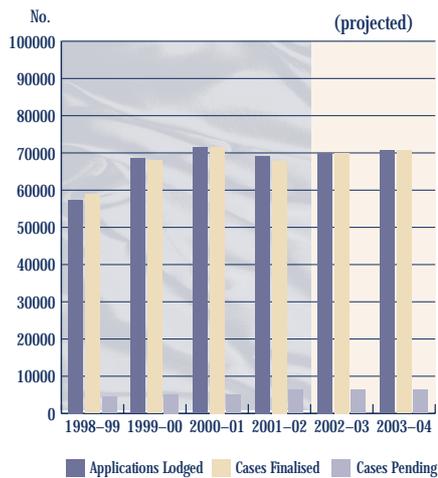
The Order Entry System (OES) enables List members to produce orders using personal computers installed in hearing rooms. This allows orders to be produced, printed, signed and given to the parties immediately after hearings.

We began the process of simplifying the format of orders generated by the OES system to make them easier and more efficient to use. However, our plan to extend the OES to suburban and rural hearing locations, beginning with a pilot program at Sunshine and Ballarat Magistrates' Courts, was delayed due to technical problems involving its integration into existing systems. We hope to overcome the problems in the short term.

During 2001–02, 37% (approximately 27,000 orders) of all orders made in the Residential Tenancies List (approximately 72,500 orders) were produced by members of VCAT using OES. The remainder were produced by VCAT staff at the direction of members. This is a substantial increase compared with 2000–01 when 23% (approximately 15,700 orders) of all orders made in the Residential Tenancies List (approximately

# Residential Tenancies List

Case Flow 1998–2004



69,600 orders) were produced by members of VCAT using OES. Use by members is expected to continue to grow.

## Success of VCAT Online

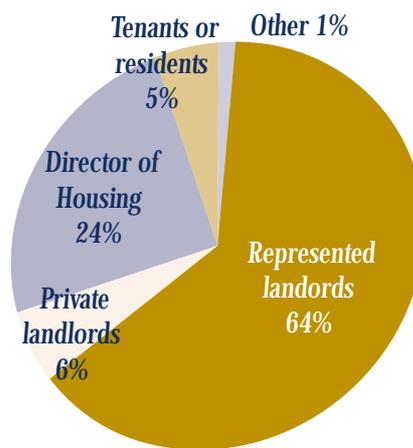
VCAT Online enables registered users of the List to complete application forms, and generate and print notices of dispute under the *Residential Tenancies Act 1997* via the Internet, followed by immediate confirmation of lodgment and, in most cases, a hearing date.

We revised VCAT Online to enable users to make additional types of applications, view hearing notices, withdraw applications and request warrants of possession. In addition, we secured the Department of Housing as a major user of VCAT Online. In 2001–02, 36,481 notices were created and 28,489 applications were lodged via VCAT Online. A total of 560 users were registered with VCAT Online as at 30 June 2002.

VCAT Online won a major industry award in October 2001 when it received the *2001 iAward—Implementation for e-Business and Internet*. It was showcased in February 2002 at the World Congress on Information Technology held in Adelaide.

Refer to page 12 for more information about VCAT Online.

Applications by Type 2001–02



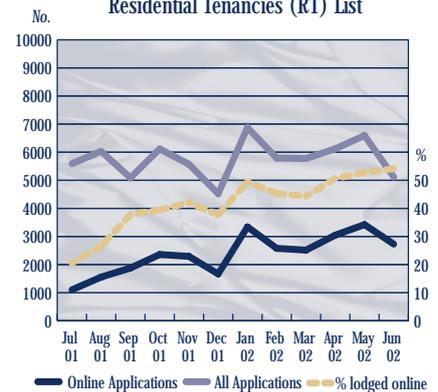
## Community Awareness

On an average of twice each month, List members conduct an information session for real estate agents and tenants advice groups to raise awareness about List operations. In addition, Members participate in moot hearings and give advice on how best to present cases before the List.

## User Group Activities

The List's user group comprised participants representing 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 2001–02 and provided an excellent forum for discussing issues of concern to List users.

VCAT Online Use — Residential Tenancies (RT) List



VCAT Online Use shows the number of applications and notices generated via VCAT Online since July 2001. We received a total of 28,489 applications through VCAT Online, representing 41% of all applications and exceeding our target of 35%.

## Training and Development

We conducted full-day conferences for all of the List's members to enhance the consistency of their approach and interpretation of the relevant legislation affecting the List. We held two conferences during 2001–02.

## The Future

Our objectives for 2002–03 include the following initiatives:

- Further promote the use of VCAT Online to increase use to at least 60%.
- Produce at least 50% of orders using OES.
- Expand OES to users in suburban and country venues.

*Providing a vital link to the high volume Residential Tenancies List, Rebecca Flavell is a member of one of VCAT's busiest call centres. Rebecca gives information to callers about VCAT's residential tenancies jurisdiction. It's a demanding position, requiring a fair degree of understanding and a substantial amount of technical expertise and human relations skills to assist people experiencing difficult circumstances with accurate, on-the-spot information. In addition, Rebecca spends time outside VCAT at our busiest suburban courts, assisting List members as receptionist at residential tenancies hearings.*



# General List and Taxation List

## Case Profile

In 2001–02, the number of applications received in the General List and Taxation List totalled 1,537, compared with 1,372 in 2000–01, representing a 12% increase. This result includes 1,191 transport accident cases, compared with 1,029 cases in 2000–01—a 16% rise. Cases finalised totalled 1,234, compared with 1,596 in 2000–01, representing a 23% decrease. Cases pending increased by 30%, totalling 1,328, compared with 1,024 at the end of 2000–01. This result was attributed mainly to a 45% increase in cases pending for transport accident matters (1,051 compared with 723 at the end of 2000–01). This was offset somewhat by an 8% decrease in cases pending for all other matters.

The decrease in cases finalised resulted from an amendment to the *Transport Accident Act 1986* introducing new procedures to be followed by the Transport Accident Commission upon an application being made to VCAT. As a result of the amendment, VCAT can no longer commence a proceeding until certain preliminary steps are completed. This also explains the consequential and anomalous increase in the number of cases pending.

## Application Types

In the General List, transport accident cases continued to constitute 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:

- 80% transport accident cases (77% in 2000–01);
- 10% freedom of information cases (10% in 2000–01);
- 2% false fire alarm fee cases (7% in 2000–01);
- 8% other, including mental health, superannuation, criminal injuries compensation and taxation cases (6% in 2000–01).

## How We Dealt with Cases

In many cases, before a hearing took place, we conducted a compulsory conference at which the issues were canvassed with a view to resolution or partial resolution. This process frequently reduced the time in which it took to hear matters and, in many cases, avoided the need for a hearing.

## List Snap Shot

### Purpose

The General List and the 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, State superannuation and criminal injuries compensation. The Taxation List hears disputes relating to assessments made by State Government Departments in 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.

### Key Results

- Resolved 62% of transport accident cases within 35 weeks of application (58% in 2000–01) and 81% within 55 weeks (78% in 2000–01).
- Resolved 59% of Freedom of Information cases within 22 weeks (54% in 2000–01), 76% within 36 weeks (78% in 2000–01) and 83% within 44 weeks.

Where appropriate, we referred cases to mediation. Many cases resolved prior to hearing as a result of private conferences, compulsory conferences, mediation or a combination of these processes. In keeping with past practice, cases were over-listed for hearing based on the experience that the majority of cases inevitably settle prior to hearing.

## Timeliness

Improvements made to VCAT's computer system during the previous financial year enabled more accurate reporting.

In the General List, we resolved 62% of transport accident cases within 35 weeks of application and 81% within 55 weeks. This compares with 58% of cases resolved within 35 weeks and 78% within 55 weeks in 2000–01. We resolved 59% of freedom of information cases within 22 weeks, 76% within 36 weeks and 83% within 44 weeks. This compares with 54% within 22 weeks and 78% within 36 weeks in 2000–01. We resolved 58% of fire and false alarm cases within 14 weeks (61% in

- Resolved 25% of taxation cases within eight weeks of application (67% in 2000–01), 39% within 13 weeks (100% in 2000–01) and 82% within 14 weeks.

### Future

- Continue to reduce waiting times from application to resolution.
- Continue to resolve cases, where possible, using alternative dispute resolution processes.

### Statistical Profile

- Applications received: 1,537
- Cases resolved: 1,234
- Cases pending: 1,328
- Application fee: \$0–\$250
- Number of members: 51

### Deputy President Profile

John Galvin, BA, LL.M., was appointed Deputy President of the General List and Taxation List on 1 July 1998. Mr Galvin was admitted to practice as a barrister and solicitor of the Supreme Court of Victoria in 1960. In 1988, he was appointed a deputy president of the Administrative Appeals Tribunal (AAT) after serving one year as sessional member. Mr Galvin was formerly a partner in the law firm then known as Mahony & Galvin.

2000–01) and 73% within 20 weeks (80% in 2000–01). We resolved 53% of mental health cases within 13 weeks (65% in 2000–01) and 80% within 18 weeks (80% in 2000–01).

These figures represent a significant improvement in timeliness over the previous year's results. The practice of allowing the parties substantial time to negotiate and obtain expert evidence before cases were listed for hearing, promoted timeliness.

In the Taxation List, we resolved 25% of cases within eight weeks of application, 39% within 13 weeks and 82% within 14 weeks. In 2000–01, we resolved 67% of cases within eight weeks and 100% within 13 weeks.

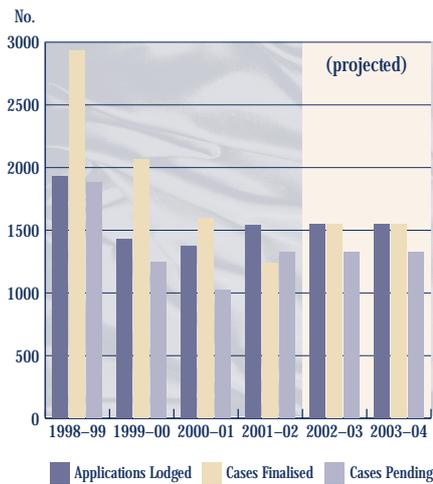
## Training and Development

On 11 April 2002, a core group of General List members attended a List conference conducted at VCAT. At the conference, a number of issues were raised and discussed, including:

- filing practices
- practice re subpoenaed material
- transport accident information sheet

# General List and Taxation List

Case Flow 1998–2004



- litigants in person
- public database
- further jurisdiction
- role of sessional members
- medical reports
- uniform orders
- compulsory conferences

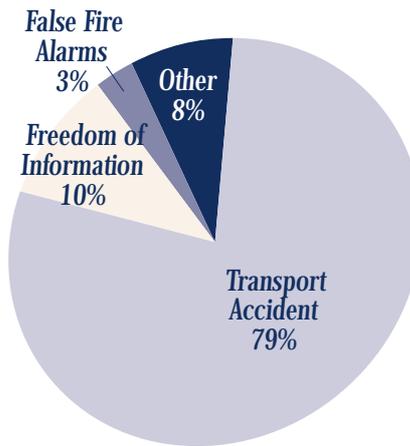
## User Group Activities

The combined user group of the General List and Taxation List comprised representatives from the Victorian Bar, Office of the Victorian Government Solicitor, Transport Accident Commission and solicitor firms practising in relevant areas. A meeting of the user group took place on 30 April 2002 at which the following matters were discussed:

- practices and procedures
- witness availability
- filing of accounts
- dealing with subpoenaed material
- the web page

The user group provides a valuable source of information from practitioners to assist the List in improving, refining and modifying procedures and practices. As a result of input from representatives at the last meeting, changes were put in place in regard to the timing of directions hearings and the handling of subpoenaed documents.

