



**CTTT**  
Consumer, Trader &  
Tenancy Tribunal

Consumer, Trader and Tenancy Tribunal

# **Annual Report**

**2012 - 2013**

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The Hon Anthony Roberts MP  
Minister for Fair Trading  
Governor Macquarie Tower  
Level 36, 1 Farrer Place  
SYDNEY NSW 2000

Dear Minister,

I am pleased to submit the 2012-2013 Annual Report of the Consumer, Trader and Tenancy Tribunal.

The report summarises the Tribunal's performance and outcomes achieved during the period 1 July 2012 to 30 June 2013.

In accordance with section 84 of the *Consumer, Trader and Tenancy Tribunal Act 2001*, the 2012-2013 Annual Report is submitted for your presentation to Parliament.

Yours sincerely,

A handwritten signature in black ink, which appears to read 'Stuart Westgarth'. The signature is written in a cursive, flowing style.

Stuart Westgarth  
**Chairperson**  
**Consumer, Trader and Tenancy Tribunal**

# Minister's Foreword



I am pleased to introduce the 2012-2013 Annual Report for the Consumer, Trader and Tenancy Tribunal.

The Tribunal provides an important service to the people of NSW, delivering a low cost, efficient and accessible dispute resolution service.

The Tribunal's real strength is its ability to encourage people to come to a mutual agreement on resolving disputes that have disrupted their lives. This is achieved through an emphasis on conciliation and other early dispute resolution methods.

During this reporting period the Tribunal's workload increased from last year's total, maintaining its status as the State's busiest tribunal, with a record 65,294 applications lodged. In May 2013, the Tribunal marked another significant milestone: making over one million orders since its inception in 2002.

To meet its considerable workload, the Tribunal has further embraced electronic technologies and e-communications to provide better access to its dispute resolution services and to better manage its workload. The growing demand for these services is recognised by the marked increase in

community usage of these facilities. For example, there were 734,225 visits to the Tribunal's website during the year, an increase of 44% on the previous year. The Tribunal's jurisdiction has also increased as a result of recent legislative changes, and now includes agricultural tenancy and boarding house disputes.

There are changes ahead for the Consumer, Trader and Tenancy Tribunal. In January 2014, it will join with twenty two other tribunals to form the NSW Civil and Administrative Tribunal (NCAT), the single gateway for tribunal services in NSW. The Tribunal's years of experience with a diverse jurisdiction and the flexibility to shape its services to meet the needs of Tribunal users means it is well placed for this transition.

This report demonstrates the breadth of the Tribunal's services that are accessed daily by consumers, businesses, landlords and tenants across NSW. The achievements of the Tribunal throughout the year are only possible through the outstanding contribution and dedication of Tribunal Members and staff.

Anthony Roberts  
**Minister for Fair Trading**

# Chairperson's Review



It is a pleasure to present the annual report for the Consumer, Trader and Tenancy Tribunal for the year ending 30 June 2013.

Since my appointment as Chairperson in January 2013, I have been impressed with the sheer volume of disputes the Tribunal resolves, and the dedication and commitment of Tribunal Members and Registry staff to resolve these disputes as quickly as possible.

During this reporting period, the Tribunal's workload continued to increase with another record number of applications received. In 2012-2013 we received 65,294 applications, held 80,416 hearings, finalised 67,992 applications, made 99,898 orders and helped over 130,000 people resolve their disputes. The Tribunal also reached another major milestone in May 2013 with the making of more than one million orders since the Tribunal's inception in 2002.

With the increased demand for our services, the Tribunal has worked hard throughout the year to ensure we continue to provide an accessible and timely dispute resolution service. Additional funding secured by the Minister for Fair Trading has also enabled us to keep up with the demand for the Tribunal's services, particularly over the past six months as evidenced in the June clearance rate which was 127%.

## Raising awareness of Tribunal services

Throughout the year the Tribunal continued its regular activities aimed at increasing and raising awareness of its services.

We maintained our regular stakeholder engagement meetings which provided an insight into the needs of those who use the Tribunal's services. I also took an active role in helping to raise the Tribunal's profile through media activities such as a number of radio and television interviews and presentations at conferences.

I visited regional and metropolitan areas across the State as did the Deputy Chairperson (Determinations) to meet Tribunal Members, Registry staff and the local community. I also accompanied the Minister for Fair Trading on visits with local Members of Parliament and property managers in various metropolitan and regional locations.

These visits helped to promote greater understanding about the Tribunal's services, and enabled me to learn about issues of interest to the community and people who work in industries which regularly use the Tribunal. A list summarising the activities I undertook to promote awareness of the Tribunal is set out on page 12 under the section titled 'Proactive media'.

The Tribunal's website reached a record 734,225 visits in this reporting period, and our expansion into social media continued with the launch of CTTT Facebook and Twitter pages in July 2012. Our success with social media was showcased in the NSW State Records' Future Proof website, and the Department of Finance and Services' Information and Communications Technology Strategy website.

We also increased our use of online surveys during the year to obtain customer feedback on our services in order to help inform our continuous improvement activities. A Customer Insight Survey conducted during the year captured feedback from parties after the hearing of their dispute and gauged their perceptions of our services. We found that close to 90% of survey respondents were 'satisfied' or 'extremely satisfied' with their experience at the Tribunal.

## Use of innovative technologies

We continue to look for opportunities to enhance our service delivery through the use of innovative technologies in order to achieve further efficiencies and to deliver quality customer service.

The Tribunal utilises a sophisticated case management system which has the proven flexibility to grow and expand with future needs. It has integrated components that enable a seamless process from the lodgement of an application through to the delivery of a Tribunal order.

*CTTT Online* continues to grow as the primary method of application lodgement. In this reporting period nearly 60% of all Tribunal applications were lodged online. *InCourt* allows Tribunal Members to type orders directly into the database and issue orders immediately after the hearing.

This year also saw the final stage of *eConnect*, the Tribunal's automated email service, implemented. Most applicants and respondents can now subscribe to receive their Tribunal correspondence, including notices of hearing and final orders, by email. As part of the *eConnect* expansion, the Tribunal also launched its *eServices* online portal providing a simple, fast and secure way for parties to log in and track the progress of their application online.

## Legislative changes

Legislative changes continued to impact on the Tribunal in this reporting period. Our well established change management activities enabled us to quickly respond to and adapt our technologies and systems to prepare for and implement legislative changes. This ensured our services reflected the government's intent and confirmed that the resulting services continued to be accessible.

In August 2012 the Tribunal took over responsibility for resolving agricultural tenancy disputes between farm owners, tenants and sharefarmers. By the end of the reporting period preparations had been finalised for the introduction of the new boarding houses jurisdiction into the Tribunal from 1 July 2013.

The Tribunal has also been closely involved in consultations regarding a number of major legislative reforms in the areas of home building, residential parks, motor vehicles and strata schemes, which are expected to be progressed in the coming year. This is likely to mean further change for the services we provide.

## Membership and professional development

Professional development activities for Members continue to be a focus of the Tribunal. I introduced a comprehensive Member Performance Assessment and Development program, linked to the Member Competency Framework,

which looks at the critical competencies, abilities and qualities required to be an effective Tribunal Member. This has involved an interview with each Member and an agreement on professional goals for the year ahead.

During the year, professional development activities for Members included the annual Tribunal Member Conference, regular Member Network meetings and my regular newsletters. This ensured Members were informed on topical issues relevant to their role as a Tribunal Member.

In some areas (particularly Home Building) not all Tribunal cases have progressed at the pace which is appropriate. With the support of Tribunal Members and staff, the Tribunal has been working on changes to its procedures to bring about reductions in delays.

## Transitioning to NCAT

This will be the last full year annual report produced by the Tribunal as the CTTT merges into the NSW Civil and Administrative Tribunal, NCAT as it will be known, from 1 January 2014.

The next few months will be a time of great change as the CTTT and 22 other NSW tribunals prepare for the amalgamation process. The CTTT will become the Consumer and Commercial Division of NCAT. Our current jurisdictions will be carried forward into that Division and will increase with the addition of dividing fences and retail tenancy disputes.

We are already heavily involved in the complex planning that is required to establish a new organisation like NCAT. Our position at the forefront of technology is widely acknowledged as progressive and is being considered as the standard for use within NCAT Divisions.

As the largest and busiest tribunal in NSW, we look forward to a smooth transition into NCAT in January 2014 and the opportunity to share our technologies, expertise and experience as part of the new 'super tribunal'.

The Tribunal's achievements would not have been possible without the hard work, skill and dedication of all Members and staff. I would like to thank them for their support and contributions. I also thank them for the warm welcome I received on my arrival and for their assistance in enabling me to come to grips early with the challenges facing the Tribunal.

Stuart Westgarth  
**Chairperson**

2012-2013

# Year in Review

## 65,294 Applications lodged

- ▶ 1% increase from last year.
- ▶ 58% of all applications lodged online.
- ▶ \$2.47 million application fees collected.

## 80,416 Hearings held

- ▶ 61% of applications listed for a first hearing within the divisional listing standard.
- ▶ Almost 70 venues across New South Wales used for Tribunal hearings.

## 67,992 Applications finalised

- ▶ 71% of matters finalised within the divisional performance standards.
- ▶ 74% of matters finalised prior to or at the first hearing.

## 99,898 Orders made

- ▶ 78% of orders issued to clients on the day of hearing and 95% within 2 days of hearing.

## 100 Community consultative forums and information sessions held

- ▶ 20 Divisional, Aboriginal and community consultative forums held for stakeholder groups.
- ▶ 80 community information and education sessions participated in by Tribunal staff and Tribunal Members.

## 734,225 Website visits

- ▶ 44% increase in visitors to the CTTT website.
- ▶ Most popular website pages were the Tribunal's 'Lodge online', 'Tenancy Division', 'Application forms' and 'Contact us' web pages.
- ▶ 10,407 email enquiries received.
- ▶ 241 followers on Facebook—264 messages; 132 comments received.
- ▶ 306 tweets with 171 followers.
- ▶ 11,380 video views on the YouTube channel.

## Applications – 5 year comparison

2012-2013	<b>65,294 (+1%)</b>
2011-2012	<b>64,803 (+10.2%)</b>
2010-2011	<b>58,808 (-1%)</b>
2009-2010	<b>59,403 (+1.2%)</b>
2008-2009	<b>58,670 (-9.4%)</b>

## Applications by Division

Division		
Tenancy	31,671	48.5%
Social Housing	17,725	27.2%
General	6,541	10.0%
Home Building	3,703	5.7%
Residential Parks	1,966	3.0%
Strata and Community Schemes	1,612	2.5%
Motor Vehicles	1,857	2.8%
Commercial	122	0.2%
Retirement Villages	97	0.1%
<b>Total</b>	<b>65,294</b>	<b>100%</b>

## Applications by Tribunal Registry

Sydney	<b>18,967</b>
Newcastle	<b>10,247</b>
Penrith	<b>10,170</b>
Liverpool	<b>8,091</b>
Wollongong	<b>6,972</b>
Tamworth	<b>6,234</b>
Hurstville	<b>4,613</b>

# Our Organisation

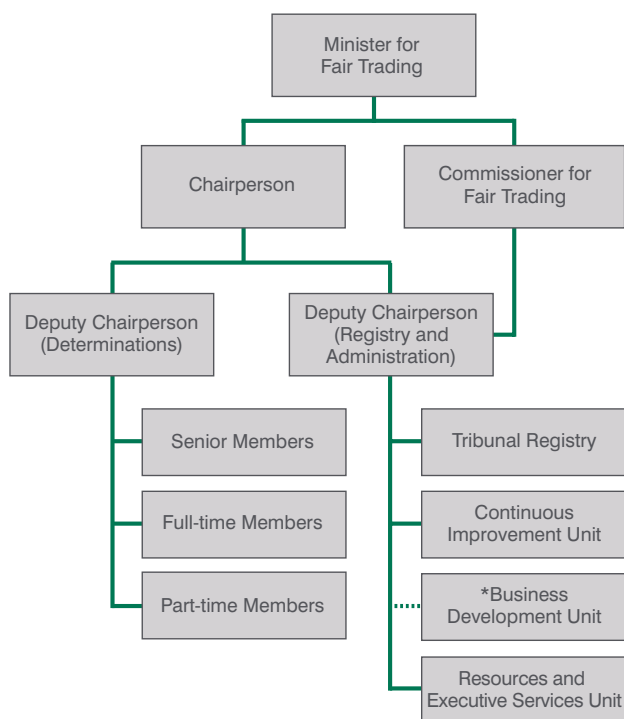
The Consumer, Trader and Tenancy Tribunal resolves disputes about the supply of goods and services, and issues relating to residential property.

The Tribunal's powers, functions and procedures are set out in the *Consumer, Trader and Tenancy Tribunal Act 2001* (the Act) and the *Consumer, Trader and Tenancy Tribunal Regulation 2009*.

There are a number of Acts that confer jurisdiction on the Tribunal (refer to **Appendix 1**). The Tribunal resolves disputes brought to its nine Divisions – Tenancy, Social Housing, General, Home Building, Residential Parks, Strata and Community Schemes, Motor Vehicles, Commercial, and Retirement Villages.

The Tribunal's objectives, as set out in section 3 of the Act, are to ensure that:

- ▶ the Tribunal is accessible
- ▶ its proceedings are efficient and effective
- ▶ proceedings are determined in an informal, expeditious and inexpensive manner
- ▶ decisions are fair and consistent.



The Tribunal's organisational chart and reporting lines

\* Business Development Unit staff are outposted from the NSW DFS – these staff are located at the CTTT Sydney Registry

## Stuart Westgarth

### Chairperson

Chairperson since 7 January 2013, Stuart has been a solicitor since 1975 and is an expert in corporate commercial and banking litigation. Stuart has had many years experience assisting clients in resolving disputes by means other than litigation including leading negotiations and mediations and participating in arbitrations.

Stuart was formerly a partner at HWL Ebsworth and former managing partner of Corrs Chambers Westgarth. He is also a former president of the Law Society of NSW and former director of the Law Council of Australia.

Stuart graduated with Bachelor of Arts and Laws degrees from the University of Sydney and is a Fellow of the Australian Institute of Company Directors.

## Mark Harrowell

### Deputy Chairperson (Determinations)

Deputy Chairperson (Determinations) since February 2013, Mark has more than 30 years experience in dispute resolution work in the courts and tribunals in NSW, as well as managing a large Sydney based firm.

Originally appointed as a Part-time Senior Member in January 2012, Mark's work at the Tribunal has been in dealing with more complex cases including large home building disputes.

Mark has Bachelor of Commerce and Bachelor of Laws degrees and is admitted as a legal practitioner in New South Wales, Victoria and the High Court of Australia.

## Garry Wilson

### Deputy Chairperson (Registry & Administration)

Deputy Chairperson (Registry and Administration) since 2008, Garry is a non-sitting member of the Tribunal. He is responsible for the Tribunal's financial, administrative and registry functions.

Garry has broad experience in the Commonwealth and State Government sectors including Housing, Community Services, Tax, Education and Courts. He has a Masters Degree in Commerce and a Graduate Certificate in Management.



## Tribunal Members

Tribunal Members are independent statutory officers who hear and determine applications brought before the Tribunal in accordance with the law and based on the evidence presented.

All Tribunal Members are appointed by the Governor under section 7 of the Act following a merit selection process. The qualifications of Members are set out in section 8 of the Act. The majority of Members have legal qualifications and all have alternative dispute resolution skills.

At 30 June 2013, the Tribunal Membership comprised the Chairperson, two Deputy Chairpersons, 9 Senior Members, 9 Full-time Members and 54 Part-time Members (refer to **Appendix 2**). Members are located in Sydney metropolitan, regional and country areas.

## Senior Members

Senior Members assist the Chairperson and the Deputy Chairperson (Determinations) to provide guidance, leadership and mentoring to other Tribunal Members.

Senior Members hear legally complex cases and matters which involve considerable monies or which raise significant issues for determination. Senior Members also determine smaller disputes as required.

## Members

Members hear and determine lists of cases. Hearing responsibilities vary from determining lengthy, contested formal proceedings to determining up to 30 less complex matters in a day.

Members generally work across the Tribunal's nine Divisions. Members with specialist expertise may work in only one or two Divisions. Part-time Members based in major centres, regional and remote locations enable the Tribunal to provide its services across NSW.

## Registry and administration

The Tribunal's registry and administrative functions are part of the NSW Department of Finance and Services (DFS) within the NSW Fair Trading Division. The Deputy Chairperson (Registry and Administration) has a matrix management reporting arrangement in place by reporting to the Chairperson for operational matters and the Commissioner for Fair Trading for corporate activities such as finance, human resources, accommodation and statutory obligations.

Staff are employed under the provisions of the *Public Sector Employment and Management Act 2002*. As at 30 June 2013 there were 106 staff attached to the Tribunal's registry and administrative units. Tribunal staff undertake the following key functions:

- ▶ **Business Development Unit** maintains the Tribunal's computer and other technology systems; identifies and implements technological solutions for improved service delivery in cooperation with DFS's *ServiceFirst*; and provides support to Tribunal Members and staff. Staff from this unit are part of the DFS Chief Information Office 'Out Posting' program to the Tribunal.
- ▶ **Continuous Improvement Unit** coordinates the Tribunal's continuous improvement regime by developing and implementing change management strategies, policies and programs in response to legislative and technological change to support Members and staff; delivering quality assurance and performance reporting, and responding to statistical requests from the media and other organisations; providing legal support and library services to Tribunal Members and staff; and developing and managing the Tribunal's education and information services.
- ▶ **Tribunal Registry** provides case management and operational support for the Tribunal's dispute resolution and hearing activities. The Registry assists parties to access and use our services; provides administrative assistance to Tribunal Members; processes applications; lists matters for hearing; maintains file records; issues notices and orders, warrants for possession and certified copies of money orders; and processes requests for written reasons for decisions.
- ▶ **Resources and Executive Services Unit** provides high level support to the Minister, Chairperson and the Tribunal's executive; responds to complaints and media enquiries; and provides support to the Tribunal's Professional Practice and Review Committee. This unit also manages the Tribunal's human resources, financial resources and administrative services and ensures compliance with DFS governance and general operating requirements, including occupational health and safety, accommodation and records management.

# Our Clients

The Tribunal's clients are from a broad cross section of the community. During the year over 130,000 people sought the Tribunal's help to resolve their disputes.

The majority of people who come to the Tribunal are one-off users of its services. Most clients represent themselves during proceedings and have little or no experience with a legal environment. Some clients are regular users of the Tribunal's services such as real estate agents, technical experts, advocates, lawyers and social housing providers. These people are familiar with the dispute resolution process.

The Tribunal's challenge is to ensure everyone has easy access to its services regardless of their level of experience, and that helpful educational resources are available to equip all people who come to the Tribunal to understand and participate in our process.

Our information material aims to give parties the knowledge to prepare and present their case so that they can actively engage in the dispute resolution process.

## Accessing the Tribunal

The Tribunal hears and determines a wide range of disputes for parties with differing needs. Our services have been designed so clients can easily access the Tribunal and run most cases without legal representation. The Tribunal is progressively increasing its range of eEnabling services which allow clients to transact with the Tribunal and receive information about our services on a 24/7 basis.

## Quality customer services

Registry staff provide information about the Tribunal's services and hearing procedures. To stay independent, staff cannot provide legal advice. Staff can assist clients to lodge their applications, respond to general enquiries, provide options for resolving disputes, and assist parties when they arrive for hearing.

The Tribunal's customer service charter outlines the standard of service that can be expected and the type of assistance the Tribunal can provide. Registry hours of operation are Monday to Friday, 8:30am to 5:00pm (excluding public holidays).

## Straightforward application process

The Tribunal continued its application review and update program during the year. The aim is to ensure application forms are user friendly and presented in a way that enables applicants to provide the required information to initiate dispute resolution action in the Tribunal and for the other party to understand what the dispute is about. The Tribunal's application forms include an explanatory guide to completing the form and other helpful information about the process.

Incremental changes were made to the online application process following feedback from *CTTT Online* users. Use of the online system is the preferred way to initiate the application process, as it provides many benefits for the parties and the Tribunal.

Applications in most Divisions can be completed and lodged online at [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au). Forms are also available on the website in PDF-fillable format, from Tribunal Registries or by calling 1300 135 399.