Applications by Type 2001–02

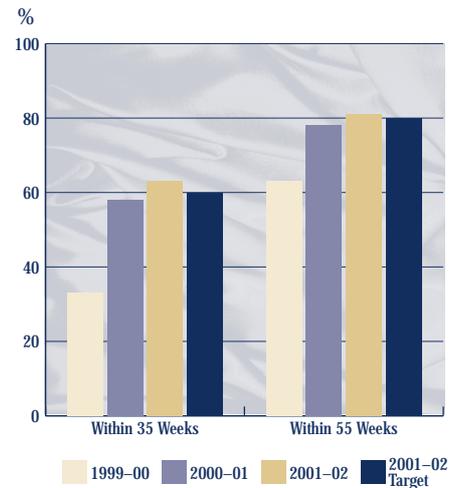


## The Future

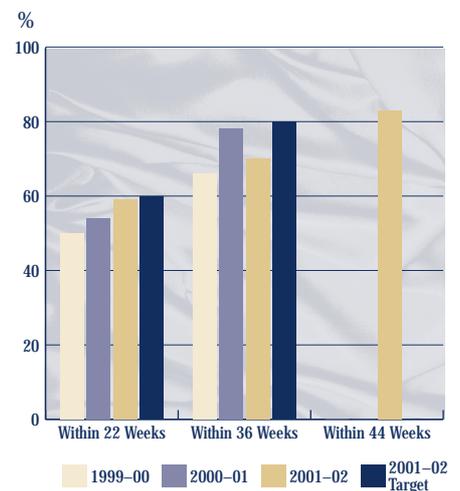
List members will continue to review the operation of the List from time to time, and raise and discuss issues of relevance both informally and at formal meetings of List members. The List promotes an atmosphere where ideas are readily expressed, exchanged and discussed informally as required. In particular, the issues raised having a future impact on the List include:

- significant amendments to relevant legislation, especially to the *Transport Accident Act 1986* and the *VCAT Act*;
- orders for costs and the appropriate approaches to costs;
- the need for preparing amended practice notes and information sheets as a result of legislative amendments; and
- ongoing regard for the application of alternative dispute resolution procedures.

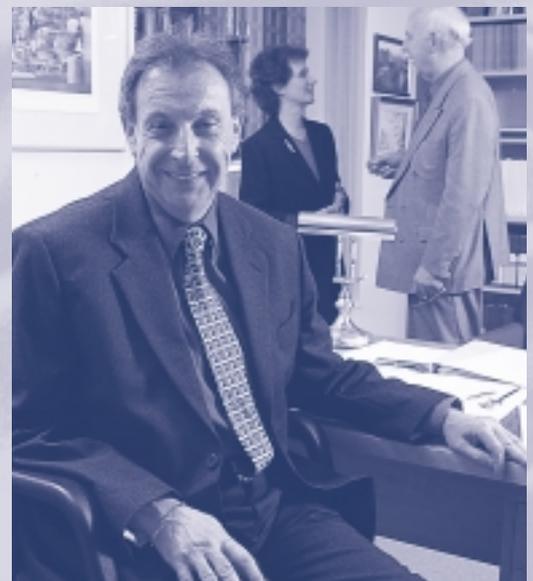
Timeliness 2001–02—Transport Accident Cases



Timeliness 2001–02—Freedom of Information Cases



Robert Davis was appointed to the Administrative Appeals Tribunal as a sessional member in 1994. He was a successful and respected member of the Victorian Bar when he became a full-time member of VCAT in 1998. Mr Davis makes a major contribution to the work of the General List and also sits in the Planning and Environment List, Domestic Building List, Retail Tenancies List, Occupational and Business Regulation List, Real Property List and Civil Claims List. Of particular benefit to VCAT is his capacity to move from one List to another upon brief notice, although he is involved primarily in General List hearings.



# Land Valuation List

## Case Profile

The number of applications received totalled 182 in 2001–02, compared with 145 in 2000–01, representing an increase of 26%. Cases finalised increased substantially by 167%, totalling 136 cases, compared with 51 in 2000–01. Cases pending rose by 39%, totalling 163 cases, compared with 117 at the end of 2000–01.

Much of the List's work depends on the timing of municipal valuations of land for rating purposes. In the latter part of 2000–01, the List experienced a substantial increase in the volume of applications following the completion of the general municipal valuations for 2000. The dramatic increase in cases finalised in 2001–02 was, in part, due to finalising applications received in the latter part of the previous financial year.

## Application Types

The types of applications lodged included:

- 93% involving the review of land valuations made for rating and taxing purposes (92% in 2000–01); and
- 7% other (8% in 2000–01).

## How We Dealt with Cases

Generally, cases brought to the List were settled rather than contested. To promote early settlement, the alternative dispute resolution technique of compulsory conferences was offered to the parties in the vast majority of cases. If settlement was not possible, we scheduled a case for a hearing.

## Timeliness

In 2001–02, 40% of cases were resolved within 18 weeks of application, 80% within 36 weeks and 94% within 53 weeks. This compares with 60% of cases being resolved within 18 weeks of application and 80% within 53 weeks in 2000–01.

We encouraged the settlement of proceedings between parties, without the need for a full hearing. While there was a reduction in the percentage of cases resolved within 18 weeks, there was an increase in the percentage of cases resolved within 53 weeks when compared with the 2000–01 figures. These percentages need to be considered in the context of 136 cases being finalised in the year in review, compared with 51 in 2000–01.

## List Snap Shot

### 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 50).

### 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.

### Key Results

- Resolved 40% of cases within 18 weeks of application (60% in 2000–01), 80% of cases within 36 weeks and 94% within 53 weeks (80% within 53 weeks in 2000–01).
- Introduced an intensive program of compulsory conferences, settling approximately 72% of cases prior to hearing.

### Future

- Resolve cases as quickly as possible.
- Continue to achieve early settlement of cases by maximising the use of compulsory conferences.

### Statistical Profile

- Applications received: 182
- Cases resolved: 136
- Cases pending: 163
- Application fee: \$125
- Number of members: 25

### Deputy President Profile

John Baker-Smith, LLB, was appointed Deputy President in charge of the Land Valuation List on 1 June 2001. Previously, Mr Baker-Smith was appointed Deputy President of the Occupational and Business Regulation List on 1 January 1999, followed by his appointment to the Civil Claims List on 1 September 2000. Prior to VCAT, he held various positions in the public sector, including the Criminal Law Branch of the Crown Solicitor's Office and the Policy and Research Division of the Law Department. Mr Baker-Smith served as chairman for a period of time of the Credit Authority, Estate Agents Disciplinary and Licensing Appeals Tribunal, Motor Car Traders Licensing Authority, Travel Agents Licensing Authority, Prostitution Control Board, and Motor Car Traders' Guarantee Fund Claims Committee. Immediately prior to joining VCAT, he chaired the Business Licensing Authority from July to December 1998.

## Success of Compulsory Conferences

The principal challenge for the year under review was to keep the List operating effectively, while managing the large numbers of applications following the new municipal valuations.

The key achievement for the year was the success of our intensive program of compulsory conferences conducted in the List. This program was prompted by a significant increase in the number of applications lodged with the List in the latter part of 2000–01. As a comparison, in 1999–2000, the List received 26 applications and in 2000–01 that number escalated to 145.

The compulsory conference process is a robust form of mediation. The focus is on identifying the key issues and finding an outcome on which the parties can agree. If settlement is the measure of success, then the success rate achieved in compulsory conferences has been significant.

Of the 46 cases under the *Valuation of Land Act 1960* listed for compulsory conference during the year in review:

- 27 settled at the conference;
- six settled either prior to or after the conference;
- one remained adjourned; and
- 12 were listed for hearing

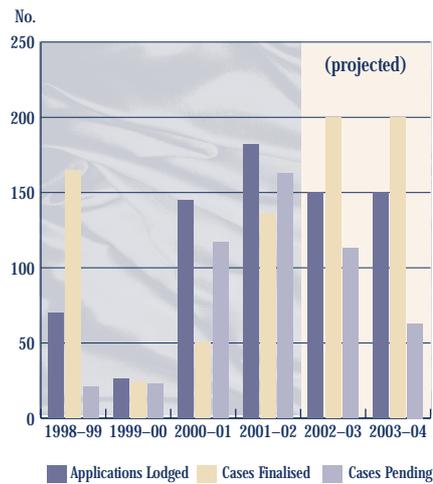
A typical compulsory conference for these cases took less than half a day. If the matter did not settle, the List member was able to give immediate Directions regarding the List's further conduct of the matter.

The listing of cases under the *Valuation of Land Act 1960* for compulsory conferences was successful for a number of reasons as follows:

1. **The nature of the proceeding lends itself to the process.** The issue between the parties is the correctness of a valuation, often of a residential property. Additional matters relevant to the valuation may come

# Land Valuation List

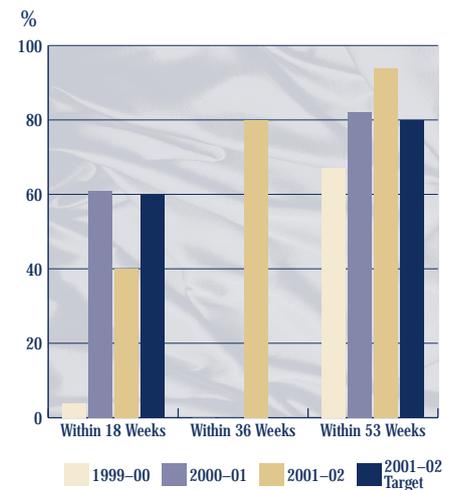
Case Flow 1998–2004



Applications by Type 2001–02



Timeliness 2001–02



to light as a result of the early directions given in the proceeding, and even during the conference itself. These matters may result in the parties agreeing to some adjustment being made to the valuations previously put forward by one or both of them.

2. **The manner in which List members conduct such conferences is critical.**

The valuer members conducting the conferences commenced the process with sound skills, and have been able to build on those skills.

3. **The process has clearly been embraced by the parties,** as evidenced by the results. The process is straightforward, easily understood, directed at the key issues and less formal than a full hearing.

4. **A full hearing can be avoided.** Where the conference results in settlement, there are significant savings in both time and costs as a result of avoiding the need to prepare for, and attend, a full hearing.

5. **The parties agree to outcomes.** Where the conference is successful, it is the parties who arrive at a satisfactory agreement. In these circumstances, the outcome is not imposed by VCAT.

We also conducted compulsory conferences successfully in other types of cases within the List, including applications for determination of disputed claims as to the amount of compensation payable where land is acquired compulsorily.

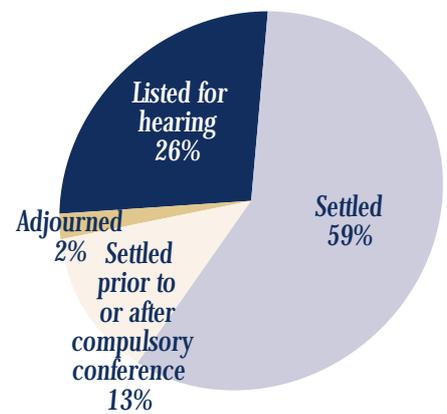
**The Future**

We anticipate that the case load for 2002–03 will remain at the same level as the year in review due to the requirement that councils make biennial valuations.

Administering the case load in a manner appropriate to the type of cases and the experience of the parties will be a continuing aim.

The List has a variety of specialised jurisdictions and, as in other Lists, the parties do not always choose to obtain professional representation. For this reason, we plan to continue our practice of giving guidance to unrepresented parties.

**Success of Compulsory Conferences 2001–02**



*We introduced an intensive program of compulsory conferences during 2001–02, settling 59% of the 46 cases listed under the Valuation of Land Act 1960 for compulsory conferences prior to hearing.*

*Registry Officer Mark O'Reilly acts as the contact between the Deputy President of the Land Valuation List and Registry. He assists with listing cases, including preparing notices advising parties of compulsory conferences and other Registry functions.*

*Mark began his career in the Box Hill Magistrates' Court in 1981 and previously worked for the Land Valuation Board of Review in 1991. He has experience in a broad range of land valuation issues. In addition to these duties, Mark provides administrative support to the Manager of the Case Administration Section and assists in the training of new VCAT employees.*



# Occupational and Business Regulation List

## Case Profile

The number of applications received increased slightly in 2001–02, totalling 107 compared with 106 in 2000–01. Cases finalised decreased by 29%, totalling 114, compared with 161 in 2000–01. The number of cases pending fell by 9%, totalling 75, compared with 82 at the end of 2000–01.

## Application Types

The types of applications resolved comprised:

- 27% liquor licensing (34% in 2000–01);
- 14% Victorian Taxi Directorate (18% in 2000–01);
- 4% prostitution service providers (15% in 2000–01);
- 8% private agents (9% in 2000–01);
- 8% doctors (nil in 2000–01);
- 7% racing (n/a in 2000–01);
- 5% real estate agents (10% in 2000–01); and
- 27% other (14% in 2000–01).

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 Dental Practitioners Registration Board that revoked or refused to renew the registration of medical and dental practitioners.