## Multiple hearing locations

Tribunal hearings are conducted as close as possible to the place of dispute in metropolitan and regional locations across NSW. This ensures people can access our dispute resolution services regardless of where they live. Our hearing venues include:

- ▶ Tribunal Registries located at Hurstville, Liverpool, Newcastle, Penrith, Sydney, Tamworth and Wollongong.
- ▶ Permanent hearing rooms at Campbelltown, Dubbo, Gosford, Lismore, Queanbeyan and Wagga Wagga.
- ▶ Local court houses and a wide range of community venues and facilities located across the State.

The Tribunal's hearing schedule and online hearing lists are available at [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au).

## Alternative access to hearings

Tribunal hearings by telephone are available for parties who are unable to travel, or who because of their location would need to travel a significant distance to the closest hearing venue and would incur excessive travel costs.

In limited cases, parties can have their case considered on the basis of written submissions in support of their application without needing to appear at a hearing.

In residential park and retirement village matters where there are a number of applications from residents about the same issues, the Tribunal will often conduct hearings 'on site' to provide more convenient access for residents and park or village owners.

### Access for clients with special needs

The Tribunal aims to ensure clients with special needs receive the necessary assistance to access its services. Some of the accessible services we provided during the year included:

- ▶ Flexible hearing options such as wheelchair accessible hearing rooms or hearings by telephone
- ▶ Free Auslan interpreter service for hearings
- ▶ Hearing loop access in Tribunal hearing venues upon request
- ▶ Promotion of the National Relay Service (NRS) for parties with hearing or speech impairments
- ▶ Publications and forms made available in alternative accessible formats.

### Interpreter services

A free interpreter service is provided for parties at Tribunal hearings. Requests for an interpreter can be made on the application form, in writing or by contacting the Registry as soon as practicable before the hearing date. In 2012-2013 interpreters translated proceedings into 62 languages. An interpreter is provided in most cases for parties if required.

### eEnabling services

Our clients are increasingly seeking to engage and interact with the Tribunal online. We have implemented the following innovative eServices to meet this demand:

#### CTTT Online

*CTTT Online* allows people to complete and lodge their Tribunal application online. Applications are automatically listed for hearing where possible and parties receive an

electronic notice of hearing. A survey of *CTTT Online* users found 96% of survey respondents would recommend the online application option to others.

Organisations that regularly lodge applications with the Tribunal can register as a 'frequent user' to access additional features of the *CTTT Online* service, such as auto-filling of generic information into the application form.

During this reporting period, 58% of all applications were lodged on *CTTT Online*, representing the highest uptake of this service since its introduction in 2008.

#### eConnect

*eConnect*, introduced in January 2012, is an automated email service for Tribunal correspondence. Most applicants and respondents can subscribe to receive their notices of hearing, other case-related correspondence and orders via their nominated email account.

By the end of June 2013, 54% of applicants and respondents subscribed to *eConnect* and more than 111,000 emails were issued via this online service.

## Explaining Tribunal services

The Tribunal delivers information to consumers and traders to raise awareness about the Tribunal and its dispute resolution services. This assists in improving access to justice for people who have a dispute they cannot resolve themselves.

Implementation of the Tribunal's *Communications Plan 2012-2016* continued, and its success is demonstrated by the significant increase in website visits and viewings of our YouTube videos, an increase in eNews subscribers, the expansion of the Tribunal's social media presence, external recognition of our 'A Guide to the CTTT' e-resource, and an online survey program to gather feedback.

#### Website

The Tribunal's website [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au) continues to be the primary source of information for our clients. It provides extensive information about the Tribunal for our clients and the general public and access to all Tribunal

application forms, publications, Chairperson's Directions, videos and other resources. It also offers direct access to the Tribunal's eServices. An ongoing refinement program ensures access to up-to-date information and resources.

In 2012-2013 the website received 734,225 visitors – a 44% increase compared to the previous year. The most popular web pages were 'Lodge online', 'Tenancy Division', 'Application forms' and 'Contact us'.

Customers who responded to an online survey during the year identified the website as their primary source of information about the Tribunal's services.

## eNews

People interested in the Tribunal can subscribe to our eNews information products. By 30 June 2013, there were a total of 3,353 subscribers, representing a 144% increase in subscribers compared to the previous year.

► **What's new alerts:** People who subscribe to 'What's new' receive email alerts about the latest Tribunal news, new services and resources. During the year 22 alerts were issued to 1,406 subscribers.

► **Legal Bulletin:** The Tribunal's Legal Bulletin provides a summary about significant appeals to the Supreme Court and District Court against decisions of the Tribunal. It is a useful resource for legal professionals, students and others who are interested in the dispute resolution process. A reader survey during the year led to improvements, including a 'fresh look' for this online Bulletin.

The Tribunal continued to promote the Bulletin to the legal profession via the Law Society's *Monday Briefs* newsletter. This approach was successful and by 30 June 2013 there were 1,381 Legal Bulletin subscribers, an increase of 148% over the previous year.

► **eServices News:** This newsletter, introduced on 28 November 2012, provides subscribers with the latest information about the Tribunal's eServices, such as *CTTT Online* system change, tips for lodging applications online, subscribing to *eConnect*, and other information of interest. More than 560 people have subscribed to *eServices News*.

► **CTTT Forum Update:** This newsletter is sent to members of the Tribunal's Consultative Forums and ensures these key stakeholders are kept up to date with Tribunal news. During this year, eight newsletters were issued to more than 90 Forum member subscribers.

## Publications

The Tribunal produces a wide range of educational resources and information about the Tribunal and its dispute resolution process.

A series of fact sheets and other information resources have been developed to explain specific aspects of the Tribunal's services (refer to **Appendix 10**). These resources are available on [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au).

During 2012-2013 the following resources were developed:

- *Agricultural Tenancy Disputes* Information Sheet (new)
- *Boarding House Disputes* Information Sheet (new)
- Chairperson's Direction 2012-4 *Electronic evidence* (revised)
- Chairperson's Direction 2012-5 *Summons* (revised)
- Commercial Division Application Form (revised)
- General Division – Boarding Houses Application Form (new)
- *Information for Respondents* Fact Sheet (new)
- Media Information Policy (new)
- Motor Vehicles Division Application Form (revised)
- Social Media Policy and Guidelines (new).

## A Guide to the CTTT

*A Guide to the CTTT* is an e-resource initiative introduced in 2011 and available on the Tribunal's website. It comprises a series of short YouTube videos, an e-booklet and webpages that offer a step-by-step explanation about what happens at the Tribunal – from how to apply, how to prepare for a hearing, what to expect in the hearing room, the conciliation process and information about Tribunal orders and how to enforce them.

Each YouTube video is available in English with closed captions for the hearing impaired, and translated in five community and emerging languages – Arabic, Mandarin, Farsi, Dinka and Swahili.

By 30 June 2013, the e-booklet *A Guide to the CTTT* had been downloaded 4,091 times, the YouTube videos had been viewed 8,040 times, and the *Guide* website 'landing' page had received 10,100 visits.

*A Guide to the CTTT* e-resource was a finalist in the Government Award category of the prestigious National Multicultural Marketing Awards announced at the end of November 2012.

## Social media

On 30 July 2012, the Tribunal expanded its social media presence into Facebook and Twitter. This placed the Tribunal at the forefront of this technology as the first consumer tribunal in Australia to embrace Facebook.

During this period, the Tribunal posted 264 messages and received 132 messages. Posts included the latest news about how the Tribunal resolves disputes, how to take a dispute to the Tribunal, changes to the legislation and new educational resources.

Through its social media platforms, the Tribunal has extended its communication activities to a wider online community to share the latest news. It also allows the Tribunal to engage in an online conversation with people who have an interest in learning more about its services.

The Tribunal's use of social media has been identified as an example of best practice within NSW Government agencies. During the year it was showcased on the NSW State Records Future Proof NSW blog and also featured on the Department of Finance and Services' Information & Communications Technology Strategy website.

The Chairperson and the Deputy Chairperson (Registry and Administration) also had the opportunity to showcase the Tribunal's social media and other technologies in presentations to the Australian College of Community Association Lawyers' (ACCAL) conference and the Social Media for the Public Sector Conference.

A policy document with guidelines for staff and Tribunal Members, as well as Terms of Use for these new social media channels, is available at [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au).

## Information delivery

During 2012-2013 the Tribunal continued its delivery of information to the community through the involvement of Tribunal Members and staff in 100 community educational and information events across the State.

A fresh approach was piloted in Tamworth in April 2013. It involved the Tribunal partnering with the Real Estate Institute (REI) to deliver an information seminar with mock Tribunal hearings at its Tamworth Registry. The REI worked with the Tribunal to attract real estate agents and others working in the tenancy area to the seminar including tenants' advocates. The Minister for Fair Trading, The Hon Anthony Roberts MP, opened the seminar. Feedback from participants confirmed the event was well received and enabled them to learn more about the dispute resolution process. The Tribunal has offered to work with other key stakeholders on similar events in the coming year.

Information delivery activities this year included:

- ▶ Information seminars for a range of audiences – including sessions with Aboriginal and culturally and linguistically diverse communities
- ▶ Guest speakers at functions and events arranged by the Tribunal's key industry stakeholders and various community organisations
- ▶ NSW Fair Trading community and regional *My Place* programs in various locations throughout NSW
- ▶ CTTT stakeholder forums.

## Proactive media

A co-ordinated proactive approach was introduced during the year to deliver information about the Tribunal via media outlets.

The Chairperson, Stuart Westgarth, issued media releases to promote the Tribunal's information seminar in Tamworth, our involvement in the Law Week Expo at Parramatta, and to mark more than one million decisions made by the Tribunal since 2002. The releases attracted media attention and helped to inform people about the Tribunal's activities.

Articles prepared for a range of stakeholder e-newsletters and journals, and various radio interviews initiated or responded to by the Chairperson and the Deputy Chairperson (Registry and Administration) were also components of the Tribunal's proactive media strategy.

The following promotional activities were undertaken by the Chairperson during the period January to June 2013:

- ▶ **Media releases:** Top 10 disputes to the CTTT (February); CTTT Information Seminar in Tamworth (April); Learn about the CTTT during Law Week (May); More than one million CTTT orders (May)
- ▶ **Radio interviews:** 2UE (April), Koori Radio (May)
- ▶ **Speeches:** 8th Annual Australian College of Community Association Lawyers' Conference (March)
- ▶ **Stakeholder engagements:** Newcastle (February and May); Liverpool (March); St Marys (March); Heathcote/Engadine (April); Gosford (April); Parramatta (April); Revesby (April).

In addition, Mr Westgarth chaired a series of CTTT Consultative Forum meetings in Sydney, visited CTTT Registries and held meetings with Tribunal Members in metropolitan and regional NSW.

### Online survey program

The Tribunal increased its use of online surveys as a means of obtaining targeted feedback and general comments about its services and activities.

Survey responses included suggestions for improvements which were fed into the Tribunal's continuous improvement processes. Surveys undertaken during the year included the following:

- ▶ **Forum Update Survey:** invited feedback from Consultative Forum members on the Forum Update eNewsletter. The survey results were very encouraging and confirmed the eNewsletter was meeting its objectives of keeping Forum members informed and enabling them to assist the Tribunal to disseminate information to their membership.

- ▶ **Customer Insights Survey:** conducted between January and June 2013, an invitation to complete this survey was sent to recent Tribunal users. The results captured users' perceptions about the service they received and suggestions on how that service might be improved. The results were positive with the majority of respondents indicating that Members and staff had treated them with courtesy and respect. At the end of the reporting period consideration was being given to the potential improvements suggested by survey respondents.
- ▶ **Chairperson's Newsletter Survey:** conducted to obtain feedback from Tribunal Members on the frequency and content of the Chairperson's newsletter. The results were positive, and some improvements to the Newsletter will be made incrementally in response to the feedback received.

## Assisting communities

The Tribunal helps people in identified communities to more readily access our dispute resolution services by providing tailored information.

### Aboriginal communities

The Tribunal is committed to delivering information to Aboriginal communities through various communication channels.

Our Aboriginal Forum members assist with the development of culturally appropriate information products for Aboriginal people, and are consulted about procedural changes.

The *Communications Strategy for Aboriginal Communities 2012-2016* provides a framework for activities aimed at spreading awareness within Aboriginal communities about the Tribunal and its services.

We have an Indigenous section on our website covering the application process, getting help and information to assist with preparing for the hearing. Indigenous people find this section very informative with more than 3,000 visitors accessing the Indigenous information during this year.

A video *Getting a fair go at the CTTT* and an accompanying brochure are also available to explain to Aboriginal communities how the Tribunal works. The video features Aboriginal actors who present two “real life” Tribunal scenarios – a tenancy dispute and a motor vehicle dispute. It is accessible from the website and the DVD is also distributed free of charge. More than 1,500 DVDs have been distributed to communities across the State.

During this reporting period, the Chairperson, Registry staff and Tribunal Members presented information at various outreach programs and at Aboriginal stakeholder events. In May 2013, Chairperson Stuart Westgarth was interviewed on the Koori radio *Blackchat* program.

### Culturally and linguistically diverse (CALD) communities

The Tribunal provides services to help people from culturally and linguistically diverse (CALD) communities to understand the role of the Tribunal and its services. We also use the Community Language Allowance Scheme (CLAS) to support and recognise Registry staff who use their expertise in a community language to improve our customer service.

The Tribunal’s *Communications Strategy 2011-2016 for Culturally and Linguistically Diverse Communities* provides a framework for promoting the Tribunal’s services and enhancing relationships with CALD communities.

Under that Strategy we continued to deliver information to CALD community workers and communities, including a CTTT information session and participating in events hosted by NSW Fair Trading and various stakeholder organisations.

Recognition of the Tribunal’s efforts, in the form of its accessible translated videos, a key component of the *A Guide to the CTTT* e-resource, was received when the initiative was a finalist in the National Multicultural Marketing Awards announced at the end of November 2012.

The Translating and Interpreting Service (TIS) is available for people who need assistance when contacting the Tribunal by telephone. Interpreters are provided free of charge for clients who require language assistance during Tribunal proceedings.

During the reporting period, 1,954 requests for interpreter services were arranged for over 60 languages. The top languages requested were Mandarin, Arabic, Cantonese, Korean, Chinese, Vietnamese, Greek and Farsi (refer to **Appendix 6**).

### Stakeholder involvement

The Tribunal continued its engagement with peak stakeholders who make a significant contribution to the Tribunal through their ongoing involvement in planning and operational activities.

Our Consultative Forums comprise more than 90 organisations representing peak industry bodies, government agencies and non-profit groups (refer to **Appendix 5**). The imminent introduction of a new boarding houses jurisdiction led the Tribunal to invite three new organisations to join the General Division Consultative Forum towards the end of the reporting year.

Our peak divisional and Aboriginal Consultative Forum members continue to provide assistance to the Tribunal through their contributions in reviewing new resources and feedback and insights into service delivery. This is particularly important when legislative change results in adjustments and improvements to the Tribunal’s services.

Members of our Consultative Forums contributed to process enhancements that aligned with our continuous improvement plans and assisted the delivery of an effective and responsive service.

Additionally, our Community Consultative Forums allowed greater engagement at a local level. Deputy Registrars in regional and metropolitan Registries led the Community Forums, which brought together local stakeholders to discuss local issues relating to Tribunal operations and fostered an exchange of ideas.

During the year, we held 20 Divisional, Aboriginal and Community Consultative Forum meetings. We also issued 8 *Forum Update* e-newsletters to keep stakeholders up-to-date with Tribunal news.

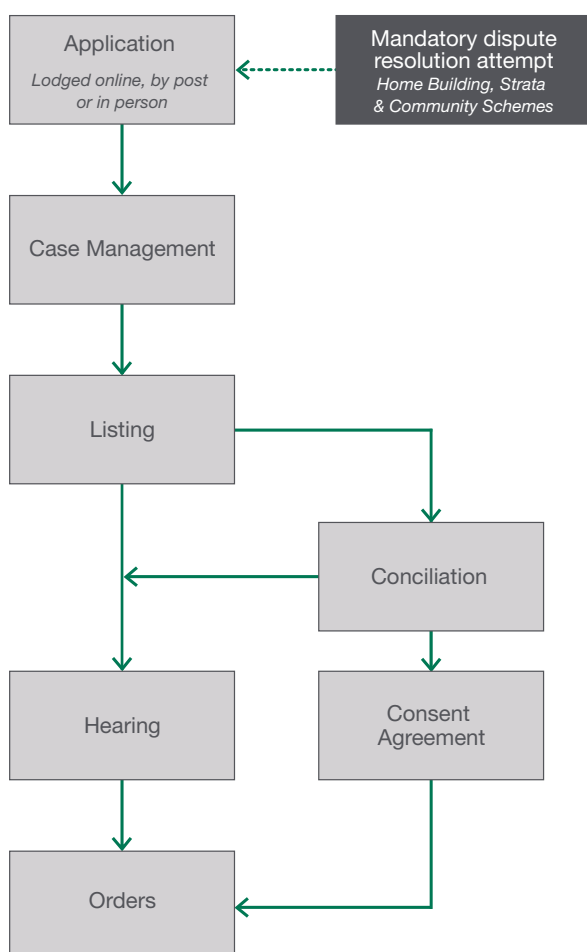
# Our Process

The Tribunal is the busiest dispute resolution service in New South Wales. Since 2002, we have undertaken a vital role in helping people resolve everyday disputes.

During 2012-2013, the Tribunal received the most applications in its 11 years of operations, with 65,294 applications lodged and 80,416 hearings held at almost 70 locations.

The Tribunal uses a variety of dispute resolution strategies to manage its high volume workload. We have refined our processes to optimise the use of technology at different stages of the Tribunal hearing process. This flexibility and a proven approach to change management also means the Tribunal can easily add new jurisdictions when needed.

**Appendix 3** contains more information about the life of an application for a typical dispute brought to the Tribunal.



Flowchart illustrating the life of an application for a typical dispute brought to the Tribunal.

## Appropriate dispute resolution

The Tribunal has a legislative requirement to use its best endeavours to assist parties to reach a settlement that is acceptable to them. This is achieved through the application of appropriate dispute resolution strategies which reflect the differing nature of disputes and the varying skills and knowledge of the parties.

During the year the Tribunal offered a range of alternative dispute resolution (ADR) options including conciliation, formal mediation, and in complex home building cases, a conclave meeting involving a Tribunal Member (with building expertise) and the parties' experts.

All Tribunal Members and a number of key staff have recognised qualifications or extensive ADR experience.

## Conciliation

Conciliation is the primary dispute resolution process applied in the Tenancy, Social Housing, General, Home Building, Residential Parks, Retirement Villages and Motor Vehicles Divisions.

Conciliation is a confidential process which enables parties to discuss the issues in dispute in an informal manner and explore options to resolve the issues outside the hearing room.

In Residential Parks disputes involving multiple applications about proposed rent increases, conciliation is often used with the parties meeting 'on site' at the park or at a nearby community facility with a view to negotiating an agreed settlement.

Our publication *Ten Top Tips for Conciliation*, which is integrated into the initial Notice of Hearing sent to parties, helps people to understand the conciliation process and how both parties can maximise participation in their first appearance before the Tribunal.

## Mediation

In some disputes, matters are listed for formal mediation as a way to resolve some or all of the issues in dispute.

Formal mediations are conducted by a Tribunal Member, usually in a Tribunal hearing venue, and provide the parties with an opportunity to explore a variety of issues and canvass options to resolve the dispute in a supported environment.



## Conclaves

A number of home building matters involve extensive defective or incomplete works and complex technical issues in dispute. In these cases it is often helpful to arrange for a conclave of experts at the location of the building work.

A conclave is a meeting between experts engaged by the applicant and the respondent. The conclave is usually held 'on site' and is facilitated by a Tribunal Member with building expertise. During a conclave, the experts discuss the issues on which they have prepared reports with a view to clarifying matters in dispute, and to reduce, as far as possible, the issues to be determined at the final hearing.

The Tribunal's *Conclaves* fact sheet explains how conclaves assist parties in the resolution of their dispute.

## Hearings

Matters are listed for hearing according to the type of application and nature of the dispute. Where the Tribunal is unable to bring the parties to a mutually agreed settlement via conciliation, the matter will proceed to hearing.

Parties are given the opportunity to present their evidence to a Tribunal Member who will then make a decision based on the evidence and the relevant law. Tribunal hearings are generally open to the public.