In addition, we reviewed a number of decisions by the Taxi Directorate in which it refused to issue metropolitan hire car licences to applicants, as well as a number of decisions made by the Business Licensing Authority in which it refused to issue or renew licences to private agents, estate agents, motor car traders and prostitution service providers.

The new racing jurisdiction acquired by the List did not result in a large increase in the number of applications to the List.

## How We Dealt with Cases

To deal with cases as efficiently as possible, List members conducted directions hearings prior to listing cases for hearing. This 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.

## List Snap Shot

### Purpose

A List in the Administrative Division of VCAT, the purpose of the Occupational and Business Regulation List is principally to hear and determine cases under the *Liquor Control Reform Act 1998*, *Medical Practice Act 1994*, *Private Agents Act 1966*, *Prostitution Control Act 1994*, *Transport Act 1983* and *Estate Agents Act 1980*. The List has a combination of both original jurisdiction and jurisdiction to hear cases on review. Examples of the original jurisdiction involve the conduct of disciplinary proceedings in relation to a number of occupational groups, such as motor car traders, travel agents and the holders of liquor licences. Examples of the review jurisdiction are conducting reviews of licensing decisions of the Business Licensing Authority regarding estate agents, motor car traders, prostitution service providers and others, as well as reviews of decisions by various registration boards concerning the professional registration, for example, of doctors, dentists, architects, psychologists, Chinese medical practitioners and physiotherapists.

### Objective

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

### Key Results

- Resolved 69% of cases within 24 weeks of application (59% in 2000–01) and 82% of cases within 36 weeks (81% in 2000–01).

## Timeliness

In 2001–02, we resolved 69% of cases within 24 weeks of application and 82% of cases within 36 weeks. In 2000–01, we resolved 59% of cases within 24 weeks of application and 81% of cases within 36 weeks. Timeliness was largely affected by accommodating the desire of parties to negotiate for substantial periods before a case was listed for hearing, particularly in liquor licensing cases. The List was able to accommodate requests for urgent hearings.

## Streamlined Case Management

The introduction in the previous financial year of improvements to VCAT's computer system Caseworks continued to enable us to streamline case management within the List. List members were better able to track cases and access information regarding the status of cases for the benefit of

- Two new jurisdictions added to the workload of the List.
- Members attended the AJJA Conference in June 2002.

### Future

- Maintain waiting times from application to resolution.
- *Victorian Institute of Teaching Act 2001* expected to add to the workload of the List.

### Statistical Profile

- Applications received: 107
- Cases resolved: 114
- Cases pending: 75
- Review application fee: \$250
- Number of members: 52

### 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. Previously, Ms Davis was appointed Deputy President of the Guardianship List in May 1999. Prior to VCAT, she was appointed Deputy President of the Administrative Appeals Tribunal in May 1998. 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 cases, Ms Davis regularly sits in the General List, Anti-Discrimination List and Guardianship List.

List users. More information about the benefits of Caseworks can be found on page 12.

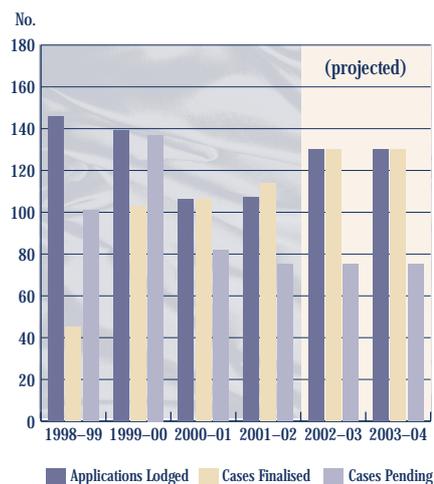
## User Group Activities

Following the amalgamation in the previous financial year of the liquor jurisdiction and non-liquor jurisdiction user groups for the List, the combined user group met in June 2002. President Justice Kellam attended the meeting, along with Deputy President Sandra Davis and approximately 12 stakeholders representing the jurisdictions of the List. A number of stakeholders from the different areas of the racing industry—a new area of the List's jurisdiction—were represented at the meeting.

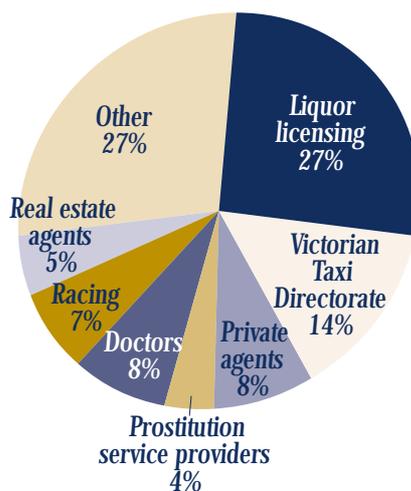
The meeting provided an excellent opportunity to exchange ideas with the objective of improving VCAT service delivery within the List. In the liquor licensing jurisdiction, a number of

# Occupational and Business Regulation List

Case Flow 1998–2004



Applications by Type 2001–02



Timeliness 2001–02



measures that could assist the administration of the List were discussed. More generally, there was discussion about the implications of the various stay provisions contained in the VCAT Act, as well as discussion of the likely impact on the future workload of the List of legislative amendments in section 38 of the *Liquor Control Reform Act 1998* and section 143 of the *Transport Act 1986*.

## Training and Development

A number of the List's full-time and sessional members attended the Australian Institute of Judicial Administration (AIJA) Tribunals Conference in Melbourne in June 2002. The members participated in spirited discussions about a range of issues affecting decision-making by tribunals, including ethical issues facing tribunal members. They also heard a number of very stimulating presentations concerning decision-making in the tribunal context.

Full-time members of the List sat in a number of VCAT's Lists to enhance their skills and flexibility.

## New Jurisdiction

The following new jurisdictions added to the workload of the List:

### Racing and Betting Acts (Amendment) Act 2000

The *Racing and Betting Acts (Amendment) Act 2000* commenced on 1 July 2001, providing another review jurisdiction for the List. List members heard appeals by persons aggrieved against occupational licensing decisions of the various controlling bodies or the

Bookmakers and Bookmakers' Clerks Registration Committee. In the case of the latter, VCAT heard appeals against suspensions, disqualifications, warnings-off and fine impositions.

One year has elapsed since the introduction of amendments to the Racing Act. During that time, we received a small number of cases under the new racing jurisdiction, which totalled seven. We expect a gradual increase in the number of applications to the List from this relatively new jurisdiction. However, the increase is not expected to have a major impact on the workload of the List.

## The Future

The *Victorian Institute of Teaching Act 2001* will come into operation on 1 July 2002. We expect appeals from the decisions of the Institute to start flowing to the List in the second half of

2002–03. Given the number of persons who will be affected by the decisions of the Institute of Teaching, we anticipate a substantial increase in the workload of the List in the future.

In late 2002, we plan to hold joint information sessions with relevant stakeholders in this new jurisdiction, who will be invited to join the List's user group.

Similar discussions will take place at the same time in relation to another new area of jurisdiction that was acquired in early 2002 under the Land Surveying Bill, to review certain decisions of the Surveyors Registration Board.

As the List's customer service officer, Julie Childs is responsible for registering applications to the List and ensuring applications are lodged efficiently. She also assists applicants in clarifying any guidelines or time limits and explaining List procedures. This requires Julie to be well versed in the jurisdiction of the List and the VCAT Act. Julie began her career seven years ago at the former Administrative Appeals Tribunal and has been with VCAT since its inception. In addition to the Occupational and Business Regulation List, Julie assists members in the Taxation List, Planning and Environment List, General List and Land Valuation List.



# Planning and Environment List

## Case Profile

The number of applications received in 2001–02 totalled 3,349, compared with 3,138 in 2000–01, representing an increase of 7%. This rise in applications was expected, and is attributed to continuing strength in the building industry and an increased volume of permit applications in late 2001 in an attempt to predate the introduction of ResCode. Cases finalised totalled 2,988, compared with 3,056 in 2000–01, representing a decrease of 2%. Cases pending rose by 27%, totalling 1,697, compared with 1,336 at the end of 2000–01. This rise was largely due to the increase in applications.

## Application Types

The types of applications lodged involved mainly:

- 23% by objectors to council decisions to grant planning permits (24% in 2000–01);
- 37% by permit applicants about council decisions to refuse permits (39% in 2000–01);
- 12% by permit applicants about council decisions to impose conditions on a planning permit application (12% in 2000–01);
- 12% by permit applicants about failure of councils to decide about a planning permit application (9% in 2000–01);
- 5% enforcement orders (6% in 2000–01);
- 12% other (11% in 2000–01).

## How We Dealt with Cases

Most cases dealt with in the List proceeded to a hearing without preliminary directions hearings. However, due to the complexity of many planning cases, directions hearings were held at the request of parties or ordered by VCAT to resolve procedural and technical problems and preliminary points, such as requests for joining additional parties, adjournments or urgent hearings. In addition, preliminary hearings assisted in resolving issues, such as whether an application to the List or the granting of a permit for a development is prohibited by law or the relevant planning scheme.

We increased the use of mediation to resolve planning disputes. During 2001–02, we referred 418 applications to mediation, representing about 12% of all applications. The success rate for mediations during that period was 67%. Depending on the resources available, we aim to further increase the level of mediations in the coming year.

## List Snap Shot

### Purpose

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

- review jurisdiction—reviewing the decisions of councils and other responsible authorities on applications made to them, including council decisions to determine applications for planning permits; and
- original jurisdiction, exercising powers conferred directly on it by the enabling legislation. Applications are made directly to VCAT, rather than to responsible authorities, for amendment and cancellation of 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 14 enabling acts in the List's jurisdiction, including the *Planning and Environment Act 1987*, some provisions of the *Local Government Act 1989* relating to special rates and charges, the *Subdivision Act 1988*, the *Catchment and Land Protection Act 1994*, the *Environment Protection Act 1970* and the *Flora and Fauna Guarantee Act 1988*.

### Objectives

- Reduce waiting times so that, at the longest, 60% of cases are resolved within 20 weeks of application and 80% within 28 weeks.
- Further increase the use of mediation.
- Extend digital recording for planning cases.
- Improve public information documents.

### Key Results

- Resolved 52% of cases within 20 weeks of application and 77% within 28 weeks.

## Timeliness

In 2001–02, we resolved 52% of cases within 20 weeks of application and 77% of applications within 28 weeks. This result compares with 60% of cases being resolved within 22 weeks of application and 80% within 30 weeks in 2000–01. The recent appointment of new members and other initiatives following the reversal of the initial Warehouse decision (see opposite) will assist us in meeting our objectives for the coming year.

## List Name Change and New Appointments

The Government appointed one new full-time member and three sessional members to the List to supplement the resignation of a full-time member

- Further increased the use of mediation.
- Extended digital recording for planning and environment cases.
- Published the new General Guidelines public information document.
- Upgraded the List's web page and reviewed standard correspondence in Registry.

### Future

- Reduce waiting times so that, at the longest, 60% of cases are resolved within 20 weeks of application and 80% within 28 weeks.
- Improve and expedite enforcement order applications.
- Continue to improve public information documents.
- Further increase the use of mediation.

### Statistical Profile

- Applications received: 3,349
- Cases resolved: 2,988
- Cases pending: 1,697
- Application fee: \$30–\$1,000
- Number of members: 48, plus the judicial members of VCAT

### Deputy President Profile

Richard Horsfall, LLB (Hons), was appointed Deputy President of the Planning and Environment List on 18 October 1999. Previously, Mr Horsfall was appointed Deputy President of the Land Valuation List in February 1999. Prior to joining VCAT and, after leaving private legal practice, he was Commissioner of the Liquor Licensing Commission from 1993 to 1999. Since 1963, Mr Horsfall has worked in a wide range of areas, including planning, liquor, hotels, property, banking and finance, commercial law, waste disposal, and environmental law.

in 2001 and to improve the List's capacity to handle an increasing workload.

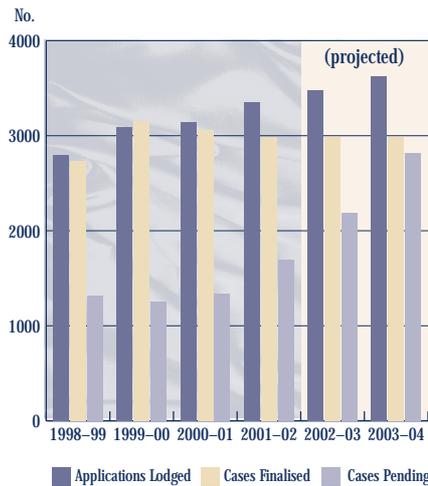
During the year, the name of the List was changed to the Planning and Environment List to better reflect its areas of jurisdiction.

## The Warehouse Case

During the first half of 2002, a Supreme Court decision cast doubt on the legal ability of members of the List who are lawyers to sit alone on planning matters. This was resolved by a further decision of the Court of Appeal confirming their ability to do so. However, in the interim period, a substantial effort by the List's planning members and Registry ensured that cases were not delayed and that a backlog did not develop pending the resolution of the matter.

# Planning and Environment List

## Case Flow 1998–2004



## Improved Public Information

We undertook initiatives to improve the effectiveness of the List's communications with the public, including the following:

- Registry staff reviewed and clarified the content of their standard correspondence.
- The List produced a revised General Guidelines document for providing information to the public on the List's operations and how the public can participate in proceedings.
- The List's web page was revised to provide clear, comprehensive and simply stated information.

## Introduction of ResCode 2000

In August 2001 ResCode 2000 was introduced, replacing the Good Design Guide and a number of provisions controlling residential development affecting permit applications and building developments after August 2001.

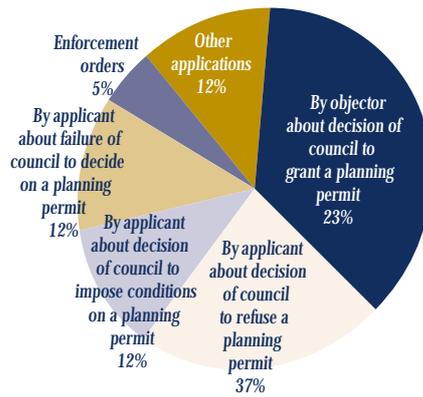
The transition is complex with the Good Design Guide continuing to apply to permit applications during a transitional period. Through our professional development program and in consultation with the Department of Infrastructure, Planning and Environment List members began the process of studying the new ResCode 2000 to be well prepared for ResCode cases reaching VCAT.

The increased case load this year was, in part, due to a large number of pre-ResCode applications being lodged with councils, and only since May 2002 have ResCode matters been coming before the List.

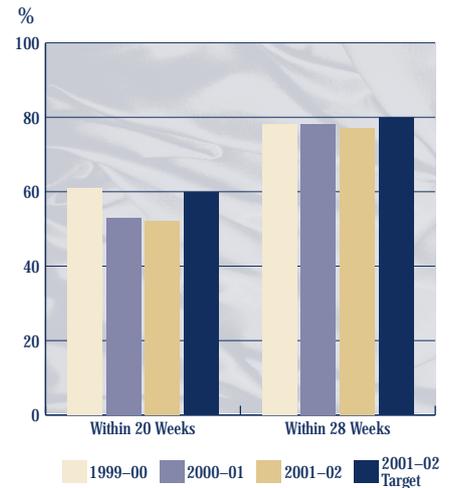
## Community Awareness

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

## Applications by Type 2001–02



## Timeliness 2001–02



List members participated in the Planet training program promoted by the Department of Infrastructure, which helped to better inform the planning industry and, in particular, council officers, and strengthen its public presence. Members presented topics such as *Preparing Your Submissions to VCAT* and *The Importance of Strategy in Preparing Submissions and Enforcement Order Applications*. As part of Planning Week an Open Day was conducted on 14 November 2002, and List members participated in a mediation information day for the public.

## User Group Activities

The user group of the Planning and Environment List comprised a variety of participants representing municipal, industry and professional groups. The user group met on one occasion during 2001–02, providing the opportunity for obtaining valuable feedback and advising users of developments within the List. The user group offered constructive feedback on issues such

as consistency of decision-making, proposed Practice Notes and procedures, and mediation.

## Training and Development

We continued our participation in the in-house professional development program for List members introduced in the last financial year. This program included a List-specific conference in September 2001 and promoted discussion about a wide range of issues with the aim of greater consistency and improved quality in decisions.

Members attended a variety of industry and external conferences and seminars, including the Australian Institute of Judicial Administration Tribunals' Conference and the Victorian Planning and Environmental Lawyers Association Conference.

With the assistance of VCAT, a total of seven List members continued their participation in the Monash University Diploma in Law course *Decision Making for Tribunal Members*, which included online segments.

Senior Member Ian Marsden is one of the most experienced members of the Planning and Environment List. An economist by training, Mr Marsden has spent most of his career in the area of planning and local council governance. He is a former President of the Municipal Association of Victoria and has served as a Municipal Councillor. After retiring from local government in 1980, he became a full-time member of the Planning Appeals Board in 1981. One of Mr Marsden's major achievements involved participation in a panel that reported to government on the direction that planning should take in the Dandenong Ranges. This work formed the basis of today's regional strategy plan. Mr Marsden was a member of the former Administrative Appeals Tribunal before joining VCAT to work exclusively in the Planning and Environment List as a sessional member with planning expertise. He is co-editor of the *Victorian Planning Reports*.



# Planning and Environment List

## Improved Statistical Reporting

Due to improving our ability to extract data from the computer case management system, we were able to publish improved statistical information. Given the community interest in the Planning and Environment List, we have decided to publish a summarised version of this information relating to applications made to the List in 2001–02.

We prepared two tables showing the total number of applications received in 2001–02 relating to the top 20 councils and suburbs where the planning site in question was located, out of a total of 75 councils and 593 suburbs appearing in VCAT's records.

For the first time, the graph below publishes a broad description of the outcome of applications to the Planning and Environment List. The 'plain English' classifications identify whether the person or persons making the application were successful, were not successful, whether a compromise was reached or whether the application was withdrawn.

It is important to note the following:

- Outcomes are shown only for the major application types and for those applications received in 2000–01 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.

## The Whitney Committee

List members contributed to the deliberations of the Whitney Committee established by the Minister of Planning to report on a number of issues affecting the operation of the planning system.

## The Future

We intend to address the following key issues during 2002–03:

- Increase the use of mediation in appropriate cases to achieve early resolution of disputes.
- Review enforcement order procedures to improve speed and effectiveness.
- Continue to study ResCode 2000 and the transitional legislation to prepare List members for the flow of ResCode cases to VCAT.
- Continue to review and update the List's practices and procedures and public information documents.
- Further improve the in-house professional development program.

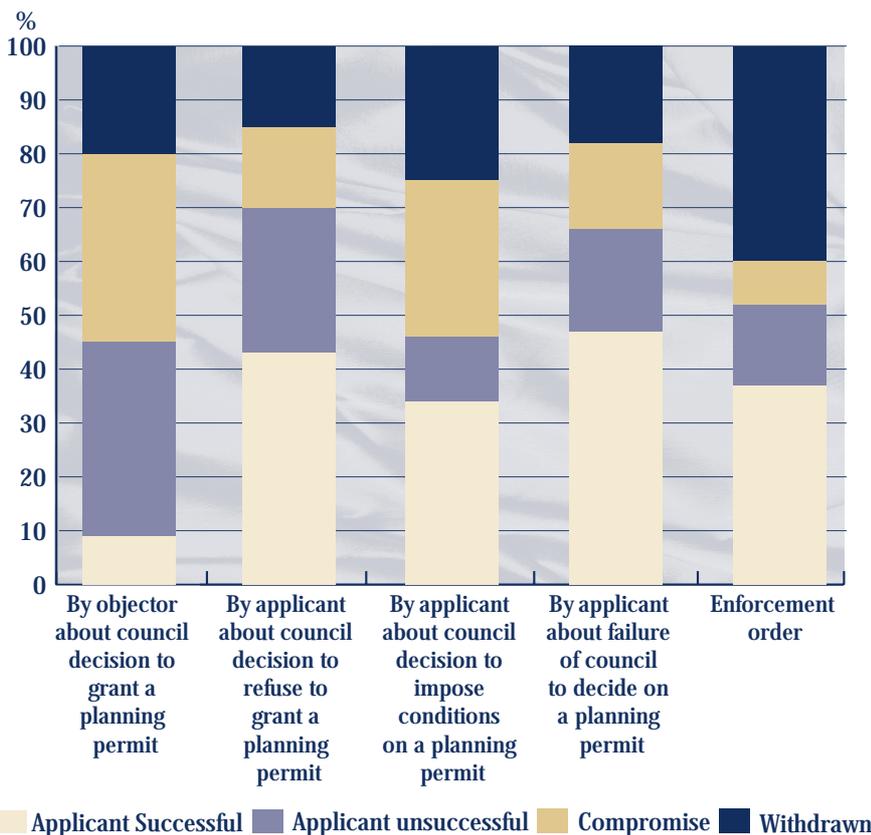
## Top 20 Councils—2001–02

Municipality	Number of Applications
Port Phillip City Council	252
Yarra	215
Stonnington	200
Glen Eira	168
Boroondara	163
Mornington Peninsula	151
Moreland	127
Bayside	122
Melbourne	111
Monash	110
Banyule	103
Kingston	100
Moonee Valley	98
Darebin	97
Hobsons Bay	93
Maribyrnong	84
Manningham	67
Yarra Ranges	66
Knox	63
Greater Geelong	62
Casey City Council	59

## Top 20 Suburbs—2001–02

Suburb	Number of Applications
Richmond	69
Brighton	58
South Yarra	48
Williamstown	45
St Kilda	44
South Melbourne	43
Elwood	39
Prahran	37
Toorak	37
Port Melbourne	36
Hawthorn	35
Northcote	34
Brunswick	33
Fitzroy	32
Ascot Vale	31
Carlton	31
Coburg	30
Albert Park	28
Carlton North	28
Kew	28
Middle Park	28

## Outcome Analysis of Applications to VCAT Finalised in 2001–02



# Governance Policies

The Victorian Civil and Administrative Tribunal (VCAT) was created by the *Victorian Civil and Administrative Tribunal Act 1998* (the VCAT Act). This statement 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. Judicial members are recommended for appointment by the Minister to the Governor in Council, after consultation with the Chief Justice and Chief Judge.

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

## Non-Judicial Members

Deputy Presidents, Senior Members and Members of VCAT are appointed by the Governor in Council. Subject to the VCAT Act, they hold five-year terms and are eligible for re-appointment. They may resign their office as member by delivering to the Governor a signed letter of resignation.

## 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 he, 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 monthly Heads of Lists meetings, meetings of other committees and, on a daily basis, with individuals.

## Remuneration of Members

Members are entitled to receive the remuneration and allowances that are fixed from time to time by the Governor in Council. Remuneration and allowances in 2001–02 totalled \$6.95 million, compared with \$6.84 million in 2000–01.

## Rules Committee Members

The members of the Rules Committee are:

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

## Functions

The functions of the Rules Committee are:

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

## Quorum and Meeting Procedure

The quorum of the Rules Committee is four members. A question arising at a meeting is determined by a majority of votes and the person presiding has a deliberative vote and, in the case of an equality of votes, 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 is detailed on page 56.

### Rules Committee Meetings

Member	Held	Attended
Justice Kellam	6	5
Judge Duggan**	6	4
Judge Strong	6	3
Judge Davey**	6	2
Judge Wood**	6	1
Judge Holt	6	4
Judge Bowman*	6	2
Prof. Sallmann	6	4
Louise Jenkins	6	3
Jane Monk	6	6

\*Judge Bowman replaced Judge Duggan as a full-time Vice-President in March 2002.

\*\*Judge Duggan, Judge Davey and Judge Wood 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 2002



# Rules Committee Report

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 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.

## Rules Committee Members

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.

As at 30 June 2002, the Rules Committee Members were as follows:

### Justice Kellam

LLB BJuris (Mon) LLM (Melb). Appointed on 1 July 1998. Signed the Roll of Counsel of the Victorian Bar in 1977. Appointed Queen's Counsel in 1991. Appointed Judge of the County Court of Victoria in 1993. Appointed Justice of the Supreme Court of Victoria in January 1998. President of the Australian Institute of Judicial Administration (AIJA).

### Judge Duggan

LLB (Melb). Barrister at Law 1967 to 1984. Appointed Judge of the County Court in 1984. Appointed Vice-President of VCAT on 23 June 2001. Returned to full-time service as County Court Judge in March 2002.

### Judge Strong

Appointed on 1 February 2001. Judge of the County Court. Admitted to legal practice in 1972. A solicitor until signing the roll of counsel in 1975. Prosecutor for the Queen from 1981 to 1984. Appointed Judge of the County Court in 1988. Appointed Deputy President of the Administrative Appeals Tribunal in 1990 and from 1994 to 1998.