Chairperson's Direction CD2012-4 *Electronic evidence* was revised during the year to provide further guidance to parties who may be required, or who wish to present material to the Tribunal at hearing in an electronic format or any other format that is not in printed form.

Notices of Hearing are issued to parties in advance of their hearing. They provide information such as the type of hearing event they will be attending and what they need to do to prepare for their hearing. A customer survey during the year found that the Notice of Hearing was an important source of information for parties.

## Group lists

A 'group list' is where a number of cases are listed together before a Tribunal Member on a particular day. The majority of applications are listed for first hearing in a group list.

When both parties appear at the hearing they are encouraged to resolve their dispute through conciliation. Where conciliation is successful, the Tribunal Member will, before making binding orders by consent of the parties that reflect their agreed outcome, ensure the parties:

- ▶ fully understand the agreement,
- ▶ entered into the agreement without duress or coercion, and
- ▶ have formed a legally acceptable agreement.

If conciliation is unsuccessful the case proceeds to hearing. If only one party appears, 'ex-parte' orders (i.e. orders made where the other party is not in attendance) may be made or the application may be dismissed by the Tribunal Member.

Sometimes, if the parties need to obtain further evidence, or the hearing will take further time, the matter can be adjourned to a formal hearing on a later date.

## Directions hearings

Directions hearings are a case management tool used to prepare for the formal hearing. They are used in matters where there may be a need to establish jurisdiction, identify issues in dispute, set a timeframe for the hearing or make directions for the exchange of evidence. All parties are required to attend directions hearings and must comply with procedural directions.

## Formal hearings

Formal hearings are listed for a specific length of time where the issues in dispute will be finally determined and a decision made. These hearings can run for a few hours or several days, depending on the complexity of the issues in dispute.

## Determination on the papers

In the Strata and Community Schemes Division, adjudications are determined 'on the papers'. Parties make written submissions which are considered by an Adjudicator, generally a Tribunal Member, who makes a written determination on the basis of those submissions.

In other Divisions, in limited cases and when both parties consent, matters can be determined on the basis of the written material provided.

Applications for rehearing under section 68 of the *Consumer, Trader and Tenancy Tribunal Act 2001* are also determined on the basis of written submissions.

## Home Building Pilot

One of the more complex cases of dispute resolution work in the Tribunal is home building disputes.

A home is the largest investment many consumers usually make. As home building work is traditionally done by small to medium size building companies, it is essential for the Tribunal to manage home building disputes in an efficient and cost effective manner.

The Tribunal has moved to shorten the timeframes to finalise home building claims by introducing a pilot scheme designed to:

- ▶ reduce the number of times parties attend the Tribunal at directions hearings
- ▶ provide a more efficient process for case preparation
- ▶ provide a case management facility for cases requiring a more “hands on” approach in getting them ready for hearing
- ▶ target significantly shorter times for finalisation.

Central to this process is for parties to attend the Tribunal being prepared to provide their evidence as soon as possible and to engage in an active process to explore early settlement opportunities.

At the same time the Tribunal is moving to prevent unprepared parties or those conducting cases in an inefficient way from delaying finalisation and taking up a disproportionate amount of Tribunal time and resources, which impacts upon those other parties who are also seeking the assistance of the Tribunal to resolve their disputes.

## Decisions and orders

A Tribunal Member will generally determine a matter on the day of hearing and give brief oral reasons for the decision.

Using the Tribunal’s *InCourt* system, Tribunal Members type orders directly into the case management system. The orders are printed out and parties usually receive a copy of the Tribunal’s order at the conclusion of the hearing, or orders are emailed to parties using the *eConnect* service, or sent by mail.

Regional Tribunal Members access the *InCourt* system using wireless internet technology via laptops in the hearing room. The orders are printed out at the nearest Registry and posted on the day, or emailed immediately if the party subscribed to *eConnect*. As a result, parties in regional areas receive their orders promptly and often before the files are returned to the Registry from the hearing venue.

*InCourt* continues to provide significant efficiencies in the timely delivery of decisions to people in both urban and regional areas. During the year, 75% of orders were produced via *InCourt*.

Tribunal Members are increasingly providing brief written reasons with their orders, giving parties more information on how their case was determined. This promotes transparency, accountability in decision making, and help parties better understand the decision.

The increasing provision of brief reasons continues to result in a reduction in the number of formal requests for written reasons under section 49 of the Act.

## Reserved decisions

In complex matters the Tribunal Member may reserve the decision and issue a written determination, including reasons, to the parties at a later date. These written determinations outline the decision, the reasons for it, the evidence presented by both parties, and the Tribunal Member’s findings.

A selection of Tribunal decisions supported by written reasons are published on the Australasian Legal Information Institute’s website [www.austlii.edu.au](http://www.austlii.edu.au) and can be viewed by the public. The Tribunal Chairperson selects the decisions that are likely to be of public interest and which are useful as an educational tool. Strata adjudications are not published.

Chairperson’s Direction CD2009-1 *Personal Identifiers in Written Reasons and Reserved Decisions* sets out the policy applying to the inclusion of personal information or the anonymisation of personal information contained in published written reasons and reserved decisions. The purpose of this policy is to prevent any unnecessary intrusion into personal privacy and to minimise the risk of identity theft.

## Enforcement

Orders made by the Tribunal are binding and legally enforceable. If the orders are not complied with, there are a number of enforcement options available:

- ▶ Where the Tribunal makes an order that requires a party to complete work within a particular time and the work is not completed, a party can lodge an application seeking to renew proceedings (time limits apply for lodging the renewal application). The Tribunal can then make another order, for example, an order that the respondent pay the applicant money, to finalise the dispute.
- ▶ If a Tribunal order directs payment of money, a party can request that a certified copy of the money order be issued. This order is then enforceable in the Local Court as a debt.
- ▶ Where an order is made that residential premises are to be returned to a landlord and the tenant does not vacate, a warrant for possession can be obtained from the Tribunal Registry. Warrants for possession are executed by the NSW Sheriff.

In home building matters, the Tribunal provides copies of final orders to NSW Fair Trading's Home Building Service for inclusion on the public register. Licence holders are unable to renew their licence if they fail to comply with a Tribunal work order. Where a builder fails to comply with a Tribunal order, their licence may be suspended 28 days after the date of non-compliance.

In Strata and Community Schemes disputes, it is an offence to wilfully contravene or fail to comply with a decision of an Adjudicator. The Tribunal can impose a pecuniary penalty on anyone who does not comply with an Adjudicator's order.

The Tribunal's *Enforcing Tribunal* orders fact sheet explains the enforcement options available to parties, and is available from [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au).

## Rehearings and appeals

Like all Australian courts and tribunals, long standing legal principles apply to the Tribunal, in particular, the principle of 'res judicata' (i.e. if a dispute is judged, the judgement is final

and conclusive). There is an absolute bar to a subsequent suit for the same cause of action. This means the Chairperson is unable to change Tribunal decisions, except for minor aspects such as mathematical or spelling errors.

Tribunal decisions are subject to a limited right of rehearing or appeal to the District Court or Supreme Court of NSW.

These arrangements mean the Tribunal can operate independently by ensuring that the decision making process is free from political, administrative or other influence.

During this reporting period, 97 new appeals were received, and 96 appeals were determined of which 15 were upheld/remitted and 11 were upheld and orders substituted. The number of matters appealed represented 0.11% of Tribunal hearings in 2012-2013.

Redress is available through the provisions of section 68 of the *Consumer, Trader and Tenancy Tribunal Act 2001*. The Chairperson, or delegate, may grant an application for rehearing if it can be established that the applicant may have suffered a substantial injustice and the claim is for less than \$30,000.

During this reporting period, 1,946 rehearing applications were considered by the Tribunal of which 874 were approved.

A substantial injustice must be established on one or more of the following grounds:

- ▶ the decision was not fair and equitable
- ▶ the decision was against the weight of evidence
- ▶ significant evidence is now available that was not reasonably available at the time of hearing.

Alternatively, a party may lodge an appeal against the Tribunal's decision to a higher jurisdiction. Appeals may be made to the District Court of NSW on a question of law or to the Supreme Court of NSW on the grounds of jurisdictional error or denial of procedural fairness.

The Tribunal's *Rehearing and appeals* fact sheet explains the rehearing and appeal processes, and is available from [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au).

# Our Governance

A range of measures exist to ensure that we meet our legislative requirements, make optimal use of our human, financial, capital and intellectual resources and maximise dispute resolution and service delivery outcomes.

## Independent body

The Tribunal is an independent body that resolves disputes and issues enforceable orders. Tribunal decisions are final and binding subject to a limited right of rehearing or appeal.

Our decision making process is independent of any political, administrative or other influence. Tribunal Members are independent statutory officers appointed by the Governor of New South Wales. Registry and Administrative Unit staff are employed under the *Public Sector Management Act 2002*.

## Legislative framework

Our governance framework substantially stems from the *Consumer, Trader and Tenancy Tribunal Act 2001* and the supporting Regulation. Other legislation confers jurisdiction upon the Tribunal in its nine Divisions. Together, this legislation establishes the Tribunal, provides legislative authority for its operations, processes, outlines its jurisdiction and objectives and decision making powers. For more information refer to **Appendix 1**.

The Tribunal is also guided by whole-of-government legislation covering the employment of staff, procurement of goods and services, use of State resources and finances, and the way in which services are delivered, such as complying with occupational health and safety, antidiscrimination, privacy and other legislative and policy requirements.

The Chairperson has the legislative authority to give directions in relation to practice and procedure.

## Planning

Business plans are developed each year to guide the Tribunal's focus and priorities. The Tribunal's Strategic Five Year Plan 2011-2015 aligns with the State Government, Department of Finance and Services and NSW Fair Trading strategic plans.

The key focus of the Tribunal's Strategic Plan is to ensure that service delivery is maintained within budget and existing service standards, while streamlining and improving party access to the Tribunal's services, and making it easier and more cost effective for Tribunal Members and staff to do their work and to prepare the Tribunal for its emerging future.

This is being achieved by:

- ▶ **Managing:** Providing quality outcomes for people who use our services, and effective management and support for the Chairperson, Tribunal Members and staff within service standards and budget parameters.
- ▶ **Connecting:** Enhancing partnerships and mutually beneficial information, communication and feedback mechanisms with the Minister, the community, clients and stakeholders, and effectively engaging with Tribunal Members and staff.
- ▶ **Improving:** Improving our services by promoting a culture of continuous improvement, performance monitoring, 'good ideas' generation and innovation.
- ▶ **Leading:** Providing strategic leadership, strategies, projects and priorities that keep us ready for the immediate and emerging future.

A number of projects were commenced during the year to deliver on the initiatives identified in the plans mentioned above. A multi-disciplinary project management approach is taken to implementing change.

## Managing risk

Risk management is a critical component of our corporate governance framework. The Risk Management Plan identifies the strategic risks that the Tribunal must manage to achieve its strategic goals, objectives and priorities. The plan identifies the risk, the potential source and impact of the risk, and identifies risk treatment strategies and responsibilities for managing the risk.

The Plan is reviewed on a regular basis and is adjusted to reflect emerging challenges and changes in service delivery direction which may create new risks.

During the reporting period factors that had some impact upon the Tribunal's capacity to deliver its services were the budget constraints and the surge in application lodgements. Action was taken to identify ways of minimising this impact, including an increase in hearing lists enabled through the allocation of additional funding, as mentioned elsewhere in this Report.

Significant improvements were made in a number of areas of our operations as a result of careful planning and effective change management.

## **Case and records management systems**

Our computerised case management system captures and stores information about applications lodged and the progress of each application.

Other supporting systems are well established to assist the management of our operations, in particular the requirement to list over 80,000 hearings and appropriately allocate cases to Tribunal Members across almost 70 hearing venues.

Hard copy files are kept of all applications and associated documents for a period of two years, except in the Home Building and Strata and Community Schemes Divisions where hardcopy records are retained for seven years.

# Our Objectives and Performance

Performance reporting helps to monitor how the Tribunal is meeting its objective of providing an efficient, effective and expeditious dispute resolution service.

Our reporting systems provide the Chairperson, Deputy Chairpersons and senior staff with reliable and timely information to help manage our significant and diverse case load; to monitor operational performance against the service standards; and to meet our annual reporting and statutory requirements.

Data from our case management and supporting systems is used to prepare monthly and quarterly statistical reports. These reports examine application trends in the nine Divisions and monitor workflows in the Tribunal's Registries against performance standards.

New reporting software introduced this year is progressively automating the provision of data for performance reporting. The system has enhanced the provision of high quality end of period reporting data. The new system has improved the speed in which reports can be produced and allows increased flexibility for reporting historical and real time data.

The primary performance reporting measures used by the Tribunal are built around its statutory objectives and other operational requirements, which are interrelated, as discussed below.

## Accessibility

The Tribunal's accessibility is measured by:

- ▶ the number of venues in which the Tribunal sits
- ▶ how often the Tribunal sits at each venue
- ▶ the suitability of each venue
- ▶ the ease by which clients can lodge applications, access information and participate in Tribunal processes and proceedings.

In 2012-2013 hearings were conducted at across almost 70 venues in various metropolitan and regional locations.

The table at **Appendix 7** shows the hearing venues used, the number of hearings held during the reporting period, and the number of hearing days.

## Efficiency and effectiveness

The Tribunal's efficiency and effectiveness is measured by:

- ▶ the number of lodgements by Division and Registry
- ▶ the Tribunal's case clearance ratio which shows the capacity of the Tribunal to manage its workload.

The table 'Application Lodgement' at **Appendix 8** sets out the applications received by Division and Registry, and demonstrates how the Tribunal monitors lodgement volumes and trends, so that resources can be adjusted to maintain service delivery standards.

During the 2012-2013 year, the Tribunal had an overall clearance ratio of 104%, demonstrating the increased volume of work the Tribunal received during the reporting period and the commitment to clearing this workload as quickly as possible (refer to the 'Clearance Ratio' table at **Appendix 8**).

## Affordability

The cost of the Tribunal's services is measured by:

- ▶ the level of application fees
- ▶ the average cost to finalise each case.

### Level of application fees

A low application fee regime allows parties to inexpensively access the Tribunal. For this reporting period, the majority of parties paid an application fee of \$37; applicants in the Strata and Community Schemes Division and applicants with claims between \$10,000 and \$30,000 in the General, Home Building and Motor Vehicle Divisions paid \$76; and those with claims over this amount in these Divisions paid \$197. Pensioners and students pay \$5 and in certain circumstances the fee can be waived.

Fees have traditionally been increased from 1 July each year in accordance with the CPI (excepting the \$5 concessional fee). During 2012-2013, revenue generated from fees was \$2.47m. The Tribunal has a process in place to ensure that most fees are paid.

## Average cost to finalise each case

Based on the Tribunal's total expenditure during 2012-2013 and the lodgement of 65,294 applications, the average cost to finalise each case was \$399.

Cases dealt with in Regional locations incur additional costs as member travel and venue hire expenses are often incurred. Differential costs are incurred due to the nature of each application and its case management pathway.

## Timeliness

The Tribunal's timeliness is measured by:

- ▶ time from the lodgement of an application to first hearing
- ▶ time from the lodgement of an application to finalisation
- ▶ number of times a party must attend before a case is finalised
- ▶ time taken to make Tribunal decisions available to the parties.

The service standards and related reporting systems support the Tribunal's differential case management practices.

Data is reported at Registry level so that local managers can monitor their site's performance against the service standards. The aim is for 80% of all applications in a particular Division and application grouping to meet the relevant service timeframe. The 80% target recognises the variable sitting patterns in some venues, the availability of parties, Tribunal Members and staff at different periods of the year, and the complexity of some individual cases.

Complex applications might only be determined after a process of hearings, procedural directions, interim orders and adjournments. However, delay rarely occurs due to the lack of availability of Tribunal Members, listing practices or administrative oversights.

Delay in resolving cases usually occurs as a result of adjournments, which generally arise due to:

- ▶ the lack of availability of parties, their witnesses, experts or legal representatives
- ▶ the requirement to exchange evidence or to obtain additional evidentiary material

- ▶ additional time required to allow for specific actions or events to take place
- ▶ a need to allocate additional hearing time
- ▶ security, health or other reasons.

The Tribunal is required to balance the competing interests of proceeding to hearing to enable the matter to be finalised expeditiously, against the need to afford procedural fairness to all parties.

## Informality

The Tribunal's informality is measured by:

- ▶ the level of legal representation
- ▶ the level of agreements entered into by parties.

## Legal representation

Leave of the Tribunal is generally required before legal representation is permitted in Tribunal proceedings. The vast majority of parties are either self represented or are assisted by free or inexpensive advocacy services such as the Tenants Advice and Advocacy Program or other consumer advocacy services. These services are promoted via the Tribunal's *Getting Help* fact sheet.

## Agreements

At the commencement of the proceedings the Tribunal has a conciliation process that allows parties to engage in informal discussions in an attempt to establish consent agreements.

Where a matter does not settle at the first hearing, other opportunities for settlement can and do arise during the course of proceedings. All Tribunal Members are required to have alternative dispute resolution skills so they can assist parties to reach an agreement.

Agreements are made into binding Tribunal orders which are generally made available on the day of the hearing. Before making Tribunal orders flowing from a consent agreement, a Tribunal Member will ensure that the parties freely entered into the agreement; understand the agreement; and that it is lawful.

In 2012-2013 there were 99,898 orders made by the Tribunal, of which 24,121 (24%) were made by consent of the parties.

## Party participation in proceedings

The Tribunal's website provides considerable information to assist parties prepare and present a case before the Tribunal. Online videos also explain each step in the process in English, captions, and in community languages.

During 2012-2013 the website recorded 734,225 website visits—a 44% increase over the previous year.

Registry staff provide parties with procedural information over the counter and inform parties where specialist advice can be obtained. Over 119,500 telephone enquiries and 10,407 email enquiries were dealt with by Registry staff during the reporting period.

Although Tribunal proceedings are a legal process and somewhat adversarial in nature, Tribunal Members generally take an inquisitorial approach by asking the parties questions designed to reveal the relevant issues and evidence so each party is able to fully present their case.

Tribunal Members will adjourn matters to allow parties to seek advice if it is clear that a party is at a disadvantage in proceedings. Tribunal Members also use their own discretion to dismiss cases that are frivolous, vexatious, misconceived or lacking in substance.

The Tribunal encourages tenancy advocates to provide a duty advocacy service at many venues to support unrepresented tenants. Parties can also request interpreters, free of charge, for Tribunal hearings.

## Fairness and consistency

To ensure fairness and consistency in the Tribunal's decision making, cases are considered on their merits and the relevant legal principles are applied to the evidence put forward in each particular case. Each case has its own particular circumstances and parties have varying degrees of expertise in presenting their case.

Outcomes can vary due to the quality of evidence and the particular weight and relevance given to the evidence by the Tribunal Member. Tribunal Members are not bound by each other's decisions although due regard is paid to decisions of other Members. The Tribunal does, of course, follow legal precedent set by a higher court.

Fairness and consistency in Tribunal decision making is measured by:

- ▶ the level of Tribunal Member training
- ▶ the level of written complaints
- ▶ feedback from stakeholders and parties
- ▶ the number of appeals to the District or Supreme Court and the extent to which Tribunal decisions are upheld.

## Professional Practice and Review Committee

The Professional Practice and Review Committee was established by the *Consumer, Trader and Tenancy Tribunal Amendment Act 2008*, replacing the former Peer Review Panel. The Committee brings an external and independent perspective to professional development and performance building for Tribunal Members. Its function is to review and provide advice on matters referred to it by the Minister for Fair Trading, the Commissioner for Fair Trading or the Tribunal Chairperson.

The Committee is made up of two independent persons appointed by the Minister for Fair Trading, the Hon Jennifer Boland and Sharon Cook; the Tribunal Chairperson, Stuart Westgarth; Commissioner for Fair Trading, Rod Stowe; Deputy Chairperson (Determinations), Mark Harrowell; and Deputy Chairperson (Registry and Administration), Garry Wilson. The Hon Jennifer Boland is the Chair of the Committee.

Our thanks go to the outgoing two independent members, Jan McClelland and Larissa Behrendt, for their valuable contributions.

During the 2012-2013 period the Committee met once. The Act requires that the Committee review and provide advice on matters referred to it by the Minister, the Director-General, and the Chairperson. Matters referred may be related to one or more of the following: the education, training or professional development of Tribunal Members, the performance, or the management of complaints against Members, and remedial or disciplinary action to be taken in relation to any such complaints; and trends in complaints or performance.

During the reporting period there was one referral to the Committee and the Committee finalised that referral. The referral was about the conduct of a Tribunal Member. The Committee found no matters raised by the complainant warranted any action against the Member.



## Complaints management

We are committed to responding promptly to complaints about our services. The Tribunal's complaint management system is based on guidelines issued by the NSW Ombudsman and the Australian Standard: *Customer Satisfaction – Guidelines for complaints handling in organisations* (AS ISO 10002-2006/Amdt 1-2011).

Our Complaints Management Policy provides guidance to Tribunal staff and management when handling complaints or dealing with client dissatisfaction. The policy is supported and promoted in the *Making a complaint* fact sheet and other materials available at [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au).

Our complaints management system allows us to identify opportunities for service improvement and is an important aspect of our continuous improvement process. During the reporting period, 402 complainants wrote to the Tribunal, representing less than 0.5% of the total number of hearings held.

Approximately 24% of complainants expressed dissatisfaction with decisions which were not made in the complainant's favour, and asked the Minister or Chairperson to review or alter the decision.

The Tribunal recognises that there will invariably be parties who are dissatisfied with decisions made by the Tribunal or who wish to pursue matters of principle that may not be consistent with the law.

Complaints are classified around a number of aspects but predominately distinguish between complaints that relate to decision dissatisfaction and complaints that relate to dissatisfaction with service delivery due to Tribunal Member or staff conduct, inefficient service or inappropriate information provision. Complaints are reviewed thoroughly and when the Chairperson identifies matters requiring attention appropriate action is implemented.

## Tribunal Member professional development

The Tribunal assists Members in their professional development by providing opportunities to identify specific training and development needs, through performance monitoring and Member mentoring. During 2012-2013 we continued our commitment to a culture of learning and improvement across the organisation.

## Tribunal Member Conference

The annual Tribunal Member Conference was held in August 2012. Agenda items included assessment of damages, the culturally competent professional, use of social media in Tribunal proceedings, common issues in motor vehicle disputes, and divisional workshops. The Tribunal was honoured by the presence of the Minister of Fair Trading, The Hon Anthony Roberts MP, who officially opened the conference.

Presentations and discussions at the conference delivered practical information to Tribunal Members. Conference papers were uploaded to the Tribunal Members' intranet to allow ongoing access and reference.

The conference also provided an opportunity for Members to share their experiences in conducting various types of cases and to update their legal knowledge.

## Performance Assessment and Development Program

In the second half of the reporting year a structured Member Performance Assessment and Development Program linked to the Competency Framework was commenced. The Program included a self-assessment component coupled with hearing observations and Member interviews.

## Member Competency Framework

The Tribunal's Member Competency Framework is based on Australasian Tribunal best practice. The Framework articulates the knowledge, skills, behaviours and attitudes that Tribunal Members are expected to demonstrate in performing their role. This Framework is assisting in the development of further professional development activities for Tribunal Members.

## Member network groups

With a large number of part-time and regionally-based Tribunal Members, Member network groups provide a useful forum for discussion on case studies and emerging issues in the law and practice. The groups meet via teleconference on a quarterly basis, and are facilitated by Senior Members.

## eNewsletters

The Chairperson issues regular eNewsletters to keep Tribunal Members updated on legislative, operational and other issues of relevance to their work. A Member survey conducted during the year found the Chairperson's eNewsletter is a useful way for Members to receive information.

## Staff learning and development

During 2012-2013 flexible learning and development activities enhanced and maximised the performance of Tribunal registry and administrative staff. An integrated approach included a Performance Development Program, eNewsletters and topical emails and forums to promote discussion and learning.

### Registry briefing days

Registry briefing days were held regularly and brought Deputy Registrars based throughout the State into our Sydney office to meet with the Registrar and Deputy Registrars (Case Management). Senior staff from the Tribunal's Administrative Units presented information sessions at the briefing days.

These meetings facilitated discussions about case management issues, staff training needs and information sharing. The meetings also assisted in maintaining consistency in case management practices across the Tribunal, and illustrate the ongoing commitment to learning and continuous improvement.

The Registry briefing day program is highly effective in achieving consistency in procedures, the sharing of ideas and common solutions to problems, and facilitates a productive flow of information between Registry offices, particularly during times of legislative change. They also equip Deputy Registrars to deliver information to staff at the Registry level.

### R&A eNewsletter and emails

The Deputy Chairperson (Registry and Administration) issues regular newsletters and topical emails to keep staff informed about legislative and operational changes and new initiatives.

## Online procedures manual

The procedures manual is a key training tool for Registry and administrative staff, and provides an outline of the role and operations of the Tribunal. Procedures were updated and new procedures developed during the year to assist staff in undertaking their roles.

## Performance Development Program

This program provides an important opportunity to facilitate ongoing and constructive dialogue between staff and their managers about individual work performance and future training needs. All Registry and administrative staff reviewed their Performance Development Program plans during the year.

All staff are required to have an individual work and development plan, which identifies their individual key work goals, that aligns with the Tribunal's Strategic Plan, strategies on how to achieve these goals, and expected outcomes and milestones. The Plan also discusses developmental issues such as gaps between the individual's knowledge and skills and identifies ways to build on strengths and develop the individual's career.

## Other performance mechanisms

Other performance mechanisms are in place, such as review of adjournment and finalisation rates. Additional mechanisms are being developed to monitor operational performance.

Our performance reporting is transparent and is made accessible in a number of ways:

- ▶ Our Annual Report publicly accounts for the Tribunal's performance to the Minister, NSW Parliament and the broader community.
- ▶ Quarterly statistical reports are regularly discussed with the Tribunal's consultative forum members and other stakeholders.
- ▶ Relevant statistics are posted on the Tribunal's website.

# Continuous Improvement

The Tribunal is committed to its continuous improvement regime. The foundations for continuous improvement are based on a culture of innovation and includes problem solving, with the involvement of Tribunal Members, staff and stakeholders. Innovations and solutions must be cost effective and make it easier to use Tribunal services and systems.

The Tribunal's senior management team drives improvements by focussing on stakeholder requirements, measuring our performance, identifying potential improvements to Tribunal services and implementing new approaches.

Continuous improvement is an integrated and important element that underpins all the Tribunal's work. Various approaches to continuous improvement focus on bringing about measurable improvements based on systems such as feedback management and piloting projects to ascertain their efficacy and applicability in a Tribunal setting.

## Feedback Management System

An improved, integrated CTTT Feedback Management System was introduced during the year to draw together internal and external feedback streams. This new System encourages feedback and provides a more co-ordinated approach to capturing and reporting all solicited and unsolicited feedback allows it to be collected, analysed and used to inform service improvements.

Key objectives of the CTTT Feedback Management System are:

- ▶ to provide Tribunal customers, staff and Members with accessible feedback mechanisms
- ▶ to allow any dissatisfaction with Tribunal services to be dealt with fairly, consistently and confidentially, and
- ▶ to enable customer satisfaction levels to be measured and used to provide a source of information and feedback for improving Tribunal services.

Feedback forms are available online and in Registries.

## Service improvements

A strategic and project management approach is taken to service improvements. We pursue projects that make it easier for clients to access and use our services and for Tribunal Members and staff to do their work.

Projects that save time and resources receive high priority. We have established an ambitious service improvement program and we work with Tribunal Members, staff and stakeholders to introduce various service improvements to the way we deliver our services.

During this reporting period, some service improvements were being affected by capital funding issues and consideration of future technology needs when the CTTT becomes the Consumer and Commercial Division of the new NSW Civil and Administrative Tribunal (NCAT) from 1 January 2014.

### *eConnect*

*eConnect* is an online service that allows people to subscribe to receive Notices of Hearing, orders and other Tribunal correspondence by email.

During the year, the final stage of the *eConnect* project was implemented to expand this optional online service to more applicants and respondents.

Correspondence emailed to *eConnect* subscribers saves postage and administrative costs, and ensure orders and other correspondence are immediately available to subscribers. During this year, more than 111,865 emails were issued to *eConnect* subscribers.

### Video conferencing

A video conferencing capability was established with the aim of increasing access to our services for regional consumers and traders, and to offer Tribunal Members and staff another means of communication.

During the year, video conferencing was used by Registry staff to participate in meetings held at other locations. The next phase would be to expand the use of video conferencing in Tribunal hearings; this phase will be considered in light of other technological projects planned for NCAT.

## Green initiatives, waste management and recycling

The Tribunal is committed to reducing waste and recycling resources to reduce our impact on the environment.

During 2012-2013 we continued to promote and implement green initiatives and waste minimisation through various long standing initiatives, including:

- ▶ disposing of toner cartridges for Tribunal photocopiers and printers appropriately
- ▶ double-sided printing of Notices of Hearing and orders
- ▶ expanding *eConnect* to enable more parties to subscribe to receive Tribunal correspondence via email
- ▶ extending recycling programs to collect and recycle paper and waste from our seven Registry offices
- ▶ minimising energy consumption where possible
- ▶ promoting *CTTT Online* to encourage people to lodge applications over the internet
- ▶ reducing printed resources where possible, and
- ▶ using website and social media to communicate information to the community, stakeholders and to gather feedback.

These and other activities are embedded into our operating environment. This ensures resources are used effectively and efficiently, and necessary waste is disposed of in a safe and environmentally sound manner.

# Tenancy Division

## Key Facts 2012-13

### Applications

Number of applications received 31,671

• 3% decrease from 2011-2012

Number of online lodgements (53%) 16,740

#### Application types:

• Pre-agreement matters and agreements	104
• Rent and other payments	809
• Access to residential premises	96
• Repairs	575
• Alterations and additions	33
• Security and safety	24
• Change of tenants	71
• Termination for breach under s.87	1,861
• Termination for non-payment of rent	13,343
• Termination by co-tenant under s. 102	95
• Termination for other reasons	3,455
• Mortgagee repossession	15
• Occupation fee	11
• Vesting of tenancy	6
• Abandonment of residential premises	155
• Goods left in residential premises	73
• Rental bonds	4,543
• General orders	5,373
• Residential tenancy databases	44
• Renewal	44
• Rehearing	941

#### Applicants:

• Landlord	23,888
• Tenant	7,013
• Co-tenant	555
• Occupant	43
• Prospective tenant	53
• Other persons	119

### Hearings

Number of hearings 36,330

Number of adjournments 8,018

### Finalised Matters

Number of matters finalised 32,671

### Rehearings and Appeals

Number of rehearings granted 421

Supreme Court / District Court appeals 27

The Tenancy Division deals with disputes between landlords and tenants who have entered into a residential tenancy agreement.

The Tribunal has jurisdiction under the *Residential Tenancies Act 2010* to hear and determine applications from landlords, tenants, co-tenants, prospective tenants and occupants. Typical disputes that are dealt with in this Division include:

- ▶ breaching the residential tenancy agreement by failing to pay rent
- ▶ termination of agreements
- ▶ return of rental bonds
- ▶ claims for rent reduction
- ▶ claims for compensation
- ▶ co-tenant disputes
- ▶ disputes about information in tenancy databases.

The *Residential Tenancies Act 2010* does not apply to hotels and motels, boarders and lodgers, protected tenancies, and commercial or retail tenancies.

## Application trends

During 2012-2013 there were 31,671 applications lodged in the Tenancy Division. This represented a 3% decrease in the number of applications received in this Division compared to the 2011-2012 financial year.

75% of Tenancy Division applications were lodged by landlords; 24% by tenants and co-tenants; and the remaining 1% by occupants, prospective tenants and other persons.

Termination of tenancy for non-payment of rent made up 42% of all Tenancy Division applications. A further 17% were for termination relating to breaches or other reasons. Rental bond claims made up 14% of all applications.



\* Since 1 October 2008, Social Housing matters are being dealt with and reported on in the Social Housing Division Section; the data prior to 2008-2009 is not directly comparable with the other reporting periods.

# Case studies

## Going on a rent strike

Under the *Residential Tenancies Act 2010* a tenant can lodge an application to the Tribunal to seek a remedy for the landlord's breach of the residential tenancy agreement, such as a refusal to carry out repairs. Unfortunately the Tribunal often hears matters where the tenant has gone on a 'rent strike' because of a breach by the landlord. Tenants should never stop paying rent because this puts the tenant in breach of the tenancy agreement and at risk of having their tenancy terminated

At the end of the tenancy, the landlord's managing agent lodged an application with the Tribunal on behalf of the landlord seeking an order that the tenant pay rent arrears of \$2500 and cleaning and removal of rubbish costs of \$750.

At the hearing of the matter the landlord's agent appeared on behalf of the landlord and the tenant appeared in person.

The tenant argued that they should not have to pay any of the rent arrears as the roof was leaking, the landlord failed to carry out repairs and as a result there were constant mould problems. The tenant was given an opportunity to obtain tenancy advice and to file their own application for a hearing against the landlord however the tenant declined to do so. Instead the tenant chose to stop making rent payments to the landlord as a form of 'retaliation'.

The Tribunal in making its decision could only take into account the application before it. The orders for rent arrears were made as the landlord provided a Tenant Rental Ledger which showed that the rent was owed.

The tenant then argued that the landlord did not give him an opportunity to return to the premises to clean the premises and remove the rubbish. The legal obligation rests with the tenant to ensure that when the premises are returned to the landlord they are returned in the same condition as the ingoing inspection report, except for fair wear and tear. There is no obligation for the landlord to give the tenant an opportunity to return to the premises to clean and remove rubbish.

The Tribunal Member considered the ingoing and the outgoing inspection report, together with the landlord's invoices and photographs. The Tribunal Member found that at the end of the tenancy the tenant did not leave the premises in the same condition as the ingoing condition report, except for fair wear and tear. Orders were made that the tenant had to pay to the landlord rent arrears of \$2,500 and cleaning and rubbish removal costs of \$750. An order was also made for the bond to be paid to the landlord and the amount received to be credited against the money order.

## Intention to sell premises

The *Residential Tenancies Act 2010* clearly sets out the rights and responsibilities of landlords and tenants during a fixed term agreement. Section 107 provides that if a tenant breaks a fixed term agreement there is a 'break fee' payable to the landlord. Section 100 provides a number of grounds where a tenant can give a termination notice for a fixed term without compensation to the landlord.

The landlord entered into a 6 month fixed term residential tenancy agreement with the tenants. During the term of the agreement the landlord decided to offer the leased premises for sale. The tenants were notified of the landlord's intention and the property was placed on the market. The tenants gave 14 days' notice of their intention to vacate the premises during the fixed term of the agreement. The landlord lodged an application to the Tribunal seeking orders for an amount equal to four weeks' rent because the tenants vacated the premises during the fixed term of the agreement.

At the Tribunal hearing, the landlord argued that he had no intention to sell the property when he entered into the agreement with the tenants and section 100 of the Act did not apply. Section 100 of the Act provides for an early termination of a fixed term agreement in certain circumstances. One of those circumstances is that the landlord has notified the tenant of the landlord's intention to sell the residential premises and did not disclose the proposed sale before entering into the agreement.

The Tribunal Member found that the tenants were entitled to early termination without compensation to the landlord. The Tribunal found that the intention to sell the premises did not have to exist before the agreement was entered into and could arise during the tenancy. A tenant is entitled to give the landlord a termination notice to end a fixed term agreement without compensation once the landlord has expressed the intention to the tenant to sell the premises.

## Social Housing Division

### Key Facts 2012-13

#### Applications

Number of applications received **17,725**

• 10% increase from 2011-2012

Number of online lodgements (92%) **16,310**

#### Application types:

• Pre-agreement matters and agreements	4
• Rent and other payments	78
• Access to residential premises	1,833
• Repairs	219
• Alterations and additions	12
• Security and safety	11
• Change of tenants	2
• Termination for breach under s.87	737
• Termination for non-payment of rent	9,630
• Termination by co-tenant under s. 102	34
• Termination for other reasons	633
• Mortgagee repossession	0
• Occupation fee	4
• Vesting of tenancy	4
• Abandonment of residential premises	79
• Goods left in residential premises	39
• Social housing provisions	5
• Rental bonds	48
• General orders	3,993
• Residential tenancy databases	2
• Renewal	19
• Rehearing	339

#### Applicants:

• Housing NSW	11,919
• Community Housing	3,771
• Aboriginal Housing	1,207
• Tenants	813
• Occupants	2
• Other persons	13

#### Hearings

Number of hearings **21,781**

Number of adjournments **4,117**

#### Finalised Matters

Number of matters finalised **18,402**

#### Rehearings and Appeals

Number of rehearings granted **180**

Supreme Court / District Court appeals **13**

Social housing is a form of housing where the premises are owned or managed by a government, community housing or Aboriginal housing provider.

The Tribunal has jurisdiction to determine social housing disputes under the *Residential Tenancies Act 2010*. The Social Housing Division deals with disputes that relate to social housing premises where the landlord is one of the following:

- ▶ NSW Land and Housing Corporation
- ▶ Housing NSW
- ▶ Office of Community Housing
- ▶ Aboriginal Housing Office
- ▶ An organisation registered with the Office of Community Housing, or under Part 5 of the *Aboriginal Housing Act 1998*.

The Tribunal hears and determines applications from social housing providers, social housing tenants, co-tenants and occupants. The *Residential Tenancies Act 2010* applies to social housing tenancies in the same way as it does to private tenancies. The Act also has additional provisions specific to social housing, including particular grounds for termination such as that the tenant is no longer eligible for social housing.

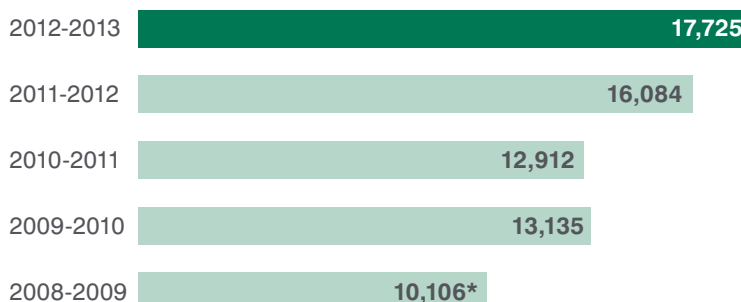
The common issues that arise in this Division include termination of the tenancy agreement for non-payment of rent, breaches of the agreement and access to premises.

### Application trends

During the 2012-2013 there were 17,725 applications lodged in the Social Housing Division. A record number of applications were received this year with lodgements up by 10% over 2011-2012.

67% of Social Housing Division applications were lodged by Housing NSW; 21% by Community Housing organisations; 7% by Aboriginal housing organisations; and the remainder by tenants and occupants.

54% of applicants sought orders for termination for non-payment of rent. 10% of applications related to access to residential premises.



\* 2008-2009 data is not directly comparable with subsequent years as the Social Housing Division was established on 1 October 2008 to deal with social housing matters separately.

# Case studies

## Unrealistic request for repairs

Under the *Residential Tenancies Act 2010* the landlord must provide and maintain the residential premises in a reasonable state of repair. Tenants have the right to request that the landlord carry out repairs to the premises. However a landlord is not always obliged to fix every small thing in the property such as cosmetic repairs.

A tenant lodged an application to the Tribunal seeking orders that the landlord had failed to provide and maintain the premises in a reasonable state of repair. She claimed that the carpets were “infected with mould” and needed replacing, the sky light was leaking, cracks were developing in the walls and ceiling and there was an overgrown bush leaning against the back of the premises and side fence.

The Tribunal conducted a special ‘on-site’ hearing at the tenant’s home, with both the tenant and landlord’s representative present. It was found that the premises were in good overall condition and that the tenant kept the premises in a clean and tidy condition. After looking at the sky light, the landlord agreed that it should be repaired or replaced as there was obvious evidence of water leaks. He also agreed that he would organise for the trimming of the overgrown bush and undertook that the repairs would be carried out within a specific period of time.

The remaining issues in dispute were the tenant’s claims that the carpet was affected by mould and causing a trip hazard in the lounge room, and that cracks in the bathroom wall and ceiling were appearing. She pulled back the carpet to show the Tribunal Member and landlord’s representative the issue and said this was causing her a very serious health risk. She also pointed out the loose threads in the lounge room carpet and the cracks in the bathroom wall and ceiling.