### Judge Davey

LLB (Hons) (Melb), BComm. Appointed on 1 July 1998. Signed the Roll of Counsel of the Victorian Bar in 1963. Appointed Queen's Counsel in 1992. Appointed a Judge of the County Court of Victoria in 1994. Appointed Chairperson of the Domestic Building Tribunal of Victoria in 1996.

### Judge Wood

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

### Judge Holt

LLB (Melb). Appointed on 1 July 1998. Judge of the County Court. Prior to his appointment to the County Court in 1997, Judge Holt was Chairperson of a number of Boards and Authorities, including the Estate Agents Disciplinary and Licensing Appeals Tribunal.

### 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.

### Prof Peter Sallmann *Crown Counsel*

LLB (Melb), M Phil (Melb). Appointed on 1 July 1998. Crown Counsel for the State of Victoria. Admitted as a barrister and solicitor of the Supreme Court of Victoria in 1973. Previously, Commissioner of the Law Reform Commission of Victoria, inaugural Executive Director of the Australian Institute of Judicial Administration (AIJA), a member of the Victorian Premier's Drug Advisory Council, and Chairman of the Ethics Committee of the Victorian Institute of Forensic Medicine. Appointed Director of the Civil Justice Review Project in 1997. Professorial Associate of the Law Faculty at the University of Melbourne.



*President Justice Kellam.*



*Vice-President Judge Strong.*



*Vice-President Judge Bowman.*

# Rules Committee Report



Judge Holt.



Professor Peter Sallmann.



Louise Jenkins.



Jane Monk.

## Louise Jenkins *Solicitor*

BA LLB (Melb). Appointed on 1 July 1998. Barrister and Solicitor of the Supreme Court of Victoria. Partner, Arthur Robinson, Hedderwicks. Member of the Legal Profession Tribunal since 1988. She practises extensively in the litigation area. Her clients include major Australian companies as well as a range of international insurers. She is a member of the Legal Profession Tribunal and a Trustee of Law Aid.

## Jane Monk

Bachelor of Town and Regional Planning. Appointed on 1 July 1998. A qualified urban and regional planner, Ms Monk is a full-time senior member of VCAT assigned to the Planning and Environment List. She is also a sessional member of Planning Panels Victoria and is a qualified mediator. She has practised in town and regional planning for 24 years working mainly as a planner in local government. She spent time as a lecturer in town planning and was a member of the team, within the then Department of Planning, which drafted the *Planning and Environment Act 1987*. She is a past president and life member of the Local Planners Association (now subsumed into The Royal Australian Planning Institute) and formerly a member of the Standing Advisory Committee that reviewed the Good Design Guide and Vic Code 1.

## Activities and Achievements

During 2001–02, Rules Committee Members met on eight occasions and undertook the following activities and achievements.

### Creation of Human Rights Division

One of the most significant activities of the Rules Committee was the creation of a third division of VCAT, the Human Rights Division. At the time of VCAT's creation, the Guardianship List and Anti-Discrimination List were included in the Civil Division. However, since the jurisdiction of VCAT had expanded significantly in its first four years of operation, it was considered appropriate that a third division be created to accommodate both the Guardianship List and Anti-Discrimination List. Accordingly, the Human Rights Division came into effect from 1 January 2002. There is scope for the division to be expanded in the future by the addition of other Lists, if required.

## Amendments of Schedule 1 of the VCAT Act

A number of amendments were made to the Allocation of Functions under Schedule 1, including the allocation of the *Fair Trading Act 1999* and the *Landlord and Tenant Act 1958* to the Residential Tenancies List and the allocation of the *Racing Act 1958* to the Occupational and Business Licensing List.

A review of Schedule 1 identified a number of anomalies in the names of Acts and in referring to sections of Acts. The Rules Committee amended the Rules to rectify these anomalies.

## Changes to Practice Notes and Guidelines

The Committee finalised Practice Notes and guidelines for the following Lists:

- We commenced a review of the Planning and Environment List's Practice Note No 2, which governs the information to be provided to VCAT by Responsible Authorities.
- We amended the VCAT Rules to give effect to streamlined procedures in the Credit List.

## Judicial College of Victoria

VCAT members will be among those who will benefit from participating in the Judicial College of Victoria. President Justice Kellam is a board member of the college and the Rules Committee will advise college administrators about member training and development issues.

## Future Amendments

As required, the Rules Committee will continue to amend the rules of VCAT as changes in jurisdiction occur, and allocate new legislation to the Lists as appropriate.

The work of producing consistent and easily understood Practice Notes and explanatory guides will continue. So too will the Committee's interest in, and attention to, the training needs of members.

The VCAT Register is generally open to any person at no charge. However, plans to electronically store images of VCAT Orders will increase the scope and availability of decisions. The Rules Committee will review appropriate procedures relating to accessibility to the VCAT Register in order to balance the desirability of open access with the protection of individual rights to privacy, particularly in the Human Rights Division.

# Registry Management



From left, Senior Registrar Jim Nelms, Principal Registrar Ian Proctor, Senior Registrar Richard O'Keefe and Listings Manager George Adgemis.



From left, Registry Managers Jan Szuba, Justin McHenry, Tony Jacobs and Sue Lalji.

In the VCAT Registry, we aim to create an administrative system that serves the increasing demands of VCAT's users effectively, while maintaining an efficient, streamlined approach to Registry management.

## Registry Activities

Registry management and staff work with members to assist our users in making applications to VCAT, and manage and track cases throughout each stage of the process from application to resolution. Some of these tasks include:

- providing advice to our users on the phone and at the counter;
- generating standard letters such as hearing notices and schedules;
- allocating members to deal with the extensive daily case load; and
- recording actions taken and orders made by members.

In May 2002, the Registry simplified its structure by reducing the number of sections from three (Administrative, Civil and Residential Tenancies and Guardianship) to two (Civil and Administrative Section and Residential Tenancies and Guardianship Section). This allows for increased consistency in the administrative process that supports the Lists and more efficient resource sharing among Lists. This change com-

pletes the process of consolidating VCAT's registry function, which amalgamated the registries that existed before VCAT was formed.

## Registry Management

The following senior managers made up Registry management as at 30 June 2002:

### John Ardlie

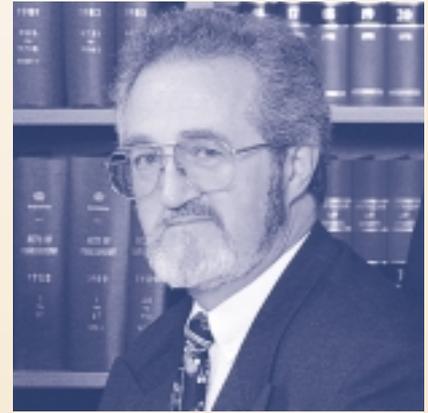
Appointed Chief Executive Officer in July 1998. Formerly a career Clerk of Courts. Joined Courts Management Division of the former Attorney-General's Department in 1984. Held various management roles within the administration of the State's justice system, including Deputy Director, Court Operations,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



## Farewell to Wayne Richards

After a distinguished career in the Victorian Public Service that began in 1966, Wayne Richards retired in April 2002. Since April 1999, he was Senior Registrar, Civil Section of the Registry. Formerly Registrar of the Civil Claims List from July 1998, Wayne worked in the Finance Department of the Ministry of Housing. He was appointed as an inspector in the Consumer Affairs Bureau in 1976 and Assistant Registrar of both the Residential Tenancies and Small Claims Tribunals in 1987.

Wayne dedicated much of his career to assisting consumers and business owners in dispute. He was a dedicated worker determined to find practical solutions to problems for all concerned and was a valued staff member at VCAT. He has been missed by his friends and colleagues at VCAT.

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 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.

# Committee Profile

## Heads of Lists Committee

VCAT's committee structure is managed by the Heads of Lists Committee, which comprises President Justice Kellam, Vice-Presidents Judge Strong and Judge Bowman, and the Deputy President of each List. The Heads of Lists Committee met on seven occasions during 2001–02 to discuss key issues regarding the day-to-day work of List members, such as case load, finance, training and upcoming changes in legislation.

## Professional Development Coordinating Committee

As at 30 June 2002, the Professional Development Coordinating Committee (PDCC) comprised 12 members who met on three occasions during 2001–02.

The functions of the PDCC are to review, guide and coordinate the activities of the following committees:

- Mediation
- Library
- Publications
- New Members and Seminars
- Home Page (now inactive)

Prior to each meeting of the PDCC, members of the committees submit reports of their activities since their previous meeting. These reports are incorporated into the minutes of the PDCC. The work in progress of each committee is discussed.

The following information details the activities and achievements of the committees.

## Mediation

Members of the Mediation Committee are responsible for promoting the use of mediation at VCAT. The committee comprised seven members who met on seven occasions during 2001–02.

Members undertook a range of activities, which are detailed in the section Mediation at VCAT on page 17.

## Library

In association with VCAT's librarian, members of the Library Committee are responsible for ensuring that the VCAT library provides an efficient service to VCAT members.

Responsibilities include:

- assessing priorities with regard to acquiring books and electronic services;
- liaising with members to ascertain needs; and
- allocating the resources required to ensure that the library runs smoothly.

The committee comprised eight members who held bi-monthly meetings during 2001–02. Members of the committee, Librarian Clare O'Dwyer and Legal Research Assistant Michelle Carey, initiated and delivered several information and knowledge management projects during 2001–02, including:

- re-engineering the electronic publication of VCAT decisions to AustLII, reducing the publication time from between four and six months to between three and five days;
- producing and customising training sessions for members, registry staff and secretarial support in legal research and information technology;

- publishing a fortnightly electronic knowledge management tool in compliance with legal education requirements of VCAT members, featuring up-to-date legal information and staff news; and
- coordinating the data collection for the *Women Barristers and Solicitors at VCAT* research project in consultation with Deputy President Cate McKenzie.

In May 2002, Librarian Clare O'Dwyer went on secondment to the Federal Magistrates Service for 12 months. Narelle Graefe was appointed VCAT Librarian for this period.

## Publications

Members of the Publications Committee are responsible for producing the periodic VCAT Newsletter, which is distributed to members and staff. The newsletter provides important information such as selected Court and VCAT decisions, relevant legal information and items of general interest, including social activities.

The committee comprised six members who held three meetings during 2000–01.

## New Members and Seminars

Members of the Seminars and New Members Committee are responsible for arranging seminars on the conduct of hearings, decision writing, costs and damages, and developments in the area of administrative law.

The committee included seven members who held two meetings during 2001–02.

Committee members hosted four seminars during the financial year:

- two seminars on the subject of cultural and disability awareness;
- one seminar on VCAT's order-making powers; and
- one seminar on VCAT's practices as to the awarding of costs.

All seminars were well attended and the costs seminar proved particularly popular.

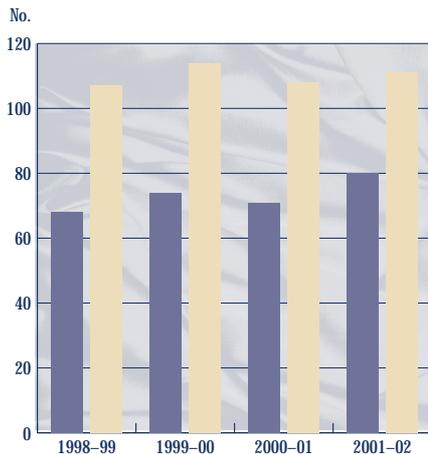
Committee members plan to prepare a questionnaire for VCAT members to enable them to evaluate the success of the current seminar program and devise a new program to accommodate future requirements.



*From left, Librarian Clare O'Dwyer and Legal Research Assistant Michelle Carey initiated and delivered several information and knowledge management projects during 2001–02 as members of the Library Committee. In particular, they introduced a fortnightly electronic knowledge management tool in compliance with legal education requirements of VCAT members, featuring up-to-date legal information and staff news.*

# Member Profile

## Members by Gender—1998–2002



## Member Profile

The judicial members of VCAT comprise the President and five Vice-Presidents, two of whom are located at VCAT at all times. The non-judicial members comprise Deputy Presidents, Senior Members and members. As at 30 June 2002, VCAT non-judicial membership totalled 39 full-time members (38 in 2000–01) and 146 sessional members (136 in 2000–01).

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.