The landlord’s representative stated that none of the remaining issues in dispute required them to carry out work, and submitted that the rest of the premises were in a reasonable state of repair. They did not believe there was any mould issue as there were no visible moisture marks or dampness on the carpet underlay and there was no detectable smell. The landlord also stated that the wall and ceiling cracks were cosmetic only and did not require repairing. The landlord agreed to reconsider the issue about the loose threads in the lounge room carpet should they get worse.

The Tribunal Member accepted the landlord’s evidence and found that the premises were in a reasonable state of repair. Consent orders were made regarding the repair of the skylight and trimming of the overgrown bush, and the claim for the balance of repairs was dismissed.

## Disturbing the neighbours

The *Residential Tenancies Act 2010* contains special provisions that apply only to social housing. These include section 152 of the Act which the Tribunal must consider in termination applications for breach of the agreement, such as the behaviour and history of the tenant and any serious adverse effects the tenancy has had on neighbouring residents.

A social housing provider entered into a residential tenancy agreement with a tenant for a three-bedroom house where she would live with her daughter and three young grandchildren.

Soon after the tenancy started numerous complaints were received by the housing provider regarding the behaviour of the tenant, other occupants and visitors to the rental property. These included police regularly attending the property, reports of loud music, swearing and yelling, verbal abuse and threatening behaviour directed towards neighbours.

The housing provider lodged an application to the Tribunal to terminate the residential tenancy agreement on the grounds that the tenant had breached a number of terms of the tenancy agreement. At the hearing the social housing provider called three witnesses; a Police Officer who gave evidence on various incident reports and two neighbours who gave evidence of the tenant’s behaviour.

The tenant did not deny there had been bad behaviour. She told the Tribunal that her daughter suffered from a mental illness and when she had an ‘episode’ it was her practice to call the police. She conceded that people regularly come and go from the property but they were family, and she had since instructed them not to visit anymore. She asked that her tenancy not be terminated as her income was too low to afford a private rental.

In determining the application for termination, the Tribunal considered the additional social housing provisions under section 152 of the *Residential Tenancies Act 2010*. The Tribunal was satisfied that the tenant had persistently breached the behaviour terms of her agreement to the extent that the police were required to attend on numerous occasions. The tenant had been warned of the consequences of continuing these breaches, but they had continued after the notice of termination was served on her.

Having considered the evidence, the Tribunal was satisfied that the grounds required to terminating the tenancy agreement were made, and final orders were made ending the tenancy.



# General Division

## Key Facts 2012-13

### Applications

Number of applications received 6,541

• Lodgements comparable with 2011-2012

Number of online lodgements (41%) 2,711

### Application types:

• Goods 3,076

• Services 2,741

• Consumer issue (not identified) 240

• Conveyancing 4

• Holiday parks 101

• Pawnbrokers and second hand dealers 17

• Renewal 55

• Rehearing 307

### Applicants:

• Consumers 6,300

• Other parties 241

### Hearings

Number of hearings 7,825

Number of adjournments 3,738

### Finalised Matters

Number of matters finalised 6,859

### Rehearings and Appeals

Number of rehearings granted 126

Supreme Court / District Court appeals 8

Consumer claims against businesses regarding the supply of goods or services make up the bulk of disputes dealt with in the General Division. The Tribunal has jurisdiction under the *Consumer Claims Act 1998* to determine disputes about any goods or services, including goods purchased over the internet.

The Tribunal also has jurisdiction under the *Holiday Parks (Long-term Casual Occupation) Act 2002*, *Pawnbrokers and Second-hand Dealers Act 1996* and *Conveyancers Licensing Act 2003*.

The matter types determined in the General Division are:

- ▶ Consumer claims against a supplier carrying on a business (not a private person). A 'consumer' can be an individual who is provided with goods or services for private purposes, or some types of businesses or companies, which use the goods or services for business purposes.
- ▶ Long-term casual occupants of a holiday park (where a person's holiday van is left in a caravan park and is used on weekends or regularly for holidays).
- ▶ Pawnbrokers and second-hand dealers disputing a person's claim to goods on which money has been lent, or where the goods are suspected of being stolen and police require the return of the goods to their rightful owner.
- ▶ Consumers or conveyancers disputing costs payable for conveyancing work.

From 1 July 2013, the Tribunal will also resolve disputes between residents and proprietors about the occupancy principles under the *Boarding Houses Act 2012* (refer to **Appendix 1**).

## Application trends

During the year there were there were 6,541 applications lodged in the General Division. Lodgements in this Division are comparable with 2011-2012 application volumes.

96% of applications were lodged by consumers this year. Most applicants sought orders relating to goods (47%) or services (42%). A further 1.5% of applications were about holiday parks and several applications were lodged under pawnbroker and conveyancing legislation.

The main consumer complaints related to furniture/furnishings/manchester, household electrical goods/whitegoods, travel/tourism, professional services, clothing/footwear, advertising and publishing, computer hardware, household products and removalist services.



# Case studies

## Online subscriptions

Consumers are increasingly entering into online contracts and subscriptions which may have an auto-renewal provision in the contract. It pays to take special notice of any auto-renewal provisions in a contract, and to keep records of any online invoices, emails and telephone conversations in case things go wrong and you need to provide evidence in a case before the Tribunal.

A self-employed tradesman engaged an online advertising company to improve his business listing on internet search results in his local area. He signed up for the company's 12-month platinum package for search engine optimisation for \$499. The contract contained a statement concerning the auto-renewal of the contract at the end of the 12 months "unless you call 14 days before your renewal date at the end of the 12 months".

At the end of the 12 months the tradesman decided not to renew the contract as he felt he was not getting the search results for the categories which he had requested. He thought that was the end of the matter until he received a demand for payment of \$631.21 from a debt collection agency one year later. The tradesman then lodged a consumer claim application to the Tribunal seeking relief from paying \$631.24.

At the Tribunal hearing, the applicant tradesman gave evidence that he had telephoned and then sent a follow-up email to the company advising them he did not wish to renew the contract. He also claimed that he received nothing in relation to payment or renewal for the following year until he received the debt collector's notice for \$631.24.

The respondent company claimed that the applicant was notified of the auto-renewal by email, however they were unable to verify this as the sales representative who dealt with the customer at the time no longer worked for their company.

On the evidence, the Tribunal was satisfied that the applicant had telephoned and then sent an email to the company to advise he would not be renewing his contract. The Tribunal was also satisfied that the applicant did not receive any email alerts about the auto-renewal for the following year. Orders were made that the applicant was not required to pay the amount demanded by the supplier.

## Cancelled gym membership

A gym membership is a contract and a legally binding agreement between two parties. Once entered into both parties are bound by the terms and conditions of that contract. If a consumer wants to cancel or terminate their gym membership early, they need read the terms and conditions of the contract carefully to see what is required.

A consumer signed up for a 'month by month' gym membership for \$69 per month to be paid by direct debit. A couple of months later she decided to cancel her membership and was advised by a gym employee that she would need to give 30 days' notice and complete a form to cancel the membership. She completed the form and left it with the gym, not retaining a copy for herself.

Several months later, the consumer discovered that the \$69 monthly payments were still being deducted from her bank account. When she approached the gym they told her that she was not entitled to a refund as she had terminated her gym membership within 12 months of the membership and was liable pay the balance of the 12 month term.

The consumer lodged an application to the Tribunal seeking a refund of the fees debited from her account since the cancellation. When they arrived at the Tribunal the parties were asked to attempt conciliation. In conciliation the gym still refused to offer a refund but said they were willing to provide the service to be used by the consumer for the period of time paid for. The applicant did not accept this and indicated she wanted to proceed to hearing.

At the hearing the Tribunal Member listened to the evidence of both parties. The gym's records indicated that the consumer did not attend the gym for the entire 9 months. The respondent gym also produced a general email and some handwritten notes claiming that it had attempted to contact the consumer during those 9 months. The Tribunal was not satisfied that such attempts had been made.

The Tribunal was satisfied that the terms of the gym membership contract allowed for a cancellation of the membership "with a minimum notice period of 30 days" and that the consumer had duly completed the cancellation form and left it with the gym. Orders were made for a refund of \$621 to the consumer.

## Home Building Division

Key Facts 2012-13	
<b>Applications</b>	
Number of applications received	3,703
• 5% decrease from 2011-2012	
Number of online lodgements (30%)	1,113
<b>Application types:</b>	
• Claims under / equal to \$30,000	2,719
• Claims over \$30,000	580
• Rectification order	92
• Appeal against Director General's decision	2
• Renewal	77
• Rehearing	233
<b>Applicants:</b>	
• Consumers	2,790
• Traders	903
• Insurers	5
• Other parties	5
<b>Hearings</b>	
Number of hearings	7,871
Number of adjournments	5,830
<b>Finalised Matters</b>	
Number of matters finalised	3,914
<b>Rehearings and Appeals</b>	
Number of rehearings granted	95
Supreme Court / District Court appeals	28

'Home building' refers to any residential building work done by a building contractor or tradesperson. This may include the construction of a new home, building an extension on an existing home, the installation of a swimming pool, or the renovation of a bathroom or kitchen.

Under the *Home Building Act 1989* the Tribunal has jurisdiction to determine disputes between consumers, traders and insurers concerning residential building work up to the value of \$500,000. Typical scenarios include a builder who asks the Tribunal to require a home owner to pay for building work; or a home owner who wants the Tribunal to make an order to rectify defective work; or where the building work has been completed but not as detailed in the building contract.

Legal representation is more likely in home building disputes than in any other division due to the large sums of money involved and the complex legal issues that often arise.

Except in some specified categories, all home building disputes must first be dealt with by NSW Fair Trading's Home Building Service using alternative dispute resolution. The Tribunal is required to provide the Home Building Service with a copy of any adverse order made against a builder or licensed tradesperson.

Chairperson's Directions set out the procedures to be followed in home building matters when the amount claimed is over \$30,000 and procedures for the acceptance of home building claims. Additionally, the Tribunal is undertaking a pilot program to streamline the management of over \$30,000 home building matters. The aim of the pilot is to find new and more efficient ways to deal with such matters expeditiously.

### Application trends

During the year there were there were 3,703 applications lodged in the Home Building Division. This represented a 5% decrease in lodgements following the record application volumes in 2011-2012.

Consumers lodged just over 75% of applications this year, a similar proportion to 2011-2012, and traders or sub-contractors contributed 24% of applications, a slightly higher proportion to last year.



# Case studies

## Statutory warranties and an action in negligence

The *Home Building Act 1989* contains time limits for bringing an application in the Tribunal. Recent decisions of the Tribunal and the Supreme Court have considered availability of claims in negligence.

A staged development took place on land on the North Coast close to the ocean. The builder entered into a contract with the developer some time in 2001 to construct two blocks consisting of a number of units in each block together with undercover parking. One strata plan was registered on 5 November 2002 and the other was registered on 18 November 2002. The Occupation Certificate for both buildings was issued by the local authority on 20 November 2002.

The Owners Corporation brought an action against the builder on the basis of negligence, claiming that various construction works were defective and in breach of the statutory warranties implied by section 18B of the *Home Building Act 1989*. The Tribunal proceedings commenced on 19 November 2009, that is, seven years less one day after the Occupation Certificate had been issued.

The builder contended that the Owners Corporation's claim was out of time and should be dismissed (the then time limit was 7 years after the works were completed). It also challenged the entitlement of the Owners Corporation to bring the claim in negligence.

*When was the building work completed?* The Tribunal was of the view that the works must have been completed before the Occupation Certificate was issued on 20 November. The builder asserted practical completion on 1 October. However, the Council issued a list of works to be completed on 3 October which the Tribunal found were not works minor in nature. Thereafter the Council, as certifier, signed the Strata Certificate for registration of the plan on 1 November, a matter indicating the works were completed. Therefore, the Tribunal held that the latest date of completion was 1 November 2002. Thus the claim for breach of the statutory warranties was out of time.

*Was a claim in negligence maintainable?* The Owners Corporation asserted that the builder had a duty to take reasonable care to ensure that the works were built in accordance with the plans and specifications and complied with all relevant standards and requirements.

The Tribunal was satisfied it had jurisdiction to hear the claim and determined that the Owners Corporation was vulnerable as that concept has been developed in *Perre v Apand Pty Ltd [1999] 198 CLR 180* and in *Woolcock Street Investments Pty Ltd v CDG Pty Ltd [2004] 216 CLR 515*.

However, the Tribunal also determined it was bound by decisions of the Supreme Court, including *Owners Corporation Strata Plan 72535 v Brookfield [2012] NSWSC 712* and *Owners Corporation Strata Plan 61288 v Brookfield Multiplex and Anor [2012] NSWSC 1219* and therefore was obliged to dismiss the claim.

**Postscript:** The decision in *Owners Corporation Strata Plan 61288 v Brookfield* has recently been overturned by the Court of Appeal (see *Owners Corporation Strata Plan 61288 v Brookfield Australia Investments Ltd [2013] NSWCA 317*) which reaffirmed that an owners corporation could be vulnerable and able to maintain a claim in negligence in appropriate circumstances for defective building work.

## Case management and dispute resolution processes

The *Consumer, Trader and Tenancy Tribunal Act 2001* requires the Tribunal to act as expeditiously as possible and meet its duty to use its best endeavours to bring the parties in the proceedings to a settlement that is acceptable to all parties.

The building, the subject of the dispute, was constructed by a predecessor in title. The building consisted of two separate living areas and, after construction, was subdivided and sold so that each of the living areas became Torrens title property owned by different successors in title. Each of the two applicants, being the successors in title, filed applications in the Tribunal appealing against an insurer's denial of liability under a home owners warranty insurance policy following the identification of defects in the building.

Issues in dispute included whether the insolvent builder, who requested the home owners warranty insurance policy, was in fact the builder that constructed the work and whether or not the policy in question indemnified both or only one of the applicants having regard to the insurance cover provided. There was also a question as to what was the limit of the indemnity applicable in connection with each applicant's claim.

All parties were legally represented, following a grant of leave by the Tribunal. Each claim was for an amount well in excess of \$30,000.

Case management techniques necessary to ensure the expeditious resolution of the dispute included making directions for the filing of points of claim and points of defence (so each party could outline their position), requiring the early disclosure of relevant documents by the insurer to the applicants, identifying with the parties the critical issues for determination, and providing limited but directed summonses to be issued to facilitate production of documents from third parties in possession of essential information. The flexible approach which the Tribunal is able to adopt in managing complex cases enabled it to assist the parties in a way that avoided unnecessary applications and the expenditure on costs often incurred in the more traditional style of litigation conducted in courts. The Tribunal was proactive in its discussion with the parties and their legal representatives about the real issues in dispute. These discussions were designed to simplify and narrow the matters for final determination.

Early exposure of the differences between the parties while maintaining momentum in case preparation towards an early hearing date provided an environment in which the parties were able to understand the differences, recognise the risks and reach an early settlement which saw the dispute finalised within three months of its first directions listing date and about four months from when the application was first made.

# Residential Parks Division

## Key Facts 2012-13

### Applications

Number of applications received 1,966

• 15% decrease from 2011-2012

Number of online lodgements (9%) 171

#### Application types:

• Excessive rent / excessive rent increase 1,487

• Termination 179

• Breach / compensation 106

• Other 139

• Recognition as a tenant 0

• Rental bond 4

• Renewal 37

• Rehearing 14

#### Applicants:

• Resident 1,739

• Park owner 227

• Occupant 0

### Hearings

Number of hearings 2,690

Number of adjournments 810

### Finalised Matters

Number of matters finalised 2,459

### Rehearings and Appeals

Number of rehearings granted 9

Supreme Court / District Court appeals 0

A 'residential park' may also be known as a caravan park, manufactured home estate, mobile home village or relocatable home park. Residents of a park may own their caravan or manufactured home and rent the site from the park owner, or may rent accommodation that is owned by the park owner. The resident and park owner are required by law to sign a residential site agreement, moveable dwelling agreement or residential tenancy agreement depending on the situation.

This Division applies to people who live permanently in a residential park. It does not apply if the residential park is not the principal place of residence, or if the site is rented for holiday purposes (these applications are dealt with in the General Division under the *Holiday Parks (Long-term Casual Occupation) Act 2002*).

The Tribunal has jurisdiction under the *Residential Parks Act 1998* to hear and determine applications from both park residents and park owners. The types of disputes that arise include excessive rent claims, withdrawal of services and facilities, breaches of the agreement, termination, and alterations and additions to a moveable dwelling or residential site.

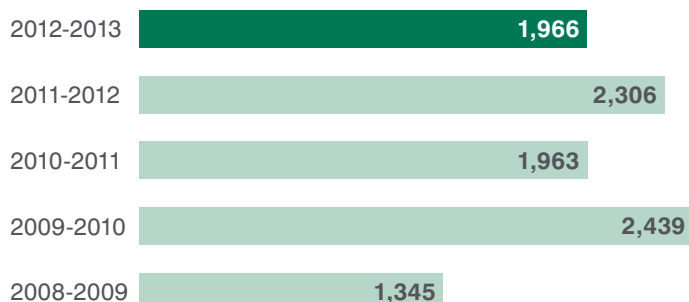
In this Division, the Tribunal regularly receives a large number of concurrent applications from groups of residents from the one park concerning the same issues and seeking similar orders. These 'multiple' applications are case managed collectively and are listed together for conciliation and hearing at the same time.

## Application trends

During the year there were there were 1,966 applications lodged in the Residential Parks Division. The volume of applications fluctuated during the year, with a large spike in lodgements during November 2012. Overall there was a 15% decrease in applications compared with 2011-2012.

88% of applications were lodged by park residents and 86% of these applications were about excessive rent increases; a further 4% related to breach or compensation matters.

The 12% of applications lodged by park owners largely sought termination of tenancy or orders concerning breach or compensation issues.



# Case studies

## Rules to live by

A park owner may make park rules about the use, enjoyment, control and management of the park. However, if a dispute arises in relation to the legal validity of a park rule an application may be made to the Tribunal by any resident or by the park owner or manager.

Rules are a part of life in most residential parks. They can cover topics such as noise limits, motor vehicle speed limits, parking, garbage disposal, pets, playing games and sport, use and operation of park facilities, home maintenance standards, reasonable landscaping rules, safety of persons and property within the park, parking of cars, and boats and trailers, among others.

A group of residents of a residential park on the central coast sought to challenge the validity of a number of existing park rules. They brought applications to the Tribunal pursuant to section 90 of the *Residential Parks Act 1998*.

In its reasons for decision the Tribunal complimented the parties on the goodwill shown during the proceedings, which resulted in negotiations leading to the resolution of a number of issues.

In relation to the balance of the rules in dispute, the Tribunal explained that a rule will be invalid if it is inconsistent with the Act or any other Act or law (section 62(3)). Also a park rule that is inconsistent with the residential site agreement is invalid to the extent of the inconsistency (section 63).

One example of invalidity related to rules seeking to restrict who could drive on park roads or demand to inspect person's licences and registration papers. The Tribunal found these rules were invalid as the park roads were public roads and the rules were inconsistent with the relevant traffic legislation.

Another example was a rule which purported to require tradesmen to satisfy the park owner of their qualifications prior to embarking on any work. The Tribunal commented that the park owner was not the employer of the tradesman and the requirement to provide the particulars sought were beyond the use, enjoyment, control and management provisions of the legislation.

Of 31 rules under consideration, the Tribunal upheld 15 and set aside 13. The remaining three rules were either withdrawn or amended by agreement of the parties.

## Rent increase not excessive

Excessive rent increase applications are the most common type of residential park application received by the Tribunal. When determining an excessive rent increase application, the Tribunal must take into account the factors set out under section 57 of the *Residential Parks Act 1998* when making its determination.

The Tribunal received 28 applications from residents of the same residential park situated on the NSW mid-north coast, seeking orders that a recent notice of rent increase of \$4 per week was excessive. The matter was listed together for a special on-site conciliation and, although the parties discussed the issues in good faith, they were unable to resolve the dispute.

At the hearing, the Tribunal Member considered the factors set out under section 57 of the Act in relation to the applications. Concerning the general market level of rents for comparable premises, the residents submitted four parks as evidence. However the Tribunal considered two parks not to be in a comparable location, and the other two not with comparable rents.

The Tribunal also considered the value of the residential premises, the frequency and amount of previous rent increases, the consumer price index, outgoings borne by the park owner, the cost of services, the accommodation and amenities provided and the state of repair and general condition of the park.