### Benefits of Cross-Membership

The fact that many members are qualified to sit in a number of jurisdictions that were previously managed by separate boards and tribunals, enables VCAT to function more efficiently. The flexibility that comes with cross-membership means that members can serve on a variety of Lists where needed, increasing VCAT's overall effectiveness. This enables members to acquire broader experience, as well as to accumulate new perspectives and knowledge from exposure to a variety of jurisdictions. In addition, this offers greater career flexibility and satisfaction.

### List-Specific Training

Individual List-specific training for members was conducted throughout the year in review. (Refer to individual List performance for more information, starting on page 18.)

### AIJA Tribunals Conference

The Australian Institute of Judicial Administration (AIJA) is the foremost Australasian judicial administration body. The members of its council are composed of judges, magistrates and tribunal members of all jurisdictions, together

*Jeanette Rickards, a full-time member in the Planning and Environment List, participates in a Monash University course from the comfort of her office at VCAT. Specially designed for tribunal members, the course is available electronically throughout Australia and Asia via the Internet. It covers such topics as ethics, writing a decision, conducting a hearing, applying law and policy, and planning the decision-making process. Monash University offers a Graduate Diploma in tribunal procedures upon successful completion of the course.*



Type of Member	2001-02		2000-01		1999-00	
	Women	Men	Women	Men	Women	Men
Judicial Member	-	6	-	5	-	3
Deputy President	4	7	4	7	4	7
Senior Member	4	5	3	5	3	4
Sessional Senior Member	1	4	1	3	1	3
Full-Time Member	9	10	10	9	11	9
Sessional Member	62	79	53	79	54	87
<b>Total</b>	<b>80</b>	<b>111</b>	<b>71</b>	<b>108</b>	<b>74</b>	<b>114</b>

with senior court administrators, academics and senior public servants. The AIJA conducts conferences on an annual basis, providing a forum for identifying common concerns of tribunals in Australia.

A total of 40 VCAT members attended the AIJA Tribunals Conference in Melbourne on 6–7 June 2002. The theme of the conference was *Developing a Best Practice*. The conference provided information on such topics as:

- establishing the Council of Australian Tribunals (COAT);
- review of tribunal decisions before the courts;
- mediation in the tribunal context;
- current issues of natural justice; and
- therapeutic jurisprudence and tribunal processes.

### Monash University Pilot Program

A total of eight VCAT members undertook a course specially designed for tribunal members called *Decision Making for Tribunal Members*. The course is available electronically throughout Australia and Asia via the Internet. It covers such topics as ethics, writing a decision, conducting a hearing, applying law and policy, and planning the decision-making process. Monash University

offers a Graduate Diploma in tribunal procedures upon successful completion of the course.

### Cultural Training Day in Echuca

We conducted a cultural training day in Echuca involving 30 VCAT members in discussions with the local community. The aim of the program was to expose VCAT members to Aboriginal culture and to meet members of the community with a view to better understand the particular concerns of that community.

### Restructure of Remuneration

In July 2001, the Attorney-General instructed the Department of Justice (DOJ) to undertake a further review of VCAT members' salaries. As a result, a further independent report was provided to the DOJ. By the end of the financial year, no action had been taken in respect of recommendations made by either the Judicial Remuneration Tribunal in January 2001 or by the further independent review. However, on 8 July 2002, Cabinet approved increases in remuneration for VCAT members. In future, members will have their remuneration reviewed at least bi-annually by the recently constituted Judicial Remuneration Tribunal pursuant to the *Judicial Remuneration Tribunal (Amendment) Act 2002*.

# VCAT People

## Staff Profile

At the end of the financial year, the number of full-time employees increased from 159 in 2000–01 to 160 in 2001–02. This total comprised five senior managers, 30 managers and supervisors, and 125 administration staff. Staff numbers included staff on maternity leave, leave without pay, secondments and casual staff. The figures included part time staff, resulting in a full-time staff equivalent figure of 156.85.

## Wages and Superannuation

Salaries are performance based and staff received an annual performance assessment. All staff were rated as either meeting expectations or exceeding expectations in terms of their performance and the average annual salary increase was 1.5%. In addition, all staff received a 0.5% lump sum payment in recognition of productivity improvements resulting from the introduction of new technology. Wages for all staff totalled \$5.8 million in 2001–02, compared with \$5.6 million in 2000–01. All staff are eligible for superannuation benefits provided through various funds, including the Government Superannuation Office and VicSuper.

## 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. We also advised staff on what we consider to be appropriate use of the Internet and email.



From left, Partnership Award recipients for 2001–02: Pam Redwood for her commitment to and participation in the Department of Justice Christmas choir; Dee Kralovic for the successful implementation of the Caseworks case management system; and Rex Game for demonstrating commitment and undertaking work over and above the call of duty at VCAT.

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

VPS Band	2001–02		2000–01	
	Women	Men	Women	Men
VPS-5 (Senior Management)	-	5	-	6
VPS-4 (Management)	4	5	3	5
VPS-3 (Supervisors)	13	8	12	8
VPS-2 (Administration)	85	19	84	19
VPS-1 (Administration)	16	5	17	5
<b>Total</b>	<b>118</b>	<b>42</b>	<b>116</b>	<b>43</b>

## Occupational Health and Safety

We aim to provide and maintain a working environment that is safe and without risk to the health and wellbeing of all staff, members and visitors to VCAT. We reviewed and tested emergency and evacuation procedures and building security on a regular basis. Six WorkCover claims were made to VCAT during 2001–02 involving five minor claims and one standard claim, which resulted in a total of 28 work days lost. All claimants returned to their respective duties. We gave all administrative staff who use computer screen-based equipment access to eye testing and assisted those who required further testing and glasses. A total of 60 staff and members took advantage of the flu vaccination program conducted at VCAT.

## Employee Relations

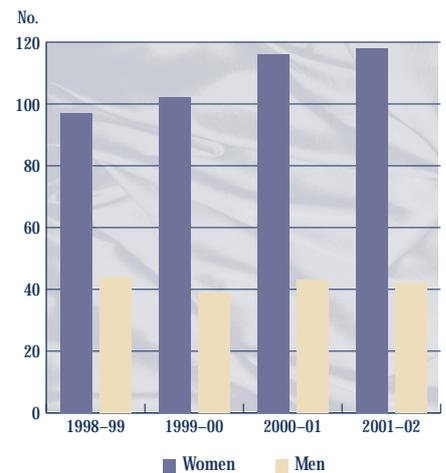
The Victorian Electoral Commission conducted a vote on a proposed agreement, with ballot papers posted to all staff on 11 April 2002. The ballot closed on 19 April 2002. The majority of voters were in favour of the Agreement. On 9 May 2002, the Australian Industrial Relations Commission certified the Victorian Public Service (Non-Executive Staff) Agreement 2001. The Agreement specifies terms and conditions of employment for the period up to 1 November 2003 and is a Public Service-wide Collective Agreement.

## Training and Development

The Department of Justice (DOJ) provides a Corporate Training Program that is accessible to all employees of VCAT. The program provides staff with access to 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 34 staff members, providing 52 days of training. Courses included writing skills, selection skills, time management, Vietnamese cross-cultural awareness and a variety of computer training programs.

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

## Staff Numbers by Gender



Staff Numbers by Gender includes staff on maternity leave, leave without pay, secondments and casual roles (25 as at 30 June 2002). This number fluctuates from time to time.

between 16–24. VCAT employed eight trainees during 2001–02.

## Partnership Awards

Organised by the DOJ, the Partnership Awards recognises individuals or teams that have made a significant contribution in their daily work or have helped contribute to the creation of an ideal working environment. Three VCAT staff were recipients of Partnership Awards during 2001–02 and are featured in the photo opposite.

## Staff Conference

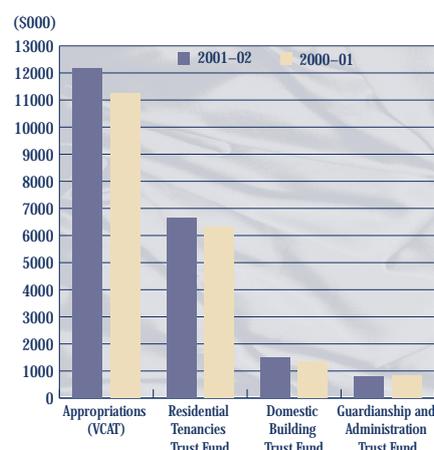
The inaugural VCAT Staff Conference was held in September 2001. The aim of the conference was to give all staff a broader knowledge of the many services offered by their VCAT colleagues to the Victorian community, and to give staff a forum for identifying areas where service improvements could be made. The conference proved to be very successful, resulting in a number of initiatives being adopted to improve the workplace environment and ultimately the service provided by VCAT. Initiatives included an induction program, standardised work processes, a staff rotation program giving staff exposure to different areas within VCAT, and new computer equipment to improve service delivery.

# Operating Statement for the Year Ended 30 June 2002

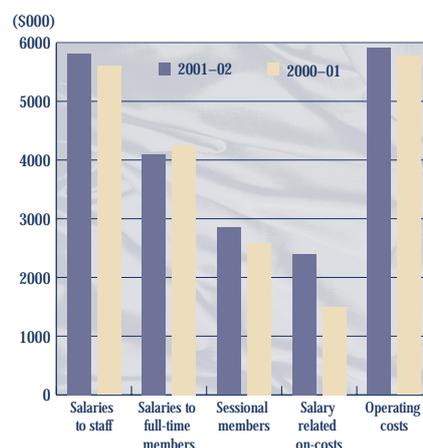
The following information summarises VCAT funding sources and expenditure for 2000–01 to 2001–02.

	2001–02	2000–01
	(\$M)	(\$M)
<b>Funding</b>		
VCAT funding sources:		
Appropriations (VCAT)	<b>12.15</b>	11.24
Residential Tenancies Trust Fund	<b>6.66</b>	6.31
Domestic Building Trust Fund	<b>1.49</b>	1.35
Guardianship and Administration Trust Fund	<b>0.78</b>	0.83
Total:	<b>21.08</b>	19.73
<b>Expenditure</b>		
VCAT operational expenditure:		
Salaries to staff	<b>5.81</b>	5.62
Salaries to full-time members	<b>4.10</b>	4.25
Sessional members	<b>2.86</b>	2.59
Salary related on-costs	<b>2.40</b>	1.50
Operating costs	<b>5.91</b>	5.77
Total:	<b>21.08</b>	19.73
<b>VCAT Expenditure Allocated by List*:</b>		
Residential Tenancies List	<b>6.66</b>	6.31
Planning and Environment List	<b>4.49</b>	4.10
Guardianship List	<b>2.37</b>	2.17
General List, Occupational and Business Regulation List, and Taxation List	<b>2.38</b>	2.74
Domestic Building List	<b>1.49</b>	1.35
Anti-Discrimination List	<b>0.81</b>	0.83
Civil Claims List	<b>1.80</b>	1.29
Real Property List and Retail Tenancies List	<b>0.36</b>	0.21
Land Valuation List	<b>0.42</b>	0.52
Credit List	<b>0.30</b>	0.24
Total:	<b>21.08</b>	19.73

**VCAT Funding Sources—2000–01 to 2001–02**



**VCAT Operational Expenditure—2000–01 to 2001–02**



\*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.

## Understanding Our Operating Statement

### Performance

In 2001–02, VCAT's recurrent expenditure of \$21.08 million divided among expenditure on salaries to full-time and sessional members (\$6.6 million), staff salaries (\$5.81 million), salary related on-costs (\$2.40 million) and operating expenses (\$5.91 million) was 7% higher than the \$19.73 million expended by VCAT in 2000–01.

Salaries to full-time members decreased by \$0.15 million due to members retiring early in the financial year, who were not replaced until the end of the financial year. Salaries to sessional members increased by \$0.27 million due to increased use to compensate for the non-replacement of retiring full-time members. Staff salary payments increased by \$0.19 million due to salary rises under an Enterprise Bargaining Agreement (EBA). Salary related on-costs increased by \$0.9 million due to a significant increase in the provision for annual leave, fringe benefits tax expenses and increases in costs due to the flow-on effect of the EBA. Operating costs increased \$0.14 million due to

increases in supplier costs and payment of backpay to mediators.

VCAT received support from the Department of Justice, the Department of Infrastructure and the Department of State Development in terms of budget supplementation.

### VCAT Funding Sources

VCAT's funding in 2001–02 was provided by the following sources:

Victorian Government appropriations (\$12.15 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 \$0.96 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 (\$6.66 million).