The Tribunal found that it was an extremely well maintained park, of which both the applicants and respondents should be proud, with shared access to facilities provided to both residents and tourists. The Tribunal also found that the costs borne by the park owner would have increased having regard to the increased costs for essential utilities such as water usage, sewerage charges, electricity and staff wages.

Based on the evidence provided, the Tribunal found that the park residents were unable to establish that the rent increase was excessive, and the application was dismissed.

## Strata and Community Schemes Division

<b>Key Facts 2012-13</b>	
<b>Applications</b>	
Number of applications received	1,612
• 10% increase from 2011-2012	
Number of online lodgements	n/a
<b>Adjudication</b>	
• Strata schemes	1,176
• Community schemes	33
<b>Tribunal hearings</b>	
• Strata schemes	359
• Community schemes	44
<b>Application types:</b>	
<b>Adjudication</b>	
• General orders and other	537
• Interim orders	220
• Appoint strata manager	145
• By-laws	124
• Meetings, decisions and records	87
• Property	70
• Contributions and levies (strata schemes)	24
<b>Tribunal hearings</b>	
• Appeal	185
• Penalty	174
• Unit entitlement	26
• Initial period	10
• Other	5
• Amend or revoke Tribunal order	2
• Caretaker contract	1
• Contributions and levies (community schemes)	0
• Appoint managing agent (community schemes)	0
• Restricted property	0
• Revoke or vary management statement	2
<b>Applicants:</b>	
• Lot owners	1,070
• Owners corporation	517
• Occupiers	8
• Other party	17
<b>Hearings</b>	
Number of hearings	771
Number of adjournments	516
<b>Finalised Matters</b>	
Number of matters finalised	1,546
<b>Rehearings and Appeals</b>	
Number of rehearings granted	n/a
Supreme Court / District Court appeals	5

A 'strata scheme' is a building or collection of buildings where individuals own their apartment or townhouse as well as sharing ownership of common property, such as driveways, foyers and gardens. A strata scheme may also comprise commercial property, for example, shops and offices. Strata schemes vary in size, some comprising only two lots and others having more than 500 lots.

A 'community scheme' also involves a system of property ownership made up of lots or units which may be subdivided into strata schemes or other smaller community or neighbourhood schemes.

The common property in community schemes forms a separate lot with its own lot number, but similar to a strata scheme, all lot owners share in the common property. These schemes are set up to allow for multiple dwellings on one piece of land. They may range from rural subdivisions to large closed communities with recreational facilities such as tennis courts or a golf course.

The Tribunal has jurisdiction under the *Strata Schemes Management Act 1996* and *Community Land Management Act 1989* to hear and determine disputes about strata and community schemes. Under these Acts, mediation must usually be attempted before the Tribunal can accept an application. Mediation is generally conducted by NSW Fair Trading, however other mediation services may also be used, such as those run by Community Justice Centres, or a private mediator may be engaged.

Most disputes in this Division are determined by an Adjudicator. All parties in the scheme, or those parties who may be affected by the order sought, are invited to make written submissions. The Adjudicator's decision is then made 'on the papers' without the need for a hearing. The types of disputes include disputes about the by-laws or appointment of a managing agent.

The Adjudicator can refer disputes to the Tribunal for hearing, for example when complex issues are involved. Parties can also appeal to the Tribunal from an Adjudicator's decision.

### Application trends

During the year there were there were 1,612 applications lodged in this Division. The volume of applications was 10% higher than 2011-2012 and marked the highest number of lodgements ever recorded in this Division.



# Case studies

## Breach of noise by-laws

The rules governing strata schemes are called by-laws. The Act and Regulations contain typical sets of by-laws for different types of schemes, including residential, commercial and retirement villages. By-laws can be enforced in two ways first, by the Notice to Comply procedures and by an application to an Adjudicator, seeking orders to revoke or amend a by-law, or simply seeking an order that an owner comply with the provisions of the by-law.

The applicant demanded that the unit below her be recarpeted with underlay to prevent the transmission of noise. In support of her application, she attached multiple letters of complaint addressed to various occupants, tenants and the respondent. All of the letters were written by the applicant herself. In addition, the applicant collated a number of observations to give the impression that all persons (tenants past and present) living in the unit below her were disturbing her enjoyment of her lot between 11pm and 7am on most nights. The applicant referred to the unit occupants as “inappropriate tenants” who had “a party of young people” on at least one occasion.

The applicant claimed that even though she was located above unit one, installation of appropriate underlay and carpeting would prevent noise from travelling upwards.

The Adjudicator declined to make orders as there was no expert evidence to support the submission that the installation of underlay and carpet would prevent noise of the nature described by the applicant from travelling upwards, namely noise created by the respondent’s tenant entertaining “young people”.

The respondent denied her tenants were making excessive noise. She argued that the unit was already carpeted and that doors had been adjusted to deal with constant complaints from the applicant. The complaints had caused distress to the respondent, as she had lost a number of reliable tenants following frequent complaints concerning noise from the applicant.

The Adjudicator declined to make the orders as there was no evidence corroborated or expert, to support the applicant’s claim that increased noise has travelled upward to her unit and the Adjudicator could not find that the breaches had been established. The by-laws did not state that no noise can be transmitted in a strata scheme.

Even if noise had emanated from the unit such as to interfere with the reasonable enjoyment of the applicant, in the absence of any evidence from an acoustics expert confirming that new carpet and underlay would stop noise travelling, it would be unreasonable to subject the respondent to the cost of replacement carpet, in circumstances where the unit was already carpeted, except for wet areas.

The Adjudicator was not satisfied that there has been a breach of the by-laws by the respondent or her tenants and dismissed the application.

## Unreasonable refusal

Pursuant to section 158 of the *Strata Schemes Management Act 1996*, an Adjudicator may make an order prescribing the making, amendment or repeal of a by-law if the Adjudicator finds on application made by an owner that the owners corporation has unreasonably refused to make a by-law.

A lot owner wanted to remove two common property walls within her lot and make use of the space thereby created. She put two motions to the Owners Corporation in a general meeting to remove the common walls, and to make an exclusive use by-law in respect of the space provided. Both motions were defeated.

Following an unsuccessful attempt at mediation, she lodged an application for adjudication. Only one written submission was received from another lot owner expressing concern about the noise and inconvenience that the works would produce, and that the vibration might cause cracks in the aged building.

The application sought orders under s153 (orders invalidating resolution of Owners Corporation) and s158 (orders with respect to by-laws conferring exclusive rights or privileges over common property) of the *Strata Schemes Management Act 1996* (the Act).

The Adjudicator had no power to review the refusal of the Owners Corporation to pass a motion other than to invalidate the decision under s153. However, under s158 he was able to consider whether the Owners Corporation had unreasonably refused its consent to the terms of the proposed by-law and, if so, to order it to make the by-law.

The Adjudicator observed that the minutes of the general meeting did not record the Owners Corporation’s reasons for refusing the motions. However, the Adjudicator stated, in order to make the determination it was necessary to consider what information was before the Owners Corporation at the time the decision was taken.

The applicant had provided an engineer’s report in regard to the safety and integrity of the building if the works were to be carried out. Further there was provision in the proposed by-law for insurance and for the liability of the applicant lot owner for any damage caused.

The Adjudicator observed that works would naturally cause some noise and inconvenience, but again the by-law required that the works be carried out expeditiously, during working hours and with minimum disruption to other lot owners.

The Adjudicator expressed himself to be, on balance, satisfied that the proposed by-law dealt with all concerns raised and found that the decision to refuse to make the by-law was unreasonable.

The Adjudicator’s order was that the Owners Corporation was to make the by-law in the terms set out in the motion put to them in the general meeting and to take all necessary steps to have it registered.



# Motor Vehicles Division

## Key Facts 2012-13

### Applications

Number of applications received 1,857

• 13% increase from 2011-2012

Number of online lodgements (41%) 756

### Application types:

• Contractual 226

• Defective / faulty new cars 274

• Defective / faulty used cars 482

• Overcharging 51

• Repairs 521

• Warranties new cars 64

• Warranties used cars 91

• Renewal 39

• Rehearing 109

### Applicants:

• Consumer 1,790

• Other party 67

### Hearings

Number of hearings 2,652

Number of adjournments 1,489

### Finalised Matters

Number of matters finalised 1,939

### Rehearings and Appeals

Number of rehearings granted 41

Supreme Court / District Court appeals 9

Consumers who have a dispute about a new or used motor vehicle purchased from a motor dealer, or who are unhappy with repairs done to their vehicle, can lodge an application in the Motor Vehicles Division.

The Tribunal has jurisdiction to hear and determine motor vehicle disputes under the *Consumer Claims Act 1998*, *Fair Trading Act 1987*, *Motor Dealers Act 1974* and the *Motor Vehicle Repairs Act 1980*, depending on the issue involved.

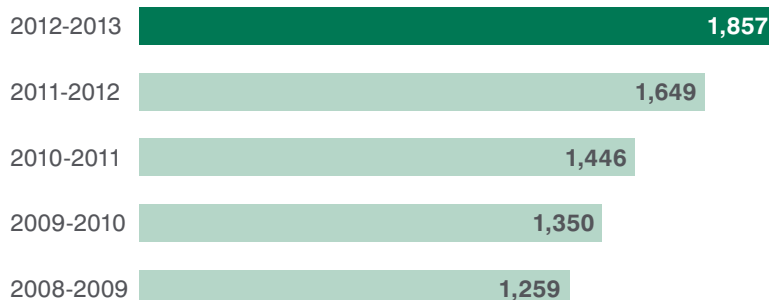
Applications can be made about vehicles used for private or business purposes. A 'motor vehicle' can be a new or used car, motorcycle, tractor or other powered vehicle on wheels. Typical issues that may arise in this division include unsatisfactory repairs and maintenance, defective or faulty used and new cars, overcharging for services, and disputes about warranties.

The maximum claim in the Motor Vehicles Division is \$30,000, except when the dispute relates to the purchase of a new motor vehicle used for private purposes and then orders can be made for any sum of money.

## Application trends

During 2012-2013 there were 1,857 applications lodged in the Motor Vehicles Division. This year saw the highest number of applications ever lodged in this Division, with a 13% increase over the 2011-2012 record. Applications in this Division have shown a steady increase over the past five years.

28% of applications related to repairs; a further 26% were about defective or faulty used cars. The other issues of major concern to parties were contractual problems (12%) and defective or faulty new cars (15%).



# Case studies

## Faulty clutch claim

Under the Australian Consumer Law a supplier must ensure that its services are rendered with due care and skill. For a consumer claim against a supplier to be successful, the applicant must prove to the Tribunal that the supplier has not complied with this obligation under the ACL.

A consumer purchased a luxury sports coupe from a motor dealer with a 5 year extended warranty which covered the vehicle up to 100,000kms. Three years later the vehicle had travelled 53,000 kms when the consumer reported an issue with the clutch describing a “crunching noise”. The service centre inspected the clutch and the clutch operation appeared normal. Over the following weeks, the consumer continued to report problems with the clutch. Each time the clutch was inspected and tested but no faults could be found.

Two months later the vehicle had a total clutch failure and repair work was carried out under warranty to replace a faulty clutch slave cylinder assembly. However the consumer made a further complaint that the clutch was noisy and did not “feel good” since the cylinder was replaced. After making an initial complaint with NSW Fair Trading, he then lodged an application to the Tribunal for orders that the dealer replace the clutch and components under warranty.

At the Tribunal hearing the applicant contended that the vehicle had a faulty clutch mechanism caused by excessive wear and should be repaired under the extended warranty. He produced an expert assessment stating: “Performed road test – all ok but clutch does not feel good”. The respondent contended there was no clutch fault and the clutch operation was normal. The respondent’s service manager gave evidence that the clutch life in this vehicle type under normal operation was on average 100,000kms. He stated that a visual inspection of the vehicle clutch plates showed an estimated wear of 80% which was expected for the mileage of the vehicle, and that the noise described by the consumer was consistent with the normal operation of the vehicle.

The Australian Consumer Law (ACL) requires the supplier to provide its services with due care. In this matter the respondent’s duty was to investigate for a clutch fault and, if found, repair the clutch under the extended warranty. The Tribunal found that the respondent had complied with its obligation under the ACL and investigated every complaint made by the applicant about the vehicle clutch operation and found no faults. Orders were made dismissing the application.

## Classic car restoration

An applicant to the Tribunal has the ‘onus of proof’ in establishing their claim. In consumer claim matters, this means that the consumer has to prove they did not get what they bargained for. The Tribunal makes its determination on the balance of probabilities and the available evidence.

The owner of a 1950’s American classic car engaged a custom vehicle restorer for a paint restoration of the vehicle. It was always understood between the parties that the vehicle was a “show car” and never road driven. The final cost of the restoration work was \$39,500. The owner was unhappy with the final finish and emailed the restorer detailing a number of defects. The restorer carried out the rectification work, but the owner continued to be unhappy with the finish and lodged an application to the Tribunal for a refund of \$30,000 on the grounds that the paint work was defective.

At the Tribunal hearing the applicant stated that the paint work on the vehicle was a “soft finish” which was detrimental to the longevity of the paint and meant that the vehicle could not be taken outside. He provided an expert report which concluded that the paint film build was excessive and “the vehicle does not meet a commercially acceptable industry standard refinish for this make and age of vehicle and hence requires rectification”.

The respondent agreed with the applicant’s expert evidence in relation to the finishing of standard commercial vehicles, but stated that it was not valid as it did not apply to “show vehicles”. The respondent then called three witnesses who were experts in the field of “show cars”. They each gave evidence on the difference between a commercial finish and a show finish. It was agreed by all of the witnesses that it was standard practice to use a much higher film build of between 300 and 400 microns of paint on custom show vehicles, as the softer paint allowed the vehicle to be sanded and buffed to a very high gloss show finish.

The Tribunal was satisfied that the applicant made it clear to the respondent that the purpose of the paint restoration was for a show vehicle and not a commercial vehicle, and that the vehicle was never going to be driven on the road. The Tribunal found that the applicant told the respondent he wanted a “show vehicle finish” and there was no evidence that the respondent’s work was defective. Orders were made dismissing the application.

# Commercial Division

## Key Facts 2012-13

### Applications

Number of applications received 122

• 23% decrease from 2011-2012

Number of online lodgements n/a

### Application types:

• Agricultural tenancy—access	5
• Agricultural tenancy—farm condition	8
• Agricultural tenancy—improvements	0
• Property, Stock and Business Agents	106
• Travel Compensation Fund	0
• Renewal	0
• Rehearing	3

### Applicants:

• Consumer	99
• Credit provider	2
• Debtor	7
• Director General	3
• Farm owner	5
• Farm tenant	5
• Guarantor	0
• Mortgagee	1
• Mortgagor	0

### Hearings

Number of hearings 249

Number of adjournments 183

### Finalised Matters

Number of matters finalised 112

### Rehearings and Appeals

Number of rehearings granted 2

Supreme Court / District Court appeals 1

The Commercial Division has jurisdiction to deal with disputes under the *Property, Stock and Business Agents Act 2002* and *Travel Agents Act 1986* including appeals against Travel Compensation Fund decisions and commission fees charged by agents.

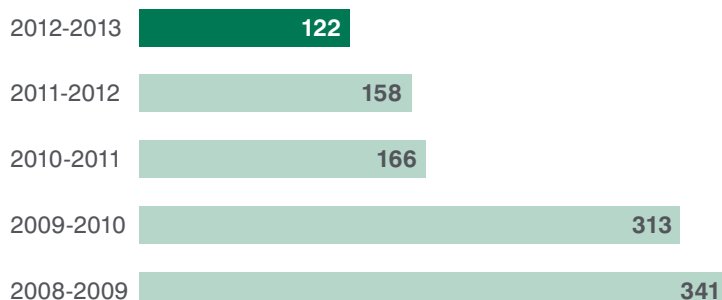
From 1 August 2012, the Commercial Division acquired a new jurisdiction under the *Agricultural Tenancies Act 1990*. The Tribunal can now resolve disputes relating to land deterioration or land condition, weed growth, financial benefits flowing from the use of the land or making of improvements, and termination of a farm tenancy (refer to **Appendix 1**).

The most common type of dispute that arose in this Division was from consumers seeking a determination of reasonable agent's commission fees.

## Application trends

During 2012-2013 there were there were 122 applications lodged in the Commercial Division. Lodgements in this Division have continued to decrease following the transfer of credit jurisdiction to the Commonwealth. As a result, 87% of applications this year related to the Property, Stock and Business Agents legislation, and 11% related to agricultural tenancy disputes.

81% of applications were lodged by consumers, with just a few applications lodged by debtors, credit providers and others.



# Case studies

## Property mismanagement

Under the *Property, Stock and Business Agents Act 2002* the Tribunal can review the commission payable by a consumer to a real estate agent in respect of the management of a rental property. Any additional claims for compensation for a breach of contract are determined under the *Consumer Claims Act 1998*.

The owner of a rental premises lodged an application to the Tribunal seeking a total refund of all fees paid to a real estate agency for the management of the property over a 12 month period, and damages for breach of contract and negligence.

At the Tribunal hearing, only the applicant property owner appeared. There was no appearance from the respondent real estate agency.

The owner explained that she had engaged a local real estate agent to manage her rental property while she was living overseas. The managing agency agreement required her to pay a 7.7% fee of all moneys collected, received or recovered to manage on her behalf, and the agency was to manage all aspects of the rental including accounting for all moneys collected, received, paid or used in respect of the property, and taking reasonable steps to ensure any goods and services obtained for the property were at a competitive price.

The owner submitted numerous emails between herself and the managing agent regarding the management issues. She explained that she had authorised the purchase of a new stove for the rental property quoted to her at \$500, but returned to find that the old stove had been repaired instead. She had also authorised payment for the installation of a replacement wooden staircase for \$1,500 and found that \$800 had been spent to replace only the stair treads leaving the rotten boards underneath. The owner also gave evidence that the agent had failed to account for 26 days rent.

The Tribunal was satisfied that the applicant had established that there was a mismanagement of the rental property. Although the Tribunal accepted that the applicant had been put to considerable trouble, stress and inconvenience as a result of the managing agent's actions, it did not accept that there had been a total failure on behalf of the respondent agent in respect of the property management.

Final orders were made for the payment of the unaccounted rental payments, compensation for the mismanaged repair of the stove and wooden staircase, and a partial refund of management fees of \$1000.

## Agricultural tenancy mediation

The *Agricultural Tenancies Act 1990* regulates the rights and responsibilities of land owners, tenants and sharefarmers. At the Tribunal, agricultural tenancy disputes may be listed for mediation with a Tribunal Member who has knowledge of and experience with farming. Any settlement reached during mediation is made into a binding and enforcement Tribunal order.

A farm owner leased a farm property in northern NSW to two tenants under an agricultural tenancy agreement. As part of that agreement, the tenants were to ensure the control and management of noxious weeds on the property.

In late summer the farm owner wrote to the tenants requesting that they attend to some weeds that were germinating in a number of paddocks, most notably 'Bathurst Burr', a listed noxious weed that commonly grows in grazing pastures with seedlings poisonous to livestock and burrs that cause wool contamination. The farm owner wrote that it was important to ensure the burrs were "well attended to" before they seeded. He also wrote that if the work was not done within a reasonable time he would attend to the work himself and seek reimbursement for costs.

Four months later the farm owner carried out the weed control on the property for the Bathurst Burr and other weeds. The farm owner invoiced the tenants for the outstanding amount and after three attempts to obtain payment from the tenants, lodged an application to the Tribunal seeking payment of the invoice.

The matter was listed for mediation before a Tribunal Member experienced in agriculture and farming. During the mediation the tenants argued that they had already carried out the weed control as requested. The farm owner replied that the tenants' attempt to control the weeds was insufficient as many burrs were missed or sprayed with the incorrect herbicide.

The mediation was successful between the parties and the tenants agreed to pay the sum sought by the farm owner immediately. Consent orders were made reflecting the agreement between the parties.

## Retirement Villages Division

### Key Facts 2012-13

#### Applications

Number of applications received **97**

• 13% increase from 2011-2012

Number of online lodgements n/a

#### Application types:

• Annual budgets and accounts	4
• Capital maintenance and repairs	7
• Payment of money and compensation	6
• Recurrent charges	51
• Sale or letting of premises	5
• Security and safety	5
• Termination and vacant possession	5
• Village contract	7
• Village rules	6
• Renewal	0
• Rehearing	1

#### Applicants:

• Administering authority	14
• Resident	83

#### Hearings

Number of hearings 247

Number of adjournments 195

#### Finalised Matters

Number of matters finalised 90

#### Rehearings and Appeals

Number of rehearings granted 0

Supreme Court / District Court appeals 5

A retirement village is a residential complex where the majority of residents are retired people aged 55 years and older. These residents have entered into a contract with the owner or operator of the village for the provision of certain services. Most retirement villages consist of self-contained premises for those who can live independently. Serviced premises or assisted living is sometimes also available.

There are hundreds of villages in NSW that are home to tens of thousands of village residents. Churches, charitable organisations and community groups operate many retirement villages, but an increasing number are being operated by private companies. The Tribunal has jurisdiction under the *Retirement Villages Act 1999* to hear and determine disputes about retirement villages.

The Retirement Villages Division resolves disputes between a retirement village owner or operator and one or more residents. This may include disputes about the terms of the retirement village contract, the legality of a village rule, recurrent charges, annual budgets and accounts, payment of money and compensation, termination and vacant possession, security and safety, or about the sale or lease of a premises within the village.

The Tribunal often lists retirement village matters, particularly disputes concerning the statement of proposed expenditure, for a directions hearing in order to determine the complexity of the issues, the future conduct of the hearing and to allow for the exchange of evidence. Mediation is also offered to assist parties reach a settlement.

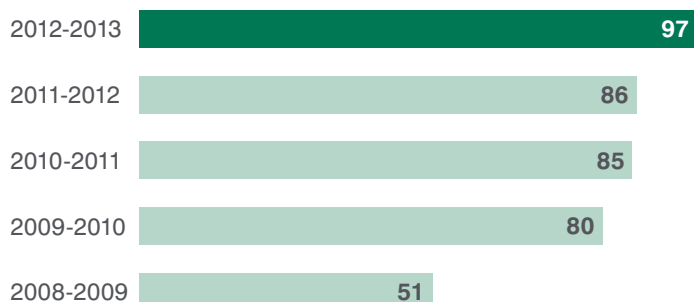
This Division does not apply to private nursing homes, respite care premises, boarding houses, group homes or Housing NSW accommodation for older people.

This year, the Retirement Villages legislation was amended to require the use of a new general inquiry document, disclosure statement and standard retirement village contract. These will be mandatory from 1 October 2013 (refer to **Appendix 1**).

### Application trends

During 2012-2013 there were 97 applications lodged in this Division. Lodgements in this Division have steadily increased since 2006-2007 and this year saw a 13% increase.

Applications from residents/former residents made up 86% of the total with over half of all applications relating to recurrent charges.



# Case studies

## Refund of ingoing contribution

An ingoing contribution is the large amount paid upfront by a resident to secure the right to occupy the retirement village premises. Upon termination of the contract, the ingoing contribution is either refunded or the proceeds from the sale of the premises plus any recurrent charges are paid under the contract. Depending on the terms of the contract, a set amount of the ingoing contribution may be non-refundable or the amount refunded may be reduced by fees.

A Tribunal application was brought by the executor of the estate of his late mother and father who had been residents of a retirement village. The operator of the village had, following the death of the applicant's mother and father, on-sold the residence to a new resident and had refunded \$50,000 of the ingoing contribution to the applicant. The applicant was claiming a further refund of \$25,000 in addition to the sum already refunded.

The terms of the village contract provided that if a resident died, the interest-free loan component of the ingoing contribution, less any nominated fees, was to be refunded. The applicant did not dispute that the appropriate sum, being \$50,000 as calculated under the contract, had been refunded.

At the Tribunal hearing, the applicant relied on a statement set out in a brochure that was provided to his parents at the time they entered into the village contract which stated that the operator would "pay the executor of a deceased resident 50% of any appreciation in the price at which the residence was on-sold". The applicant's parents had originally paid \$70,000 ingoing contribution. When the residence was re-sold by the operator 10 years later, the price paid was \$120,000. The applicant claimed 50% of the difference between \$120,000 and \$70,000 which was \$25,000.

Arguments and submissions put by the applicant based on the Contracts Review Act jurisdiction of the Tribunal (for unconscionable or unjust contracts) and based on the Fair Trading Act (for misleading and deceptive conduct) were unsuccessful, principally because the applicant's parents were no longer available to give evidence as to what they knew or were told at the time of entering into the contract and what reliance was placed on any representations.

The Tribunal, in reliance on section 181(8) of the *Retirement Villages Act 1999*, determined that the conduct of the operator had had an unfair financial impact on the estate of the applicant's father and mother by not refunding the benefit from the increase in the price to the new incoming residences, being 50% of the increase from the previous amount paid. Final orders were made for \$25,000 to be paid to the applicant.

## Failure to occupy village premises

What happens when a village resident passes away and the family want to keep the retirement village unit for later use? Unless satisfactory arrangements are made with the village operator, the operator can apply to the Tribunal for an order declaring the premises have been abandoned, or for termination of the village contract for a failure to occupy the premises.

A mother and son entered into a 99-year lease for a unit within a retirement village. Three years later the mother passed away and her son continued to keep the retirement village unit although he never took up residence there.

The retirement village operator lodged an application to the Tribunal against the son, seeking a number of orders including that the premises were abandoned; compensation for unpaid rates and charges; and termination of the village contract.

At the Tribunal the parties agreed that the premises in question were subject to the provisions of the *Retirement Villages Act 1999* although the premises did not function as a retirement village any longer and the operator did not provide any services to the premises.

The applicant submitted that the son had breached the agreement as he had retained possession of the unit by way of the lease without occupying the premises or making other satisfactory arrangements with the operator. The respondent son submitted that the premises were not vacant, explaining that he kept furniture in the unit and checked the premises two to three times a month. He stated he was 69 years of age and that he intended to reside at the premises when he retired shortly.

The Tribunal determined that although the respondent had not taken up occupation of the premises after his mother's death, he had not actually abandoned the premises. The Tribunal also found that the forwarding of accounts by the applicant was not in itself compliance with the *Retirement Villages Act 1999* and accordingly a failure to pay the accounts was not a breach by the respondent.

However, in relation to the termination application the Tribunal determined that there had been a breach of the village contract by the respondent not occupying the premises and not taking any action to remedy that breach when notified by the applicant.

In those circumstances, and as a valid notice of termination had been served on the respondent, the Tribunal made orders for termination of the village contract and return of possession to the applicant.

# Appendix 1

## Legislation

The Tribunal's powers, functions and procedures are set out in the *Consumer, Trader and Tenancy Tribunal Act 2001* and the *Consumer, Trader and Tenancy Tribunal Regulation 2009*.

The following Acts confer jurisdiction on the Tribunal as at 30 June 2013:

- ▶ *Agricultural Tenancies Act 1990*
- ▶ *Boarding Houses Act 2012* (from 1 July 2013)
- ▶ *Community Land Management Act 1989*
- ▶ *Consumer Claims Act 1998*
- ▶ *Conveyancers Licensing Act 2003*
- ▶ *Fair Trading Act 1987*
- ▶ *Holiday Parks (Long-term Casual Occupation) Act 2002*
- ▶ *Home Building Act 1989*
- ▶ *Motor Dealers Act 1974*
- ▶ *Motor Vehicle Repairs Act 1980*
- ▶ *Pawnbrokers and Second-hand Dealers Act 1996*
- ▶ *Property, Stock and Business Agents Act 2002*
- ▶ *Residential Parks Act 1998*
- ▶ *Residential Tenancies Act 2010*
- ▶ *Retirement Villages Act 1999*
- ▶ *Strata Schemes Management Act 1996*
- ▶ *Travel Agents Act 1986*

At 30 June 2013 the Tribunal also has jurisdiction on a transitional basis in relation to the maximum annual percentage rate for credit contracts under the former consumer credit legislation within the meaning of Schedule 3 to the *Credit (Commonwealth Powers) Act 2010*.

### New and amended legislation

The following changes to the Tribunal's jurisdiction occurred during the 2012-2013 reporting period.

#### Agricultural Tenancies Act 1990

On 1 August 2012, the Tribunal gained a new jurisdiction under the *Agricultural Tenancies Act 1990*. The agricultural tenancy laws regulate the rights and responsibilities of farm owners, tenants and sharefarmers in NSW.

The Tribunal can now resolve disputes relating to agricultural tenancy matters such as:

- ▶ land deterioration or condition
- ▶ weed growth
- ▶ financial benefits flowing from the use of the land or making of improvements
- ▶ termination of farm tenancies.

#### Boarding Houses Act 2012

Following extensive community and stakeholder consultation, the *Boarding Houses Act 2012* was proclaimed on 19 December 2012, with sections of the Act relating to the registration of all "registrable" boarding houses commencing from 1 January 2013.

The new boarding houses legislation introduces enforceable occupancy principles for boarding house residents and proprietors.

From 1 July 2013 the Tribunal will be empowered to resolve a wide range of occupancy principle disputes about the state of the premises, fees and charges, inspections and repairs, access to goods and notice of eviction.

#### Property, Stock & Business Agents Act 2002

The *Property, Stock and Business Agents Amendment Act 2013* was passed by the NSW Parliament in March 2013 and will commence from 1 July 2013.

The amendments change the way licensees fulfil their responsibilities in relation to the auditing of trust accounts. In addition, one provision will provide discretion for the Tribunal to order licensees' commission or expenses to be paid for work undertaken by them, in cases where there is only a minor breach of the agency agreement requirements contained in the Regulations to the Act.

### Residential Tenancies Act 2010

The *Statute Law (Miscellaneous Provisions) Act 2012* included the following amendments to the *Residential Tenancies Act 2010* which commenced on 6 July 2012:

- ▶ the requirement that a non-payment termination notice must now make it clear to a tenant that he or she may be required to vacate the residential premises, despite having paid all rent owing, if the Tribunal makes a termination order on the basis that the tenant has frequently failed to pay rent owing on the premises
- ▶ a requirement for all social housing tenants to pay water usage charges in accordance with Ministerial guidelines (previously some social housing tenants were required to pay for water usage in accordance with the general provision in section 39 of the Act)
- ▶ provision for the Tribunal to order that personal information about a person be removed from a residential tenancy database if that information has been listed in the database for longer than the period allowed under the Act (usually 3 years)
- ▶ provision for a notice or other document under the Act to be served on a person by personal delivery, whether or not at the person's residential or business address.

*Statute Law (Miscellaneous Provisions) Act 2013* change which passed through NSW Parliament on 25 June 2013, allows a former co-tenant to apply to the Tribunal under section 134(2A) of the *Residential Tenancies Act 2010* for an order for the return of their goods left behind in the premises after they have moved out, when other tenants continue to occupy the premises. The new law will operate from 5 July 2013.

### Retirement Villages Regulation 2009

During the year, the *Retirement Villages Regulation 2009* was amended to provide for three new documents which will be compulsory from 1 October 2013. These are:

- ▶ General inquiry document
- ▶ Disclosure statement
- ▶ Standard retirement village contract.

The primary aim of this change was to make it easier for prospective residents to compare the differing costs and conditions between villages before signing a contract.



## Appendix 2

## Tribunal Members

As at 30 June 2013, the Tribunal's membership, in addition to the Chairperson and the two Deputy Chairpersons, comprised 9 Senior Members, 9 Full-time Members and 54 Part-time Members.

**Chairperson**

Westgarth, Stuart

**Deputy Chairperson (Determinations)**

Harrowell, Mark

**Deputy Chairperson (Registry & Administration)**

Wilson, Garry

**Senior Members**

Bordon, John\*

Buckley, Richard\*

Correy, Norman\*

Goldstein, David\*

Meadows, Geoffrey

Paull, Christine

Smith, Jeffery

Thode, Sabine (acting)

Vrabac, Nick\*

\* Senior Members working on a part-time basis

**Full-time members**

Charles, David

Eftimiou, Maritsa

Gray, Fiona

Hennings, Simon

Howe, Bruce

Ross, Katherine

Rosser, Kim

Simon, Theresa

Smith, Peter

**Part-time members**

Anforth, Allan

Anthony, Kevin

Bailey, Robyn

Barnetson, Diane

Bassett, Graham

Beckett, Angela

Briggs, Phillip

Brophy, Moira

Bryant, Garry

Bullen, Mark

Butler, Rex

Campbell, Cathy

Carpentieri, Antony

Conley, Jennifer

Corley, Susan

Cunningham, Shane

De Jersey, Sancia

Gilson, Mark

Hanstein, Sharon

Harris, Ronald

Harvey, Danae

Holles, Francis

Holwell, Kim

Hunter, Penny

Ilett, Mik

Kinsey, Graham

Lennard, Jann

Levingston, John

Lynch, Joanne

Marzilli, Claudio

McCue, Margaret

McMillan, John

McMurrin, Alan

Moss, Deborah

Mulock, Mark

Nagy, Miranda

Nolan, Dennis

Pratt, Douglas

Price, Jennifer

Rickards, Kim

Ringrose, John

Sarginson, Gregory

Sheehan, Desmond

Smith, Stephen

Sponza, Walter

Springett, David

Taylor, William

Thompson, John

Topolinksy, Vadim

Turley, David

Williams, Louise

Wilson, Graham

Xuereb, Charles

Ziegler, Deborah

## Appendix 3

# The Tribunal process

The following information and flowchart illustrates the life of an application for a typical dispute brought to the Tribunal.

### Applications

- ▶ Applications can be lodged over the internet via the online lodgement system at [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au), by post, or in person at one of the Tribunal's Registry offices or at a local Fair Trading Centre.
- ▶ Home Building and Strata and Community Schemes disputes must undergo an external dispute resolution process before an application can be lodged with the Tribunal.

### Case management

- ▶ Applications are case managed by one of the Tribunal's Registry offices, providing a local focus for the resolution of disputes.

### Listing

- ▶ The majority of applications, mainly consumer and tenancy matters, are listed for conciliation and hearing in a 'group list'.

### Conciliation

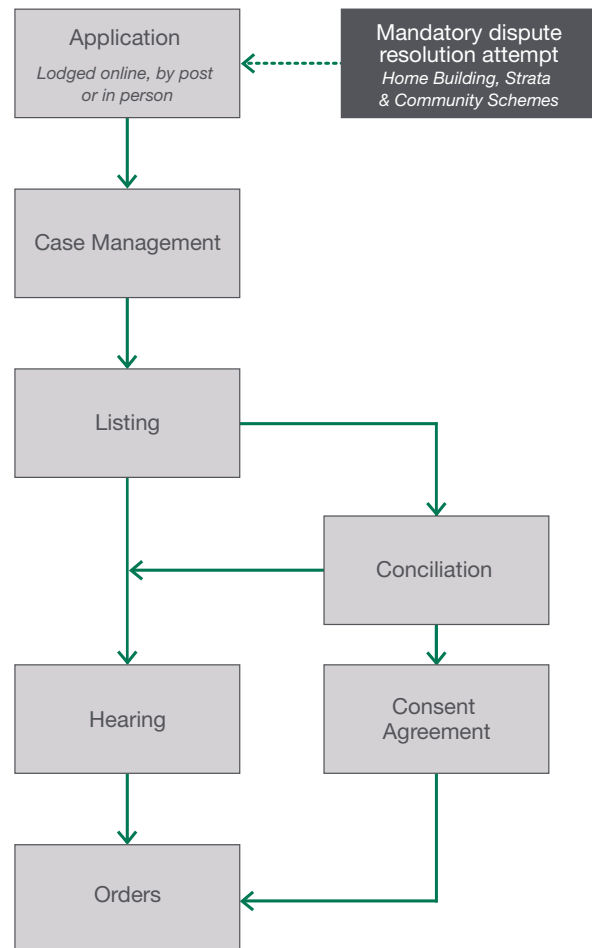
- ▶ If conciliation is successful the Member will make an order on the day without the need for a hearing.
- ▶ Tribunal Members will check that agreements are made without coercion, are legal, and parties understand the agreement.
- ▶ Where conciliation and other forms of dispute resolution are unsuccessful the matter will proceed to hearing.

### Hearing

- ▶ The Tribunal Member hears the parties' evidence, considers submissions, makes a decision and issues a binding and legally enforceable order.

### Orders

- ▶ Orders are delivered orally by the Tribunal Member at the conclusion of the hearing. Written orders are provided to the parties at the hearing or later by email or post.
- ▶ In complex matters the Tribunal Member may reserve their decision.



## Appendix 4

# Access to information

All parties to a Tribunal matter have access to their file in accordance with Part 8 of the *Consumer, Trader and Tenancy Tribunal Regulation 2009*. Generally, the entire file can be viewed with the exception of the Tribunal Member's hearing notes.

Under clause 41(3) of the Regulation, the Registrar may also grant access to a person who is not a party to proceedings to a record of proceedings where the Registrar considers there is sufficient reason to do so. The request for access should be made in writing to the Registrar.

Pursuant to section 85 of the *Consumer, Trader and Tenancy Tribunal Act 2001* (the CTTT Act), the Chairperson may provide reports to the Minister or the Commissioner for Fair Trading concerning any matter the Chairperson considers to be of importance in relation to the administration of the CTTT Act, or in relation to the jurisdiction of the Tribunal or any matter falling within its jurisdiction; or to be in the public interest.

Unless of the opinion that to do so would compromise proceedings of the Tribunal, the Chairperson is required to provide information within the knowledge or possession of the Tribunal to any request of the Commissioner for Fair Trading in relation to any investigation or disciplinary action that is being carried out under any legislation administered by the Minister (section 72 of the CTTT Act).

The Registrar may allow access to information without the parties' permission in limited circumstances.

The Tribunal's Privacy Management Plan is available on the Tribunal's website at [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au).

The *Government Information (Public Access) Act 2009* (the GIPA Act) commenced on 1 July 2010 and replaced the *Freedom of Information Act 1989*. The GIPA Act establishes new rights to information that are designed to meet community expectations for more open and transparent government, and encourages the routine and proactive release of government information.

It should be noted that information relating to the Tribunal's judicial functions is excluded under the Act for which it is conclusively presumed that there is an overriding public interest against disclosure (section 14(1), Schedule 1 Clause 6(1) and Schedule 2 Clause 1). An application for access is invalid to the extent that it seeks excluded information (section 43).

You can find out more about your rights to information and new ways to access NSW government information on the Information and Privacy Commission (IPC) website at [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au).

Under the *Government Information (Public Access) Regulation 2009* (Schedule 3) the Tribunal comes under the umbrella of the Department of Finance and Services (DFS). Members of the public may visit the DFS website at [www.finance.nsw.gov.au](http://www.finance.nsw.gov.au) for information about DFS's GIPA Act responsibilities and about formal access requests.

To access information about the Tribunal you may:

- ▶ review the comprehensive information currently available on the CTTT website and download it free of charge
- ▶ write to us, or contact us by telephone on 1300 135 399, or email [ctttenquire@cttt.nsw.gov.au](mailto:ctttenquire@cttt.nsw.gov.au) to request a copy of the Tribunal information you are seeking
- ▶ lodge a formal request to DFS under the GIPA Act. This action should only be taken after you have requested information from the Tribunal and you are advised that we are otherwise unable to provide the information.

Requests by parties for access to their file should be made in writing to the Registrar, Consumer, Trader and Tenancy Tribunal, GPO Box 4005, Sydney 2001. There is no fee payable for viewing a file however photocopy fees do apply for copies of any documents on the file.

## Appendix 5

# Consultative forums

The organisations represented on the Tribunal's consultative forums as at 30 June 2013 are set out below.