- The Domestic Building Fund established under the *Domestic Building Contracts Act 1995*, which wholly funds the Domestic Building List (\$1.49 million).
- The Guardianship and Administration Trust Fund established under the *Guardianship and Administration Act 1986*, which partially funds the Guardianship List (\$0.78 million).

Our budget strategy for 2002–03 is to maximise our productivity while operating within our budget.

### 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

The following legislation gives jurisdiction to VCAT as at 30 June 2001:

## 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*;

# Legislation Defining VCAT Jurisdiction

- *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 37I(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*;
  - *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);
  - *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);
  - *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);

# Legislation Defining VCAT Jurisdiction

- *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*.

### 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 2002

List(s) Assigned	List(s) Assigned
<b>Judicial Members</b>	
<b>President</b>	
The Honourable Justice M B Kellam	
<b>Vice-Presidents</b>	
His Honour Judge J Duggan	
His Honour Judge M Strong, Administrative Division	
His Honour Judge F Davey	
His Honour Judge T D Wood	
His Honour Judge J Bowman, Civil and Human Rights Divisions	
<b>Total Judicial Members: 6</b>	
<b>Deputy Presidents</b>	
Baker-Smith, John	OBR, DB, Res T, CC, LV
Billings, John	Res T, G, CC
Coghlan, Anne	C, AD, Gen, OBR, Res T, CC, G
Cremean, Dr Damien	DB, CC, OBR, Ret T, Real P, G, Gen
Davis, Sandra	G, Gen, AD, OBR
Galvin, John	Gen, OBR, T, G
Horsfall, Richard	P, LV, OBR, DB
Levine, Michael	CC, C, DB, OBR, Gen, G, Real P, Res T, LV
Macnamara, Michael	Ret T, C, DB, OBR, Gen, Real P, P, AD, CC, LV
McKenzie, Cate	AD, Gen, C, G, CC
Urquhart, Mary	P, OBR, Res T, G, Gen, CC
<b>Total Deputy Presidents: 11</b>	
<b>Senior Members</b>	
Byard, Russell	P, Real P
Lyons, Dr Gregory	AD, Gen, G
Megay, Noreen	Gen, G, OBR
Monk, Jane	P
Preuss, Jacqueline	Gen, AD, P, OBR, G
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
<b>Total Senior Members: 9</b>	
<b>Senior Sessional Members</b>	
Ball, Rowland	Gen, DB, CC, P
Barr, Max	P
Cooney, Lillian	Gen, AD
Gould, Ron	P, Real P, DB, Ret T, OBR
Marsden, Ian	P
<b>Total Senior Sessional Members: 5</b>	
<b>Full-Time Members</b>	
Baird, Margaret	P
Barker, Heather	Res T, CC
Bennett, John	P
Carruthers, Maureen	G, AD
Cimino, Sam	P, OBR
Davis, Robert	Gen, Ret T, Real P, DB, OBR, P, CC
Gibson, Helen	P
Hewet, Laurie	P
Holloway, William	Res T, CC, P, DB, G, Gen
Kefford, Jacquelyn	Res T, CC
Komesaroff, Tonia	P
Lambrick, Heather	Res T, CC, G, OBR
Liston, Anthony	P
O'Dwyer, Daniel	Res T, CC, AD, DB, G, OBR
O'Leary, Peter	P, OBR
Rickards, Jeanette	P
Tilley, Annemarie	Res T, CC, AD, Gen, G
Vassie, Alan	Res T, CC, LV, Gen, Real P, Ret T
Wajcman, Jack	Res T, CC
<b>Total Full Time Members: 19</b>	
<b>Sessional Members</b>	
Adams, John	P, CC, Res T
Aird, Catherine	Res T, P, DB, CC, Ret T, G
Akehurst, Jeffrey	P
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
Avery, Peter	P
*Barrow, Brian	G, CC, Res T, Gen, OBR
Barton, Terence	G
Baxter, Pauline	OBR
Bodey, Roger	LV
*Bolster, John Douglas	G, CC, Res T, Gen, OBR
Borg, Susan	Res T, CC, AD, G
Bourke, Gavan	LV
Brown, Vicki	LV
Bryant, Tannetje	P
Burdon-Smith, Susan	Res T, CC, G
Burgess, Zena	AD, G
Callaghan, Edward (Kris)	LV
Caris, Sharon	G
Carleton, Glenn	AD, OBR
Carr, John	LV
Castran, John Howard	LV
Cleary, Peter	LV
Clothier, Bryan	Res T, CC
Colbran, QC Michael	G
Coldbeck, Peter	Gen, G, CC, OBR
Cremean, Bernadette	AD, CC, Res T
D'Arcy, James Alan	LV
Davies, Hugh	CC, Res T
Davies, Vicki	P
Davis, Dr Julian	G, OBR
Dawson, Dr Julie	AD, G
Dickman, Dr Sharron	OBR
Dillon, John	Gen, OBR
Dudakov, Brian	LV
Dudycz, Dr Maria	AD, G, OBR
*Dugdale, John Phillip	G, CC, Res T, Gen, OBR

# VCAT Member Directory as at 30 June 2002

	List(s) Assigned		List(s) Assigned
Duggan, Anne	AD, G	Naylor, Rachel	P
Dunlop, John	OBR	Nedovic, Peter	Gen
Eccles, Desmond (Assoc Prof)	P	Nettle, QC Geoffrey	T
Eggleston, Peter	Res T, CC	Norman, Kathryn	Res T, CC, G
Ferres, Dr Beverley	AD, G, OBR	Osborn, Jane	P
Fong, Christina	P	Ozanne-Smith, Eleanor (Prof)	OBR
Forsyth, John	LV	Paton, Frank	Gen
Fox, Peter	Gen, C, OBR, Real P, Ret T	Pelman, Ashley	P
Gibson, Geoffrey	T	Perlman, Janine	Res T, CC, AD
Gilfillan, Struan	P	Phillips, Robert	CC, Res T
Glanville, Louise	AD, Res T, CC, C	Pitt, Margaret	P
Glover, Dr John	Gen, T	*Popovic, Jelena	G, CC, Res T, Gen, OBR
Good, June	Res T, CC, G	Preston, Diane	AD
Gordon, Michelle	AD, CC, Gen, G, OBR	Price, Roland	Res T, CC
Gorman, Lois	G, OBR	Quirk, Anthony John	P, Real P
Graves, Phillip	G	*Raleigh, Steven	G, CC, Res T, Gen, OBR
Gray, Malcolm	OBR	Ramsay, Peter	P
Greenberger, Graham	OBR	Read, Michael	P
Hamilton, Dr Catherine	OBR, AD	Reilly, Daniel	OBR
Hancock, Elizabeth	LV	Robinson, Ian Carlisle	LV
Harvey, Margaret	G, AD, CC, Res T	Robinson, Ian Duncan	LV
Hastings, Malcolm	Gen, CC, G, Real P, Ret T	Rowland, Linda	Gen, Res T, CC, G, AD
Howe, Prof. Renata	P	Russell, Suzanne	OBR
Jackson, Maureen	P	Rust, Ian	LV
Kaufman, QC John	AD	Scholes, Dr Ronald	G, AD
Keaney, John	P	Sharkey, Gerard	P, Real P
King, Janice	G, AD	Shnookal, Toby	DB, Ret T
Kirmos, Kay	Res T, CC	Snow, Jocelyn	OBR
Klempfner, Yolanda	AD	Soldani, Angela	Res T, CC, G
Klingender, Jessica	CC, Res T	Sully, Michael	LV
Kominos, Angela	Res T, CC, AD, G	Sutherland, Geoffrey	LV
Krstic, Peter	P	Teasdale, Warwick	G, Gen, OBR
Kullen, Gwenda	P	Teh, Gim	Res T, CC, AD
*Lambden, Elizabeth Anne	G, CC, Res T, Gen, OBR	Terrill, Howard	P, Real P
Langton, Robert	CC, Res T, DB	Treseder, Bernard Murray	LV
Lee, Christopher	LV	*Von Einem, Ian Maxwell	G, CC, Res T, Gen, OBR
Leigh, John	LV	Walsh, Michael	DB, CC, Res T
Liden, Susanne	Res T, CC, G, AD	Walter, Richard	P
Lightfoot, Brian	CC, Res T, Ret T, Real P, G	Warren, Lindsay	CC, Res T, Ret T, G
Lothian, Margaret	DB, Ret T, CC, Res T, G, P, Real P	Wentworth, Elisabeth	AD, CC, C, Gen
Louden, David	OBR	West, Lynda	Gen, CC, G, Res T, AD
Lulham, Ian	CC, DB, Res T	Williams, Charles	Gen, OBR, AD, G
Lush, Jennifer	Gen, G, AD, OBR	Withers, Meredith	P
Mainwaring, Dr Sylvia	P, AD, Real P	Zala, Peter	LV
Marles, Victoria	G	Zemljak, Francis	AD
McBride, Sue	Res T, CC		
McCabe, Edmund	Res T, CC, G		
*McDonald, Timothy John	G, CC, Res T, Gen, OBR		
McFarlane, Timothy	G		
McGregor, Irene	CC, G		
McLeod, Fiona	G, AD		
Millane, Frances	G		
Mitchell, Kathryn	P		
Moraitis, Stella	Res T, Gen, CC, G		
Mulcahy, Peter	P, Real P		
*Muling, Daniel John	G, CC, Res T, Gen, OBR		

Total Sessional Members: 141

Overall Total: 191 (111 Males, 80 Females)

### List of Abbreviations

AD (Anti-Discrimination List) C (Credit List) CC (Civil Claims List)  
 DB (Domestic Building List) G (Guardianship List) Gen (General List)  
 LV (Land Valuation List) OBR (Occupational and Business Regulation List)  
 P (Planning and Environment List) Real P (Real Property List) Res T  
 (Residential Tenancies List) Ret T (Retail Tenancies List) T (Taxation List)  
 \* (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 a small number of significant decisions from other Lists 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 [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:

- the material relates directly to that party; and
- 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.

# Mediation Code of Conduct

## 1. The mediator's role.

1.1 The mediator must attempt to assist the parties to resolve their dispute.

1.2 The mediator must give each party the opportunity to speak and, as far as possible, ensure that the other party (or parties) listen.

1.3 The mediator may meet with the parties together (joint sessions) or with one or more parties in the absence of others (private sessions).

1.4 The mediator may ask questions of the parties in joint or private sessions to assist them to gain a better understanding of their chances of success or failure if the matter were to go to a hearing, but should not insist on an answer.

1.5 The mediator may assist the parties to develop options and approaches for settling disputes and is not limited to the types of orders that would be made if the matter were to proceed to a hearing.

## 2. The mediator must be (and must be seen to be) impartial.

2.1 The mediator must withdraw from the mediation if he or she has a conflict of interest.

2.2 The mediator must inform the parties if he or she has any connection with the parties or the dispute, but falling short of a conflict of interest, and withdraw if requested to do so by a party.

2.3 The mediator must avoid conduct that gives any appearance of partiality or prejudice.

## 3. The mediator must not give advice.

3.1 If the parties require legal or other advice, they must obtain it themselves, even though the mediator might be an experienced professional.

## 4. The mediator must inform participants that there is no obligation to settle.

4.1 Although the parties might have been ordered to attend the mediation by VCAT, pursuant to s88(2) of the Victorian Civil and Administrative Tribunal Act 1998 (VCAT Act), any party or the mediator may terminate it at any time.

4.2 If the dispute fails to settle at mediation, the parties might be required to attend a hearing or a directions hearing shortly thereafter.

## 5. The mediation must be fair.

5.1 The mediator must do everything in his or her power to ensure that the mediation is conducted fairly.

5.2 If the mediator believes that a party is abusing the mediation process, or that there is a substantial power imbalance which will prevent a mutually acceptable resolution, the mediator may inform the parties of this.

5.3 Advocates, professional advisers and/or 'support people' may attend unless the mediator believes that their presence would make the mediation unfair. An unrepresented party will generally be considered to be acting reasonably in refusing to continue with a mediation where another party is represented, just as a represented party will generally be considered to be acting reasonably in refusing to continue with a mediation if another party is insisting that all parties should be unrepresented. However, a party who does not give the mediator the opportunity to resolve the issue of representation is acting unfairly. It is noted that under s62 of the VCAT Act, parties to a 'proceeding' (which term includes a mediation) generally do not have an automatic right to representation.

5.4 The mediator must ensure that parties have reasonable opportunities to consult their professional advisers if they wish to do so.

5.5 The mediator must avoid any conduct which could place a party under duress to reach a settlement.

## 6. A mediator must not hear and determine the matter (if the mediation is unsuccessful).

6.1 Section 88(6) of the VCAT Act provides that if a member of VCAT is a mediator in a proceeding, he or she cannot constitute VCAT for the purpose of hearing the proceeding.

## 7. Confidentiality.

7.1 Section 92 of the VCAT Act provides: "Evidence of anything said or done in the course of mediation is not admissible in any hearing or before VCAT in the proceeding, unless all parties agree to the giving of the evidence." (Section 92 does not apply in the equal opportunity jurisdiction; see Clause 26 of Schedule 1 to the VCAT Act.)

7.2 The mediator must not reveal to another party anything discussed in a private session unless he or she has the express permission of the party who was present in the private session.

7.3 In accordance with s34(2) of the VCAT Act, a mediator must not directly disclose information about the affairs of a person acquired in the performance of functions under or in connection with the VCAT Act. (There are limited exceptions in s34(3) (b) and s34(4).)

7.4 At the end of the mediation, the mediator must notify VCAT if the parties have agreed to settle (s90, VCAT Act) or if the mediation has been unsuccessful (s91, VCAT Act).

## 8. Settlement.

8.1 The mediator should encourage parties to make a written record of any settlement that they reach and may make precedent agreements available to assist the parties in drafting their settlement terms.

8.2 In accordance with s93 of the VCAT Act, VCAT members may make orders necessary to give effect to a settlement reached by the parties. If the mediator is a member of VCAT, the mediator may make the orders.

## 9. Immunity of mediators.

9.1 Under s143(1) of the VCAT Act, a mediator has, in the performance of his or her functions as a mediator, the same protection and immunity as a member of VCAT. Under s143(1), a VCAT member's immunity equates to that of a Judge of the Supreme Court.

# User Service Charter

This User Service Charter tells you about the Victorian Civil and Administrative Tribunal (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;
- Building 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 (its office) at 55 King Street, Melbourne. The Registry has an information counter on the ground floor and also 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. For example, at the time of writing, 90% of consumer disputes were resolved within six weeks of coming to VCAT.
- 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 e-mail. (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 e-mail.

## 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:

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

Written feedback about:

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

# VCAT Hearing Venues

<b>Alexandra</b>	Municipal Offices, Perkins Street	<b>Dandenong</b>	Community Services Building, 145-151 Cleeland Street Dandenong Court House, cnr Foster and Poulteneys Streets
<b>Apollo Bay</b>	Colac Otway Shire Meeting Room, Nelson Street	<b>Daylesford</b>	Community Health Centre, 13 Hospital Street Hepburn Shire Town Hall, 76 Vincent Street
<b>Avoca</b>	Shire Offices, Rutherford Street	<b>Dromana</b>	Dromana Court House, Codrington Street
<b>Bairnsdale</b>	Bairnsdale Court House, Nicholson Street	<b>Echuca</b>	Campaspe Shire Council, Heygarth Street Echuca Court House, Heygarth Street
<b>Ballarat</b>	State Public Offices, cnr Mair and Doveton Streets Ballarat Court House, 100 Grenville Street South Ballarat Health Services, Queen Elizabeth Centre, 102 Ascot Street South Ballarat Town Hall, Sturt Street	<b>Euroa</b>	Strathbogie Shire Offices, cnr Binney and Bury Street
<b>Beechworth</b>	Beechworth Hospital, Extended Care Centre, Warner Road Indigo Shire Offices, Ford Street	<b>Frankston</b>	Frankston Court Complex, Fletcher Road
<b>Benalla</b>	Benalla Court House, Bridge Street Benalla and District Memorial Hospital, Coster Street (residents only) Department of Human Services, 26 Church Street (clients only)	<b>Geelong</b>	Geelong Court House, Railway Terrace
<b>Bendigo</b>	Anne Caudle Centre, 100–104 Barnard Street Reception Room, 195–229 Lytton Tce Bendigo Court House, 71 Pall Mall	<b>Geelong North</b>	Grace McKellar Centre, 45–95 Ballarat Road
<b>Bright</b>	Alpine Health, Bright Campus, Cobden Street	<b>Hamilton</b>	Shire of Southern Grampians, Dundas Administration Centre, Market Place Hamilton Court House, Martin Street
<b>Castlemaine</b>	Mt. Alexander Hospital, Cornish Street Castlemaine Court House, Lyons Street	<b>Hastings</b>	Shire Offices, Marine Parade
<b>Caulfield</b>	Caulfield General Medical Centre, 260-294 Kooyong Rd	<b>Heatherton</b>	Heatherton Hospital, Kingston Road
<b>Cheltenham</b>	Kingston Centre, Warrigal Road	<b>Horsham</b>	Horsham Rural City Civic Centre, Roberts Avenue Horsham Court House, 20 Roberts Avenue
<b>Cobram</b>	Cobram Court House, cnr Punt Road and High Street	<b>Kerang</b>	Kerang Court House, Victoria Street Kerang and District Hospital, Burgoyne Street
<b>Colac</b>	Colac Community Health Services, Connor Street Colanda Centre, 120 Forest Street Colac Court House, Queen Street Colac Otway Shire Council Meeting Room, Rae Street	<b>Kew</b>	Normanby House, St George's Health Service, 283 Cotham Road, Kew
<b>Cowes</b>	Bass Coast Shire, Civic Centre, 91–97 Thomson Ave Heritage Centre, 81–89 Thomson Ave.	<b>Korumburra</b>	Korumburra Court House, Bridge Street
<b>Cranbourne</b>	Casey Shire Council Offices, Sladen Street	<b>Kyneton</b>	Macedon Ranges Shire Council, 129 Mollison Street Oliver House, 2 Bodkin Street
		<b>Lakes Entrance</b>	East Gippsland Shire Council Chambers, Palmer's Road
		<b>Leongatha</b>	Leongatha Memorial Hospital, Koonwarra Road, South Gippsland Shire, 6 Smith Street
		<b>Lilydale</b>	Yarra Ranges Shire Offices, Anderson Street

# VCAT Hearing Venues

<b>Mansfield</b>	Council Chambers, 33 Highett Street	<b>St. Albans</b>	Sunshine Hospital, 176 Furlong Road
<b>Maryborough</b>	Central Goldfields Shire Town Hall, Clarendon Street Maryborough and District Hospital, Clarendon Street Maryborough Court House, Clarendon Street	<b>St. Arnaud</b>	Ground Floor, St Arnaud Hospital, North Western Road
<b>Mildura</b>	Mildura Base Hospital, 13th Street Civic Building, 74–84 Deakin Avenue Mildura Court House, 62 Deakin Avenue	<b>Stawell</b>	Department of Human Services, 54 Main Street Northern Grampians Shire, Town Hall, Main Street Pleasant Creek Centre, Horsham Road Stawell Hospital, Sloane Street Stawell Court House, Patrick Street
<b>Moe</b>	Moe Court House, Lloyd Street	<b>Sunshine</b>	Sunshine Court House, 10 Foundry Road
<b>Morwell</b>	La trobe City Offices, cnr Ann St and Hazelwood Rd Morewell Court House, Commercial Road	<b>Swan Hill</b>	Swan Hill Hospital, Splatt Street Swan Hill Court House, Curlewis Street
<b>Mount Eliza</b>	Mount Eliza Aged Care and Rehabilitation Service, Jacksons Road	<b>Torquay</b>	Surf Coast Shire, Grossmans Road
<b>Myrtleford</b>	Myrtleford Court House, Myrtle Street Alpine Shire Offices, O'Donnell Avenue	<b>Traralgon</b>	Latrobe Shire, Civic Centre, Kay Street
<b>Numurkah</b>	Moirra Shire Offices, Melville Street	<b>Traralgon West</b>	Latrobe Regional Hospital, Princes Highway
<b>Port Fairy</b>	Council Chambers, Cox Street Moynne Shire Offices, Princes Street	<b>Wangaratta</b>	Wangaratta Rural Shire Municipal Offices, Oven Street Wangaratta Court House, Faithfull Street
<b>Portland</b>	Glenelg Shire Municipal Offices, Cliff Street Portland District Hospital, Bentinck Street Portland Court House, Cliff Street	<b>Warracknabeal</b>	Warracknabeal District Hospital, Dimboola Road Yarriambiack Shire Offices, Lyle Street
<b>Ringwood</b>	Ringwood Court House, 39 Ringwood Street	<b>Warragul</b>	Shire Offices, Civic Place
<b>Robinvale</b>	Swan Hill Rural City Resource Centre, Herbert Street	<b>Warrnambool</b>	Glenelg Centre, Bohan Place, 174–178 Lava Street Municipal Offices, 25 Liebig Street Warrnambool Court House, cnr Timor and Gillies Streets
<b>Rosebud</b>	Mornington Peninsula Shire Offices, Boneo Road	<b>Werribee</b>	Werribee Court House, Duncans Road
<b>Rosedale</b>	Shire Offices, Cansick Street	<b>Wodonga</b>	Wodonga District Hospital, Wilson Street City Offices, Hovell Street Wodonga Court House, 5 Elgin Boulevard
<b>Rutherglen</b>	Glenview Community Centre, 168 High Street Indigo Shire Offices, High Street	<b>Wonthaggi</b>	Bass Coast Shire, Council Chambers, Baillieu Street Wonthaggi Hospital, Graham Street
<b>Sale</b>	Sale Court House, Foster Street	<b>Yackandandah</b>	Indigo Shire Offices, Ardsville
<b>Seymour</b>	Seymour Court House, Tallarook Street		
<b>Shepparton</b>	Shepparton City Meeting Room, Nixon Street Shepparton Court House, 18 High Street Shire Offices, cnr Nixon and Welsford Streets		

# Publications and Information, Glossary of Terms

## Publications and Information

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

- Annual Report
- VCAT Act
- VCAT Information Booklet

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

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

Other relevant publications include:

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

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

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

## Publication of Determinations and Orders

For the guidance of those who may wish to bring proceedings, VCAT publishes many decisions that relate to important issues. These are available on request by contacting the individual Lists, using the telephone numbers provided on the back cover of this annual report, or by visiting the VCAT web site at **[www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)** or the AustLII database referred to above.

## Freedom of Information

Access to proceeding files is governed by the VCAT Act as described on page 55. VCAT is not subject to the *Freedom of Information Act 1982*.

## Glossary of Terms

### Compulsory Conference

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

### Directions Hearing

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

### Expert Opinion

List members use the powers under section 94 of the VCAT Act relating to the appointment of experts to advise VCAT members. A single expert saves time and resources for the parties, although it is common in conventional claims, and almost universal in complex claims, that the parties will appoint their own experts. Often VCAT members use this practice in cases where experts for the parties are themselves in dispute.

### FOI

*Freedom of Information Act 1984* jurisdiction administered by the General List of VCAT.

### Hearing

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

### Interlocutory Steps

Interlocutory steps are the steps taken in between the time an application is received and a hearing. Any dispute that occurs along the way is called an interlocutory matter, such as a dispute, before the hearing, about producing privileged information.

### Mediation

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

## Responsible Authorities

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

## Rules and Practice Notes

Rules and Practice Notes govern the operations and activities of VCAT members. Rules Committee members may make Rules and issue Practice Notes regulating the practice and procedures of VCAT members. Rules may be made for any matter listed under Schedule 2 of the VCAT Act.

## Special Referee

Frequently, VCAT members use the special referee provision in section 95 of the VCAT Act. This initiative is particularly useful where the issues in a matter are overwhelmingly technical in nature.

## User Group

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

## VCAT

The Victorian Civil and Administrative Tribunal (VCAT). On 1 July 1998, VCAT was established as a judicially-assisted 'umbrella' tribunal under the *Victorian Civil and Administrative Tribunal Act 1998*.

## VCAT Act

The *Victorian Civil and Administrative Tribunal Act 1998*. A full copy of the VCAT Act is available for viewing on VCAT's web site located at: **[www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)**

# How to Apply, Map of Hearing Locations

## How to Apply

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

## 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.

## 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 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 related web sites.

## Main Office

Victorian Civil and Administrative Tribunal (VCAT)

55 King Street

Melbourne 3000

E-mail: [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 for contact numbers for 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 above or contact  
the individual Lists below:**

**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 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

**VCAT Administration:**  
Tel: 9628 9700 Fax: 9628 9891

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)



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



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