### Aboriginal Consultative Forum

Aboriginal Legal Services  
Anaiwan Local Aboriginal Land Council  
Bungree Aboriginal Association Inc  
Dtarawarra Aboriginal Resource Unit  
Greater Sydney Aboriginal Tenancy Service  
Murra Mia Tenant Advocacy Service  
NSW Aboriginal Land Council – Eastern Region  
NSW Aboriginal Land Council – Southern Zone  
NSW Aboriginal Land Council – Western Region  
NSW Aboriginal Land Council - Northern Zone  
NSW Department of Aboriginal Affairs  
NSW Fair Trading  
Tenants Union of NSW  
Western Aboriginal Tenants Advice Service

### General and Commercial Divisions

Australian Consumers Association  
Community Relations Commission  
Consumer Credit Legal Centre  
Disability Council of NSW  
Fair Trading Advisory Council  
Financial Counsellors Association of NSW  
Homelessness NSW  
LawAccess NSW  
Legal Aid NSW  
NSW Fair Trading  
Office of Migration Agents Registration Authority  
Property Owners Association of NSW  
Redfern Legal Centre  
Tenants' Union of NSW

### Home Building Division

Australian Institute of Building  
Building and Construction Council of NSW  
Civil Contractors Federation  
Home Building Service (NSW Fair Trading)  
Housing Industry Association  
Institute of Building Consultants NSW  
Institute of Engineers Australia

Law Society of NSW  
Master Builders Association  
Master Painters Association  
Master Plumbers Association of NSW  
Moray & Agnew  
National Electrical and Communications Association of NSW  
National Wood Flooring Association  
NSW Bar Association  
NSW Fair Trading  
Paint Solutions & Association  
Royal Australian Institute of Architects NSW Charter  
Russo and Partners  
Shaw Reynolds Bowen & Garathy Lawyers  
Strata and Community Australia (NSW)  
Swimming Pool and Spa Association  
Suncorp

### Motor Vehicles Division

Australian Manufacturing Workers Union  
Institute of Automotive Mechanical Engineers  
Motor Traders Association  
NSW Fair Trading

### Residential Parks Division

Affiliated Residential Park Residents Association  
Caravan & Camping Industry Association NSW  
ARPRRA Central Coast Park Residents Association of NSW  
Combined Pensioners and Superannuants Association of NSW Inc.  
Northern Alliance of Park Residents Association of NSW  
NSW Fair Trading  
Tenants Union of NSW

### Retirement Villages Division

Aged Care Association Australia (NSW)  
Aged Care Rights Service  
Aged and Community Services Association of NSW & ACT  
Australian Unity  
Bougainvillea Retirement

Combined Pensioners and Superannuants Association of NSW Inc  
Council on the Ageing (NSW) Inc  
NSW Fair Trading  
Property Council of Australia  
Retirement Village Association of NSW and ACT  
Retirement Villages Residents Association  
Wesley Mission

### Strata and Community Schemes Division

Combined Pensioners and Superannuants Association of NSW Inc  
Management Rights Association (NSW) Inc  
NSW Fair Trading  
Owners Corporation Network  
Property Owners Association of NSW  
Strata Community Australia (NSW)  
UDIA (NSW)

### Tenancy and Social Housing Divisions

Argyle Community Housing Ltd  
Common Equity New South Wales  
Dtarawarra Pty Ltd  
Estate Agents Cooperative  
Financial Counsellors Association of NSW and ACT  
Gandangara Local Aboriginal Lands Council  
Housing Appeals Committee  
Housing NSW  
Legal Aid NSW  
NSW Aboriginal Housing Office  
NSW Federation of Housing Associations  
NSW Fair Trading  
Office of Community Housing  
Property Owners Association of NSW  
Public Tenants Council (Central Sydney)  
Real Estate Institute of NSW  
Redfern Legal Centre  
Southern Sydney Tenants Advice and Advocacy Service  
Teacher Housing Authority of NSW  
Tenants Union of NSW

## Appendix 6

# Interpreter engagement

During the 2012-2013 reporting period, the Tribunal engaged a total of 1,954 interpreter services for parties needing language assistance during proceedings. The Tribunal's usage of interpreters during the reporting period is set out below.

Language	Usage	Language	Usage
Mandarin	484	Khmer	9
Arabic	281	Portuguese	9
Cantonese	187	Punjabi	8
Korean	154	Urdu	6
Chinese (unspecified)	92	Sudanese	5
Vietnamese	90	Samoan	4
Greek	59	Armenian	3
Farsi (Persian)	57	Slovak	3
Spanish	56	Bari	2
Turkish	48	Burmese	2
Macedonian	38	Fijian	2
Italian	35	Hungarian	2
Russian	33	Kirundi	2
Serbian	21	Romanian	2
Thai	21	Akan (Twi)	2
Japanese	20	Ukranian	2
Hindi	19	Banda	1
Indonesian	18	Cambodian	1
Croatian	17	Krio	1
Assyrian	15	Ethiopian	1
Auslan	15	Finnish	1
Tamil	15	Hazaragi	1
Dari	13	Kurdish	1
Polish	13	Mano	1
Maltese	12	Nepalese	1
Bengali	11	Rohingya	1
Egyptian	11	Sinhalese	1
French	11	Tibetan	1
German	11	Tigrinya	1
Tagalog (Filipino)	11	Uighur	1
Dinka	9	<b>TOTAL</b>	<b>1,954</b>

## Appendix 7

# Hearing venue usage

During the 2012-2013 reporting period, hearings were conducted in almost 70 locations throughout New South Wales. The table below lists the hearing venues and the number of hearings held.

Hearing venue	Number of hearings	Hearing days at venue
Sydney	23,409	244
Penrith	9,379	204
Liverpool	6,243	211
Newcastle	5,601	181
Hurstville	5,502	223
Gosford	3,706	173
Wollongong	3,561	147
Campbelltown	3,536	110
Lismore	1,565	136
Coffs Harbour	1,376	81
Maitland	1,272	67
Tweed Heads	1,109	76
Dubbo	1,011	51
Wagga Wagga	971	61
Tamworth	914	77
Port Macquarie	835	61
Nowra	767	52
Albury	765	49
Orange	693	35
Taree	683	47
Queanbeyan	681	59
Bathurst	557	39
Muswellbrook	519	33
Katoomba	468	26
Batemans Bay	392	32
Kempsey	382	20
Grafton	326	34
Armidale	318	23
Griffith	318	16
Moree	291	21
Moss Vale	250	22
Goulburn	247	23
Bega	216	17
Broken Hill	194	17

Hearing venue	Number of hearings	Hearing days at venue
Leeton	186	12
Mudgee	185	16
Glen Innes	141	1
Cooma	130	12
Singleton	129	23
Forbes	121	11
Walgett	120	10
Coonamble	117	11
Narrabri	106	16
Parkes	97	12
Bourke	94	15
Tumut	86	8
Gunnedah	84	15
Condobolin	83	7
Deniliquin	83	11
Nyngan	71	7
Ballina	68	2
Cowra	63	10
Inverell	63	10
Cobar	58	9
Cootamundra	55	8
Young	45	6
Wentworth	44	4
Coonabarabran	42	7
Yass	39	7
Warren	15	4
Brewarrina	12	3
Lake Cargelligo	10	2
Tenterfield	7	3
Byron Bay	2	1
Jerilderie	2	1
Bowral	1	1
Lithgow	0	1
<b>TOTAL HEARINGS</b>	<b>80,416</b>	<b>2,952</b>

## Appendix 8

# Tribunal performance

## Application lodgement

The table below shows applications received by Division and Registry for the 2012-2013 financial year.

Division	Hurstville	Liverpool	Newcastle	Penrith	Sydney	Tamworth	Wollongong	TOTAL
Tenancy	2,671	4,257	4,615	4,913	9,732	2,740	2,743	31,671
Social Housing	798	2,432	3,059	3,591	3,106	1,900	2,839	17,725
General	496	656	742	812	2,864	413	558	6,541
Home Building	333	306	489	486	1,433	281	375	3,703
Residential Parks	6	14	964	69	42	675	196	1,966
Strata and Community Schemes	175	82	112	44	1,052	71	76	1,612
Motor Vehicles	128	317	218	235	665	137	157	1,857
Commercial	3	11	30	17	27	13	21	122
Retirement Villages	3	16	18	3	46	4	7	97
<b>TOTAL</b>	<b>4,613</b>	<b>8,091</b>	<b>10,247</b>	<b>10,170</b>	<b>18,967</b>	<b>6,234</b>	<b>6,972</b>	<b>65,294</b>
<b>Percentage</b>	<b>7.1%</b>	<b>12.4%</b>	<b>15.7%</b>	<b>15.6%</b>	<b>29.0%</b>	<b>9.5%</b>	<b>10.7%</b>	<b>100.0%</b>

## Clearance ratio

The table below shows the Tribunal's clearance ratio by Division for the 2012-2013 financial year.

Division	Lodgements	Finalised matters	Clearance Ratio
Tenancy	31,671	32,671	103%
Social Housing	17,725	18,402	104%
General	6,541	6,859	105%
Home Building	3,703	3,914	106%
Residential Parks	1,966	2,459	125%
Strata and Community Schemes	1,612	1,546	96%
Motor Vehicles	1,857	1,939	104%
Commercial	122	112	92%
Retirement Villages	97	90	93%
<b>TOTAL</b>	<b>65,294</b>	<b>67,992</b>	<b>104%</b>

## Appendix 9

# Fees and charges 2012-2013

The Tribunal's fees and charges are reviewed each year. This schedule indicates the Tribunal's application fees and charges from 1 July 2012 to 30 June 2013. The Tribunal's current fees and charges are available on [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au).

### Application Fees

<b>Tenancy, Social Housing, Residential Parks and Retirement Villages Divisions</b>	\$37.00
<b>Strata and Community Schemes Division</b>	\$76.00
<b>General, Home Building and Motor Vehicles Divisions</b> <ul style="list-style-type: none"> <li>• Claims or disputes not exceeding \$10,000 (or no specific amount claimed) \$37.00</li> <li>• Claims or disputes between \$10,000 and \$30,000 \$76.00</li> <li>• Claims or disputes more than \$30,000 \$197.00</li> </ul> NB. – The maximum claim in the General Division is \$30,000 – The maximum claim in the Motor Vehicles Division is \$30,000 except when the dispute relates to the supply of a new private motor vehicle	
<b>Commercial Division</b> <ul style="list-style-type: none"> <li>• Claims or disputes not more than \$10,000 (or no specific amount claimed) \$37.00</li> <li>• Claims or disputes between \$10,000 and \$30,000 \$76.00</li> <li>• Claims or disputes more than \$30,000 \$197.00</li> </ul>	
<b>Pensioners and students</b> (all applications)	\$5.00
<b>Rehearings and renewal proceedings</b>	Same as original application fee

### Charges

<b>Copy of documents</b>	\$2.00 per page (with a minimum charge of \$29.00)
<b>Issue of summons</b>	\$41.00
<b>Sound Recording</b> <ul style="list-style-type: none"> <li>Standard (10 days) \$24.00 per CD</li> <li>Premium (5 days) \$66.00 per CD</li> </ul>	
<b>Transcripts</b>	\$300.00 per hour of hearing time NB. Full estimated cost of a transcript is payable prior to processing of request. Transcripts can cost \$2,000 per day.



# Appendix 10

## Publications

The Tribunal provides a wide range of publications to help people access the Tribunal's services. Below is the full list of Tribunal publications.

### General Fact Sheets:

- ▶ Conciliation
- ▶ CTTT Online
- ▶ Customer service charter
- ▶ Enforcing Tribunal orders
- ▶ Engaging an expert
- ▶ Getting help
- ▶ Glossary of terms
- ▶ Hearings by telephone
- ▶ Information for respondents
- ▶ Making a complaint
- ▶ Preparing for hearing
- ▶ Rehearing and appeals
- ▶ What we can and cannot do: CTTT Registry staff

### Divisional Fact Sheets:

- ▶ Home Building Division: Claims or disputes under \$30,000
- ▶ Home Building Division: Conclaves
- ▶ Retirement villages
- ▶ Strata and Community Schemes Division: Adjudication

### Other Publications:

- ▶ Introducing the CTTT brochure
- ▶ A Guide to the CTTT booklet
- ▶ Ten Top Tips for Conciliation
- ▶ Divisional Jurisdiction Table

### Chairperson's Directions:

- ▶ Acceptance of building claims
- ▶ Adjournments
- ▶ Conciliation and hearing by the same Member
- ▶ Electronic evidence
- ▶ Expert witness code of conduct
- ▶ Home building disputes over \$30,000
- ▶ Online lodgement
- ▶ Payment of rent owing prior to execution of warrant
- ▶ Personal identifiers in written reasons and reserved decisions
- ▶ Summons
- ▶ Suspension of operation of termination order
- ▶ Termination for non-payment of rent

### Publications for Indigenous and CALD communities:

- ▶ Indigenous: Getting a fair go at the CTTT brochure
- ▶ Indigenous: What happens to a CTTT application? flowchart
- ▶ CALD: publications are available in the following languages: Arabic, Chinese, Dinka, Farsi, Korean, Spanish, Swahili and Vietnamese:
  - Preparing for hearing
  - Rehearing and appeals
  - What we can and cannot do

## Appendix 11

# Key statistics 2002 to 2013

### 697,000+ applications received

The following chart represents the total number of applications received by the Tribunal from 2002 to 2013.

### 235,000+ online applications

235,633 Tribunal applications were lodged online between July 2004 and June 2013, representing 34% of the total number of applications received.

Division	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Tenancy	45,306	46,498	46,125	47,286	49,466	51,080	34,223	30,490	31,039	32,626	31,671
Social Housing	--	--	--	--	--	--	10,106	13,135	12,912	16,084	17,725
General	6,843	5,803	5,506	5,613	6,389	5,971	6,436	6,676	6,284	6,538	6,541
Home Building	5,685	4,048	4,446	4,004	3,709	3,610	3,571	3,451	3,475	3,894	3,703
Residential parks	1,104	1,022	1,439	1,499	1,765	1,313	1,345	2,439	1,963	2,306	1,966
Strata & Community Schemes	918	945	1,090	1,181	1,226	1,374	1,338	1,469	1,438	1,462	1,612
Motor Vehicles	1,447	1,197	1,064	1,028	1,226	1,052	1,259	1,350	1,446	1,649	1,857
Commercial	336	380	390	402	348	303	341	313	166	158	122
Retirement villages	58	43	54	76	39	45	51	80	85	86	97
<b>TOTAL</b>	<b>61,697</b>	<b>59,936</b>	<b>60,114</b>	<b>61,089</b>	<b>64,168</b>	<b>64,748</b>	<b>58,670</b>	<b>59,403</b>	<b>58,808</b>	<b>64,803</b>	<b>65,294</b>

### 828,000+ total hearings

828,000+ Tribunal hearings were conducted between February 2002 and June 2013.

### 1 million+ Tribunal decisions

Between February 2002 and June 2013 the Tribunal handed down more than 1 million decisions.

### 2.8 million+ website visits

The most popular website pages during 2012-2013 were the Tribunal's 'Lodge online', 'Tenancy Division', 'Application forms' and 'Contact us' web pages.

## Appendix 12

# Financial summary 2012-2013

The audited financial reports required under the *Annual Reports (Departments) Act 1985* are included in the NSW Department of Finance and Services Annual Report 2012-2013.

<b>SALARY AND RELATED PAYMENTS</b>	<b>\$'000</b>
Salaries	7,026
Statutory Appointees	5,538
Annual Leave	901
Overtime	12
Long Service Leave	331
Superannuation	1,267
Workers Compensation	245
Payroll Tax	806
Fringe Benefit Tax	7
Voluntary Redundancy	0
	<hr/> 16,132
<b>OPERATIONAL EXPENSES</b>	
Office Accommodation	4,041
Postage and Couriers	339
Telephones	125
Minor Computer Purchases and Consumables	325
Fees	698
Security Services	461
Training and Development Fees	3
Motor Vehicles Expenses	0
Travel Expenses	107
Printing and Stores	315
Minor Miscellaneous Expenses	140
	<hr/> 6,552
Depreciation	748
Ex Gratia payments	0
<b>Total Operational Expenses</b>	<hr/> 23,433
Corporate Administrative on Costs	2,634
<b>Total Recurrent Expenditure</b>	<hr/> 26,066
Capital expenditure	7
<b>TOTAL EXPENDITURE</b>	<hr/> 26,074
<b>FUNDING</b>	
Lodgement Fees	-2,470
Sundry	-4
Contribution from Consolidated Funds	-2,396
Contribution from Rental Bond Board	-13,534
Contribution from Home Building Service	-1,262
Contribution from Motor Vehicle Repair Industry Authority	-115
Contribution from Statutory Interest Account	-5,545
	<hr/> -25,326
<b>Net Cost of Services</b>	<hr/> 748
<b>Less Non Cash Transactions</b>	748
Depreciation	748
<b>CASH DEFICIT</b>	0

# Appendix 13

## Glossary

### Adjournment

The postponing or deferring of the hearing to another day.

### Adjudicator

A Tribunal Member appointed to determine strata and community scheme disputes 'on the papers' based on written submissions.

### Appeal

A procedure which enables a person to challenge the decision made. For example, Tribunal decisions may be appealed to the District Court of NSW on a matter of law.

### Applicant

The person, people or business who has lodged an application with the Tribunal.

### Breach

Failure to comply with one or more of the terms or conditions of an agreement or contract.

### Certified money order

A certified copy of an order made by the Tribunal for the payment of money that is registered with the Local Court for enforcement action.

### Conciliation

Process of resolving disputes which involves negotiations between the parties. Conciliation aims for mutual agreement rather than a decision made in favour of one side.

### Conciliator

A Tribunal Member or staff person skilled in alternative dispute resolution who assists parties during their conciliation discussions.

### Consent order

An agreement reached between the parties which is then made into a Tribunal order.

### Decision

The final orders made the Tribunal Member after a hearing.

### Directions

Instructions made by a Tribunal Member as to the procedure to be followed by parties in preparing or presenting their case; usually relating to the exchange of documents before a hearing.

### Dismissal

In certain circumstances the Tribunal may dismiss an application. This may occur if the applicant fails to appear at the hearing or fails to prove their case.

### Ex parte

A hearing held in the absence of a party.

### Evidence

Anything that is relied upon to support a claim, such as documents, affidavits, photographs, objects and verbal statements.

### Hearing

Where the parties present their evidence and submissions to a Tribunal Member to enable a decision to be made.

### Interim order

A temporary order made by the Tribunal until another order or decision is made.

### Jurisdiction

The extent of the Tribunal's legal authority or power to determine and make orders about certain issues.

### Legislation

Laws made by Parliament (Acts and Regulations).

### Matter

The case or the legal proceedings before the Tribunal.

### On the papers

A decision made by a Tribunal Member or Adjudicator without a hearing, based on the written evidence presented.

### Order

A direction of the Tribunal. Orders may be made for the payment of money, for a party to carry out the terms of the contract, or to stop doing something.

### Part heard

Proceedings where a Tribunal Member has taken some evidence but the hearing is yet to be completed.

### Parties

The people involved in the Tribunal proceedings. These generally include applicants and respondents and any third persons joined to the proceedings.

### Proceedings

The progression of an application including all acts and events between the time of lodgement to final orders being made.

### Quantum meruit

A Latin phrase used in contract law to mean a claim for the reasonable value of services.

### Registrar

The Registrar manages the Tribunal Registries and has certain administrative responsibilities.

### Rehearing

An application to the Tribunal requesting that completed proceedings be reheard.

### Renewal

An application to renew proceedings if an order has not been complied with.

### Reserved decision

Where the Tribunal Member may not immediately give their decision after the hearing, but delivers a decision at a later time usually in written form.

### Res judicata

A Latin phrase meaning that the issue between parties has been decided by the Tribunal and cannot be raised again.

### Respondent

The person, people or business that has had an application lodged against them.

### Serve

To give or provide a copy of documents, a notice or a summons to the other party or another person.

### Tribunal Member

The person who will hear the matter and make a decision.

### Written reasons for decision

A written statement explaining how the Tribunal Member came to their decision.

# Notes

**Sydney Registry**

Level 12, 175 Castlereagh Street  
Sydney NSW 2000  
GPO Box 4005, Sydney 2001

**Liverpool Registry**

Level 3, 33 Moore Street  
Liverpool NSW 2170  
PO Box 723, Liverpool BC 1871

**Hurstville Registry**

Level 3, 4-8 Woodville Street  
Hurstville NSW 2220  
PO Box 148, Hurstville BC 1481

**Tamworth Registry**

Suite 3-5, Kable Korner Complex  
Cnr Kable Ave & Darling Street  
PO Box 1033, Tamworth NSW 2340

**Penrith Registry**

Level 1, 308 High Street  
Penrith NSW 2750  
PO Box 988, Penrith 2751

**Wollongong Registry**

Level 3, 43 Burelli Street  
Wollongong NSW 2500  
PO Box 319, Wollongong 2520

**Newcastle Registry**

Level 1, 175 Scott Street  
Newcastle NSW 2300  
PO Box 792, Newcastle 2300



**CTTT**  
Consumer, Trader &  
Tenancy Tribunal

[www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au)

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Registry opening hours: 8:30am to 5:00pm

Language Assistance: 13 14 50

National Relay Service: 1300 555 727

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